



CALIFORNIA STATE BOARD OF
OPTOMETRY

Board Meeting

Friday, October 19, 2012

Teleconference





Governor Edmund G. Brown Jr.
State of California

Denise D. Brown, Director
Department of Consumer Affairs



Alejandro Arredondo, OD
President

Monica Johnson
Vice President

Alexander Kim, MBA
Secretary

Donna Burke

Madhu Chawla, OD

Fred Dubick, OD, MBA

Glenn K. Kawaguchi, OD

William H. Kysella, Jr.

Kenneth Lawenda, OD

Board Staff

Mona Maggio
Executive Officer

Administration

Andrea Leiva
Elizabeth Bradley
Krista Eklund

Licensing

Jeff Robinson
Nancy Day
Elvia Melendrez

Enforcement

Lydia Bracco
Cheree Kimball
Jessica Sieferman
Robert Stephanopoulos

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, Ca 95834
(916) 575-7170 Office
(916) 575-7292 Fax

**California State Board of Optometry
Board Meeting Notice and Agenda
Friday, October 19, 2012
12:00 p.m.**

Location 1

**Department of Consumer Affairs
1625 N. Market Blvd.,
2nd Floor, El Dorado Room
Sacramento, CA 95834**

Location 2

**Southern California College of Optometry
2575 Yorba Linda Blvd.,
Fullerton, CA 92831**

And

Via Telephone at the Following Locations:

**3301 E Main Street, Suite 1006
Ventura, CA**

**140 C Tower Street
Beaconsfield, Quebec H9W 6B2**

**2675 Saturn Avenue
Huntington Park, Ca. 90255**

**5500 Military Trail
Jupiter, FL 33458-2869**

FULL BOARD OPEN SESSION

1. Call to Order – Roll Call – Establishment of a Quorum
2. Discussion & Possible Action on the Draft 2012 Sunset Review Report
3. 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)]
4. Adjournment

Public Comments

Public comments will be taken on agenda items at the time the specific item is raised. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

NOTICE: *The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Krista Eklund at (916) 575-7170 or sending a written request to that person at the California State Board of Optometry 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.*

The Board of Optometry's mission is to serve the public and optometrists by promoting and enforcing laws and regulations which protect the health and safety of California's consumers, and to ensure high quality care.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: October 19, 2012

From: Alejandro Arredondo O.D.
Board Vice President

Telephone: (916) 575-7170

Subject: **Agenda Item 1 – Call to Order – Roll Call – Establishment of a Quorum**

Dr. Alejandro Arredondo, O.D., Board President, will call the meeting to order and will call roll to establish a quorum of the Board.

Alejandro Arredondo, O.D., Board President, Professional Member

Monica Johnson, Board Vice President, Public Member

Alexander Kim, MBA, Secretary, Public Member

Kenneth Lawenda, O.D., Professional Member

Donna Burke, Public Member

Madhu Chawla, O.D., Professional Member

William Kysella, Public Member

Fred Dubick, O.D., Professional Member

Glenn Kawaguchi, O.D., Professional Member

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To: Board Members **Date:** October 19, 2012

From: Andrea Leiva and Mona Maggio **Telephone:** (916) 575-7170
Policy Analyst Executive Officer

Subject: **Agenda Item 2 – Discussion and Possible Action on the Draft 2012 Sunset Review Report**

Background:

The Board's Sunset Review report is due to the Senate Committee on Business, Professions and Economic Development (Committee) on November 1, 2012. The Board has not been reviewed for Sunset by the Committee since 2002.

Staff has completed a draft report for the Board's consideration following the Committee's template. The template is intended to focus on issues of interest to the Committee. Upon the Board's approval, staff must finalize the report and submit 15 printed copies and a soft copy of the final report to the Committee.

Committee staff will be responsible for reviewing and analyzing information provided by the Board, and for preparing a background paper with issues to be addressed by the Board and by interested parties during the public hearing. The public hearing will be held in early 2013. The date of the hearing will be announced sometime in December. The Board is required to notify its interested parties regarding the Committee's public hearing.

Action Requested:

- 1) Staff requests that the members review, make edits, if any, and approve the Board's draft Sunset Review report.
- 2) Staff requests that the members direct staff to finalize the draft Sunset Review report and submit it to the legislature by November 1, 2012.



CALIFORNIA STATE BOARD OF
OPTOMETRY

2012 Sunset Review Report

**Presented to the California Legislature
Senate Committee on Business, Professions and
Economic Development**

November 1, 2012



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California State Board of Optometry

Board Members

Alejandro Arredondo, OD, President, Professional Member
Monica Johnson, Vice President, Public Member
Alexander Kim, MBA, Secretary, Public Member
Kenneth Lawenda, OD, Professional Member
Donna Burke, Public Member
Madhu Chawla, OD, Professional Member
Fred Dubick, OD, MBA, Professional Member
Glen Kawaguchi, OD, Professional Member
William H. Kysella Jr., Public Member

Executive Officer

Mona Maggio

Sunset Review Report Prepared by:
California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone: (916) 575-7170
Fax: (916) 575-7292
www.optometry.ca.gov

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<u>Board Action and Response to Prior Sunset Issues</u>	71	Formatted: Font: Arial, 10 pt, Bold
<u>New Issues</u>	76	Field Code Changed
<u>Attachments</u>	80	Formatted: Font: Arial, 10 pt
<u>A. Board's Administrative Manual</u>	80	Formatted: Font: Arial, 10 pt, Bold
<u>B. Board and Committee Member Organizational Chart</u>	80	Formatted: Font: Arial, 10 pt
<u>C. Major Studies</u>	80	Field Code Changed
<u>D. Year-end Organizational Charts</u>	80	Formatted: Font: Arial, 10 pt
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BOARD OF OPTOMETRY

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

As of November 1, 2012

Section 1 Background and Description of the Board and Regulated Profession

History and Function of the Board

Provide a short explanation of the history and function of the board. Describe the occupations/professions that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

The Board of Optometry (Board) is one of the forty regulatory entities within the Department of Consumer Affairs (DCA). The Board licenses and regulates the profession of optometry. [The Board is funded solely by the fees of applicants, licensees, certifications, business licenses, and other related fees.](#)

The Board's mission is to serve the public and optometrists by promoting and enforcing laws and regulations which protect the health and safety of California's consumers, and to ensure high quality care in optometric services. In order to accomplish this mission, the Board performs the following duties and responsibilities:

- [Promulgate regulations governing procedures of the Board, admission of applicants for examination for an optometric license; minimum standards of optometric services offered or performed, the equipment or sanitary conditions, in all locations where optometry is practiced;](#)
- [Investigate consumer complaints and criminal convictions which may include substance abuse and patient abuse, unprofessional conduct, incompetence, fraudulent action, and unlawful activity;](#)
- [Institute disciplinary action for violations of laws and regulations governing the practice of optometry when warranted.](#)
- Accredit schools and colleges of optometry;
- Establish educational requirements to ensure the competence of candidates for licensure;
- Establish examination requirements to ensure the competence of candidates for licensure;
- Develop and administer a laws and regulations examination;
- Set and enforce standards for continued competency of existing licensees;
- Establish educational and examination requirements for licensed optometrists seeking certification to use and prescribe certain pharmaceutical agents and other procedures; [and](#)
- License branch offices, issue statements of licensure and fictitious name permits.

The Board's statutes and regulations require a license before an individual may engage in the practice of Optometry. These statutes and regulations set forth the requirements for registration and licensure and provide the Board the authority to discipline a license.

On March 20, 1903, California became the third state to pass a law recognizing the profession of Optometry, and regulating its practice (Optometry Act of 1903 (California Statutes of 1903, Chapter CCXXXIV) later repealed by Statutes of 1913, Chapter 598). In 1913, a new Optometry Practice Act (Statutes of 1913, Chapter 598 (derived from the 1903 Act as amended by enactments of 1907 and 1908), was enacted creating the Board, defining its duties and powers, and prescribing a penalty for a violation of the Act. The Act of 1913 was later incorporated in the Business and Professions Code (Chapter 7, Division 2 (healing arts), Business and Professions Code (BPC). Empowered with rulemaking authority (BPC Sections 3025 and 3025.5), the Board promulgated the first rule for practice of optometry in 1923. In the same year, the legislature passed a law (Chapter 164, Statutes of 1923), requiring all applicants for licensure to meet certain educational requirements,

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Investigate consumer complaints and criminal convictions which may include substance and patient abuse, unprofessional conduct, incompetence, fraudulent action, and unlawful activity.¶
Institute disciplinary action for violations of laws and regulations governing the practice of optometry when warranted.¶

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i.e., graduate of an accredited school or college of optometry. The Board was charged with the responsibility of accrediting these schools. Prior to this time, individuals desiring to practice were not required to have any specific formal education.

Today, the Board is responsible for the regulatory oversight of approximately 9,000 optometrists, the largest population of optometrists in the United States. The Board is also responsible for issuing certifications for Optometrists to use Diagnostic Pharmaceutical Agents (DPA), Therapeutic Pharmaceutical Agents (TPA), since 2009 TPA with Lacrimal Irrigation and Dilation (TPL), and since 2011 TPA with Glaucoma Certification (TPG), and TPA with Lacrimal Irrigation and Dilation and Glaucoma Certification (TLG). The Board continues to license branch office licenses, and issue statements of licensure and fictitious name permits. In 2007, the Board enacted legislation to remove its jurisdiction over the licensure of optometric corporations.

Current law provides for eleven board members; six licensees and five public members. Nine members are appointed by the Governor, one public member is appointed by the Speaker of the Assembly, and one public member is appointed by the Senate Rules Committee.

Board Committees

Describe the make-up and functions of each of the board's committees.

The Board currently has four committees all composed of professional and public members:

1. Legislation and Regulation
Comprised of three public members and one professional member.
Responsible for recommending legislative and regulatory priorities to the Board and assisting staff with drafting language for Board-sponsored legislation and recommending official positions on current legislation. The committee also recommends regulatory additions and amendments.
2. Practice and Education
Comprised of three professional members and one public member.
Advises Board staff on matters relating to optometric practice, including standards of practice and scope of practice issues. Reviews staff responses to proposed regulatory changes that may affect optometric practice. Also reviews requests for approval of continuing education courses, and offers guidance to Board staff regarding continuing education issues.
3. Consumer Protection
Comprised of two public members and one professional member.
Oversees the development and administration of legally defensible licensing examinations and consulting on improvements/enhancements to licensing and enforcement policies and procedures.
4. Public Relations – Outreach
Comprised of two public members and one professional member.
Assists with the development of outreach and development of educational materials to the Board's stakeholders.

The committees meet on an "as needed" basis pursuant to the Board's Administrative Procedure Manual. The current committee structure provides multiple opportunities for consumers, licensees, professional organizations, and educational institutions to actively participate and comment on topics before the Board. All Committee recommendations are presented to the Board for consideration.

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Board Member Meeting and Committee Attendance

Table 1a. Attendance

CURRENT MEMBERS

Alejandro Arredondo, O.D., Professional Member, President			
Date Appointed:	November 1, 2007		
Date Reappointed:	June 15, 2012		
Term Expires:	June 1, 2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y
	May 18	Sacramento	Y
	March 30	Fullerton	Y
	March 2	Pomona	Y
Board Meetings 2011	December 2	Fullerton	Y
	September 16	Sacramento	Y
	June 21	Los Angeles	Y
	April 11	Fullerton	Y
	January 11	Oakland	Y
Legislation and Regulation Committee 2011	November 18	Fullerton	Y
	May 10	Teleconference	Y
Board Meetings 2010	October 22	Teleconference	Y
	October 4	Teleconference	Y
	September 24	Pomona	Y
	July 28	Sacramento	Y
	May 11	Teleconference	Y
	March 25-26	San Diego	Y
	March 16	Teleconference/Fullerton	Y
	January 21	Los Angeles	Y
	December 1	Sacramento	Y
	October 22-23	Oakland	Y
Board Meetings 2009	August 24	Fullerton	Y
	July 16	Sacramento	Y
	May 15	Fullerton	Y
	March 23	Teleconference	N
	February 27	Oakland	Y
	December 17	Fullerton	Y
	November 20	Los Angeles	Y
Board Meetings 2008	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	Y
	March 3	Sacramento	Y
	November 15	San Jose	Y
Practice and Education Committee 2009	December 17	Fullerton	Y

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Monica Johnson, Public Member, Vice President			
Date Appointed:	December 20, 2005		
Date Reappointed:	May 5, 2010		
Term Expires:	June 1, 2013		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y
	May 18	Sacramento	N
	March 30	Fullerton	Y
	March 2	Pomona	Y
Board Meetings 2011	December 2	Fullerton	N
	September 16	Sacramento	Y
	June 21	Los Angeles	Y
	April 11	Fullerton	Y
	January 11	Oakland	Y
Legislation and Regulation Committee 2011	November 18	Fullerton	N
	May 10	Teleconference	N
Board Meetings 2010	October 22	Teleconference	Y
	October 4	Teleconference	Y
	September 24	Pomona	Y
	July 28	Sacramento	N
	May 11	Teleconference	Y
	March 25-26	San Diego	N, Y
	March 16	Teleconference/Fullerton	Y
	January 21	Los Angeles	N
Legislation and Regulation Committee 2010	September 24	Pomona	Y
Board Meetings 2009	December 1	Sacramento	Y
	October 22-23	Oakland	Y
	August 24	Fullerton	Y
	July 16	Sacramento	Y
	May 15	Fullerton	Y
	March 23	Teleconference	Y
	February 27	Oakland	Y
	December 17	Fullerton	N
Board Meetings 2008	November 20	Los Angeles	Y
	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	Y
	March 3	Sacramento	Y
Board Meetings 2007	November 15	San Jose	N
	August 17	Irvine	N
	July 12	Teleconference	N
	May 17	LA	Y
	February 7-8	Sacramento	Y
Legislative Committee 2007	May 16	Los Angeles	Y
	January 31	Los Angeles	Y
Board Meetings 2006	November 16	San Diego	Y
	August 24	Sacramento	Y
	June 8	Fullerton	Y
	March 13	Various	N/A
	February 2	Fullerton	Y

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Alexander Kim, Public Member, Secretary			
Date Appointed:	December 27, 2010		
Term Expires:	June 1, 2014		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y
	May 18	Sacramento	Y
	March 30	Fullerton	Y
	March 2	Pomona	Y
Board Meetings 2011	December 2	Fullerton	Y
	September 16	Sacramento	Y
	June 21	Los Angeles	Y
	April 11	Fullerton	Y
	January 11	Oakland	Y
Public Affairs Committee 2011	October 18	Teleconference	Y

