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To: Dispensing Optician Committee Members

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**Subject: Agenda Item 3 – Registered Dispensing Optician (RDO) Program and
Dispensing Optician Committee (DOC) Overview**

- A. Board Responsibilities – Licensing, Regulatory Oversight and Enforcement
- B. Dispensing Registration Types and Registration Requirements
- C. Licensing and Enforcement Statistics
- D. Creation of the DOC and Its Responsibilities
- E. Strategic Plan Objectives and Emerging Matters

**Registered Dispensing
Optician (RDO) Program
&
Dispensing Optician
Committee (DOC)**

RDO and DOC Overview

- A. Board Responsibilities – Licensing, Regulatory Oversight and Enforcement
- B. Dispensing Registration Types and Registration Requirements
- C. Licensing and Enforcement Statistics
- D. Creation of the DOC and Its Responsibilities
- E. Strategic Plan Objectives and Emerging Matters

Board Responsibilities

“Protection of the public shall be in the highest priority for the State Board of Optometry in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

BPC § [3010.1](#)

RDO Program's Statutes and Regulations

- **Prescription Lenses**
 - [Business and Professions Code \(BPC\) §§ 2540-2545](#)
- **Dispensing Optician**
 - [BPC §§ 2550-2559](#)
- **Spectacle Lens Dispenser**
 - [BPC §§ 2559.1-2559.6](#)
- **Contact Lens Dispenser**
 - [BPC §§ 2560-2564.6](#)
- **Non-Resident Contact Lens Dispensers**
 - [BPC §§ 2546-2546.10](#)
- **RDO Program Regulations**
 - [Title 16, California Code of Regulations, Division 13.5](#)

Licensing, Regulatory Oversight, and Enforcement

- By developing licensing standards, reviewing applications and issuing licenses, the Board determines who gets into the industry or profession.
- Through adopting regulations, the Board directs the licensees' actions while in the profession or industry.
- In disciplinary actions, the Board may determine how a person leaves the industry or profession.

What is a license?

- The Board issues licenses to qualified individuals and entities
- **Definition:**
 - Generally speaking, a license is a grant of permission to do a particular thing, carry on a particular business, or pursue a given occupation.
 - License also means a permit, certificate or registration.

Licensing for Consumer Protection

- The legislature (via statutes) and the Board (by regulation) create the requirements to determine who is qualified to provide competent and safe services to the consumer.
- These requirements are not to create unnecessary barriers to entry or to protect the profession.
- Little Hoover Commission (LHC) – Easing Occupational Licensing Barriers, [October 2016 Report](#)

LHC Excerpt:

- *“The effects of occupational licensing extend well beyond people encountering hurdles to entering an occupation, the Commission learned. When government limits the supply of providers, the cost of services goes up.*
- *Those with limited means have a harder time accessing those services. Consequently, occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach.*
- *The Commission found that over time, California has enacted a thicket of occupational regulation that desperately needs untangling in order to ease barriers to entering occupations and ensure services are available to consumers of all income levels.”*

Dispensing Registration Types and Registration Requirements

- **Registered Dispensing Optician (RDO)** (BPC § 2550):
 - Individuals, corporations, and firms registered to:
 - Fill lens prescriptions written by physician and surgeons or optometrists
 - Take facial measurements, fit and adjust lenses and frames*
- **RDO Requirements** (BPC § 2551):
 - Application and fee
 - “Forms prescribed by the board”
 - Signature of individual, general partners, or president or secretary of a corporation
 - Proposed business name and address
 - Separate application per address

*Must be duly registered as SLD (BPC § 2559.1) and/or CLD (BPC § 2560)

Dispensing Registration Types and Registration Requirements (cont.)

- “Each application shall be verified under oath by the person required to sign the application ...” (BPC § 2552)

10. Applicant's Declaration/Signature and Notary (To be completed in the presence of a notary by an owner/officer named above.)

