



ISSUE MEMORANDUM

DATE	August 25, 2023
TO	Board Members, California State Board of Optometry (CSBO)
FROM	Eunie Linden, J.D., Board Secretary
SUBJECT	Agenda Item #3 – Discussion and Possible Approval of Meeting Minutes

The following meeting minutes are presented for discussion and possible approval:

- A. May 12, 2023 minutes

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

MEMBERS OF THE BOARD

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



Gregory Pruden, Executive Officer

BOARD MEETING DRAFT MINUTES

Friday, May 12, 2023

**Department of Consumer Affairs
 Hearing Room
 1625 North Market Blvd.
 Sacramento, California 95834**

Members Present	Staff Present
Lillian Wang, O.D. (In-person)	Gregory Pruden, Executive Officer (in-person)
Jeffrey Garcia, O.D. (remote)	Randy Love, Administration and Licensing Manager (remote)
Stacy Hancock, Optician (remote)	Joely Walker, Enforcement Program Manager (in-person)
Glenn Kawaguchi, O.D. (remote)	Terri Villareal, Enforcement Lead (in-person)
Mark Morodomi, J.D. (remote)	Brad Garding, Enforcement Analyst (remote)
Joseph Pruitt, O.D. (remote)	Cricket Borges, Enforcement Analyst (remote)
Sandra D. Sims, J.D. (remote)	Jonathan Gasca, Policy Analyst (in-person)
Jonathon M. Ross, O.D. (in-person)	Eric Baustista, Administrative Analyst (remote)
	Kathleen Gregorio, Licensing Technician (remote)
	Monica Peterson, Licensing Analyst (remote)
	Pink Crosby, Enforcement Technician (remote)
	Elizabeth Dietzen-Olson, Legal Counsel (in-person)
	Brittany Ng, Legal Counsel (remote)
Members Absent	Guests
Eunie Linden, J.D.	On File
Donald Yoo, J.D.	

Open session of this Board Meeting was webcast.

A recording of the webcast is available at:

Part 1: <https://youtu.be/27QJCRXECW0?list=PLAGnBcqB9ibsZa10FNv-W X8SNphuH3HY>

Part 2: https://youtu.be/Tpz5RRn7H3Q?list=PLAGnBcgB9ibsZaI0FNv-iiW_X8SNphuH3HY

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

Audio of Discussion: [0:20](#)

Member Lillian Wang called the meeting to order at 10:00 a.m. In Member Eunie Linden's absence, Member Jeffrey Garcia took roll call and a quorum was established.

2. Public Comment for Items Not on the Agenda

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

Audio of Discussion: [1:16](#)

There were no comments from Members.

Public comment was heard from Dr. Doug Major, O.D. representing Children's Vision Now Coalition. The coalition is still working closely with the Department of Health Care Services and particularly spoke a number of times with the department head, Michelle Bass, and the head of CalAim. Dr. Major expressed disappointment that after a lot of work they included one line regarding vision care in their 300-page report. He noted Senate Bill (SB) 340 regarding Medi-Cal vision benefits is in the Senate Appropriations Committee with zero opposition, and Senator Eggman has done a great job. The coalition's goal is to ensure that children are receiving the vision care that they need. Dr. Major also commented on AB 236 (Holden) regarding updating provider directories and made the point that the directories should distinguish between those who provide exams and those who provide glasses. He invited anyone who is interested to join their team. He noted that they have good momentum going this year but they do need help.

3. Board President's Report

A. Board Officer Elections

B. Commemorate Departing Board Members

Audio of Discussion: [4:54](#)

Member Wang took a few minutes to recognize a past Board member, Dr. Kenneth Lawenda, O.D., who recently passed away. Dr. Lawenda was an optometrist, a regulatory specialist, and a consultant to many in the eye care field. He was a leader who was passionate about legislation and service.

Executive Officer Gregory Pruden read the election nominations into record. Member Wang was nominated by Member Garcia. Members Garcia and Linden were nominated by Member Wang. All nominations were accepted.

There were no requests for public comment.

Glen Kawaguchi moved to elect the Board officers as nominated here today, Lillian Wang for President, Jeffrey Garcia for Vice President, and Eunie Linden for Secretary for a one-year term beginning July 1, 2023. Mark Morodomi seconded. The Board voted unanimously (8-0) and the motion passed.

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

Four Members with expired terms will be departing from the Board. These four Members are Stacy Hancock, Dr. Jonathon Ross, O.D., Mark Morodomi, and Dr. Glenn Kawaguchi, O.D. Member Wang presented certificates of appreciation and commemorative words to each of these departing Members.

4. Department of Consumer Affairs Update

- A. Executive Office
- B. Budget Office
 - i. Fund condition

Audio of Discussion: [16:38](#)

Brian Clifford, Manager with the DCA Executive Office, provided an update. In honor of Public Service Recognition Week, he thanked Members and staff for all of their hard work.

Mr. Clifford provided a Diversity, Equity, and Inclusion (DEI) update. The Department's DEI Steering Committee (comprised of 12 executive leaders from the DCA, boards, and bureaus) has been working on several items, including the strategic planning process and the training and development of an informational DEI fact sheet, which was distributed to board leadership. The DCA's strategic planning has been updated to embed DEI into the process, which includes a survey, a DEI section in the environmental scan, video messages, and a brief training video. The DCA SOLID team will be reaching out to executive officers to develop or update new strategic plans.

Mr. Clifford advised that there are two DCA wide mandated trainings for 2023, which include sexual harassment prevention (SHP) and information security awareness training. All DCA employees and appointees (including board and advisory council members) will need to complete the sexual harassment training this year. Board members are required to take the two-hour supervisory training, and advisory council members must take the one-hour non-supervisory training. He announced that legislation was recently introduced (SB 544) which removes certain teleconference requirements from the Open Meeting Act. This bill was recently amended to do the following: require members of a state body participating remotely to disclose whether any individuals who are 18-years or older are present in the room at the remote location and the general nature of the members relationship with those individuals. It also requires the bodies to end or adjourn a meeting upon discovery that a means of remote participation required by the bill has failed and cannot be restored. This bill does not contain an urgency clause and would not take effect until January 1, 2024. Board and bureaus should be prepared to conduct public meetings in person, beginning July 1, 2023. On January 5, 2023, a federal law took effect that

enabled service members and their spouses who have professional licenses in a different state to practice in California within the same professional discipline and at a similar scope of practice if they are required to relocate to California due to military orders. Since becoming aware of the new law, DCA has been collaborating with the (Business, Consumer Services and Housing) Agency on how to best implement it. DCA will share information as it becomes available. Finally, DCA submitted its 2022 annual report to the Legislature, and this report is now available on DCA's homepage.

There were no requests for public comment.