Kenneth Lawenda, O.D., Professional Member			
Date Appointed:	November 1, 2007		
Date Reappointed:	December 2, 2010		
Term Expires:	June 1, 2014		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y
	May 18	Sacramento	Y
	March 30	Fullerton	N
	March 2	Pomona	Y
Board Meetings 2011	December 2	Fullerton	Y
	September 16	Sacramento	Y
	June 21	Los Angeles	Y
	April 11	Fullerton	Y
	January 11	Oakland	Y
Board Meetings 2010	October 22	Teleconference	Y
	October 4	Teleconference	Y
	September 24	Pomona	Y
	July 28	Sacramento	Y
	May 11	Teleconference	Y
	March 25-26	San Diego	N
	March 16	Teleconference/Fullerton	Y
	January 21	Los Angeles	Y
Board Meetings 2009	December 1	Sacramento	Y
	October 22-23	Oakland	Y
	August 24	Fullerton	Y
	July 16	Sacramento	Y
	May 15	Fullerton	Y
	March 23	Teleconference	Y
	February 27	Oakland	Y
Practice and Education Committee 2009	December 17	Fullerton	Y
Board Meetings 2008	November 20	Los Angeles	Y
	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	Y
	March 3	Sacramento	Y
Board Meetings 2007	November 15	San Jose	Y

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Donna Burke, Public Member			
Date Appointed:	October 11, 2010		
Term Expires:	June 1, 2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y
	May 18	Sacramento	Y
	March 30	Fullerton	Y
	March 2	Pomona	Y
Board Meetings 2011	December 2	Fullerton	Y
	September 16	Sacramento	Y
	June 21	Los Angeles	Y
	April 11	Fullerton	N
	January 11	Oakland	Y
Public Affairs Committee 2011	October 18	Teleconference	N
Board Meetings 2010	October 22	Teleconference	Y

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Madhu Chawla, O.D., Professional Member			
Date Appointed:	June 15, 2012		
Term Expires:	June 1, 2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y

William H. Kysella Jr., Public Member			
Date Appointed:	July 25, 2012		
Term Expires:	June 1, 2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y

Fred Dubick, O.D., MPA, Professional Member			
Date Appointed:	August 10, 2012		
Term Expires:	June 1, 2013		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	N
	August 10	Fullerton	Y

Glen Kawaguchi, O.D., Professional Member			
Date Appointed:	August 10, 2012		
Term Expires:	June 1, 2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	October 19	Teleconference	Y
	August 31	Teleconference	Y
	August 10	Fullerton	Y

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PREVIOUS MEMBERS

Lee A. Goldstein, O.D., Professional Member, Past President			
Date Appointed:	April, 2003		
Date Reappointed:	November 1, 2007		
Term Expired:	June 1, 2011 (served during 1-year grace period until June 1, 2012)		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	May 18	Sacramento	Y
	March 30	Fullerton	Y
	March 2	Pomona	Y
Board Meetings 2011	December 2	Fullerton	Y
	September 16	Sacramento	Y
	June 21	Los Angeles	Y
	April 11	Fullerton	Y
	January 11	Oakland	Y
Legislation and Regulation Committee 2011	November 18	Fullerton	Y
	May 10	Teleconference	Y
Board Meetings 2010	October 22	Teleconference	Y
	October 4	Teleconference	Y
	September 24	Pomona	Y
	July 28	Sacramento	Y
	May 11	Teleconference	Y
	March 25-26	San Diego	Y
	March 16	Teleconference/Fullerton	Y
	January 21	Los Angeles	Y
Legislation and Regulation Committee 2010	September 24	Pomona	Y
Board Meetings 2009	December 1	Sacramento	Y
	October 22-23	Oakland	Y
	August 24	Fullerton	Y
	July 16	Sacramento	Y
	May 15	Fullerton	Y
	March 23	Teleconference	Y
Legislation and Regulation Committee 2009	December 17	Fullerton	Y
Practice and Education Committee 2009	December 17	Fullerton	Y
Board Meetings 2008	November 20	Los Angeles	Y
	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	Y
	March 3	Sacramento	Y
Enforcement Committee 2008	March 4	Sacramento	Y
Board Meetings 2007	November 15	San Jose	Y
	August 17	Irvine	Y
	July 12	Teleconference	Y
	May 17	LA	Y
	February 7-8	Sacramento	Y
Legislative Committee 2007	May 16	Los Angeles	Y
	January 31	Los Angeles	Y
Board Meetings 2006	November 16	San Diego	Y
	August 24	Sacramento	Y
	June 8	Fullerton	Y
	March 13	Various	N/A
	February 2	Fullerton	Y

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Dr. Lee A. Goldstein, O.D., Professional Member, Past President Continued

Board Meetings 2005	November 17	San Diego	Y
	August 18	Fullerton	Y
	March 19	Sacramento	Y
	February 17	San Francisco	Y
Enforcement Committee 2005	November 16	San Diego	Y
	August 17	Fullerton	Y
	March 18	Sacramento	Y
	February 16	San Francisco	Y
Task Force on Licensure for Graduates of Foreign Schools of Optometry 2005	March 17	Oakland	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	Y
	January 16	Los Angeles	Y
Enforcement Committee 2004	November 4	Fullerton	Y
	July 8	Sacramento	Y
	April 15	Oakland	Y
Board Meetings 2003	November 14	Berkeley	Y
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y
Continuing Education Committee 2003	August 22	N/A	Y

Martha Burnett-Collins, O.D., Professional Member			
Date Appointed:	November 1, 2007		
Term Expires:	June 1, 2009		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2009	May 15	Fullerton	Y
	March 23	Teleconference	Y
	February 27	Oakland	Y
Board Meetings 2008	November 20	Los Angeles	Y
	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	N
	March 3	Sacramento	Y
Enforcement Committee 2008	March 4	Sacramento	Y
Board Meetings 2007	November 15	San Jose	Y

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Fred Naranjo, Public Member			
Date Appointed:	April, 2003		
Date Reappointed:	November 1, 2007		
Term Expired:	June 1, 2011 (served during 1-year grace period until June 1, 2012)		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	May 18	Sacramento	Y
	March 30	Fullerton	Y
	March 2	Pomona	Y
Board Meetings 2011	December 2	Fullerton	Y
	September 16	Sacramento	Y
	June 21	Los Angeles	Y
	April 11	Fullerton	Y
	January 11	Oakland	Y
Board Meetings 2010	October 22	Teleconference	N
	October 4	Teleconference	Y
	September 24	Pomona	Y
	July 28	Sacramento	N
	May 11	Teleconference	Y
	March 25-26	San Diego	Y
	March 16	Teleconference/Fullerton	Y
Board Meetings 2009	January 21	Los Angeles	N
	December 1	Sacramento	N
	October 22-23	Oakland	Y
	August 24	Fullerton	Y
	July 16	Sacramento	Y
	May 15	Fullerton	Y
	March 23	Teleconference	N
	February 27	Oakland	Y
Practice and Education Committee 2009	December 17	Fullerton	N
Board Meetings 2008	November 20	Los Angeles	Y
	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	N
	March 3	Sacramento	Y
Enforcement Committee 2008	March 4	Sacramento	Y
Board Meetings 2007	November 15	San Jose	Y
	August 17	Irvine	Y
	July 12	Teleconference	Y
	May 17	LA	Y
	February 7-8	Sacramento	Y
Board Meetings 2006	November 16	San Diego	Y
	August 24	Sacramento	Y
	June 8	Fullerton	N
	March 13	Various	Y
	February 2	Fullerton	N
Board Meetings 2005	November 17	San Diego	Y
	August 18	Fullerton	N
	March 19	Sacramento	Y
	February 17	San Francisco	Y
Enforcement Committee 2005	November 16	San Diego	Y
	August 17	Fullerton	Y
	March 18	Sacramento	Y
	February 16	San Francisco	Y

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Fred Naranjo, Public Member Continued

Task Force on Licensure for Graduates of Foreign Schools of Optometry 2005	March 17	Oakland	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	N/A
	January 16	Los Angeles	Y
Enforcement Committee 2004	November 4	Fullerton	Y
	July 8	Sacramento	Y
	April 15	Oakland	Y
Board Meetings 2003	November 14	Berkeley	Y
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y

Katrina Semmes, Public Member			
Date Appointed:	May 16, 2007		
Term Expires:	June 1, 2010		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2010	October 22	Teleconference	Y
	October 4	Teleconference	N
	September 24	Pomona	N
	July 28	Sacramento	Y
	May 11	Teleconference	Y
	March 25-26	San Diego	Y
	March 16	Teleconference/Fullerton	Y
	January 21	Los Angeles	Y
Board Meetings 2009	December 1	Sacramento	N
	October 22-23	Oakland	Y
	August 24	Fullerton	Y
	July 16	Sacramento	Y
	May 15	Fullerton	N
	March 23	Teleconference	N
Board Meetings 2008	February 27	Oakland	Y
	November 20	Los Angeles	Y
	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	Y
Board Meetings 2007	March 3	Sacramento	Y
	November 15	San Jose	Y
	August 17	Irvine	N
	July 12	Teleconference	Y
	May 17	Los Angeles	N

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Susy Yu, O.D., Professional Member, Past Vice President			
Date Appointed:	April 25, 2003		
Date Reappointed:	May 24, 2007		
Term Expired:	June 1, 2010 (served during 1-year grace period until June 1, 2011)		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2011	April 11	Fullerton	Y
	January 11	Oakland	Y
Legislation and Regulation Committee 2011	May 10	Teleconference	Y
Board Meetings 2010	October 22	Teleconference	Y
	October 4	Teleconference	Y
	September 24	Pomona	Y
	July 28	Sacramento	Y
	May 11	Teleconference	N
	March 25-26	San Diego	Y
	March 16	Teleconference/Fullerton	Y
January 21	Los Angeles	Y	
Legislation and Regulation Committee 2010	September 24	Pomona	Y
Board Meetings 2009	December 1	Sacramento	Y
	October 22-23	Oakland	Y
	August 24	Fullerton	Y
	July 16	Sacramento	N
	May 15	Fullerton	Y
	March 23	Teleconference	Y
	February 27	Oakland	Y
Legislation and Regulation Committee 2009	December 17	Fullerton	Y
Board Meetings 2008	November 20	Los Angeles	N
	September 3	Pomona	Y
	June 17	Sacramento	Y
	April 25	Sacramento	Y
	March 3	Sacramento	Y
Board Meetings 2007	November 15	San Jose	Y
	August 17	Irvine	Y
	July 12	Teleconference	N
	May 17	LA	Y
	February 7-8	Sacramento	Y
Board Meetings 2006	November 16	San Diego	Y
	August 24	Sacramento	N
	June 8	Fullerton	Y
	March 13	Various	Y
	February 2	Fullerton	Y
Board Meetings 2005	November 17	San Diego	N
	August 18	Fullerton	Y
	March 19	Sacramento	Y
	February 17	San Francisco	Y
Continuing Education Committee 2005	March 18	Sacramento	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	Y
	January 16	Los Angeles	Y
Board Meetings 2003	November 14	Berkeley	Y
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y
Continuing Education Committee 2003	August 22	N/A	Y

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Edward Rendon, Public Member			
Date Appointed:	January 6 , 2009		
Term Expires:	June 1, 2011		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2012	May 18	Sacramento	Y
	March 30	Sacramento/Fullerton	N
	March 2	Pomona	N
Board Meetings 2011	December 2	Fullerton	N
	September 16	Sacramento	N
	June 21	Los Angeles	N
	April 11	Fullerton	Y
	January 11	Oakland	N
Legislation and Regulation Committee 2011	November 18	Fullerton	N
	May 10	Teleconference	Y
Board Meetings 2010	October 22	Teleconference	Y
	October 4	Teleconference	N
	September 24	Pomona	Y
	July 28	Sacramento	Y
	May 11	Teleconference	Y
	March 25-26	San Diego	Y, N
	March 16	Teleconference/Fullerton	Y
Board Meetings 2009	January 21	Los Angeles	Y
	December 1	Sacramento	N
	October 22-23	Oakland	N
	August 24	Fullerton	N
	July 16	Sacramento	Y
	May 15	Fullerton	Y
	March 23	Teleconference	N
February 27	Oakland	Y	
Legislation and Regulation Committee 2009	December 17	Fullerton	N

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Richard Simonds, O.D., Professional Member			
Date Appointed:	December 1, 2005		
Term Expired:	June 1, 2009		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2009	May 15	Fullerton	N
	March 23	Teleconference	Y
	February 27	Oakland	N
Board Meetings 2008	November 20	Los Angeles	Y
	September 3	Pomona	Y
	June 17	Sacramento	N
	April 25	Sacramento	Y
Board Meetings 2007	March 3	Sacramento	Y
	November 15	San Jose	Y
	August 17	Irvine	Y
	July 12	Teleconference	Y
	May 17	Los Angeles	N
Legislation Committee 2007	February 7-8	Sacramento	Y
	January 31	Los Angeles	Y
	May 17	Los Angeles	N
Board Meetings 2006	November 16	San Diego	Y
	August 24	Sacramento	Y
	June 8	Fullerton	Y
	March 13	Various	N/A
	February 2	Fullerton	Y

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Mary Galvan-Rosas, Public Member			
Date Appointed:	April 10, 2003		
Date Reappointed:	June 6, 2007		
Term Expired:	June 1, 2011 – Resigned June 25, 2008		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2008	June 17	Sacramento	Y
	April 25	Sacramento	Y
	March 3	Sacramento	Y
Board Meetings 2007	November 15	San Jose	N
	August 17	Irvine	Y
	July 12	Teleconference	Y
	May 17	Los Angeles	Y
	February 7-8	Sacramento	N
Board Meetings 2006	November 16	San Diego	Y
	August 24	Sacramento	Y
	June 8	Fullerton	N
	March 13	Various	N/A
	February 2	Fullerton	Y
Board Meetings 2005	November 17	San Diego	Y
	August 18	Fullerton	Y
	March 19	Sacramento	Y
	February 17	San Francisco	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	N
	April 16	Oakland	Y
	February 23	Arcadia	N/A
	January 16	Los Angeles	N
Enforcement Committee 2004	November 4	Fullerton	Y
	July 8	Sacramento	N
	April 15	Oakland	Y
Board Meetings 2003	November 14	Berkeley	N
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y

