



Board Meeting Materials

Friday, February 28, 2020

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
916-575-7170 optometry.ca.gov

MEMBERS OF THE BOARD

Mark Morodomi, JD, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Rachel Michelin
Maria Salazar Sperber, JD
David Turetsky, OD
Lillian Wang, OD
Vacant, Public Member



QUARTERLY BOARD MEETING AGENDA

Friday, February 28, 2020
Time: 9:30 a.m. – 5:00 p.m.
(or until conclusion of business)

Location:
Silicon Valley Community Foundation
3rd Floor, Redwood Room
2440 West El Camino Real, Suite 300
Mountain View, California 94040-1498

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations of resources. Action may be taken on any item on the agenda.

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**
4. **Presentation by Assembly Member Evan Low, Chair, Assembly Business and Professions Committee**
5. **Update by Representatives of the Department of Consumer Affairs, Which May Include Updates, Discussion and Possible Action Pertaining to the Department's Administrative Services, Budgetary, Human Resources, Enforcement, Information Technology, Communications and Outreach, as Well as Legislative, Regulatory and Policy Matters**
 - A. Robert DelosReyes and Brian Skewis, Department of Consumer Affairs
This presentation is tentatively scheduled for 9:50 a.m. (remote participation)

FULL BOARD CLOSED SESSION

6. **Pursuant to Government Code Section [11126\(c\)\(3\)](#), the Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters**

FULL BOARD OPEN SESSION

- 7. Discussion and Possible Action on Board Meeting Minutes**
 - A. October 25, 2019 Board Meeting
 - B. January 31, 2020 Board Meeting
- 8. Update, Discussion and Possible Action on Adoption of Title 16, California Code of Regulations §1399.273 and Optician Disciplinary Guidelines Incorporated by Reference**
- 9. Update, Discussion and Possible Action on Changes to Chapters 5.4, 5.45 and 5.5 of the Business and Professions Code (Optician Program Statutes)**
- 10. Update, Discussion and Possible Action on Changes to Title 16, California Code of Regulations §1536 – Continuing Optometric Education; Purpose and Requirements**
- 11. Update, Discussion and Possible Action on 2020 Legislation**
 - A. Assembly Bill 896 (Low): Registered Dispensing Opticians: Dispensing Opticians Fund: Optometry Fund: extended optometric clinical facilities.
- 12. Executive Officer’s Report**
 - A. Enforcement Program
 - B. Examination and Licensing Programs
 - C. Legislative and Regulatory Update
 - D. Associations of Regulatory Boards of Optometry
- 13. Board Committee Minutes**
 - A. Dispensing Optician Committee Legislation and Regulation Committee
 - B. Practice and Education Committee
 - C. Public Relations and Outreach Committee
- 14. Future Agenda Items**
- 15. Adjournment**

Meetings of the California State Board of Optometry are open to the public except when specifically noticed otherwise in accordance with the Bagley-Keene Open Meeting Act. Public comments will generally 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 the Board at 916-575-7170, email optometry@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.

ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, President |
| SUBJECT | Agenda Item #1 – Call to Order/Roll Call and Establishment of a Quorum |

Board President Mark Morodomi will call the meeting to order. Please note the date, time and physical location of the meeting for the record.

Board Secretary Debra McIntyre, will call roll to establish a quorum of the Board.

Mark Morodomi

Glenn Kawaguchi O.D.

Cyd Brandvein

David Turetsky OD

Madhu Chawla OD

Martha "Ruby" Garcia CLD/SLD

Debra McIntyre OD

Maria Salazar-Sperber

Lillian Wang OD

Rachel Michelin

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, Board President |
| SUBJECT | Agenda Item #2 – Public Comment for Items Not on the Agenda |

The Board welcomes public comment for items not on the agenda.

Please 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))

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, Board President |
| SUBJECT | Agenda Item #3 – President’s Report |

Board President Mark Morodomi will offer the President’s Report.

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, President |
| SUBJECT | Agenda Item #4 – Presentation by Assembly Member Evan Low, Chair, Assembly Business and Professions Committee |

The Board welcomes Assembly Member Evan Low, Chair, Assembly Business and Professions Committee, who will make a presentation to the Board.

Biography:

Evan Low was elected to the California State Assembly in November 2014 to represent District 28. At the age of 31, Assemblymember Low became the youngest Asian American legislator to have been elected to the Assembly in state history. The district is located in Silicon Valley and includes Campbell, Cupertino, Los Gatos, Monte Sereno, Saratoga, and the areas of West San Jose, Willow Glen, Cambrian, and Almaden Valley in San Jose. Assemblymember Low chairs the Business and Professions Committee. In 2015, together with Assemblymember Ian Calderon (D-Whittier), he launched the first in the state California Legislative Technology & Innovation Caucus. The Caucus comprises of a bi-partisan group of Senators and Assemblymembers who view this as a statewide effort to ensure that California remains the global leader in technology and innovation.

Assemblymember Low is a lifelong resident of Silicon Valley and has been a regional community leader. His work within the community and deep knowledge of issues local residents faced led him to run for Campbell City Council in 2006. He made history as the first Asian American elected to Campbell's City Council.

In 2010, Assemblymember Low also made history by becoming the youngest openly LGBT mayor in the country at the age of 26. While serving on Campbell's City Council, he helped balance the city budget without eliminating vital services and increase government transparency by streaming City Council meetings online. Assemblymember Low promoted small business and job growth by cutting red tape and streamlining the licensing process for business owners.

He also served as a community college instructor teaching American Government and Political Science at De Anza Community College. A Bay Area native, Low attended local public schools and earned degrees from De Anza Community College and San Jose State University. He went on to graduate from the Senior Executives in State and Local Government Program at Harvard University.

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Representatives of the Department of Consumer Affairs |
| SUBJECT | Agenda Item #5 - Update by Representatives of the Department of Consumer Affairs, Which May Include Updates, Discussion and Possible Action Pertaining to the Department's Administrative Services, Budgetary, Human Resources, Enforcement, Information Technology, Communications and Outreach, as Well as Legislative, Regulatory and Policy Matters |

A. Presentation by the Department of Consumer Affairs Budget Office

Robert Delos Reyes and Brian Skewis will provide an update on the Optometry Board's current budget and outlook for 2020 via remote teleconference. This presentation is tentatively scheduled for 9:50 a.m.

**State Board of Optometry
FY 2019-20 BUDGET REPORT**

Based on 1/23/2020 Activity Log w/ Attorney General/OAH Augmentation

| OBJECT DESCRIPTION | FY 2016-17 | FY 2017-18 | FY 2018-19 | FY 2019-20 | | | | |
|--|-------------------------------|-------------------------------|-------------------------------|-------------------|-------------------------------------|------------------|----------------------------|-------------------------|
| | ACTUAL | ACTUAL | ACTUAL | CY REVISED | CURRENT YEAR | PERCENT SPENT | PROJECTIONS TO YEAR END | UNENCUMBERED BALANCE |
| | EXPENDITURES (Prelim FM12) | EXPENDITURES (Prelim FM12) | EXPENDITURES (Prelim FM12) | BUDGET 2019-20 | EXPENDITURES (1/23 Activity Log) | | | |
| Salary & Wages (Staff) | 427,127 | 430,734 | 509,777 | 535,000 | 269,628 | 50% | 561,370 | (26,370) |
| Temp Help | 80,790 | 86,159 | 34,592 | 41,000 | 18,759 | 0% | 21,619 | 19,381 |
| Statutory Exempt (EO) | 43,559 | 36,302 | 84,839 | 82,000 | 45,552 | 56% | 91,104 | (9,104) |
| Board Member Per Diem | 13,200 | 10,400 | 7,800 | 7,000 | 5,900 | 84% | 11,800 | (4,800) |
| Overtime/Retirement Payout | 626 | 0 | 5 | 0 | 0 | 0% | 0 | 0 |
| Staff Benefits | 257,881 | 279,182 | 347,278 | 382,000 | 186,317 | 49% | 376,000 | 6,000 |
| TOTALS, PERSONNEL SVC | 823,183 | 842,776 | 984,291 | 1,047,000 | 526,155 | 50% | 1,061,893 | (14,893) |
| OPERATING EXPENSE AND EQUIPMENT | | | | | | | | |
| General Expense | 15,272 | 16,572 | 36,646 | 21,000 | 4,467 | 21% | 10,722 | 10,278 |
| Printing | 12,713 | 13,476 | 7,938 | 11,000 | 5,279 | 48% | 10,655 | 345 |
| Communication | 2,800 | 2,593 | 2,683 | 5,000 | 1,259 | 25% | 2,692 | 2,308 |
| Postage | 7,388 | 8,659 | 4,313 | 11,000 | 655 | 6% | 4,313 | 6,687 |
| Insurance | 10 | 3,067 | 3,623 | 0 | 23 | 0% | 55 | (55) |
| Travel In State | 39,122 | 28,263 | 14,944 | 8,000 | 2,699 | 34% | 6,479 | 1,521 |
| Travel, Out-of-State | 886 | 0 | 0 | 0 | 0 | 0% | 0 | 0 |
| Training | 1,383 | 895 | 500 | 1,000 | 1,655 | 166% | 2,000 | (1,000) |
| Facilities Operations | 112,237 | 114,026 | 132,806 | 59,000 | 64,549 | 109% | 129,097 | (70,097) |
| C & P Services - Interdept. | | 41 | 44 | 89,000 | 47 | 0% | 500 | 88,500 |
| Attorney General | 107,998 | 157,025 | 218,585 | 398,000 | 120,359 | 30% | 398,000 | 0 |
| Office of Administrative Hearings | 25,890 | 35,850 | 62,277 | 123,000 | 49,000 | 40% | 123,000 | 0 |
| C & P Services - External | 35,340 | 94,872 | 93,051 | 86,000 | 41,090 | 48% | 82,180 | 3,820 |
| DCA Pro Rata | 439,302 | 460,677 | 553,628 | 402,000 | 201,000 | 50% | 402,000 | 0 |
| DOL - Investigation | 0 | 236,577 | 0 | 328,000 | 164,000 | 50% | 328,000 | 0 |
| Interagency Services | 0 | 0 | 0 | 0 | 63 | 0% | 7,680 | (7,680) |
| IA w/ OPES | 0 | 0 | 26,076 | 0 | 19,222 | 0% | 19,222 | (19,222) |
| Consolidated Data Center | 179 | 5,807 | 245 | 5,000 | 0 | 0% | 2,077 | 2,923 |
| Information Technology | 2,565 | 246 | 487 | 1,000 | 1,178 | 118% | 2,356 | (1,356) |
| Equipment | | 9,221 | 2,746 | 1,000 | 171 | 17% | 410 | 590 |
| TOTALS, OE&E | 803,085 | 1,187,867 | 1,160,591 | 1,549,000 | 676,717 | 44% | 1,531,438 | 17,562 |
| TOTAL EXPENSE | 1,626,268 | 2,030,643 | 2,144,882 | 2,596,000 | 1,202,871 | 46% | 2,593,331 | 2,669 |
| Sched. Reimb. - Fingerprints | (4,459) | (5,390) | (4,753) | (6,000) | (1,960) | 33% | (6,000) | 0 |
| Sched. Reimb. - Other | (2,820) | (1,175) | (2,115) | 0 | (7,984) | 0% | 0 | 0 |
| Unsched. Reimb. - Other | (14,593) | (22,855) | (27,185) | 0 | (14,812) | 0% | 0 | 0 |
| Internal Distribuion cost | 0 | 0 | (64,000) | (86,000) | 0 | 0% | (86,000) | 0 |
| NET APPROPRIATION | 1,604,396 | 2,001,223 | 2,046,829 | 2,504,000 | 1,178,115 | 47% | 2,501,331 | 2,669 |
| SURPLUS/(DEFICIT): | | | | | | | | 0.1% |

ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | DCA Legal Counsel <i>prepared by Cheree Kimball, Lead Enforcement Analyst</i> |
| SUBJECT | Agenda Item #6 – Full Board Closed Session |

Pursuant to Government Code Section 11126(c)(3), the Board will meeting in closed session for discussion and deliberation on disciplinary matters.

ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Dr. Debra McIntyre, Board Secretary |
| SUBJECT | Agenda Item #7 – Discussion and Possible Action on Board Meeting Minutes |

This item contains the following Board meeting minutes for discussion and possible action:

- A. October 25, 2019 Board Meeting
- B. January 31, 2020 Board Meeting

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

Mark Morodomi, JD, President
 Glenn Kawaguchi, OD, Vice President
 Rachel Michelin, Secretary
 Cyd Brandvein
 Madhu Chawla, OD
 Martha Garcia, CLD, SLD
 Debra McIntyre, OD
 Maria Salazar Sperber, JD
 David Turetsky, OD
 Lillian Wang, OD
 Vacant, Public Member



DRAFT BOARD MEETING MINUTES

Friday, October 25, 2019
 Time: 9:00 a.m. – 5:00 p.m.

Location:
 Department of Consumer Affairs
 HQ2 Hearing Room
 1747 North Market Blvd
 Sacramento, CA

| Members Present | Staff Present |
|-------------------------------------|---|
| Mark Morodomi, JD, Board President | Shara Murphy, Executive Officer |
| Glenn Kawaguchi, OD, Vice President | Marc Johnson, Policy Analyst |
| Debra McIntyre, OD, Secretary | Jessica Swan, Board Liaison |
| Martha Garcia, CLD, SLD | Rebecca Bon, Legal Counsel |
| David Turetsky, OD | Cheree Kimball, Assistant Executive Officer |
| Lillian Wang, OD | |
| | |
| Members Absent | |
| Cyd Brandvein | |
| Madhu Chawla, OD | |
| Maria Salazar Sperber, JD | Guest List |
| Rachel Michelin | On File |

Link to webcast for discussions: <https://www.youtube.com/watch?v=lgcxWfZDc58>

FULL BOARD OPEN SESSION

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

Audio of Discussion: 0:10 / 2:59:55

Board President Mark Morodomi called the meeting to order and took roll at 9:00 a.m. A 6-4 quorum was established. Members Brandvein, Chawla, Michelin and Sperber were absent.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 1:05 / 2:59:55

There were no public comments.

3. Update by Representatives of the Department of Consumer Affairs, Which May Include Updates, Discussion and Possible Action Pertaining to the Department's Administrative Services, Budgetary, Human Resources, Enforcement, Information Technology, Communications and Outreach, as Well as Legislative, Regulatory and Policy Matters

Audio of Discussion: 1:57 / 2:59:55

Ms. Murphy announced that Board Members have been provided a written report; there have been many staff changes within the Office of Board and Bureau Services. Brian Skewis, DCA Budget Manager, provided a fund update for the Board. He explained that the fund is basically a savings account from which each year's budget is allocated and revenue is deposited; the Board began fiscal year 2020 with just under three million dollars in the fund, equivalent to over 15 months of operating expenses. The Board is currently authorized to spend 2.4 million and is scheduled to collect two million, leaving a gap of approximately \$350,000. Mr. Skewis observed that the Board has a healthy fund balance with enough reserves; however, the Budget Office wants to pay close attention to the Board's current year budgetary expenditures to ensure solvency and ensure the Board remains within the restrictions. A fee increase or other budgetary measures may be needed within two to four years. Mr. Skewis added that the Budget Office is currently working on building the budget for fiscal year (FY) 2020-2021.

Dr. Turetsky asked what the Board will need to do to increase revenues should it be in a deficit in the future? Mr. Skewis replied that there are three ways to balance a budget: Revenues can be increased; expenditures can be decreased; or a combination of the both. The first step for the Board would be to increase fees through regulation. Increasing fees through regulation is typically more streamlined than through legislation because the through regulation a threshold has already been established.

Dr. Kawaguchi asked if the Budget Office receives more data at the end of the fiscal year or just after the end of the fiscal year. Mr. Skewis replied that this depends upon which information is being sought. A conservative estimate of two to four years would be enough time to be able to address this from a legislative perspective. From a regulatory perspective, if a fee audit is needed, the timeline of two to four years would be sufficient to address this. Ms. Murphy noted staff would need to work on regulations in order to reach the cap and then run a fee study to determine whether the fee cap the Board currently has is large enough to accommodate all the Board's expenses. Staff noted that many of the Board's fees in regulation

are at or just below the cap. Mr. Skewis felt that the Board has some room to grow in regulations for renewal fees, which is the largest category of revenue for most programs.

Mr. Morodomi inquired about how the travel budget works. He stated that Members have received messages regarding the desire for the Board's travel expenses to be reduced. This is perplexing given the fact that the Board's fund is so strong. Mr. Skewis explained that DCA has line item budgets for each category of travel expenditures (i.e. travel expense, general expense, employee compensation benefits etc.). However, it is a bottom-line budget, so all those line items add up to a budget of approximately 2.2 million dollars for the optometry fund. If the Board does not over extend that bottom-line authority, it is within the restrictions of its budget. He stated that he is unaware of any current specific restrictions regarding travel.

Ms. Murphy commented that the Board had previous savings in staffing and in expenditures to the Attorney General's Office. However, as the Board has picked up and become fully staffed, and has pursued a fuller case-load, those other pockets of money are no longer available to pull from. Therefore, staff is looking more closely at its line item budgets. Mr. Skewis announced that DCA has control section language in the budget act to augment the programs budgetary line item before Attorney General. This means that as the increases are taking place, if the Board is exceeding its Attorney General budget, DCA can increase the Attorney General line-item.

There were no public comments.

4. President's Report

Audio of Discussion: 24:57 / 2:59:55

A. Discussion on Board Member Handbook

Mr. Morodomi noted that approximately a year ago the Board passed changes to the Board Member Handbook to say that the Board Members would receive per diem for both board meetings and per diem for preparation of the board meetings. Mr. Morodomi receives requests from Board Members for per diem for trainings they attend. There was no discussion regarding how to handle these types of requests. However, he noted that the handbook gives the president the authority to utilize his discretion to award per diems upon request. He explained that if a Board Member attends an all-day required training, he believes it deserves a full per diem. Regarding the shorter required trainings, Mr. Morodomi is exercising his discretion in allowing one full per-diem at the completion of the short trainings in total. Dr. Wang commented that her understanding was that a member could request as little as one hour of reimbursement. Staff would keep a record of hours reported and, when a total of 8 hours was completed, reimbursement could be given. Mr. Swan confirmed that staff has a bank of hours on a spreadsheet and several Members have banked hours.

(MOVED UP) 12. Executive Officer's Report

Audio of Discussion: 29:26 / 2:59:55

A. Enforcement Program

Mx. Kimball updated the enforcement program and reported that for the first quarter of 2019-2020 staff has been working on updating the disciplinary guidelines for both the optometry program and the optician program. The Board was provided a list of disciplinary actions what were taken in the first quarter. Mr. Morodomi asked if there are any time delays on attending to the high priority cases; Mx. Kimball replied that the high priority cases are still worked on prior to other cases; therefore, no time delays exist for the high priority cases. Mr. Morodomi noted that according to the chart provided, the average days to closure of high priority cases is 404 days; is this correct? Mx. Kimball confirmed that it is. Mr. Morodomi questioned whether this number is good, bad or average compared to previous years? Mx. Kimball is uncertain; the average came from two cases and but is difficult to determine.

There were no public comments.

B. Examination and Licensing Programs

Ms. Qasmi presented on the examination and licensing programs. She reported that the licensing unit successfully completed another year of application processing for new graduates. This year's applications were the highest the Board has had in three years (366 applications completed). Despite this increase and staffing concerns, the processing time was still maintained at an eight-week timeframe and the Board issued 154 new licenses since July when the first quarter began. Ms. Qasmi reported processing times have returned to normal as of six weeks. The Board has already received 51 exam requests since the beginning of the first quarter, and due to this increase, staff anticipates this year will be a big year for the licensing unit.

Ms. Qasmi also reported that she is currently working with the Office of Information Services, BreEZe Unit within DCA to streamline application processes for Fictitious Name Permits (FNPs). Staff has observed that many optometrists have applied for FNPs in error this year and correcting this problem has been labor intensive. Ms. Qasmi has been working with the BreEZe Team to make the application instructions much clearer. The changes should be in place around the beginning of next year. Dr. Wang asked if the optometrists erroneously applying for FNPs are new grads or just simply do not understand the application; Ms. Qasmi explained that it's been a 2-prong problem. Dr. Wang noted that when she and others visit Berkeley to welcome the new grads, they can bring this up and educate the new grads on the correct procedures. She believes this will minimize the number of errors. Dr. Kawaguchi admitted that sometimes it is difficult through BreEZe to assess what optometrists may need. He believes that Ms. Qasmi's solution of working with BreEZe to clarify instructions on the BreEZe pages will be the solution to avoid extra work for everyone involved.

Dr. Turetsky asked if staff are still observing confused optometrists regarding replacing their former Branch Office License's (BOL's) with Statement of Licensure's (SOL's); Ms. Qasmi denied this as being an issue due to the diligence of staff in walking licensees through the process step-by-step. Additionally, the BOL application was completely removed from BreEZe, so there was no pathway by which to submit the wrong application.

Ms. Qasmi presented on the Opticianry Program. She noted that in order to address concerns regarding processing times within this program, staff has expended tremendous energy in both August and September of this year auditing and streamlining the processes. Now, applicants are sent deficiency letters within a few days. This has reduced processing times, the volume of phone calls, and the volume of mail sent from the office. Ms. Qasmi reported that as the American Board of Opticianry (ABO) posted its exam results in August and September, the optician program peaked. Nevertheless, staff maintained the 4-6-week processing times.

Ms. Garcia requested that staff educate the Registered Dispensing Opticians (RDO's) about the new process of publishing registrants' license certificates to their BreZE accounts for quick, easy and continual access. She believes informing the RDOs will, in turn, inform the CLD's and SLD's. Dr. Wang explained that she personally is encountering licensees who are still confused about the renewal processing times. She explained they attempt to renew a week before their expiration and then they are calling and emailing her asking for assistance. Ms. Murphy assured Dr. Wang that staff is looking at process mapping, reviewing procedures, identifying places that can be better automated, and communicating with folks about where they are at in the process. Ms. Murphy expects that in the next year staff will be better able to identify the processes and places where it makes sense to communicate with licensees.

There were no public comments.

Recess was taken at 10 a.m. Meeting resumed at 10:10 a.m.

5. Petition for Early Termination of Probation – Rebecca Savage – CLD #1994 / SLD #6065

Audio of Discussion: 1:00:36 / 2:59:55

The Board heard the early termination of probation for Rebecca Savage.

FULL BOARD CLOSED SESSION

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

The Board went into closed session to deliberate on disciplinary matters at 10:40 a.m.

FULL BOARD OPEN SESSION

The Board resumed open session at 12:30 p.m.

(CONTINUED) Executive Officer's Report

Audio of Discussion: 1:26:30 / 2:59:55

C. Legislative and Regulatory Update

Mr. Johnson provided an update on legislation. He noted the 2019 legislative session concluded on September 13, 2019 and is scheduled to reconvene on January 6, 2020. He reported the following:

- AB 458 (Nazarian), relating to optometrist home resident permits, was signed into law and will be effective on January 1, 2020. Staff has begun to develop regulations implementing the bill.
- AB 613 (Low), relating to fees, Mr. Johnson reported that the bill was held in committee and is uncertain whether it will be taken up again next year.
- AB 896 (Low), relating to dispensing optician and optometrist merge of funds, Mr. Johnson reported that amendments were added at the last minute, on August 30th, which added provisions specific to extended optometric clinical facilities. The amendments would limit ownership to charitable organizations and limit them to accepting only Medi-Cal payments; as well as some other various functions. The bill was held in the Senate Rules Committee and did not make it out of the Legislature. Ms. Murphy noted the Board's support of mobile vision services and assured that staff will continue to work with Vision to Learn (VTL) and other stakeholders to determine a way for the Board enough time to develop a thoughtful regulatory framework. She hopes to have substance to bring back to the Board before the end of the legislative year. Additionally, she explained that the merging of the optician and optometry funds is still a priority; therefore, staff is talking with the author's office about an opportunity to move that provision of the bill forward.

Dr. Turetsky asked if the new language would have any effect on BPC 3070.1 in the same way that the in-home care bill is tied into 3070.1 or does this fall specifically into mobile optometric facilities; Ms. Murphy expressed hesitation to answer one way or the other because discussions are ongoing. Mr. Morodomi requested confirmation that the Board never took a position on the bill which Ms. Murphy confirmed. There were discussions among the Board about support for mobile optometric services with the understanding that the time frame given to the Board in 1714 would not allow for the introduction of a regulatory package. Additionally, it did not provide the Board any leeway to continue any of its current enforcement investigations. Therefore, no position was taken.

- AB 1467 (Salas and Low), relating to optometrists' scope of practice delegation of services agreement. This bill was held in committee and the California Optometric Association is continuing to work on the bill.
- SB 53 (Wilk), relating to open meetings, Mr. Johnson reported the bill was held in committee and did not move forward.

Mr. Johnson next provided an update on regulations. The Board is currently working on five primary regulatory issues as follows:

- AB 2138 which relates to denial of applications, revocations and suspensions of licensures in criminal convictions and how those are used. This package is currently with the DCA Director's office. So far, staff has received only positive comments. He anticipates it will be given to the Office of Administrative Law (OAL) within 1-2 months. It will be publicly noticed with a 45-day comment period on the package. If there are no comments, he hopes it will go forward and the Board can meet the statutory implementation date of July 1, 2020. He announced that this Board is a bit ahead of the other boards working on the same regulations.
- AB 443, which allows optometrists to administer immunizations. Mr. Johnson explained that this will be discussed shortly as a part of Agenda Item 9.
- 2019 Optometry Disciplinary Guidelines update. Mr. Johnson announced that this will be discussed shortly as part of Agenda Item 10.
- Dispensing Optician Committee (DOC) Guidelines. The DOC reviewed the latest version of the March 15, 2019 public meeting. Staff has been working internally to update these guidelines and incorporate the changes and add in some other changes. Staff will likely be presenting them to the DOC in December and should be able to move them forward to the full Board early next year.
- Continuing Education Regulations. Mr. Johnson reported that staff is continuing to develop the regulation and are hoping to have potential changes and draft language to the Practice and Education Committee (PEC) next Spring.

Dr. Kawaguchi asked if the changes are regarding the increase in approved online continuing education (CE) hours; Ms. Murphy acknowledged that this is a piece of the package. Dr. Kawaguchi asked if it is necessary to bundle these issues together or if the increase in approved online CE hours could be separated out and moved into regulations more quickly. Ms. Murphy does not believe this will expedite the regulatory process. Dr. Turetsky recalled that an increase to 25 online CE hours was previously voted on and approved by the Board. Mr. Johnson explained that this was voted on and approved but did not make it into the regulatory process due to changes in staffing, particularly with executive staff. Ms. Murphy stated that staff can bring all these CE issues together in one package before the Board in early Spring. Dr. Kawaguchi stated that he wants the increase in CE to 25 online hours to be separate from the other issues. Mr. Morodomi agreed.

Mr. Morodomi recalled a discussion regarding the Optometry Disciplinary Guidelines in relation to the Optician Disciplinary Guidelines, and it was his understanding that the Board planned to pass the optician guidelines first and the optometry guidelines would follow afterwards. He asked why the order changed? Ms. Murphy explained that it made sense to current staff to take the what the Board has with the optometry guidelines, since this process is further along, and then use that as a model.

D. Staff Update

Ms. Murphy provided a brief staff update. Cheree Kimball was named Assistant Executive Officer. Mr. Morodomi announced that Ms. Murphy has been doing a great job at juggling, running the Board’s programs while interviewing numerous applicants to replace staff being promoted. He noted that Ms. Murphy has been with the Board for one year and is still going through trainings.

There were no public comments.

7. Update, Discussion and Possible Action on Proposed Board Meeting Dates for Calendar Year 2020

Audio of Discussion: 2:00:55 / 2:59:55

Ms. Murphy reported that this is the second opportunity at looking at the calendar. The suggested calendar for 2020, in the Board Members packets, includes the quarterly meetings, committee meetings, and the statutory Dispensing Optician Committee meetings. The Board has looked at the legislative calendar, the Board’s Sunset Review calendar and Strategic Planning calendar. Mr. Morodomi moved to adopt the calendar as presented.

There were no public comments.

8. Discussion and Possible Action on Board Meeting Minutes for August 2, 2019

Audio of Discussion: 2:06:55 / 2:59:55

No changes were made. There were no public comments.

Lillian Wang moved to approve the August 2, 2019 Board Meeting Minutes. Martha Garcia seconded. The Board voted unanimously (6-0-4) and the motion passed.

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

9. Update, Discussion and Possible Action on Implementing Regulations for Assembly Bill 443 (Salas, Chapter 549, Statutes of 2017)

Audio of Discussion: 2:14:16 / 2:59:55

Mr. Johnson presented an update on Assembly Bill (AB) 443. Signed into law in 2017 and effective January 1, 2018, AB 443 (Salas) allows a licensed optometrist to perform immunizations after certain conditions have been met. The Board approved the regulatory text and a required form at the April 5, 2019 meeting and directed staff to begin the rulemaking process to implement AB 443. Staff work has been completed and the rulemaking was submitted to DCA; however, DCA Legal has suggested changes which require Board approval. Once approved, the rulemaking process will continue with the changes made.

There were no public comments.

Glenn Kawaguchi moved to approve both the form with the edits discussed here today; as well as approve the proposed edits to Section 1572 Title 16 of the California Code of Regulations as discussed here today; and direct staff to re-submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services and Housing Agency for review and if no adverse comments are received authorize the Executive Officer to make any non-substantive changes to the rulemaking package and set the matter for hearing. Lillian Wang seconded. The Board voted unanimously (6-0-4) and the motion passed.

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

10. Update, Discussion and Possible Action on Changes to California Code of Regulations §1575 and Optometry Disciplinary Guidelines Incorporated by Reference

Audio of Discussion: 2:21:33 / 2:59:55

Mx. Kimball provided an update on the California Code of Regulations (CCR) Section 1575 -- Optometry Disciplinary Guidelines. Staff changes are those that were discussed at the Consumer Protection Committee (CPC) meeting in September 2019. Updated language from the SACC guidelines has been added. Staff has changed gender specific pronouns to gender neutral pronouns according to a directive coming out of the Legislature and the Governor’s Office. Mx. Kimball explained that although there was discussion about changing “worksite monitor” to “practice monitor,” it is listed as “worksite monitor” in the Uniform Standards for Substance Abusing Licensees. Therefore, staff had to leave the language as “worksite monitor.”

Dr. Turetsky argued that under the “Standard Terms and Conditions” of a disciplinary action, “Function as an Optometrist” does not describe all the functions of an optometrist and was vague. He noted that some practitioners perform more administrative functions, some more quality assurance functions, some teaching functions, etc. He asked if he is performing duties other than eye exams, such as administrative duties, is he not functioning as an optometrist? Mx. Kimball replied that the goal of the Board when assigning probation terms is to encourage the probationer to practice the thing/area that he/she was disciplined for but doing it correctly. Dr. Wang suggested that having the vague term is better for interpretation case-by-case. Dr. Turetsky expressed concern over the decision of whether a practitioner is functioning as an optometrist, should be left to the interpretation of the probation monitor. Ms. Murphy shared that if the Board places too fine a point on this, it would tie the Board’s hands and make probation terms less applicable on a case-by-case basis. Dr. Kawaguchi stated that probationers claim it is difficult to even secure a job and therefore an unintended consequence of being overly specific is that the Board may create a burden from which the probationer is unable to overcome. Dr. Turetsky asked who probationers can appeal to should they feel their probation terms were applied unfairly? Mx. Kimball explained the probationer could appeal to the Executive Officer or Assistant Executive Officer. She noted that none of the terms go into effect until they have come to the Board and the Board has adopted the decision.

Dr. Turetsky asked Legal Counsel Rebecca Bon if in her legal opinion, leaving the blanket statement “Function as an Optometrist” leaves it open to much discretion? Ms. Bon replied that the Respondent would then go to Board Probation Monitor and Staff who would apply confirmation of what the term will mean. She added that if the Board is not seeing any problems with this approach currently then she believes discretion is appropriate. Dr. Turetsky asked Mx. Kimball if they have ever experienced in their tenure as Probation Monitor, a time when somebody complained about the term? Mx. Kimball responded that the largest issues they see from their probationers, is difficulty in getting hired. Mr. Morodomi announced that he believes this issue has been sufficiently resolved for now and that this is a place where thorough minutes should be noted.

Ms. Bon asked for clarification on page 22, number 10: (Community Services). She stated that it appears the intent is to say that the probationer would offer optometric or non-optometric services? Ms. Wang confirmed this. Ms. Bon suggested wording it to state: “the probationer would offer either free optometric or free non-optometric services.” Ms. Murphy brought up an additional point regarding the proposed regulatory text for Uniform Standards Related to Substance Abuse and Disciplinary Guidelines. For clause (b), Ms. Murphy asked the Board to consider editing the text to read: “if the conduct found to be a violation involves the use and abuse of drugs and/or alcohol” She believes this will add clarity regarding when biological fluid testing should be a term and condition. For example, a practitioner in trouble for over-prescribing, but who is not a user of drugs or alcohol personally, should probably not have biological fluid testing as a term and condition of probation. This edit would make clear the fact that those standard terms and conditions do not apply to all cases that involve prescribing some drugs. Board agrees.

Mr. Morodomi raised the removal of the 30-day suspension requirement; it has been changed to just “suspension.” The argument in favor of removal of the 30-days allows the Board more flexibility over determining the length of the suspension. The argument against this change is that it allows for suspension of less than 30-days for some of the Board’s possibly more egregious violations. He deferred this issue to the professional members to decide whether there are violations where it should absolutely be 30-days or more, and not allow room for the ALJ to make it less than 30. Ms. Bon suggested possibly examining each of the infractions and determining what the minimum should be.

Ms. Murphy explained that the reasoning behind not prescribing a minimum is because the appropriate minimum is truly significant on a case-by-case basis; the specifics of each probationers’ case depend upon how long should that person not be practicing. Mr. Morodomi noted the violations he and/or staff determined to be severe violations are: excessive prescribing, gross negligence, fraud, unlawful solicitation, unlawful referrals, employing cappers or steerers, and fraudulently altering medical records. He asked if the Board wishes to prescribe a minimum of a 30-day suspension for these noted major violations? Dr. Turetsky believes there can be many exceptions to these. Ms. Bon suggested that if the Board begins seeing cases come back from the ALJ with less time suspensions then it deems appropriate, that may be the time to begin fine tuning the language. She added that on a case-by-case basis the Board can reject a proposed decision.

There were no public comments.

Lillian Wang moved to approve the changes to the disciplinary guidelines with the edits made here today. Debra McIntyre seconded. The Board voted (5-Aye, 1-No, and 0-Abstention) and the motion passed.

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

11. Update, Discussion and Possible Action on Potential 2020 Legislation

A. Temporary License for Instructors at Accredited Schools of Optometry

Mr. Johnson presented on proposed text for temporary license for instructors at an accredited school of optometry, which is based on a similar statute used by the Medical Board. This permit would allow holders to perform the full optometry scope of practice within the clinics of

the school by which they are employed, provided they meet certain requirements, pass the laws and regulations exam and complete a criminal background check. The text would require a legislative author during the 2020 session. The words “or dean” were added to subsection (b). Board members had no further changes.

There were no public comments.

Lillian Wang moved to direct the Executive Officer to pursue legislation for a special faculty permit in the 2020 Legislative session based on the proposed text and materials presented here today, pending review by Legal Counsel, and delegate the authority to the Executive Officer to make any technical, non-substantive changes to the text as needed. David Turetsky seconded. The Board voted unanimously (6-0-4) and the motion passed.

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

B. Endorsement Fee

Mr. Johnson reviewed the proposed statutory text for an endorsement fee. The proposed text would allow the Board to charge up to \$50 per license endorsement for another state. If approved, staff would seek a legislative author for a bill in the 2020 session. Board Members had no comments. There was no public comment.

David Turetsky moved to direct the Executive Officer to pursue legislation for an endorsement fee in the 2020 Legislative session based on the proposed text and materials presented here today, pending review by Legal Counsel, and delegate the authority to the Executive Officer to make any technical, non-substantive changes to the text as needed. Lillian Wang seconded. The Board voted unanimously (6-0-4) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Mr. Morodomi | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Ms. Michelin | | | | X | |
| Ms. Brandvein | | | | X | |
| Dr. Chawla | | | | X | |

| | | | | | |
|---------------------|---|--|--|---|--|
| Ms. Garcia | X | | | | |
| Dr. McIntyre | X | | | | |
| Ms. Sperber | | | | X | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

13. Update, Discussion and Possible Action Regarding Board Committee Reports

a. Dispensing Optician Committee

Ms. Garcia provided an update on the DOC meeting from September 27, 2019. A memo as part of meeting materials was provided to the Board. No action was taken.

b. Legislation and Regulation Committee

Dr. Wang provided an update on the LRC meeting from September 13, 2019. A memo as part of meeting materials was provided to the Board.

c. Practice and Education Committee

No report was made. A memo as part of meeting materials was provided to the Board.

d. Consumer Protection Committee

Ms. Brandvein provided an update on the CPC from September 13, 2019. A memo as part of meeting materials was provided to the Board.

There were no public comments.

14. Future Agenda Items

Dr. Turetsky requested preliminary discussion of implementation of AB 458 at the February meeting.

A public comment was made requesting an increase in fees for the optician program and to make them more reasonable.

15. Adjournment

The Board adjourned at 2:50 p.m.

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

Mark Morodomi, JD, President
 Glenn Kawaguchi, OD, Vice President
 Debra McIntyre, OD, Secretary
 Cyd Brandvein
 Madhu Chawla, OD
 Martha Garcia, CLD, SLD
 Rachel Michelin
 Maria Salazar Sperber, JD
 David Turetsky, OD
 Lillian Wang, OD
 Vacant, Public Member



DRAFT TELECONFERENCE BOARD MEETING MINUTES
Friday, January 31, 2020

Teleconference Meeting Locations:

DCA Del Paso
 2420 Del Paso Road, Room
 109
 Sacramento, CA 95834

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

California Eye Professionals
 41637 Margarita Road,
 Suite 201
 Temecula, CA 92591

Silicon Valley Community
 Center
 2440 West El Camino Real,
 Suite 300 – Room 3G
 Mountain Valley, CA 94040

Stevenson Ranch Library
 Meeting Room
 25950 The Old Road
 Stevenson Ranch, CA 91381

Moraga Library
 1500 St. Mary's Road
 Moraga, CA 945814

California Retailers
 Association
 1121 L Street, Suite 607
 Sacramento, CA 95814

| Members Present | Staff Present |
|-------------------------------------|---|
| Glenn Kawaguchi, OD, Vice President | Shara Murphy, Executive Officer |
| Rachel Michelin, Secretary | Cheree Kimball, Enforcement Coordinator |
| Cyd Brandvein | Marc Johnson, Policy Analyst |
| Madhu Chawla, OD | |
| Martha Garcia, CLD, SLD | |
| Debra McIntyre, OD | |
| David Turetsky, OD | |
| Lilian Wang, OD | |
| | |
| Members Absent | Guest List |
| Mark Morodomi, JD, President | On File |
| Maria Salazar Sperber, JD | |

Link for the audio of discussions:
https://www.optometry.ca.gov/meetings/20200131_bm_audio.mp3

FULL BOARD OPEN SESSION

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

Audio of Discussion: 00:01 / 36:00

Dr. Kawaguchi called the meeting to order at 12:33 p.m. and took roll. Dr. Kawaguchi and Ms. Garcia were present at the Charter College location; Dr. McIntyre was present at the Temecula Location; Ms. Brandvein was present at the Silicon Valley location; Dr. Chawla was present at the Stevenson Ranch location; Ms. Michelin was present at the California Retailer's Association location; Dr. Turetsky was present at the Del Paso Rd., Sacramento location; Dr. Wang was present at the Moraga Library location. Ms. Salazar-Sperber and Mr. Morodomi were absent. An 8-2 quorum was established. Members of the public were identified at the Sacramento and Temecula locations.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 03:18 / 36:00

There were no public comments.

3. Discussion and Possible Action on Changes to California Code of Regulations §§ 1399.270, 1399.271, 1399.272, 1516 and 1517 (Implementation of Assembly Bill 2138)

Audio of Discussion: 03:39 / 36:00

Policy Analyst Marc Johnson provided an update on AB 2138, which relates to the denial of applications, revocations, and suspensions of licensure and criminal convictions. The Board approved the text at the April 5, 2019 public meeting. Mr. Johnson explained that the regulatory package has made its way through DCA Legal, who made a few simple changes to the text:

- §1399.270(c): The word 'assault' was changed to 'assaultive'; a reference defining assaultive or abusive conduct as defined by Penal Code Section 11160 was added. Additionally, a reference to sexual misconduct, as defined by BPC §726(a) was added.
- §1517(c): The word 'assault' was changed to 'assaultive'; a reference defining assaultive or abusive conduct as defined by Penal Code Section 11160 was added. Additionally, a reference to sexual misconduct, as defined by BPC §726(a) was added.

The changes require board approval. Once approved, this bill will continue with the public comment period, then staff will prepare the rulemaking package for final submission.

There were no board member comments. There were no public comments.

David Turetsky moved to approve the amended text for California Code of Regulations Title 16, Sections 1399.270, 1399.271, 1399,272, 1516 and 1571 as presented and discussed here today; and direct staff to submit the text to Office of Administrative Law for posting for a 45 day public comment period; and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing. Debra McIntyre seconded. The Board voted unanimously (8-0-2) and the motion passed.