I, _____, being first duly sworn upon his/her oath deposes and says:
(PLEASE PRINT FULL NAME OF OWNER/OFFICER)

that I declare under penalty of perjury under the laws of the State of California that: (1) the business described herein will not advertise the furnishing of, or furnish, the services of a refractionist, an optometrist, or a physician and surgeon, directly or indirectly employ or maintain on or near the premises used for optical dispensing, a refractionist, an optometrist, a physician and surgeon, or a practitioner of any other profession for the purpose of any examination or treatment of the eyes (B&P § 2556), (2) the business described herein will not have any membership, proprietary interest, co-ownership, landlord-tenant relationship, or any profit sharing arrangement in any form directly or indirectly with an optometrist (B&P § 655), (3) the business described herein will not fill any prescription issued by a physician and surgeon who has any proprietary interest, or has designated or arranged for any other person to have any proprietary interest in the business described herein (B&P § 2553.6), (4) the business described herein will not have any membership, proprietary interest or co-ownership in any form with a physician and surgeon to whom patients, clients or customers are referred or any profit-sharing arrangement (B&P § 654).

Further, that I am the person herein named subscribing to this application; that I have read the complete application, know the full content thereof, and declare under penalty of perjury under the laws of the State of California, that all of the information contained herein and attached thereto are true and correct. I UNDERSTAND THAT FALSIFICATION OR MISREPRESENTATION OF ANY ITEM OR RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS A SUFFICIENT BASIS FOR DENYING OR REVOKING A REGISTRATION.

SIGNATURE OF OWNER/OFFICER: _____ (PLEASE SIGN FULL NAME)
State of _____
County of _____

Subscribed and sworn to (or affirmed) before me on
this _____ day of _____, 20____.

by: (Owner/Officer name to be printed here) _____
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

NOTARY SEAL

SIGNATURE OF NOTARY PUBLIC

Dispensing Registration Types and Registration Requirements (cont.)

- **Spectacle Lens Dispenser (SLD)** (BPC § 2559.1)
 - Individual who fits and adjusts spectacle lenses
- ***Registered SLD Requirements*** (BPC §§ 2559.1, 2559.2, 2566.1)
 - Compliant with BPC § 2550
 - Apply on “forms prescribed by the board”
 - Passes the American Board of Opticianry (ABO) examination
- **Contact Lens Dispenser (CLD)** (BPC § 2560)
 - Individual who fits and adjusts contact lenses
- ***Registered CLD Requirements*** (BPC § 2561)
 - Compliant with BPC § 2550
 - Apply on “forms prescribed by the board”
 - Passes the National Committee of Contact Lens Examiners (NCLE) examination

Unregistered/Unlicensed Practice

- **SLD – BPC § 2559.1:**

- On and after January 1, 1988, no individual may fit and adjust spectacle lenses unless the registration requirement of Section 2550 is complied with, and unless (1) the individual is a duly registered spectacle lens dispenser as provided in Section 2559.2 or (2) **the individual performs the fitting and adjusting under the direct responsibility and supervision of a duly registered spectacle lens dispenser whose certificate of registration is then conspicuously and prominently displayed on the premises. A supervising registered dispenser shall be on the registered premises when an unregistered technician fits and adjusts spectacle lenses, allowing for usual and customary absences including illness and vacation.**