Lupe De La Cruz, Public Member			
Date Appointed:	April 25, 2003		
Term Expired:	June 1, 2005 (February 2005 – Resigned; moved out of state)		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2005	February 17	San Francisco	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	N/A
	January 16	Los Angeles	Y
Board Meetings 2003	November 14	Berkeley	Y
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y

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Daniel Pollack, O.D., Professional Member			
Date Appointed:	April 25, 2003		
Date Reappointed:	October 1, 2003		
Term Expired:	June 1, 2007		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2007	November 15	San Jose	N
	August 17	Irvine	Y
	July 12	Teleconference	Y
	May 17	Los Angeles	N
	February 7-8	Sacramento	Y
Board Meetings 2006	November 16	San Diego	Y
	August 24	Sacramento	N
	June 8	Fullerton	Y
	March 13	Various	N/A
	February 2	Fullerton	Y
Board Meetings 2005	November 17	San Diego	N
	August 18	Fullerton	Y
	March 19	Sacramento	Y
	February 17	San Francisco	Y
Continuing Education Committee 2005	March 18	Sacramento	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	N/A
	January 16	Los Angeles	Y
Board Meetings 2003	November 14	Berkeley	Y
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y
Continuing Education Committee 2003	August 22	N/A	Y
Finance Committee	October 17	Oakland	Y

Page Yarwood, O.D., Professional Member			
Date Appointed:	April 25, 2003		
Term Expired:	June 1, 2005		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2005	November 17	San Diego	Y
	August 18	Fullerton	Y
	March 19	Sacramento	Y
	February 17	San Francisco	Y
Task Force on Licensure for Graduates of Foreign Schools of Optometry 2005	March 17	Oakland	Y
Exam Committee 2005	November 16	San Diego	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	N/A
	January 16	Los Angeles	Y
Board Meetings 2003	November 14	Berkeley	Y
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y
Finance Committee 2003	October 17	Oakland	Y

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Edward Hernandez, O.D., Professional Member			
Date Appointed:	April 25, 2003		
Term Expired:	June 1, 2006		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2006	November 16	San Diego	N
	August 24	Sacramento	Y
	June 8	Fullerton	Y
	March 13	Various	Y
	February 2	Fullerton	Y
Board Meetings 2005	November 17	San Diego	Y
	August 18	Fullerton	Y
	March 19	Sacramento	Y
	February 17	San Francisco	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	Y
	January 16	Los Angeles	Y
Board Meetings 2003	November 14	Berkeley	Y
	September 8	Sacramento	Y
	June 14	San Diego	Y
	May 22	Sacramento	Y

Gregory Kame, O.D., Professional Member			
Date Appointed:	November 4, 2003		
Term Expired:	June 1, 2005		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2006	November 16	San Diego	N
	August 24	Sacramento	N
	June 8	Fullerton	N
	March 13	Various	N/A
	February 2	Fullerton	Y
Board Meetings 2005	November 17	San Diego	Y
	August 18	Fullerton	N
	March 19	Sacramento	N
	February 17	San Francisco	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	N/A
	January 16	Los Angeles	Y
Board Meetings 2003	November 14	Berkeley	Y

Roberto Vellanoweth, Public Member			
Date Appointed:	November 14, 2006		
Term Expired:	June 1, 2010 (separated March 27, 2007)		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2007	November 15	San Jose	N
	August 17	Irvine	N
	July 12	Teleconference	N
	May 17	Los Angeles	N
	February 7-8	Sacramento	Y
Board Meetings 2006	November 16	San Diego	Y

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Audrey Noda, Public Member			
Date Appointed:	November 12, 2003		
Term Expired:	June 1, 2006 (separated August 24, 2006)		
Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meetings 2006	August 24	Sacramento	Y
	June 8	Fullerton	Y
	March 13	Various	N/A
	February 2	Fullerton	Y
Board Meetings 2005	November 17	San Diego	Y
	August 18	Fullerton	Y
	March 19	Sacramento	N
	February 17	San Francisco	Y
Task Force on Licensure for Graduates of Foreign Schools of Optometry 2005	March 17	Oakland	Y
Board Meetings 2004	November 5	Fullerton	Y
	July 9	Sacramento	Y
	April 16	Oakland	Y
	February 23	Arcadia	N/A
	January 16	Los Angeles	Y

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Board Member and Committee Roster

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Table 1b. Board/Committee Member Roster						
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)	Committee
Alejandro Arredondo*	11/01/2007	06/15/2012	06/01/2015	Governor	Professional	Leg/Reg., Practice/Education (Past: Outreach)
Monica Johnson**	12/20/2005	05/05/2010	06/01/2013	Governor	Public	Leg/Reg. Consumer Protection*** (Past: Finance, Executive)
Alexander Kim	12/27/2010		06/01/2014	Governor	Public	Public Relations
Kenneth Lawenda	11/01/2007	12/02/2010	06/01/2014	Governor	Professional	Leg/Reg. Consumer Protection (Past: Practice, Exam)
Donna Burke	10/01/2010		06/01/2015	Senate	Public	Public Relations, Consumer Protection
Madhu Chawla	06/15/2012		06/01/2015	Governor	Professional	Leg/Reg. Practice/Education
William Kysella, Jr.	07/25/2012		06/01/2015	Assembly	Public	Leg/Reg
Fred Dubick	08/10/2012		06/01/2013	Governor	Professional	Practice/Education
Glen Kawaguchi	08/10/2012		06/01/2015	Governor	Professional	?
Vacant			06/01/2009	Governor	Professional	
Vacant			06/01/2011	Governor	Public	
Lee A. Goldstein	04/01/2003	11/01/2007	06/01/2011	Governor	Professional	Leg/Reg. Consumer Protection, Practice, Executive
Martha Burnett-Collins	11/01/2007		06/01/2009	Governor	Professional	Enforcement, Exam
Fred Naranjo	4/01/2003	11/01/2007	06/01/2011	Governor	Public	Consumer Protection, Practice
Katrina Semmes	05/16/2007		06/01/2010	Governor	Public	Strategic Planning, Practice, Fiscal
Susy Yu	04/25/2003	05/24/2007	06/01/2010	Governor	Professional	Leg/Reg. Exam, Strategic Planning, Executive
Edward Rendon	01/06/2009		06/01/2009	Assembly	Public	Leg/Reg. Consumer Protection
Richard Simonds	12/01/2005		06/01/2009	Governor	Professional	Legislation, CE
Mary Galvan-Rosas	04/10/2003	06/06/2007	06/01/2011	Senate	Public	Outreach, Exam, Enforcement
Lupe De La Cruz	04/25/2003		06/01/2005	Governor	Public	Leg/Reg. Outreach
Daniel Pollack	04/25/2003	10/01/2003	06/01/2007	Governor	Professional	CE, Finance, Enforcement
Page Yarwood	04/25/2003		06/01/2005	Governor	Professional	Leg/Reg. Outreach, Enforcement, Finance
Edward Hernandez	04/25/2003		06/01/2006	Governor	Professional	Leg/Reg
Gregory Kame	11/04/2003		06/01/2005	Governor	Professional	CE
Roberto Vellanoweth	11/14/2006		06/01/2010	Governor	Public	n/a
Audrey Noda	11/12/2003		06/01/2006	Governor	Public	Leg/Reg

Bold denotes current board members

***Current Board President; 1**Current Board Vice President;**

*****Consumer Protection Committee = Enforcement Committee**

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In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

- February 24, 2012: This Board meeting was cancelled because a quorum could not be established due to scheduling conflicts. The meeting was successfully re-scheduled for March 2, 2012.
- January 5, 2012: This Board meeting was cancelled because a quorum could not be established due to scheduling conflicts. The meeting was re-scheduled for February 24, 2012 (see above), and then re-scheduled again for March 2, 2012.

Deleted: <#>August 23, 2012: This Board meeting was cancelled because the agenda was not noticed for 10 days as required by the Administrative Procedures Act. The meeting was successfully re-scheduled for August 31, 2012.¶

None of the above meeting cancellations and re-schedules affected the Board's operations adversely.

Deleted: <#>December 30, 2009: This Board meeting was cancelled because staff needed more time to complete research on the topics for discussion. The meeting was successfully re-scheduled for January 21, 2010.¶
<#>March 27, 2009: This meeting of the Glaucoma Diagnosis and Treatment Advisory Committee (GDTAC), which was not composed of Board members, was cancelled due to the members of the GDTAC deeming this meeting unnecessary. They had already met three times prior, and felt that their mandate to establish new procedures for California optometrists to obtain glaucoma certification (Senate Bill 1406), was complete. This meeting was not re-scheduled.¶

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Major Changes since the Last Sunset Review

Describe any major changes to the board since the last Sunset Review, including: Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)

Reorganization

Since the last Sunset Review in 2002, the Board has attempted to restructure its organization to meet its operational needs more efficiently.

Prior to 2002, the management composition consisted of one Executive Officer (EO), with the assistance of two Associate Governmental Program Analysts (AGPA), managing the daily activities related to program administration, licensing, examination, and enforcement, in addition to policy decisions and implementing the direction of the board members. Following a change in the EO in 2008 and an informal evaluation of the Board's operational needs and desire to improve efficiency, the Board gained three Staff Services Analysts (SSA) and a Limited Term Office Technician (LT OT) for its enforcement unit to implement legislatively mandated fingerprint requirements, and a probation monitoring program. These positions were obtained through various Business Change Proposals (BCP), and promotion and/or re-classification of positions (i.e., blanket, interchangeable positions). An SSA in the licensing unit was promoted to an AGPA and transferred to the administration unit to directly assist the EO with policy decisions, legislation, and regulation. This allowed the EO to focus on implementing the direction of the board members, take on personnel responsibilities, and provide oversight and management of the daily activities of the Board's licensing, enforcement and administrative units.

A steady growth in licensees and business licenses, the addition of an improved glaucoma certification process, and a push from the Department of Consumer Affairs (Department) to improve enforcement processes starting in 2009, initially resulted in a 50% increase in total staffing since 2002. Also as a result of these changes, the EO attempted to obtain through a BCP a Staff Services Manager I (SSMI) to serve as the Assistant Executive Officer, to assist the EO with the oversight and management of the daily activities of the Board's units, and further improve efficiency. Although this BCP was approved by the Department of Finance (DOF), it was later rejected by the Department due to not meeting the Department of Personnel Administration's allocation criteria (required positions).

Starting in 2010, the Board has lost almost all the much needed positions it gained throughout the years (six positions total) due to expiration of limited term positions, Departmental policy changes, and directives from the State and Consumer Services Agency and Governor. The current management and staff structure does not provide for ongoing review of processes to identify areas for process improvements and staff development.

The composition of the Board's staff since 2002 is noted in the chart below.

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	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total Authorized Staff Positions	7	7	7	7	7	7	8	9	13	14	10.4
Total Staff	6	6	6	6	6	6	7	8	11	16*	11.4**
Managers	0	0	0	0	0	0	0	0	0	1	0
AEO	0	0	0	0	0	0	0	0	0	0	0
EO	1	1	1	1	1	1	1	1	1	1	1

* This figure includes authorized position approved through BCPs but not filled, and two positions paid from blanket funds.

** This figure includes one position paid from blanket funds.

Relocation

In 2011, the Board relocated from 2420 Del Paso Road, Sacramento, California to its current location at 2450 Del Paso Road, Sacramento, California.

Change in Leadership

From 2002 to 2012 the Board has consisted of eleven board members. Six are professional members and five are public members.

Prior to 2002, the Board consisted of nine members. Six were professional members and three were public members. This composition of a two-to-one ratio of professional to public members was argued, by the Sunset Review Committee in 2002, to result in professional bias, and less focus on consumer protection. In order to ensure a balanced approach to decision-making, ensure the Board was in line with other Department of Consumer Affairs Boards, and enhance public protection, the Sunset Review Committee recommended adding two additional public members. This recommendation was implemented in 2002 through sunset review legislation when the Board was sunset and reconstituted with entirely new members effective January 1, 2003.

Board Members elect a President, Vice President, and Secretary annually. Current Board policy provides that in the event the President of the Board is unable to continue his or her role as President, the Vice President shall immediately assume the duties of the President until the next election of officers.

Since 2002, the Board has had two Executive Officers. The previous incumbent served from 2002-2009. The current Executive Officer was appointed in 2009.

Strategic Planning

The Board revised its Strategic Plan in 2004, at which time the Board's mission statement read - *The mission of the California Board of Optometry is to assure that Californians have access to appropriate high quality eye and vision care and to implement and promote fair and just laws and regulations protecting the health and safety of consumers.* The goals are very general in this plan.

The 2004 Strategic Plan was updated in 2007, at which time the Board's mission statement was changed to read - *The mission of the California State Board of Optometry is to implement and promote just laws and regulations protecting the health and safety of consumers and to assure that Californians have access to appropriate high quality eye and vision care.* The vision statement, values and goals had very minor changes between the 2004 Plan and the 2007 Plan.

The 2007 Strategic Plan was most recently updated in 2010. This revision further defined the Board's goals with the inclusion of objectives which included tasks and projects to be completed. The Board's current mission statement was changed to read - *To serve the public and optometrists by promoting and enforcing laws and regulations which protect the health and safety of California's consumers and to ensure high quality*

care. The Board is currently working on completion of all objectives before the next update slated for 2013-2014.

Legislative Activity

Legislation Sponsored by or Affecting the Board of Optometry

A number of legislative changes relevant to the Board's duties have been enacted since the last Sunset Review in 2002. These changes are listed below in chronological order.

Senate Bill 1955 – Sunset Legislation to Sunset and Reconstitute the Board of Optometry (Figueroa, Ch. 1150, Stats. 2002)

Terminates the existence of the board and the executive officer on January 1, 2003, and, as of that date, provides for the formation of a new board and employment of a new executive officer both of which would be terminated on July 1, 2005. Grants the new board certain authority parallel with the authority of the previous board. Provides for the appointment and staggering of terms of board members. Also authorizes the board to adopt regulations clarifying the level of training and supervision of assistants to optometrists.

Assembly Bill 2020 – Prescriptions (Correa, Ch. 814, Stats. 2002)

Prohibits the expiration date of a contact lens prescription from being less than one to two years from the date of issuance, with certain exceptions. Requires a prescriber or registered dispensing optician to provide the patient with a copy of his or her prescription, subject to certain exceptions. Prohibits the prescriber or optician from conditioning the release of the prescription on the patient paying a fee or purchasing contact lenses. Makes the prescriber's willful violation of these requirements unprofessional conduct. Provides that it is a deceptive marketing practice to represent by advertisement or sales presentation that contact lenses may be obtained without confirmation of a prescription. Provides that a violation of the laws regulating prescription lenses is punishable by a fine, not to exceed \$2,500.