Veronica Hernandez, DCA Budget Analyst, provided the Board's expenditure projections and fund condition statement. The Board's expenditure projections are based on actual data through fiscal month 9 (March through the remainder of the fiscal year). The Board had a beginning budget of just over \$4 million year-to-date (YTD) and expended approximately 2 million and is expended to spend a total of 2.9 million. This will create a reversion for the Board's fund of just over \$1.1 million or 28.54%. The fund condition statement shows the Board had a beginning adjusted balance of just over \$2 million. The Board collected \$2.5 million in revenue, expended \$2.4 million and ended 2021-2022 with just over \$2 million as a reserve balance equating to 7.9 months in reserve. For the current year, the Budget Office is projecting the Board to bring in approximately \$2.5 million in revenue, expend approximately \$3 million between authorized expenditures and direct draws, leaving the Board with a fund balance of just over \$2.6 million, which is 7.5 months in reserve. In budget year, revenue is projected to come in just under \$3 million at \$2.87 million. Expenditures are projected at full appropriation, reducing the reserve balance to 3.5 months by the end of FY 23-24. The Budget Office will continue to monitor the Board's revenue and expenditures and report back to the Board with monthly expenditure projections as fiscal months are closed in the current year.

One of the main factors driving the expenditure increases in future years is a result of personnel service adjustments, including general salary increases as well as employee compensation, and retirement rate adjustments. The Budget Office includes an ongoing 3% increase to expenditures on the fund condition statement to account for the ongoing incremental adjustments. The fund condition does not include any future increased licensing or enforcement expenditures, which could result in additional costs to the Board's fund in out years by requiring additional resources to support the increase. Ms. Hernandez noted that any future legislation or anticipated events could result in the Board's need for additional regional resources, which include increased pressure to the fund. The Budget Office will continue to monitor the Board's fund condition statement and keep a line of communication with the Board's executive staff for any future needs or expectations.

Member Morodomi asked about the reason for the big jump in expenditures, which increased from \$2.86 million to over \$4 million. Mr. Pruden explained that the \$2.86 million is what the Board is projected to spend through the year ending June 30. The \$3.1 million is the actual total expenditures the Board is projected to spend at the end of this FY ending, June 30. The \$4.2 million is what the Board is authorized to expend if the Board fully expends its budget. The Board is holding positions vacant and realizing significant salary savings. This is the reason why the actual spending this year is about \$1 million less than what the authorized expenditures could be under the Governor's budget.

There were no requests for public comment.

5. Discussion and Possible Approval of Meeting Minutes

A. March 17, 2023 Board Meeting

Audio of Discussion: [34:02](#)

There were no requests for public comment.

Glenn Kawaguchi moved to approve the minutes of the March 17, 2023, Board meeting as written. Mark Morodomi seconded. The Board voted unanimously (8-0) and the motion passed.

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

6. Executive Officer's Report

A. Program Update

B. Enforcement Program

i. Statistical Review, Quarter 3, Fiscal Year 2022-2023

ii. Continuing Education Audit Statistics

C. Examination and Licensing Programs

i. Statistical Review, Quarter 3, Fiscal Year 2022-2023

D. Regulatory Update

i. Mobile Optometric Office

ii. Continuing Education

iii. Implementation of AB 458

iv. Optometry Disciplinary Guidelines

v. Optician Program Omnibus Regulatory Changes

vi. Dispensing Optician Disciplinary Guidelines

vii. Requirements for Glaucoma Certification

Audio of Discussion: [37:01](#)

Mr. Pruden introduced Sarah who will be the Board's new Budget Analyst. He announced that the Board has recently filled two of the vacant positions, an enforcement SSA position and a licensing SSA position. Monica Peterson has filled the licensing SSA position. She will be working on both opticianry and optometry items. On March 24th, staff welcomed Elizabeth Dietzen-Olsen, the Board's new regulatory counsel.

At the March Board meeting, Mr. Pruden reported on the Board's partnership with the Department's Organizational Improvement Office. In February of this year, an anticipated year-long project to review and evaluate all the Board's business processes began. The goal is to identify opportunities for efficiency and best practices across our licensing, enforcement, and administrative units. To date, staff and this team have mapped 54 different process maps in just the licensing side. The optometry licensing side has just

concluded, and the Board is about to enter into a very exciting graduation season for the optometry licensing program. Staff have recently begun work on the opticianry licensing processing maps and hope to conclude them soon. Upon conclusion the project will move on to the enforcement then administrative units. The purpose of the project is to identify opportunities for efficiencies and best practices. Mr. Pruden provided some examples of efficiencies staff have identified from this project. For licensure verification requests, most states have a license lookup functionality and, in most cases, it is able to be used as a primary source verification. On the applicant side, they may save some nominal money by not having to apply for and pay their home state for a letter of verification. On the Board's side, we are likely to save a few weeks of application time. Staff are starting to see other states reach out proactively to our Board encouraging the use of their very own online lookup systems.

Paper applications are another opportunity to realize efficiencies.. If the Board is able to move these applications online, it would reduce paper and likely have a much more efficient process. Examples of these include the retired and retired volunteer applications, the glaucoma and immunization certification applications, and the fictitious name permit (FNP) applications. The Board receives approximately 150 of these FNP applications per year, and the overwhelming majority are deficient at the moment they arrive at the Board. Most of these applications are missing items such as lease agreements, proof of ownership, or the Articles of Incorporation. Staff is exploring technological solutions with BreZE that would enable this license type to not be submitted unless all the required items are provided. This would speed up the process and result in a much more efficient outcome for our licensees.

Mr. Pruden reported on some recent outreach efforts that staff have been engaged in. The optometry schools have a large graduation week upon them, so staff have been meeting with the California schools most recently and also had a tour of the Sacramento City College's new optical technology lab, which was eye-opening and exciting. Recently, an updated consumer complaint form was released in two common languages (Spanish and simplified Chinese) that staff frequently encounter. The Spring edition of The Spectacle is in production and will hopefully come out at the end of this month. This edition focuses on continuing education requirements and staff are very honored to have contributions from Member Ross in that newsletter.

There were no requests for public comment.

Enforcement Manager, Joely Walker presented an update on agenda item 6.B.i. Enforcement Program. The Enforcement Unit recently hired a Staff Services Analyst (SSA), Scott Creswell for the Board's enforcement program. He began on May 1, 2023. Previously, he worked in the private sector as a Director of Store Management. Scott has a degree in criminal justice and staff are excited to have him on the team. Terri Villareal is retiring on May 30th, so this is her last Board meeting. Terri has worked for the state of California for 34 years. The statistics provided for Members today include some new categories that were requested by Members. This includes the priority and categorization of the Board's complaints, ranging from urgent to routine for both optometry and opticianry. Additionally, the Enforcement Unit is now providing probation monitoring statistics on the quarterly. All the disciplinary actions that have taken place, including citations that have been issued, are on the report.

Member Kawaguchi asked about the Case Complexity section. Ms. Walker clarified that it shows one in all three quarters for a year-to-date (YTD) total of three separate cases.

Member Sandra Sims was one of the Members who had requested the more robust information, and she thanked staff for providing the statistics.

Member Ross asked for a description of how cases are determined to end up in the high priority or urgent category. Ms. Walker explained that the case categories are listed below the complexity. Cases that the Enforcement Unit considers urgent, for example, would be sexual misconduct, drug or mental impairment, unprofessional conduct resulting in patient harm, and incompetence/negligence. These types of allegations that fall under case complexity are automatically elevated to “urgent” or “high priority”. Determination of complexity is immediately categorized at the time of receipt. Urgent cases must be run by Ms. Walker, who determines the classification or complexity. Member Ross asked if the four cases on the report are within the 181-day to one-year time frame for resolution. Ms. Walker clarified that urgent and/or high priority cases have to go to the Division of Investigation (DOI), and staff does not typically have the results within a year. It may have been other high priority cases that were resolved. If it was these cases, then possibly there was a criminal conviction. She stated that she is not sure of the specifics of each of these cases. She also clarified that high priority and urgent cases are acted upon immediately and are sent to DOI within one to three days. Routine cases take much longer because staff usually work those from their desks. If a medical release must be requested, that can take up to 2-3 weeks to obtain back from the consumer. When staff does obtain medical records or respondent summary of treatment back, they have to be sent out for a review because staff are not doctors.