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

- **CLD – BPC § 2560:**

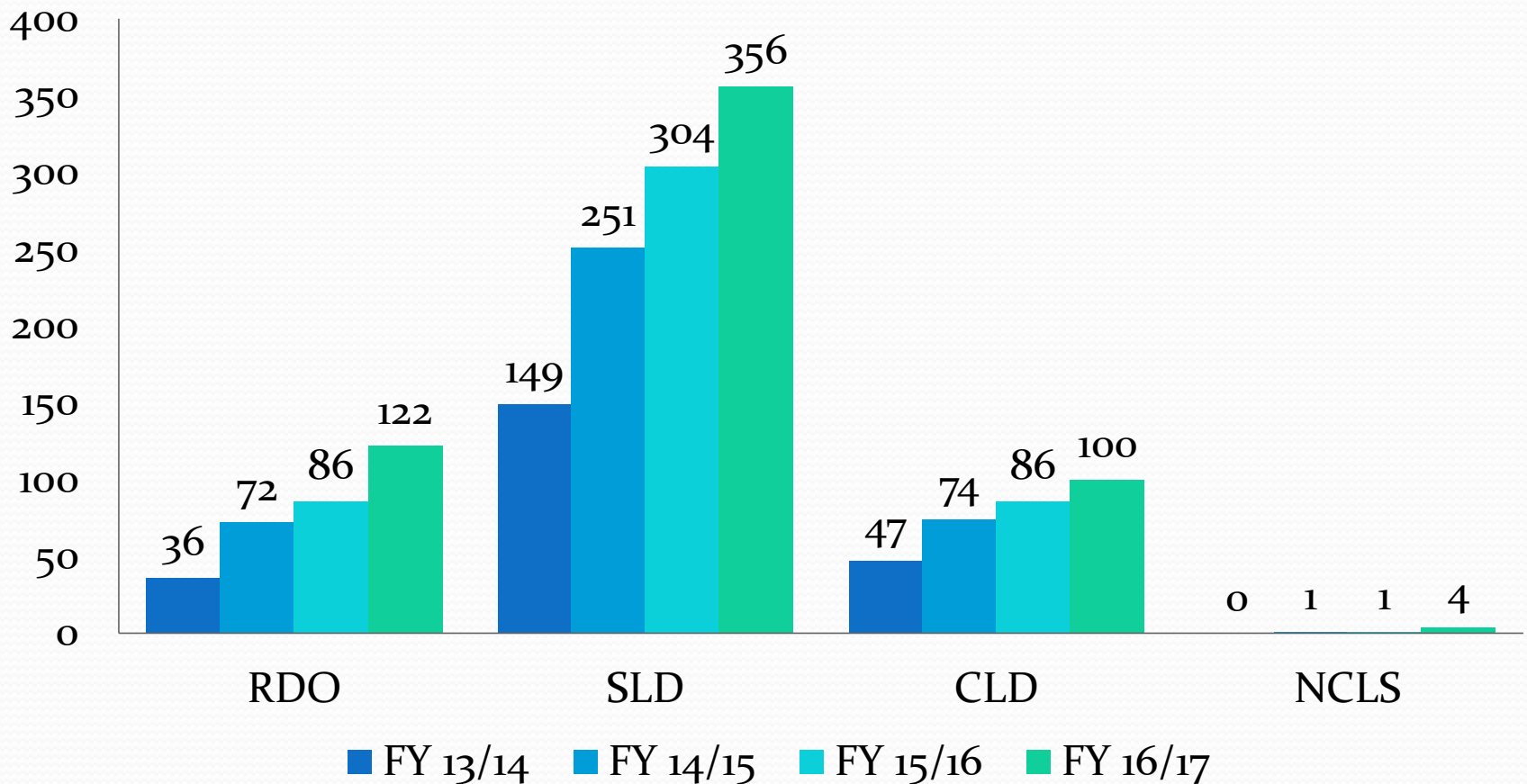
- No individual may fit and adjust contact lenses, including plano contact lenses, unless the registration requirement of Section 2550 is complied with, and unless (a) the individual is a duly registered contact lens dispenser as provided in Section 2561 or (b) **the individual performs the fitting and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