Assembly Bill 269 – Protection of the Public is the Highest Priority (Correa, Ch. 107, Stats. 2002)

Makes consumer protection the highest priority of licensing boards, commissions, and bureaus, in performing their licensing, regulatory, and disciplinary functions.

Assembly Bill 2464 - CE Requirements and Lens Dispensing Receipts (Pacheco, Ch. 426, Stats 2004)

Revises the authority of the Board to adopt regulations, and would define and alter certain terms. Deletes the prohibition on a board member having a financial interest in a prospective board purchase or contract. Revises the recordkeeping requirements of the Board. Deletes the provisions authorizing the payment of expenses for the Board secretary and requiring the Board to publish and distribute certain information. Requires the Board to publish its notices on its Internet Website. Deletes the Board's authority to visit and examine optometric educational institutions. Revises the application requirements and the standards for examination and licensure as an optometrist. Requires an optometrist to post specified information at each place of practice. Revises the continuing education requirements for optometrists performing certain functions. Revises the information that must be provided on a receipt and would require any licensed optometrist who fits or supplies a patient with lenses to provide the patient with a receipt.

Assembly Bill 370 - Changes in the Board's Enforcement Program (Aghazarian, Ch. 186, Stats. 2005)

Requires the Board to file an accusation against a licensee within three years after the Board discovers the act or omission that is the subject of the proceeding, or within seven years after the act or omission occurred, whichever comes first, subject to certain exceptions.

Assembly Bill 488 - Repeal of the 30 day grace period & payment receipt requirements (Bermudez, Ch. 393, Stats. 2005)

Requires optometrists to provide a receipt to patients making a specified payment to them and it would also revise the information that is required on the receipt. Authorizes the Board to issue a probationary license to an applicant, subject to specified terms and conditions. Revises and recasts provisions relating to unprofessional

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conduct. Authorizes the Attorney General to prosecute a licensee for unprofessional conduct under the Administrative Procedure Act. Deletes reporting requirements when the Board raises a fee to certain committees in the Legislature. Makes various fee changes.

Senate Bill 231 - Reporting of Settlements or Arbitration Awards Over \$3,000 (Figueroa, Ch. 674, Stats. 2005)

Requires that any judgment in a malpractice action against a licensee to be reported to the appropriate licensing board by the licensee or the claimant, or their counsel, and would make a failure to comply with this requirement a crime.

Senate Bill 579 - Elimination of CPR Requirement, Advertising Free Eye Exam and Licensure by Endorsement (Aanestad, Ch. 302, Stats 2006)

Authorizes the Board to issue a license to a person that, among other things, has passed a licensing examination for an optometric license in another state. Eliminates the Board's authority to adopt regulations requiring licensees to maintain current certification in cardiopulmonary resuscitation. Makes it unlawful to advertise as being free or without cost the furnishing of optometric services where the services are contingent upon payment or other exchange of consideration unless the contingency is fully disclosed.

Assembly Bill 2256 - Certificate of Registration for Optometric Corporation Repealed (Ch. 564, Stats 2006)

Deletes the provisions requiring an optometric corporation to obtain this certificate from the Board and file these reports with it. Deletes the provisions that give the Board the powers of suspension, revocation, and discipline against an optometric corporation as it has against individuals. Also deletes the requirement that the Board comply with Administrative Procedure Act as they pertain to optometric corporations.

Assembly Bill 1382 - Deceptive Marketing Practices (Nakanishi, Ch. 148, Stats 2006)

Prohibits a person, other than a physician, surgeon or optometrist from measuring the powers or range of human vision or determining the accommodative and refractive status of the human eye or scope of its functions in general or prescribe ophthalmic devises, as defined. Makes it a deceptive marketing practice for any individual or entity who offer for sale plano contact lenses to represent by any means that those lenses may be lawfully obtained without an eye examination or confirmation of a valid prescription, or may be dispenses or furnished to a purchaser without complying with prescribed requirements.

Senate Bill 1406 - Changes in Scope of Practice (Correa and Aanestad, Ch. 352, Stats 2009)

Revises and recasts the Optometry Practice Act to further allow an optometrist who is certified to use therapeutic pharmaceutical agents to, among other things, treat glaucoma, as defined, under specified certification standards, order X-rays necessary for the diagnosis of conditions or diseases of the eye or adnexa, perform Venipuncture for testing patients suspected of having diabetes, administer oral fluorescein to patients suspected of having retinopathy, prescribe lenses or devices that incorporate a medication or therapy the optometrist is certified to prescribe or provide, and use specified instruments within the central three millimeters of the cornea. Allows optometrist to perform lacrimal irrigation and dilation if they meet certain criteria and changes referral requirements. Also creates the Glaucoma Diagnosis Advisory Committee for the creation of regulations to establish the training required to obtain glaucoma certification.

Assembly Bill 2683 - The Practice of Optometry in Health Facilities and Optometric Assistants (Hernandez, Chapter 604, Stats. 2010)

Requires the Board to consult with Military Department before adopting rules and regulations to provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable, to the requirements to become an optometrist.

Senate Bill 1489 Omnibus - Strengthening of Licensing Laws (Senate Business, Professions and Economic Development Committee, Chapter 653, Stats. 2010)

Amends various licensing provisions for clarity purposes only.

Assembly Bill 2699 - Exemption for Out-of-State Provider Participating in Sponsored Event Where Free Services Provided (Bass, Chapter 270, Stats. 2010)

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Provides an exemption from licensure and regulation requirements to optometrists, licensed or certified in good standing in another state or states, which offer or provide eye care services through sponsored free health care events.

Assembly Bill 2500- Reinstatement of Optometry for Licensees in Military Service (Hagman, Chapter 389, Stats. 2010)

Authorizes a licensee whose license expired while the licensee was on active duty as a member of the California National Guard or the United State Armed Forces to, upon application, reinstate his or her license without a penalty and without examination, if those requirements are satisfied, unless the Board determines that the applicant has not actively engaged in the practice of optometry while on active duty, as specified.

Assembly Bill 2783 - Military Personnel (Committee on Veterans Affairs, Chapter 214, Stats. 2010)

Requires the Board to develop rules and regulations that provide methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the practice of optometry. These rules and regulations shall also specify how this education, training and experience may be used to meet the licensure requirements for optometrists. The Board must consult with the Department of Veterans Affairs and the Military Department before adopting any rules and regulations.

Senate Bill 850 - Electronic Medical Records: Confidential Information (Leno, Chapter 714, Stats. 2011)

Requires an electronic health or medical record system to automatically record and preserve any change or deletion of electronically stored medical information, and would require that record to include, among other things, the identity of the person who accessed and changed the medical information and the change that was made to the medical information.

Assembly Bill 1424 - Franchise Tax Board: Delinquent Tax Debt (Perea, Chapter 455, Stats. 2011)

Authorizes all State licensing entities, including boards and bureaus under the Department of Consumer Affairs other than the Contractor's State License Board (CSLB), to deny, suspend, or revoke a license if the licensee or applicant appeared on the Franchise Tax Board or the State Board of Equalization's certified lists of top 500 largest tax delinquencies over \$100,000. This bill would also authorize the Department to suspend a license in the event that the board fails to take action.

Regulation Activity

Regulations Initiated by the Board

A number of regulatory changes have been enacted since the last Sunset Review in 2002. The changes are listed below in chronological order.

National Board of Examiners in Optometry: Effective January 28, 2002, Section 1531 of Title 16 of Division 15, of the California Code of Regulations (CCR) was amended to adopt the licensure examination developed by the National Board of Examiners in Optometry.

Continuing Education Requirements: Effective January 21, 2005, 16 CCR Section 1536 was amended to reflect the change in the license renewal cycle from annual to biennial, amends the self-study continuing education requirements, and the initial licensure exemptions.

Therapeutic Pharmaceutical Agents: Effective January 19, 2005, 16 CCR Sections 1567, 1568 and 1569 were amended to incorporate language from the Business and Professions Codes to increase clarity regarding what optometrists can and can't prescribe. Language also deletes outdated protocols for certain conditions.

Deletion of Advertising Violations: Effective March 13, 2006, 16 CCR Section 1515 was repealed. This regulation provided that optometrists who violated Business and Professions Code section 651, 651.3, or 17500 were subject to revocation or suspension of their certificate or registration. The impetus for this section

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was eliminated by Assembly Bill 488 (Bermudez, Ch. 393, Stats. 2005), which provided specific statutory authority.

Deletion of 75% Passing Score - Change Without Regulatory Effect (technical or editorial changes): Effective March 14, 2006, 16 CCR Section 1530 was repealed. This regulation required candidates for optometric licensure to obtain a passing score of at least 75% in each required examination section listed in CCR section 1531. The need for this section was eliminated via Assembly Bill 2464 (Pacheco, Ch. 426, Stats. 2004) which replaced the 75% passing score criteria with language requiring that passing grades for California licensure exams be based on "psychometrically sound principles for establishing minimum qualifications and levels of competency."

Release of Prescriptions: Effective April 9, 2006, 16 CCR Sections 1566 and 1566.1 were amended to make it clear that optometrists must release both spectacle prescriptions and contact lens prescriptions following either an exam or fitting. The amendment also corrected the title of the consumer notice and the physical address, e-mail address and internet address of the Board.

Citable Offenses: Effective October 26, 2006, 16 CCR Section 1579 was amended to update the fines the Board could issue for citable offenses. Also, this amendment eliminated the specificity of the old language and created categories of violations, thus eliminating the need for ongoing amendments in response to future changes in optometry law.

Out-of-State Optometrists – 18 Years of Age Requirement to Apply: Effective November 7, 2007, 16 CCR Section 1523 was amended to add a provision regarding applications from out-of-state optometrists who must be at least 18 years of age and apply for California licensure on two forms which are incorporated by reference.

Out-of-State Optometrists – Waiver of 65 Hour Preceptorship Requirement: Effective July 3, 2008, 16 CCR Section 1568 added a subsection on Therapeutic Pharmaceutical Agents (TPAs). This new subsection enabled out-of-state licensed optometrists, who wish to be licensed in California and to use topical TPAs on patients to obtain a waiver of the California Business and Professions Code section 3041.3(b) 65-hour preceptorship requirement.

Fee Increase: Effective April 28, 2009, 116 CCR Section 1524, was amended to increase various application, renewal and penalty fees collected by the Board to fund its administration of the optometry licensing program. Fees had not been raised since 1993.

Notification to Engage in Practice - Change Without Regulatory Effect (technical or editorial changes): Effective January 6, 2010, 16 CCR Section 1505 was amended to replace the words "certificate holder" with "licensee." Referring to an optometrist licensed by the Board as a licensee is a more appropriate term used by staff and throughout the Board's laws and regulations.

Fingerprinting Requirements: Effective June 21, 2010, Article 5.1 with 16 CCR Sections 1525, 1525.1, 1525.2 were adopted to require licensees who had not previously submitted fingerprints to the Department of Justice (DOJ) to complete a state and federal level criminal offender recording information search through the DOJ before renewal of a license. Also clarifies that prior to renewal, a licensee has to disclose whether there has been any disciplinary action against them and if they have any criminal convictions during the renewal cycle.

Scope of Practice Repeal: Effective August 20, 2010, 16 CCR Section 1569 was repealed because the regulation duplicates Business and Professions Code section 3041.

Glaucoma Certification Requirements: Effective January 8, 2011, 16 CCR Section 1571 was adopted to implement Senate Bill 1406, Ch. 352, Stats. 2008, by establishing the requirement for the certification of optometrists to treat all primary open-angle glaucoma and exfoliation and pigmentary glaucoma. Continuing education requirements for glaucoma certified-optometrists are also specified, and the exemption of didactic instruction and case management requirements for certification for optometrists who completed their education

from accredited schools and colleges of optometry on or after May 1, 2008. In February 2011, this regulation was challenged in court by the Academy of Eye Physicians and Surgeons (CAEPS) and the California Medical Association (CMA). The parties claimed that the regulation did not afford the appropriate training needed for California optometrists to treat glaucoma. The courts upheld that the regulation was valid and that the Board acted within its rulemaking authority under BPC section 3025, and no abuse of discretion was shown. The ruling also stated that CAEPS and CMA did not demonstrate adequate standing that their claims were correct. This ruling ended the case and this regulation continues to be implemented without further issues.

Infection Control Guidelines: Effective January 19, 2011, 16 CCR Section 1520 was amended to set forth "Infection Control Guidelines" for optometrists. The principal provisions of the regulation pertain to: proper hand hygiene, use of personal protective equipment, handling of sharp instruments, and disinfection requirements.

Fictitious Name Permits and Licensing Requirements: Effective March 10, 2011, 16 CCR Sections 1518, 1523, 1531, 1532, 1533, 1561 were amended to clarify information for requirements regarding licensure and examination, permit fees for creating a fictitious business names, and usage of topical pharmaceutical agents.

Continuing Education: Effective June 17, 2011, 16 CCR Section 1536 was amended to add new continuing optometric education opportunities, including credit for attending a Board meeting, earning certification in cardiopulmonary resuscitation (CPR) and completing course work in the ethical practice of optometry. This amendment also provides for utilization of the Association of Regulatory Boards in Optometry's Optometric Education Tracker system as proof of course attendance.

Pending Regulations

Renting Space and Fingerprints: (CCR Sections 1514, 1525.1) This proposal further clarifies that signage is required at commercial/mercantile location to indicate that it is owned by an optometrist and the practice is separate and distinct from other occupants. This proposal also clarifies that fingerprints are to be submitted upon renewal of an optometric license if the licensee has not had their fingerprints taken by the Department of Justice and the Federal Bureau of Investigation. This rulemaking package was submitted to the Office of Administrative Law (OAL) on August 16, 2012 for review.

Uniform Standards Related to Substance Abuse and Disciplinary Guidelines: (CCR Section 1575) This proposal adds the Uniform Standards Related to Substance Abuse pursuant to Senate Bill 1441 (Ridley-Thomas, Ch. 548, Stats. 2008) to the Boards disciplinary guidelines. Also updates the Board's disciplinary guidelines, which have not been revised since 1999, to be in line with the current probationary environment. This rulemaking file will be submitted to OAL for final review prior to the file's expiration on October 21, 2012.