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

4. Update, Discussion and Possible Action on 2020 Legislation

Audio of Discussion: 07:58 / 36:00

a. Assembly Bill 896 (Low)

Executive Officer Shara Murphy provided an update on 2020 legislation. The Board originally sponsored AB 896 to merge the optometry and optician funds, but changes were made to include provisions of AB 1714 which codifies Vision to Learn’s (VTL’s) ability to provide mobile vision services without an agreement with an optometric academic institution. The Board reviewed the proposed text to AB 1714 at the August 2, 2019 public meeting, but did not take a position on that bill or the issue itself. Ms. Murphy noted there has been historic support from the Board of VTL’s efforts which align with the Board’s priority of increasing children’s access to comprehensive vision care. She also reported that staff has continued to have discussions with the author’s office, the Legislature and stakeholders. A draft of proposed changes to the text and suggested additions have been provided in the Board materials, which has been shared with interested parties.

Dr. Turetsky commented that a few of the suggestions will be problematic for VTL; additionally, there is the Board’s responsibility to protect the public even for those receiving charitable

services. Ms. Brandvien and Dr. McIntyre expressed a preference for this discussion to come before the full board; and not a special board meeting.

Public comment: Damien Carroll, at the Oxnard location, expressed appreciation for the Board's continuing interest in this bill. He noted VTL is happy to implement most of the changes; however, there are a couple of items that would be problematic. He raised concern about proposed amendments which strike out a provision that makes it clear that a non-profit may accept Medi-Cal reimbursements for the program. Mr. Carroll reported that a pilot study was set up in Los Angeles to determine the impact of public reimbursement on access to care for children which found that 2/3 of the kids whom VTL saw who were Medi-Cal enrollees did not have any vision care in the previous four years before being seen by VTL. His conclusion that the state should be doing everything possible to connect VTL with Medi-Cal reimbursement. VTL and similar programs wants to make certain that the bill does not preclude this possibility.

Mr. Carroll also is concerned that the bill dictates of a third of VTL's membership of governing board being made up of licensed optometrists. Mr. Carroll stated that VTL's governing board does have a licensed optometrist ; however, a requirement of a proportion of the board being licensed optometrists puts VTL in the position of having to recruit medical staff and having to maintain it. He noted VTL is pleased to have an optometrist for its Medical Director providing this professional oversight. However, a requirement for the governing board would be difficult to implement and maintain as a responsible non-profit. Mr. Carroll expressed a hope that this can be passed through this legislative year.

Dr. Kawaguchi asked if the Board initiated a position prior to the last Berkeley meeting. Ms. Murphy replied that a straight support position was taken on the fund merger portion of the bill. Dr. Kawaguchi suggested assigning a workgroup for this issue, and Drs. Wang and Turetsky volunteered for the workgroup. Ms. Knight suggested a position of support if amended will give the workgroup some direction about what those amendments might be, so that an official letter can be submitted with that direction and the conversations may begin. Dr. Kawaguchi asked if the Board can retract their original position and take a watch position? Ms. Knight replied that if the Board wants to have a say in the language, she believes it would be best to provide the workgroup and staff some direction today to work towards amendments; or oppose unless amended.

Ms. Michelin recommended taking a neutral position on the bill and giving direction to the workgroup and staff to continue negotiating. Dr. McIntyre asked (for clarification) if this issue was added to the bill as a means by which these services may be provided? Ms. Murphy confirmed this is correct; there is currently no law that allows non-profits to provide these services; unless tied to an optometry academic institute.

Mr. Carrol spoke briefly to the school of optometry option. VTL has sought an affiliation with the Western University College of Optometry. VTL has successfully signed an MOU with Western that allows for some of VTL's students who are bound through exams to need some additional care to be referred to Western for follow-up care. Since Western University

intersects with VTL’s program for the Pomona area solely, they did not feel comfortable with becoming VTL’s consenting organization for the entire state.

Dr. Kawaguchi assigned the workgroup consisting of Drs. Wang and Turetsky and asked the workgroup to work with staff regarding AB 896 and come back to the full Board meeting in February with any proposed amendments.

David Turetsky moved to continue this discussion at the next full Board meeting with input from the workgroup; and change position on AB 896 to a neutral position. Cyd Brandvein seconded. The Board voted unanimously (8-0-2) and the motion passed.

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

5. Future Agenda Items

Audio of Discussion: 35:34 / 36:00

There were no future agenda items requested.

6. Adjournment

Meeting adjourned at 1:09 p.m.

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Shara P. Murphy, Executive Officer <i>Prepared by Alexander A. Juarez, Enforcement Analyst and Cheree Kimball, Assistant Executive Officer</i> |
| SUBJECT | Update, Discussion and Possible Action on Adoption of Title 16, California Code of Regulations §1399.273 and Optician Disciplinary Guidelines Incorporated by Reference |

Summary:

The proposed Optician Disciplinary Guidelines (Guidelines) are used in disciplinary action against applicants and registrants. The purpose of the Guidelines is to protect the consumers of opticianry services from unsafe, incompetent and/or negligent opticians. The Guidelines are used to impose discipline including conditions of probation for licensees that address the violations charged. The Guidelines are modeled after the Optometry Disciplinary Guidelines but are modified to meet the needs of the Optician Program.

Staff recommends Board discussion on the proposed document and direction to continue work and incorporate any further staff or Legal Counsel changes for the next Board meeting in May.

History:

The Dispensing Optician Committee (DOC) began a review of the Guidelines in August 2017 and completed the review in December 2019. Between 2017 and 2019, staff made minor revisions and restructured the Guidelines where appropriate based in part on the advice of the DOC. The DOC moved to send the Guidelines to the full Board for discussion and approval at the December 2019 meeting. The DOC provided pertinent feedback at the following meetings:

- [August 18, 2017](#)
- [January 4, 2019](#)
- [December 13, 2019](#)

Discussion:

Attachment 1: Proposed CCR § 1399.273 Regulatory Authority Text

This attachment contains the proposed text for §1399.273 of Division 13.5 of Title 16 of the California Code of Regulations.

Attachment 2: Proposed Optician Disciplinary Guidelines

These guidelines are incorporated by reference into §1399.273.

As noted above, the Guidelines are based on the current Optometry Disciplinary Guidelines and modified for the optician program. Over the course of several meetings, the DOC made the following changes to Optician Disciplinary Guidelines:

- A. Page 3: The introduction was revised to reflect the optician program at the advice of the DOC.
- B. Page 6: The DOC moved the text referring to cost recovery from the introduction section to the model disciplinary terms section. This language specifies when the Board can seek cost recovery. The cost recovery text is more appropriate in the model disciplinary terms section and helps simplify the introduction section.
- C. Page 7: Staff added language in the model probationary orders that allows probationers to apply for a second registration. This option allows the Board to place a probationer's additional application for registration on the same terms of probation as the first registration.
- D. Page 8: The DOC moved to approve keeping standard terms and conditions #1-16 while moving the community service standard and passing the abo/ncle exam to the optional probation conditions section. The standard terms and conditions were renumbered to #1-14.
- E. Page 12: Community Service and take and pass ABO and/or NCLE exams were moved to optional probation conditions. It was determined that community service shall be at the Board's discretion depending on the violation. Take and pass ABO and/or NCLE Exams is also at the Board's discretion. The Board doesn't administer these tests, nor does it require registrants to maintain an active certification, but in the event of disciplinary action the Board may require a probationer to retake and pass the exams within twelve months.
- F. Page 13: The DOC and staff agreed that the worksite monitoring should be rewritten for clarification. This section specifies how and when a worksite monitor shall be implemented by the Board. The revised section is written in more general terms which gives the Board flexibility when requiring this condition of probation.
- G. Page 17: A restricted practice condition was added to the optional probation conditions. This condition can specify the client population, specified practice setting, and/or limit procedures a respondent can engage in depending on the nature of the violation.
- H. Page 17: The continuing education condition of the optometry disciplinary guidelines was renamed to professional education and the text was edited to remove all

references to optometry related procedures, functions, and renewal requirements. Specific professional education hours requirement was removed from the text. this gives the Board flexibility in determining the number of hours necessary based on the respondent's violation.

- I. Page 18: The Committee and staff agreed that the abstention from use of controlled substances/alcohol should be rewritten for clarification. This section specifies the respondent's responsibilities and reporting requirements for abstaining from alcohol and drugs. The revised section removes quarterly reporting requirements which are covered on the Quarterly Report form. This revision helps condense and simplify that section.
- J. Page 19: The DOC moved to adopt a clinical diagnostic evaluation into the discretionary conditions of probation. the clinical diagnostic evaluation shall set forth whether the registrant has a substance abuse problem, is a threat to themselves or others, and provide recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the registrant's rehabilitation and safe practice.
- K. Staff removed gender pronouns in accordance to [ACR 260](#). This Resolution encourages the use of inclusive language by avoiding gendered pronouns when drafting policies, regulations, and other guidance.

Adopt §1399.273 of Article 6.5 of Division 13.5 of Title 16 of the California Code of Regulations as follows:

§ 1399.273. Optician Program Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Registrants.

(a) In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the California State Board of Optometry (Board) shall consider the “Registered Dispensing Optician Program Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (DG 1 03/2019),” which is hereby incorporated by reference. Deviation from these guidelines and orders, 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 deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), if after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with sections 11500 et seq.) or after stipulation of the parties supported by the Attorney General Office’s reasons for recommending the stipulation, the Board finds that the evidence establishes that an individual is a substance-abusing registrant for purposes of section 315 of the Code, then in addition to any and all other relevant terms and conditions contained in the disciplinary guidelines, the terms and conditions that incorporate the Uniform Standards Related to Substance-Abusing Licensees shall apply, without deviation, and be used in any probationary order of the Board affecting that registrant.

(c) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Board's guidelines in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 2546.3, 2558, and 315, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 480, and 2555, Business and Professions Code; Sections 11400.20 and 11425.50(e), Government Code.



OPTICIANRY PROGRAM
DISCIPLINARY GUIDELINES
&
UNIFORM STANDARDS RELATED TO SUBSTANCE
ABUSE
(DG 1, 03-2019)

“Protection of the Public Shall be the Highest Priority”
(Business and Professions Code, §3010.1)

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Draft

INTRODUCTION

The mission of the California State Board of Optometry (Board) is to protect the health and safety of California consumer through licensing, registration, education, and regulation of the practice of optometry as well as opticianry. The Board's Optician Program registers and regulates Spectacle Lens Dispensers (SLDs), Contact Lens Dispensers (CLDs), Registered Dispensing Opticians (RDOs), and Non-resident Contact Lens Sellers (NCLS).

In keeping with its mandate to protect the consumers of optometric and opticianry services from unsafe, incompetent and/or negligent optometrists and opticians, the Board has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Business and Professions Code.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount. Consequently, the Board requests that the Administrative Law Judge (ALJ) clearly delineate the factual basis for their decision. This is especially important should the ALJ deviate from the recommended guidelines. The rationale for the deviation should be reflected in the decision to enable the Board to understand the reasons therefore and to evaluate the appropriateness of the decision.

If, at the time of hearing, the Administrative Law Judge finds that the Respondent for any reason is not capable of safe practice, the Board favors outright revocation of the registration. If, however, the Respondent has demonstrated a capacity to practice safely, a stayed revocation order with probation is recommended.

Suspension of a registration may also be appropriate where the public may be better protected if the practice of the optician is suspended in order to correct deficiencies in skills, education, or personal rehabilitation.

REGULATORY AUTHORITY

These guidelines are incorporated by reference in §1399.273 of Division 13.5 of Title 16 of the California Code of Regulations, as follows:

§ 1399.273. Optician Program Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Registrants.

- (a) In reaching a decision on a disciplinary action under the Administrative

Procedures Act (Government Code Section 11400 et seq.), the California State Board of Optometry (Board) shall consider the “Registered Dispensing Optician Program Disciplinary Guidelines and Uniform Standards Related to Substance Abusing Licensees (DG 1 03/2019),” which is hereby incorporated by reference. Deviation from these guidelines and orders, 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 deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), if after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with sections 11500 et seq.) or after stipulation of the parties supported by the Attorney General Office’s reasons for recommending the stipulation, the Board finds that the evidence establishes that an individual is a substance-abusing registrant for purposes of section 315 of the Code, then in addition to any and all other relevant terms and conditions contained in the disciplinary guidelines, the terms and conditions that incorporate the Uniform Standards Related to Substance-Abusing Licensees shall apply, without deviation, and be used in any probationary order of the Board affecting that registrant.

(c) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Board's guidelines in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 2546.3, 2558, and 315, Business and Professions Code; and Section 11400.20, Government Code.

Reference: Sections 315, 315.2, 315.4, 480, and 2555, Business and Professions Code; Sections 11400.20 and 11425.50(e), Government Code.

FACTORS TO BE CONSIDERED

In determining whether denial, revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and gravity of the act(s), offenses, or crime(s) under consideration.
2. The nature and duties of the profession in which the applicant seeks

registration or in which the registrant is registered.

3. Actual or potential harm to the public.
4. Actual or potential harm to any patient.
5. Prior disciplinary record.
6. Number and/or variety of current violations.
7. Mitigation evidence.
8. Whether there has been a showing of rehabilitation, if the applicant or registrant completed the criminal sentence at issue without a violation of parole or probation
9. Whether there has been a showing of rehabilitation when applying the Board's rehabilitation criteria.
10. Overall criminal record.
11. The number of years elapsed since the date of the offense(s) occurred.
12. If applicable, evidence of expungement proceedings pursuant to Penal Code Section 1203.4.

INTRODUCTORY LANGUAGE STANDARD PROBATION CONDITIONS

The following introductory language and all standard probation conditions are to be included in probationary decisions/orders. For applicants, Condition 8, Cost Recovery, does not apply. For registrants, all standard probation conditions apply.

PROBATIONARY TERMS AND CONDITIONS

MODEL DISCIPLINARY ORDERS

Revocation - Single Cause

Registration No. _____ issued to Respondent _____ is revoked. Cost Recovery in the amount of _____ is due within 90 calendar days of the effective date of this decision or within a Board-approved payment plan.

Revocation - Multiple Causes

Registration No. _____ issued to Respondent _____ is revoked pursuant to Determination of Issues _____ separately and for all of them. Cost Recovery [if any] in the amount of _____ is due within 90 calendar days of the effective date of this decision or within a Board-approved payment plan.

Suspension - Single Cause

Registration No. _____ issued to Respondent _____ is suspended for a period of _____.

Suspension - Multiple Causes (run concurrently)

Registration No. _____ issued to Respondent _____ is suspended pursuant to Determination of Issues _____, separately and for all of them. All suspensions shall run concurrently.

Suspension - Multiple Causes (run consecutively)

Registration No. _____ issued to Respondent _____ is suspended for _____ pursuant to Determination of Issues _____. These suspensions shall run consecutively, for a total period of _____.

Standard Stay Order

However [revocation/suspension] is stayed and Respondent is placed on probation for _____ years upon the following terms and conditions:

Cost Recovery for Revocations and Surrenders

If and when respondent's registration is reinstated, they shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section in the amount of \$ _____. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the registration.

MODEL PROBATIONARY ORDERS

The following introductory language is to be included in decisions that place the Respondent's registration on probation.

IT IS HEREBY ORDERED that Registration No. _____ issued to Respondent is

revoked. However, the revocation is stayed, and Respondent's registration is placed on probation for _____years on the following conditions.

Option:

Should the Board subsequently issue a new registration or license to Respondent during the probationary period, the new registration or license shall be immediately revoked. The revocation of such shall be stayed, and the probation imposed by this decision and order will continue. Respondent shall remain subject to the same terms and conditions imposed by this disciplinary order.

In order to provide clarity and consistency in its decisions, the following language should be used in proposed decisions or stipulated agreements for applicants, and for petitioners for reinstatement who are issued a registration that is placed on probation.

Applicants who are placed on probation:

The application of Respondent___for registration is hereby granted. Upon successful completion of all registration requirements including payment of all fees and evaluation of the application, a registration shall be issued to Respondent. Said registration shall immediately be revoked, the order of revocation stayed, and Respondent's registration placed on probation for a period of ___years on the following conditions:

Reinstatement of registration with conditions of probation:

The application of Respondent___for reinstatement of registration is hereby granted. A registration shall be issued to Respondent. Said registration shall immediately be revoked, the order of revocation stayed, and Respondent's registration placed on probation for a period of ___years on the following conditions:

NOTE: If cost recovery was ordered in the revocation or surrender of a registration and the cost recovery has not been paid in full by a petitioner, a probation condition requiring payment of the original cost recovery on a payment plan must be included in the reinstatement and decision.

STANDARD TERMS AND CONDITIONS

A probationary term is generally issued for a period between three (3) and five (5) years, dependent upon whether any aggravating or mitigating factors exist. Standard conditions are imposed on each and every probationer regardless of cause for discipline. For applicants, Condition 8, Cost Recovery, does not apply.

1. Obey all laws
2. Submit Quarterly Reports
3. Cooperate with Probation Monitoring Program
4. Probation Monitoring Costs
5. Function as a Registered Dispensing Optician, Spectacle Lens Dispenser, Contact Lens Dispenser, or Nonresident Contact Lens Seller
6. Notice to Employer
7. Changes of Employment or Residence
8. Cost Recovery
9. Valid Registration Status
10. Tolling for Out-Of-State Residence or Practice
11. Registration Surrender
12. Violation of Probation
13. Completion of Probation
14. Sale or Closure of a Dispensary Location

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 and all other applicants thereof, 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 opticianry in California.

Respondent shall notify the Board in writing within 72 hours of any incident resulting in their 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 [Registered Dispensing Optician/Spectacle Lens Dispenser/Contact Lens Dispenser/Nonresident Contact Lens Seller] registration(s). Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due every quarter for each year of probation throughout the entire length of probation.

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.

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 [Registered Dispensing Optician/Spectacle Lens Dispenser/Contact Lens Dispenser/Nonresident Contact Lens Seller] registration(s).

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. The Board may consider financial hardship in setting a repayment schedule.

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

5. FUNCTION AS A [REGISTERED DISPENSING OPTICIAN/SPECTACLE LENS DISPENSER/CONTACT LENS DISPENSER/NONRESIDENT CONTACT LENS SELLER]

Respondent shall function as [a registered dispensing optician/spectacle lens dispenser/contact lens dispenser/nonresident contact lens seller] for a minimum of 60 hours per month for 6 consecutive months.

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 Respondent authorizes the Board and the employers and supervisors to communicate regarding the Respondent'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 their employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing their supervisor and director and all subsequent supervisors and directors with a copy of the decision and order, and the accusation or statement of issues 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 they are aware of the Discipline, on forms to be provided to the Respondent (DG-Form 1 (05/2012)). The 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 termination or resignation from employment, change in employment status, and change in supervisors, administrators or directors.

Respondent shall also notify their 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, the Respondent must also provide their physical residence address as well.

8. COST RECOVERY

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$_____

Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six months prior to the end of any probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of their good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Respondent's probation

period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation will apply.

9. VALID REGISTRATION STATUS

Respondent shall maintain a current, active and valid registration for the length of the probation period. Failure to pay all fees and meet registration requirements prior to their registration expiration date shall constitute a violation of probation.

10. 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 their return to California and prior to the commencement of any employment where representation as a [registered dispensing optician/spectacle lens dispenser/contact lens dispenser registration/nonresident contact lens seller] is/was provided.

Respondent's registration shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's registration 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.

11. REGISTRATION SURRENDER

During Respondent's term of probation, if they cease practicing due to retirement, health reasons, or are otherwise unable to satisfy any condition of probation, Respondent may surrender their registration 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 registration 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 registration shall be considered a Disciplinary Action and shall become a part of Respondent's registration history with the Board.

12. 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.

13. COMPLETION OF PROBATION

Upon successful completion of probation, Respondent's registration shall be fully restored.

14. SALE OR CLOSURE OF A DISPENSARY LOCATION

If Respondent sells or closes their dispensary location after the imposition of administrative discipline, Respondent shall 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 dispensary location. The provisions of this condition in no way authorize the practice of opticianry by the Respondent during any period of registration suspension.

OPTIONAL PROBATION CONDITIONS

The conditions imposed are dependent upon the violation(s) committed.

15. Community Service
16. Participate in Group Support Meeting
17. Notice to Patients (RDO's only)
18. Alcohol and Drug Treatment
19. Worksite Monitor
20. Direct Supervision
21. Suspension
22. Employment Limitations
23. Psychotherapy or Counseling Program
24. Mental Health Evaluation
25. Medical Health Evaluation
26. Medical Treatment
27. Restitution
28. Audit Required (RDOs Only)
29. Lens Prescriptions – Maintain Records (RDOs Only)
30. Restricted Practice
31. Restrictions as to Advertisement
32. Take and Pass ABO and/or NCLE Exams
33. Continuing Education

15. COMMUNITY SERVICE

All types of community service 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 services on a regular basis to a community or

charitable facility or agency, amounting to a minimum of __ (Ex: 20) hours per month of probation. Such services shall begin no later than 15 calendar days after Respondent is notified of the approved program.

16. PARTICIPATE IN GROUP SUPPORT MEETING

Respondent shall attend at least one (1) group support meeting or equivalent during each week of probation, as approved or directed by the Board. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation.

17. NOTICE TO PATIENTS (RDOS ONLY)

During the period of probation, Respondent shall post a notice in a prominent place in their dispensary location that is conspicuous and readable to the public. The notice shall state the Respondent's registration is on probation and shall contain the telephone number of the California State Board of Optometry. Respondent shall also post a notice containing this information prominently on any website related to their business. The notice described above shall be approved by the Board within 30 calendar days of the effective date of this decision.

18. ALCOHOL AND DRUG TREATMENT

Respondent, at their expense, shall successfully complete a treatment regimen at a recognized and established program in California of at least six months duration and approved by the Board. The treatment program shall be successfully completed within the first nine months of probation. The program director, psychiatrist, or psychologist shall confirm that Respondent has complied with the requirement of this decision and shall notify the Board immediately if they believe the Respondent cannot safely practice. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. Respondent shall inform the program director, psychiatrist or psychologist, of their probationary status with the Board, and shall cause that individual to submit monthly reports to the Board providing information concerning Respondent's progress and prognosis. Such reports shall include results of biological fluid testing.

Positive results shall be reported immediately to the Board and may be used in administrative discipline.

19. WORKSITE MONITOR

Respondent shall submit the name of a proposed worksite monitor within 30 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding Respondent and the worksite monitor's requirements and reporting responsibilities, including if applicable, as specified in Standard 7 of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (April 2011) established by the Substance Abuse Coordination Committee. If the worksite monitor terminates

the agreement with Respondent and/or the Board, Respondent shall not practice until another worksite monitor is approved in writing by the Board.

20. DIRECT SUPERVISION

During the period of probation, Respondent shall be under the direct supervision of a registered contact/spectacle lens dispenser holding a current and valid unrestricted registration. "Direct supervision" means assigned to a registered contact/spectacle lens dispenser who is on duty and immediately available in the assigned patient area. The Board shall be informed in writing of and approve the level of supervision provided to the Respondent while they are functioning as a registered contact/spectacle lens dispenser. The appropriate level of supervision must be approved by the Board prior to engaging in practice.

Supervisor Quarterly Reports of Performance are due for each year of probation and the entire length of probation from each employer, as required by the Board or its designee.

Respondent is ultimately responsible for ensuring their supervisor submits complete and timely reports. Failure to ensure each supervisor submits complete and timely reports shall constitute a violation of probation.

21. SUSPENSION

As part of probation, Respondent shall be suspended from the practice of opticianry for a period of _____ (Ex: 90 calendar days) beginning the effective date of this decision. If not employed as an optician/dispenser or if currently on any other type of leave from employment, the suspension shall be served once employment has been established or reestablished and prior to the end of the probationary period. Respondent shall ensure that each employer informs the Board, in writing, that it is aware of the dates of suspension.

22. EMPLOYMENT LIMITATIONS

Respondent shall not work in any health care setting as a supervisor of opticians/dispensers. The Board may additionally restrict Respondent from supervising technicians and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of opticianry or as an instructor in a Board-approved continuing education program.

Respondent shall work only in a regularly assigned, identified and predetermined worksite(s) and shall not work in a "float" capacity.

23. PSYCHOTHERAPY OR COUNSELING PROGRAM

Within 30 calendar days of the effective date of this decision, Respondent shall submit to the Board for its prior approval the name and qualifications of a

psychotherapist, or counselor of Respondent's choice. Upon approval, Respondent shall undergo and continue treatment, at Respondent's cost, until such time as the Board releases them from this requirement and only upon the recommendation of the treating psychotherapist or counselor.

The treating psychotherapist or counselor must submit quarterly reports. Reports are due each year of probation and the entire length of probation from the treating psychotherapist or counselor as required by the Board or its designee.

Respondent is ultimately responsible for ensuring their treating psychotherapist or counselor submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

The Board may require Respondent to undergo psychiatric or psychological evaluations by a Board- approved psychiatrist or psychologist.

NOTE: This condition is for those cases where the evidence demonstrates that the Respondent has had impairment (mental illness, alcohol abuse and drug abuse) related to the violations but is not at present a danger to patients.

24. MENTAL HEALTH EVALUATION

Respondent shall, within 30 calendar days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, to submit to a mental health evaluation, including psychological testing as appropriate, to determine their capability to perform the duties of a dispenser/optician. The evaluation will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. An immediate suspension may be imposed by the Board until further notification if the results from the mental health evaluation prove the Respondent is unsafe to practice.

If Respondent fails to have the above evaluation submitted to the Board within the 30-calendar day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the evaluation, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

Following the evaluation, Respondent shall comply with all restrictions or conditions recommended by the evaluator within 15 calendar days after being notified by the Board or its designee. If Respondent is required by the Board or its designee to undergo treatment, Respondent shall, within 30 calendar days of the requirement notice, submit to the Board for prior approval the name and qualifications of a licensed psychiatrist, psychologist or other licensed mental health practitioner of

Respondent's choice. Upon approval of the treating psychiatrist, psychologist or other licensed health practitioner, Respondent shall within 15 calendar days undergo treatment and shall continue such treatment until further notice from the Board or its designee.

The treating psychiatrist, psychologist or other licensed mental health practitioner shall consider the information provided by the Board or any other information the treating psychiatrist, psychologist or other mental health practitioner may deem pertinent prior to the commencement of treatment. Respondent shall have the psychiatrist, psychologist or other health practitioner submit quarterly reports to the Board indicating whether or not the Respondent is capable of practicing opticianry safely. The quarterly reports are due each year of probation and the entire length of probation from the psychiatrist, psychologist or other licensed mental health practitioner as required by the Board or its designee.

Respondent is ultimately responsible for ensuring their psychiatrist, psychologist or other licensed mental health practitioner submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

Respondent shall provide the Board with any and all medical records pertaining to treatment deemed necessary by the Board or its designee.

If, prior to the completion of probation, Respondent is found to be mentally incapable of resuming the practice of opticianry without restrictions, the Board shall retain continuing jurisdiction of Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally capable of resuming practice of opticianry without restrictions. Respondents shall pay the cost of the evaluation(s) and treatment.

(OPTIONAL): Respondent shall not engage in fitting and adjusting lenses or dispensing until notified by the Board of its determination that Respondent is mentally fit to practice safely.

NOTE: This condition is for those cases where the evidence demonstrates that mental illness or disability was a contributing cause of the violations.

25. MEDICAL HEALTH EVALUATION

Within 30 calendar days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo a medical evaluation, at Respondent's cost, by a Board- appointed physician who shall furnish a medical report to the Board. Based on the medical evaluation, the Board or its designee may require Respondent to undergo medical treatment.

If Respondent is required by the Board or its designee to undergo medical treatment, Respondent shall within 30 calendar days of the requirement notice submit to the Board for its prior approval the name and qualification of a physician of Respondent's choice. Upon approval of the treating physician, Respondent shall undergo and continue medical treatment, at Respondent's cost, until further notice from the Board. Respondent shall have the treating physician submit quarterly reports to the Board. Quarterly reports are due each year of probation and the entire length of probation from the treating physician as required by the Board or its designee.

Respondent is ultimately responsible for ensuring their physician submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

(OPTIONAL): Respondent shall not engage in fitting and adjusting lenses or dispensing until notified by the Board of its determination that Respondent is medically fit to practice safely.

NOTE: This condition is for those cases where the evidence demonstrates that medical illness or disability was a contributing cause of the violations.

26. MEDICAL TREATMENT

Within 30 calendar days of the effective date of this decision, Respondent shall submit to the Board for its prior approval the name and qualifications of a physician of Respondent's choice. Upon approval, Respondent shall undergo and continue treatment, at Respondent's cost, until the Board deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports to the Board. Quarterly status reports are due each year of probation and the entire length of probation from the treating physician as required by the Board or its designee.

Respondent is ultimately responsible for ensuring their physician submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

The Board may require Respondent to undergo periodic medical evaluations by a Board- approved physician.

27. RESTITUTION

Within 90 calendar days of the effective date of this decision, Respondent shall provide to the Board or its designee proof of restitution in the amount of \$____paid to _____.

28. AUDIT REQUIRED (RDOS ONLY)

The Board shall require quarterly audits of patient visits, billings, and payments as a

condition of probation.

Within 30 calendar days of the effective date of this decision, Respondent shall provide to the Board the names and qualifications of three third party auditors. The Board shall select one of the three auditors to audit Respondent's billings. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices.

The Board shall provide the approved auditor with copies of the decision(s) and accusation(s), and a proposed auditing plan. Within 15 calendar days of receipt of the decision(s), accusation(s), and proposed monitoring plan, the auditor shall sign an affirmation that they have reviewed the terms and conditions of the Respondent's disciplinary order, fully understands the role of auditor, and agrees or disagrees with the proposed auditing plan set forth by the Board. If the auditor disagrees with the proposed auditing plan, the auditor shall submit a revised auditing plan with the signed affirmation for approval by the Board.

Within 60 calendar days of the effective date of this decision, and continuing throughout probation, Respondent's patient visits, billings and payments shall be audited by the approved auditor. Respondent shall make all records available for immediate inspection and copying on the premises by the auditor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of an auditor within 60 calendar days of the effective date of this decision, Respondent shall receive a notification from the Board to cease the practice of opticianry within three (3) calendar days after being so notified. Respondent shall cease practice until an auditor is approved to provide auditing responsibility.

The Board shall be advised of the results of the audit and may obtain any and all copies of any documents audited or the results of the audit. The cost of the audits shall be borne by Respondent. Failure to pay for the audits in a timely fashion within ten (10) calendar days from audit completion shall constitute a violation of probation.

Quarterly reports of the audit results are due each year of probation and the entire length of probation from the auditor as required by the Board or its designee. Respondent is ultimately responsible for ensuring their auditor submits complete and timely reports. Failure to ensure each auditor submits complete and timely reports shall constitute a violation of probation. If the auditor resigns or is no longer available, Respondent shall, within five (5) days of such resignation or unavailability, submit to the Board, for prior approval, the names and qualifications of a replacement third party auditor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement auditor within 60 calendar days of the resignation or unavailability of the auditor,

Respondent shall receive a notification from the Board to cease the practice of opticianry within three (3) calendar days.

After being so notified, Respondent shall cease practice until a replacement auditor is approved and assumes auditing responsibility.

29. LENS PRESCRIPTIONS - MAINTAIN RECORDS (RDOS ONLY)

Respondent shall maintain patient records of all lens prescriptions dispensed or administered by Respondent during probation, showing all the following:

Name and address of the patient;

Date;

Price of the services and goods involved in the prescription;

Visual impairment identified for which the prescription was furnished.

Respondent shall keep these patient records in a separate file, in chronological order, and shall make them available for inspection and copying by the Board or its designee, upon request.

30. RESTRICTED PRACTICE

Respondent shall practice only with a specified client population, in a specified practice setting, and/or engage in limited medical procedures. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in the manner required by the Board.]

31. RESTRICTIONS ON ADVERTISEMENTS

During the entire period of probation, the Respondent shall, prior to any publication or public dissemination, submit any and all advertisement of professional services in the field of opticianry to the Board for its prior approval. Such advertisement may be published or disseminated to the public only after written approval by the Board.

32. TAKE AND PASS ABO AND/OR NCLE EXAM

Respondent shall take and pass part(s) _____ of the American Board of Opticianry (ABO) Examination and/or the National Contact Lens Examination (NCLE).

Respondent shall pay the established examination fees. If Respondent has not taken and passed the examination within twelve months from the effective date of this decision, Respondent shall be considered to be in violation of probation.

33. PROFESSIONAL EDUCATION

Within 30 calendar days of the effective date of this decision, Respondent shall submit to the Board for its prior approval an educational program or course to be in areas of _____. The education program or course(s) shall consist of a minimum of _____ hours for each area.

Respondent is responsible for all costs associated with completing the continuing education requirements. Following completion of each course, the Board or its

designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide written proof of attendance in such course or courses approved by the Board.

UNIFORM STANDARDS FOR SUBSTANCE ABUSING LICENSEES

Pursuant to Business and Professions Code section 315, the Department of Consumer Affairs Substance Abuse Coordination Committee formulated Uniform Standards Regarding Substance Abusing Healing Arts Licensees (rev. 4/20/11)(SACC). The Board's Uniform Standards not otherwise incorporated into the Standard or Optional Conditions are found in Required Conditions of Probation 34 and 35, and Discretionary Conditions of Probation 36, 37, and 38.

The Uniform Standards apply when dealing with substance-abusing registrants. If, after notice and hearing, the evidence establishes that the registrant is a substance abusing registrant, then Conditions of Probation 34 and 35 shall be imposed without deviation.

Conditions of Probation 36, 37, and 38 shall be considered where the registrant is found to be a substance abuser, and, if the nature and circumstances of the particular case warrant, shall be imposed as probation conditions.

The Board may impose more restrictive conditions, if necessary, to protect the public.

REQUIRED CONDITIONS OF PROBATION

34. ABSTENTION FROM USE OF CONTROLLED SUBSTANCES/ALCOHOL

Respondent shall abstain completely from the use or possession of alcohol, any and all other mood-altering drugs or substances, and their associated paraphernalia. Respondent shall identify for the Board, a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances, or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis. Quarterly reports are due for each year of probation throughout the entire length of probation as required by the Board or its designee.

Respondent is ultimately responsible for ensuring their physician, nurse practitioner or physician assistant submits complete and timely reports. Failure to ensure each submission of complete and timely reports shall constitute a violation of probation.

The Board may require a single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors or any other treating professional as requested by the Board or its designee.

Respondent shall ensure that they are not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s). Any positive result that registers over the established laboratory cut off level 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 opticianry registration.

Respondent also understands and agrees that any positive result that registers over the established laboratory cut off level shall be reported to each of Respondent's employers.

35. BIOLOGICAL FLUID TESTING

Respondent, at their expense, shall participate in random testing, including but not limited to biological fluid testing (i.e. urine, blood, saliva), breathalyzer, hair follicle testing, or any drug screening program approved by the Board. The length of time shall be for the entire probation period. The Respondent will be randomly drug tested at the frequency outlined in Uniform Standards for Substance Abuse #4.

Respondent shall make daily contact to determine if they are required to submit a specimen for testing, including weekends and holidays, at a lab approved by the Board. Board representatives may also appear unannounced, at any time to collect a specimen. All collections will be observed.

At all times Respondent shall fully cooperate with the Board or any of its representatives, and shall, when directed, appear for testing as requested and submit to such tests and samples for the detection of alcohol, narcotics, hypnotic, dangerous drugs or other controlled substances. All alternative testing sites, due to vacation or travel outside of California, must be approved by the Board prior to the vacation or travel.

If Respondent is unable to provide a specimen in a reasonable amount of time from the request, Respondent understands that, while at the work site, any Board representative may request from the supervisor, manager or director on duty to observe Respondent in a manner that does not interrupt or jeopardize patient care in any manner until such time Respondent provides a specimen acceptable to the Board.

If Respondent tests positive for a prohibited substance per their probationary order, Respondent's license shall be automatically suspended. The Board will contact the Respondent and their employers, supervisors, managers, work site monitors, and

contractors and notify them that Respondent's license has been suspended as a result of a positive test. Thereafter, the Board may contact the specimen collector, laboratory, Respondent, treating physician, treatment provider and support group facilitators to determine whether the positive test is in fact evidence of prohibited use. If the Board determines the positive test is not evidence of prohibited use, the Board shall immediately reinstate the license and inform the Respondent and others previously contacted, that the license is no longer suspended.

Failure to submit to testing on the day requested or appear as requested by any Board representative for testing, as directed, 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 registration.

DISCRETIONARY CONDITIONS OF PROBATION

36. CLINICAL DIAGNOSTIC EVALUATION

Within 30 days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a financial, personal, or business relationship with the registrant with the last 5 years. The clinical diagnostic evaluation report shall set forth whether the registrant has a substance abuse problem, is a threat to themselves or others, and provide recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the registrant's rehabilitation and safe practice. If the evaluator determines during the evaluation process that a registrant is a threat to themselves or others, the evaluator shall notify the Board within 24 hours of such a determination.

Any time Respondent is ordered to undergo a clinical diagnostic evaluation, Respondent shall cease practice for a minimum of 30 days pending the results of the evaluation. During such time, Respondent shall submit to random drug testing at a minimum of 2 times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within 10 days from the date the evaluation is complete, unless an extension, not to exceed 30 days, is granted to the evaluator by the Board.

Respondent shall not return to practice until the Board determines that they are able to safely practice either full-time or part-time and has had at least 30 days of negative drug test results. In deciding what, if any work limitations will be placed on a registrant, the Board will consider the factors set forth in the Uniform Standards

Regarding Substance-Abusing Healing Arts Licensees (April 2011) established by the Substance Abuse Coordination Committee.

Respondent shall comply with any restrictions or recommendations made as a result of the clinical diagnostic evaluation. If a registrant is restricted to less than full-time practice, before requesting a modification to work full time, Respondent shall meet the criteria found in Standard No. 11 of Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (April 2011) established by the Substance Abuse Coordination Committee.

Failure to undergo a clinical diagnostic evaluation when ordered to do so shall subject Respondent's license to further disciplinary action.

37. PARTICIPATE IN GROUP SUPPORT MEETINGS WITH QUALIFIED FACILITATOR

Respondent shall participate in group support meetings led by a facilitator who meets the qualifications and requirements as set forth in Standard No. 5 of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (April 2011) established by the Substance Abuse Coordination Committee. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation.

38. WORKSITE MONITOR UNDER UNIFORM STANDARDS

Respondent shall submit the name of a proposed worksite monitor within 30 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding Respondent and the worksite monitor's requirements and reporting responsibilities as specified in Standard No. 7 of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (April 2011) established by the Substance Abuse Coordination Committee. If the worksite monitor terminates the agreement with Respondent and/or the Board, Respondent shall not practice until another worksite monitor is approved in writing by the Board.

RECOMMENDED DISCIPLINE BASED ON VIOLATION

The following is an attempt to provide information regarding violations of statutes and regulations under the jurisdiction of the California State Board of Optometry and the appropriate range of penalties for each violation. Each discipline listed corresponds with a number under the chapters:

- Probationary Terms and Condition – Standard Terms and Conditions;
- Optional Conditions; and
- Uniform Standards for Substance Abusing Licensees

Examples are given for illustrative purposes, but no attempt is made to list all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation.

Conviction of a Substantially Related Crime (BPC [490](#), [2555.1](#), CCR [1399.270](#))

Maximum Discipline: Revocation

Minimum Discipline: Stayed Revocation, 3-5 years' probation

Required:

1-14. Standard Conditions

If Warranted:

15. Community Service
16. Participate in Group Support Meeting
17. Notice to Patients (RDOs Only)
18. Alcohol and Drug Treatment
19. Worksite Monitor
20. Direct Supervision
21. Suspension
22. Employment Limitations
23. Psychotherapy or Counseling Program
24. Mental Health Evaluation
25. Medical Health Evaluation
26. Medical Treatment
27. Restitution
28. Audit Required (RDOs Only)
29. Lens Prescriptions – Maintain Records (RDOs Only)
30. Restrictions as to Advertisement
31. Take and Pass ABO and/or NCLE Exams
32. Professional Education
33. Abstention From Use of Controlled Substances/Alcohol
34. Biological Fluid Testing
35. Clinical Diagnostic Evaluation
36. Participate in Group Support Meetings with Qualified Facilitator
37. Worksite Monitor Under Uniform Standards

Dishonesty, False Statement of Application (BPC [475](#), [480](#))

Maximum Discipline: Revocation

Minimum Discipline: Stayed Revocation, 3-5 years' probation

Required:

1-14. Standard Conditions

If Warranted:

21. Suspension

33. Professional Education – Ethics

Prohibited Arrangements with Optometrists (BPC [655](#))

Maximum Discipline: Revocation

Minimum Discipline: Stayed Revocation, 3-5 years' probation

Required:

1-14. Standard Conditions

If Warranted:

19. Worksite Monitor

21. Suspension

31. Restrictions on Advertisements

Disseminating False, Fraudulent, Misleading, or Deceptive Information (BPC [651](#))

Maximum Discipline: Revocation

Minimum Discipline: Stayed Revocation, 3-5 years' probation

Required:

1-14. Standard Conditions

30. Restrictions on Advertisements

If Warranted:

15. Community Service

19. Worksite Monitor

21. Suspension

27. Restitution

Dispensing Lenses Below Industry Standard (BPC [2541.3](#))

Maximum Discipline: Revocation

Minimum Discipline: Stayed Revocation, 3-5 years' probation

Required:

1-14 Standard Conditions

If Warranted:

15. Community Service

16. Worksite Monitor

17. Direct Supervision

18. Suspension

19. Restitution

20. Take and Pass ABO and/or NCLE Exams

21. Professional Education

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, Dispensing Optician Committee (DOC) |
| FROM | Shara P. Murphy, Executive Officer <i>Prepared by Marc Johnson, Policy Analyst and Natalia Leeper, Opticianry Program Coordinator</i> |
| SUBJECT | Agenda Item #9: Review, Discussion and Possible Action on Potential Changes to Dispensing Optician Statutes: Chapter 5.4 (Prescription Lens) of Division Two of the Business and Professions Code (BPC); Chapter 5.45 (Nonresident Contact Lens Sellers) of Division Two of the BPC; Chapter 5.5 (Registered Dispensing Opticians) of Division Two of the BPC (BPC) |

Summary/History:

As part of the DOC's statutorily mandated duties under [BPC §3020](#), the DOC is charged with recommending registration standards and criteria for the registration of dispensing opticians, nonresident contact lens sellers, spectacle lens dispensers, and contact lens dispensers. Over the course of several meetings, the DOC reviewed and discussed proposed changes made to statute by members, stakeholders and staff. This agenda item is the culmination of those changes. The intent of these changes is to improve public protection, clarify and enhance registrant reporting requirements, update definitions and terminology, and re-organize the statutes for clarity and organization. Larger issues, such as optician training program requirements, continuing education requirements, fee increases or a jurisprudence exam are not proposed as part of these changes.