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

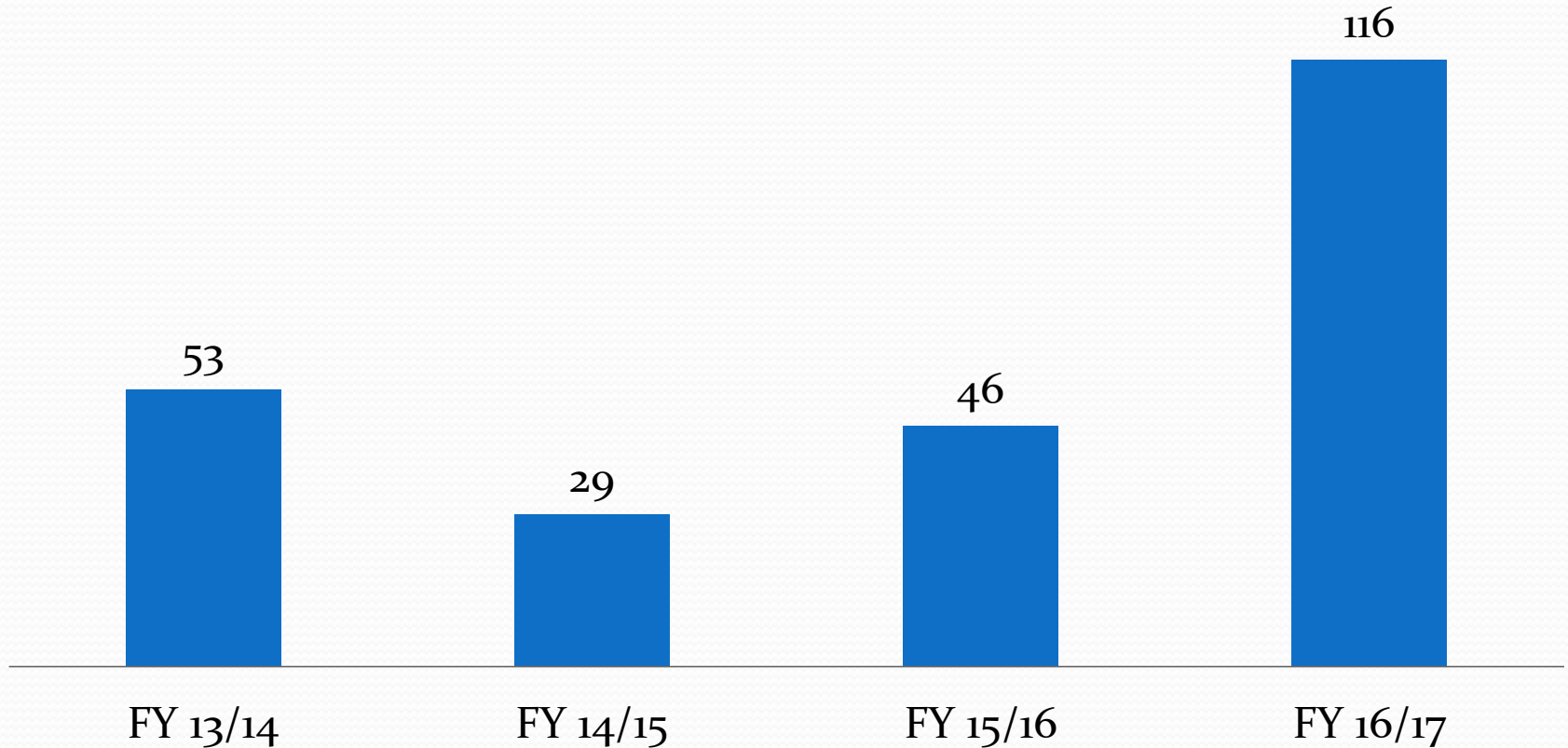
Dispensing Registration Types and Registration Requirements (cont.)

- **Nonresident Contact Lens Seller** (NCLS) (BPC § [2546.1](#))
 - A person located outside California who ships, mails, or delivers in any manner, contact lenses at retail to a patient at a California address.
- NCLS Requirements:
 - Apply on “forms prescribed by the [Board]” and pay a fee
 - To “obtain and maintain registration,” the NCLS must comply with BPC § [2546.5](#)

Applications Received by Fiscal Year



RDO Program Enforcement Cases Received by Fiscal Year



DOC Creation and Responsibilities

- AB 684
 - Allowed landlord-tenant relationships between RDOs and optometrists
 - Increased consumer protection mechanisms
 - Specific lease requirements
 - Inspection authority
 - Increased citation authority
 - Moved RDO Program from MBC to the Board
 - Replaced Optometrist Board Member with Dispensing Member
 - Created the DOC----- YOU!