Sponsored Free Health Care Events: (CCR Sections 1508, 1508.1, 1508.2, 1508.3) This proposal provides exemption from licensure and requirements to optometrists, licensed or certified in good standing in another state or states, that offer or provide eye care services through a sponsored event. Requirements are also established for the sponsoring entity, and registration forms are incorporated by reference. This proposal was initiated pursuant to Assembly Bill 2699 (Bass, Ch. 2070, Stats. 2010). This rulemaking package will be submitted to OAL for final review by the end of this year.

Consumer Information Change Without Regulatory Effect (technical or editorial changes): (CCR Section 1566.1) This proposal updates the Board's address because the current language in the Consumer Notice regulation contains the old address. This change without regulatory effect will be submitted to OAL before the end of this year.

Consumer Protection Initiative Regulations: (CCR Sections TBD) This proposal stems from an effort by the Department of Consumer Affairs to implement certain provisions of its legislation Senate Bill 1111 that do not require statutory authority. Senate Bill 1111 failed to pass the legislature in 2010. These regulations will propose delegation of certain functions to the Executive Officer, required actions against registered sex

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offenders, and additional professional conduct provisions to aid in the streamlining the Board's enforcement process. The Board anticipates meeting in November to discuss these regulations and possibly submit them for notice to OAL by the end of this year.

Major Studies

Describe any major studies conducted by the board.

2009 – Comprehensive Audit of the National Boards of Examiners in Optometry:

As part of the Board's responsibility to ensure that examination programs being used in the California licensure process comply with psychometric and legal standards, the Board contracted with the Department of Consumer Affairs, Office of Professional Examination Services (OPES) to complete a comprehensive review of the NBEO licensing examinations for continued use in California. The purpose of the review was to determine if the NBEO examinations assess competencies relevant to practice in California and whether the examinations meet professional guidelines and technical standards outlined in the *Standards for Educational and Psychology Testing (APA Standards)(add footnote)* and Business and Profession Code section 139. OPES found that that the procedures used to establish and support the validity and defensibility of the NBEO examination meet the professional guidelines and technical standards outlined above.

Occupational Analysis – Office of Professional Examination Services

An occupational analysis (survey) is a required component in the examination development process. Professional guidelines and testing standards recommend conducting an occupational analysis every five to seven years. This survey of licensees is conducted to determine the current practice of the profession. The survey becomes the foundation for the examination plan which is utilized to develop the laws and regulation examination for optometrists. This process ensures the Board's laws and regulation examination is fair, job-related, and legally defensible. Since the last Sunset Review, the Board conducted an occupational analysis in 2009 with the assistance of OPES.

National Association Activity

List the status of all national associations to which the board belongs.

The Board is a current member of the Association of Regulatory Boards of Optometry. This membership includes voting privileges.

To date, despite Board member interest, the Board has not participated in any committees, workshops, working groups, or task forces related to its membership in this national association. This is due to constraints, specifically restrictions on travel, associated with California's ongoing budget shortfalls.

Although not a member, the Board does have a good working relationship with the California Optometric Association (COA), which is an affiliate of the American Optometric Association. Board staff is invited to three events held by the COA yearly:

- Monterey Symposium – Optometrists have the opportunity to obtain continuing optometric education, network with colleagues, and explore an exhibit hall filled with optometry's latest products and services. The Board is given a table in the exhibit area to distribute information about the licensing and enforcement of the profession, and answer questions. Historically, two staff members were permitted to attend, but in the last few years, budget constraints have precluded staff from attending.
- Legislative Day – More than 180 optometrists from around the state rally at the State Capitol to meet legislators and promote the practice of optometry. The Board is represented and has the opportunity to share projects they are working on, statistics pertaining to licensure and enforcement, and answer

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questions. Since this is held in Sacramento, two staff members attend.

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- House of Delegates – The COA House of Delegates are a ten member board of trustees who govern and consist of COA members from each of the local optometric societies, California optometry schools and colleges, and COA sections. Delegates meet once a year to debate and vote on COA policy resolutions and bylaws amendments; adopt the COA budget; and elect COA's trustees and officers. Historically two Board staff members are permitted to attend. In the past few years, staff have not attended due to budget restraints. This event is held in a different part of the state each year.

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If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?

In 2001, the Board voted to use the National Board of Examiners in Optometry (NBEO) examination for licensure. This became effective upon the passage of California Code of Regulations section 1531 on January 28, 2002. The examination is developed and administered by the NBEO, which is located in North Carolina. The NBEO was established in 1951 and is an organization that develops, administers, and scores examinations, and reports the results that state boards utilize in licensing optometrists to practice eye care. Currently, all 50 states, the District of Columbia and Puerto Rico use this examination for licensure.

The Board conducted an assessment of the NBEO examination in 2001, and again in 2009. The purpose of the assessments were to ensure that the examination met professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing* and the Department of Consumer Affairs *Examination Validation Policy*. The Board's assessments determined the examination meets the prevailing standards for validation and use of the examination for licensure in California.

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Applicants for an optometrist license can apply to take the NBEO examination without first applying to the Board. This is permitted because the NBEO is divided into three parts, and applicants must take the first two parts while still in optometry school. Upon applying with the Board, applicants must ensure that the NBEO submit their scores to the Board. The Board and the NBEO have arranged for the scores to be transmitted electronically for examination security purposes. There are two administrations of this examination a year, and this takes place at the NBEO testing center in North Carolina.

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The NBEO is aware that the Board may take the following steps to ensure they are current with California optometrist practice, and meet the national and California testing standards.

- The Board and/or its psychometric vendor may audit the NBEO program every five to seven years;
- California optometrists will be involved in future occupational analyses and the examination development process;
- Upon notification of any potential or actual adjustments of the national passing score by another state, the Board may voice its concerns or adapt, as necessary;
- The Board and/or its designated examination expert may conduct site visits of testing centers on an annual basis;
- Require detailed content outlines of the examination be provided by the NBEO to candidates for the examination;
- Require that pass/fail rate be provided to the Board on a monthly basis. The NBEO posts scores online for Parts I, II, III, TMOD, and ISE as soon as the scores are released to the candidates;
- Require that detailed statistics such as number of attempts and pass/fail rates per school be provided;
- Require the NBEO to continue to provide examination scores electronically for examination security purposes;
- Ensure the NBEO is in compliance with the American Disabilities Act by providing special testing accommodations to examination candidates.

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Section 2 Performance Measures and Customer Satisfaction Surveys

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Quarterly and Annual Performance

Provide each quarterly and annual performance measure report as published on the DCA website
The Board's quarterly and annual performance measures as published on the DCA website are located in Section _____.

Customer Satisfaction Survey

Discussion of customer satisfaction survey data

The Board began using three customer satisfaction surveys (General, Licensing, and Enforcement) in April 2009. Therefore, the fiscal year 2009/10 survey data reflects responses since that time. All other fiscal years represent responses for a full fiscal year, with the exception for fiscal year 2011-12 in the Enforcement survey (see below). Customer satisfaction surveys were not conducted prior to April 2009.

The surveys were distributed as follows:

- In paperwork mailed to individuals who were served by the Board's licensing or enforcement units, including applicants for licensure, renewal, or certification changes, and individuals who had filed complaints against a licensee;
- A link on the Board's website;
- A link on all staff's e-mail signature blocks;
- A link on follow-up e-mails to licensees/consumers, that had been recently assisted by staff, requesting completion of the survey; and
- A link in every e-mail sent to the Board's website subscribers.

In 2011, DCA created an enforcement satisfaction survey and the Board's enforcement unit began using this survey instead of the 2009 Board survey. In addition to including a postcard sized survey in correspondence to complainants, Board staff continued the use of e-mail signature blocks that include the link to the electronic version of the survey. Since implementation of the survey, a total of six people have viewed the DCA survey online.

In an effort to increase responses for all surveys, the Board is researching other options for contacting potential survey respondents. One option that is being researched is requesting that the Employment Development Department include copies of the survey in the licensure packets that are mailed out once applications are completed. While this would require significant staff time and financial resources to implement, it may result in more survey responses.

While response rates are low, survey results indicate that the Board's performance is consistent with satisfaction scores ranging from 70% to 85%, and a rating average of 4.5. The Board will continue to research additional methods to increase response rates, and provide excellent service to consumers and licensees. This is an important component to the Board's mission and strategic goals.

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Provide results for each question in the customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

General Customer Satisfaction Survey Fiscal Years (FY) 09/10* - 11/12				
Are you a(n):	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	Applicant	0	0	0
	Licensee	2	12	4
	Consumer	0	0	2
	Government Agency	0	0	7
	Optometric Association	0	2	0
	Other	2	3	1
Total Respondents	4	17	14	
On average, how many times do you contact the Board per month?	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	0-1 times	3	16	7
	2-3 times	0	1	1
	4-5 times	0	0	4
6 or more times	1	0	2	
What was your purpose for contacting the Board? Choose all that apply.	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	Board Meetings	1	1	0
	Board Member Contact	0	0	0
	Executive Officer	1	0	0
	Forms	2	7	2
	Laws and Regulations	0	6	2
	Law Exam Workshops	0	1	0
	Newsletter	0	5	0
	Public Records Act Request	0	0	3
	Request for Information	0	8	12
Subject Matter Expert Info	0	1	0	
Other	0	2	4	
Were you transferred to the appropriate individual if you were unable to get a response from your initial contact with the Board?	Yes	Response Percent		
		FY 09/10	FY 10/11	FY 11/12
		50%	82%	71%
Based on your contact with the Board, please rate the following:	Answer Options	Rating Average (1=Unacceptable, 5 = Excellent)		
		FY 09/10	FY 10/11	FY 11/12
	Staff Courteous/Helpful	4.3	4.2	4.1
	Staff Knowledgeable	4.0	4.5	4
	Staff Accessible	4.0	4.2	3.8
Staff Responsiveness	4.0	4.2	4.1	
Overall Satisfaction	4.0	4.3	4.1	
Prior to contacting the Board, did you visit the Board's website at www.optometry.ca.gov ?	Yes	Response Percent		
		FY 09/10	FY 10/11	FY 11/12
		50%	88%	79%
Did you receive the service you needed as a result of your contact with the Board?	Yes	Response Percent		
		FY 09/10	FY 10/11	FY 11/12
		75%	88%	93%

*The first survey conducted by the Board was in April 2009

General Customer Satisfaction Survey Additional Comments:

11/12

- I worked with the receptionist and she did a great job handling my complicated case and being aware of the time limit I was under.

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- The Board should provide interpretation and advice on California law as it pertains to optometry. I was advised to contact my attorney when I contacted the Board.
- The receptionist and licensing staff who handle business licenses are the best people in the world!! So nice and extremely helpful.
- Specifically, I requested the citation of the rules governing the dispensing of eyeglasses on an *expired* prescription. Initial call: I was transferred to someone who would be expected to have an answer to my question, but for whom I was to leave a voice message. I did leave a voice message requesting a response either by phone or by email and provided my contact information. I received no response at all.... and this survey is the first I've heard back!

10/11

- I called to request information regarding optometry law, and was told to contact my attorney.
- The few times I have contacted the Board of Optometry, everyone that I met was courteous and very knowledgeable. This is probably why I do not have to contact them as much. They are very efficient!
- Not all the information is presented on the website, but I am glad to know that all my questions are answered with a single phone call.

9/10

- None.

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Licensing Customer Satisfaction Survey Fiscal Years (FY) 09/10* - 11/12				
Are you a(n):	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	Applicant	3	10	12
	Licensee	1	6	5
	Consumer	1	4	5
	Total Respondents	5	20	22
Based on your initial contact with the Board, please rate the following:	Answer Options	Rating Average (1 = Unacceptable, 5 = Excellent)		
		FY 09/10	FY 10/11	FY 11/12
	Staff Courteous/Helpful	4.8	4.6	4.6
	Staff Knowledgeable	4.2	4.4	4.5
	Staff Accessible	4.4	4.4	4.2
	Staff Responsiveness	3.8	4.4	4.3
	Overall Satisfaction	4.4	4.4	4.4
During your initial contact with the Board, were you transferred to the appropriate individual in the Licensing Unit?	Answer Options	Response Percent		
		FY 09/10	FY 10/11	FY 11/12
	Yes	80%	85%	82%
On average, how many times do you contact the Board's Licensing Unit per month?	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	0-1 times	3	14	14
	2-3 times	2	3	3
	4-5 times	0	0	2
	6 or more times	0	2	2
What was your purpose for contacting the Licensing Unit? Choose all that apply.	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	Address Change	0	1	1
	Application for Licensure (CA)	0	5	2
	Application for Licensure (out-of-state)	2	7	9
	CLRE	0	1	5
	Business Licenses	0	2	1
	Laws and Regulations	0	4	2
	Optometry License Renewal	0	2	3
	Verification of Licensure	0	3	3
	Other	3	6	5
Based on your contact with the Board's Licensing Unit, please rate the following:	Answer Options	Rating Average (1 = Unacceptable, 5 = Excellent)		
		FY 09/10	FY 10/11	FY 11/12
	Staff Courteous/Helpful	4.8	4.5	4.3
	Staff Knowledgeable	4.4	4.3	4.4
	Staff Accessible	4.2	4.4	4.2
	Staff Responsiveness	3.6	4.3	4.3
	Overall Satisfaction	4.2	4.4	4.4
Prior to contacting the Board's Licensing Unit, did you visit the Board's website at www.optometry.ca.gov ?		Response Percent		
	Yes	100%	85%	86%
Did you receive the service you needed as a result of your contact with the Board Licensing Unit?		Response Percent		
	Yes	100%	85%	77%

Licensing Customer Satisfaction Survey Additional Comments:

09/10

- How very sad it is that at the same time so many names of those certificated in 1959 no longer appear on the roster, the name of one long deceased, whose license had been revoked, remains. Despite many petitions to change the status to deceased, the Board of Optometry refuses to respond. I knew

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Dr. Gerald Albert and his family very well. I pursued the attempts to change the status to deceased, to honor the memory of the very significant good that he and his late wife did for the community, which is carried on by their very accomplished children. If the status of Dr. Albert's license will not be changed, I request a written explanation from the Board so that I can show the evidence to his children.

- Email petitions to the Board office during the previous year, and to the Vice-President. Received no response. I could not find a direct e-mail address for the President.
- Out-of-state optometrist: The process has been very slow and I received a letter requesting information that had been sent more than three months ago. The staff is not as organized as I would have expected and it has taken a long time to process the application.
- In regards to the Board's website: All very useful indeed.