Previous DOC meetings on the agenda item:

- [January 30, 2020](#)
- [December 13, 2019](#)
- [September 27, 2019](#)

Although the DOC thoroughly reviewed and made changes, the Board may wish to refer this issue to the LRC for further consideration before final approval. After Board review and approval, a legislative author will be sought, likely for the 2021-2022 Legislative session. Similarly, a DOC review of all current regulations is planned for 2021 or 2022.

Current Law:

The RDO statutes are set out within Division Two the Business and Professions Code:

- [Chapter 5.4 \(Prescription Lens\)](#)
- [Chapter 5.45 \(Nonresident Contact Lens Sellers\)](#)
- [Chapter 5.5 \(Registered Dispensing Opticians\)](#)

Changes to the text of Chapter 5.4, 5.45 and 5.5 (Attachment A):

The text of Chapters 5.4, 5.45 and 5.5 are set out in full below. Where appropriate, proposed new text is underlined and deleted text is ~~struck through~~ and **highlighted in yellow**.

Global changes include update from “medical board” to “state board of optometry”; various grammar fixes; inclusion of new section numbers for better article construction and the use of “ophthalmic” in place of “optician” where appropriate. Throughout the text, proposed new section numbers are used, however final section numbering will be determined by the Legislature. Major changes:

Chapter 5.4 Prescription Lens – BPC §§2540 – 2545

§2541.1(b): Section changed for clarity - two to four years from the date of issuance” may be confusing.

§2541.2(a)(1): Section changed for clarity – “one to two years from the date of issuance” may be confusing.

§2542: “Fit, adjust” removed as optician businesses do not perform these functions, and definition of fit and adjust only applies to CLD/SLD registrants as defined in §2550.1.

§2545(b)(1): Proposed raising and lowering of fine caps. This change allows Board more flexibility to assess fines for a minor or major violations and act as a stronger deterrent to larger businesses who violate the law. Since most optical businesses are larger businesses, the new amounts would act as an actual deterrent against violations. Regulations to include fine levels and repeat offenders can be implemented after statute in law.

Chapter 5.45. Nonresident Contact Lens Sellers – BPC §§2546 - 2546.10

Proposed relocation of this entire chapter into Chapter 5.5, Article 2.5, to put all license types which the Board regulates under one chapter.

Chapter 5.5 Registered Dispensing Opticians – BPC §§2550 - 2569

Staff proposes reorganizing this section into the following articles to better denote the purpose of each section, and move existing chapters into the new section, in order to better specify which statutes apply to which license types. These changes will provide clarity to the purpose of each article and ease of reading.

Article 1 – General Provisions. Existing article which incorporates various section which apply to all registrants.

§2550: This section was partially relocated into §2568.1 and §2550.1 for clarity.

§2550.1: This proposed section provides definitions of basic functions of what an optician does and brings together various terms used throughout Chapter 5.5. During the DOC meetings, several parts of the discussion focused on further defining terms used throughout the statutes which refer to opticianry. The DOC directed staff to research multiple state and federal sources; widely variant meanings were discovered. For example, two state agencies use the

terms “ophthalmic lens” and ophthalmic dispensing” but descriptions were missing or inconclusive in California law. At the federal level, definitions varied or were not defined at all. Several other states, such as [Florida](#) and Washington, better define the terms “optician” and “optical dispensing”. Based on this inconclusive research, staff and the DOC proposes definitions based on existing text elsewhere within the chapter and re-stated into a logical format. These additions will provide a better reference in statute to the various functions and certificates used. Examples:

- The DOC defined and separated “fit” and “adjust” based on industry terms and text from BPC §2541.
- Definition for an unregistered assistant working in an optical shop or business. Term is currently undefined in statute. Ties in with duties defined in §2559.15 and §2560.
- A provision was added which makes clear the chapter only applies to RDO registrants and assistants at RDO business, and not for an unlicensed individual working directly under optometrist / ophthalmologist license via §2544.

§2551: This section was relocated into §2568.2. as the sections mostly apply to businesses.

§2552: Changes to this section improve reporting requirements and add electronic mail to communications. Electronic mail is not prohibited and is already done by staff.

§2553: First two paragraphs were relocated to §2568.4, as they appear to refer mostly to businesses. The remaining section now requires that registrants must display their certificate in a clear and conspicuous place, which includes their registration number, name, address of record and expiration date. This requirement is similar to what cosmetologists and barbers are required to display.

§2553.1: This section was relocated into §2568.5, as the provisions apply mostly to businesses.

§2553.7: Section modified to apply to all registrants licensed by the Board.

§2555: Per DOC direction, proposed text mirrored on [BPC §3110 \(Optometry\)](#), listing all actions which constitute unprofessional conduct and made specific for dispensing opticians. Sections not applicable to opticians such as drug prescriptions, therapeutic procedures and referrals to physicians were removed. Staff recommends further discussion on any additional terms which need to be removed or added.

§2555.1(d): Proposed section would define that penalties apply only to individuals who are on the business application, and not their stockholders or unaffiliated employees who do not perform optician functions.

§2557.1: This section was relocated from §2563 into general provisions in order to make clear it applies to all registrants.

§2558.1: This section was relocated from §2559.6 into general provisions in order to make clear it applies to all registrants.

Article 1.5 – Spectacle Lens Dispensing. This new article incorporates various sections throughout Chapter 5.5 pertaining to SLD registrants.

§2559.15: The DOC made several changes to this section:

- 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.
- Addition of “physically present” on the premises so that a supervisor is required to be nearby while an unlicensed assistant performs their duties.
- Removal of the words “usual and customary absences” which reduces a loophole some businesses may be using to allow supervising SLDs to not be on premises when unregistered assistants are working
- Based on DOC discussion and staff research, a cap of three unregistered assistants added for public protection. Mirrors CLD requirement in §2560.

§2559.2: Several changes were made to this section. An individual whose registration is more than three years old and cancelled is now required to take the NCLE/ABO exam in order to become eligible for a new registration. Additionally, a requirement of 14 days was added to notify the Board of their place of practice.

Article 2 – Contact Lens Dispensing. Existing article which incorporates various sections pertaining to CLD registrants.

§2560: Similar to §2559.15, 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. Addition of “physically” present on the premises so that a supervisor is required to be nearby while an unlicensed assistant performs their duties.

§2563: This section was relocated to §2557.1 to apply to all registrants listed in Chapter 5.5.

§2564: DOC recommends further definition of “accessible handwashing facilities” – text based on Federal rules.

Article 2.5 – Non Resident Ophthalmic Lens Dispensers. This new article incorporates Chapter 5.45 and other various sections throughout Chapter 5.5 and pertains to out of state ophthalmic device dispenser registrants.

Based on DOC discussion, the term “contact” was changed to “ophthalmic” throughout the article. The potential effect of this change would be to allow non-resident contact lens dispensers, properly registered with the Board, to now sell spectacle lenses within California. The word “seller” has been replaced with “dispenser” to more accurately describe and align with definitions in §2550.1.

§2564.74: Changes were made to tighten up reporting requirements to the Board, such as fictitious or assumed name, registration number or reporting changes in writing within 30 days. DOC also recommends addition of (c) which would strengthen laws to prevent fraud in advertising.

§2564.76 (a)(2): DOC recommends change of prescription confirmation to align with current federal prescription rules of eight business hours.

§2564.80: Proposed raising of fine cap to \$50,000 per violation. Similar to §2545(b)(1), this change allows the Board more flexibility to assess fines for a minor or major violations and act as a stronger deterrent to larger businesses who violate the law. Since most non-resident dispensers are larger businesses, the new amounts may act as an actual deterrent against violations. Regulations to include fine levels and repeat offenders can be implemented after statute is in law.

Article 3 – Fiscal Provisions. No change to these sections.

Article 3.5 – Ophthalmic Lens Dispensing Businesses. This new article pertains to ophthalmic businesses and incorporates various sections from Chapter 5.5.

§2568.1: This section was relocated from §2550 as the provisions have been modified to refer to dispensing ophthalmic businesses.

§2568.2: This section was relocated from §2551 as the provisions mostly apply to businesses. Subsection (c) the DOC added that all ‘corporations and firms’ be required to operate as professional corporations, as defined by Corporations Code Section 13401. All businesses must adhere to the Corporations Code, but this change will clarify the requirement within the Optician Practice Act. Staff discovered many optician businesses were operating as LLCs in violation.

§2568.3: This section was relocated from §2552 as the provisions appear to refer to dispensing ophthalmic businesses. Any changes to the application must be made in writing to the Board within 14 days.

§2568.4: This section was relocated from §2553, so the logical process from application to approval flows more smoothly.

§2568.5: This section was relocated from §2553.1 as the as the provisions have been modified to refer to dispensing ophthalmic businesses. Applicants will now need to cancel their registration using a form prescribed by the Board, and a new business must apply for a new registration within 10 calendar days. This provides more specificity about requirements for new business owners of an optician business.

Article 4 – Review. No changes to this section.

Agenda Item #9 – Optician Statutory Review – Attachment A

BUSINESS AND PROFESSIONS CODE – DIVISION 2

CHAPTER 5.4. Prescription Lenses [2540 - 2545]

2540. No person other than a physician and surgeon or optometrist may measure the powers or range of human vision or determine the accommodative and refractive status of the human eye or the scope of its functions in general or prescribe ophthalmic devices.
(Amended by Stats. 2006, Ch. 148, Sec. 2. Effective January 1, 2007.)

2541. A prescription ophthalmic device includes each of the following:
(a) Any spectacle or contact lens ordered by a physician and surgeon or optometrist, that alters or changes the visual powers of the human eye.
(b) Any contact lens described in paragraph (1) of subdivision (n) of Section 520 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360j and following).
(c) Any plano contact lens that is marketed or offered for sale in this state. “Plano contact lens” means a zero-power or noncorrective contact lens intended to change the appearance of the normal eye in a decorative fashion.
(Amended by Stats. 2006, Ch. 148, Sec. 3. Effective January 1, 2007.)

2541.1. (a) A spectacle lens prescription shall include all of the following:
(1) The dioptric power of the lens. When the prescription needed by the patient has not changed since the previous examination, the prescriber may write on the prescription form “copy lenses currently worn” instead.
(2) The expiration date of the prescription.
(3) The date of the issuance of the prescription.
(4) The name, address, telephone number, prescriber’s license number, and signature of the prescribing optometrist or physician and surgeon.
(5) The name of the person to whom the prescription is issued.
(b) The expiration date of a spectacle lens prescription shall not be less than **two years** ~~to and~~ shall **not exceed** four years from the date of issuance unless the patient’s history or current circumstances establish a reasonable probability of changes in the patient’s vision of sufficient magnitude to necessitate reexamination earlier than two years, or presence or probability of visual abnormalities related to ocular or systemic disease indicates, the need for reexamination of the patient earlier than two years. In no circumstances shall the expiration date be shorter than the period of time recommended by the prescriber for reexamination of the patient. Establishing an expiration date that is not consistent with this section shall be regarded as unprofessional conduct by the board that issued the prescriber’s certificate to practice.
(c) The prescriber of a spectacle lens shall orally inform the patient of the expiration date of a spectacle lens prescription at the time the prescription is issued. The expiration date of a prescription may be extended by the prescriber and transmitted by telephone, electronic mail, or any other means of communication. An oral prescription for a spectacle lens shall be reduced to writing and a copy of that writing shall be sent to the prescriber prior to the delivery of the lenses to the person to whom the prescription is issued.

Commented [JM1]: Changed for clarity – “two to four years from the date of issuance” may be confusing

(d) A prescriber of a spectacle lens shall abide by the rules pertaining to spectacle lens prescriptions and eye examinations adopted by the Federal Trade Commission found in Part 456 of Title 16 of the Code of Federal Regulations.

(e) An expired prescription may be filled if all of the following conditions exist:

(1) The patient's spectacles are lost, broken, or damaged to a degree that renders them unusable.

(2) Upon dispensing a prescription pursuant to this subdivision, the person dispensing shall recommend that the patient return to the optometrist or physician and surgeon who issued the prescription for an eye examination and provide the prescriber with a written notification of the prescription that was filled.

(Added by Stats. 1998, Ch. 8, Sec. 1. Effective January 1, 1999.)

2541.2. (a) (1) The expiration date of a contact lens prescription shall not be less than one year ~~to and shall not exceed~~ two years from the date of issuance, unless the patient's history or current circumstances establish a reasonable probability of changes in the patient's vision of sufficient magnitude to necessitate reexamination earlier than one year, or the presence or probability of visual abnormalities related to ocular or systemic disease indicate the need for reexamination of the patient earlier than one year. If the expiration date of a prescription is less than one year, the health-related reasons for the limitation shall be documented in the patient's medical record. In no circumstances shall the prescription expiration date be less than the period of time recommended by the prescriber for reexamination of the patient.

(2) For the purposes of this subdivision, the date of issuance is the date the patient receives a copy of the prescription.

(3) Establishing an expiration date that is not consistent with this section shall be regarded as unprofessional conduct by the board that issued the prescriber's license to practice.

(b) Upon completion of the eye examination or, if applicable, the contact lens fitting process for a patient as described in subdivision (f), a prescriber or a registered dispensing optician shall provide the patient with a copy of the patient's contact lens prescription signed by the prescriber, unless the prescription meets the standards set forth in subdivision (c).

(c) A prescriber shall retain professional discretion regarding the release of the contact lens prescription for patients who wear the following types of contact lenses:

(1) Rigid gas permeables.

(2) Bitoric gas permeables.

(3) Bifocal gas permeables.

(4) Keratoconus lenses.

(5) Custom designed lenses that are manufactured for an individual patient and are not mass produced.

(d) If a patient places an order with a contact lens seller other than a physician and surgeon, an optometrist, or a registered dispensing optician, the prescriber or his or her authorized agent shall, upon request of the contact lens seller and in the absence of the actual prescription, attempt to promptly confirm the information contained in the prescription through direct communication with the contact lens seller.

(e) The contact lens prescription shall include sufficient information for the complete and accurate filling of a prescription, including, but not limited to, the power, the material or manufacturer or both, the base curve or appropriate designation, the diameter when appropriate, and an appropriate expiration date. When a provider prescribes a private label

Commented [JM2]: Changed for clarity – “one to two years from the date of issuance” may be confusing

contact lens for a patient, the prescription shall include the name of the manufacturer, the trade name of the private label brand, and, if applicable, the trade name of the equivalent national brand.

(f) The contact lens fitting process begins after the initial comprehensive eye examination, and includes an examination to determine the lens specifications, an initial evaluation of the fit of the lens on the patient's eye, except in the case of a renewal prescription of an established patient, and followup examinations that are medically necessary, and ends when the prescriber or registered dispensing optician determines that an appropriate fit has been achieved, or in the case of a prescription renewal for an established patient, the prescriber determines that there is no change in the prescription.

(g) The payment of professional fees for the eye exam, fitting, and evaluation may be required prior to the release of the prescription, but only if the prescriber would have required immediate payment from the patient had the examination revealed that no ophthalmic goods were required. A prescriber or registered dispensing optician shall not charge the patient any fee as a condition to releasing the prescription to the patient. A prescriber may charge an additional fee for verifying ophthalmic goods dispensed by another seller if the additional fee is imposed at the time the verification is performed.

(h) A prescriber shall not condition the availability of an eye examination, a contact lens fitting, or the release of a contact lens prescription on a requirement that the patient agree to purchase contact lenses from that prescriber. A registered dispensing optician shall not condition the availability of a contact lens fitting on a requirement that the patient agrees to purchase contact lenses from that registered dispensing optician.

(i) A prescriber or a registered dispensing optician shall not place on the contact lens prescription, deliver to the patient, or require a patient to sign a form or notice waiving or disclaiming the liability or responsibility of the prescriber or registered dispensing optician for the accuracy of the ophthalmic goods and services dispensed by another seller. This prohibition against waivers and disclaimers shall not impose liability on a prescriber or registered dispensing optician for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's prescription.

(j) The willful failure or refusal of a prescriber to comply with the provisions of this section shall constitute grounds for professional discipline, including, but not limited to, the imposition of a fine or the suspension or revocation of the prescriber's license. The Medical Board of California and the State Board of Optometry shall adopt regulations, to implement this subdivision, including, but not limited to, standards for processing complaints each receives regarding this subdivision.

(k) For the purposes of this section, "prescriber" means a physician and surgeon or an optometrist.

(l) Nothing in this section shall be construed to expand the scope of practice of a registered dispensing optician as defined in Sections 2542, 2543, and Chapter 5.5 (commencing with Section 2550).

(Added by Stats. 2002, Ch. 814, Sec. 1. Effective January 1, 2003.)

2541.3. (a) The State Department of Public Health, the State Board of Optometry, and the Medical Board of California shall prepare and adopt quality standards and adopt regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. In promulgating these rules and regulations, the department and the boards

shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards that are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

(b) No individual or group that deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists, or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device that does not meet the minimum standards set by the State Department of Public Health, the State Board of Optometry, or the Medical Board of California.

(c) Any violation of the regulations adopted by the State Department of Public Health, the State Board of Optometry, or the Medical Board of California pursuant to this section shall be a misdemeanor.

(d) Any optometrist, ophthalmologist, or dispensing optician who violates the regulations adopted by the State Department of Public Health, the State Board of Optometry, or the Medical Board of California pursuant to this section shall be subject to disciplinary action by his or her licensing board.

(e) The State Board of Optometry or the Medical Board of California may send any prescription ophthalmic device to the State Department of Public Health for testing as to whether or not the device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct the testing in its own facilities or may contract with any other facility to conduct the testing.

(Amended by Stats. 2016, Ch. 489, Sec. 10. (SB 1478) Effective January 1, 2017.)

2541.6. No prescription ophthalmic device that does not meet the standards adopted by the California under Section 2541.3 shall be purchased with state funds.

(Amended by Stats. 2016, Ch. 489, Sec. 11. (SB 1478) Effective January 1, 2017.)

2542. A registered dispensing optician shall ~~fit, adjust, or~~ dispense contact lenses, including plano contact lenses, only on the valid prescription of a physician and surgeon or optometrist, and acting on the advice, direction, and responsibility of the physician and surgeon or optometrist. The optician shall also comply with the requirements of Section 2560. A registered dispensing optician shall not ~~fit a~~ dispense contact lens or lenses, or a plano contact lens or lenses, unless the prescription specifically refers to and authorizes contact lenses. A registered dispensing optician shall not fit a generic type of contact lens or mode of wear for a contact lens contrary to the type or mode, if any, referred to in the prescription.

(Amended by Stats. 1985, Ch. 1139, Sec. 3.)

2543. (a) Except as provided in the Nonresident ~~Contact Ophthalmic Lens Dispenser~~ Seller Registration Act (Chapter ~~5.45~~ 5.5 (commencing with Section ~~2546~~ 2564.70), the right to dispense, sell or furnish prescription ophthalmic devices at retail or to the person named in a prescription is limited exclusively to licensed physicians and surgeons, licensed optometrists, and registered dispensing opticians as provided in this division. This section shall not be construed to affect licensing requirements pursuant to Section 111615 of the Health and Safety Code.

Commented [JM3]: Removed as RDO businesses do not perform these functions, and definition of fit and adjust only applies to CLD/SLD registrants as defined in 2550.1 below.

Commented [JM4]: Global change: "Nonresident Ophthalmic Lens Dispenser" and reference to placement of act.

(b) It shall be considered a deceptive marketing practice for:

(1) Any licensed physician and surgeon, licensed optometrist, or registered dispensing optician to publish or cause to be published any advertisement or sales presentation relating to contact lenses that represents that contact lenses may be obtained without confirmation of a valid prescription.

(2) Any individual or entity who offers for sale plano contact lenses, as defined in subdivision (c) of Section 2541, to represent by any means that those lenses may be lawfully obtained without an eye examination or confirmation of a valid prescription, or may be dispensed or furnished to a purchaser without complying with the requirements of Section 2562, except as provided in Chapter ~~5-45 5.5~~ (commencing with Section ~~2546 2564.70~~).
(Amended by Stats. 2006, Ch. 148, Sec. 6. Effective January 1, 2007.)

2544. (a) Notwithstanding any other provision of law, an assistant in any setting where optometry or ophthalmology is practiced who is acting under the direct responsibility and supervision of a physician and surgeon or optometrist may fit prescription lenses. Under the direct responsibility and supervision of an ophthalmologist or optometrist, an assistant in any setting where optometry or ophthalmology is practiced may also do the following:

- (1) Prepare patients for examination.
- (2) Collect preliminary patient data, including taking a patient history.
- (3) Perform simple noninvasive testing of visual acuity, pupils, and ocular motility.
- (4) Perform automated visual field testing.
- (5) Perform ophthalmic photography and digital imaging.
- (6) Perform tonometry.
- (7) Perform lensometry.
- (8) Perform nonsubjective auto refraction in connection with subjective refraction procedures performed by an ophthalmologist or optometrist.
- (9) Administer cycloplegiacs, mydriatics, and topical anesthetics that are not controlled substances, for ophthalmic purposes.
- (10) Perform pachymetry, keratometry, A scans, B scans, and electrodiagnostic testing.

(b) For the purposes of this section, "setting" includes, but is not limited to, any facility licensed by the State Department of Public Health or the State Department of Social Services.

(c) Nothing in this section shall be construed to authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400.

(Amended by Stats. 2010, Ch. 604, Sec. 1. (AB 2683) Effective January 1, 2011.)

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 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 ~~two hundred fifty dollars (\$250)~~ ~~one thousand dollars (\$1,000)~~ nor more than two

~~thousand five hundred dollars (\$2,500) fifty thousand dollars (\$50,000) per violation.~~ The fines

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 the Dispensing Opticians Fund, respectively, 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. 2016, Ch. 489, Sec. 12. (SB 1478) Effective January 1, 2017.)

~~**CHAPTER 5.45. Nonresident Contact Lens Sellers [2546 - 2546.10]**~~

Relocated entire Chapter 5.45 into Chapter 5.5, Article 2.5.

CHAPTER 5.5. Registered Dispensing Opticians [2550 - 2569]

Article 1. General Provisions [2550 – 2559]

~~**2550.** Individuals, corporations, and firms engaged in the business of filling prescriptions of physicians and surgeons licensed by the Medical Board of California or optometrists licensed by the 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 State Board of Optometry.~~
(Amended by Stats. 2016, Ch. 489, Sec. 13. (SB 1478) Effective January 1, 2017.)

~~**2550.1.** All references in this chapter to the board shall mean the State Board of Optometry. For the purposes of this chapter, the following definitions shall apply:~~

~~(a) "Board" means the State Board of Optometry.~~

~~(b) "Prescription" means any order made by a licensed physician and surgeon or licensed optometrist pursuant to Sections 2541.1 or 2541.2.~~

~~(c) "Fit" and "fitting" means doing any or all of the following acts prior to the act of adjusting, either singly or in combination with others, designing, the taking of measurements to determine the size or shape or specifications, or replacing the prescribed optical aids, pursuant and incidental to the filling of any prescription for lenses, spectacles, eyeglasses, contact lens, plano contact lens and other ophthalmic devices as specified in Section 2541, and prescriptions.~~

Commented [JM5]: Allows Board more flexibility to assess fines for a minor or major violations and act as a stronger deterrent to larger businesses who violate the law. Regulations to include fine levels and repeat offenders can be implemented after statute in law.

Commented [JM6]: As Nonresident CLS are considered a registration type, relocated into Chapter 5.5.

Commented [JM7]: Staff proposes reorganizing this chapter into the following articles to better denote the purpose of each section, and move existing chapters into the new section, in order to better specify which statutes apply to which license types. These changes will provide clarity to the purpose of each article and ease of reading.

Commented [JM8]: Partially relocated into 2568.1 RDO businesses and into 2550.1 definitions.

Commented [JM9]: Definitions of basic functions of what an optician does and brings together various terms used throughout chapter 5.5. Most new text is taken from existing language. Staff also performed taxonomy searches with NPI and CMS, state databases and industry websites.

Commented [JM10]: The DOC defined and separated "fit" and "adjust" based on industry terms and text from BPC §2541

(d) "Adjust" and "adjusting" means doing any or all of the following acts, either singly or in combination with others, adapting, delivering or replacing the prescribed optical aids, pursuant and incidental to the filling of any prescription for lenses, spectacles, eyeglasses, contact lens, plano contact lens and other ophthalmic devices as specified in Section 2541, and prescriptions.

(e) "Dispensing Optician", "Registered Dispensing Optician" and "Registrant" means any individual, corporation or firm who is registered with the board as follows:

(1) "Spectacle Lens Dispenser" means any individual who is registered with the board pursuant to Article 1.5 (commencing with Section 2559.1) of this chapter.

(2) "Contact Lens Dispenser" means any individual who is registered with the board pursuant to Article 2 (commencing with Section 2560) of this chapter.

(3) "Nonresident Ophthalmic Lens Dispenser" means a business who is registered with the board pursuant to Article 2.5 (commencing with Section 2564.70) which offers, advertises and performs optical services to the general public.

(4) "Registered Dispensing Ophthalmic Business" means a business who is registered with the board pursuant to Article 3.5 (commencing with Section 2568.1) which offers, advertises and performs optical services to the general public.

(f) "Ophthalmic Lens" or "Ophthalmic Device" means any prescription lenses, spectacles, eyeglasses, contact lens, plano contact lens and other ophthalmic devices, ordered by a physician and surgeon or optometrist, that alters or changes the visual powers of the human eye.

(g) "Unregistered Assistant" means an individual who is not registered with the board pursuant to this chapter. The unregistered assistant may perform the following:

supervision of a duly registered spectacle lens dispenser pursuant to section 2559.15.

(2) Fitting and adjusting of contact lenses under the direct responsibility and supervision of a duly registered contact lens dispenser pursuant to section 2560.

(3) The selection of frame designs, the actual sales transaction, and the transfer of physical possession of lenses, spectacles, eyeglasses, contact lenses, and other optical devices subsequent to performance of all services of the dispensing optician.

(4) Administrative, custodial or office tasks not related to direct patient care.

The provisions of this chapter shall not apply to an individual in any setting where optometry or ophthalmology is practiced who is acting under the direct responsibility and supervision of a physician and surgeon or optometrist, pursuant to section 2544 of the business and professions code.

(Amended by Stats. 2016, Ch. 489, Sec. 14. (SB 1478) Effective January 1, 2017.)

2551. (a) Individuals, corporations, and firms shall make application for registration and shall not engage in that business prior to being issued a certificate of registration.

(b) Application for that registration shall be on forms prescribed by the board, shall bear the signature of the individual, or general partners if a partnership, or the president or secretary if a

Commented [JM11]: Based on DOC direction, staff added definition for an unregistered assistant working in an optical shop or business. Term is currently undefined in statute. Ties in with duties defined in 2559.15 and 2560.

Commented [JM12]: 2

Commented [JM13]: Relocated to Section 2568.2

corporation or firm, and shall contain specify the name under which he or she, they or it proposes to do business and the business address.
~~(c) Corporations and firms shall be organized and exist pursuant to the general corporation law and shall be a professional corporation within the meaning of Part 4, Division 3, Title 1 of the Corporations Code.~~
~~(d) If applicable, the application shall include a list of officers in the corporation, firm or partnership and a copy of the articles of incorporation as submitted to the Secretary of State.~~
~~(e) Separate applications shall be made for each place of business and each application must be accompanied by the application fee prescribed by Section 2565.~~
~~(Amended by Stats. 1990, Ch. 1190, Sec. 2.)~~

2552. (a) Each application shall be verified under oath by the person required to sign the the applicant's employee who will be responsible for handling customer inquiries and complaints with respect to the business address for which registration is applied. Any changes to this information shall be reported in writing to the board within 14 days.

(b) The applicant shall furnish such additional information or proof, oral or written, which the board may request, including information and proof relating to the provisions of Division 1.5 (commencing with Section 475).

(c) The board shall promptly notify any applicant if, as of the 30th day following the submission of an application under this chapter, the application and supporting documentation are not substantially complete and in proper form. The notification shall be in writing, shall state specifically what documents or other information are to be supplied by the applicant to the board, and shall be sent to the applicant by certified, **electronic** or registered mail. Within 30 days of the applicant's submission of the requested documents or information to the board, the board shall notify the applicant by certified, **electronic** or registered mail if the board requires additional documents or information.

(d) This section shall become operative on January 1, 1988.
(Amended by Stats. 2016, Ch. 489, Sec. 15. (SB 1478) Effective January 1, 2017

2553. ~~If the board, after investigation, approves the application, it shall register the applicant and issue to the applicant a certificate of dispensing optician. A separate certificate of registration shall be required for each address where the business is to be conducted.~~

~~A certificate authorizes the applicant, its agents and employees acting therefor to engage in the business defined in Section 2550 provided that the fitting and adjusting of spectacle lenses is performed in compliance with Article 1.5 (commencing with Section 2559.1) and the fitting and adjusting of contact lenses is performed in compliance with Article 2 (commencing with Section 2560).~~

(a) Each certificate shall be at all times displayed in a conspicuous place at the certified place of business. The certificate shall not be transferable, but on application to the board there may be registered a change of address of the certificate. **The certificate displayed must include the certificate expiration date.**

Commented [JM14]: Changes to this section improve reporting requirements and add electronic mail to communications. Electronic mail is not prohibited and is already done by staff.

Commented [JM15]: First two paragraphs relocated to 2568.4

Commented [JM16]: This requires that registrants must display their certificate in a clear and conspicuous place, which includes their registration number, name, address of record and expiration date. This requirement is similar to what cosmetologists and barbers are required to display.

~~2553.1.~~ (a) If a registered dispensing optician business sells or transfers ownership of his or her place of business, both of the following requirements shall be satisfied:

(1) The registered dispensing optician business selling or transferring ownership of the business shall return the certificate of registration to the board no later than 10 calendar days after the change of ownership is completed and shall submit a request for cancellation of registration on a form prescribed by the Board. This registered dispensing optician business shall be responsible for complying with all laws relating to the optical dispensing business until the notice described in paragraph (2) is received by the board.

(2) The registered dispensing optician business assuming ownership of the business shall record with the board a written notice of the change of ownership, providing all information required by the board. This notice shall be filed with the board no later than 10 calendar days after the change of ownership is completed.

(3) The registered dispensing optician business assuming ownership of the business shall apply for a new certificate of registration from the board no later than 10 calendar days after the change of ownership is completed.

(b) This section does not apply to a change of location of business by a registered dispensing optician.

Commented [JM17]: Relocated to new section 2568.5

2553.5. (a) A registered dispensing optician may fit and adjust spectacle lenses and frames or take facial measurements in any of the following locations:

(1) A health facility as defined in Section 1250 of the Health and Safety Code for a person admitted to that facility or an employee of that facility.

(2) A business location as defined in subdivision (f) for an employee or independent contractor of the person operating the business at that location.

(3) Any certified place of business pursuant to Section **2553 2568.1.**

business location shall provide to the patient written information disclosing the registrant's regular business address, certificate of registration number, phone number, and the name and phone number of the person designated by the licensee to receive complaints and inquiries, as specified in Section **2554 2568.3.**

(c) Nothing in this section shall be deemed to permit a registered dispensing optician or registered contact lens dispenser to fit or adjust contact lenses at a health facility or at a business location, as defined in subdivision (f).

(d) A registered spectacle lens dispenser may fit and adjust spectacle lenses at a health facility or at a business location, only if he or she is in personal attendance at a certified place of business pursuant to Section **2553 2568.1** at least 40 percent of his or her regular working hours each week.

~~(e) A registered spectacle lens dispenser who fits and adjusts spectacle lenses at a health facility or at a business location, as defined in subdivision (f), other than on a temporary basis, shall maintain an emergency patient response system. This system shall consist of a telephone answering machine or service or a telephone paging device and the registered spectacle lens dispenser shall respond to patient inquiries received through the emergency system within 24 hours excluding weekends and holidays.~~

Commented [JM18]: Removed - obsolete

(e)-(f) "Business location" means the place at which any business employs more than 25 persons at any single business address, but shall not include a health facility, as defined in Section 1250 of the Health and Safety Code, or a certified place of business as specified in Section 2553.

(f)-(g) This section shall not affect the requirements regarding fitting and adjusting as set forth in Sections 2559.1 and 2560.

(Amended by Stats. 1993, Ch. 240, Sec. 1. Effective January 1, 1994.)

2553.6. (a) The board shall deny any application for registration under this chapter if any

accordance with Section 2550, proposes to fill any prescription, has any proprietary interest, or has designated or arranged for any other person to have any proprietary interest in or with the applicant.

(b) The board may, in accordance with Section 2555, suspend, revoke, or refuse to renew the certificate of any individual or firm under this chapter, if such individual or firm, after the effective date of this section, fills, or has filled, while holding a certificate issued pursuant to this chapter, any prescription issued by any person licensed under Chapter 5 (commencing with Section 2000) who has any proprietary interest, or has designated or arranged for any other person to have any proprietary interest, in or with such individual or firm. Such penalties shall be in addition to, and not to the exclusion of, any other remedies or penalties provided by law.

(1) "Proprietary interest," for the purposes of this section, means any membership, coownership, stock ownership, legal or beneficial interest, any other proprietary interest, or profit-sharing arrangement, designated or arranged or held, directly or indirectly in any form, in or with any individual or firm applying for registration or registered under this chapter, except stock ownership in a corporation which is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through such stock exchange.

(c) This section shall apply only to a dispensing optician required to be registered pursuant to Chapter 5.5 (commencing with Section 2550) and shall not be construed to modify Section 2557, or to affect the fitting of prescription lenses by an assistant pursuant to Section 2544. (Amended by Stats. 2010, Ch. 604, Sec. 2. (AB 2683) Effective January 1, 2011.)

2553.7. Registrations of ~~registrants dispensing opticians, spectacle lens dispensers, and contact lens dispensers~~ shall expire at midnight on the last day of the month in which the

(Added by Stats. 2017, Ch. 564, Sec. 1. (AB 1708) Effective January 1, 2018.)

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 State Board of Optometry. The 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
Internet Web site: www.optometry.ca.gov”

(Amended by Stats. 2016, Ch. 489, Sec. 17. (SB 1478) Effective January 1, 2017.)

2555. Certificates issued hereunder may in the discretion of the board be suspended or revoked or subjected to terms and conditions of probation for violating or attempting to violate this chapter, Chapter 5.4 (commencing with Section 2540) or any regulation adopted under this chapter or, Chapter 5.4 (commencing with Section 2540), or Section 651, 654, or 655, or for incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or by an employee of the registrant. The proceedings 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.

The board may take action against any registrant who is charged with unprofessional conduct, and may deny an application for a registration 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.
- (b) Gross negligence.
- (c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions.
- (d) Incompetence.
- (e) The commission of fraud, misrepresentation, or any act involving dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of a registered optician.
- (f) Any action or conduct that would have warranted the denial of a registration.
- (g) The use of advertising relating to optometry that violates Section 651 or 17500.
- (h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license, registration or permit by another state or territory of the United States, by any other governmental agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.
- (i) Procuring his or her registration by fraud, misrepresentation, or mistake.
- (j) Making or giving any false statement or information in connection with the application for issuance of a license.

Commented [JM20]: Per DOC direction, proposed text mirrored on [BPC §3110 \(Optometry\)](#), listing all actions which constitute unprofessional conduct and made specific for dispensing opticians. Sections not applicable to opticians such as drug prescriptions, therapeutic procedures and referrals to physicians were removed. Staff recommends further discussion on any additional terms which need to be removed or added.

(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered dispensing optician, in which event the record of the conviction shall be conclusive evidence thereof.

(l) 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 registration 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.

(m) (1) Committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist optician.

(2) Committing any act of sexual abuse, misconduct, or relations with a patient. The commission of and conviction for any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a registrant. This paragraph shall not apply to sexual contact between any person licensed under this chapter and his or her spouse or person in an equivalent domestic relationship when that registrant provides optometry treatment to his or her spouse or person in an equivalent domestic relationship.

(3) Conviction of a crime that requires the person to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1 of the Penal Code. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. A conviction described in this paragraph shall be considered a crime substantially related to the qualifications, functions, or duties of a registrant.

(n) The failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(o) Performing, or holding oneself out as being able to perform, or offering to perform, any professional services beyond the scope of the license authorized by this chapter.

(p) The practice of functions defined in this chapter without a valid, unrevoked, unexpired registration.

(q) The employing, directly or indirectly, of any suspended or unregistered optician to perform any work for which an optician registration is required.

(r) Permitting another person to use the registration for any purpose.

(s) Altering with fraudulent intent a registration issued by the board, or using a fraudulently altered license, permit certification or any registration issued by the board.

(t) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from optician to patient, from patient to patient, or from patient to optician. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings.

(u) Failure to refer a patient to an appropriate optometrist or physician and surgeon if an examination of the eyes indicates a substantial likelihood of any pathology that requires the attention of that optometrist or physician and surgeon.

2555.1. In the discretion of the board, a certificate issued hereunder may be suspended or 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.

(b) 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.

(c) 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.

(d) This section shall only apply to individuals included on the registration on file with the board and shall not include stockholders or unaffiliated employees. For the purposes of this section, the term "unaffiliated employees" means a person or persons who do not perform the functions of fitting and adjusting of spectacle lenses performed in compliance with Article 1.5 (commencing with Section 2559.1) and the fitting and adjusting of contact lenses performed in compliance with Article 2 (commencing with Section 2560).

(Amended by Stats. 2016, Ch. 489, Sec. 19. (SB 1478) Effective January 1, 2017.)

2556. (a) Except as authorized by Section 655, it is unlawful for a registered dispensing optician or a person who engages in the business of, or holds himself or herself out to be, a dispensing optician to do any of the following: to advertise the furnishing of, or to furnish, the services of an optometrist or a physician and surgeon, to directly employ an optometrist or physician and surgeon for the purpose of any examination or treatment of the eyes, or to duplicate or change lenses without a prescription or order from a person duly licensed to issue the same. For the purposes of this section, "furnish" does not mean to enter into a landlord-tenant relationship of any kind.

(b) Notwithstanding Section 125.9, the board may, by regulation, impose and issue administrative fines and citations for a violation of this section or Section 655, which may be assessed in addition to any other applicable fines, citations, or administrative or criminal actions.

(Amended by Stats. 2018, Ch. 703, Sec. 22. (SB 1491) Effective January 1, 2019.)

2556.1. All licensed optometrists and registered dispensing opticians who are in a colocated setting shall report the business relationship to the State Board of Optometry, as determined

Commented [JM21]: Would define that penalties apply only to individuals who are on the business application, and not their stockholders or unaffiliated employees who do not perform optician functions.

by the board. The State Board of Optometry shall have the authority to inspect any premises at which the business of a registered dispensing optician is colocated 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.

(Amended by Stats. 2016, Ch. 31, Sec. 2. (SB 836) Effective June 27, 2016.)

2556.2. (a) Notwithstanding any other law, subsequent to the effective date of this section and until January 1, 2019, any individual, corporation, or firm operating as a registered dispensing optician under this chapter before the effective date of this section, or an employee of such an entity, shall not be subject to any action for engaging in conduct prohibited by Section 2556 or Section 655 as those sections existed prior to the effective date of this bill, except that a registrant shall be subject to discipline for duplicating or changing lenses without a prescription or order from a person duly licensed to issue the same.

(b) Nothing in this section shall be construed to imply or suggest that a person registered under this chapter is in violation of or in compliance with the law.

(c) This section shall not apply to any business relationships prohibited by Section 2556 commencing registration or operations on or after the effective date of this section.

(d) Subsequent to the effective date of this section and until January 1, 2019, nothing in this section shall prohibit an individual, corporation, or firm operating as a registered dispensing optician from engaging in a business relationship with an optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) before the effective date of this section at locations registered with the Medical Board of California before the effective date of this section.

(e) This section does not apply to any administrative action pending, litigation pending, cause for discipline, or cause of action accruing prior to September 1, 2015.

(f) Any registered dispensing optician or optical company that owns a health plan that employs optometrists, subject to this section, shall comply with the following milestones:

(1) By January 1, 2017, 15 percent of its locations shall no longer employ an optometrist.

(2) By August 1, 2017, 45 percent of its locations shall no longer employ an optometrist.

(3) By January 1, 2019, 100 percent of its locations shall no longer employ an optometrist.

(g) Any registered dispensing optician or optical company that owns a health plan that employs optometrists shall report to the State Board of Optometry in writing as to whether it has met each of the milestones in subdivision (f) within 30 days of each milestone. The State Board of Optometry shall provide those reports as soon as it receives them to the director and the Legislature. The report to the Legislature shall be submitted in compliance with Section 9795 of the Government Code.

(h) (1) Notwithstanding any other law and in addition to any action available to the State Board of Optometry, the State Board of Optometry may issue a citation containing an order of abatement, an order to pay an administrative fine, or both, to an optical company, an optometrist, or a registered dispensing optician for a violation of this section. The administrative fine shall not exceed fifty thousand dollars (\$50,000). In assessing the amount of the fine, the board shall give due consideration to all of the following:

(A) The gravity of the violation.