Mr. Pruden reported on agenda item 6.B.ii. CE audit statistics and provided some background. During the Board’s last Sunset Review in 2020, the Board was faulted related to its CE audit performance. Resources were secured at the Board to begin revamping the audit program and Members should expect to see CE audit statistics at every Board meeting going forward. The audit program got off to a slow start in quarter one and quarter two; however, things have been picking up in quarter three. The data is limited and Members and staff should be cautioned that this reflects a very small sample size currently. However, the pass rate is showing close to 90%. One of the things the Board was faulted for coming out of the Sunset Review was this perception that the compliance or pass rate was not very high or not good enough. All the specific requirements for CE can be found in Business and Professions Code (BPC) 3059 and in Title 16, California Code of Regulations (CCR) 1536. Additionally, staff encourages licensees to utilize the tools that are available to them to track their CE, including the ARBO Optometric Education (OE) Tracker. Also, licensees can attend Board meetings in person or virtually and acquire a very easy four hours of CE.

Member Wang asked what options licensees have when they fail their audit. Ms. Walker explained that if you are chosen for a random audit, you will be contacted by Enforcement Analyst, Cricket. She will reach out and ask for additional CE. She pulls what she can from ARBO’s OE Tracker. If course credit was taken somewhere else and not uploaded to the OE Tracker, you are welcome to provide all of your information. If you still come up short, you would be issued a citation and fine, and required to come into compliance with the education that is lacking. Mr. Pruden added that in addition to a possible citation, there is an order of abatement that requires you to become compliant with the CE. Coming into

compliance with CE that one was short on does not count doubly for the subsequent renewal cycle. It only brings you into compliance with the prior cycle.

Member Kawaguchi commented that in Q3 the percentage of non-pass was relatively high, as it was over 20%. He wants to ensure that the Board has this continued discussion so that we are proactively communicating with optometry licensees to ensure that they are in compliance. Member Kawaguchi believes the Board's audits should always be above a 95% pass rate. Mr. Pruden agreed and explained that staff have been talking internally about ways that the Board can provide further outreach, specifically to this point about CE and making licensees aware of not just the requirements, but also of the tools that are available to them in this process. For example, the Board has a CE Exemption form that allows optometrists additional time to become compliant if they are falling short coming up to their license expiration date. Ms. Walker mentioned that Mr. Pruden did outreach as well at the optometry schools. He has announced to upcoming graduates that the Board is doing CE audits and what to look for in the new Spectacle newsletter edition. Also, Member Ross wrote a highly informative article that is targeting graduates as well, informing them of the CE process and the benefits of utilizing the ARBO OE Tracker.

Public comment was received from Dr. Paul Reamers who asked if optometrists with retired volunteer designation may be able to receive reduced CE requirements. Mr. Pruden explained that the law does not presently allow for that. The retired volunteer designation license is a license that enables optometrists to fully practice with just limitations in terms of location. He noted that the Board does have a CE regulation that has been publicly noticed and is in the middle of public comment as well. The public comment period ends at the end of this month. Mr. Pruden stated that Dr. Reamers's comment would certainly be welcomed in that venue as well. Mr. Pruden believes that due to the statutory allowance for a retired volunteer holder to fully practice optometry, this is why they are required to take 50 hours of CE. Member Wang added that the Board changed its CE requirement to allow for live virtual CE, making it somewhat easier to obtain the requirement.

Public comment was heard from Tiffany Witherspoon who asked if there exists a report that provides a description as to why an optometrist was not able to meet their requirement? Mr. Pruden stated that when a citation is issued, the citation is public and on the Board's website. It will state in detail the specific information related to that person. The enforcement statistics reported on earlier today include an example of this.

Member Morodomi recalled asking a similar question in the past as to whether it is the responsibility of the Board or the licensee to keep their license up. Why is the Board blamed for licensees not fulfilling their obligations? The explanation he received was that although the statistics were high, the errors were minor or inadvertent and not an outright disregard of the Board's CE requirement rules. Member Kawaguchi tagged onto this stating that as the Board continues to roll forward with auditing CE, he believes that we will have an opportunity to continue to educate because our regulations will be changing related to CE requirements, and anytime there is any change there will always be confusion.. This will be a great opportunity for the Board to be proactive in communication, whether it be directly with licensees or through partners, such as the California Optometric Association (COA).

Public comment was received from Dr. David Turetsky who asked if a licensee fails their CE requirement, and they receive a citation, is their license is temporarily suspended until

the CE requirement is met? Mr. Pruden responded that the license is not suspended when a citation is issued for failing to meet the CE requirements. Member Wang asked if there is a certain period that they have to complete their CE. Mr. Pruden explained that in the order of abatement, there is information that provides them a certain length of time (depending upon how deficient they were on their CE) to come into compliance.

Administration and Licensing Manager, Randy Love presented agenda item 6.C.i. examination and licensing programs statistical review for quarter 3 of fiscal year 2022-2023. Mx. Love reported that the modifications and amendments to BreEZe continue. Some of the changes that are occurring currently include more mailing address functionality, as well as bypassing the continuing education question for optometrist who are renewing their license as inactive. Staff are working on updating the fictitious name permit applications and making changes to the non-resident contact lens seller application. Those applications and materials will refer to the current correct name of the Non-Resident Ophthalmic Lens Dispensers. The ability to order a verification of license will be added to the BreEZe system. The application for a temporary license will also be added. An issue staff have encountered is the way BreEZe interacts with our exam vendor, PSI for the California Laws and Regulations Exam (CLRE). There have been some issues this graduation season; when an applicant is approved to sit for the exam, that approval does not automatically go to PSI. This is one of the issues staff have been working on. The statistics provided show the manual processing time that had to be involved.

Mx. Love reported that regarding outreach, Mr. Pruden provided some presentations to the current graduating class of optometrists. Mx. Love has done this several times and they have always found it to be a great experience and very helpful for the upcoming applicants. In the statistical review of quarter three, Members can see that the exam request volume almost triples. The volume of applicants applying to sit for the CLRE skyrockets at the beginning of the calendar year. He noted that while the number of applicants is rising, the processing time for approving the applications is shortening.

Mr. Pruden reported that during the December meeting, staff reported on a backlog of Fictitious Name Permit (FNP) applications. Members can see that staff has done a lot of work closing out that backlog and staff had completed well over a hundred FNP applications. Members can see this visually on the statistical graphs provided, which also go into the opticianry program. Management and staff feel that the workload is being managed within the set timelines. Timelines are heading downward. He wished to call Members attention to these new stats and highlight a few of the wins the Board is seeing as a result of this visual data.

Member Garcia questioned the stats of the canceled licenses that were expired more than three years and if it was a running total. Mx. Love confirmed that it is the current running total of canceled licenses as of the day that this was reported. Mr. Pruden noted that by law, expired licenses cancel after three years of expiration.