10/11

- The staff is helpful & very knowledgeable.
- The board personnel work very hard to cover the needs of the licensed optometrists.
- I appreciate the prompt reply and provision of requested form.

11/12

- I attempted to obtain written verification of a provider's optometry license. I received a letter stating there was no fee for the service along with my check and this survey. The letter did not indicate whether or not your company will provide written verifications or if WE MUST USE the information we obtain on your website. So I am sending a second request via fax.
- I have been e-mailing the licensing analyst about my license for over two weeks and have not gotten a response. Every time I call his direct number, he states that he is unavailable. I would like to get a response about my application. The person I contacted stated that he was not able to be reached on his voicemail. I am still waiting to be contacted
- Still waiting for our FNP. Its been over 2 months.
- I am impressed.
- No response regarding my TPL application until I contacted them 2 months later, then I was left hanging until I contacted them 2 and a half months after that. Was told the supervising doctor that signed off my TPL was not an "ophthalmologist" even though he practices ophthalmology in California and is a board certified ophthalmologist.
- The licensing analyst is very knowledgeable and extremely helpful.

Enforcement Customer Satisfaction Survey Fiscal Years (FY) 09/10* - 11/12**				
Are you a(n):	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	Applicant	0	0	
	Licensee	1	2	
	Consumer	2	19	
	Total Respondents	3	21	
Based on your initial contact with the Board, please rate the following:	Answer Options	Rating Average (1 = Unacceptable, 5 = Excellent)		
		FY 09/10	FY 10/11	FY 11/12
	Staff Courteous/Helpful	5.0	4.8	
	Staff Knowledgeable	5.0	4.8	
	Staff Accessible	4.7	5.0	
	Staff Responsiveness	4.3	4.7	
	Overall Satisfaction	4.7	4.8	
During your initial contact with the Board, were you transferred to the appropriate individual in the Enforcement Unit?	Answer Options	Response Percent		
		FY 09/10	FY 10/11	FY 11/12
	Yes	100%	100%	
On average, how many times do you contact the Board's Licensing Unit per month?	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	0-1 times	2	13	
	2-3 times	0	1	
	4-5 times	1	1	
	6 or more times	0	1	
What was your purpose for contacting the Licensing Unit? Choose all that apply.	Answer Options	Response Count		
		FY 09/10	FY 10/11	FY 11/12
	Disciplinary History	1	14	
	Laws and Regulations	1	6	
	Request to File a Complaint	0	2	
	Pending Complaint	0	1	
	Probation	0	0	
Other	2	4		
Based on your contact with the Board's Enforcement Unit, please rate the following:	Answer Options	Rating Average (1 = Unacceptable, 5 = Excellent)		
		FY 09/10	FY 10/11	FY 11/12
	Staff Courteous/Helpful	5.0	4.4	
	Staff Knowledgeable	5.0	4.5	
	Staff Accessible	4.7	4.5	
	Staff Responsiveness	4.3	4.5	
	Overall Satisfaction	4.7	4.5	
Prior to contacting the Board's Enforcement Unit, did you visit the Board's website at www.optometry.ca.gov ?	Answer Options	Response Percent		
		FY 09/10	FY 10/11	FY 11/12
	Yes	100%	71%	
Did you receive the service you needed as a result of your contact with the Board Enforcement Unit?	Answer Options	Response Percent		
		FY 09/10	FY 10/11	FY 11/12
	Yes	100%	76%	

Enforcement Customer Satisfaction Survey Additional Comments:

09/10

- An observation: the Enforcement Unit takes their roles and responsibilities seriously ensuring consumer protection. Took a couple of days for staff to respond to my calls and emails, but after they called me back the staff was helpful and knowledgeable.
- Enforcement staff are kind, helpful and professional.
- When I emailed your website for help. I did not get any reply for over a week. When I called an analyst directly, I was helped promptly and she is great.

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- I called the Enforcement Unit to obtain some info on CA rules for optometrists. They are extremely helpful. Thanks again.
- Extremely helpful, went the extra mile to identify which of my providers will be affected by the new fingerprint requirement.

10/11

- None.

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**Section 3
Fiscal and Staff**

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Fiscal Issues

Describe the board's current reserve level, spending, and if a statutory reserve level exists.

The Board ended Fiscal Year (FY) 2011/2012 with a reserve balance of \$617,000 which equates to 4.3 months in reserve. The Board estimates FY 2012/2013 reserve balance to be approximately \$571,000 equating 3.9 months in reserve. A decrease to the Board's reserve balance is due to the \$1 million dollar loan to the General Fund in FY 2011/2012. Additionally, the Board anticipates further decreases to its reserve fund due to the increase in Operating Expenses & Equipment (OE&E), a rent increase based on the Board's relocation to a larger office, and the Departmental BreEZe Budget Change proposal (See Section 9 for more information on the BreEZe Project).

In FY 2011/2012, the Board reverted \$247,615, due to spending \$1,270,684 (81%) of its \$1,564,598 budget. The Board's statutory reserve fund limit is six months. Footnote Business and Professions Code section 3145.

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Table 2. Fund Condition						
(Dollars in Thousands)	FY 2008/09	FY 2009/10	FY 2009/10	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance	742	813	1226	1514	617	571
Revenues and Transfers	1118	1573	1648	664	1671	1670
Total Revenue	\$1118	\$1573	\$1648	\$1664	\$1671	\$1670
Budget Authority	1489	1489	1658	1571	1714	TBD
Expenditures	1055	1167	1357	1554	1714	1748
Loans to General Fund				1000		
Accrued Interest, Loans to General Fund						
Loans Repaid From General Fund						
Fund Balance	\$804	\$1218	\$1514	\$617	\$571	\$493
Months in Reserve	8.3	10.7	11.6	4.3	3.9	3.3

Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.

Current Board projections do not indicate a future deficit. The last fee increase became effective April 28, 2009. The Board had not sought a fee increase since FY 1996/97. The fee increase was necessary for the Board to maintain core business functions (licensing, enforcement and consumer protection) in the regulatory program, to rebuild the reserve funds, and absorb the anticipated and necessary increases in the operating budget in future years. The Board does not have immediate plans to increase or reduce fees. Footnote Business and Professions Code sections 3152; 3152.5; and California Code of Regulations section 1524.

Describe history of general fund loans. When were the loans made? When were payments made? What is the remaining balance?

In FY 2011/2012, the Board made a \$1 million dollar loan to the General Fund. To date, the Board has not received any repayment leaving the balance due at \$1 million dollars. The lack of repayment has constrained the Board's ability to maintain adequate reserve funds that can assist the Board in emergency situations.

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Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

The chart below reflects the Board's expenditures by program component. On average, during the last four fiscal years, the Board's enforcement program accounts for 41.5% of the Board's expenditures, the examination program 3.5%, the licensing program accounts for 15%; administration 24% and 16% for pro rata.

Table 3. Expenditures by Program Component								
(Dollars in Thousands)	FY 2008/09		FY 2009/10		FY 2010/11		FY 2011/12	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	110	208	183	286	313	358	306	290
Examination	11	41	9	26	11	19	9	31
Licensing	165	71	160	97	106	35	94	40
Administration *	231	66	198	77	278	66	245	69
DCA Pro Rata		207		172		216		238
Diversion (if applicable)								
TOTALS	\$517	\$593	\$550	\$658	\$708	\$694	\$654	\$668

*Administration includes costs for executive staff, board, administrative support, and fiscal services.

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Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

Table 4. Fee Schedule and Revenue							
Fee	Current Fee Amount	Statutory Limit	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	FY 2011/12 Revenue	% of Total Revenue
Duplicate or replacement	\$25	\$25	\$6,925	\$6,400	\$6,225	9,400	.55%
Cite & Fine Recovery	Various	Various	---	\$454	\$1,100	\$5,692	.33%
Optometrist License - Application	\$275	\$275	\$64,075	\$73,450	\$73,700	\$75,075	4.37%
Statement of Licensure - Application	\$20	\$20	\$3,500	\$20	---	---	---
Statement of Licensure – Application	\$40	\$40	\$440	\$7,540	\$9,240	\$10,160	.59%
Therapeutic Pharmaceutical Agent Certification - Application	\$25	\$25	\$375	\$7,425	---	---	---
Therapeutic Pharmaceutical Agent Certification - Application	\$50	\$50	---	---	\$6,515	\$6,675	.39%
Lacrimal Irrigation and Dilation Certification – Application	\$50	\$50	---	\$7,050	\$6,725	\$7,200	.42%
Glaucoma Certification - Application	\$35	\$50	---	\$10,085	\$9,685	\$33,380	1.94%
Fictitious Name Permit - Application	\$10	\$10	\$250	---	---	---	---
Fictitious Name Permit - Application	\$50	\$50	---	\$5,520	\$7,400	\$7,650	.45%
Branch Office - Application	\$60	\$75	\$3,900	\$3,660	\$760	\$160	.01%
Branch Office - Application	\$75	\$75	\$1,715	\$3,450	\$4,500	\$4,575	.27%
Continuing Education Course Provider - Application	\$50	\$100	---	\$5,015	\$5,600-	\$6,400-	.37%-
Optometrist License - Biennial Renewal	\$300	\$300	\$963,900	\$40,976	\$4,260	\$4,500	.26%
Optometrist License - Biennial Renewal	\$425	\$500	\$945	\$1,324,725	\$1,400,308	\$1,490,475	87%
Statement of Licensure – Biennial Renewal	\$40	\$40	---	---	\$12,000	\$13,000	.76%
Fictitious Name Permit – Annual Renewal	\$10	\$10	\$354	\$1,330	---	---	---
Fictitious Name Permit – Annual Renewal	\$50	\$50	\$10,280	\$20,375	\$54,700	\$592	.03%

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Fee	Current Fee Amount	Statutory Limit	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	FY 2011/12 Revenue	% of Total Revenue
Branch Office License – Annual Renewal	\$60	\$60	\$20,460	---	\$840	---	---
Branch Office License - Annual Renewal	\$75	\$75	\$135	\$25,375	\$25,350	\$24,883	1.45%
Delinquent Optometrist License – Biennial Renewal	\$25	\$25	\$2,710	\$1,400	\$375	\$400	.02%
Delinquent Optometrist License – Biennial Renewal	\$50	\$50	\$2,050	\$5,750	\$7,425	\$6,410	.37%
Delinquent Fictitious Name Permit – Annual Renewal	\$25	\$25	\$925	\$365	\$1,150	\$1,050	.06%
Delinquent Statement of Licensure – Biennial Renewal	\$20	\$40	\$520	---	---	---	---
Delinquent Statement of Licensure – Biennial Renewal	\$20	\$20	---	\$580	\$440	\$1440	.08%
Miscellaneous Service to the Public	Various	Various	\$15,532.79	\$1,269.20	---	\$1,575	.09%
Income from Surplus Money Investment	Various	Various	\$19,103.16	\$6,832.25	\$7,304.23	\$4,041.88	.24%
Miscellaneous Revenue	Various	Various	\$14.95	\$1,065	\$2,403	\$836	.05%
Unclaimed Property	Various	Various	\$125	\$215.20	\$304	\$910	.05%
Total Revenue			\$1,118,235.40	\$1,572,776.65	\$1,648,345.23	\$1,716,931.88	100%

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Fee	Date Repealed	Date Amended	Date Added
Professional Corporation Application (\$100)	01/1/2007		
Professional Corporation Renewal Application (\$50)	01/1/2007		
Professional Corporation Special Report e (\$25)	01/1/2007		
Renewal of Optometric License (\$300 to \$500)		01/01/2008	
Delinquency Fee Renewal of Optometric License (\$25 to \$50)		01/01/2008	
Application -- Certificate to Treat Lacrimal Irrigation & Dilation (\$50)			01/01/2008
Application – Certificate to Treat Glaucoma (\$50)			01/01/2008
Application – Approval of Continuing Education Course (\$100)			01/01/2008
Application – Issuance of Statement of Licensure (\$40)			01/01/2008
Biennial Renewal – Statement of Licensure (\$40)			01/01/2008
Delinquency Fee – Statement of Licensure (\$20)			01/01/2008
Application – Fictitious Name permit (\$50)			01/01/2008
Annual Renewal – Fictitious Name Permit (\$50)			01/01/2008
Delinquency Fee – Fictitious Name Permit (\$25)			01/01/2008

(Business and Professions Code sections 3044; 3152; 3152.5; 3161; 3075; 3077;3078; and California Code of Regulations section 1524; 1549.)

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Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

Table 5. Budget Change Proposals (BCPs)								
BCP ID#	FY	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved
1110-30	09-10	Comprehensive Healing Arts Boards Fingerprinting Augmentation	2.0 SSA 1.0 OT (T)	2.0 SSA 1.0 OT (T)	146	146	128	1110-30
1110-1A	10-11	Consumer Protection Enforcement Initiative	0.5 AGPA [2yr LT]	0.5 AGPA [2yr LT]	32	32	10	1110-1A
*1110-25	10-11	Licensing Position Increase	Denied					1110-25
1110-38	10-11	Office Relocation	Denied					1110-38
1110-15	11-12	Staff Services Manager I Position	1.0 SSM I	1.0 SSM I	93	Position Authority only	17	1110-15

Staffing Issues

Describe any staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

In FY 2007/08 the Board consisted of 7.5 authorized positions and by FY 2011/2012, the Board doubled in size with authorization for 14 positions and 1 blanket position. Currently, the Board has authorization for 10.4 positions and 1 blanket position.

Past and current Executive Orders for personnel reductions and furlough programs are adversely impacting the Board's recruitment efforts and operations:

- *1110-25 Fiscal Year 10/11 – Licensing Position Increase was authorized; however it was never realized as it was used to comply with Governor Schwarzenegger's Executive Order for a Permanent Reduction in Staff (i.e., Workforce Cap) in FY 2011/12. Executive Order S-01-10 required state agencies to ensure an additional 5% salary savings in FY 2010/11. This was converted to a 5% workforce cap that required permanent staff reductions in FY 2011/12.
- BCP 1110-15 authorized the Staff Services Manager I (SSM I) position; however, after submitting a Request for Personnel Action, the Board was informed by the Department of Consumer Affairs, Office of Human Resources that the Board's current position authority (staffing delegation) did not meet the Department of Personnel Administration's (DPA) allocation criteria to support a SSM I. The Board was denied moving forward on hiring the SSM I. The Board considered reclassifying the SSM I to an Associate Governmental Program Analyst (AGPA); however, a limited term office technician (OT) (typing) position as support staff in the Board's Enforcement Program was slated to expire on July 11, 2012 and could not be extended. This position was vital to the improvements in the Enforcement Program and ongoing efforts of

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the Board in meeting its mandate of consumer protection. The Board determined that this critical position must be filled.