- (B) The good faith of the cited person or entity.
 - (C) The history of previous violations of the same or similar nature.
 - (D) Evidence that the violation was or was not willful.
 - (E) The extent to which the cited person or entity has cooperated with the board's investigation.
 - (F) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.
 - (G) Any other factors as justice may require.
- (2) A citation or fine assessment issued pursuant to a citation shall inform the cited person or entity that if a hearing is desired to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (3) The board shall adopt regulations to implement a system for the issuance of citations, administrative fines, and orders of abatement authorized by this section. The regulations shall include provisions for both of the following:
- (A) The issuance of a citation without an administrative fine.
 - (B) The opportunity for a cited person or entity to have an informal conference with the executive officer of the board in addition to the hearing described in paragraph (2).
- (4) The failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
- (5) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.
- (i) Administrative fines collected pursuant to this section shall be deposited in the Dispensing Opticians Fund. It is the intent of the Legislature that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.
- (Amended by Stats. 2016, Ch. 31, Sec. 3. (SB 836) Effective June 27, 2016.)*

2556.5. Any person who holds himself out as a “dispensing optician” or “registered dispensing optician” or who uses any other term or letters indicating or implying that he is registered and holds a certificate under the terms of this law without having at the time of so doing a valid, unrevoked certificate, as provided in this chapter, is guilty of a misdemeanor.
(Added by Stats. 1953, Ch. 1144.)

2557. This chapter shall not affect any person licensed as an optometrist under Chapter 7 of Division II of this code, or any physician and surgeon licensed under Chapter 5 of Division II of this code. Such exemption shall not apply to any optometrist or physician and surgeon exclusively engaged in the business of filling prescriptions for physicians and surgeons. This chapter does not prohibit the sale of goggles, sun glasses, colored glasses, or occupational

protective eye devices if they do not have refractive values nor do the provisions of this chapter prohibit the sale of complete ready-to-wear eyeglasses as merchandise.
(Added by Stats. 1939, Ch. 955.)

2557.1. (relocated from 2563) A certificate issued to a registered spectacle lens or contact lens dispenser may in the discretion of the board be suspended or revoked for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder. A certificate may also be suspended or revoked if the individual certificate holder has been convicted of a felony as provided in Section 2555.1. Any proceedings 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.

2558. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor 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 board 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. 2016, Ch. 489, Sec. 20. (SB 1478) Effective January 1, 2017.)

2558.1 (relocated from 2559.6) No spectacle lens or contact lens prescription that is issued on or after January 1, 1999, shall be dispensed unless the prescription meets the requirements of Section 2541.1. No spectacle lens prescription shall be dispensed after the expiration date of the prescription unless authorized pursuant to subdivision (e) of Section 2541.1. A person violating this section shall not be guilty of a misdemeanor pursuant to Section 2558. A violation of this section shall be considered unprofessional conduct by the board that issued the dispenser's certificate to practice. A registered dispensing optician may defend this proceeding by establishing that the expiration date of the prescription was not established consistent with Section 2541.1. Nothing in this section shall be construed to authorize a registered dispensing optician to fill a prescription after the expiration date or to make any judgment regarding the appropriateness of the expiration date.

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 board, 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. 2016, Ch. 489, Sec. 21. (SB 1478) Effective January 1, 2017.)

Article 1.5. Spectacle Lens Dispensing [2559.1 – 2559.6]

2559.15. On and after January 1, 1988, no individual may fit and adjust spectacle lenses

individual is a duly registered spectacle lens dispenser as provided in Section 2559.2 or (2) the individual unregistered assistant performs the fitting and adjusting under the direct

registration is then conspicuously and prominently displayed on the premises. A supervising registered dispenser shall be physically present on the registered premises when an unregistered technician assistant fits and adjusts spectacle lenses, allowing for usual and customary absences including illness and vacation, and shall not supervise more than three unregistered assistants at a time.

(Added by Stats. 1986, Ch. 773, Sec. 12. Section operative January 1, 1988, pursuant to Section 2559.5.)

2559.2. (a) An individual shall apply for registration as a registered spectacle lens dispenser on

lens dispenser upon satisfactory proof that the individual has passed the registry examination of the American Board of Opticianry or any successor agency to that board. In the event the board should determine, after hearing, that the registry examination is not appropriate to determine entry level competence as a spectacle lens dispenser or is not designed to measure specific job performance requirements, the board may thereafter prescribe or administer a written examination that meets those specifications. If an applicant for renewal has not engaged in the full-time or substantial part-time practice of fitting and adjusting spectacle lenses within the last five three years then the board may require the applicant to take and pass the examination referred to in this section as a condition of registration. Any examination prescribed or administered by the board shall be given at least twice each year on dates publicly announced at least 90 days before the examination dates. The board is authorized to contract for administration of an examination.

(b) The board may deny registration where there are grounds for denial under the provisions of Division 1.5 (commencing with Section 475).

(c) The board shall issue a certificate to each qualified individual stating that the individual is a registered spectacle lens dispenser.

(d) Any individual who had been approved as a manager of dispensing operations of a registered dispensing optician under the provisions of Section 2552 as it existed before January 1, 1988, and who had not been subject to any disciplinary action under the provisions of Section 2555.2 shall be exempt from the examination requirement set forth in this section and shall be issued a certificate as a registered spectacle lens dispenser, provided an application for that certificate is filed with the board on or before December 31, 1989.

(e) A registered spectacle lens dispenser is authorized to fit and adjust spectacle lenses at any place of business holding a certificate of registration under Section 2553, a licensed ophthalmologist, or a licensed optometrist provided that the certificate of the registered spectacle lens dispenser is displayed in a conspicuous place at the place of business where he or she is fitting and adjusting. The registered spectacle lens dispenser must report this

Commented [JM24]: 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.

Commented [JM25]: 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.

Commented [JM26]: Removal of this text reduces a loophole some businesses may be using to allow supervising SLDs to not be on premises when unregistered assistants are working

Commented [JM27]: Based on DOC discussion and staff research, cap of three unregistered assistants added for public protection. Mirrors CLD requirement in 2560.

Commented [JM28]: Reduced to three for public protection

Commented [JM29]: Tightens requirements for address change

2559.3. A certificate issued to a registered spectacle lens dispenser may, in the discretion of the board, be suspended or revoked for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder. A certificate may also be suspended or revoked if the individual certificate holder has been convicted of a felony as provided in Section 2555.1.

Any proceedings 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.
(Amended by Stats. 2016, Ch. 489, Sec. 23. (SB 1478) Effective January 1, 2017.)

2559.4. This article shall not apply to an assistant fitting spectacle lenses pursuant to Section 2544 if the assistant is acting under the direct responsibility and supervision of a physician and surgeon or optometrist who engages in the practice of fitting spectacle lenses for his or her patients.

(Amended by Stats. 2010, Ch. 604, Sec. 3. (AB 2683) Effective January 1, 2011.)

2559.5. This article shall become operative on January 1, 1988. However, the board may, prior to that date, accept and process applications, including the collection of fees, and perform other functions necessary to implement this article.

~~**2559.6.** No spectacle lens prescription that is issued on or after January 1, 1999, shall be dispensed unless the prescription meets the requirements of Section 2541.1. No spectacle lens prescription shall be dispensed after the expiration date of the prescription unless authorized pursuant to subdivision (e) of Section 2541.1. A person violating this section shall not be guilty of a misdemeanor pursuant to Section 2558. A violation of this section shall be considered unprofessional conduct by the board that issued the dispenser's certificate to practice. A registered dispensing optician may defend this proceeding by establishing that the expiration date of the prescription was not established consistent with Section 2541.1. Nothing in this section shall be construed to authorize a registered dispensing optician to fill a prescription after the expiration date or to make any judgment regarding the appropriateness of the expiration date.~~

Commented [JM30]: Relocated to 2558.1

ARTICLE 2. Contact Lens Dispensing [2560 - 2564.6]

2560. No individual may fit and adjust contact lenses, including plano contact lenses, unless the registration requirement of Section 2550 is complied with, and unless (a) the individual is a duly registered contact lens dispenser as provided in Section 2561 or (b) ~~the individual an~~ the fitting and adjusting under the direct responsibility and supervision of a duly registered contact lens dispenser who is then **physically** present on the registered premises. In no event shall a registered contact lens dispenser supervise more than three contact lens dispenser ~~trainees-unregistered assistants~~.

(Amended by Stats. 1994, Ch. 26, Sec. 44. Effective March 30, 1994.)

Commented [JM31]: 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.

2561. (a) An individual shall apply for registration as a registered contact lens dispenser on forms prescribed by the board.

Commented [JM32]: 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.

(b) The board shall register an individual as a registered contact lens dispenser upon satisfactory proof that the individual has passed the contact lens registry examination of the National Committee of Contact Lens Examiners or any successor agency to that committee. In the event the board should ever find after hearing that the registry examination is not appropriate to determine entry level competence as a contact lens dispenser or is not designed to measure specific job performance requirements, the board may thereafter from time to time prescribe or administer a written examination that meets those specifications.

(c) If an applicant for renewal has not engaged in the full-time or substantial part-time practice of fitting and adjusting contact lenses within the last five years then the board may require the applicant to take and pass the examination referred to in this section as a condition of registration.

(d) Any examination administered by the board shall be given at least twice each year on dates publicly announced at least 90 days before the examination dates. The board is authorized to contract with the National Committee of Contact Lens Examiners or any successor agency to that committee to provide that the registry examination is given at least twice each year on dates publicly announced at least 90 days before the examination dates.

(e) The board may deny registration where there are grounds for denial under the provisions of Division 1.5 (commencing with Section 475).

(f) The board shall issue a certificate to each qualified individual stating that the individual is a registered contact lens dispenser. A registered contact lens dispenser may use that designation, but shall not hold himself or herself out in advertisements or otherwise as a specialist in fitting and adjusting contact lenses.

(Amended by Stats. 2016, Ch. 489, Sec. 25. (SB 1478) Effective January 1, 2017.)

2562. Upon satisfactory completion of the fitting of contact lenses, but in no event more than 60 days after receipt of the prescription, a registered contact lens dispenser shall direct the person named in the prescription to return to the prescribing physician and surgeon or optometrist for an evaluation.

(Added by Stats. 1982, Ch. 418, Sec. 8.)

~~**2563.** A certificate issued to a registered contact lens dispenser may in the discretion of the board be suspended or revoked for violating or attempting to violate any provision of this chapter or any regulation adopted under this chapter, or for incompetence, gross negligence, or repeated similar negligent acts performed by the certificate holder. A certificate may also be suspended or revoked if the individual certificate holder has been convicted of a felony as provided in Section 2555.1.~~

~~Any proceedings 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.~~

2564. The provisions of this article shall not apply to an assistant fitting contact lenses while acting under the direct responsibility and supervision of a physician and surgeon or optometrist who engages in the practice of fitting contact lenses for his or her patients under Section 2544.

(Amended by Stats. 2010, Ch. 604, Sec. 4. (AB 2683) Effective January 1, 2011.)

Commented [JM33]: Relocated to new section 2557.1

2564.5. A registered dispensing optician fitting contact lenses shall maintain accessible contact lenses. **For the purposes of this section, "accessible handwashing facilities" means a drying devices such as a towel or electric hand dryer, which is physically separate from a lavatory or bathroom and is accessible to all relevant persons.**
(Added by Stats. 1982, Ch. 418, Sec. 8.)

Commented [JM34]: DOC recommends further definition of "accessible handwashing facilities" – text based on Federal rules

2564.6. A registered dispensing optician shall comply with the applicable provisions of Section 2541.2.

Article 2.5. Nonresident Ophthalmic Lens Dispensers
(New article; contains provisions from Chapter 5.45)

Placeholder section numbers listed; new section numbers to be determined by Legislative Counsel

2564.70. (relocated from 2546) This act may be cited as the "Nonresident **Contact Ophthalmic Lens Dispenser** Registration Act."
(Added by Stats. 1995, Ch. 853, Sec. 1. Effective January 1, 1996.)

Commented [JM35]: Based on DOC discussion, the term "Ophthalmic Device" was changed to "Ophthalmic Lens" throughout the article. The potential effect of this change would be to allow non-resident contact lens dispensers, properly registered with the Board, to now sell spectacle lenses within California.

2564.71. (relocated from 2546.1) (a) On and after January 1, 1997, no person located outside California shall ship, mail, **furnish** or deliver in any manner, contact lenses at retail to a patient at a California address unless registered with the **Division of Licensing of the Medical Board of California. State Board of Optometry.**
(b) With regard to any person subject to registration pursuant to this section, only replacement contact lenses provided pursuant to a valid prescription as described in **Section 2546.6** 2564.76 may be shipped, mailed, or delivered directly to a patient.
(Added by Stats. 1995, Ch. 853, Sec. 1. Effective January 1, 1996.)

2564.72 (Relocated from 2546.2) All references in this chapter to the division shall mean the State Board of Optometry.

2564.73. (relocated from 2546.3) The **division State Board of Optometry** may adopt, amend, or repeal any rules and regulations that are reasonably necessary to carry out this chapter.
(Added by Stats. 1995, Ch. 853, Sec. 1. Effective January 1, 1996.)

2564.74. (relocated from 2546.4) (a) Application for registration as a nonresident **contact ophthalmic lens dispenser seller** shall be made on forms prescribed by the **State Board of Optometry**, accompanied by the fee prescribed by this chapter, and shall bear the signature of the individual, or individuals if a co-partnership, or the president or secretary if a corporation, and shall contain the name **or fictitious or assumed name, if applicable,** under which the person proposes to do business, location of the business, **registration number as issued by the** and the designation of an agent for service of process in California.

Commented [JM36]: Global change: dispenser in place of 'seller'

(b) The board shall be notified **in writing** within 30 days of any change of name, **fictitious or assumed name,** location of business, corporate officer, or agent of service.

Commented [JM37]: Changes to 2564.74 tighten up reporting requirements for applications.

(c) Advertising, including but not limited to U.S. Mail, websites, electronic communications such as email, facsimile transmissions, directories, and newspaper and magazine ads must contain the following:

- (1) The registration number issued by the board, along with text identifying the registration number as being issued by the board.
- (2) Any other information the board deems necessary.

2564.75. (relocated from 2546.5) In order to obtain and maintain registration, a nonresident ~~contact ophthalmic~~ lens dispenser seller shall:

- (a) Be in good standing and either registered or otherwise authorized in the state ~~or jurisdiction~~ in which the selling facility is located and from which the contact lenses are sold.
- (b) Comply with all directions and requests for information made by the board as authorized under this chapter.
- (c) Maintain records of ~~contact ophthalmic~~ lenses shipped, mailed, ~~furnished~~ or delivered to patients in California for a period of at least three years.
- (d) Provide a toll-free telephone service for responding to patient questions and complaints during the applicant's regular hours of operation, but in no event less than six days per week and 40 hours per week. The toll-free number shall be included in literature provided with each mailed ~~contact ophthalmic~~ lens prescription. All questions relating to eye care for the lens prescribed shall be referred back to the ~~contact ophthalmic~~ lens prescriber.
- (e) Provide the following or a substantially equivalent written notification to the patient whenever contact lenses are supplied:

WARNING: IF YOU ARE HAVING ANY UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS, REMOVE YOUR LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN.

- (f) Disclose in any price advertisement any required membership fees, enrollment fees, and indicate that shipping costs may apply unless the advertisement specifically and clearly states otherwise.
- (g) Provide a toll-free telephone number, facsimile line, and electronic mail address that are dedicated to prescribers and their authorized agents for the purposes of confirmation of ~~contact ophthalmic~~ lens prescriptions. These numbers, along with an electronic mail address, shall be included in any communication with the prescriber when requesting confirmation of a contact lens prescription.
- (h) It shall be considered a deceptive marketing practice for any nonresident ~~contact ophthalmic~~ lens ~~dispenser seller~~ to publish or cause to be published any advertisement or sales presentation relating to ~~contact ophthalmic~~ lenses representing that ~~contact ophthalmic~~ lenses may be obtained without confirmation of a valid prescription.
(Amended by Stats. 2002, Ch. 814, Sec. 4. Effective January 1, 2003.)

2564.76 (relocated from 2546.6) (a) ~~contact Ophthalmic~~ lenses may be sold only upon receipt of a written prescription or a copy of a written prescription and may be sold in quantities consistent with the prescription's established expiration date and the standard packaging of the manufacturer or vendor. If the written prescription or a copy of it is not available to the

dispenser-seller, the dispenser-seller shall confirm the prescription by direct communication with the prescriber or his or her authorized agent prior to selling, shipping, mailing, or delivering any lens, and maintain a record of the communication. A prescription shall be deemed confirmed upon the occurrence of one of the following:

- (1) The prescriber or the prescriber's agent confirms the prescription by communication with the dispenser-seller.
- (2) The prescriber fails to communicate with the dispenser-seller by 2 p.m. of the next business

of this paragraph, "business day" means each day except a Sunday or a federal holiday.

(b) If a prescriber communicates with a dispenser-seller before the time period described in paragraph (2) of subdivision (a) elapses and informs the dispenser-seller that the contact lens prescription is invalid, the dispenser-seller shall not fill the prescription. The prescriber shall specify in the communication with the dispenser-seller the basis for invalidating the prescription.

(c) A dispenser-seller shall not alter any of the specifications of a contact-ophthalmic lens prescription other than the color or substitute a different manufacturer, brand, or other physical property of the lens.

(d) Notwithstanding the provisions of this section, if the contact lens is manufactured by a company, but sold under multiple private labels by that same company to individual providers, the dispenser-seller may fill the prescription with a contact lens manufactured by that company if the contact lens prescription and the related parameters are not substituted, changed, or altered for a different manufacturer or brand.

(Amended by Stats. 2002, Ch. 814, Sec. 5. Effective January 1, 2003.)

2564.77. (relocated from 2546.7) (a) A certificate may be denied, suspended, revoked, or otherwise subjected to discipline for any of the following:

- (1) Incompetence, gross negligence, or repeated similar negligent acts performed by the registrant or any employee of the registrant.
- (2) An act of dishonesty or fraud.
- (3) Committing any act or being convicted of a crime constituting grounds for denial of licensure or registration under Section 480.
- (4) Any violation of Section 2546.5 or 2546.6.

(b) The proceedings 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 division shall have all powers granted therein.

(Added by Stats. 1995, Ch. 853, Sec. 1. Effective January 1, 1996.)

2564.78 (relocated from 2546.8) Every registration issued to a nonresident contact-ophthalmic lens dispenser-seller shall expire 24 months after the initial date of issuance. To renew an unexpired registration, the registrant shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the division, and pay the renewal fee prescribed by this chapter.

(Added by Stats. 1995, Ch. 853, Sec. 1. Effective January 1, 1996.)

2564.79 (relocated from 2546.9) The amount of fees prescribed in connection with the registration of nonresident **ophthalmic lens dispenser-seller** is that established by the following schedule:

- (a) The application fee for a nonresident **contact-ophthalmic lens dispenser-seller** shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).
 - (b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
 - (c) The renewal fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
 - (d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).
 - (e) The fee for replacement of a lost, stolen, or destroyed registration shall be twenty-five dollars (\$25).
 - (f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.
 - (g) 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.
- (Repealed and added by Stats. 2016, Ch. 799, Sec. 5. (SB 1039) Effective January 1, 2017.)*

2564.80. (relocated from 2546.10) (a) Any person who violates any of the provisions of this **two thousand five hundred dollars (\$2,500) fifty thousand dollars (\$50,000)** per violation. The enforcement.

- (b) ~~Medical Board of California~~ **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.
 - (c) 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.
- (Added by Stats. 2002, Ch. 814, Sec. 6. Effective January 1, 2003.)*

ARTICLE 3. Fiscal Provisions [2565 - 2568]

2565. The amount of fees prescribed in connection with the registration of dispensing **ophthalmic businesses** shall be as set forth in this section.

- (a) The application fee for registration shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).
- (b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).

Commented [JM40]: Similar to 2545(b)(1), this change allows the Board more flexibility to assess fines for a minor or major violations and act as a stronger deterrent to larger businesses who violate the law. Since most non-resident dispensers are larger businesses, the new amounts may act as an actual deterrent against violations.

- (c) The renewal fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
 - (d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).
 - (e) The fee for replacement of a lost, stolen, or destroyed certificate shall be twenty-five dollars (\$25).
 - (f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.
- (Repealed and added by Stats. 2016, Ch. 799, Sec. 7. (SB 1039) Effective January 1, 2017.)*

2566. The amount of fees prescribed in connection with certificates for contact lens dispensers is as follows:

- (a) The application fee for a registered contact lens dispenser shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).
 - (b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
 - (c) The biennial fee for the renewal of certificates shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
 - (d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).
 - (e) 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 State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.
 - (g) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars (\$25).
- (Repealed and added by Stats. 2016, Ch. 799, Sec. 9. (SB 1039) Effective January 1, 2017.)*

2566.1. The amount of fees prescribed in connection with certificates for spectacle lens dispensers shall be as set forth in this section:

- (a) The application for registration fee shall be a minimum of one hundred fifty dollars (\$150) and shall not exceed two hundred dollars (\$200).
 - (b) The initial registration fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
 - (c) The renewal fee shall be a minimum of two hundred dollars (\$200) and shall not exceed three hundred dollars (\$300).
 - (d) The delinquency fee shall be a minimum of fifty dollars (\$50) and shall not exceed seventy-five dollars (\$75).
 - (e) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars (\$25).
 - (f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.
- (Repealed and added by Stats. 2016, Ch. 799, Sec. 11. (SB 1039) Effective January 1, 2017.)*

2566.2. Every registration issued to a dispensing ophthalmic business, contact lens dispenser, and spectacle lens dispenser shall expire 24 months after the initial date of issuance or renewal. To renew an unexpired registration, the registrant shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

Added by Stats. 2017, Ch. 775, Sec. 102. (SB 798) Effective January 1, 2018.)

2567. (a) The provisions of Article 19 (commencing with Section 2420) and Article 20 (commencing with Section 2435) of Chapter 5 which are not inconsistent or in conflict with this chapter apply to the issuance and govern the expiration and renewal of certificates issued under this chapter. All fees collected from persons registered or seeking registration under this chapter shall be paid into the Dispensing Opticians Fund, and shall be available, upon appropriation, to the State Board of Optometry for the purposes of this chapter. Any moneys within the Contingent Fund of the Medical Board of California collected pursuant to this chapter shall be deposited in the Dispensing Opticians Fund.

(b) The board may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this chapter.

Amended by Stats. 2015, Ch. 405, Sec. 10. (AB 684) Effective January 1, 2016.)

2568. The board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit in the Dispensing Opticians Fund, which fund is created to carry out the provisions of this chapter.

(Amended by Stats. 2005, Ch. 74, Sec. 6. Effective July 19, 2005.)

ARTICLE 3.5. Registered Dispensing Ophthalmic Businesses [2568.1 – 2568.5]
(New article; contains various relocated sections)

Placeholder section numbers listed; new section numbers to be determined by Legislative Counsel.

2568.1 (relocated from 2550). Individuals, corporations, and firms engaged in the business of filling prescriptions of physicians and surgeons licensed by the Medical Board of California or optometrists licensed by the State Board of Optometry for prescription lenses and kindred products shall be known as dispensing ophthalmic businesses and shall not engage in that business unless registered with the State Board of Optometry.

2568.2. (relocated from 2551) (a) Individuals, corporations, and firms shall make application for registration and shall not engage in that business defined in Section 2550 or 2550.1 prior to being issued a certificate of registration.

(b) Application for that registration shall be on forms prescribed by the board, shall bear the signature of the individual, or general partners if a partnership, or the president or secretary if a corporation or firm, and shall contain specify the name under which he or she, they or it proposes to do business and the business address.

(c) Corporations and firms shall be organized and exist pursuant to the general corporation law and shall be a professional corporation within the meaning of Part 4, Division 3, Title 1 of the Corporations Code.

(d) If applicable, the application shall include a list of officers in the corporation, firm or partnership and a copy of the articles of incorporation as submitted to the Secretary of State.

(e) Separate applications shall be made for each place of business and each application must be accompanied by the application fee prescribed by Section 2565.

(Amended by Stats. 1990, Ch. 1190, Sec. 2.)

2568.3 (relocated from 2552) (a) Each application shall be verified under oath by the person required to sign the application and shall designate the name, address, and direct business telephone number of the applicant's employee who will be responsible for handling customer inquiries and complaints with respect to the business address for which registration is applied. Any changes to this information shall be reported in writing to the board within 14 days.

(b) The applicant shall furnish such additional information or proof, oral or written, which the board may request, including information and proof relating to the provisions of Division 1.5 (commencing with Section 475).

(c) The board shall promptly notify any applicant if, as of the 30th day following the submission of an application under this chapter, the application and supporting documentation are not substantially complete and in proper form. The notification shall be in writing, shall state specifically what documents or other information are to be supplied by the applicant to the board, and shall be sent to the applicant by certified, electronic or registered mail. Within 30 days of the applicant's submission of the requested documents or information to the board, the board shall notify the applicant by certified, electronic or registered mail if the board requires additional documents or information.

(d) This section shall become operative on January 1, 1988.

(Amended by Stats. 2016, Ch. 489, Sec. 15. (SB 1478) Effective January 1, 2017.)

2568.4 (relocated from 2553)

If the board, after investigation, approves the application, it shall register the applicant and issue to the applicant a certificate of dispensing ophthalmic business. A separate certificate of registration shall be required for each address where the business is to be conducted.

A certificate authorizes the applicant, its agents and employees acting therefor to engage in the business defined in Section 2550 or 2550.1 provided that the fitting and adjusting of spectacle lenses is performed in compliance with Article 1.5 (commencing with Section 2559.1) and the fitting and adjusting of contact lenses is performed in compliance with Article 2 (commencing with Section 2560). Only individuals registered with the board pursuant to those sections shall perform those supervisory functions.

2568.5 (relocated from 2553.1): (a) If a registered dispensing optician ophthalmic business sells or transfers ownership of his or her place of business, both of the following requirements shall be satisfied:

(1) The registered dispensing optician ophthalmic business selling or transferring ownership of the business shall return the certificate of registration to the board no later than 10 calendar days after the change of ownership is completed and shall submit a request for cancellation of

Commented [JM41]: DOC added that all 'corporations and firms' be required to operate as professional corporations, as defined by Corporations Code Section 13401. All businesses must adhere to the Corporations Code, but this change will clarify the requirement within the Optician Practice Act. Staff discovered many optician businesses were operating as LLCs.

Commented [JM42]: Relocated from 2553. Added so the logical process from application to application approval flows more sequentially.

registration on a form prescribed by the Board. This registered dispensing ~~optician~~ optician ophthalmic business shall be responsible for complying with all laws relating to the ~~optician~~ optician ophthalmic dispensing business until the notice described in paragraph (2) is received by the board.

(2) The registered dispensing ~~optician~~ optician ophthalmic business assuming ownership of the business shall record with the board a written notice of the change of ownership, providing all information required by the board. This notice shall be filed with the board no later than 10 calendar days after the change of ownership is completed.

(3) The registered dispensing ~~optician~~ optician ophthalmic business assuming ownership of the business shall apply for a new certificate of registration from the board no later than 10 calendar days after the change of ownership is completed.

(b) This section does not apply to a change of location of business by a registered dispensing ophthalmic business.

(Added by Stats. 2011, Ch. 389, Sec. 1. (SB 824) Effective January 1, 2012.)

ARTICLE 4. Review [2569- 2569.]

2569. Notwithstanding any other law, the powers and duties of the board, as set forth in this chapter, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

Commented [JM43]: Businesses must apply for a new registration within 10 calendar days. This provides more specificity about requirements for new business owners of an optician business.

ISSUE MEMORANDIUM

| | |
|----------------|--|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry |
| FROM | Shara Murphy, Executive Officer <i>prepared by Marc Johnson, Policy Analyst and Arsha Qasmi, Lead Licensing Analyst</i> |
| SUBJECT | Agenda Item #10 - Discussion and Possible Action on Title 16, California Code of Regulations (CCR) §1536 – Continuing Optometric Education; Purpose and Requirements |

Summary:

Based upon PEC direction and staff research, staff is proposing amendments to the text of CCR §1536 – continuing optometric education: purpose and requirements. The goal of these changes is to strengthen existing renewal requirements for licensees, improve processes for CE providers and further define in law what in person, internet and self-study courses are. If approved, staff will begin the regulatory rulemaking process to put into law which will take 12-14 months to complete.

History / Discussion:

At the August 8, 2018 Board meeting, the Board directed staff to draft regulatory language which would change the number of continuing education hours completed via self-study from 20 to 25 hours. Due to the change in staff and Board management, this change has not yet been implemented. At the January 3, 2019 PEC meeting, the PEC set out areas for staff to research, including approval criteria and timeframes, inclusion of course numbers on the applications and timeframes. Subsequently, at the March 8, 2019 PEC meeting, the PEC received updates on these areas and added direction to research possible definitions for live versus self/study internet courses.

Staff presented these changes, along with other proposed text, to the PEC and LRC at the January 31, 2020 public meetings. The PEC had requested a list of subjects for courses which must be taken by licensees outside of the 25 self-study hours to achieve the 50 required hours. Using COPE's course categories as a model, staff developed a list which was originally in the proposed regulation. However, the LRC removed the list, explaining that the change would create too much confusion and restrict the licensee from completion of their hours. Staff requests Board discussion if the list should be added back into regulation or left out. Proposed course list:

These courses shall be in the following areas:

- (1) Systemic / Ocular Disease
- (2) Anterior Segment
- (3) Posterior Segment
- (4) Pharmacology
- (5) Glaucoma
- (6) Public Health

- (7) Pain medication, including the risks of addiction associated with the use of Schedule II drugs
- (8) Diagnosis and Treatment
- (9) Neuro-Optometry

Motion for approval if desired:

"I move to approve the amended text for California Code of Regulations Title 16, Section 1536 and form CE-01 incorporated by reference as presented and discussed here today; and direct staff to submit the text to Office of Administrative Law for posting for a 45 day public comment period; and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing."

Proposed Changes to CCR §1536 (Attachment A):

Subsection (c): As approved by the Board at the August 8, 2018 meeting, this proposed change would allow up to 25 hours, instead of 20, of self-study to be accomplished via alternative methods. PEC and LRC agreed that this change should be combined with other proposed changes into one regulatory action.

Subsection (c)(1): This proposed change would further define "self study" to mean a form of "orderly learning" without participatory interaction between licensee and instructor. It would also set out various ways this can be required, such as online courses, internet, DVDs or home study materials such as books. These definitions are based on Veterinary Medical Board.

Subsection (c)(7): Staff proposes raising the amount of CEU that can be obtained by participating in a Board workshop as an SME from eight to 12 hours, as the Board will often hold two day workshops totaling 16 hours. However, a total of 12 hours would not overlap with the 35 hours required for the diagnosis, treatment and management of ocular disease whereas a total of 16 hours may.

Subsection (d)(2): Proposed text, originally in a new section (n), was moved to this section by the LRC and is based on the Dental Board's regulation. The change further defines what live, in person and interactive means and would further define what such a course is and how it is taught via participatory interaction in a classroom. Additionally, it requires that the remaining 25 hours of credit, not obtained via self-study, must be obtained within a classroom setting. The text would not allow these courses to be taken via the internet (e.g. Skype or web meeting) with interactions.

Subsection (e)(1): The LRC added a reference to WASC accredited programs, to prevent courses from unapproved or unaccredited schools.

Subsection (f): Staff proposes requiring course applications to be due 90 days prior to event instead of 45 days. This change will lessen the need for retroactive approvals by the PEC and allow more lead time for providers to submit applications. The reference to Form CE-01 incorporated by reference revision date was updated.

Subsection (f)(1) and (2): Proposed text makes consistent with the Board's new internal policy for assigning provider numbers and requires providers include that on certificates. Limits approvals to one year, mirroring COPE standards. It also restricts use of the Board's letterhead, seal or logo to be used on certificates or advertising which will help to prevent fraud and illegal advertising of courses which are not Board approved.

Subsection (g)(4): Staff proposes text which further specifies the records a providers must keep, such as dates and places of the course and the completion certificates. It also requires providers to keep records on file for four years instead of three.

Subsection (h)(9): Addition of text requiring the Board's course approval number, which will assist licensees and staff to track courses consistent with the Board's CE course list. Staff also proposes modification of text from "use of" to "A" certificate is required for any CE course. Additionally, deletion of text specifying "supplied by the Board" and "such forms will be furnished by the Board upon request", since the Board does not produce such a document.

Subsection (k): Staff recommends addition of text requiring licensees to keep their course completion certificates on file for four years for auditing and enforcement purposes. Similar to other Boards, it would also codify the Board's "recommendation" as listed on the website to keep files for four years, and make it actionable if a licensee fails to do so during an audit or other action.

Subsection (m): Staff proposes a new subsection (m) which would prohibit a licensee repeating courses during a two year renewal period, making it actionable for enforcement purposes if discovered during an audit or via complaint. During audits in 2018-19, it was discovered multiple licensees were claiming repeat credit during their two year renewal period.

Proposed Changes to Form CE-01 (Rev 2/20) incorporated by reference into §1536 (Attachment B):

The updated form is incorporated by reference into subsection (f). It includes new letterhead (non-substantive change). Changes highlighted in yellow include:

- Addition of a note that course approvals are valid for one year of the date of approval to reflect proposed section (f)(1) and must be submitted 90 days in advance.
- Deletion of the word "presentation" and addition of "course hours requested"
- Addition of phone number for the provider.
- Addition of "date and places of the course, course completion certificates" and "four years" instead of three to reflect section (g)(4).
- Revision date changed to 2/20.

California State Board of Optometry

Amend Section 1536 of Article 6.5 of Division 15 of Title 16 of the California Code of Regulations as follows:

New text is underlined, existing text which is removed is ~~struckthrough~~.

§1536. Continuing Optometric Education; Purpose and Requirements.

(a) Except as otherwise provided in Section 1536(b), each licensee shall complete 40 hours of formal continuing optometric education course work within the two years immediately preceding the license expiration date. Such course work shall be subject to Board approval. Up to eight hours of course work may be in the area of patient care management or ethics in the practice of optometry. Business management courses are not accepted by the Board.

(b) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Business and Professions Code Section 3041.3 shall complete a total of 50 hours of continuing optometric education every two years in order to renew his or her license. Thirty-five of the required 50 hours of continuing optometric education shall be on the diagnosis, treatment and management of ocular disease and consistent with Business and Professions Code section 3059, subdivision (e).

(c) Up to ~~20~~ 25 hours of required biennial course work may be accomplished by using any or all of the following alternative methods:

(1) Documented and accredited self study through correspondence or an electronic medium. For the purposes of this section, "self study" means a form of orderly learning that does not offer participatory interaction between the licensee and the instructor during the instructional period. This may be accomplished via the following methods:

(A) Audio or video pre-recorded or non-live teleconferences, webinars, seminars, podcasts, broadcasts or lectures via the internet.

(B) CD-ROMs played on a computer.

(C) Digital video discs.

(D) Books or materials as part of an independent or home study program.

(E) Programs or applications on a computer, tablet or cellular phone specifically designed for this purpose.

(2) Teaching of continuing optometric education courses if attendance at such course would also qualify for such credit, providing none are duplicate courses within the two-year period.

(3) Writing articles that have been published in optometric journals, magazines or newspapers, pertaining to the practice of optometry (or in other scientific, learned, refereed journals on topics pertinent to optometry), providing no articles are duplicates. One hour of credit will be granted for each full page of printing or the equivalent thereof.

(4) A full day's in person attendance at a California State Board of Optometry Board meeting as verified by the Board. Every two hours of open session equates to one hour of credit, up to a maximum of four credit hours.

Commented [JM1]: Change already approved by Board in 2018 and would be combined with this regulatory package.

Commented [JM2]: Defines what self study is and the methods that may be used to fulfill it. Based on Vet Medical and Board of Behavioral Science definitions.

(5) Completion of a course to receive certification in cardiopulmonary resuscitation (CPR) from the American Red Cross, the American Heart Association, or other association approved by the Board. Up to four credit hours shall be granted for this course.

(6) Any continuing education course approved for category 1 of the American Medical Association or category 1A of the American Osteopathic Association Continued Medical Education credits that contributes to the advancement of professional skill and knowledge in the practice of optometry.

(7) Participation as a subject matter expert in the creation of the Board's California Laws and Regulation Examination. Subject matter experts will receive one hour of continuing education credit for each hour attending a Board sponsored workshop, not to exceed ~~eight~~ twelve credits per renewal cycle.

(d)(1) A credit hour is defined as one classroom hour, usually a 50-minute period, but no less than that.

(2) In the event that a portion of a licensee's hours have been obtained through alternative methods, as defined in section (c) above and not exceeding 25 hours per renewal period, all remaining hours shall be obtained through live and interactive course study. For the purposes of this section, such courses are defined as live in-person lecture, live in-person workshop demonstrations, or live in-person classroom studies, which allows participatory interaction between the licensee and the instructor during the instructional period.

(e) Continuing optometric education programs which are approved as meeting the required standards of the Board include the following:

(1) Continuing optometric education courses officially sponsored or recognized by any Western Association of Schools and Colleges accredited school or college of optometry.

(2) Continuing optometric education courses provided by any national or state affiliate of the American Optometric Association, the American Academy of Optometry, or the Optometric Extension Program.

(3) Continuing optometric education courses approved by the Association of Regulatory Boards of Optometry committee known as COPE (Council on Optometric Practitioner Education).

(f) Other continuing optometric education courses approved by the Board as meeting the criteria set forth in paragraph (g) below, after submission of the Continuing Education Course Approval Application (Form CE-01, Rev. ~~5/16~~ 2/20), hereby incorporated by reference, course schedule, topical outline of subject matter, and curriculum vitae of all instructors or lecturers involved, to the Board not less than ~~45~~ 90 days prior to the date of the program. The Board may, upon application of any licensee and for good cause shown, waive the requirement for submission of advance information and request for prior approval. Nothing herein shall permit the Board to approve a continuing optometric education course which has not complied with the criteria set forth in paragraph (g) below.

Commented [JM3]: Current workshops can run 16 hours total. Staff proposes 12 total, so as not to overlap with the 35 CEU requirement for glaucoma.

Commented [JM4]: Moved to (d)(2) by the LRC and modeled on Dental Board regs. Would require that any units obtained outside of the 25 hours of self study must be live, in person and interactive. This would not allow these courses to be taught via the internet (ex. Skype or web meeting) with interactions.

Commented [JM5]: Added by LRC at 1/31/2020 meeting

Commented [JM6]: Updated form reference

Commented [MJ7]: Staff proposes applications must be due 90 days prior to event. This will lessen the need for retroactive approvals and allow more lead time for providers to submit applications.

(1) Course approvals shall be valid for one year from the date as approved by the Board. Each individual course shall be assigned a course approval number by the Board. This approval number is required to be listed on the completion certificate.
(2) The approved provider shall not use the Board's letterhead, seal or logo on any course certificates, advertising or solicitation.

Commented [JM8]: Makes consistent with our new internal policy for assigning provider numbers and requires providers include that on certificates. Limits approvals to one year, mirroring COPE standards.

Commented [JM9]: Restricts use of board's logo to prevent fraud and unapproved courses

(g) The criteria for judging and approving continuing education courses by the Board for continuing optometric education credit will be determined on the following basis:
(1) Whether the program is likely to contribute to the advancement of professional skills and knowledge in the practice of optometry.
(2) Whether the instructors, lecturers, and others participating in the presentation are recognized by the Board as being qualified in their field.
(3) Whether the proposed course is open to all optometrists licensed in this State.
(4) Whether the provider of any mandatory continuing optometric education course agrees to maintain and furnish to the Board and/or attending licensee such records of course content, dates and places of the course, course completion certificates and attendance as the Board requires, for a period of at least ~~three~~ four years from the date of course presentation.

Commented [JM10]: Strengthens what the provider must keep on file and for how long.

(h) Proof of continuing optometric education course attendance shall be provided in a form and manner specified in writing by the Board and distributed to all licensed optometrists in this State. Certification of continuing optometric education course attendance shall be submitted by the licensee to the Board upon request, and shall contain the following minimal information:
(1) Name of the sponsoring organization.
(2) Name, signature, practice address, and license number of the attending licensee.
(3) Subject or title of the course.
(4) Number of continuing optometric education hours provided for attending the course.
(5) Date the course was provided.
(6) Location where the course was provided.
(7) Name(s) and signature(s) of the course instructor(s).
(8) Such other evidence of course content or attendance as the Board may deem necessary.
(9) Course approval number as assigned by the Board, if applicable.

Commented [JM11]: Makes consistent with the Board's new CE course list and approval number now assigned by staff.

~~Use of a A certificate of course completion provided by the Board is recommended required for any continuing optometric education course approved by the Board pursuant to the above. Such forms will be furnished by the Board upon request.~~
The Board will also recognize and utilize the Association of Regulatory Boards in Optometry's online Optometric Education (OE) Tracker system as proof of continuing education course attendance.

Commented [JM12]: Removes the Board's certificate, since we do not produce such a document, and requires that licensees must have certificates for any courses taken.

(i) The following licensees shall be exempt from the requirements of this section:
(1) Any licensee serving in the regular armed forces of the United States during any part of the two years immediately preceding the license expiration date.

(2) Any licensee who is renewing an active license for the first time, if he or she graduated from an accredited school or college of optometry less than one year from the date of initial licensure.

(3) Those licensees as the Board, in its discretion, determines were unable to complete sufficient hours of continuing optometric education courses due to illness, incapacity, or other unavoidable circumstances. An extension may be granted if the Board, in its discretion, determines that good cause exists for the licensee's failure to complete the requisite hours of continuing optometric education.