Member Sims congratulated staff on the handling of the backlog and on the new stats stating that they look great. She thanked staff for making the adjustments.

Member Stacy Hancock asked, regarding the Registered Dispensing Optician (RDO), Spectacle Lens Dispenser (SLD), and the Contact Lens Dispenser (CLD) registrations, if they will show as surrendered or canceled since there is not a retirement status option? Mr. Pruden confirmed that this is his understanding. He is not aware of a retired category

on the optician side. Member Hancock asked if the Board might have a time to address this? Mr. Pruden explained that it would most likely require a statutory change.

There were no requests for public comment.

Mr. Pruden reported on agenda items 6.D.i., 6.D.ii., 6.D.iii., 6.D.iv., 6.D.v., 6.D.vi., and 6.D.vii. The current status of the mobile optometric practice regulations remains at the staff level. Staff are working on package documents and have recently consulted with the Budget Office on updating several of the workload calculations related to the fiscal side of these regulations. It is anticipated that the regulations will be submitted to the DCA Legal Office this June. The second previously approved regulation package is the optometry continuing education regulations. This regulation was noticed on April 14, 2023, and is in the Office of Administrative Law (OAL) for a 45-day public comment period. The public comment period ends on May 31st. Public comment is welcome from anyone on these proposed regulations. The third regulation is the implementation of AB 458, the home residence permit. Staff development on this regulation is beginning, but there is not an estimated timeline for submission at this time. This same comment would apply for the next several Board-approved regulations: the optometry disciplinary guidelines, the optician program omnibus regulations, the dispensing optician disciplinary guidelines, and the requirements for glaucoma certification. All of these remain at staff level without an anticipated date of submission at this time.

Public comment was received from Dr. James Deardorff who asked how long it will take upon approval for the mobile optometric office regulations to be implemented. Mr. Pruden stated that staff are not able to provide a certain date; however, July 1st of next year is the target date. The process moves from submission to the Division of Legal Affairs. Their review process time could be a month or more. It is Mr. Pruden's intention to submit materials that minimize any back and forth during the review. Upon approval from the Division of Legal Affairs, the package will move throughout the Department and then go to Agency. There will be a 45-day public comment period once the regulations are noticed. Mr. Pruden fully recognizes the importance of this endeavor. This is a statutory requirement that this Board has failed to meet for the last few years. His commitment is to carry the baton forward and implement the regulations as the Legislature directed. He looks forward to sharing more updates at future meetings regarding this and all the other Board-approved regulations. Dr. Deardorff commented that it is great to learn that progress is being made. He is eagerly anticipating the day that he can have a mobile optometric office up and functioning.

7. Legislation and Regulation Committee Report and Consideration and Possible Action on Committee Recommendations

- A. AB 1028 (McKinnor) Reporting of crimes: mandated reporters.
- B. AB 1570 (Low) Optometry: certification to perform advanced procedures
- C. AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law
- D. SB 340 (Eggman) Medi-Cal: eyeglasses: Prison Industry Authority
- E. SB 457 (Menjivar) Vision care: consent by a minor
- F. SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing

Audio of Discussion: [1:46:25](#)

Mr. Pruden provided an update on several legislative bills as follows:

At the March 17, 2023, meeting, the Board referred several legislative bills to the Legislation and Regulation Committee (LRC) for further discussion and analysis. At the April 21, 2023, LRC meeting, the Committee made recommendations on several bills, reported in the materials provided. The LRC discussed pursuing a legislative proposal that would encourage optometrists to take continuing education in Diversity, Equity, Inclusion, and Belonging (DEIB). The LRC requested that staff bring to the full Board a legislative proposal for consideration in 2024 to pursue a statutory change which would encourage optometrists to take continuing education courses in DEIB. Staff anticipates bringing this item to the August 2023 meeting for the Board's review and consideration.

The next update was regarding the discussion on the recent federal Military Spouse Licensing Relief Act (Licensing Relief Act). The Licensing Relief Act applies to both service members and their spouses and is intended to make it easier to transfer professional licenses across state lines when making a military move. The Licensing Relief Act permits a service member or a spouse of the service member to practice in a state where they reside because of military orders, which is not the state in which they are licensed to practice. To qualify for the federal practice privilege, the service member or spouse must have a license with a similar scope of practice that is in good standing with the state licensing entity that issued the license, and the licensee must have actively used the license during the two years prior to their relocation. To take advantage of license portability, the service member or spouse must provide a copy of the military orders that require residency in California to the Board and submit to the authority of the Board for purposes of standards of practice, discipline, and fulfillment of continuing education requirements. The license of the service member or spouse must also remain in good standing with the state licensing entity that issued the license.

There is some question within the Department and within this Board about how exactly this reciprocity would apply. Optometry and opticianry licensees in any other state would be able to come to California and use that license to practice here. They would not have to apply for or receive any authorization from the Board. However, they would have to submit to their new state's requirements, and the federal law specifically mentions CE. Therein lies a very specific question about how this would apply to us. Does this mean they must meet our CE requirement? It is an open-ended question in terms of impact to our Board. Historically, CSBO does not receive a high volume of service member or military spouse applicants, so it remains to be seen what type of impact the Licensing Relief Act will have on the Board and its staff. Staff is working with DCA Office of Legal Affairs on guidance for how to apply the provisions of the Licensing Relief Act to individuals who may avail themselves of the provisions of the statute in the future. The Board already under current law performs a variety of necessary services for our military families and certainly looks forward to assisting them and helping them navigate this new federal law.

Member Kawaguchi noted that as the Board rolls forward with its interpretation, potentially the Board may have to consider some regulatory changes for optometry. He asked if we are waiting to hear from DCA or if this is something the Board will internally evaluate? Mr. Pruden believes the Department is further examining this from a legal perspective and having conversations in that regard, with the objective of trying to provide some guidance to all of the boards and bureaus within DCA. Member Kawaguchi argued that not having anything in regulations puts the Board in a bad situation of a practitioner potentially demanding to practice in a certain way or get certain things that other states are allowing. Mr. Pruden acknowledged this great point and explained that staff are still in an education

and learning mode currently, but are looking forward to providing both good service and the right service to all our applicants and licensees, and certainly those folks who have served our country. Staff are very interested in ensuring that the Board applies the law correctly and in ensuring that it assists our military families in the way they deserve to be served.

There were no requests for public comment.

Mr. Pruden reported on AB 1028 (McKinnor) Reporting of crimes: mandated reporters. All healing arts professionals are required to report to law enforcement when they suspect physical harm, sexual or domestic violence. This bill would eliminate that requirement for optometrists when they suspect that a patient has suffered physical injury caused by assault or abuse. It would replace that existing mandate with the requirement that they be given brief counseling education and a warm handoff to a local or national provider of violent advocacy services. It exempts health care professionals from civil or criminal liability for reports they make in good faith. There is a very large group of both proponents and opponents lined up on either side of this bill. When the Committee considered this bill on April 21st, the recommendation from Committee Members was neutral. There was a split vote of 2 to 1. Nothing would prevent the practitioner from making a report; it would only change the mandate from a mandate to a permissive.