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To establish this position, the Board has reclassified a 0.9 from a full-time Staff Services Manager I (SSMI) position to a 0.9 Office Technician (Typing) classification. The Board was directed by Budget Letter 12-03 to reduce positions by 0.6 PY. To meet this directive, the Board lost 0.1PY from the SSM I position and 0.5 PY from a 1.0 PY at the Management Services Technician classification that is currently filled with a part-time (0.5) employee.

- Originally the Board had a permanent tenured employee at the Associate Governmental Program Analyst (AGPA) classification housed in the Board's Enforcement Program. This was an authorized position through the State Controllers Office (SCO). At the same time, the Board had a permanent tenured employee also housed in the Enforcement Program. This position was not authorized through SCO but the Board was permitted to have the position funded as a blanket position. Subsequently, the AGPA position became vacant, was downgraded to a SSA and the employee in the blanketed position was redirected to the authorized position. The overall result was the loss of one position. The Board has been informed that it can no longer create a blanket position for a permanent classification.

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The Board provides a work environment that is flexible, positive, and supportive of staff development. The longevity of employment with the Board by current staff speaks well of the Board's retention efforts. The Board recognizes the importance of institutional knowledge and succession planning. Enforcement Program staff meet weekly to discuss complaint handling of complex cases as a means of training and sharing of knowledge. Development of a resource manual and procedure manual are under development by the Enforcement Program. Licensing Program Staff meet monthly to discuss issues/concerns related to licensure. Staff is currently revising the procedure manuals for this program. The manuals and regularly scheduled meetings provide the staff members with the necessary tasks and an understanding of the Board objectives and goals.

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Staff development and mentoring is vital to succession planning. In addition to the training available, staff is afforded the opportunity to participate when special project arise. These opportunities provided staff receive the experience necessary to qualify for promotional opportunities within the Board.

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Describe the board's staff development efforts and how much is spent annually on staff development. Provide year-end organizational charts for the last four fiscal years.

Work-related and professional development training opportunities are afforded to all Board staff. Staff may enroll in training courses available through a vast number of resources, including courses offered through the Department of Consumer Affairs, SOLID Training Office. Enforcement staff has completed the week long Enforcement Academy that consists of seven modules. The Academy provides a solid, standard baseline of knowledge and practices for employees who perform enforcement functions.

All analytical staff is participating in the newly developed Analyst Certification Training (ACT) program. The training helps individuals build indispensable analytical skills through training that focuses on the critical core abilities essential to successful analysts.

The Board has spent approximately \$4,030 in staff development efforts:

Fiscal Year	Cost
2008/09	\$752.01
2009/10	\$418.70
2010/11	\$1,070
2011/12	\$1,790

In addition to training, the Executive Officer conducts an annual review of staff. The review includes a discussion regarding work-related training as well as training related to professional development.

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Organizational Charts

The Board's organizational charts for the past four fiscal years are located in Section 12 D.

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Section 4 Licensing Program

Performance Measures

What are the board's performance targets/expectations for its licensing program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

During FY 2011-2012, the Board was able to meet and, in some areas, surpass its previous performance standards in the processing and issuance of optometrist licenses, statements of licensure (for a licensee's additional places of practice), and license certifications. The Board was able to accelerate the issuance of optometrist licenses due to a revision of its forms, policies and procedures, and the assistance of staff which includes one full-time analyst, one seasonal office assistant, and one student assistant that the Board was able to employ for a two-month period.

With the addition of the seasonal office assistant, the Board has been able to maintain its standard for the issuance of Statement(s) of Licensure (SOL) and license certifications (TPA, TPL, TPG, TLG), which has become a full-time job, but has not been able to meet its goal for the completion of branch office licenses (BOL) and fictitious name permits (FNP). This is due to an increase in workload and lack of staff. The Board recently requested, and received permission via BCP 1110-25 FY 10/11 to establish a 0.5 FY Management Services Technician (MST) position. This would have allowed the current 0.5 MST to be an authorized 0.5 position and enable the Board to hire a full-time MST to add to the licensing unit's staff. The Board "lost" both BCP 1110-25 and the 0.5 PY of the full time MST position to meet the Governor's directives of personnel reduction.

The Board's licensing staff is working diligently to maintain its current standards but with a limited staff and a growing profession, there are concerns as to whether staff can continue its current pace.

In previous years, Board staff was able to sufficiently handle the processing of SOLs, BOLs, FNPs and corporations (CORs) due to the employment of two half-time MSTs. On January 1, 2007, CORs no longer had to register with the Board. This eliminated that duty, but soon thereafter the Board had to relinquish one of the half-time MST positions. This increased the workload of the remaining position and required the assigned job duties among the licensing staff be restructured. The workload backlogged and it became evident a seasonal office assistant was necessary. As an example, optometrists are required by law to obtain a FNP and/or BOL prior to opening or purchasing an optometric business. During recent compliance checks conducted to ensure optometrists possess current optometric and business licensure, and follow advertising laws and regulations, it was found that a number of optometrists are not complying with FNP and BOL licensure requirements. Enforcement staff began notifying optometrists of the requirements and requiring the completion and submission of the appropriate applications. This generated a spike in applications for FNPs and BOLs which led to an unprecedented increase in workload. A half-time employee is responsible for the evaluation of FNP and BOL applications. This individual also serves as the in-house cashier for the Board. Consequently, the application processing time exceeds performance measures and the processing times (reference to CCR section 1564-1564.1).

The Board's forms revision now includes the business license applications (BOL, FNP) which promotes a more streamlined application review process. Also the Board's Enforcement Unit's newly implemented project has the capability to locate non-compliant licensed optometrists who are non-compliant with the laws and regulations. This has helped improve licensing staff operations.

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Application and Licensure Processing Times

Describe any increase or decrease in average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?

The average time needed to issue optometrist's licenses largely depends on the receipt of the items required for the issuance of the license which are, for the most part, outside of Board control. Prior to FY 2009-2010, the process would take anywhere from 60 to 365 days to complete. The Board's acceptance in 2002 of all parts of the NBEO examination as the Board's licensure examination, greatly streamlined the testing process for applicants. Not having to development and manage the testing of its own licensure examination permitted the Board to focus on decreasing the processing times to issue an optometric license. In FY 2011-2012, the minimum amount of time needed is 12 days, the median, 108 days, and the maximum, 365 days (this average includes applications from recently graduated optometrists and out-of-state optometrist license applicants). Since the California Laws and Regulations examination (CLRE) can now be taken at almost any time, applicants for licensure no longer have to wait for one of the two days the CLRE used to be administered, thereby eliminating a significant portion of the processing time.

The average processing time for statement(s) of licensure (SOL) and optometrist license certifications (TPA, TPL, TPG, TLG) remains unchanged due to the addition of a temporary office assistant. Without this individual, pending applications would almost assuredly have exceeded completed applications. The hiring of a permanent office assistant or management services technician would greatly improve the processing time and prevent any potential backlog of pending applications.

Optometrist applications that are left pending are those that we have yet to confirm completion. The number of pending applications has decreased by as much as 50% in the past two fiscal years.

How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?

On average, the Board issues 243 optometrist licenses and renews 3,449 optometric licenses each year.

Table 6. Licensee Population		FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Optometrist	Active	6860	6936	6994	7070
	Out-of-State	962	934	872	858
	Out-of-Country	42	43	44	42
	Delinquent	1497	1485	1482	1496
Statement of Licensure (SOL)	Active	878	800	829	856
	Out-of-State	n/a	n/a	n/a	n/a
	Out-of-Country	n/a	n/a	n/a	n/a
	Delinquent	477	439	320	254
Branch Office License (BOL)	Active	364	353	363	367
	Out-of-State	n/a	n/a	n/a	n/a
	Out-of-Country	n/a	n/a	n/a	n/a
	Delinquent	69	73	69	70
Fictitious Name Permit (FNP)	Active	1094	1126	1169	1210
	Out-of-State	n/a	n/a	n/a	n/a
	Out-of-Country	n/a	n/a	n/a	n/a
	Delinquent	89	89	74	71

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Table 7a. Licensing Data by Type

	Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2009/10	OPT License	279	279	-	223		-	-	-	-	75
	OPT Renewal	3327	3327	-	3369		-	-	-	-	6
	SOL Initial	199	199	-	149		-	-	-	-	82
	SOL Renewal	306	306	-	290		-	-	-	-	6
	FNP Initial	119	119	-	115		-	-	-	-	165
	FNP Renewal	1023	1023	-	1033		-	-	-	-	6
	BOL Initial	46	46	-	40		-	-	-	-	111
	BOL Renewal	341	341	-	327		-	-	-	-	6
FY 2010/11	OPT License	271	271	-	258		-	-	-	-	141
	OPT Renewal	3468	3468	-	3430		-	-	-	-	5
	SOL Initial	247	247	-	181		-	-	-	-	93
	SOL Renewal	313	313	-	297		-	-	-	-	5
	FNP Initial	154	154	-	99		-	-	-	-	105
	FNP Renewal	1137	1137	-	1092		-	-	-	-	4
	BOL Initial	65	65	-	42		-	-	-	-	114
	BOL Renewal	351	351	-	331		-	-	-	-	4
FY 2011/12	OPT License	282	282	-	249	100	-	-	-	-	148
	OPT Renewal	3569	3569	-	3547		-	-	-	-	6
	SOL Initial	226	226	-	259	55	-	-	-	-	88
	SOL Renewal	320	320	-	328		-	-	-	-	5
	FNP Initial	158	158	-	131	44	-	-	-	-	121
	FNP Renewal	1129	1129	-	1116		-	-	-	-	6
	BOL Initial	63	63	-	59	20	-	-	-	-	106
	BOL Renewal	363	363	-	338		-	-	-	-	5

* Optional. List if tracked by the board.
 NOTE: Exams are integrated in the License Application Process

Table 7b. Total Licensing Data

	FY 2009/10	FY 2010/11	FY 2011/12
Initial Licensing Data:			
Initial License Applications Received	643	737	729
Initial License Applications Approved	643	737	729
Initial License Applications Closed	527	580	698
License Issued	527	580	698
Initial License/Initial Exam Pending Application Data:			
Pending Applications (total at close of FY)	-	-	219
Pending Applications (outside of board control)*	-	-	-
Pending Applications (within the board control)*	-	-	-
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):			
Average Days to Application Approval (All - Complete/Incomplete)	57	59	61
Average Days to Application Approval (incomplete applications)*	-	-	-
Average Days to Application Approval (complete applications)*	-	-	-
License Renewal Data:			
Licenses Renewed	5019	5150	5329

* Optional. List if tracked by the board.

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Applicant Information Verification and Requirements

How does the board verify information provided by the applicant?

School/College transcripts, examination score reports, and fingerprint reviews are sent directly to the Board from their place of origin. Information provided by the applicant is done on a form, created by the Board, declaring that, under penalty of perjury under the laws of the State of California, that all the information provided is true and correct.

What process is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

Automated Tracking System (ATS); Record of Arrest and Prosecution (RAP) sheets and Subsequent Arrest Reports (SAR).

Applicants for optometrist licensure are required to be fingerprinted and have their prints reviewed and cleared by the California State Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). If the applicant was licensed in another State, they are required to have that State submit a letter of verification of their license status and history directly to the Board. If the applicant's fingerprints or license history are "flagged" because of unlawful acts, their applications are forwarded to our Enforcement Unit for further review.

Does the board fingerprint all applicants?

The Board does require all applicants to fingerprint as part of the licensure process. The application is held until both the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) have issued fingerprint clearances ([BPC section 144](#)).

Have all current licensees been fingerprinted? If not, explain.

The Board put forth regulations to ensure that all licensees that were initially licensed prior to January 1, 1998 were required to submit fingerprints to the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). However, since the implementation of the regulation, the Board found that this was insufficient as most licensees licensed prior to 2007 did not have fingerprints on file with the FBI. Thus this regulation was amended to require those initially licensed prior to April 1, 2007 to submit to fingerprints to both the DOJ and FBI. This was necessary to cover a larger range of licensees who may not have been aware that they had to submit fingerprints to the FBI and to protect the public from unethical and possibly incompetent practitioners.

All licensees have been fingerprinted but those who were issued licenses prior to April 1, 2007 are currently being reprinted due to a regulation change in June 2010 that requires their fingerprints be cleared by the DOJ and the FBI. Prior to April 1, 2007, background checks were only processed through the DOJ. All licensees will have been contacted and informed of the fingerprint requirement and should have complied with the fingerprint requirement by November 2012, after which time an audit will be conducted in the first quarter of 2013 to ensure all licensed Optometrists are compliant. Footnote: Business and Professions Code sections 144, 2010.1, 3010.5, California Code of Regulations 1525.1

Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?

There are two national databanks related to disciplinary actions:

- 1) National Practitioners Data Bank (NPDB): Established by Title IV of Public Law 99-660, the Health Care Quality Improvement Act of 1986, as amended (Title IV). Final regulations governing the NPDB are codified at 45 CFR Part 60. In 1987 Congress passed Public Law 100-93, Section 5 of the Medicare

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and Medicaid Patient and Program Protection Act of 1987 (Section 1921 of the Social Security Act), authorizing the Government to collect information concerning sanctions taken by State licensing authorities against all health care practitioners and entities. Congress later amended Section 1921 with the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, to add "any negative action or finding by such authority, organization, or entity regarding the practitioner or entity."

Title IV is intended to improve the quality of health care by encouraging State licensing boards, hospitals, professional societies, and other health care organizations to identify and discipline those who engage in unprofessional behavior; to report medical malpractice payments; and to restrict the ability of incompetent physicians, dentists, and other health care practitioners to move from State to State without disclosure or discovery of previous medical malpractice payment and adverse action history. Adverse actions can involve licensure, clinical privileges, professional society membership, and exclusions from Medicare and Medicaid (<http://www.npdb-hipdb.hrsa.gov/topNavigation/aboutUs.jsp>).

2) **Health Integrity and Protection Data Bank (HIPDB):** The Secretary of HHS, acting through the Office of Inspector General (OIG) and the U.S. Attorney General, was directed by the Health Insurance Portability and Accountability Act of 1996, Section 221(a), Public Law 104-191, to create the Healthcare Integrity and Protection Data Bank (HIPDB) to combat fraud and abuse in health insurance and health care delivery. The HIPDB's authorizing statute is more commonly referred to as Section 1128E of the Social Security Act. Final regulations governing the HIPDB are codified at 45 CFR Part 61.