(j) The Board, in its discretion, may exempt from the continuing optometric education requirements of this section licensees who for health reasons or other good cause cannot meet these requirements. Licensees requesting an exemption shall complete a Continuing Education Exemption Request (Form CE-E, Rev 2/2016) and submit it, along with all required supporting information, to the Board for its consideration at least thirty (30) days prior to the expiration of the license.

(1) The Board may deny a request for exemption but at its discretion may grant the licensee an extension of up to one year to obtain the necessary continuing optometric education.

(2) A licensee whose requests for an exemption is denied and an extension is not granted shall otherwise comply with the provision of this section.

(k) The Board may conduct an audit of any licensee's attendance of a continuing optometric education course as a means of verifying compliance with this section. A licensee shall maintain all course completion certificates or applicable records on file which are used for renewal purposes for a period of four (4) years from the license renewal date and shall provide these records to the Board upon request or in the event of an audit.

Commented [JM13]: Similar to what other boards already do. Codifies "recommendation" as listed on the website to keep certificate on file for audit purposes.

LRC added "or applicable records"

(l) Licensees that are glaucoma certified pursuant to BPC section 1571 shall be required to complete 10 hours of glaucoma specific optometric continuing education every license renewal period. These 10 hours shall be part of the required 35 hours on the diagnosis, treatment and management of ocular disease.

(m) A licensee may not repeat the same course more than once within the two-year renewal timeframe.

Commented [JM14]: Staff recommendation. During audits it was discovered multiple licensees were claiming repeat credit during their two year renewal period. Proposed text would prohibit it, making it actionable for enforcement purposes if discovered during an audit or via complaint.

CONTINUING EDUCATION COURSE APPROVAL APPLICATION

\$50 Mandatory Fee

Pursuant to California Code of Regulations (CCR) §1536, the Board will approve continuing education (CE) courses after receiving the applicable fee, the requested information below and it has been determined that the course meets criteria specified in CCR §1536(g). Course approvals shall be valid for one year from the date as approved by the Board.

In addition to the information requested below, please attach a copy of the course schedule, a detailed course outline and presentation materials (e.g., PowerPoint presentation). Applications must be submitted 45 90 days prior to the course presentation date. **Please type or print clearly.**

| | | |
|---------------------------|---|---------------------------|
| Course Title _____ | Course <u>Presentation</u> Date _____ | Course Hours _____ |
|---------------------------|---|---------------------------|

Course Provider Contact Information

| | | |
|--|-------------------|--|
| Provider Name _____ | | |
| First _____ | Last _____ | Middle _____ |
| Provider Mailing Address Street _____ City _____ State _____ Zip _____ <u>Phone</u> _____ | | |
| Provider Email Address _____ | | |
| Will the proposed course be open to all California licensed optometrists? | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| Do you agree to maintain and furnish to the Board and/or attending licensee such records of course content, <u>dates and places of the course, course completion certificates</u> and attendance as the Board requires, for a period of at least <u>three four</u> years from the date of course presentation? | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

Course Instructor Information

Please provide the information below and attach the curriculum vitae for each instructor or lecturer involved in the course. If there are more instructors in the course, please provide the requested information on a separate sheet of paper.

| | | |
|------------------------------|---------------------|---------------------|
| Instructor Name _____ | | |
| First _____ | Last _____ | Middle _____ |
| License Number _____ | License Type _____ | |
| Phone Number () _____ | Email Address _____ | |

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 Course Provider

Date

ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Shara Murphy, Executive Officer |
| SUBJECT | Agenda Item #11: Update, Discussion and Possible Action on 2020 Legislation: Assembly Bill 896 (Low) |

Summary/History:

At the January 31, 2020, public meeting, the Board met to review the AB 896 (Low) and the consensus was that a full discussion in person was needed. A position of 'neutral' on AB 896 was adopted and a letter was sent to the author's office informing them of the Board's position. Board staff has continued to have discussions with the author's office and provided suggested amendments.

The Board staff requests further Board direction to facilitate more discussion with Legislature and stakeholders in drafting potential amendments and does not recommend a change of position until amendments are in print.

Discussion:

The bill's current language remains the same as the text adopted in August 2019. The bill has not been amended, but the author's staff has provided proposed amendments. These proposed amendments are attached but do not reflect the bill as currently in print. Below are staff concerns raised by the proposed amendments.

1. The proposed amendments still offer a static list for patient follow-up. There is no requirement that doctors listed be in active practice, taking Medi-Cal or currently volunteer to provide free exams.
2. The proposed amendments provide no jurisdiction for enforcement by the Board. If the nonprofit corporation were to adopt legal business practices that are detrimental to care, the Board has no way to prohibit the nonprofit from providing exams or materials (relevance to RDO structure in BPC Section 655).
3. Repercussions of consumer complaints fall solely on the OPT licensee. The only recourse is the probation or revocations of the individual's license.
4. There is considerable confusion between the responsibilities of the "mobile optometric clinic" and coordinating nonprofit corporation.
 - a. Calls for 7-year retention of records within the van, trailer or means of transportation where exams take place.
 - b. Calls for doctors of optometry to obtain Statements of Licensure for each clinic (van or trailer) they use to provide exams.

5. The definition of “mobile optometric clinic” does not address current technology. Exams can be given with mobile equipment deployed in a school multi-purpose room or nurse's office. Mobile does not require a van or trailer.
6. The term “clinic” appears nowhere else in Optometry statutes and could create a loophole putting these clinics outside the enforcement jurisdiction of the Board.
7. The proposed amendments prohibit “mobile optometric clinics” from taking payment, but do not prohibit the coordinating nonprofit corporation from taking payment.
8. The proposed amendments greatly increase enforcement staff workloads by requiring a quarterly report from each “mobile optometric clinic”.
 - a. Those reports provide a list of optometrists actively working, but no record of an optometrist dismissed from service or moved to another “clinic”.

AMENDED IN SENATE FEBRUARY 25, 2020

AMENDED IN SENATE AUGUST 30, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 896

Introduced by Assembly Member Low
(Coauthors: Assembly Members Arambula, Bonta, Carrillo, and
Gipson)

February 20, 2019

An act to amend Sections 205, 655, 2545, 2546.9, 2556.2, 2567, ~~and 2568~~ 2568, and 3077 of, to amend, repeal, and add Section 205 of, and to add Sections 205.3 and 3070.2 to, Section 205.3 to, and to add and repeal Section 3070.2 of, the Business and Professions Code, relating to healing ~~arts~~: arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 896, as amended, Low. Registered Dispensing Opticians: Dispensing Opticians Fund: Optometry Fund: ~~extended optometric clinical facilities~~: mobile optometric clinics.

Existing law provides for the registration and regulation of dispensing opticians, spectacle lens dispensers, nonresident contact lens sellers, and contact lens dispensers by the State Board of Optometry and requires certain fees and fines in connection therewith to be paid to the board. Existing law establishes the Dispensing Opticians Fund and requires that these fees and fines be paid into that fund, and provides that the funds be available, upon appropriation, to the board for specified purposes.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the board and requires certain fees and fines in connection therewith to be paid to the board. The act establishes the Optometry Fund and requires that these fees and fines be paid into that fund, and provides that the funds, unless otherwise provided, be available, upon appropriation, to the board in order to carry out the purposes of the act.

This bill would abolish the Dispensing Opticians Fund on July 1, 2022, and would require that any moneys in that fund be transferred to the Optometry Fund before July 1, 2022. The bill would make various related conforming changes.

Existing law provides that specified provisions of the Medical Practice Act that are not inconsistent or in conflict with certain provisions of law relating to the registration and regulation of dispensing opticians apply to the issuance, and govern the expiration and renewal, of certificates of registration issued to dispensing opticians.

This bill would delete that provision.

The Optometry Practice Act requires each licensed optometrist, before engaging in the practice of optometry, to notify the board in writing of the address or addresses where the optometrist is to engage in the practice of optometry and of any changes in their place of practice. A violation of the act is a crime.

This bill would define ~~“extended optometric clinical facility”~~ *“mobile optometric clinic”* to mean a trailer, van, or other means of transportation in which the practice of optometry is performed and which is not affiliated with an approved optometry school in California. The bill would limit ownership of an extended optometric clinical facility to a *tax-exempt nonprofit or charitable organization that is providing provides* optometric services to patients regardless of the patient’s ability to pay. The bill would require ~~an extended optometric clinical facility~~ *a mobile optometric clinic* to register with the ~~board~~ *board and to provide specified information on registering*. The bill would prohibit ~~such a facility~~ *a mobile optometric clinic* from accepting payment for services other than those provided to Medi-Cal beneficiaries. *The bill would require a mobile optometric clinic to file a quarterly report with the board and to provide a consumer notice prescribed by the board to patients.*

The bill would require the board, by January 1, ~~2021, 2022,~~ to adopt regulations establishing a registry for ~~extended optometric clinical facilities~~ *mobile optometric clinics* and to set a registration fee at an

amount not to exceed the costs of administration. The bill would authorize the board to adopt regulations to conduct quality assurance reviews for optometrists engaging in the practice of optometry at ~~an extended optometric clinical facility~~: *a mobile optometric clinic*.

The bill would prohibit the board from bringing an enforcement action against a charitable organization ~~that is not affiliated~~ *based solely on its affiliation status* with an approved optometry school in California for remotely providing optometric service before January 1, ~~2021~~: 2022.

The bill would require a mobile optometric clinic to maintain records, as prescribed, to be made available to the board upon request for inspection. The bill would require a licensed optometrist who provides patient care in conjunction with a mobile optometric clinic to obtain a statement of licensure with the mobile optometric clinic's address as registered with the board. The bill would require, if the licensee is not practicing optometry at a location other than with the mobile optometric clinic, that the licensee list as their primary address of record the mobile optometric clinic's address as registered with the board.

The bill would repeal these mobile optometric clinic provisions on July 1, 2024.

Because this bill would expand the scope of an existing crime, it would therefore impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would add Section 205 to the Business and Professions Code as proposed by both this bill and AB 1519 to be operative only if this bill and AB 1519 are enacted and this bill is enacted last.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 205 of the Business and Professions Code~~
- 2 ~~is amended to read:~~

1 205. ~~(a) There is in the State Treasury the Professions and~~
 2 ~~Vocations Fund. The fund shall consist of the following special~~
 3 ~~funds:~~

- 4 ~~(1) Accountancy Fund.~~
 5 ~~(2) California Architects Board Fund.~~
 6 ~~(3) Athletic Commission Fund.~~
 7 ~~(4) Barbering and Cosmetology Contingent Fund.~~
 8 ~~(5) Cemetery and Funeral Fund.~~
 9 ~~(6) Contractors' License Fund.~~
 10 ~~(7) State Dentistry Fund.~~
 11 ~~(8) Home Furnishings and Thermal Insulation Fund.~~
 12 ~~(9) California Architects Board Landscaping Architects Fund.~~
 13 ~~(10) Contingent Fund of the Medical Board of California.~~
 14 ~~(11) Optometry Fund.~~
 15 ~~(12) Pharmacy Board Contingent Fund.~~
 16 ~~(13) Physical Therapy Fund.~~
 17 ~~(14) Private Investigator Fund.~~
 18 ~~(15) Private Security Services Fund.~~
 19 ~~(16) Professional Engineer's, Land Surveyor's, and Geologist's~~
 20 ~~Fund.~~
 21 ~~(17) Consumer Affairs Fund.~~
 22 ~~(18) Behavioral Sciences Fund.~~
 23 ~~(19) Licensed Midwifery Fund.~~
 24 ~~(20) Court Reporters' Fund.~~
 25 ~~(21) Veterinary Medical Board Contingent Fund.~~
 26 ~~(22) Vocational Nursing and Psychiatric Technicians Fund.~~
 27 ~~(23) Electronic and Appliance Repair Fund.~~
 28 ~~(24) Dispensing Opticians Fund.~~
 29 ~~(25) Acupuncture Fund.~~
 30 ~~(26) Physician Assistant Fund.~~
 31 ~~(27) Board of Podiatric Medicine Fund.~~
 32 ~~(28) Psychology Fund.~~
 33 ~~(29) Respiratory Care Fund.~~
 34 ~~(30) Speech-Language Pathology and Audiology and Hearing~~
 35 ~~Aid Dispensers Fund.~~
 36 ~~(31) Board of Registered Nursing Fund.~~
 37 ~~(32) Animal Health Technician Examining Committee Fund.~~
 38 ~~(33) State Dental Hygiene Fund.~~
 39 ~~(34) State Dental Assistant Fund.~~
 40 ~~(35) Structural Pest Control Fund.~~

1 ~~(36) Structural Pest Control Eradication and Enforcement Fund.~~

2 ~~(37) Structural Pest Control Research Fund.~~

3 ~~(38) Household Movers Fund.~~

4 ~~(b) For accounting and recordkeeping purposes, the Professions~~
 5 ~~and Vocations Fund shall be deemed to be a single special fund,~~
 6 ~~and each of the several special funds therein shall constitute and~~
 7 ~~be deemed to be a separate account in the Professions and~~
 8 ~~Vocations Fund. Each account or fund shall be available for~~
 9 ~~expenditure only for the purposes as are now or may hereafter be~~
 10 ~~provided by law.~~

11 ~~(c) This section shall be repealed on July 1, 2022.~~

12 ~~SEC. 2. Section 205 is added to the Business and Professions~~
 13 ~~Code, to read:~~

14 ~~205. (a) There is in the State Treasury the Professions and~~
 15 ~~Vocations Fund. The fund shall consist of the following special~~
 16 ~~funds:~~

17 ~~(1) Accountancy Fund.~~

18 ~~(2) California Architects Board Fund.~~

19 ~~(3) Athletic Commission Fund.~~

20 ~~(4) Barbering and Cosmetology Contingent Fund.~~

21 ~~(5) Cemetery and Funeral Fund.~~

22 ~~(6) Contractors' License Fund.~~

23 ~~(7) State Dentistry Fund.~~

24 ~~(8) Home Furnishings and Thermal Insulation Fund.~~

25 ~~(9) California Architects Board-Landscape Architects Fund.~~

26 ~~(10) Contingent Fund of the Medical Board of California.~~

27 ~~(11) Optometry Fund.~~

28 ~~(12) Pharmacy Board Contingent Fund.~~

29 ~~(13) Physical Therapy Fund.~~

30 ~~(14) Private Investigator Fund.~~

31 ~~(15) Private Security Services Fund.~~

32 ~~(16) Professional Engineer's, Land Surveyor's, and Geologist's~~
 33 ~~Fund.~~

34 ~~(17) Consumer Affairs Fund.~~

35 ~~(18) Behavioral Sciences Fund.~~

36 ~~(19) Licensed Midwifery Fund.~~

37 ~~(20) Court Reporters' Fund.~~

38 ~~(21) Veterinary Medical Board Contingent Fund.~~

39 ~~(22) Vocational Nursing and Psychiatric Technicians Fund.~~

40 ~~(23) Electronic and Appliance Repair Fund.~~

- 1 ~~(24) Acupuncture Fund.~~
 2 ~~(25) Physician Assistant Fund.~~
 3 ~~(26) Board of Podiatric Medicine Fund.~~
 4 ~~(27) Psychology Fund.~~
 5 ~~(28) Respiratory Care Fund.~~
 6 ~~(29) Speech-Language Pathology and Audiology and Hearing~~
 7 ~~Aid Dispensers Fund.~~
 8 ~~(30) Board of Registered Nursing Fund.~~
 9 ~~(31) Animal Health Technician Examining Committee Fund.~~
 10 ~~(32) State Dental Hygiene Fund.~~
 11 ~~(33) State Dental Assistant Fund.~~
 12 ~~(34) Structural Pest Control Fund.~~
 13 ~~(35) Structural Pest Control Eradication and Enforcement Fund.~~
 14 ~~(36) Structural Pest Control Research Fund.~~
 15 ~~(37) Household Movers Fund.~~
 16 ~~(b) For accounting and recordkeeping purposes, the Professions~~
 17 ~~and Vocations Fund shall be deemed to be a single special fund,~~
 18 ~~and each of the several special funds therein shall constitute and~~
 19 ~~be deemed to be a separate account in the Professions and~~
 20 ~~Vocations Fund. Each account or fund shall be available for~~
 21 ~~expenditure only for the purposes as are now or may hereafter be~~
 22 ~~provided by law.~~
 23 ~~(c) This section shall become operative on July 1, 2022.~~
 24 ~~SEC. 2.5. Section 205 is added to the Business and Professions~~
 25 ~~Code, to read:~~
 26 ~~205. (a) There is in the State Treasury the Professions and~~
 27 ~~Vocations Fund. The fund shall consist of the following special~~
 28 ~~funds:~~
 29 ~~(1) Accountancy Fund.~~
 30 ~~(2) California Architects Board Fund.~~
 31 ~~(3) Athletic Commission Fund.~~
 32 ~~(4) Barbering and Cosmetology Contingent Fund.~~
 33 ~~(5) Cemetery and Funeral Fund.~~
 34 ~~(6) Contractors' License Fund.~~
 35 ~~(7) State Dentistry Fund.~~
 36 ~~(8) Home Furnishings and Thermal Insulation Fund.~~
 37 ~~(9) California Architects Board-Landscape Architects Fund.~~
 38 ~~(10) Contingent Fund of the Medical Board of California.~~
 39 ~~(11) Optometry Fund.~~
 40 ~~(12) Pharmacy Board Contingent Fund.~~

- 1 ~~(13) Physical Therapy Fund.~~
 2 ~~(14) Private Investigator Fund.~~
 3 ~~(15) Private Security Services Fund.~~
 4 ~~(16) Professional Engineer's, Land Surveyor's, and Geologist's~~
 5 ~~Fund.~~
 6 ~~(17) Consumer Affairs Fund.~~
 7 ~~(18) Behavioral Sciences Fund.~~
 8 ~~(19) Licensed Midwifery Fund.~~
 9 ~~(20) Court Reporters' Fund.~~
 10 ~~(21) Veterinary Medical Board Contingent Fund.~~
 11 ~~(22) Vocational Nursing and Psychiatric Technicians Fund.~~
 12 ~~(23) Electronic and Appliance Repair Fund.~~
 13 ~~(24) Acupuncture Fund.~~
 14 ~~(25) Physician Assistant Fund.~~
 15 ~~(26) Board of Podiatric Medicine Fund.~~
 16 ~~(27) Psychology Fund.~~
 17 ~~(28) Respiratory Care Fund.~~
 18 ~~(29) Speech Language Pathology and Audiology and Hearing~~
 19 ~~Aid Dispensers Fund.~~
 20 ~~(30) Board of Registered Nursing Fund.~~
 21 ~~(31) Animal Health Technician Examining Committee Fund.~~
 22 ~~(32) State Dental Hygiene Fund.~~
 23 ~~(33) Structural Pest Control Fund.~~
 24 ~~(34) Structural Pest Control Eradication and Enforcement Fund.~~
 25 ~~(35) Structural Pest Control Research Fund.~~
 26 ~~(36) Household Movers Fund.~~
 27 ~~(b) For accounting and recordkeeping purposes, the Professions~~
 28 ~~and Vocations Fund shall be deemed to be a single special fund,~~
 29 ~~and each of the several special funds therein shall constitute and~~
 30 ~~be deemed to be a separate account in the Professions and~~
 31 ~~Vocations Fund. Each account or fund shall be available for~~
 32 ~~expenditure only for the purposes as are now or may hereafter be~~
 33 ~~provided by law.~~
 34 ~~(c) This section shall become operative on July 1, 2022.~~
 35 *SECTION 1. Section 205 of the Business and Professions Code,*
 36 *as added by Section 3 of Chapter 865 of the Statutes of 2019, is*
 37 *amended to read:*
 38 205. (a) There is in the State Treasury the Professions and
 39 Vocations Fund. The fund shall consist of the following special
 40 funds:

- 1 (1) Accountancy Fund.
- 2 (2) California Architects Board Fund.
- 3 (3) Athletic Commission Fund.
- 4 (4) Barbering and Cosmetology Contingent Fund.
- 5 (5) Cemetery and Funeral Fund.
- 6 (6) Contractors' License Fund.
- 7 (7) State Dentistry Fund.
- 8 (8) Home Furnishings and Thermal Insulation Fund.
- 9 (9) California Architects Board-Landscape Architects Fund.
- 10 (10) Contingent Fund of the Medical Board of California.
- 11 (11) Optometry Fund.
- 12 (12) Pharmacy Board Contingent Fund.
- 13 (13) Physical Therapy Fund.
- 14 (14) Private Investigator Fund.
- 15 (15) Private Security Services Fund.
- 16 (16) Professional Engineer's, Land Surveyor's, and Geologist's
- 17 Fund.
- 18 (17) Consumer Affairs Fund.
- 19 (18) Behavioral Sciences Fund.
- 20 (19) Licensed Midwifery Fund.
- 21 (20) Court Reporters' Fund.
- 22 (21) Veterinary Medical Board Contingent Fund.
- 23 (22) Vocational Nursing and Psychiatric Technicians Fund.
- 24 (23) Electronic and Appliance Repair Fund.
- 25 ~~(24) Dispensing Opticians Fund.~~
- 26 ~~(25)~~
- 27 (24) Acupuncture Fund.
- 28 ~~(26)~~
- 29 (25) Physician Assistant Fund.
- 30 ~~(27)~~
- 31 (26) Board of Podiatric Medicine Fund.
- 32 ~~(28)~~
- 33 (27) Psychology Fund.
- 34 ~~(29)~~
- 35 (28) Respiratory Care Fund.
- 36 ~~(30)~~
- 37 (29) Speech-Language Pathology and Audiology and Hearing
- 38 Aid Dispensers Fund.
- 39 ~~(31)~~
- 40 (30) Board of Registered Nursing Fund.

1 ~~(32)~~

2 (31) Animal Health Technician Examining Committee Fund.

3 ~~(33)~~

4 (32) State Dental Hygiene Fund.

5 ~~(34)~~

6 (33) Structural Pest Control Fund.

7 ~~(35)~~

8 (34) Structural Pest Control Eradication and Enforcement Fund.

9 ~~(36)~~

10 (35) Structural Pest Control Research Fund.

11 ~~(37)~~

12 (36) Household Movers Fund.

13 (b) For accounting and recordkeeping purposes, the Professions
14 and Vocations Fund shall be deemed to be a single special fund,
15 and each of the several special funds therein shall constitute and
16 be deemed to be a separate account in the Professions and
17 Vocations Fund. Each account or fund shall be available for
18 expenditure only for the purposes as are now or may hereafter be
19 provided by law.

20 (c) This section shall become operative on July 1, 2022.

21 ~~SEC. 3.~~

22 *SEC. 2.* Section 205.3 is added to the Business and Professions
23 Code, to read:

24 205.3. Whenever any reference is made in any provision of
25 this code to the "Dispensing Opticians Fund," it means the
26 Optometry Fund. All moneys within the Dispensing Opticians
27 Fund shall be deposited into the Optometry Fund by July 1, 2022.
28 On July 1, 2022, the Dispensing Opticians Fund shall be abolished.

29 ~~SEC. 4.~~

30 *SEC. 3.* Section 655 of the Business and Professions Code is
31 amended to read:

32 655. (a) For the purposes of this section, the following terms
33 have the following meanings:

34 (1) "Health plan" means a health care service plan licensed
35 pursuant to the Knox-Keene Health Care Service Plan Act of 1975
36 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
37 the Health and Safety Code).

38 (2) "Optical company" means a person or entity that is engaged
39 in the manufacture, sale, or distribution to physicians and surgeons,
40 optometrists, health plans, or dispensing opticians of lenses, frames,

1 optical supplies, or optometric appliances or devices or kindred
2 products.

3 (3) "Optometrist" means a person licensed pursuant to Chapter
4 7 (commencing with Section 3000) or an optometric corporation,
5 as described in Section 3160.

6 (4) "Registered dispensing optician" means a person licensed
7 pursuant to Chapter 5.5 (commencing with Section 2550).

8 (5) "Therapeutic ophthalmic product" means lenses or other
9 products that provide direct treatment of eye disease or visual
10 rehabilitation for diseased eyes.

11 (b) No optometrist may have any membership, proprietary
12 interest, coownership, or any profit-sharing arrangement, either
13 by stock ownership, interlocking directors, trusteeship, mortgage,
14 or trust deed, with any registered dispensing optician or any optical
15 company, except as otherwise permitted under this section.

16 (c) (1) A registered dispensing optician or an optical company
17 may operate, own, or have an ownership interest in a health plan
18 so long as the health plan does not directly employ optometrists
19 to provide optometric services directly to enrollees of the health
20 plan, and may directly or indirectly provide products and services
21 to the health plan or its contracted providers or enrollees or to other
22 optometrists. For purposes of this section, an optometrist may be
23 employed by a health plan as a clinical director for the health plan
24 pursuant to Section 1367.01 of the Health and Safety Code or to
25 perform services related to utilization management or quality
26 assurance or other similar related services that do not require the
27 optometrist to directly provide health care services to enrollees.
28 In addition, an optometrist serving as a clinical director may not
29 employ optometrists to provide health care services to enrollees
30 of the health plan for which the optometrist is serving as clinical
31 director. For the purposes of this section, the health plan's
32 utilization management and quality assurance programs that are
33 consistent with the Knox-Keene Health Care Service Plan Act of
34 1975 (Chapter 2.2 (commencing with Section 1340) of Division
35 2 of the Health and Safety Code) do not constitute providing health
36 care services to enrollees.

37 (2) The registered dispensing optician or optical company shall
38 not interfere with the professional judgment of the optometrist.

39 (3) The Department of Managed Health Care shall forward to
40 the State Board of Optometry any complaints received from

1 consumers that allege that an optometrist violated the Optometry
2 Practice Act (Chapter 7 (commencing with Section 3000)). The
3 Department of Managed Health Care and the State Board of
4 Optometry shall enter into an Inter-Agency Agreement regarding
5 the sharing of information related to the services provided by an
6 optometrist that may be in violation of the Optometry Practice Act
7 that the Department of Managed Health Care encounters in the
8 course of the administration of the Knox-Keene Health Care
9 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section
10 1340) of Division 2 of the Health and Safety Code).

11 (d) An optometrist, a registered dispensing optician, an optical
12 company, or a health plan may execute a lease or other written
13 agreement giving rise to a direct or indirect landlord-tenant
14 relationship with an optometrist, if all of the following conditions
15 are contained in a written agreement establishing the
16 landlord-tenant relationship:

17 (1) (A) The practice shall be owned by the optometrist and in
18 every phase be under the optometrist's exclusive control, including
19 the selection and supervision of optometric staff, the scheduling
20 of patients, the amount of time the optometrist spends with patients,
21 fees charged for optometric products and services, the examination
22 procedures and treatment provided to patients and the optometrist's
23 contracting with managed care organizations.

24 (B) Subparagraph (A) shall not preclude a lease from including
25 commercially reasonable terms that: (i) require the provision of
26 optometric services at the leased space during certain days and
27 hours, (ii) restrict the leased space from being used for the sale or
28 offer for sale of spectacles, frames, lenses, contact lenses, or other
29 ophthalmic products, except that the optometrist shall be permitted
30 to sell therapeutic ophthalmic products if the registered dispensing
31 optician, health plan, or optical company located on or adjacent
32 to the optometrist's leased space does not offer any substantially
33 similar therapeutic ophthalmic products for sale, (iii) require the
34 optometrist to contract with a health plan network, health plan, or
35 health insurer, or (iv) permit the landlord to directly or indirectly
36 provide furnishings and equipment in the leased space.

37 (2) The optometrist's records shall be the sole property of the
38 optometrist. Only the optometrist and those persons with written
39 authorization from the optometrist shall have access to the patient

1 records and the examination room, except as otherwise provided
2 by law.

3 (3) The optometrist's leased space shall be definite and distinct
4 from space occupied by other occupants of the premises, have a
5 sign designating that the leased space is occupied by an
6 independent optometrist or optometrists and be accessible to the
7 optometrist after hours or in the case of an emergency, subject to
8 the facility's general accessibility. This paragraph shall not require
9 a separate entrance to the optometrist's leased space.

10 (4) All signs and displays shall be separate and distinct from
11 that of the other occupants and shall have the optometrist's name
12 and the word "optometrist" prominently displayed in connection
13 therewith. This paragraph shall not prohibit the optometrist from
14 advertising the optometrist's practice location with reference to
15 other occupants or prohibit the optometrist or registered dispensing
16 optician from advertising their participation in any health plan's
17 network or the health plan's products in which the optometrist or
18 registered dispensing optician participates.

19 (5) There shall be no signs displayed on any part of the premises
20 or in any advertising indicating that the optometrist is employed
21 or controlled by the registered dispensing optician, health plan or
22 optical company.

23 (6) Except for a statement that an independent doctor of
24 optometry is located in the leased space, in-store pricing signs and
25 as otherwise permitted by this subdivision, the registered
26 dispensing optician or optical company shall not link its advertising
27 with the optometrist's name, practice, or fees.

28 (7) Notwithstanding paragraphs (4) and (6), this subdivision
29 shall not preclude a health plan from advertising its health plan
30 products and associated premium costs and any copayments,
31 coinsurance, deductibles, or other forms of cost sharing, or the
32 names and locations of the health plan's providers, including any
33 optometrists or registered dispensing opticians that provide
34 professional services, in compliance with the Knox-Keene Health
35 Care Service Plan Act of 1975 (Chapter 2.2 (commencing with
36 Section 1340) of Division 2 of the Health and Safety Code).

37 (8) A health plan that advertises its products and services in
38 accordance with paragraph (7) shall not advertise the optometrist's
39 fees for products and services that are not included in the health
40 plan's contract with the optometrist.

1 (9) The optometrist shall not be precluded from collecting fees
2 for services that are not included in a health plan's products and
3 services, subject to any patient disclosure requirements contained
4 in the health plan's provider agreement with the optometrist or
5 that are not otherwise prohibited by the Knox-Keene Health Care
6 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section
7 1340) of Division 2 of the Health and Safety Code).

8 (10) The term of the lease shall be no less than one year and
9 shall not require the optometrist to contract exclusively with a
10 health plan. The optometrist may terminate the lease according to
11 the terms of the lease. The landlord may terminate the lease for
12 the following reasons:

13 (A) The optometrist's failure to maintain a license to practice
14 optometry or the imposition of restrictions, suspension or
15 revocation of the optometrist's license or if the optometrist or the
16 optometrist's employee is or becomes ineligible to participate in
17 state or federal government-funded programs.

18 (B) Termination of any underlying lease where the optometrist
19 has subleased space, or the optometrist's failure to comply with
20 the underlying lease provisions that are made applicable to the
21 optometrist.

22 (C) If the health plan is the landlord, the termination of the
23 provider agreement between the health plan and the optometrist,
24 in accordance with the Knox-Keene Health Care Service Plan Act
25 of 1975 (Chapter 2.2 (commencing with Section 1340) of Division
26 2 of the Health and Safety Code).

27 (D) Other reasons pursuant to the terms of the lease or permitted
28 under the Civil Code.

29 (11) The landlord shall act in good faith in terminating the lease
30 and in no case shall the landlord terminate the lease for reasons
31 that constitute interference with the practice of optometry.

32 (12) Lease or rent terms and payments shall not be based on
33 number of eye exams performed, prescriptions written, patient
34 referrals or the sale or promotion of the products of a registered
35 dispensing optician or an optical company.

36 (13) The landlord shall not terminate the lease solely because
37 of a report, complaint, or allegation filed by the optometrist against
38 the landlord, a registered dispensing optician or a health plan, to
39 the State Board of Optometry or the Department of Managed
40 Health Care or any law enforcement or regulatory agency.

1 (14) The landlord shall provide the optometrist with written
2 notice of the scheduled expiration date of a lease at least 60 days
3 prior to the scheduled expiration date. This notice obligation shall
4 not affect the ability of either party to terminate the lease pursuant
5 to this section. The landlord may not interfere with an outgoing
6 optometrist's efforts to inform the optometrist's patients, in
7 accordance with customary practice and professional obligations,
8 of the relocation of the optometrist's practice.

9 (15) The State Board of Optometry may inspect, upon request,
10 an individual lease agreement pursuant to its investigational
11 authority, and if such a request is made, the landlord or tenant, as
12 applicable, shall promptly comply with the request. Failure or
13 refusal to comply with the request for lease agreements within 30
14 days of receiving the request constitutes unprofessional conduct
15 and is grounds for disciplinary action by the appropriate regulatory
16 agency. This section shall not affect the Department of Managed
17 Health Care's authority to inspect all books and records of a health
18 plan pursuant to Section 1381 of the Health and Safety Code.

19 Any financial information contained in the lease submitted to a
20 regulatory entity, pursuant to this paragraph, shall be considered
21 confidential trade secret information that is exempt from disclosure
22 under the California Public Records Act (Chapter 3.5 (commencing
23 with Section 6250) of Division 7 of Title 1 of the Government
24 Code).

25 (16) This subdivision shall not be applicable to the relationship
26 between any optometrist employee and the employer medical
27 group, or the relationship between a medical group exclusively
28 contracted with a health plan regulated by the Department of
29 Managed Health Care and that health plan.

30 (e) No registered dispensing optician may have any membership,
31 proprietary interest, coownership, or profit-sharing arrangement
32 either by stock ownership, interlocking directors, trusteeship,
33 mortgage, or trust deed, with an optometrist, except as permitted
34 under this section.

35 (f) Nothing in this section shall prohibit a person licensed under
36 Chapter 5 (commencing with Section 2000) or its professional
37 corporation from contracting with or employing optometrists,
38 ophthalmologists, or optometric assistants and entering into a
39 contract or landlord tenant relationship with a health plan, an

1 optical company, or a registered dispensing optician, in accordance
2 with Sections 650 and 654 of this code.

3 (g) Any violation of this section constitutes a misdemeanor as
4 to such person licensed under Chapter 7 (commencing with Section
5 3000) of this division and as to any and all persons, whether or
6 not so licensed under this division, who participate with such
7 licensed person in a violation of any provision of this section.

8 (h) (1) Notwithstanding any other law and in addition to any
9 action available to the State Board of Optometry, the State Board
10 of Optometry may issue a citation containing an order of
11 abatement, an order to pay an administrative fine, or both, to an
12 optical company, an optometrist, or a registered dispensing optician
13 for a violation of this section. The administrative fine shall not
14 exceed fifty thousand dollars (\$50,000) per investigation. In
15 assessing the amount of the fine, the board shall give due
16 consideration to all of the following:

17 (A) The gravity of the violation.

18 (B) The good faith of the cited person or entity.

19 (C) The history of previous violations of the same or similar
20 nature.

21 (D) Evidence that the violation was or was not willful.

22 (E) The extent to which the cited person or entity has cooperated
23 with the board's investigation.

24 (F) The extent to which the cited person or entity has mitigated
25 or attempted to mitigate any damage or injury caused by the
26 violation.

27 (G) Any other factors as justice may require.

28 (2) A citation or fine assessment issued pursuant to a citation
29 shall inform the cited person or entity that if a hearing is desired
30 to contest the finding of a violation, that hearing shall be requested
31 by written notice to the board within 30 days of the date of issuance
32 of the citation or assessment. If a hearing is not requested pursuant
33 to this section, payment of any fine shall not constitute an
34 admission of the violation charged. Hearings shall be held pursuant
35 to Chapter 5 (commencing with Section 11500) of Part 1 of
36 Division 3 of Title 2 of the Government Code.

37 (3) The board shall adopt regulations to implement a system for
38 the issuance of citations, administrative fines, and orders of
39 abatement authorized by this section. The regulations shall include
40 provisions for both of the following:

1 (A) The issuance of a citation without an administrative fine.

2 (B) The opportunity for a cited person or entity to have an
3 informal conference with the executive officer of the board in
4 addition to the hearing described in paragraph (2).

5 (4) The failure of a licensee to pay a fine within 30 days of the
6 date of assessment, unless the citation is being appealed, may result
7 in disciplinary action being taken by the board. Where a citation
8 is not contested and a fine is not paid, the full amount of the
9 assessed fine shall be added to the fee for renewal of the license.
10 A license shall not be renewed without payment of the renewal
11 fee and fine.

12 (5) Notwithstanding any other law, if a fine is paid to satisfy an
13 assessment based on the finding of a violation, payment of the fine
14 shall be represented as satisfactory resolution of the matter for
15 purposes of public disclosure.

16 (i) Administrative fines collected pursuant to this section shall
17 be deposited in the Optometry Fund. It is the intent of the
18 Legislature that moneys collected as fines and deposited in the
19 fund be used by the board primarily for enforcement purposes.

20 ~~SEC. 5:~~

21 *SEC. 4.* Section 2545 of the Business and Professions Code is
22 amended to read:

23 2545. (a) Whenever any person has engaged, or is about to
24 engage, in any acts or practices which constitute, or will constitute,
25 an offense against this chapter, the superior court in and for the
26 county wherein the acts or practices take place, or are about to
27 take place, may issue an injunction, or other appropriate order,
28 restraining the conduct on application of the State Board of
29 Optometry, the Medical Board of California, the Osteopathic
30 Medical Board of California, the Attorney General, or the district
31 attorney of the county.

32 The proceedings under this section shall be governed by Chapter
33 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
34 of Civil Procedure.

35 (b) (1) Any person who violates any of the provisions of this
36 chapter shall be subject to a fine of not less than one thousand
37 dollars (\$1,000) nor more than two thousand five hundred dollars
38 (\$2,500) per violation. The fines collected pursuant to this section
39 from licensed physicians and surgeons shall be available upon
40 appropriation to the Medical Board of California for the purposes

1 of administration and enforcement. The fines collected pursuant
2 to this section from licensed optometrists and registered dispensing
3 opticians shall be deposited into the Optometry Fund and shall be
4 available upon appropriation to the State Board of Optometry for
5 the purposes of administration and enforcement.

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

11 (3) The proceedings under this section shall be conducted in
12 accordance with the provisions of Chapter 5 (commencing with
13 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
14 Code.

15 ~~SEC. 6.~~

16 *SEC. 5.* Section 2546.9 of the Business and Professions Code
17 is amended to read:

18 2546.9. The amount of fees prescribed in connection with the
19 registration of nonresident contact lens sellers is that established
20 by the following schedule:

21 (a) The application fee for a nonresident contact lens seller shall
22 be a minimum of one hundred fifty dollars (\$150) and shall not
23 exceed two hundred dollars (\$200).

24 (b) The initial registration fee shall be a minimum of two
25 hundred dollars (\$200) and shall not exceed three hundred dollars
26 (\$300).

27 (c) The renewal fee shall be a minimum of two hundred dollars
28 (\$200) and shall not exceed three hundred dollars (\$300).

29 (d) The delinquency fee shall be a minimum of fifty dollars
30 (\$50) and shall not exceed seventy-five dollars (\$75).

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

33 (f) The State Board of Optometry may periodically revise and
34 fix by regulation the fees specified in subdivisions (a), (b), (c), and
35 (d), and these revised fees shall not exceed the reasonable
36 regulatory cost.

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

1 ~~SEC. 7.~~

2 *SEC. 6.* Section 2556.2 of the Business and Professions Code
3 is amended to read:

4 2556.2. (a) Notwithstanding any other law, subsequent to the
5 effective date of this section and until January 1, 2019, any
6 individual, corporation, or firm operating as a registered dispensing
7 optician under this chapter before the effective date of this section,
8 or an employee of such an entity, shall not be subject to any action
9 for engaging in conduct prohibited by Section 2556 or Section 655
10 as those sections existed prior to the effective date of this bill,
11 except that a registrant shall be subject to discipline for duplicating
12 or changing lenses without a prescription or order from a person
13 duly licensed to issue the same.

14 (b) Nothing in this section shall be construed to imply or suggest
15 that a person registered under this chapter is in violation of or in
16 compliance with the law.

17 (c) This section shall not apply to any business relationships
18 prohibited by Section 2556 commencing registration or operations
19 on or after the effective date of this section.

20 (d) Subsequent to the effective date of this section and until
21 January 1, 2019, nothing in this section shall prohibit an individual,
22 corporation, or firm operating as a registered dispensing optician
23 from engaging in a business relationship with an optometrist
24 licensed pursuant to Chapter 7 (commencing with Section 3000)
25 before the effective date of this section at locations registered with
26 the Medical Board of California before the effective date of this
27 section.

28 (e) This section does not apply to any administrative action
29 pending, litigation pending, cause for discipline, or cause of action
30 accruing prior to September 1, 2015.

31 (f) Any registered dispensing optician or optical company that
32 owns a health plan that employs optometrists, subject to this
33 section, shall comply with the following milestones:

34 (1) By January 1, 2017, 15 percent of its locations shall no
35 longer employ an optometrist.

36 (2) By August 1, 2017, 45 percent of its locations shall no longer
37 employ an optometrist.

38 (3) By January 1, 2019, 100 percent of its locations shall no
39 longer employ an optometrist.

1 (g) Any registered dispensing optician or optical company that
2 owns a health plan that employs optometrists shall report to the
3 State Board of Optometry in writing as to whether it has met each
4 of the milestones in subdivision (f) within 30 days of each
5 milestone. The State Board of Optometry shall provide those
6 reports as soon as it receives them to the director and the
7 Legislature. The report to the Legislature shall be submitted in
8 compliance with Section 9795 of the Government Code.

9 (h) (1) Notwithstanding any other law and in addition to any
10 action available to the State Board of Optometry, the State Board
11 of Optometry may issue a citation containing an order of
12 abatement, an order to pay an administrative fine, or both, to an
13 optical company, an optometrist, or a registered dispensing optician
14 for a violation of this section. The administrative fine shall not
15 exceed fifty thousand dollars (\$50,000). In assessing the amount
16 of the fine, the board shall give due consideration to all of the
17 following:

18 (A) The gravity of the violation.

19 (B) The good faith of the cited person or entity.

20 (C) The history of previous violations of the same or similar
21 nature.

22 (D) Evidence that the violation was or was not willful.