Member Garcia stated that of all the bills, this one fit most cleanly in our duty for protecting the health and safety of all Californians, especially the most vulnerable. This mandated reporting law has been in place for decades and he does not see any reason why there would be any need to change it. If providers see something, they should say something, and Member Garcia believes this bill waters down that responsibility to a point where a lot of providers will say, "It's not mandated anymore; I'm just not going to get involved," which will lead to more cases of assault and child abuse. He stated as a Board, this kind of protection is what we are here to do, and he sees no reason to take a neutral or a support position.

Member Sims concurred with Member Garcia. She believes it should continue to be mandated and wants to ensure that her opinion is on record.

Member Morodomi noted that this bill applies to all health care providers, not just optometrists. He questions whether the Board wants to take a position on this. He is not advocating that the mandate be changed but whether this is a bill that we want to oppose on record. Member Morodomi suspects that the proponent's argument is that the mandate deters people from seeing psychologists or other health care professionals because if they know that abuse will be reported, some folks may be deterred from seeking medical help.

Member Garcia responded to Member Morodomi's comment stating that optometry is often the gateway to health care for these folks. Often those who do not seek primary care end up in optometry offices because they see ODs as a specialty who can help them and is non-threatening. Member Garcia believes the Board should be proactive and take a position and say that mandated reporting is healthy and provides safety and advocacy. He does not believe it would in any way negatively affect the other professions.

Member Ross echoed Member Garcia's sentiments. He believes taking a neutral position would be the wrong move in this situation because health care providers are always in the position of protecting patients.

Member Kawaguchi commented that he agrees with some aspects of this and disagrees with others. He is not ready to take a position on this bill but sees it as an opportunity to wait a while and see how things proceed forward. He does not see a necessity for taking a position at this time.

Member Morodomi commented that he thought that not taking a position is the equivalent of neutral. Mr. Pruden clarified that this was brought to the Board because of its direct impact to the licensee. This impacts our licensees as well as all other healing arts professionals. There are a variety of reasons (political and other) why one would take a neutral position and not support or oppose. For example, if there is a split vote at the Board and a support or oppose position cannot be arrived at, a neutral position could be a compromise position. Another reason why somebody might stay neutral on a bill is to see how developments in that bill unfold as it moves throughout the legislative process.

Member Sims asked, if the Board remains neutral at this time, at what point can the Board come in and say that we are in support of maintaining the mandate? Mr. Pruden explained that taking a position on any legislative bill is a formal action by the Board. If the item was appropriately agendaized, the Board would have the authority to entertain a motion and make a different determination. Member Sims clarified that she is asking specifically about timelines. What is the progression of this particular bill, and do we anticipate having an opportunity during the August meeting to make a more affirmative response? Mr. Pruden responded stating that where this bill will be in August is impossible to know; however, the August meeting is quite late into the legislative year, and so by that time most bills have moved into a place where your ability to influence the outcome is less than what it would have been earlier in the year. This does not mean that there is no future opportunity. The Board can call a special Board meeting and entertain possible actions on items via that route as well. Mr. Pruden also noted that we are in the first year of a two-year legislative session. If this bill is not acted on this year, it does have the ability to still be alive and acted on next year.

Member Morodomi commented that he is still unclear as to what choice the Board has on bills in general. Mr. Pruden clarified that there are a number of choices the Board can take. It can take a formal "no" position, a support position, a support if amended position, an oppose unless amended position, or a "no position" position.

Member Pruitt stated that he is somewhat on the fence with this bill. He can see what they are trying to achieve with this bill; that the ability to report abuse is not removed but rather more options for addressing it are permissible. He argued that there are so many nuances with things like this and even where he is currently practicing (in Indian health) there are many cultural factors that come into play where the mandated reporting sometimes does not fit and can even be counterproductive. He described a situation when he was at the VA where he had a patient suspicious of elder abuse. At that time, the protocol was for VA police to come in, armed, and escort the patient to Social Services. That patient never returned for follow-up care. Member Pruitt is trying to understand this bill and he sees it as not removing the ability to report, but trying to find more options to allow it to be handled in the best way that suits the situation.

Member Garcia noted that there are great arguments on both sides, but he argued that by removing the mandate, you remove responsibility and if you take that away, it becomes someone else's problem. Member Garcia feels the Board should oppose the bill.

There were no requests for public comment.

Jeffrey Garcia moved to take an oppose position on AB 1028. Sandra Sims seconded. The Board voted as a split (4-Aye, 4-No) and the motion did not pass.

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

Member Sims suggested that the Board request that they amend this bill to indicate that reporting suspected abuse is mandated; however, the health care professional may consider and decide whether it should be mandated to the police or handed off to a community resource. Member Pruitt agreed that he is in full support of this suggestion.

Mr. Pruden stated that he does not see the permissiveness that a health care provider has with respect to the warm handoff to the domestic violence agencies. He believes the bill does require that. Mr. Pruden, Legal Counsel, and Members debated the bill's language.

There were no requests for public comment.

Jeffrey Garcia moved to oppose the AB 1028 unless amended to mandate reporting to either law enforcement or other social services that are available. Sandra Sims seconded. The Board voted (7-Aye, 1-No) and the motion passed.

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

Mr. Pruden reported on AB 1570 (Low) Optometry: certification to perform advanced procedures. This bill was introduced in February of this year. The current status, since this is a 2-year bill, is that it will not be moving forward during this calendar year. It remains eligible for the Legislature to act upon in January 2024. This bill is a reintroduction of AB 2236, which was substantially similar. It would create a new certificate type to allow

optometrists to perform the following: advanced laser surgical procedures, excision or drainage of non-recurrent lesions of the adnexa, injections for treatment of chalazia and to administer local anesthesia, and corneal cross-linking procedures. Prior to this certification, optometrists would need to pass a specific training and exam and complete education requirements developed by the Board. It would also require optometrists to report any adverse treatment outcomes to the Board, which the Board would be required to review. This bill is important as it expands the scope of optometry to enable most licensed optometrists to provide optometric services in California that are consistent with their education and training. The LRC focused largely on the implementation work that would be required in the present version of the bill, which includes implementing forms, setting fees, and developing a process to receive and review adverse reports. It is a two-year bill, which gives the Board and staff an opportunity to partner with the sponsor of the bill, the COA, and other stakeholders. Much of the LRC's conversation focused around how to make the bill more easily implementable from a Board and staff regulatory perspective. The Committee recommendation was support if amended with those amendments involving those implementation items. It was a unanimous vote by the Committee.

Public comment was received from Kristine Shultz with the COA who stated that she has had good conversations about how to address the implementation issues and the COA has been working through the process. Ms. Shultz is looking forward to working with the Board in the future.

There were no more requests for public comment.

Lillian Wang moved to support AB 1570 if amended. Jonathon Ross seconded. The Board voted unanimously (8-0) and the motion passed.

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

The Board took a break for lunch then reconvened at 1:45 p.m. Member Garcia took roll call. All Members were present except for Eunie Linden and Donald Yoo, who remained absent. A quorum was established.

Mr. Pruden reported on AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law. This bill impacts optometrists, but most principally it impacts healing arts colleagues in other professions, such as medical doctors, physicians, and nurses. Essentially this bill tries to prohibit all healing arts boards under DCA from denying an application for license or imposing discipline solely based on the civil judgement, criminal conviction, or disciplinary action taken in another state.

There were no requests for public comment.

Jonathon Ross moved to support AB 1707. Stacy Hancock seconded. The Board voted unanimously (8-0) and the motion passed.