DOC Creation and Responsibilities

- Mandated DOC Responsibilities (BPC § [3020\(b\)](#))
 - 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.

Strategic Plan Objectives

- Goal 1: Licensing
 - 1.1 – Streamline initial license and renewal process
 - 1.2 - Review the possibility of including continuing education requirements for both spectacle and contact lens dispenser licenses to protect consumers and maintain licensee competence
- Goal 2: Examination
 - 2.2 - Analyze the examination requirements to evaluate for competency and the validity of the examination.
 - 2.3 - Create a budget change proposal to secure funds so the Board can perform an occupational analysis on the registered dispensing optician program in order to check for validity of the examination.
 - 2.4 - Consider the feasibility of developing a state law exam for opticians to verify their familiarity with California laws.

Strategic Plan Objectives

• Goal 3: Law and Regulation

- 3.3 - Continue prioritization for review and updates to existing statutes, legislation, and regulations, for both optometry and dispensing opticians, in order to identify whether or not they are the cause of enforcement delays and determine promulgation of new regulations.
- 3.6 - Review and identify existing practice requirements with regards to unnecessary licensing barriers in an effort to reduce barriers to entry, enhance consumer access to care, and maintain consumer protection.
- 3.8 - Explore the feasibility of proposing legislation to merge the RDO and Optometry funds to stabilize the long-term Optometry fund condition.
- 3.9 - Explore the feasibility of proposing legislation to merge the RDO program into the Optometry Practice Act.
- 3.10 - Work in conjunction with all stakeholders to ensure consumer protection is weighed equally with consumer choice so legislation and/or regulation promotes fair access to goods and services while informing consumers of the risks and benefits such goods and services afford.

Strategic Plan Objectives

- Goal 4: Enforcement

- 4.9 - Adopt disciplinary guidelines for opticians to promote consistency and fairness with enforcement decisions and enhance consumer protection.

- Goal 5: Outreach

- 5.1 - Review and educate licensees about the scope of practice for optometric assistants, opticians, RDO's, CLD's and SLD's to mirror the letter and chart sent to optometrists clarifying privileges for specific licensing certifications in order to enhance consumer protection.
- 5.3 - Educate licensees and registrants about advertising requirements (e.g. free eye exams, free 2nd pair of glasses, etc.) to avoid misleading the public and reduce licensee confusion
- 5.6 - Promote BreEZe's online renewal capability to licensees to decrease manual entries and improve staff efficiency.

Emerging Matters

- “Valid Relationship” Requirement
 - CLD/SLD tied to RDO location
 - If a CLD/SLD is in between jobs, that CLD/SLD cannot be renewed
 - If the RDO is delinquent, the CLD/SLD cannot be renewed
 - New RDO locations, lag time in getting CLD/SLD
- Online Dispensers
 - Nonresident Contact Lens Sellers – not Spectacles
 - Individuals wanting to dispense lenses purely online without physical location

Emerging Matters

- Severe Outreach Needed
 - Education about the Board
 - Clarification – Board vs. ABO Certification
 - Renewal Requirement through Board NOT ABO
 - Education on registration types
 - Improved communication methods
- Low Passing Rates for National Exams
 - Potentially caused by no educational requirements
- Potential Outreach to CA Prison System
 - Trade taught in prisons, but registration not guaranteed
 - Must follow rehabilitation criteria (CCR § [1399.271](#), [1399.272](#))

Emerging Matters

- Regulations severely lacking
 - No forms/applications incorporated by reference or mentioned
 - Multiple definitions needed
 - Existing regulations need updating
- All applications need updating
- ????



THE END...

... not really.

Questions?

Ready to get to work?