23 (E) The extent to which the cited person or entity has cooperated
24 with the board's investigation.

25 (F) The extent to which the cited person or entity has mitigated
26 or attempted to mitigate any damage or injury caused by the
27 violation.

28 (G) Any other factors as justice may require.

29 (2) A citation or fine assessment issued pursuant to a citation
30 shall inform the cited person or entity that if a hearing is desired
31 to contest the finding of a violation, that hearing shall be requested
32 by written notice to the board within 30 days of the date of issuance
33 of the citation or assessment. If a hearing is not requested pursuant
34 to this section, payment of any fine shall not constitute an
35 admission of the violation charged. Hearings shall be held pursuant
36 to Chapter 5 (commencing with Section 11500) of Part 1 of
37 Division 3 of Title 2 of the Government Code.

38 (3) The board shall adopt regulations to implement a system for
39 the issuance of citations, administrative fines, and orders of

1 abatement authorized by this section. The regulations shall include
2 provisions for both of the following:

3 (A) The issuance of a citation without an administrative fine.

4 (B) The opportunity for a cited person or entity to have an
5 informal conference with the executive officer of the board in
6 addition to the hearing described in paragraph (2).

7 (4) The failure of a licensee to pay a fine within 30 days of the
8 date of assessment, unless the citation is being appealed, may result
9 in disciplinary action being taken by the board. Where a citation
10 is not contested and a fine is not paid, the full amount of the
11 assessed fine shall be added to the fee for renewal of the license.
12 A license shall not be renewed without payment of the renewal
13 fee and fine.

14 (5) Notwithstanding any other law, if a fine is paid to satisfy an
15 assessment based on the finding of a violation, payment of the fine
16 shall be represented as satisfactory resolution of the matter for
17 purposes of public disclosure.

18 (i) Administrative fines collected pursuant to this section shall
19 be deposited in the Optometry Fund. It is the intent of the
20 Legislature that moneys collected as fines and deposited in the
21 fund be used by the board primarily for enforcement purposes.

22 ~~SEC. 8.~~

23 *SEC. 7.* Section 2567 of the Business and Professions Code is
24 amended to read:

25 2567. (a) All fees collected from persons registered or seeking
26 registration under this chapter shall be paid into the Optometry
27 Fund, and shall be available, upon appropriation, to the State Board
28 of Optometry for the purposes of this chapter. Any moneys within
29 the Contingent Fund of the Medical Board of California collected
30 pursuant to this chapter shall be deposited in the Optometry Fund.
31 Any moneys within the Dispensing Opticians Fund collected
32 pursuant to this chapter shall be deposited in the Optometry Fund.

33 (b) The board may employ, subject to civil service regulations,
34 whatever additional clerical assistance is necessary for the
35 administration of this chapter.

36 ~~SEC. 9.~~

37 *SEC. 8.* Section 2568 of the Business and Professions Code is
38 amended to read:

39 2568. The board shall report to the Controller at the beginning
40 of each month for the month preceding the amount and source of

1 all revenue received by it pursuant to this chapter, and shall pay
 2 the entire amount thereof to the Treasurer for deposit in the
 3 Optometry Fund.

4 ~~SEC. 10.~~

5 *SEC. 9.* Section 3070.2 is added to the Business and Professions
 6 Code, to read:

7 3070.2. (a) As used in this section, ~~“extended optometric~~
 8 ~~clinical facility”~~ *“mobile optometric clinic”* means a trailer, van,
 9 or other means of transportation in which the practice of optometry,
 10 as defined in Section 3041, is performed and which is not affiliated
 11 with an approved optometry school in California.

12 (b) This section shall not apply to ~~optometric~~ *either of the*
 13 *following:*

14 (1) *Optometric* services provided remotely by an approved
 15 optometry school in California that meets the requirements of
 16 Section 1507 of Title 16 of the California Code of Regulations.

17 (2) *A licensee engaged in the practice of optometry at a facility*
 18 *defined in paragraph (1), (2), or (3) of subdivision (a) of Section*
 19 *3070.1.*

20 (c) The ownership of ~~an extended optometric clinical facility a~~
 21 ~~mobile optometric clinic~~ shall be limited to a *nonprofit or charitable*
 22 *organization that is providing exempt from taxation pursuant to*
 23 *Section 501(c)(3) or Section 501(c)(4) of the United States Internal*
 24 *Revenue Code that provides optometric services to patients*
 25 *regardless of the patient’s ability to pay.* ~~An extended optometric~~
 26 ~~clinical facility~~ *A mobile optometric clinic* shall register with the
 27 board. ~~An extended optometric clinical facility~~ *A mobile optometric*
 28 *clinic* shall not accept payment for services other than those
 29 provided to Medi-Cal beneficiaries. *The medical operations of the*
 30 *mobile optometric clinic shall be directed by a licensed optometrist*
 31 *and in every phase shall be under the exclusive control of the*
 32 *licensed optometrist, including the selection and supervision of*
 33 *optometric staff, the scheduling of patients, the amount of time the*
 34 *optometrist spends with patients, the fees charged for optometric*
 35 *products and services, the examination procedures, the treatment*
 36 *provided to patients, and the followup care pursuant to this section.*

37 (d) The owner of the ~~extended optometric facility~~ *mobile*
 38 *optometric clinic* registering with the board pursuant to subdivision
 39 (c) shall provide the following information to the board:

- 1 ~~(1) The scope of the practice~~ *description of services* to be
 2 rendered by the ~~facility~~ *mobile optometric clinic*.
- 3 (2) The names of optometrists providing patient care.
- 4 (3) The dates of operation and ~~geographical areas~~ *cities or*
 5 *counties* served.
- 6 (4) A description of how followup care will be provided.
- 7 (5) *A catalog of complaints, if any.*
- 8 (e) *The mobile optometric clinic, on a form prescribed by the*
 9 *board, shall file a quarterly report containing the following*
 10 *information:*
- 11 (1) *A list of all visits made by the mobile optometric clinic,*
 12 *including dates of operation, address, care provided, and names*
 13 *and license numbers of optometrists who provided care.*
- 14 (2) *A summary of all complaints received by the mobile*
 15 *optometric clinic, the disposition of those complaints, and referral*
 16 *information.*
- 17 (3) *An updated and current list of licensed optometrists who*
 18 *are actively providing care for the mobile optometric clinic.*
- 19 (4) *An updated and current list of licensed optometrists who*
 20 *are available for followup care as a result of a complaint on a*
 21 *volunteer basis or who accept Medi-Cal payments.*
- 22 ~~(e)~~
- 23 (f) The owner of the ~~extended optometric facility~~ *mobile*
 24 *optometric clinic* shall notify the board of any change to the
 25 information provided to the board pursuant to subdivision ~~(d)~~; (d)
 26 *within 14 days.*
- 27 ~~(f)~~
- 28 (g) (1) ~~An extended optometric clinical facility~~ *A mobile*
 29 *optometric clinic* shall provide each patient and, if applicable, the
 30 patient's ~~caregiver~~, *caregiver or guardian*, a consumer notice
 31 ~~approved~~ *prescribed* by the board that includes the following:
- 32 (A) The name, license number, and contact information for the
 33 optometrist.
- 34 ~~(B) Information for filing a complaint with the board.~~
- 35 (B) *Optometrists providing services at a mobile optometric*
 36 *clinic are regulated by the board and the contact information for*
 37 *filing a complaint with the board.*
- 38 (C) Information on how to obtain a copy of the patient's medical
 39 information.

1 (D) Information on followup care available for the patient,
2 including a list of available Medi-Cal or volunteer optometrists.

3 ~~(D)~~

4 (E) Any other information the board deems appropriate to
5 safeguard the public from substandard optometric care, fraud, or
6 other violation of this chapter.

7 (2) The optometrist shall maintain a copy of the consumer notice
8 described in paragraph (1) in the patient's medical record.

9 (3) Upon request by the patient's caregiver or guardian, a copy
10 of the prescription made for the patient shall be provided.

11 (h) Any person who is employed by the mobile optometric clinic
12 to drive or transport the vehicle shall possess a valid driver's
13 license.

14 ~~(g)~~

15 (i) By January 1, ~~2021~~, 2022, the board shall adopt regulations
16 establishing a registry for ~~extended optometric clinical facilities~~
17 *mobile optometric clinics* and shall set a registration fee at an
18 amount not to exceed the reasonable regulatory costs of
19 administration.

20 ~~(h)~~

21 (j) The board may adopt regulations to conduct quality assurance
22 reviews for optometrists engaging in the practice of optometry at
23 ~~an extended optometric clinical facility~~; *a mobile optometric clinic*.

24 ~~(i)~~

25 (k) The board shall not bring an enforcement action against a
26 charitable organization ~~that is not affiliated~~ *based solely on its*
27 *affiliation status* with an approved optometry school in California
28 for remotely providing optometric service before January 1, ~~2021~~.
29 2022.

30 (l) *The mobile optometric clinic shall maintain records in the*
31 *following manner, which shall be made available to the board*
32 *upon request for inspection:*

33 (1) *Records are maintained and made available to the patient*
34 *in such a way that the type and extent of services provided to the*
35 *patient are conspicuously disclosed. The disclosure of records*
36 *shall be made at or near the time services are rendered and shall*
37 *be maintained at the primary business office specified.*

38 (2) *The mobile optometric clinic complies with all federal and*
39 *state laws and regulations regarding the maintenance and*
40 *protection of medical records, including, but not limited to, the*

1 *federal Health Insurance Portability and Accountability Act of*
2 *1996 (42 U.S.C. Sec. 300gg).*

3 (3) *Pursuant to Section 3007, the mobile optometric clinic keeps*
4 *all necessary records for a minimum of seven years from the date*
5 *of service in order to disclose fully the extent of services furnished*
6 *to a patient. Any information included on a printed copy of an*
7 *original document to a patient shall be certified by the mobile*
8 *optometric clinic as being true, accurate, and complete.*

9 (4) *If a prescription is issued to a patient, records shall be*
10 *maintained for each prescription as part of the patient's chart,*
11 *including all of the following information about the optometrist:*

12 (A) *Name.*

13 (B) *Optometrist license number.*

14 (C) *The place of practice and the primary business office.*

15 (D) *Description of the goods and services for which the patient*
16 *is charged and the amount charged. If no charge was made to the*
17 *patient, a description of the goods and services provided.*

18 (5) *The mobile optometric clinic shall maintain accurate records*
19 *of the mobile optometric clinics, including vehicle registration*
20 *numbers and the year, make, and model of each trailer or van.*

21 (m) *Any licensed optometrist who provides patient care in*
22 *conjunction with a mobile optometric clinic shall obtain a*
23 *statement of licensure pursuant to subdivision (a) of Section 3070*
24 *with the mobile optometric clinic's address as registered with the*
25 *board. If the licensee is not practicing optometry at a location*
26 *other than with the mobile optometric clinic, then the licensee shall*
27 *list as their primary address of record the mobile optometric*
28 *clinic's address as registered with the board.*

29 (n) *This section does not apply to optometry services defined*
30 *in Section 3070.1.*

31 (o) *This section shall remain in effect only until July 1, 2024,*
32 *and as of that date is repealed.*

33 *SEC. 10. Section 3077 of the Business and Professions Code*
34 *is amended to read:*

35 *3077. As used in this section, "office" means any office or*
36 *other place for the practice of optometry.*

37 (a) *No person, singly or in combination with others, may have*
38 *an office unless that person is licensed to practice optometry under*
39 *this chapter.*

1 (b) No optometrist, and no two or more optometrists jointly,
2 may have more than 11 offices.

3 (c) Any failure to comply with the provisions of this section shall
4 result in the suspension of the optometrist license of each
5 optometrist who, individually or with others, has an office. An
6 optometrist license so suspended shall not be restored except upon
7 compliance with those provisions and the payment of the fee
8 prescribed by this chapter for restoration of a license after
9 suspension for failure to comply with this section.

10 (d) The board shall have the power to adopt, amend, and repeal
11 rules and regulations to carry out the provisions of this section.

12 (e) Notwithstanding any other provision of this section, neither
13 an optometrist nor an individual practice association shall be
14 deemed to have an additional office solely by reason of the
15 optometrist's participation in an individual practice association
16 or the individual practice association's creation or operation. As
17 used in this subdivision, the term "individual practice association"
18 means an entity that meets all of the following requirements:

19 (1) Complies with the definition of an optometric corporation
20 in Section 3160.

21 (2) Operates primarily for the purpose of securing contracts
22 with health care service plans or other third-party payers that
23 make available eye/vision services to enrollees or subscribers
24 through a panel of optometrists.

25 (3) Contracts with optometrists to serve on the panel of
26 optometrists, but does not obtain an ownership interest in, or
27 otherwise exercise control over, the respective optometric practices
28 of those optometrists on the panel.

29 (f) For purposes of Section 3070.2, "office" shall include a van,
30 trailer, or mobile equipment owned and operated by a mobile
31 optometric clinic.

32 SEC. 11. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.

1 ~~SEC. 12. Section 2.5 of this bill adds Section 205 to the~~
2 ~~Business and Professions Code as proposed to be added by both~~
3 ~~this bill and Assembly Bill 1519. That section of this bill shall~~
4 ~~only become operative if (1) both bills are enacted and become~~
5 ~~effective on or before January 1, 2020, (2) each bill adds Section~~
6 ~~205 to the Business and Profession Code, and (3) this bill is enacted~~
7 ~~after Assembly Bill 1519, in which case Section 2 of this bill shall~~
8 ~~not become operative.~~

9 ~~SEC. 12. This act is an urgency statute necessary for the~~
10 ~~immediate preservation of the public peace, health, or safety within~~
11 ~~the meaning of Article IV of the California Constitution and shall~~
12 ~~go into immediate effect. The facts constituting the necessity are:~~

13 ~~In order to ensure all Californians have access to necessary~~
14 ~~optometric services at the earliest possible time, it is imperative~~
15 ~~that this bill take effect immediately.~~

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Shara Murphy, Executive Officer |
| SUBJECT | Agenda Item #12 – Executive Officer’s Report |

Executive Officer Shara Murphy and designated staff will offer the Executive Officer’s Report regarding the following topics:

- A. Enforcement Program
- B. Examination and Licensing Programs
- C. Legislative and Regulatory Update
- D. Associations of Regulatory Boards in Optometry

ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Shara P. Murphy, Executive Officer <i>prepared by Arsha Qasmi, Lead Licensing Analyst</i> |
| SUBJECT | Agenda Item #12B – Executive Officer’s Report: Examination and Licensing |

Optometry Licensing Program:

As of this fiscal year, the licensing analyst has reviewed and approved 232 applications in total. despite this uptick, the licensing analyst kept a steady pace and licensed applicants within the 8-10-week timeframe. In total, the Board has received 207 initial application requests since July 1, 2019, with a significant amount of individuals applying in December and January totaling 113 requests. This is twice as many applications received from last December and January. This is to be expected as graduation season is coming near.

The December statistical data shows an increase in processing timeframe, this reflects individuals who have recently passed the National Board of Examiners in Optometry (NBEO) after having their applications pending for over a year. This data also includes applicants that have just passed the California Law and Regulation Exam (CLRE), after multiple attempts and applicants who did not submit items for review in a timely manner such as Live Scan, payments, transcripts, continuing education, etc.

Processing times have started to increase, initial application processing times are at 10-12 weeks for the licensing lead. A major factor for the increase in processing timeframes is due to returning applicants with applications opened for over a year, applicants that had open applications but are completing their residency programs, out of state optometrist moving into California, and the new graduating class of 2020. A large amount of time has been spent in contacting applicants due to deficiencies, continuing education audits, and verification of additional documents needed for licensees.

The Licensing lead is currently working with The Office of Information Services, BreEZe unit (within the Department of Consumer Affairs) to remove outdated requirements on two different online applications. The first application type is for the “Initial Exam Request”, the second application type is for the “Initial Licensing Application”. Licensing Lead expects Breeze to implement new changes to Fictitious Name Permit with the new upcoming release scheduled for March 2020. This year the licensing MST worked with several optometrists who in error applied for a duplicate FNP. Staff processed refunds and nullified applications through intensive individual communication. Due to multiple communications and document processing, there were longer processing times for the FNP and Statement of Licensure license types.

Opticianry Licensing Program:

To address concerns regarding processing timeframes within the Opticianry program, staff spent a considerable amount of time and energy in the final quarter of 2019 auditing processes and procedures (including SLD, CLD, RDO, and NCLS registrations). Working with The Office of Information Services, BreEZe unit (within the Department of Consumer Affairs) to remove confusion and implement new changes to the application process. In January's release, the Opticianry program had the most changes implemented. Removing confusing text from applications, updating the text for items requested, and removing the Picture and Notary requirement on applications. All these changes resulted in a positive impact on the program with reduced phone calls, emails, and confusion amongst applicants.

Last quarter, we lost the additional help we hired to assist the RDO program, however, the optician coordinator continued to work hard and keep processing times low. We have received a total of 85 Registered Dispensing Optician (RDO) applications, 305 Spectacle Lens Dispenser applications (SLD), 72 Contact Lens Dispenser applications (CLD), and 2 Non-registered Contact Lens Dispenser (NRCLD) this fiscal year. Processing timeframes continued to be between 6-8 weeks, this is significantly better than the last fiscal year 2018-2019 processing times.

Optometry Examination:

CSBO and the Office of Professional Examination Services (within the Department of Consumer Affairs) continue to work together to update current laws and regulations in the California Law and Regulations Exam (CLRE). An updated version of the CLRE was released on schedule in October of 2019.

Optometry License Applications FY 17/18 - 18/19

OPT: Optometrist License

BOL: Branch Office License

SOL: Statement of Licensure

FNP: Fictitious Name Permit

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|--------------------------|---------------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| OPT Exam Requests | Paper Exam Requests Received | 16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| | Online Exam Requests Received | 325 | 18 | 20 | 29 | 18 | 14 | 20 | 59 | 45 | 43 | 41 | 36 | 23 | 366 |
| | Approved Paper Exam Requests | 13 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| | Approved Online Exam Requests | 318 | 20 | 13 | 0 | 49 | 17 | 14 | 59 | 46 | 46 | 42 | 34 | 22 | 362 |
| | Paper Exam Request Cycle Time (Avg.) | 27 | 36 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 18 |
| | Online Exam Request Cycle Time (Avg.) | 9 | 31 | 11 | 0 | 30 | 28 | 12 | 2 | 2 | 0 | 0 | 0 | 0 | 9 |
| | Withdrawn/Cancelled Applications | 16 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 0 | 1 | 0 | 2 | 7 |
| | Exam Requests Pending | 12 | 9 | 16 | 45 | 14 | 11 | 17 | 13 | 12 | 9 | 8 | 10 | 9 | 9 |

| | | | | | | | | | | | | | | | |
|-------------------------|---------------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| OPT License Apps | License Applications Opened | 351 | 22 | 15 | 1 | 52 | 17 | 14 | 16 | 3 | 6 | 21 | 37 | 55 | 259 |
| | Licenses Issued | 210 | 68 | 53 | 32 | 33 | 11 | 13 | 14 | 15 | 4 | 4 | 12 | 35 | 294 |
| | License Application Cycle Time (Avg.) | 132 | 138 | 134 | 126 | 179 | 230 | 135 | 201 | 190 | 295 | 179 | 266 | 272 | 164 |
| | Withdrawn/Cancelled | 44 | 4 | 3 | 3 | 2 | 0 | 3 | 0 | 2 | 5 | 3 | 7 | 3 | 35 |
| | License Applications Pending | 263 | 213 | 172 | 138 | 155 | 161 | 159 | 161 | 147 | 144 | 158 | 176 | 193 | 193 |

Optometry License Applications FY 17/18 - 18/19

OPT: Optometrist License

BOL: Branch Office License
SOL: Statement of Licensure
FNP: Fictitious Name Permit

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| BOLS | Paper Applications Received | 27 | 0 | 2 | 2 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8 |
| | Online Applications Received | 53 | 4 | 5 | 3 | 4 | 4 | 2 | 2 | 1 | 2 | 0 | 0 | 0 | 27 |
| | Paper Applications Approved | 31 | 2 | 1 | 0 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 9 |
| | Online Applications Approved | 45 | 1 | 3 | 0 | 6 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 16 |
| | Avg. Cycle Time (Paper) | 55 | 55 | 21 | 0 | 44 | 36 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 41 |
| | Avg. Cycle Time (Online) | 43 | 25 | 10 | 0 | 44 | 23 | 25 | 0 | 0 | 0 | 0 | 0 | 0 | 29 |
| | Withdrawn/Cancelled | 11 | 2 | 2 | 1 | 2 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 10 |
| | Pending Apps | 5 | 4 | 5 | 9 | 6 | 4 | 3 | 5 | 1 | 0 | 0 | 0 | 0 | 0 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| SOLS | Paper Applications Received | 117 | 0 | 2 | 0 | 5 | 3 | 2 | 12 | 7 | 6 | 2 | 5 | 0 | 44 |
| | Online Applications Received | 165 | 24 | 33 | 17 | 30 | 15 | 30 | 125 | 88 | 69 | 45 | 40 | 42 | 558 |
| | Paper Applications Approved | 83 | 1 | 9 | 0 | 1 | 0 | 0 | 0 | 9 | 10 | 14 | 1 | 5 | 50 |
| | Online Applications Approved | 162 | 23 | 33 | 15 | 27 | 16 | 28 | 122 | 86 | 67 | 46 | 38 | 39 | 540 |
| | Avg. Cycle Time (Paper) | 38 | 46 | 98 | 0 | 87 | 0 | 0 | 0 | 98 | 65 | 53 | 20 | 23 | 69 |
| | Avg. Cycle Time (Online) | 30 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Withdrawn/Cancelled | 45 | 0 | 1 | 1 | 11 | 0 | 0 | 0 | 7 | 2 | 1 | 0 | 1 | 24 |
| | Pending Apps | 17 | 17 | 9 | 10 | 6 | 8 | 12 | 27 | 20 | 16 | 2 | 8 | 5 | 5 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| FNPs | Paper Applications Received | 62 | 3 | 4 | 0 | 7 | 6 | 3 | 6 | 1 | 7 | 2 | 4 | 3 | 46 |
| | Online Applications Received | 114 | 11 | 9 | 3 | 13 | 22 | 10 | 26 | 12 | 33 | 16 | 12 | 12 | 179 |
| | Paper Applications Approved | 68 | 2 | 3 | 0 | 2 | 3 | 2 | 7 | 3 | 4 | 3 | 4 | 1 | 34 |
| | Online Applications Approved | 82 | 8 | 11 | 2 | 1 | 15 | 3 | 7 | 4 | 9 | 10 | 9 | 9 | 88 |
| | Avg. Cycle Time (Paper) | 79 | 54 | 52 | 0 | 82 | 55 | 106 | 86 | 102 | 90 | 91 | 83 | 98 | 82 |
| | Avg. Cycle Time (Online) | 60 | 40 | 47 | 56 | 77 | 63 | 62 | 69 | 96 | 92 | 81 | 84 | 91 | 70 |
| | Withdrawn/Cancelled | 32 | 0 | 2 | 0 | 0 | 1 | 0 | 4 | 12 | 13 | 8 | 4 | 11 | 55 |
| | Pending Apps | 15 | 19 | 16 | 17 | 34 | 43 | 51 | 65 | 59 | 73 | 70 | 69 | 63 | 63 |

Optometry License Renewals FY 17/18 - 18/19

OPT: Optometrist License
 BOL: Branch Office License
 SOL: Statement of Licensure
 FNP: Fictitious Name Permit

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| OPTs | Paper Renewals Approved | 1355 | 91 | 118 | 94 | 136 | 52 | 26 | 8 | 4 | 5 | 5 | 3 | 1 | 543 |
| | Online Renewals Approved | 2385 | 201 | 232 | 213 | 236 | 268 | 229 | 382 | 299 | 280 | 313 | 333 | 297 | 3283 |
| | Avg. Cycle Time (Paper) | 9 | 7 | 8 | 5 | 10 | 22 | 19 | 25 | 91 | 49 | 28 | 212 | 15 | 12 |
| | Avg. Cycle Time (Online) | 5 | 2 | 3 | 6 | 7 | 2 | 1 | 2 | 2 | 2 | 2 | 3 | 2 | 3 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| BOLs | Paper Renewals Approved | 210 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Online Renewals Approved | 138 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Avg. Cycle Time (Paper) | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Avg. Cycle Time (Online) | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| SOLs | Paper Renewals Approved | 112 | 15 | 17 | 9 | 13 | 5 | 3 | 1 | 0 | 10 | 0 | 2 | 0 | 75 |
| | Online Renewals Approved | 243 | 27 | 29 | 22 | 16 | 18 | 20 | 34 | 29 | 77 | 35 | 39 | 47 | 393 |
| | Avg. Cycle Time (Paper) | 3 | 6 | 5 | 6 | 3 | 6 | 19 | 3 | 0 | 309 | 0 | 31 | 0 | 6 |
| | Avg. Cycle Time (Online) | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 0 | 0 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| FNPs | Paper Renewals Approved | 881 | 0 | 1 | 1 | 0 | 3 | 11 | 6 | 1 | 1 | 8 | 1 | 1 | 34 |
| | Online Renewals Approved | 555 | 1 | 1 | 1 | 2 | 513 | 190 | 379 | 61 | 38 | 22 | 10 | 10 | 1228 |
| | Avg. Cycle Time (Paper) | 7 | 0 | 645 | 1 | 0 | 0 | 6 | 8 | 22 | 5 | 52 | 95 | 7 | 36 |
| | Avg. Cycle Time (Online) | 2 | 0 | 0 | 0 | 0 | 71 | 0 | 0 | 0 | 0 | 7 | 3 | 148 | 1 |

Registered Dispensing Optician Applications FY 17/18 - 18/19

RDO: Registered Dispensing Optician

CLD: Contact Lens Dispenser
 SLD: Spectacle Lens Dispenser
 NRCLD: Non-Resident Contact Lens Dispenser

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| RDOs | Paper Applications Received | 59 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| | Online Applications Received | 152 | 10 | 21 | 17 | 22 | 21 | 17 | 8 | 15 | 17 | 17 | 29 | 26 | 220 |
| | Paper Applications Approved | 84 | 1 | 2 | 6 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 14 |
| | Online Applications Approved | 52 | 1 | 3 | 11 | 9 | 8 | 4 | 13 | 6 | 13 | 15 | 4 | 13 | 100 |
| | Avg. Cycle Time (Paper) | 127 | 168 | 156 | 136 | 79 | 71 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 120 |
| | Avg. Cycle Time (Online) | 80 | 82 | 142 | 103 | 85 | 100 | 82 | 72 | 116 | 102 | 55 | 72 | 70 | 85 |
| | Expired/Withdrawn/Cancelled | 44 | 1 | 8 | 24 | 2 | 7 | 9 | 23 | 14 | 14 | 11 | 15 | 17 | 145 |
| | Pending Apps | 76 | 83 | 93 | 70 | 77 | 82 | 86 | 58 | 53 | 43 | 34 | 44 | 40 | 40 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| CLDs | Paper Applications Received | 62 | 0 | 1 | 0 | 1 | 2 | 3 | 2 | 2 | 2 | 1 | 0 | 1 | 15 |
| | Online Applications Received | 92 | 4 | 15 | 6 | 8 | 23 | 9 | 9 | 22 | 9 | 7 | 11 | 10 | 133 |
| | Paper Applications Approved | 67 | 2 | 0 | 1 | 9 | 1 | 0 | 1 | 1 | 2 | 1 | 1 | 2 | 21 |
| | Online Applications Approved | 60 | 10 | 6 | 9 | 32 | 13 | 8 | 28 | 19 | 16 | 9 | 6 | 13 | 169 |
| | Avg. Cycle Time (Paper) | 88 | 156 | 0 | 199 | 80 | 103 | 0 | 77 | 0 | 115 | 121 | 11 | 85 | 102 |
| | Avg. Cycle Time (Online) | 75 | 116 | 100 | 109 | 62 | 88 | 72 | 58 | 51 | 34 | 97 | 19 | 36 | 67 |
| | Expired/Withdrawn/Cancelled | 18 | 3 | 0 | 3 | 0 | 1 | 0 | 5 | 4 | 2 | 3 | 2 | 0 | 23 |
| | Pending Apps | 43 | 32 | 42 | 35 | 35 | 45 | 49 | 26 | 26 | 17 | 12 | 14 | 10 | 10 |

Registered Dispensing Optician Applications FY 17/18 - 18/19

RDO: Registered Dispensing Optician
 CLD: Contact Lens Dispenser

SLD: Spectacle Lens Dispenser
NRCLD: Non-Resident Contact Lens Dispenser

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| SLDs | Paper Applications Received | 153 | 4 | 8 | 2 | 4 | 6 | 6 | 2 | 2 | 5 | 2 | 1 | 6 | 48 |
| | Online Applications Received | 257 | 21 | 48 | 23 | 34 | 35 | 21 | 22 | 42 | 23 | 23 | 73 | 36 | 401 |
| | Paper Applications Approved | 196 | 3 | 8 | 4 | 8 | 2 | 5 | 3 | 8 | 4 | 3 | 2 | 4 | 54 |
| | Online Applications Approved | 146 | 8 | 21 | 22 | 48 | 26 | 28 | 40 | 46 | 33 | 26 | 38 | 51 | 387 |
| | Avg. Cycle Time (Paper) | 120 | 59 | 59 | 146 | 116 | 141 | 66 | 114 | 94 | 334 | 112 | 36 | 119 | 113 |
| | Avg. Cycle Time (Online) | 77 | 131 | 125 | 122 | 89 | 107 | 90 | 84 | 72 | 53 | 79 | 48 | 33 | 77 |
| | Expired/Withdrawn/Cancelled | 49 | 4 | 11 | 3 | 4 | 3 | 2 | 6 | 3 | 6 | 1 | 5 | 6 | 54 |
| | Pending Apps | 118 | 128 | 144 | 140 | 118 | 128 | 120 | 95 | 82 | 67 | 62 | 91 | 72 | 72 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|---------------|------------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| NRCLDs | Paper Applications Received | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Online Applications Received | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 1 | 4 |
| | Paper Applications Approved | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Online Applications Approved | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 3 |
| | Avg. Cycle Time (Paper) | 225 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Avg. Cycle Time (Online) | 0 | 0 | 0 | 111 | 0 | 0 | 0 | 0 | 51 | 0 | 0 | 0 | 0 | 62 |
| | Expired/Withdrawn/Cancelled | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| | Pending Apps | 2 | 2 | 2 | 1 | 0 | 1 | 2 | 2 | 2 | 0 | 0 | 1 | 2 | 2 |

Registered Dispensing Optician Renewals FY 17/18 - 18/19

RDO: Registered Dispensing Optician
CLD: Contact Lens Dispenser
SLD: Spectacle Lens Dispenser

NRCLD: Non-Resident Contact Lens Dispenser

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| RDOs | Paper Renewals Approved | 502 | 29 | 32 | 30 | 9 | 9 | 11 | 15 | 8 | 6 | 8 | 4 | 5 | 166 |
| | Online Renewals Approved | 89 | 9 | 8 | 22 | 9 | 15 | 30 | 29 | 84 | 29 | 28 | 45 | 29 | 337 |
| | Avg. Cycle Time (Paper) | 57 | 7 | 14 | 65 | 8 | 15 | 38 | 103 | 25 | 11 | 16 | 11 | 77 | 34 |
| | Avg. Cycle Time (Online) | 108 | 0 | 1 | 9 | 1 | 10 | 8 | 151 | 7 | 96 | 2 | 1 | 2 | 25 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| CLDs | Paper Renewals Approved | 197 | 9 | 14 | 8 | 32 | 5 | 21 | 18 | 5 | 2 | 1 | 0 | 0 | 115 |
| | Online Renewals Approved | 200 | 17 | 20 | 22 | 72 | 36 | 29 | 52 | 51 | 33 | 39 | 34 | 47 | 452 |
| | Avg. Cycle Time (Paper) | 59 | 74 | 77 | 64 | 62 | 24 | 136 | 86 | 275 | 478 | 230 | 0 | 0 | 100 |
| | Avg. Cycle Time (Online) | 32 | 46 | 36 | 54 | 119 | 23 | 59 | 22 | 38 | 0 | 18 | 9 | 0 | 39 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|-------------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| SLDs | Paper Renewals Approved | 443 | 24 | 21 | 31 | 67 | 18 | 49 | 40 | 23 | 10 | 10 | 1 | 1 | 295 |
| | Online Renewals Approved | 340 | 48 | 49 | 53 | 107 | 63 | 69 | 119 | 85 | 77 | 104 | 82 | 110 | 452 |
| | Avg. Cycle Time (Paper) | 54 | 61 | 92 | 59 | 88 | 64 | 115 | 190 | 216 | 309 | 180 | 184 | 49 | 121 |
| | Avg. Cycle Time (Online) | 24 | 27 | 40 | 68 | 100 | 32 | 56 | 73 | 13 | 8 | 9 | 5 | 9 | 38 |

| | | FY 17/18 | Q1 | | | Q2 | | | Q3 | | | Q4 | | | FY 18/19 |
|---------------|--------------------------|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|----------|
| | | Total | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| NRCLDs | Paper Renewals Approved | 1 | 0 | 0 | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 3 |
| | Online Renewals Approved | 2 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 3 |
| | Avg. Cycle Time (Paper) | 15 | 0 | 0 | 0 | 96 | 41 | 0 | 67 | 0 | 0 | 0 | 0 | 0 | 68 |
| | Avg. Cycle Time (Online) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

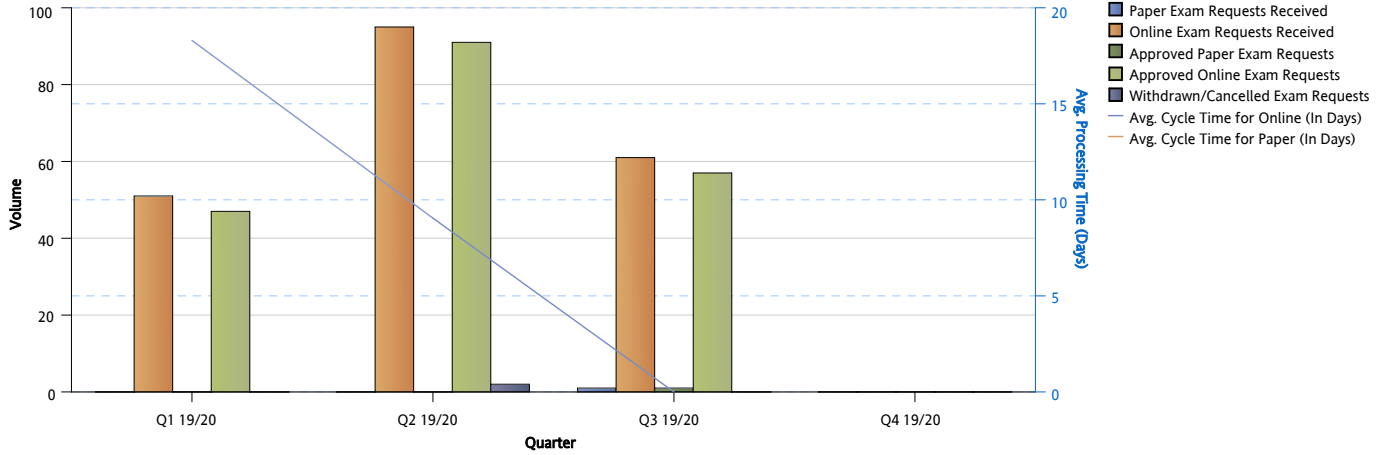


**CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Optometry Program
Start Date: Jul 1, 2019 End Date: Jan 31, 2020**

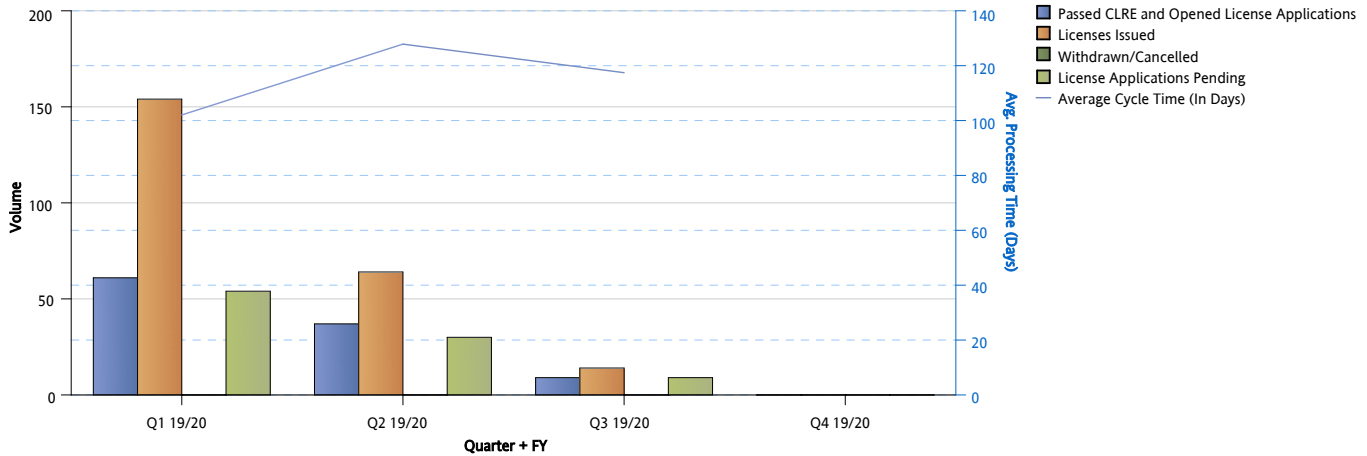


| OPT Exam Requests | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|---|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Exam Requests Received | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Online Exam Requests Received | 22 | 11 | 18 | 24 | 19 | 52 | 61 | 0 | 0 | 0 | 0 | 0 | 207 |
| Approved Paper Exam Requests | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Approved Online Exam Requests | 21 | 9 | 17 | 22 | 18 | 51 | 57 | 0 | 0 | 0 | 0 | 0 | 195 |
| Withdrawn/Cancelled Exam Requests | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Avg. Cycle Time for Paper (In Days) | N/A | N/A | N/A | N/A | N/A | N/A | 0 | N/A | N/A | N/A | N/A | N/A | 0 |
| Avg. Cycle Time for Online (In Days) | 0 | 55 | 0 | 27 | 0 | 0 | 0 | N/A | N/A | N/A | N/A | N/A | 12 |
| OPT License | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Passed CLRE and Opened License Applications | 23 | 26 | 12 | 18 | 11 | 8 | 9 | 0 | 0 | 0 | 0 | 0 | 107 |
| Licenses Issued | 56 | 74 | 24 | 35 | 20 | 9 | 14 | 0 | 0 | 0 | 0 | 0 | 232 |
| Withdrawn/Cancelled | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| License Applications Pending | 20 | 22 | 12 | 13 | 10 | 7 | 9 | 0 | 0 | 0 | 0 | 0 | 93 |
| Average Cycle Time (In Days) | 78 | 77 | 151 | 96 | 87 | 200 | 117 | N/A | N/A | N/A | N/A | N/A | 115 |
| SOLS | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Applications Received | 0 | 0 | 5 | 3 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 11 |
| Online Applications Received | 34 | 35 | 36 | 46 | 36 | 42 | 42 | 0 | 0 | 0 | 0 | 0 | 271 |
| Paper Applications Approved | 0 | 0 | 0 | 4 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 5 |
| Online Applications Approved | 29 | 29 | 36 | 44 | 32 | 36 | 38 | 0 | 0 | 0 | 0 | 0 | 244 |
| Withdrawn/Cancelled | 0 | 0 | 10 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 14 |
| Pending Apps | 6 | 6 | 8 | 5 | 5 | 7 | 6 | 0 | 0 | 0 | 0 | 0 | 43 |
| Avg. Cycle Time for Paper (In Days) | N/A | N/A | N/A | 25 | N/A | N/A | -1 | N/A | N/A | N/A | N/A | N/A | 12 |
| Avg. Cycle Time for Online (In Days) | 0 | 0 | 17 | 5 | 0 | 0 | 0 | N/A | N/A | N/A | N/A | N/A | 3 |
| FNPs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Applications Received | 3 | 2 | 3 | 2 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 13 |
| Online Applications Received | 11 | 11 | 4 | 10 | 9 | 16 | 20 | 0 | 0 | 0 | 0 | 0 | 81 |
| Paper Applications Approved | 2 | 6 | 3 | 3 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 18 |
| Online Applications Approved | 7 | 14 | 11 | 21 | 7 | 8 | 1 | 0 | 0 | 0 | 0 | 0 | 69 |
| Withdrawn/Cancelled | 1 | 10 | 7 | 5 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 26 |
| Pending Apps | 14 | 13 | 7 | 10 | 9 | 17 | 21 | 0 | 0 | 0 | 0 | 0 | 91 |
| Avg. Cycle Time for Paper (In Days) | 32 | 60 | 75 | 28 | 8 | 59 | N/A | N/A | N/A | N/A | N/A | N/A | 44 |
| Avg. Cycle Time for Online (In Days) | 28 | 77 | 54 | 28 | 26 | 36 | 66 | N/A | N/A | N/A | N/A | N/A | 45 |