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

Mr. Pruden reported on SB 340 (Eggman) Medi-Cal: eyeglasses: Prison Industry Authority. This bill is substantially similar to SB 1089, which was sponsored by the COA last year. This Board considered SB 1089 last year and took a support position on it. SB 1089 was amended and SB 340 was introduced this year to bring this proposal forward again. This bill, for purposes of Medi-Cal reimbursement for covered optometric services, would authorize a provider to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from the Prison Industry Authority (PIA), which current law requires and has done so for approximately the last 30 years. The bill would condition implementation of this provision on the availability of federal financial participation. The eyeglass benefit for children is mandatory and optional for adults. There was a robust conversation with the LRC regarding some challenges within the CalPIA / eyeglass benefit relationship which include wait times and the length of time it takes from when eyeglasses are ordered to receipt of the glasses. There was also some conversation around costs - how much the eyeglasses cost under the current program versus how much they might cost under this bill. Costs range from \$6.5 million to \$29.1 million to implement this bill. Some but not all of the costs would be borne by the general fund. There is no fiscal impact to this Board or our fund. The cost mentioned are impacts elsewhere. The current estimated pay-out payment rate for CalPIA is \$19.82 per pair of lenses and the LRC analysis estimates that the non-CalPIA rate would be \$47.76. In addition, the Appropriations analysis mentions possible impacts to the state prison system and the general fund because incarcerated individuals who work on these orders would likely realize a reduction in their work meaning a reduction in their service credits for the term of their imprisonment. The conversation in the LRC resulted in a neutral recommendation with a split vote of two-to-one.

Member Garcia announced that he was one of the supporters for this bill. As a private practice optometrist who accepts Medi-Cal and who also worked in the prison optometry realm for over 20 years, he understands this from both private practice optometry and prison optometry perspectives. Member Garcia does not believe this bill in any way is proposing eliminating CalPIA optical services. It is a valuable program which helps inmates acquire a technical skill that is usable when they are released. He believes this bill is important for access to eye care in California. Access to eye care (especially with Medi-Cal) is very poor and the wait time for Medi-Cal CalPIA glasses is very long, much longer than in a private lab. He argued that the CalPIA service is good but it is placing all of our

eggs in one basket. Member Garcia argues that the estimated cost of \$47.76 per pair of glasses is inaccurate. In his private practice, when he pays a lab to make glasses it averages out to less than the \$19.82 that CalPIA says their glasses cost.

Member Morodomi commented that this is a difficult decision. One of the most fulfilling decisions he has made as a Board Member is hearing about someone who, following incarceration for a very serious crime, was rehabilitated and has been able to utilize the CalPIA program to become an optician and become an extremely productive and inspiring member of society. He would hate to kill those opportunities. Member Morodomi stated that he was not ready to take a position on this and thus voted neutral. CalPIA has statewide data claiming their turnaround time to be 5.5 days. The Board also has anecdotal information from very respectable optometrists who claim the time is much longer. He is very concerned about how this might debilitate the CalPIA program.

Member Hancock commented that in her 29 years of experience, she has known this system to be broken and causes more harm than good. She also believes that the cost discrepancies are very highly inflated. She would be interested in seeing more information as to how they are arriving at those numbers because in any realm, they seem very inaccurate.

Member Garcia noted that there are 13 million Californians on Medi-Cal who are dependent upon this system to work efficiently. This bill is not designed to kill the CalPIA program and he believes the Board should support it in terms of what is doing to help train those incarcerated individuals; however, the numbers of rehabilitated inmates who benefit from the program long term upon release are very small compared to 13 million Californians. The benefits of this bill are that turnaround times for glasses will become normalized, it will help the California economy and it will introduce more jobs into smaller businesses and labs in California.

Public comment was received from Kristine Shultz with the COA who argued that for more perspective, this is an equity matter. People on Medi-Cal should not have to wait three to five times longer for their eyeglasses. Regarding costs, COA is working with the Department of Health Care Services (DHCS) to address those concerns. DHCS has the ability to set the rates through regulation. They can reduce the rate to match the CalPIA rate. Additionally COA is looking at legislative language in the bill that would potentially set the rate. She argued that ultimately this is not about making money; rather it is about ensuring that people have access to care right now.

Public comment was heard from Michele Kane with CalPIA. She argued that there is no need for SB 340. CalPIA has system tracked time and currently their turnaround rate for glasses is 4.4 days. This timeframe represents the average amount of time it takes CalPIA to process and order, receive the order in its lab, and ship to the provider. This is the only part of the process that CalPIA can control. This does not include the time that an order may be with an optometrist before it is sent to CalPIA, or the time it takes for an individual to actually collect their glasses. Additionally, CalPIA has a contractual agreement that orders are shipped from its lab to the provider within two business days. Their quality well exceeds the industry standard, and CalPIA has had this partnership with DHCS for 35 years providing Medi-Cal glasses. She also noted that this bill would incur a huge cost to the state of \$41.5 million in one year. Ms. Kane argued that CalPIA is experiencing great success with the program. There are 420 incarcerated men and women currently that work in the optical lab. CalPIA has rehabilitated individuals working at VSP, Lenscrafters, and A

Site for Sore Eyes National Vision. These are well sought-after jobs in prison and it would be devastating for this program to dissolve. Ms. Kane reiterated when it comes to quality and turnaround time, the CalPIA program is top notch currently. With COVID everything was delayed, but CalPIA is back to normal and the inmates take such pride in this program.

Public comment was heard from Ruby Garcia. She commented that there are other options in our state currently. Many optician programs are opening up in California. Anyone can come from anywhere, from prison, or from any industry and there will be the opportunity for training. She does not believe the Board or this bill is closing opportunity for anyone. She noted that we are here to help them.

Member Morodomi stated that he would like to hear the CalPIA's representative's analysis for why they believe CalPIA would be detrimentally affected if this bill passes. Ms. Kane responded explaining that the average cost to house someone in prison is \$127,000 and just to get someone to have those job skills to work on the outside in real world experience, this would be huge. Ms. Kane argued that she believes folks will decide to not send the orders for the prisoners to fulfill but rather to other places, which will hurt these job-training programs. She noted that these are rehabilitative job training programs and they work. CalPIA has a 15% recidivism rate overall. This means 85% of the men and women are remaining out of prison and they have careers. They have successful jobs. These statistics were arrived at by a UC Irvine study that was recently done in 2021. Member Morodomi asked if other states have prisoners making optical products and if so, do those other states allow their Medi-Cal or equivalent programs use the private sector as well? Ms. Kane responded stating that the federal prison system recently gave a tour at California State Prison (CSP) Solano and they were quite impressed with what they saw. She does not want to say that no other states have a program similar to CalPIA; she is not sure about that, but the federal prison system is looking at mimicking what CalPIA has.

Member Wang asked why Ms. Kane is so certain that people will choose not to use the CalPIA system since the turnaround time is 4.4 days? Ms. Kane clarified that she is basically saying not to give people the option because CalPIA wants to provide those job skills to rehabilitate prisoners and the system works. Member Wang agreed and clarified that she is just confused because Ms. Kane seems so certain that if the bill passes folks will not choose their system. Ms. Kane stated that she hopes they would choose CalPIA, but at the same time, everyone that chooses to use another lab provider will mean positions will go to the wayside and CalPIA prisoners would not be able to have as many job training positions.

Member Garcia commented that he respects everything Ms. Kane has said but he also thinks it is unreasonable to assume that with 13 million Medi-Cal patients, allowing options is somehow going to decimate the program. Member Garcia noted that if in fact their turnaround time is 4.4 days, he would think that none of the optometrists who accept Medi-Cal would move away from their program. If the bill passes, providers will have options, which he believes is a good thing because it is helping the 13 million Medi-Cal recipients that are not getting the benefit that the private sector patients are receiving. Additionally, if the timeframe is 4.4 days, nobody is going to move away from the CalPIA program.

Member Kawaguchi asked if any of the numbers the Board is being presented with, are any of them vetted with an outside source? Or all they all internal numbers that were presented? Member Garcia responded that he believes COA did a survey in January. Mr.

Pruden stated that staff did not verify with any third party. Ms. Shultz asserted that the COA did perform a survey in January which revealed that over 40% of people had waited over one month for their eyeglasses. This was just a survey of the COA's members and not an external validation of that data. Ms. Kane stated that their data is system tracked data from working with DHCS. She also noted that the survey referenced was back in January. She is not sure when the survey was taken. If it was taken back in 2020-2022, that was during COVID. She believes that the longest processing time CalPIA incurred during COVID was two weeks, and then it was brought right back down. Ms. Shultz clarified that they performed multiple surveys and her understanding is that CalPIA's data is the data they submit to the DHCS.

Member Kawaguchi commented that consumers covered by Medi-Cal are already underserved, and it concerns him that there exists a possible lack of access to treatment for those who need it. Member Kawaguchi feels a little misguided by all the data because he does not know if that data is fully reliable from either party. He does feel that there is an opportunity to improve access, not only to treatment in the form of glasses, but also care as far as services for our Medi-Cal patients in California.

Member Garcia argued that this problem has historically existed in the practice of optometry since 1993, when he graduated and probably before that. So, this is not new; it is not just a COVID issue. COVID made it worse, but it is an inherent efficiency issue that has occurred for a long time. Member Garcia added that he thinks the program is a great program and he does not believe that anything arising from this bill is going to negatively impact the number of opticians trained through the program.

Member Morodomi asked if eyeglass manufacturers offer any incentives to place orders with their company? If an eyeglass manufacturer offers an incentive to an optometrist to send the glasses order to them, would not an optometrist be inclined to send it to that private manufacturer? Therefore, would the private sector have an unfair advantage over CalPIA? Member Hancock replied that in her experience, it has been just the opposite. The only incentives that a lab is going to offer would be on the higher end products, which are products not covered under Medi-Cal. She has never seen an incentive program for a base product.

Jeffrey Garcia moved to support SB 340. Jonathon Ross seconded. The Board voted (7-Aye, 1-No) and the motion passed.

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

Mr. Pruden reported on SB 457 (Menjivar) Vision care: consent by a minor. This bill was amended in March of this year and it is currently in the Assembly. It is moving fairly

quickly. Under existing law, minors (15 years or older) may consent to various medical services without the authorization of their parents or guardians if they are not living with their parent or guardian and manage their own financial affairs. Under existing law, these minors are able to consent to medical and dental care. Because the law does not explicitly authorize these minors to consent to vision care, some independent minors are denied care unless parental consent is provided. This bill has been included because the author has identified specific challenges around homeless youth on accessing vision care. This bill seems to be a commonsense measure to apply what already exists from medical and dental care to include vision care. It does provide a definition of vision care, which is “diagnosis, prevention, treatment, and management of disorders, diseases, and dysfunctions of the visual system and the provision of habilitative and rehabilitative optometric services by an optometrist licensed in California”. The language is consistent with language in our Practice Act, Business and Professions Code Section 3041. This bill is supported and sponsored by the California Coalition for Youth and is also supported by the Alliance for Children’s Rights and the COA. The Committee recommendation was to support with a unanimous vote.

Public comment was received from Kristine Shultz who expressed strong support for this bill.

Public comment was heard from Kim Lewis with the California Coalition for Youth and the sponsor of SB 457. She thanked the Members for their consideration of taking a support position. She also noted that there is a definition of medical and dental care in a different part of the code. It does not show up in this bill because it is a whole new section that they are adding to this definition to be consistent with the Board’s scope of practice.

Jonathon Ross moved to support SB 457. Sandra Sims seconded. The Board voted unanimously (8-0) and the motion passed.

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

Mr. Pruden reported on SB 544 (Laird) Bagley-Keene Open Meeting Act teleconferencing. This bill was most recently amended on April 27th. It was set for hearing just a few days ago in the Committee on Appropriations. Mr. Pruden noted that the Board has benefited from our current law, which enabled the Board to meet virtually in a hybrid setting. However, current law only authorizes that ability until July 1st of this year. This bill would authorize the Board and every other board who has been enjoying this hybrid environment to continue meeting in this way without having to notice or otherwise make publicly accessible those virtual locations. This bill does not contain an urgency clause and current law only authorizes the ability to meet in a hybrid way until July 1st. Therefore there would be a six-month gap where this bill would not benefit the Board. The Committee

recommendation was support, and Mr. Pruden believes Members and staff want to continue to enjoy the flexibility. Another benefit by being able to meet virtually is saving money by not having to pay for travel and other expenses.

There were no requests for public comment

Jonathon Ross moved to support SB 544. Glenn Kawaguchi seconded. The Board voted unanimously (8-0) and the motion passed.

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

8. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16 California Code of Regulations Sections 1524, 1399.260, 1399.261 and 1399.263, relating to fees.

Audio of Discussion: [57:36](#)

Mr. Pruden presented this discussion and possible action to initiate a rulemaking to amend Title 16 California Code of Regulations related to fees. At the August 2022 meeting, this Board received detailed information from the DCA Budget Office regarding our fund condition. At that time, the Board was facing a nearly \$1 million structural imbalance in the current fiscal year ending July 1st. If the Board had fully expended our appropriation, we were informed that the structural imbalance would likely grow and accelerate over time unless action was taken. At the December meeting, updated information showed that the projected imbalance had come down slightly to \$850 thousand dollars. This result was realized due to a combination of reduced spending, but also lower than previously projected revenues. At the most recent meeting in March, updated information presented showed that the projected deficit through the end of this fiscal year had been further reduced to approximately \$544 thousand. This reduction occurred primarily due to salary savings realized by not filling vacant positions. The revenue projections remain consistent. Currently the Board is looking at a projected \$515 thousand structural deficit in the current fiscal year ending June 30th. The current projections show that expenditures are continuing to outstrip revenues, and this structural deficit is expected to deplete our fund by Fiscal Year 24-25, assuming the Board fully expends its appropriation.

The Board has identified a few items believed to be the cause of the structural deficit. The first item is the budget change proposals (BCPs) that the Board secured over the last couple fiscal years. These budget change proposals increased costs by about \$1.4 million. Additional explanations for the deficit include failing to implement regulations and other programs which would have brought in some additional revenue. Pursuant to the analysis, the Board over projected annual revenue going back a couple fiscal years. Together the BCPs have grown the Board’s personnel expenditures by more than \$600 thousand over

just the last three fiscal years. Staff believe that in failing to implement regulations and over projecting revenue that this contributed to approximately \$300 thousand or more in unrealized revenues over the last two fiscal years. Staff will be working closely with the Budget Office revising revenue estimates going forward. Staff is committed to getting the regulatory work done: two of those regulations are the mobile optometric office program and the home resident permit.