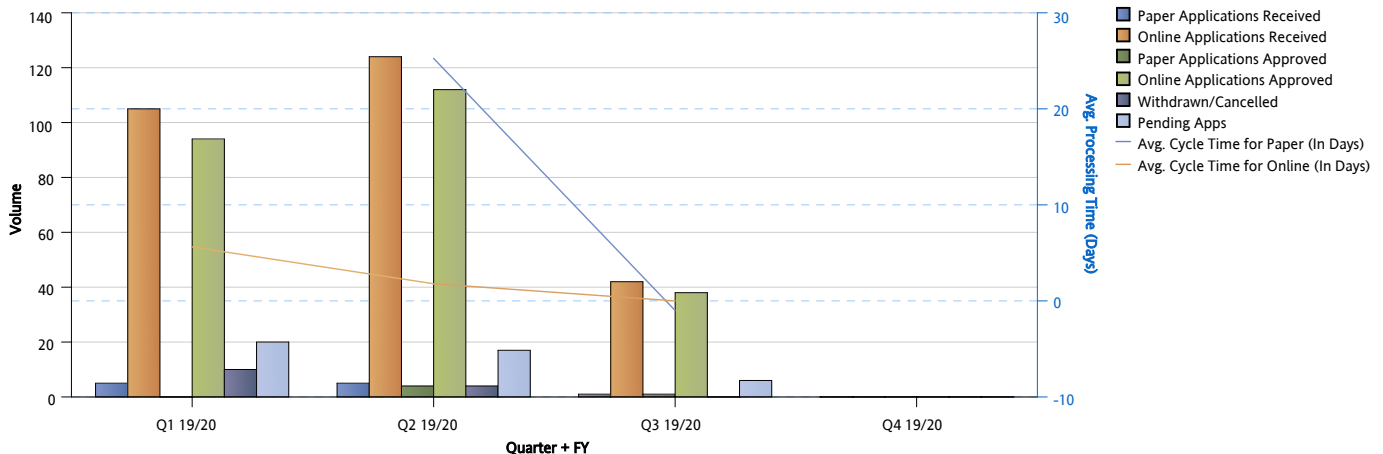
OPT Exam Requests



OPT License

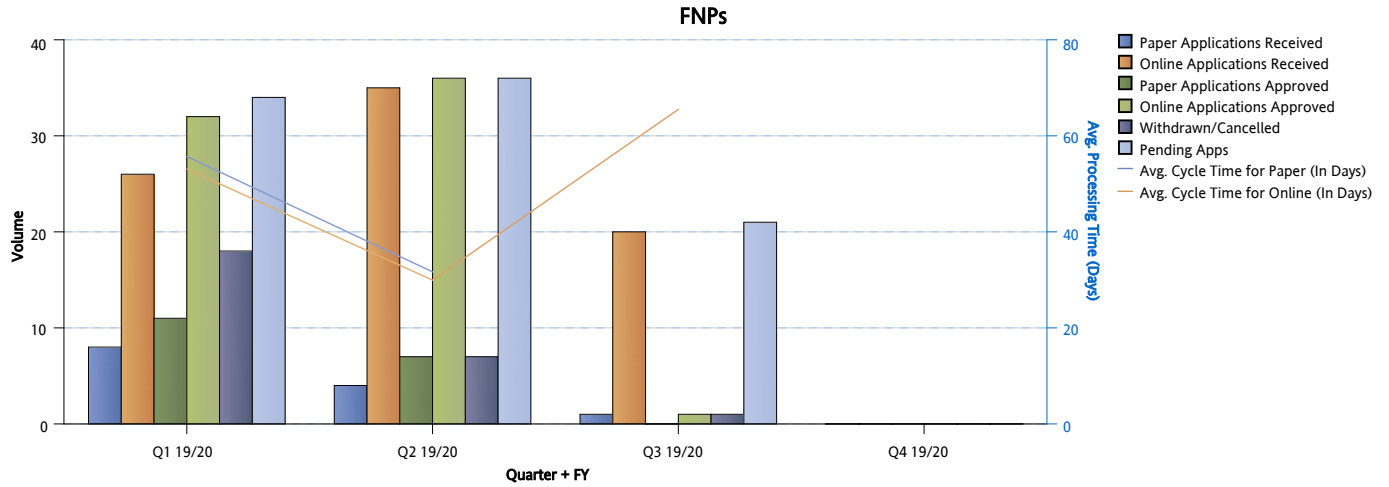


SOLS





CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Optometry Program
 Start Date: Jul 1, 2019 End Date: Jan 31, 2020





**CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Optometry Program Renewals
Fiscal Year**

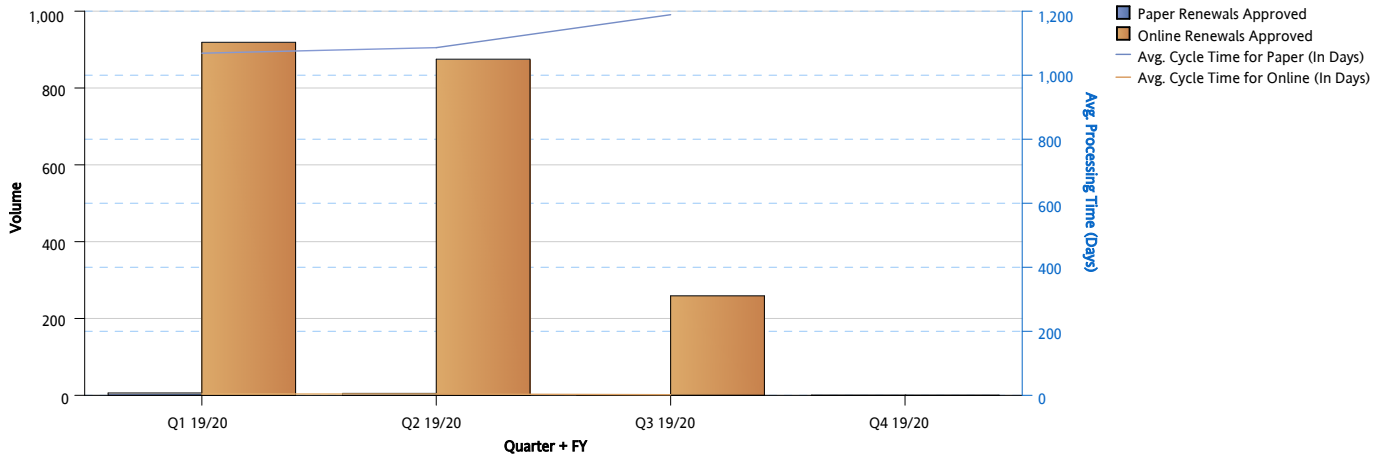


| OPTs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-------|-------|----------|-------|-------|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Renewals Approved | 1 | 2 | 3 | 3 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 11 |
| Online Renewals Approved | 305 | 303 | 311 | 321 | 274 | 280 | 259 | 0 | 0 | 0 | 0 | 0 | 2,053 |
| Avg. Cycle Time for Paper (In Days) | 1,126 | 1,039 | 1,041 | 1,015 | 1,193 | 1,050 | 1,189 | N/A | N/A | N/A | N/A | N/A | 1,093 |
| Avg. Cycle Time for Online (In Days) | 7 | 2 | 4 | 5 | 4 | 3 | 2 | N/A | N/A | N/A | N/A | N/A | 4 |

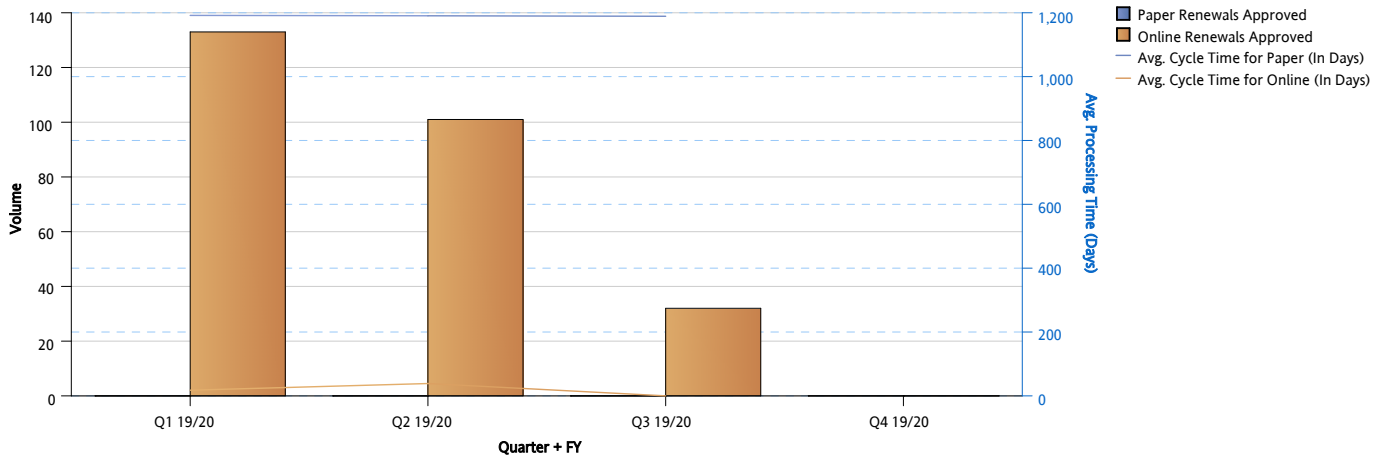
| SOLs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-------|-------|----------|-------|-------|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Renewals Approved | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Online Renewals Approved | 46 | 47 | 40 | 30 | 33 | 38 | 32 | 0 | 0 | 0 | 0 | 0 | 266 |
| Avg. Cycle Time for Paper (In Days) | 1,192 | 1,190 | 1,193 | 1,188 | 1,193 | 1,191 | 1,189 | N/A | N/A | N/A | N/A | N/A | 1,191 |
| Avg. Cycle Time for Online (In Days) | 25 | 0 | 28 | 56 | 0 | 60 | 0 | N/A | N/A | N/A | N/A | N/A | 24 |

| FNPs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Renewals Approved | 1 | 0 | 0 | 0 | 0 | 4 | 4 | 0 | 0 | 0 | 0 | 0 | 9 |
| Online Renewals Approved | 3 | 9 | 8 | 11 | 601 | 291 | 362 | 0 | 0 | 0 | 0 | 0 | 1,285 |
| Avg. Cycle Time for Paper (In Days) | 8 | N/A | N/A | N/A | 0 | 17 | 15 | N/A | N/A | N/A | N/A | N/A | 10 |
| Avg. Cycle Time for Online (In Days) | 42 | 314 | 111 | 5 | 0 | 1 | 0 | N/A | N/A | N/A | N/A | N/A | 68 |

OPTs



SOLs

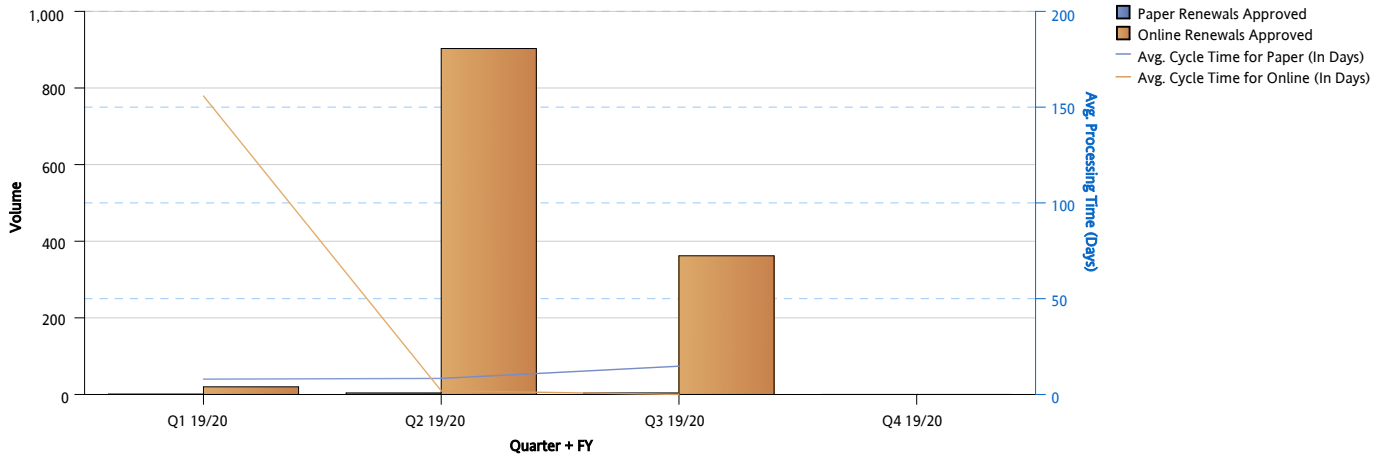




CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Optometry Program Renewals
Fiscal Year



FNPs





**CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Opticianry Program
Start Date: Jul 1, 2019 End Date: Jan 31, 2020**



| RDOs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Applications Received | 5 | 0 | 21 | 1 | 2 | 10 | 1 | 0 | 0 | 0 | 0 | 0 | 40 |
| Online Applications Received | 3 | 9 | 12 | 6 | 4 | 3 | 8 | 0 | 0 | 0 | 0 | 0 | 45 |
| Paper Applications Approved | 1 | 0 | 7 | 20 | 2 | 10 | 1 | 0 | 0 | 0 | 0 | 0 | 41 |
| Online Applications Approved | 3 | 9 | 9 | 9 | 4 | 3 | 6 | 0 | 0 | 0 | 0 | 0 | 43 |
| Expired/Withdrawn/Cancelled | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Pending Apps | 4 | 0 | 17 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 23 |
| Avg. Cycle Time for Paper (In Days) | 11 | N/A | 16 | 38 | 0 | 0 | 0 | N/A | N/A | N/A | N/A | N/A | 11 |
| Avg. Cycle Time for Online (In Days) | 2 | 3 | 33 | 4 | 4 | 3 | 4 | N/A | N/A | N/A | N/A | N/A | 7 |

| CLDs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Applications Received | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| Online Applications Received | 11 | 6 | 16 | 10 | 5 | 16 | 6 | 0 | 0 | 0 | 0 | 0 | 70 |
| Paper Applications Approved | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Online Applications Approved | 10 | 7 | 13 | 12 | 4 | 13 | 10 | 0 | 0 | 0 | 0 | 0 | 69 |
| Expired/Withdrawn/Cancelled | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Pending Apps | 1 | 0 | 3 | 1 | 2 | 5 | 1 | 0 | 0 | 0 | 0 | 0 | 13 |
| Avg. Cycle Time for Paper (In Days) | N/A | N/A | 20 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 20 |
| Avg. Cycle Time for Online (In Days) | 3 | 3 | 4 | 5 | 7 | 29 | 5 | N/A | N/A | N/A | N/A | N/A | 8 |

| SLDs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Applications Received | 1 | 2 | 1 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 7 |
| Online Applications Received | 52 | 26 | 47 | 43 | 29 | 34 | 67 | 0 | 0 | 0 | 0 | 0 | 298 |
| Paper Applications Approved | 0 | 4 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 6 |
| Online Applications Approved | 47 | 30 | 30 | 56 | 23 | 41 | 57 | 0 | 0 | 0 | 0 | 0 | 284 |
| Expired/Withdrawn/Cancelled | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Pending Apps | 6 | 1 | 19 | 6 | 11 | 3 | 14 | 0 | 0 | 0 | 0 | 0 | 60 |
| Avg. Cycle Time for Paper (In Days) | N/A | 95 | N/A | N/A | 34 | 50 | N/A | N/A | N/A | N/A | N/A | N/A | 60 |
| Avg. Cycle Time for Online (In Days) | 9 | 5 | 5 | 4 | 5 | 5 | 4 | N/A | N/A | N/A | N/A | N/A | 5 |

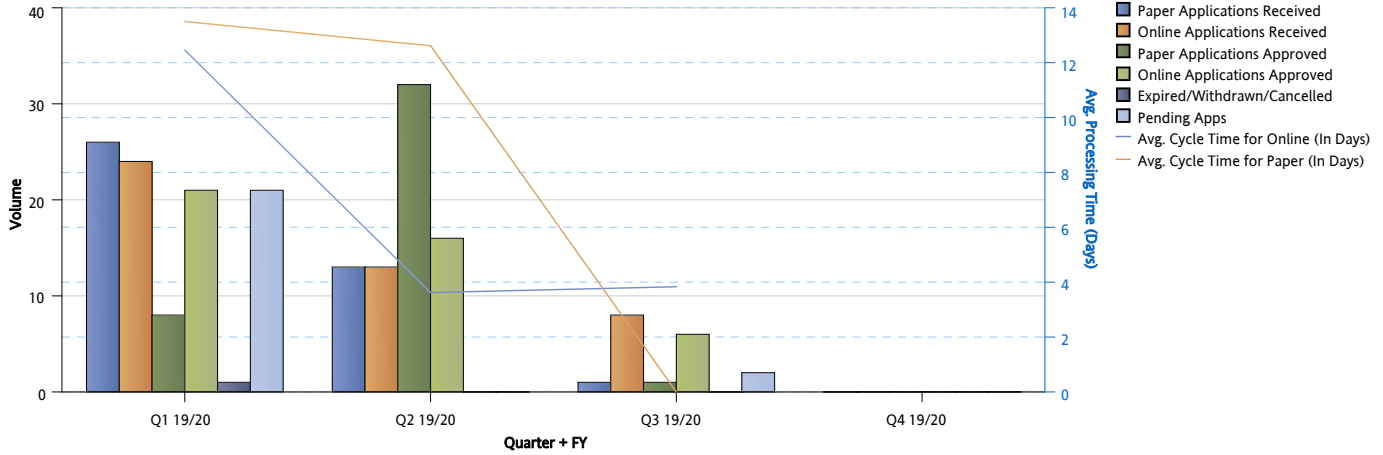
| NRCLDs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Nov | Dec | Oct | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Applications Received | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Online Applications Received | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Paper Applications Approved | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Online Applications Approved | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Expired/Withdrawn/Cancelled | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pending Apps | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Avg. Cycle Time for Paper (In Days) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Avg. Cycle Time for Online (In Days) | N/A | 14 | N/A | N/A | 21 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 18 |



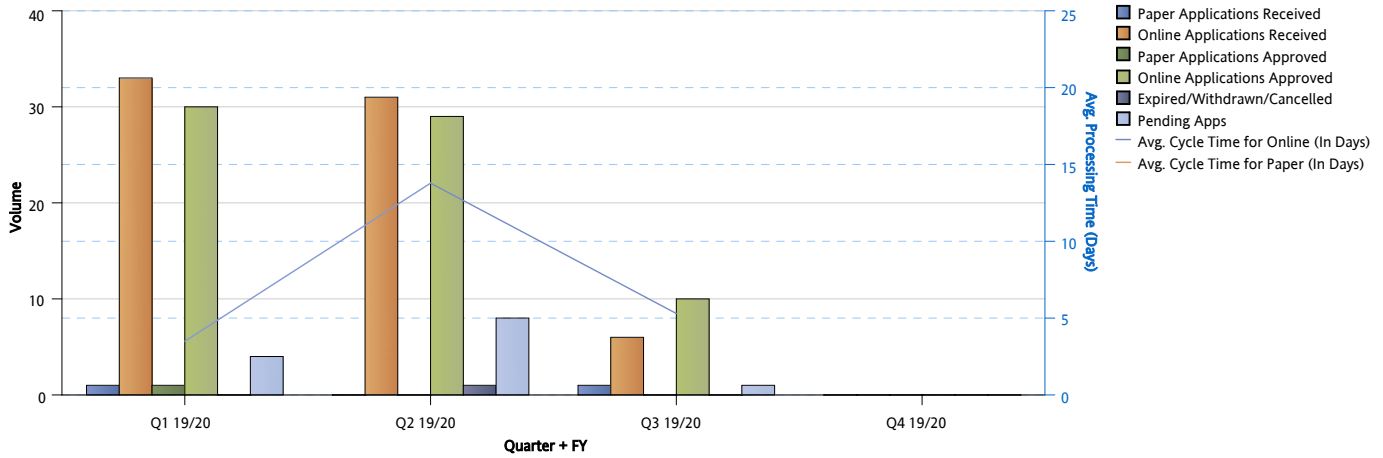
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Opticianry Program
 Start Date: Jul 1, 2019 End Date: Jan 31, 2020



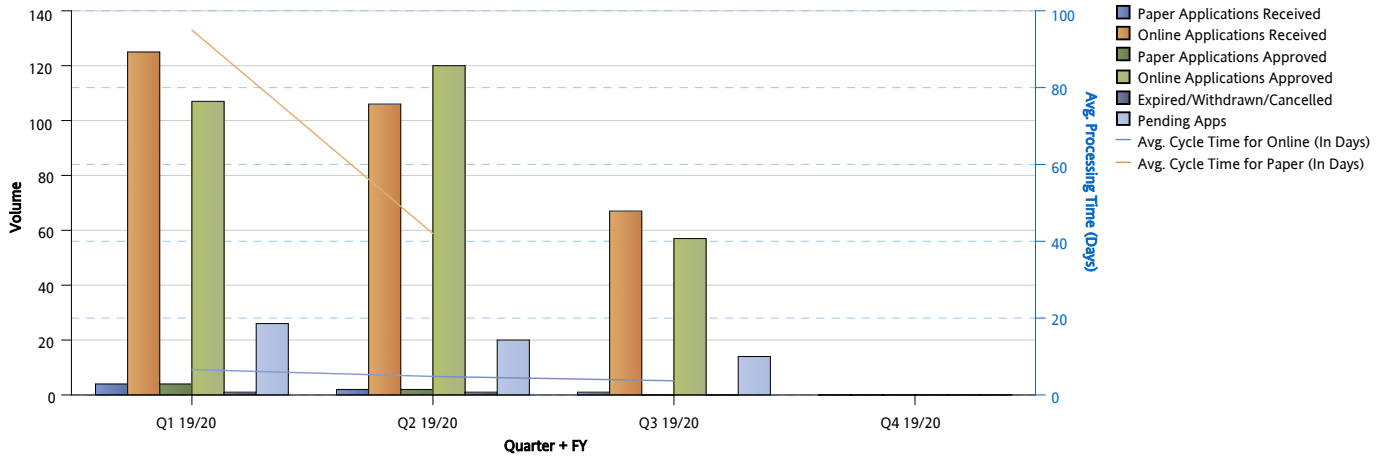
RDOs



CLDs



SLDs

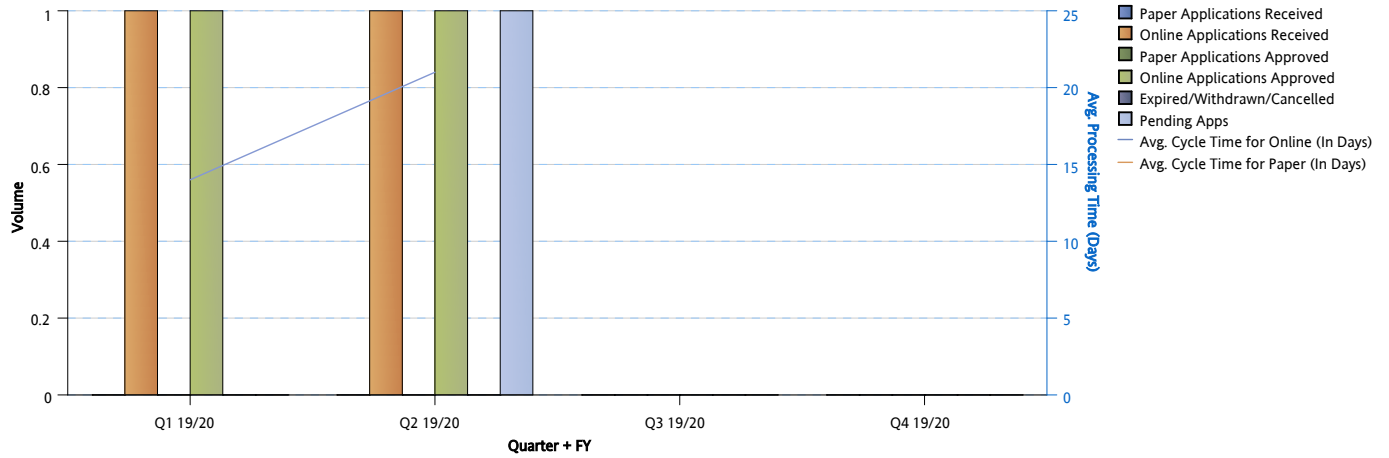




CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Opticianry Program
 Start Date: Jul 1, 2019 End Date: Jan 31, 2020



NRCLDs





**CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Opticianry Program Renewals
Fiscal Year**



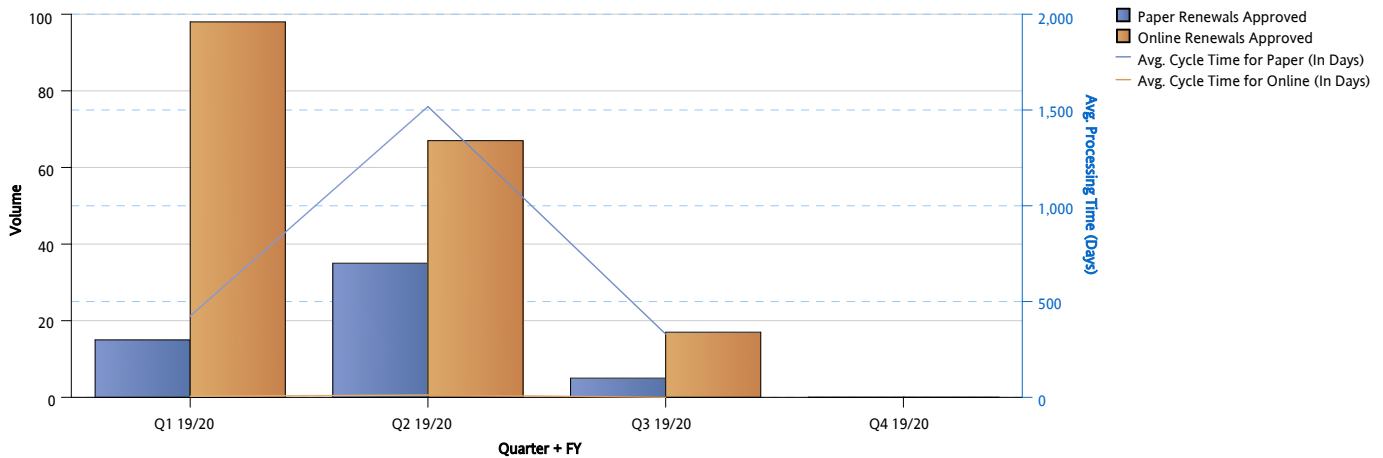
| RDOs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-------|----------|-------|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Renewals Approved | 2 | 7 | 6 | 10 | 0 | 25 | 5 | 0 | 0 | 0 | 0 | 0 | 55 |
| Online Renewals Approved | 34 | 39 | 25 | 17 | 35 | 15 | 17 | 0 | 0 | 0 | 0 | 0 | 182 |
| Avg. Cycle Time for Paper (In Days) | 14 | 28 | 1,231 | 2,228 | 1,949 | 377 | 330 | N/A | N/A | N/A | N/A | N/A | 880 |
| Avg. Cycle Time for Online (In Days) | 12 | 5 | 0 | 0 | 20 | 15 | 0 | N/A | N/A | N/A | N/A | N/A | 7 |

| CLDs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-------|----------|-------|-------|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Renewals Approved | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Online Renewals Approved | 26 | 36 | 28 | 35 | 32 | 39 | 42 | 0 | 0 | 0 | 0 | 0 | 238 |
| Avg. Cycle Time for Paper (In Days) | 266 | N/A | 1,909 | 2,226 | 1,949 | 1,915 | 1,945 | N/A | N/A | N/A | N/A | N/A | 1,702 |
| Avg. Cycle Time for Online (In Days) | 1 | 15 | 64 | 5 | 17 | 1 | 1 | N/A | N/A | N/A | N/A | N/A | 15 |

| SLDs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-------|----------|-------|-------|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Renewals Approved | 3 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 4 |
| Online Renewals Approved | 71 | 81 | 73 | 83 | 82 | 85 | 93 | 0 | 0 | 0 | 0 | 0 | 568 |
| Avg. Cycle Time for Paper (In Days) | 184 | N/A | 1,942 | 2,371 | 1,944 | 1,933 | 1,775 | N/A | N/A | N/A | N/A | N/A | 1,692 |
| Avg. Cycle Time for Online (In Days) | 52 | 12 | 1 | 6 | 7 | 0 | 3 | N/A | N/A | N/A | N/A | N/A | 12 |

| NRCLDs | Q1 19/20 | | | Q2 19/20 | | | Q3 19/20 | | | Q4 19/20 | | | FY 19/20 |
|--------------------------------------|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|-----|-----|----------|
| | Jul | Aug | Sep | Dec | Oct | Nov | Jan | Feb | Mar | Apr | May | Jun | Total |
| Paper Renewals Approved | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Online Renewals Approved | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Avg. Cycle Time for Paper (In Days) | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Avg. Cycle Time for Online (In Days) | N/A | N/A | N/A | 0 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 0 |

RDOs

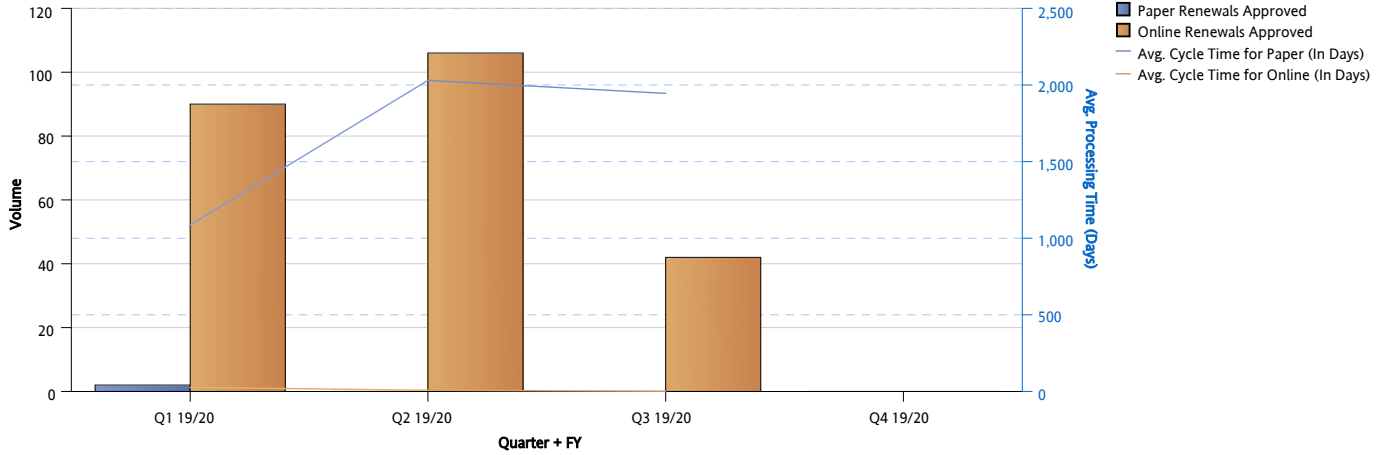




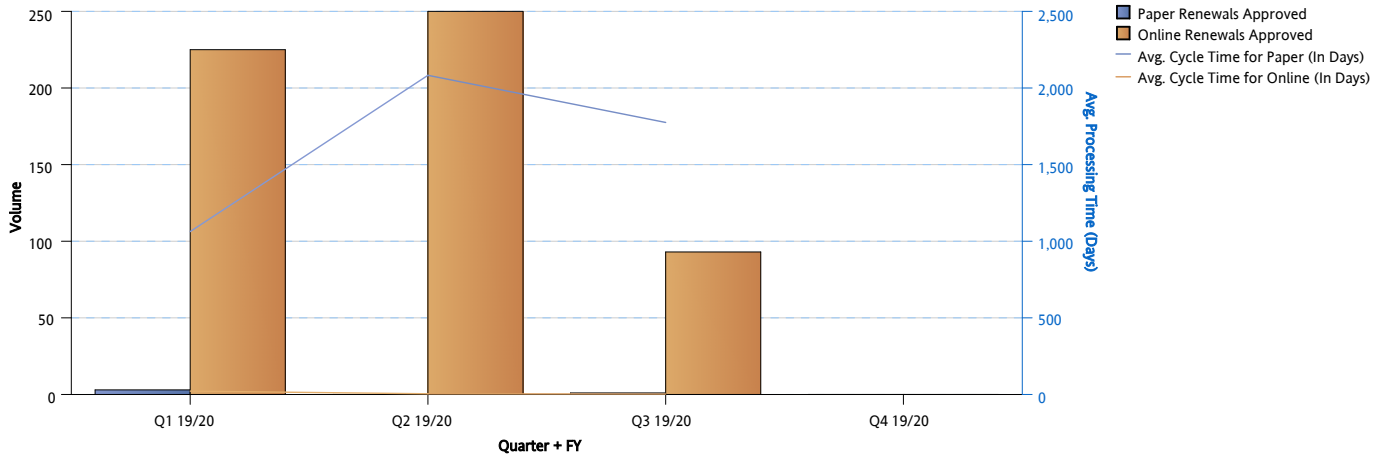
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Opticianry Program Renewals
 Fiscal Year



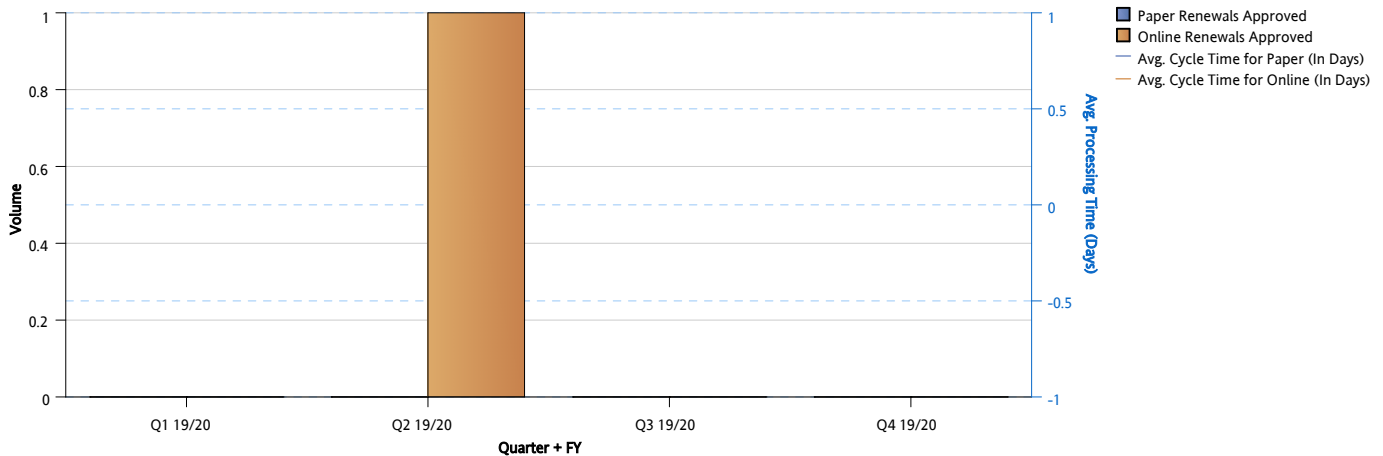
CLDs



SLDs



NRCLDs



ISSUE MEMORANDIUM

| | |
|----------------|--|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Shara Murphy, Executive Officer <i>prepared by Marc Johnson, Policy Analyst</i> |
| SUBJECT | Agenda Item #12C – Executive Officer’s Report: Legislative and Regulatory Update |

NEW 2020 LAWS AND REGULATIONS BOOKS

The Board is in the process of producing a new 2020 Laws and Regulations Book. Using the existing 2015 Laws and Regulations books as a template, it will contain all statutes and regulations relating to optometry and opticianry current as of January 1, 2020. The book will be available on the Board’s website as a .pdf and also in hard copy from the publisher. Staff expects the book to be available in the near future.

LEGISLATIVE UPDATE

The 2019 - 2020 Legislative session resumed on January 6, 2020. May 29, 2020 is the last day to pass bills out of the house of origin. Based on previous Board action, staff is currently tracking the bills set out below.

Please note: Information below is current as of February 18, 2020. Text and analysis of a bill may change rapidly, links to bill text and committee analyses are provided in the meeting packet rather than possibly outdated hard copies.

1. [Assembly Bill 613 \(Low\) Professions and Vocations: regulatory fees.](#)

Board Position: Support

Status as of February 18, 2020: Held in Senate Business, Professions and Economic Development Committee. Two year bill.

Summary: This bill would authorize each board within the Department of Consumer Affairs to increase their fees every 4 years in an amount not to exceed the increase in the Consumer Price Index in the preceding 4 years. Fees increased pursuant to this bill would be exempt from the Administrative Procedure Act.

Comments: Staff does not recommend a change in position.

2. [Assembly Bill 896 \(Low\) Registered Dispensing Opticians: dispensing opticians fund: optometry fund.](#)

Board Position: Neutral

This bill is part of Agenda Item #11.

3. Assembly Bill 1467 (Salas and Low) Optometrists: scope of practice: delegation of services agreement.

Board Position: Watch

Status of February 18, 2020: In Senate Business, Professions and Economic Development Committee. No hearing date set.

Summary: This bill would authorize an optometrist to provide services set forth in a delegation of services agreement between an optometrist and an ophthalmologist, thereby expanding the optometry scope of practice.

Comments: COA advises their discussions with the author and stakeholders are ongoing. Staff does not recommend a change in position.

4. Assembly Bill 1616 (Low) Department of Consumer Affairs: board: expunged convictions

Board Position: Support

Status of February 18, 2020: In Senate Rules Committee.

Summary: This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime to, within 6 months of receiving the expungement order for the underlying offense from the person, post notification of the expungement order and the date thereof on the board's internet website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person's license was revoked if the person is not currently licensed and does not reapply for licensure, as specified. The bill would require a person to pay a fee, to be determined by the department, to the board for the cost of administering the bill's provisions.

Comments: Staff estimates the number of revoked licensees who would take advantage of such a process to be very small, and thus impact to the Board would be minimal. The Board took a support position at the January 31, 2020 meeting and a support letter was sent to the author's office on February 5, 2020.

5. Senate Bill 53 (Wilk) Open Meetings.

Board Position: Oppose (version as amended March 5, 2019)

Status of February 18, 2020: Held in Senate Appropriations Committee as of August 30, 2019.

Summary: This bill modifies the Bagley-Keene Open Meeting Act (Bagley-Keene) to require two-member advisory committees of a state body to hold open, public meetings if specified conditions are met.

Comments: This bill was held in Senate Appropriations due to concerns about implementation and high costs to bureaus and boards. It is unclear if the author will attempt to move the bill again in 2020. Staff does not recommend a change in position.

REGULATORY UPDATE

Staff is currently working on the following regulatory issues:

1. Implementation of AB 2138 (Amend §§1399.270, 1399.271, 1399.272, 1516, 1517)

Subject: This proposal would implement AB 2138, relating to denial of applications, revocation or suspension of licensure and criminal convictions.

History: The proposed regulatory text was approved at the [April 5, 2019 public meeting](#) and minor changes were made at the [January 31, 2020 public teleconference meeting](#).

Status: The proposed text is currently out for a [45-day public comment period](#), which ends March 9, 2020. As of February 18, 2020, no public comment have been received. If no comments are received by March 9, the Board will perform final review of the regulation at the May 15, 2020 public meeting. The regulation will then be submitted to DCA and then Office of Administrative Law for final approval, in hopes of meeting the statutory implementation deadline of July 1, 2020.

2. Implementation of AB 443 (Amend §1524; Adopt §1527)

Subject: This proposal would implement AB 443, which allows a TPA-licensed optometrist to administer immunizations provided certain conditions and training are met.

History: The proposed regulatory text and application form were approved at the [April 5, 2019 public meeting](#) and further changes were approved at the [October 25, 2019 public meeting](#).

Status: The rulemaking package has been completed by staff and is currently undergoing review by DCA Legal. Staff anticipates a public comment period in the summer of 2020 with submission to OAL for final approval by Fall 2020.

3. Optometry Disciplinary Guidelines (Amend §1575)

Subject: 2019 Update of Optometry Board Disciplinary Guidelines

History: The Consumer Protection Committee reviewed the guidelines at the [September 13, 2019 public meeting](#). The full Board approved the regulatory text and Guidelines incorporated by reference at the [October 25, 2019 public meeting](#).

Status: Staff is currently working the rulemaking package for submission to DCA Legal. Staff anticipates a public comment period in the summer of 2020.

4. Dispensing Optician Disciplinary Guidelines (Amend §1399.273)

This item will be reviewed as part of Agenda Item #8.

5. Continuing Education Regulations (Amend §1536)

This item will be reviewed as part of agenda item #10.

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Shara Murphy, Executive Officer |
| SUBJECT | Agenda Item #13 – Board Committee Minutes |

This item contains the draft meeting minutes from the following committees:

- A. January 30, 2020 Dispensing Optician Committee
- B. January 31, 2020 Legislation and Regulation Committee
- C. January 31, 2020 Practice and Education Committee
- D. January 31, 2020 Public Relations and Outreach Committee

No action is required by the Board. The minutes may be formatted or edited further by staff before final approval by their respective committees.

MEMBERS OF THE BOARD

Mark Morodomi, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Rachel Michelin
Maria Salazar Sperber
David Turetsky, OD
Lillian Want, OD

**Dispensing Optician Committee
Teleconference Draft Meeting Minutes**

**Thursday, January 30, 2020
Draft 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

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

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 (SME's)?

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 make 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 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.

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 wanted to come back with a memo listing of the statutory 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.

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. 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.

There were no public comments.

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 update as actions occur. This page can be checked at any time to find up-to-date information regarding accusations or Statements of Issues that are pending; Decisions that have been rendered; And citations that have been issued. Additionally, Ms. Murphy announced that it is Staffs' intensions 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 Governor's office; 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 and 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 Bill 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.

§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.

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) and the motion passed.

| 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 Member 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.

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

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 certificants 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 not continuing education.