At the March meeting, the Board directed staff to bring to this meeting proposed regulatory language that would increase all of the fees that are currently not at their statutory cap to that cap. This action is necessary to begin to put this Board on a more prudent fiscal path. Additionally, ways to improve efficiencies need to be explored. Mr. Pruden stressed that the main tool this Board has for managing this fiscal problem is to continue to hold vacant positions open. That is the only way to achieve real salary savings. Of course positions can only be held open if it is not jeopardizing our consumer protection mandate. Therefore, this is a constant balance that must be examined and achieved because at the moment, this mission is being jeopardized and the Board needs to start filling those positions. Given the length of time it can take for a regulatory action to be implemented, today's action is the most prudent step that can be taken to put this Board on a sustainable fiscal path.

Mr. Pruden reported that the Board has only raised its fees twice in the last 30 years. The last increase occurred in 2009. The application fee and the biennial renewal fee have been in place for 14 years. These two fees represent almost two-thirds of the Board's overall total revenue. Optician fees have been raised somewhat more recently with the last increase occurring in 2017. The current application fee has remained in place since the Board assumed that program. A few other fees are on the table today, including the continuing education course approval fee, which has also remained at its present level since it was instituted back in 2008, and a few other ancillary fees that have also not been adjusted since they were implemented. The analysis presented today shows that if all of these fees were raised to their statutory cap, the approximate revenue the Board would realize would be just under \$600 thousand. That is about what the structural deficit is, so that action by itself is not enough to put the Board's fund condition on a fiscally sound path and begin building a prudent fund condition and a reserve. Therefore, the Board would also need to begin pursuing a fee study which would inform what a more sustainable fiscal structure would look like for this Board.

Completed desk audits showed that the actual cost of processing the optometrists' renewals, glaucoma applications, lacrimal application, continuing education course applications and all the optician applications, registrations and renewals exceed the current fees that the Board is charging. It also exceeds the current statutory maximum. Action today, if approved, would lead to staff working with the DCA Regulatory Counsel to begin a rulemaking package of materials for submission to the OAL. The process would generally take longer than a year to complete with a target effective date of July 1, 2024.

Mr. Pruden stressed again that raising fees to their statutory cap will not put the Board on a long-term fiscally sustainable path. Assuming the Board fully expends its expenditures, we would still go negative in the exact same Fiscal Year 24-25 and would just be slightly less negative. Today's action is necessary and a prudent step to begin putting the Board's fund on a fiscally sustainable path, but pursuing a fee study is still necessary.

Member Morodomi asked, regarding the over projection of fees, who performs those projections for the Board? Mr. Pruden explained that the Board staff performed the

projections and made the mistake. Staff gave the information to the Budget Office. In Mr. Pruden's analysis of how staff over projected, he noted that in the numbers given to the Budget Office, the number of delinquent licensees that were expected to be renewing were included. However, those folks did not renew and did not intend to renew. Consequently, staff accidentally gave the Budget Office a number that was a bit artificially inflated and that number is used in calculations to build projections. Member Morodomi asked who checks the numbers and how these mistakes can be avoided going forward? Mr. Pruden assured that staff will not be making these mistakes again. Member Morodomi wishes to encourage Members to ensure that the numbers given by staff have been checked by somebody. He added that unlike a business, this Board has no control over its expenses. As labor costs rise, the Board's costs rise and the Board has no ability to negotiate how much it pays employees. The only thing the Board can do is increase its fees, but the fees are not really tied in any way to our labor costs.

Mr. Pruden clarified that raising fees is not the Board's only tool. The Board did not need to grow via five BCPs, increasing personnel expenditures so quickly while at the same time not bringing in additional revenue by implementing statutory mandates. So, he does not think fees are the only question here. He believes the Board is in the place it is now of raising fees partially because of actions we have already taken. However, going forward some of this can be mitigated by ensuring that we have more accurate numbers, and ensuring that we are implementing things; so, fees are not and should not be the only tool the Board has.

Member Garcia commented that Mr. Pruden walked into this current fiscal situation and that he has given the Board real tools and direction for getting us out of this. However, Member Garcia noted that it has been 14 years since the last fee increase and that is the problem. He asked what in our economy has stayed the same price for 14 years? Nothing. Labor costs have risen particularly in the last five years. He argued one does not have to be an economist to figure out what went wrong. Past Board Members and staff should have taken action sooner and if a fee study was done sooner, the Board would not be in this situation. Member Garcia believes it is clear what needs to be done.

Member Kawaguchi asserted that looking back, there has not been just one instance or opportunity where a potential miss occurred. The Board did a very large study that took more than two years when the optician program merged into optometry. At that time the Board was told repeatedly that the optician program would be self-sufficient with changes that were going to be made. He asked what this Board is going to do moving forward to ensure that the data it is given is correct? What happens if this current analysis is actually not fully correct? The Board was told for several years that our program is solvent and there was no need for a fee study only to be told that it is not. Member Kawaguchi wants to ensure that sweeping decisions the Board makes that affect registrants and licensees in California are fair, that they make sense, and that we do not end up with regret. He noted that the Board needs to look at all three solutions that it has. He believes it is unwise to wait to find somebody who will support a bill for the Board to get some statutory changes to the fee structure. He believes that along with the fee study, staff need to figure out if there are some vacant positions that the Board does not intend to fill, so that can be some finalization to that.

Member Kawaguchi argued that he is not certain that he can support sweeping changes from a regulatory standpoint to raise all fees to their maximum because he is not sure that this is fully fair. He noted that raising the initial CLD and SLD application fees to their cap

would more than double those fees. From a consumer standpoint perspective, California needs more SLDs and CLDs, not less. His concern is that if the Board raises those fees to their cap, it will result in a mass exodus of CLDs and SLDs from California. Mr. Pruden clarified that although it appears in the materials that the fee would be raised from \$75 to \$200, this is not actually true. He explained that existing regulatory language is actually outdated regulatory language. When the RDO program came over to the Board in 2017/2018, statute at the time actually set a fee higher than \$75. Therefore, opticians are not being charge \$75 today. Mr. Pruden also noted that one of the reasons the Board needs to do a fee study is because it has not done one since the optician program merged with optometry six or seven years ago.

There were no requests for public comment.

Jeffrey Garcia moved to support discussion and possible action to initiate rulemaking to amend Title 16 California Code of Regulations Sections 1524, 1399.260, 1399.261 and 1399.263, relating to fees. Joseph Pruitt seconded. The Board voted unanimously (8-0) and the motion passed.

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

9. Future Agenda Items

Audio of Discussion: [1:33:01](#)

Member Kawaguchi requested a discussion of CE and making the process simpler and more efficient and a possible linking to the OE Tracker system.

Members Morodomi, Kawaguchi, Ross, and Hancock expressed their appreciation for staff's hard work, and sentiments of gratitude and how wonderful their experience has been serving on the Board. These Members will be greatly missed.

There were no requests for public comment.

CLOSED SESSION

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

ADJOURNMENT

Upon the completion of closed session the meeting was adjourned.