8. Adjournment

MEMBERS OF THE BOARD

Mark Morodomi, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Rachel Michelin
Maria Salazar Sperber
David Turetsky, OD
Lillian Wang, OD



MEMBERS OF THE COMMITTEE

Lillian Wang, Chair
Glenn Kawaguchi, OD
Rachel Michelin
Maria Salazar-Sperber, JD
David Turetsky, O.D.

**LEGISLATION AND REGULATION COMMITTEE
DRAFT MEETING MINUTES
Friday, January 31, 2020**

Teleconference Meeting Locations:

DCA Del Paso – Sequoia Room
2420 Del Paso Road, Room 109
Sacramento, CA 95834

Moraga Library
1500 St. Mary’s Rd.
Moraga, CA 945814

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

California Retailers Association
1121 L Street, Suite 607
Sacramento, CA 95814

| Members Present | Staff Present |
|-------------------------|---|
| Lillian Wang, OD, Chair | Shara Murphy, Executive Officer |
| Glenn Kawaguchi, OD | Cheree Kimball, Assistant Executive Officer |
| Rachel Michelin | Marc Johnson, Policy Analyst |
| David Turetsky, OD | Arsha Qasmi, Licensing Lead Analyst |
| | Sabina Knight, Legal Counsel |
| | |
| Members Absent | Guest List |
| Maria Salazar-Sperber | On File |

Link for audio of meeting:

https://www.optometry.ca.gov/meetings/20200131_lrc_audio.mp3

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

Audio of Discussion: 0:00 / 1:03:01

Committee Chair, Lillian Wang, OD called the meeting to order and took roll. Dr. David Turetsky was present at the Del Paso, Sacramento location – members of the public, Bill Howe, California Optometric Association, Dr. Craig Kliger, Luxottica, and Ms. Aubrey Jacobson, DCA were present at this location; Rachel Michelin was present at the California Retailers Association – member of the public, Ms. Riley Compton, Intern was present at this location; Dr. Glenn Kawaguchi was present at the Charter College

location – no public members; Dr. Lillian Wang was present at the Moraga Library location – no public members. A quorum was established.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 00:57 / 01:03:00

There were no public comments.

3. Discussion and Possible Action Regarding Meeting Minutes

Audio of Discussion: 01:22 / 01:03:02

A. September 13, 2019 Committee Meeting

Rachel Michelin moved to approve the September 13, 2019 Committee Meeting Minutes. Glenn Kawaguchi seconded. The Committee voted unanimously (4-0-1) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|----------------------------|------------|-----------|----------------|---------------|----------------|
| Dr. Wang | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Ms. Salazar-Sperber | | | | X | |
| Ms. Michelin | X | | | | |
| Dr. Turetsky | X | | | | |

4. Update, Discussion and Possible Action on 2020 Legislation

Audio of Discussion: 02:00 / 01:03:02

Policy Analyst, Marc Johnson provided an update on 2020 Legislation. Staff does not have any recommended changes and positions on any of the bills the Board is currently tracking.

A. **Assembly Bill 156 (Voepel)**

There was no discussion on this bill.

B. **Assembly Bill 896 (Low)**

The Board discussed this bill during the teleconference meeting earlier today.

C. **Assembly Bill 1467 (Salas and Low)**

The Board has a watch position on this bill. This bill would authorize an optometrist to provide services set forth in a delegation of services agreement between an optometrist and an ophthalmologist, thereby expanding the optometry scope of practice.

D. Assembly Bill 1616 (Low)

Staff recommends a watch position on AB 1616. This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime to, within 6 months of receiving the expungement order for the underlying offense from the person, post notification of the expungement order and the date thereof on the board's internet website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person's license was revoked if the person is not currently licensed and does not reapply for licensure, as specified. The bill would require a person to pay a fee, to be determined by the department, to the board for the cost of administering the bill's provisions. Mr. Johnson stated staff looked at the bill internally and determined it would have minimal impact on the Board.

Dr. Turetsky asked how many people staff anticipates will be applying for expungement on an annual basis; Mx. Kimball responded it might amount to around ten annually. The workload is minimal which can be rolled into the normal course of enforcement. Dr. McIntyre asked if there is a specific recommendation for the fee; Mr. Johnson explained the fee that has not been worked out yet. Ms. Michelin confirmed that this bill has passed through the Assembly. She recommended taking a support position; should it become heavily amended the Board can always change its position.

Rachel Michelin moved to change the Committee's position to support; and move this recommendation on to the full Board at the February meeting. David Turetsky seconded. The Committee voted unanimously (4-0-1) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Ms. Salazar-Sperber | | | | X | |
| Ms. Michelin | X | | | | |
| Dr. Turetsky | X | | | | |

E. Senate Bill 53 (Wilk)

This bill would require two-member advisory committees of a state body to hold open, public meetings if specified conditions are met. The Board has an oppose position on SB 53. This bill was held in Senate Appropriations due to concerns about implementation and high costs to bureaus and boards.

5. Discussion and Possible Action on Title 16, California Code of Regulations §1536 – Continuing Optometric Education; Purpose and Requirements (concurrent review with Practice and Education Committee)

Audio of Discussion: 08:57 / 01:03:02

Mr. Johnson explained that the Practice and Education Committee looked at this earlier today; Staff wanted the LRC to look at it as well. Staff has worked with the PEC for the last year on issues relating to continuing education. Based on direction from the PEC staff came up with changes to §1536 to increase the accountability for continuing education for licensees.

A key factor is that at the August 8, 2018 Board meeting, the Board directed staff to draft regulatory language which would change the number of continuing education hours completed via self-study from 20-25. Mr. Johnson noted that at the last Board meeting Dr. Kawaguchi requested staff move the package forward. Staff suggested combining the increase in self-study hours with the additional changes staff recommends. The PEC seemed to agree. Mr. Johnson asked the Committee for their thoughts regarding keeping the issues as separate packages or combining the increase with other CE changes? Committee agree that combining packages would be more efficient.

Mr. Johnson highlighted the changes for the Committee:

Subsection (c)(1): Further defines what “self-study” means. The PEC wanted staff to define out the meaning. This proposed change would further define “self-study” to mean a form of “orderly learning” without participatory interaction between licensee and instructor. Anything such as YouTube videos, webinars, seminars that are not participatory would count as “self-study”. Older CD-ROMS, DVD’s, books and materials, programs and applications exist that were specifically designed for this purpose.

Dr. Turetsky asked how he can know whether an online course (not sponsored by an accredited school of optometry) is acceptable? Ms. Murphy confirmed that when auditing a licensee’s CE, it is possible the Board may decide the course does not meet the Board’s standards and therefore not approve those hours. This is Dr. Turetsky’s concern. Ms. Murphy explained that passing the regulation package would be a great opportunity to communicate to licensees “please be sure to verify the course(s) is approved when attesting.”

Subsection (c)(7): Staff proposes raising the amount of CEU that can be obtained by participating in a Board workshop as an SME from eight to 12 hours, as the Board will often hold two-day workshops totaling 16 hours. However, a total of 12 hours would not overlap with the 35 hours required for the diagnosis, treatment and management of ocular disease whereas a total of 16 hours may.

Dr. Kawaguchi asked staff intends to leave it to the licensees to determine if they have completed the correct category of courses. Ms. Murphy confirmed a licensee may choose to take practice management courses (for example), but what they really need are the credits that are applicable to patient care. Dr. Turetsky asked for clarification how the Subject Matter Expert (SME) hours are calculated. Mr. Johnson clarified that an SME participating in a 16-hour workshop would receive a maximum of 12 credits. Ms. Murphy added that the additional 4 hours is an incentive for the SME to participate in the workshop for an additional day.

Dr. Kawaguchi requested adding some type of explanation of what self-study needs to be in order to count as part of CE requirements. He proposed adding something of this nature to subsection (e) to clarify Dr. Turetsky's concern re licensees taking credits they believe will count towards their total, but do not meet the requirement standards. Ms. Murphy added staff needs to make it explicit within the regulation what's already stated in statute so that licensee have a clear list of what they can take. Legal Counsel, Sabina Knight suggested clarifying who the schools and colleges are accredited by.

Subsection (f): Makes consistent with the Board's new internal policy for assigning provider numbers and requires providers include that on certificates. Limits approvals to one year, mirroring COPE standards. It also restricts use of the Board's letterhead, seal or logo to be used on certificates or advertising which will help to prevent fraud and illegal advertising of courses which are not Board approved.

Dr. Kawaguchi inquired as to what the PEC thought about this. Mr. Johnson stated the PEC was okay with the language. Dr. Wang noted that she was present for this discussion and she believes the Committee wanted to follow COPE'S timeline for how long a course is approved. Also suggested was assigning an individual course ID for each topic to assist with auditing. Ms. Murphy asked if the Committee wishes to discuss whether one or two years is best, or whether there should be an expiration date at all? Dr. McIntyre likes the idea of an expiration date; however, it may be easier for the providers if we follow COPE as there may be less confusion. Mr. Johnson commented that this is consistent with what the PEC wanted. The PEC wants our overall process to be aligned with what COPE is doing.

Subsection (g)(4): Staff proposes text which further specifies the records a provider must keep, such as dates and places of the course and the completion certificates. It also requires providers to keep records on file for four years instead of three. There were no comments from the Members.

Subsection (h)(9): Addition of text requiring the Board's course approval number, which will assist licensees and staff to track courses consistent with the Board's CE course list. Staff also proposes modification of text from "use of" to "A" certificate is required for any CE course. Additionally, deletion of text specifying "supplied by the Board" and "such forms will be furnished by the Board upon request", since the Board does not produce such a document. These changes will make clear that all licensees must have a completion certificate for their CEUs. Dr. Wang commented that this Committee had discussed utilizing BreZE as a method for confirming licensee's CE completion. Ms. Murphy explained that BreZE does not currently allow this capability. Staff has looked at other resource (outside vendors) however they have not proven to be cost-effective.

Subsection (k): Staff recommends addition of text requiring licensees to keep their course completion certificates on file for four years for auditing and enforcement purposes. Like other Boards, it would also codify the Board's "recommendation" as listed on the website to keep files for four-years and make it actionable if a licensee fails to do so during an audit or other action. Mr. Johnson explained this standard is currently implied, but this language will put it in regulation. Dr. Kawaguchi suggested the word

“certificates” should be changed to “records” to account for online courses. Ms. Murphy agreed. Mr. Johnson asked Ms. Knight if it is implied that any courses the licensee has taken, including those under self-study, will be issued a certificate. Ms. Knight responded saying other boards (who have allowed online courses) have specific requirements for the online courses.

Ms. Murphy suggested changing the wording to “certificates or applicable records,” and to work with Ms. Night in researching how other boards are specifying their requirements for online courses. Dr. Kawaguchi noted that our current Section (h) may need to be modified as well to include self-study courses. Ms. Murphy recommended obtaining more information from Ms. Knight and other boards on structural test, then examine specifically section (h); She also recommended moving forward with what has been discussed today to accommodate having a full package to bring to the full Board in February.

Dr. Kawaguchi argued that he does not consider this ready to bring to the Board. He asked if staff has the time to take the feedback from today’s meeting and make suggested amendments, so that when the package is presented at the full board meeting, it will reflect the Committee’s discussions today. Ms. Murphy answered that realistically, staff does not have that time. She wishes to look at the regulations of other health boards, then have a discussion item on both the PEC and LRC agendas. Ms. Murphy believes this requires more due diligence than staff quickly pulling information together in the next month and giving it to the Board. Dr. Kawaguchi noted that although he is pushing to get the regulation package moving, he also wants to make certain the package is done correctly; that the requirements are completely spelled out to protect the consumer.

Dr. Wang’s concern is whether the Committee can find language broad enough to cover the next several years since technology is constantly changing and evolving. She stated that by the time the language is perfectly “buttoned up,” it might not be perfect anymore. Dr. Kawaguchi suggested a compromise of directing staff to do as much as possible and present to the full board (wherever it is at) and follow through with whatever the Board decides; whether it is satisfactory to move forward or needs more work.

Subsection (m): Staff proposes a new subsection (m) which would prohibit a licensee repeating courses during a two-year renewal period, making it actionable for enforcement purposes if discovered during an audit or via complaint. During audits in 2018-19, it was discovered multiple licensees were claiming repeat credit during their two-year renewal period.

Subsection (n): Staff proposes a new subsection (n), which is based on a Dental Board regulation. It would require that any hours obtained outside of the 25 hours of the alternative methods as defined in subsection (c) must be live, in person and interactive, and would further define what such a course is and how it is taught via participatory interaction. As currently written, this would not allow these courses to be taught via the internet (ex. Skype or web meeting) even if the internet course allowed for such participatory interaction.

Dr. Turetsky had a concern with the list of acceptable general categories for the courses. He noted that there is no reference to courses such as CPR, Child Abuse, and Elder Abuse which are all eligible for credit. He also noted that number (8) on the list just states Diagnosis and Treatment but is not specific as to ocular conditions. Dr. Turetsky is uncertain as to whether to be very specific or very general in the definitions. Ms. Murphy suggested eliminating the list. Dr. Kawaguchi believes the entire Subsection (n) should be removed. Ms. Murphy commented that the only part of (n) she wishes to retain is: *“For the purposes of this section, such courses are defined as live in-person lecture, live in-person workshop demonstrations, or live in-person classroom studies, which allows participatory interaction between the licensee and the instructor during the instructional period.”* Dr. Kawaguchi believes this should go in Subsection (d) or Subsection (e). Ms. Murphy requested confirmation that the Members do not see a need for the list; The beginning portion of (n) is redundant and possibly restrictive and should be placed in either Subsection (d) or (e). Members confirmed this is correct.

Glenn Kawaguchi moved to recommend to the full Board the language presented as well as edited today for full Board consideration. David Turetsky seconded. The Committee voted unanimously (4-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Ms. Salazar-Sperber | | | | X | |
| Ms. Michelin | X | | | | |
| Dr. Turetsky | X | | | | |

6. Future Agenda Items

Audio of Discussion: 01:02:14 / 01:03:02

No future agenda items were suggested.

7. Adjournment

Meeting adjourned at 2:48 p.m.

MEMBERS OF THE BOARD

Mark Morodomi, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Rachel Michelin
Maria Salazar Sperber, JD
David Turetsky, OD
Lillian Wang, OD

MEMBERS OF THE COMMITTEE

Madhu Chawla, OD, Chair
Martha "Ruby" Garcia, CLD, SLD
Debra McIntyre, OD



**PRACTICE AND EDUCATION COMMITTEE
DRAFT MEETING MINUTES**

Friday, January 31, 2020

Teleconference locations:

DCA Del Paso
Sequoia Room
2420 Del Paso Road, Suite
109
Sacramento, CA 95834

California Eye Professionals
41637 Margarita Rd., Suite
201
Temecula, CA. 92591

Charter College
Oxnard Campus
2000 Outlet Center Drive
#150
Oxnard, CA 93036

Stevenson Ranch Library
25950 The Old Road
Stevenson Ranch CA 91381

Link for audio of meeting here:

https://www.optometry.ca.gov/meetings/20200131_pec_audio.mp3

| Members Present | Staff Present |
|-------------------------|---|
| Madhu Chawla, OD, Chair | Shara Murphy, Executive Officer |
| Martha Garcia, CLD, SLD | Cheree Kimball, Assistant Executive Officer |
| Debra McIntyre, OD | Marc Johnson, Policy Analyst |
| | Arsha Qasmi, Licensing Lead |
| | Sabina Knight, Legal Counsel |
| | |
| Members Absent | Guest List |
| | On File |

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

Audio of discussion: 0:00 / 38:55

Committee Chair, Madhu Chawla, OD called the meeting to order and took roll. She was present at the Stevenson Ranch location – No public members present; Martha Garcia, CLD, SLD was present at the Oxnard location – No public members present;

Debra McIntyre, OD was present at the Temecula location – No public members present. A quorum was established

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 §1125, §11125.7(a)].

Audio of discussion: 1:05 / 38:55

There were no public comments.

3. Discussion and Possible Action on September 13, 2019 Practice and Education Committee Meeting Minutes

Audio of Discussion: 1:17 / 38:55

Debra McIntyre moved to approve the September 13, 2019 Practice and Education Committee Meeting Minutes. Martha Garcia seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|----------|-----|----|---------|--------|---------|
| Chawla | X | | | | |
| Garcia | X | | | | |
| McIntyre | X | | | | |

4. Discussion and Possible Action on Continuing Education Course Approval Requests Pursuant to Title 16, California Code of Regulations § 1536 (RESUBMITTED APPLICATIONS)

Audio of Discussion: 02:30 / 38:55

A. Modern Cataract Surgery in the Post-Refractive Patient: How Do We Keep Them Happy?

Debra McIntyre moved to approve resubmitted course 4.A. Martha Garcia seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|----------|-----|----|---------|--------|---------|
| Chawla | X | | | | |
| Garcia | X | | | | |
| McIntyre | X | | | | |

5. Discussion and Possible Action on Continuing Education Course Approval Requests Pursuant to Title 16, California Code of Regulations § 1536 (COMPLETE APPLICATIONS)

Audio of Discussion: 03:32 / 38:55

- A. Retina Update Course
- B. Solving the Dry Eye Equation
- C. Cataract Co-Management Issues
- D.
 - 1. 2019 Glaucoma Update
 - 2. LASIK Co-Management & Topo-Guided (CATZ) LASIK
 - 3. Salzmanns / Recurrent Pterygium
 - 4. Vision ICL Co-Management
 - 5. When IOLs Go Wrong
- E.
 - 1. Pigmented Iris Lesions
 - 2. MIGs: The Short Update
 - 3. Glaucoma Limbo – Low Tension Glaucoma Diagnosis and Management
 - 4. Recent Advances in the Management of Diabetic Retinopathy
 - 5. Vertical Strabismus: Common and Uncommon Cases
 - 6. Spectrum of Optic Disc Edema
 - 7. New Reimbursement Strategies for Eye Care Professionals
 - 8. Dropless Cataract Surgery – Current Indications, Future Directions
 - 9. Update on Dry Eye and Ocular Surface Disease
 - 10. Advances in Corneal Crosslinking
 - 11. Current Research Activities at Loma Linda Eye Institute
- F. Management of DM and Macular Degeneration
- G.
 - 1. OCT – Angiography: What You Need to Know with New Technology for Retina, Glaucoma, and in a Comprehensive Exam
 - 2. Anterior Segment OCT Case Presentations
 - 3. Becoming a Medical Focused Optometric Practice by Preserving Vision with Early Detection
 - 4. Medical Coding & Reimbursement Including Compliant Coding
- H.
 - 1. Astigmatism: From Measurement to Management
 - 2. Keratoconus: Progression & Crosslinking
- I. Retinology
- J.
 - 1. Diagnostic OCT Interpretation
 - 2. Age-Related Macular Degeneration
 - 3. Macular Diseases I and II
 - 4. Retinal Vascular Diseases
 - 5. Retinal and Subretinal Lesions
 - 6. Urgent Retinal Conditions
 - 7. Pediatric Retina Conditions
- K. Modern Refractive Surgery: How to Treat Astigmatism
- L.
 - 1. Most Common Questions My Glaucoma Patients Ask...And How I Respond
 - 2. Vessels and Beyond
- M.
 - 1. Ultra-Widefield Imaging in Diabetic Retinopathy
 - 2. Introduction to ReLExSMILE & Personal Experience
 - 3. Viewing the Retina 2D, 3D, 4D
 - 4. Glaucoma Surgery in the MIGS Era
- N.
 - 1. Current in Office Therapies for MGD
 - 2. Clinical Utility of OCT Angiography
 - 3. Walking a Fine Line
 - 4. Why Are You Crying?
 - 5. Retinal Emergencies

- 6. Custom Cataract Surgery: How Do I Choose the Best Matching IOL for My Patient?
- 7. Refractive Surgical Options for Managing Astigmatism
- 8. Keratoconus: Progression and Corneal Crosslinking
- 9. Astigmatism: From Measurement to Management – Case Presentations
- O. Peripheral Retina
- P. 1. Recent Advances in Treatment of Keratoconus
2. Update on Retinopathy of Prematurity
- Q. The Role of Lipiflow in Treating Meibomian Gland Dysfunction
- R. New Paradigms in Eye, Brain, and Nerve and Their Impact on Clinical Practice
- S. 1. Narrow Angle Glaucoma and Gonioscopy
2. Corneal Surgeries for Different Corneal Diseases – Who Needs What Why and When
3. Lens-Based Refractive Surgery: The Merger of Cataract and Refractive Surgery
- 4. 30 Years of LASIK – Why Better Than 20-20 is the New 20-20
- 5. Dry Eye: Zero to Brilliant in 60 Minutes
- 6. Myopia Control
- 7. Adult Diplopia Grand Rounds
- 8. Alleviating Ocular Disease by Manipulating the Microbiome
- 9. Plastic Surgery Primer for an Eye Doctor
- 10. A Systematic Approach to Diabetic Retinopathy Grading Workshop
- T. 1. Retinal Pathologies You Don't Want to Miss
2. Role of Nutritional Supplementation in Dry Eye Disease
3. Conquering Presbyopia
4. Is it Cancer: The Role of Optometry in the Management of Periocular Skin Cancer
- 5. Reducing Scleral Lens Complications
- 6. Challenging Anterior Segment Cases: How to Manage Patients Outcomes with Advanced Technology
- 7. The Frozen Cornea: Surgical Management of Ectasia & Irregular Astigmatism
- U. 1. Visual Field Testing: Basic Principles and Interpretation
2. Intraoperative Aberrometry
3. Engineering Aqueous Outflow: Cardioplasty
- V. The Role of Ocular Surface Disease in Glaucoma
- W. The Secondary Silent Thieves: Secondary Glaucomas
- X. Corneal Ulcers Z to A: Zoster to Acanthamoeba
- Y. Say NO to Glaucoma
- Z. My Vision is Blurry Could it be from My Medications?
- AA. Medical-Legal Issues in Glaucoma
- BB. Latest Glaucoma Treatments: MIG's, Drops, Etc.
- CC. The Role of Lipiflow in Treating Meibomian Gland Dysfunction
- DD. 1. Cataract Surgery Co-Management
2. Would You Treat an IOP of 21
3. Panoptix and Multifocal IOL's
4. Diabetic Retinopathy Cases
- EE. 1. Approaches to Refractive Cataract Surgery
2. Retinal Surgical Techniques

- 3. Busting the 20/40 Myth
- 4. Pterygium: Basic & Exotic
- 5. Refractive Update
- 6. Cataract / RLE Surgery Co-Management
- 7. Glaucoma Pt.1 – Cases
- 8. Glaucoma Pt.2 – Treatment
- 9. IOL Complications
- FF. First Line of Glaucoma Treatment
- GG.1. Cataract Surgery Update
- 2. Retina – The Fifth Dimension
- 3. Retina – Ultra Widefield Imaging
- HH. Diabetic Retinopathy
- II. 1. Small Incision Lenticle Extraction (SMILE) A Different Class of Corneal Refractive Surgery
- 2. Small Incision Lenticle Extraction (SMILE) A Different Class of Corneal Refractive Surgery Webinar
- 3. The PanOptix IOL – Trifocal IOL Technology
- 4. Visian ICL and Visian Toric ICL Clinical Update
- 5. Visian ICL and Visian Toric ICL Clinical Update Webinar
- JJ. 1. Balance and Falls: The Role of Vision
- 2. Cardiovascular Disease and the Eye
- 3. Management of Patients with Visual Impairment
- KK. 1. The Surgical Day: Live Refractive Surgery Demonstration & Techniques
- 2. The Surgical Day: Live Cataract and Implant Live Surgery
- LL. 1. Viral Eye Disease
- 2. Optic Nerve Disorders
- 3. Oculoplastic and Facial Cosmetic Surgery MM. California AB 1825 / SB 1343 Supervisor

Debra McIntyre moved to approve courses 5.A through 5.LL.3 in their entirety as noted. Martha Garcia seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|----------|-----|----|---------|--------|---------|
| Chawla | X | | | | |
| Garcia | X | | | | |
| McIntyre | X | | | | |

6. Discussion and Possible Action on Continuing Education Course Approval Requests Pursuant to Title 16, California Code of Regulations § 1536 (KAISER PERMANENTE APPLICATIONS)

Audio of Discussion: 06:33 / 38:55

- A. 1. Papilledema 2nd to P.P.C.
- 2. Herpetic Eye Diseases

Debra McIntyre moved to approve courses 6.A.1 and 6.A.2. Martha Garcia seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|--------|-----|----|---------|--------|---------|
|--------|-----|----|---------|--------|---------|

| | | | | | |
|-----------------|---|--|--|--|--|
| Chawla | X | | | | |
| Garcia | X | | | | |
| McIntyre | X | | | | |

7. Discussion and Possible Action on Continuing Education Course Approval Requests Pursuant to Title 16, California Code of Regulations § 1536 (INCOMPLETE APPLICATIONS)

Audio of Discussion: 07:37 / 38:55

- A.
 - 1. Refractive Surgery Update
 - 2. Latest and Greatest on Adjunctive Cataract Surgery Services
 - 3. An Update in Intacs
 - 4. Visual Field Interpretation and Review of Micro Glaucoma Surgical Treatment
- B.
 - 1. Glaucoma Update 2019
 - 2. UGH Syndrome
 - 3. Red Eye, Bumps, and Unknown Diagnosing & Treatment
 - 4. Neurotropic Keratitis
 - 5. Glaucoma or Glaucoma Suspect?
- C.
 - 1. All Things Cataract
 - 2. All Things Refractive

Dr. McIntyre questioned why the providers of courses 7.C.1. and 7.C.2. are requesting three hours of continuing education, while the courses are only two hours in length.

Ms. Garcia requested more information regarding the three providers with disciplinary history as noted on the cover of courses 7.C.1. and 7.C.2.

8. Discussion and Possible Action on Title 16, California Code of Regulations §1536-Continuing Optometric Education; Purpose and Requirements (concurrent review with Legislative and Regulatory Committee)

Audio of Discussion: 12:33 / 38.55

Licensing Lead, Arsha Qasmi provided an overview of this agenda item. She stated that the goal of these changes is to strengthen existing renewal requirements for licensees, improve processes for CE providers, further define what internet/self-study courses are and require which courses cannot be taken online and must be completed in person.

Ms. Qasmi provided the history behind the changes. She explained that at the August 8, 2018 Board meeting, the Board directed staff to draft regulatory language which would change the number of continuing education hours completed via self-study from 20 to 25 hours. Due to the change in staff and Board management, this change has not yet been implemented.

At the January 3, 2019 PEC meeting, the PEC set out areas for staff to research: the January 3, 2019 PEC meeting, the PEC set out areas for staff to research:

- Approval criteria and timeframes for other DCA Boards and Bureaus, the Council on Optometric Practitioner Education (COPE), the American Optometric Association, and other relevant entities to identify current industry practices.
- Inclusion of course numbers on the applications.
- Timeframes of approval for providers.
- Designation of the type of Optometry licensees that can teach certain courses

Subsequently, at the March 8, 2019 PEC meeting, the PEC received updates on these areas and added direction to research possible definitions for live versus self/study internet courses.

Ms. Qasmi presented an overview of the proposed changes to CCR §1536:

Subsection (c): As approved by the Board at the August 8, 2018 meeting, this proposed change would allow up to 25 hours, instead of 20, of self-study to be accomplished via alternative methods. This change provides more flexibility to the licensee to complete their required CEUs. Staff requests discussion if this change should be pursued separately as a rulemaking package, as proposed by Dr. Kawaguchi, or if it should be completed with the other changes proposed below as a combined rulemaking package.

Mr. Johnson recommended presenting these changes as a combined package because in his experience, the timeframe is the same whether small changes or larger changes are submitted.

Dr. Chawla noted that it would be more useful for those taking the continuing education (CE) to have the guidelines completely set out for them. It is her concern that the licensees are provided clear direction to ensure they are obtaining their CE credits correctly.

Dr. McIntyre expressed a concern about the possibility of bundling a package of changes that may include a change the Committee/Board is not necessarily in support of. Executive Officer, Shara Murphy provided assurance that all the changes in the bundle are changes the Board has approved; One of them was stopped because previous staff did not provide the records of the Board's approval.

Legal Counsel, Sabina Knight noted that it is more important today for the Committee to look at the language and make recommendations to the full Board. Decisions on strategy can be made later.

Mr. Johnson commented that the entire process tends to take approximately 12 months.

Ms. Qasmi continued to present each of the proposed changes to the subsections:

Subsection (c)(1): For the purposes of this subsection, "self-study" means "orderly learning" that does not offer participatory interaction between the licensee and

instructor during the instructional period. This may be accomplished via audio or video prerecorded, CD ROM, digital video disks, books or material as a part of an independent or home-study program, programs or applications on a computer or tablet or cellular phone specifically designed for this purpose. Ms. Qasmi explained that Ms. Murphy made a wonderful recommendation of how to furthermore describe self-study by calling it “orderly-learning and interaction between licensee and instructor”.

Subsection (c)(7): Staff proposes raising the amount of CE that can be obtained by participating in a Board workshop as a Subject Matter Expert (SME) from 8 to 12 hours. A total of 12 hours would not overlap with the 35 hours required for the diagnosis, treatment, and management of ocular disease.

Subsection (f): Makes consistent with the Board’s new internal policy for assigning provider numbers and requires providers include that on certificates.

Subsection (g)(4): Staff proposes text which further specifies the records a provider must keep. It requires providers to keep records on file for four years instead of three.

Subsection (h)(9): Proposes the addition of text requiring the Board’s course approval number, which will assist licensees and staff to track courses consistent with the Board’s CE course list.

Ms. Garcia asked if the tracking will be automated or a manual system? Ms. Qasmi responded that a viable option for automation has not yet been made available for staff.

Subsection (k): Staff recommends addition of text requiring licensees to keep their course completion certificates on file for four years for auditing and enforcement purposes.

Subsection (m): Proposes a new subsection (m) which would prohibit a licensee from repeating courses during a two-year renewal period.

Subsection (n): Staff proposes a new subsection (n), which is based on a Dental Board regulation. It would require that any hours obtained outside of the 25 hours of the alternative methods as defined in subsection (c) must be live, in person and interactive, and would further define what such a course is and how it is taught via participatory interaction.

Debra McIntyre moved to take the proposed language to the full Board. Martha Garcia seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|----------|-----|----|---------|--------|---------|
| Chawla | X | | | | |
| Garcia | X | | | | |
| McIntyre | X | | | | |

9. Future Agenda Items

Audio of Discussion: 33:36 / 38:55

Ms. Garcia inquired about a possible survey posted online for suggested topics of instruction. Dr. Madhu responded that most established providers perform their research already.

Ms. Garcia asked if the CE tracking can be made automated? Ms. Murphy replied that various options have been considered and explored; staff had discovered that it is not cost-effective to adapt our process to any of these software packages.

Dr. Chawla inquired about a topic (Myopia Control) that UC Berkeley keeps asking about. Ms. Murphy explained that having this conversation has not worked (within the schedules of the researchers and academics) for them to come talk with us. Staff is continuing to try figure out a way to make conversation occur. A special meeting will need to be held at a time when they are not in clinic and they would be available to discuss their programs and what they are presenting to the Board.

10. Adjournment

MEMBERS OF THE BOARD

Mark Morodomi, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Rachel Michelin
Maria Salazar Sperber
David Turetsky, OD
Lillian Wang, OD



**PUBLIC RELATIONS AND OUTREACH COMMITTEE
TELECONFERENCE
DRAFT MEETING MINUTES**

MEMBERS OF THE COMMITTEE

Maria Salazar-Sperber, JD, Chair
Madhu Chawla, OD
Rachel Michelin
David Turetsky, OD

Friday, January 31, 2020

Teleconference Meeting Locations:

DCA Del Paso – Sequoia Room
2420 Del Paso Road, Room 109
Sacramento, CA 95834

California Retailers
Association
1121 L Street, Suite 607
Sacramento, CA 95814

Stevenson Ranch Library –
Meeting Room
25950 The Old Road
Stevenson Ranch, CA 91381

| Members Present | Staff Present |
|----------------------------------|---|
| Maria Salazar-Sperber, JD, Chair | Shara Murphy, Executive Officer |
| Madhu Chawla, OD | Cheree Kimball, Assistant Executive Officer |
| Rachel Michelin | Marc Johnson, Policy Analyst |
| David Turetsky, OD | Sabina Knight, Legal Counsel |
| | |
| | |
| Members Absent | Guest List |
| | On File |

Link to audio of meeting:

https://www.optometry.ca.gov/meetings/20200131_proc_audio.mp3

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

Audio of Discussion: 0:00 / 50:50

Dr. David Turetsky called the meeting to order and took roll. He was present with staff at the DCA Del Paso, Sacramento location – no public members present; Rachel Michelin was present at the California Retailers Association location – no public members present; Dr. Madhu Chawla was present at the Stevenson Ranch Library location – no public members present; and Maria Salazar-Sperber was present in DC and thus unable to participate. She monitored the discussion today. A quorum was established.

Dr. Chawla asked if staff would put the video on the Board’s website in a manner where optometrist could download it for their offices? Ms. Murphy assured her that this will happen. Mr. Johnson reported that staff sent it out to all the Listserv mailing list for licensees and general constituents in October. Ms. Michelin asked if COA placed it in their newsletter. Ms. Murphy replied that COA has not because their newsletter had already gone out.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 1:19 / 50:50

There were no public comments.

3. Discussion and Possible Action Regarding Meeting Minutes

Audio of Discussion: 1:24 / 50:50

A. June 29, 2018 Committee Meeting

Madhu Chawla moved to approve upon edit the June 29, 2018 Committee Meeting minutes. Rachel Michelin seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| Ms. Salazar-Sperber | | | | X | |
| Dr. Chawla | X | | | | |
| Ms. Michelin | X | | | | |
| Dr. Turetsky | X | | | | |

4. Update, Discussion and Possible Action Regarding Outreach Campaigns

Audio of Discussion: 2:49 / 50:50

Executive Officer, Shara Murphy reported that regarding one of the two major initiatives of the cosmetic contact lens campaign: staff was fortunate that DCA was willing to lend some of their resources to development of the YouTube video: [YouTube video](#) that was shown at the August 2019 Board Meeting. The intention is to use the video again, with a longer lead time, for 2020. Dr. Turetsky asked how may views the video received? Mr. Johnson stated reported it received 22 views. Ms. Michelin asked who the target audience would be? Dr. Chawla believes it would be later teens to age 40. Ms. Michelin suggested asking community colleges, larger convention centers, Legislatures, health care professionals and committees to help promote the content.

Dr. Turetsky noted that the fact the video has only received 22 views shows that only people directly related to this in some way via the Board or DCA who have viewed it. He believes that optometrists and opticians should be playing it in their offices and made available on their websites. Ms. Murphy announced that staff has had conversations with the California Optometric Association (COA) regarding attending their House of Delegates meeting next month; and this would be great content to play for them. She suggested putting together an outreach packet that asks them to show the video to their clients during the months of August, September and October.

Dr. Chawla noted that this information is relevant to other audiences as well; not only for Halloween. Ms. Michelin suggested reaching out to convenient store associations. Dr. Turetsky asked if they are sold in beauty supply shops. Ms. Murphy responded that larger chains would know that a prescription is required. He suggested having a conversation with the Board of Barbering and Cosmetology.

Dr. Turetsky inquired about the Board's "other" outreach campaigns. Ms. Murphy announced that the Board has approved an outreach campaign around the optician licensing program, and staff has been working with DCA and the DOC to develop some messaging. Ms. Murphy explained that within the remainder of this Memo is discussion regarding three target audiences that staff would like to begin having conversations with. One of those target audiences is licensed optometrists; Therefore Ms. Murphy requests the professional Members provide feedback about the benefit of having licensed opticians within their practice versus unlicensed assistants; Also, how staff might go about disseminating this information.

Ms. Murphy suggested using something like the following for licensed optometrists:

A comprehensive eye exam can see things that cannot be seen with the human eye. That is also true of a thorough background check and fingerprinting. You need assistance with your practice, but you cannot jeopardize the care of your patients or put your reputation at risk. Before you hire, make sure any candidate is licensed with the California State Board of Optometry. Only licensees of the Optometry Board have been thoroughly screened for prior criminal or disciplinary actions and have been fingerprinted with records kept on file with the Federal Bureau of Investigations (FBI) and the Department of Justice (DOJ). For safety's sake and peace of mind. Verify the license. To learn more, visit: www.optometry.ca.gov

Dr. Turetsky believes this would be a complete waste of time. He stated the average optometric practice that has an OD and maybe two or three assistants will not want to pay \$25/hour for such an individual. These licensed individuals are also challenging to locate as they are few and far between; Additionally, according to how the Board's current law is written a licensed optician cannot work for an optometrist. Dr. Turetsky would rather say "if you're going to hire somebody, do a thorough background check on them. Ms. Murphy asked if this is standard practice within the profession. Drs. Turetsky and Chawla stated that it is not. Dr. Chawla agrees with Dr. Turetsky's three points. Ms. Michelin deferred to the professional Members.

Ms. Murphy asked if it is our job as regulators to promote the "ideal?" Fully knowing that business practices are not going to hire all licensed opticians but if we say it makes sense to do it; does that encourage doctors to possibly hire one and continue with unlicensed assistants for the other positions? Dr. Chawla suggested rather than saying "you should" do or "must do" such practices, to rather state the benefits of doing such practices. Ms. Murphy stated the second target audience is: Graduates of optometric assistant programs, and optometric assistants working in licensed optometrist's offices. She suggested using:

Unlicensed Assistant vs. Optician? What's the difference? Plenty. Only licensed opticians have the necessary experience verified by the American Board of Opticianry (ABO) and the National Contact Lens Examiners (NCLS). Opticians understand the science behind fitting, adjusting, and optometric screening practices. As a licensed optician, you have the skills to address the needs of patients in a doctor's office, and consumers in need of glasses or contacts. You could be fined \$50K if you operate as an "optician" without registering with the California State Board of Optometry. Only with a license from the California State Board of

Optometry can you can you call yourself an “optician.” Get the training. Get the license. To learn more, visit: www.optometry.ca.gov

Dr. Chawla does not disagree with the message as far as advocacy but stated it could sound softer. Ms. Michelin and Dr. Turetsky agreed. Dr. Chawla suggested writing it from the vantage point of encouraging patient welfare.

Ms. Murphy presented target audience number three and suggested the following:

So, You Consider Yourself an Optician? Do you Know the Path to Licensure in California? If you work in opticianry in California, you must know this. You could be fined if you work as an “optician” without a license issued by the California State Board of Optometry. You may only legally perform the duties of an optician if you are licensed through the California State Board of Optometry. This is beyond certification obtained from the American Board of Opticianry (ABO) as well as the National Contact Lens Examiners (NCLS). If you don’t have \$50K to throw away, get licensed. To learn more, visit: www.optometry.ca.gov

Dr. Chawla believes this message is better overall. Ms. Michelin recommended not using “the Board of Optometry” as it may sound like we are trying to make money. Dr. Turetsky suggested inserting independently to read: “You may only legally perform the duties of an optician independently if you are licensed.” Ms. Murphy thanked the Members for their input.

There was no public comment.

5. Update and Discussion Regarding Optometry Board’s Website

Audio of Discussion: 29:23 / 50:51

- A. Implementation of Assembly Bill 434 (Baker, Chapter 780, Statutes of 2018)
State Web Accessibility: Standard and Reports.
- B. Review of recent changes to website

Ms. Murphy reported that as of July 2019 each state agency must post on the home page of the agency’s website a signed certification that the agency’s website is compliant with specified accessibility standards set by the Americans with Disabilities Act (ADA). Screen readers ensure that individuals who are visually impaired can read the contents of the website. Ms. Murphy explained that enforcement documents that have come from the Department of Justice are not compliant. A Department wide initiative has been implemented to remove or remediate these contents/documents to screen reader friendly versions. Staff was informed this week that there is a liability of around \$116,000. The Department plans to prepare a Spring budget letter which would give the Board the authority to spend \$116,000 from its reserve to meet this remediation by July 1, 2020. Ms. Murphy clarified that the Board is complying with AB 434 which gives state agencies the deadline of July 1, 2019 and thereafter to comply; AB 434 is applied to all businesses.

There were no public comments.

6. Update, Discussion and Possible Action Regarding Strategic Plan Outreach Objectives and Deliverables

Audio of Discussion: 35:52 / 50:51

Ms. Murphy reported on a plan to substantiate the spending authority needed for targeted statewide media around the need for parents to take their children for comprehensive eye exams regardless of whether they are screened at school. This plan would provide a solid research base to submit a budget change proposal (BCP) to fund the outreach campaign.

Ms. Michelin stated that the time to push legislation is now; the politics is different currently than a few years ago. The politics are much more favorable for this agenda currently. She is passionate to see this issue across the finish line. Dr. Chawla agreed that the political climate has changed, and that there is a way to get this accomplished. Ms. Murphy clarified that every attempt from the Board to talk about this issue receives the response that comprehensive eye exams prior to entering school is “recommended.” The profession is about gaining more clients because it is only “recommended.” An outreach plan is Ms. Murphy’s thought about how to change the conversation and get some money behind getting something done.

Ms. Michelin explained that the reason this did not pass through legislation is because it was a political play; the players that were there are not there now. She clarified that this is the reason why it is important to pass it through legislation now. Ms. Michelin and Dr. Chawla suggested not performing any public relations around this issue at this time, and to save the Board’s resources for something more beneficial towards the total cause. Dr. Chawla clarified that Ms. Murphy’s efforts are more beneficial in tandem with the legislative venue. This issue was held over to the Legislation and Regulation Committee meeting.

There were no public comments.

7. Future Agenda Items

Audio of Discussion: 49:58 / 50:51

There were no future agenda items suggested.

8. Adjournment

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, President |
| SUBJECT | Agenda Item #14 – Future Agenda Items |

The Board may wish to discuss items to be placed on a future agenda, as proposed by board members, staff or the public.

ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 28, 2020 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, President |
| SUBJECT | Agenda Item #15 - Adjournment |