The HIPDB is a national data collection program for the reporting and disclosure of certain final adverse actions taken against health care practitioners, providers, and suppliers. The HIPDB collects information regarding licensure and certification actions, exclusions from participation in Federal and State health care programs, health care-related criminal convictions and civil judgments, and other adjudicated actions or decisions as specified in regulation (<http://www.npdb-hipdb.hrsa.gov/topNavigation/aboutUs.jsp>).

No, the Board does not check HIPDB and NPDB prior to issuing or renewing a license due to the following:

- Cost: In order to initiate and maintain continuous queries when issuing and renewing licenses, the Board would need to raise the licensing fee. It is estimated that it would cost \$3 per licensee per year.
- Staffing: It is estimated that the Board would need an additional full time, limited term staff person to manually enter licensees and applicants into the databanks.

Does the board require primary source documentation?

Yes. Optometrist license applicants are required to have the school/college of optometry where they received their degree as a professional eye care provider submit a transcript to the Board prior to being issued a license. In addition, the Board requires fingerprint results directly from FBI and DOJ and exam results directly from PSI and NBEO.

Does the board send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

The Board does not send No Longer Interested notification to the DOJ on a regular basis. The form must be completed online and mailed or faxed to the DOJ. Currently, there is no backlog.

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Out-of-State Applicant Requirements

Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

California laws and regulations require optometrist license applicants from out-of-state and out-of-country (international graduates) must meet the same requirements as those that are in-state. The differences for out-of-state applicants not considered to be recent graduates of schools/colleges of optometry are that they must meet the experience requirements desired by the Board. International graduates must meet the educational requirements desired by the Board which, in many cases, are incomparable to in-state and out-of-state applicants. International graduate applicants are required to prove that they have a similar, if not more advanced, degree for a provider of eye care and must request sponsorship from the Board that will allow them to apply for and take the national examinations.

Examinations

What are the pass rates for first time vs. retakes in the past four fiscal years?

The table below reflects the pass rates for first time examination candidates and those who retake the examination.

Table 8. Examination Data			
California Laws and Regulations Examination (include multiple language) if any:			
Exam Title		California Laws and Regulations Examination (CLRE) – English Only	
		# of candidates	Pass rate
FY 2008/09	First attempt	297	79%
	Second attempt	44	95%
	Third attempt	2	100%
FY 2009/10	First attempt	159	94%
	Second attempt	5	100%
	Third attempt	0	0%
FY 2010/11	First attempt	249	94%
	Second attempt	16	100%
	Third attempt	0	0%
FY 2011/12	First attempt	254	93%
	Second attempt	21	57%
	Third attempt	4	75%
Date of Last OA		2009	
Name of OA Developer		Office of Professional Examination Services	
Target OA Date		2016	

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Table 8. Examination Data Continued

National Examination (include multiple language) if any:			
Exam Title		National Board of Examiners in Optometry (NBEO) Licensing Examination– English Only	
		# of candidates	Pass rate
FY 2008/09	First attempt		
	Second attempt		
	Third attempt		
FY 2009/10	First attempt		
	Second attempt		
	Third attempt		
FY 2010/11	First attempt		
	Second attempt		
	Third attempt		
FY 2011/12	First attempt		
	Second attempt		
	Third attempt		
Date of Last OA		2009	
Name of OA Developer		Office of Professional Examination Services	
Target OA Date		2016	

Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required?

All applicants for licensure must take and pass the National Board of Examiners in Optometry's (NBEO) Applied Basic Science (Part I), Patient Assessment and Management and Treatment and Management of Ocular Disease (Part II), and Clinical Skills (Part III) examinations. In addition, they must also take and pass the California Laws and Regulations Examination (CLRE). Part I of the NBEO examination measures the fundamental knowledge and understanding of the scientific principles upon which optometric practice is based. Part II provides cases of patients that challenge the examinee to properly manage them. Part III provides the examinee with a "real" patient on which to assess. The Treatment and Management of Ocular Disease (TMOD) component of the examination is comprised of cases extracted from the Patient Assessment and Management (PAM) section. The CLRE is a 50-question, multiple-choice examination based on jurisprudence.

Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

Yes, the Board is using computer based testing for its California Laws and Regulations Examination (CLRE). The Board's vendor is Psychological Services, LLC (PSI). "Paper and pencil" examinations are available to those candidates who require special accommodation.

Examination candidates contact PSI to schedule their examination after submitting an Application for Licensure as an Optometrist. Submission of an application to the Board is required first in order to designate the candidate eligible to take the CLRE. Candidates may use the online feature to schedule their examination or use a toll free number. Candidates may select from PSI's 13 California testing sites and 10 out-of-state sites to schedule their examination. Each test site proctors the examination and provides candidates a designated space with a computer terminal to take their examination. Proctors at the test site monitor the examination candidates to ensure the security and integrity of the examination is preserved. PSI offers testing six days a week (Monday-Saturday), year round, except for major holidays. If candidates fail the examination, they must wait 180 days to re-examine.

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The National Board of Examiners in Optometry (NBEO) administers the licensing examination for California optometrist candidates. There are three parts to the examination. The first two portions are administered in a paper pencil format, and the third portion, which is a clinical portion, is hands-on. The NBEO has only one testing site in North Carolina. Candidates may register for the examination online, or by calling a toll free number. The examinations are offered twice a year.

Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

None of the existing statutes appear to hinder the effective processing of the optometrist license applications or the California Laws and Regulations examination.

School Approvals

Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?

Business and Professions Code Section 3023, Accreditation of Schools, states: "For the purpose of this chapter, the board shall accredit schools, colleges and universities in or out of this state providing optometric education, that it finds giving a sufficient program of study for the preparation of optometrists."

The Board uses the Accreditation Council on Optometric Education (ACOE) to conduct audits and reports of compliance as the approval of the schools/colleges of optometry. The ACOE is the only accrediting body for professional optometric degree (O.D.) programs, optometric residency programs and optometric technician programs in the United States and Canada. Both the U.S. Department of Education and the Council on Higher Education Accreditation recognize the ACOE as a reliable authority concerning the quality of education of the programs the Council accredits.

The Bureau of Private Post-Secondary Education (BPPE) does not play a role in approving the schools/colleges of optometry; therefore the Board does not work with the BPPE in the approval process.

How many schools are approved by the board? How often are schools reviewed? What are the board's legal requirements regarding approval of international schools?

The Accreditation Council on Optometric Education (ACOE) has accredited or pre-accredited 21 schools and colleges of optometry. California has two schools that are fully accredited; The University of California, Berkeley, School of Optometry and the Southern California College of Optometry. There is a college in California, Western University of Health Sciences, College of Optometry, which is pre-accredited. This college will very likely be fully accredited in Spring 2013 shortly before the graduation of its first class if the program is found to meet the standards of accreditation.

The Board considers the didactic courses offered by the other 19 schools/colleges of optometry accredited by the ACOE to be equivalent to those in California.

Schools/colleges of optometry that are in the pre-accreditation process are reviewed each year until the program has its first graduating class at which time it becomes fully accredited. The Board has participated in each yearly review of Western University, College of Optometry. The ACOE conducts a formal reevaluation visit at least every eight years for professional optometric degree (O.D.) or optometric residency programs. However, all accredited programs are reviewed annually through an annual reporting process, and the ACOE

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may visit more frequently if deemed necessary through the annual reporting process. The Board receives and reviews the copy of each report prepared by ACOE.

The Board has no legal requirement to approve international schools of optometry.

Continuing Education/Competency Requirements

Background

Current law requires all licensees of the Board, as a condition of biennial licensure renewal, to complete continuing education as required by the type of certification that the licensee holds. Licensees who are not certified in the use of therapeutic pharmaceutical agents must complete 40 hours of CE in the two years prior to the renewal of their certificate to maintain active licensure status. Licensees who are certified in the use of therapeutic pharmaceutical agents pursuant to BPC Section 3041.3 must complete a total of 50 hours of CE in the two years prior to the renewal of the certificate. Thirty-five of the 50 hours must be in the diagnosis, treatment, and management of ocular disease in any combination of the following areas: glaucoma, ocular infection, ocular inflammation, topical steroids, systemic medication, and pain medication. Additionally, licensees certified to diagnose and treat primary open angle glaucoma are required to complete 10 hours of glaucoma specific continuing education in each renewal period. These 10 hours shall be part of the 35 hours on the diagnosis and treatment and management of ocular disease.

CE courses which are approved as meeting the required standards of the Board include those sponsored or recognized by any accredited US school or college of optometry, any national or state affiliate of the American Optometric Association, the American Academy of Optometry, or the Optometric Extension Program. Also acceptable are courses approved by the International Association of Boards of Examiners in Optometry known as COPE (Council on Optometric Practitioner Education). Licensees can earn a maximum of 20 hours of CE through the completion of acceptably documented and accredited self-study courses.

Statutory changes in 2001(SB 662), 2004(AB 2464), and 2011(SB 1406) further defined the specific study areas required for CE hours, but did not change the total hours required or the methods by which the hours could be obtained.

Verification of Continuing Education Requirements

Approximately 3,500 licensees renew with the Board every year. All licensees with the Board are required to complete continuing education coursework in each renewal cycle. In order to renew a license prior to biennial expiration, a licensee must certify that he or she has completed the required continuing education hours. If a licensee fails to certify completion of the required CE, the license renewal is held until the licensee certifies completion of CE. A licensee may not practice with an expired or delinquent license.

Continuing Education Audits

The Board began conducting random CE audits in December 2009; however, due to staffing issues, time constraints, furloughs, and more urgent projects, CE audits have not been consistently conducted. Currently, the CE audits are conducted by an Enforcement Analyst with the assistance of an office technician. CE audits are conducted monthly on a random selection of licensees who have renewed with an active status. The Board has established policy and procedures for conducting CE audits. The following is a general outline of the procedures for a CE audit:

- Determine the renewal period in which to audit.
- Of the licensees who renewed as active for the given audit period, randomly select 15% to be audited.

- Send initial letter to licensee. Once the letter has been sent, the licensee has 30 days to respond. The first letter sent requests the licensee to submit certificates of completion of the required CE.
- If licensee responds prior to the 30 days notice, document all of the courses and hours taken.
- If licensee has taken the required CE, the licensee has passed the audit.
- If the licensee didn't fulfill the CE requirements, then he/she has failed the audit.
- After 30 days, if a licensee hasn't responded to the initial audit letter, a second letter is sent stating that if he/she does not respond the case, the licensee will be referred to enforcement.
- After a licensee has submitted all of his/her CEU certificates and has passed the audit, a Passed Letter is sent to the licensee.
- If a licensee has submitted their CE certificates and is still missing either hours of CE or the required 35 hours of specific coursework, the licensee will be sent a letter stating that he/she needs to submit any other certificates to complete their requirements and have 15 days to respond.
- After 30 days, if a licensee hasn't respond to the first audit letter, a second letter is sent stating that if he/she does not respond then he/she shall be referred to enforcement after 15 days.
- If a licensee has failed to respond to an audit letter or he/she has no other CE to submit, then he/she is referred to enforcement.
- If a case is opened against a licensee that fails to comply, then a citation and fine will be issued.

Consequences of Failing a Continuing Education Audit

As noted above, licensees that fail to provide proof of completion of CE requirements are subject to fines (pursuant to 16 CCR Sections 1579). Depending on the severity of the violation, fines for failure to comply with CE requirements may be levied in an amount up to \$2,500. If a licensee fails to remediate the deficiencies or pay the determined fine, an enforcement hold is placed on the license, making the license ineligible for renewal until all conditions are met.

Number of Continuing Education Audits for the Past Four Fiscal Years

Since December 2009, the Board has conducted approximately 270 CE audits. To date, all licensees have been found to be in compliance with the CE requirements.

What is the board's course approval policy?

CE course approval criteria is based on whether the course is likely to contribute to the advancement of professional skill and knowledge in the practice of optometry; whether the speakers, lecturers, and others participating in the presentation of the course are recognized by the Board as being qualified in their field; and whether the proposed course is open to all California-licensed optometrists.

Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?

CE providers and courses are reviewed by Board licensing staff and finalized by the Board member's CE Committee. Providers must submit their course on an application provided by the Board. The provider must submit a processing fee, their name, course title, date the course is scheduled to be offered, topical outline of

the course subject matter, any announcements, notices, or advertisements about the course, and the curriculum vitae of all instructors and/or lecturers involved.

How many applications for CE providers and CE courses were received? How many were approved?

In FY 2011-2012, 129 requests for CE approval were submitted. Only three (3) of those potential providers were rejected.

Does the board audit CE providers? If so, describe the board's policy and process.

The Board does not currently audit its CE providers but only accepts those that meet the requirements of California Code of Regulations (CCR) 1536(g-h).

Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensees' continuing competence.

Board staff is currently in the process of reviewing a major provider of CE, the Association of Regulatory Boards of Optometry's (ARBO) Council on Optometric Practitioner Education's (COPE) performance based assessments of continuing competence and how it may aid the Board in its quest to provide the same.

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Section 5 Enforcement Program

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Enforcement Performance Measures

What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

The board's performance targets/expectations coincide with those standards created by the DCA's Consumer Protection and Enforcement Initiative (CPEI). They are as follows:

- **Intake** – Average cycle time from complaint receipt to the date the complaint was assigned to an investigator. The Board has set a target of 7 days for this measure.
 - a. For the 2010-2011 Fiscal Year, the average cycle time was 5 days.
 - b. For the 2011-2012 Fiscal Year, the average cycle time was 10 days.The performance measures published by DCA as shown in Attachment ___ reference complaints as well as conviction investigations and are, therefore, different than the statistics for complaint intake.
- **Intake and Investigation** – Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline. The board has set a target of 90 days for this measure.
 - a. For the 2010-2011 Fiscal Year, the average cycle time was 89 days.
 - b. For the 2011-2012 Fiscal Year, the average cycle time was 184 days.
- **Formal Discipline** – Average number of days to complete the entire enforcement process for cases resulting in formal discipline (Includes intake and investigation by the Board and prosecution by AG). The Board has set a target of 365 days for this measure.
 - a. For the 2010-2011 Fiscal Year, the average number of days was 685 days.
 - b. For the 2010-2011 Fiscal Year, the average number of days was 879 days.
- **Probation Intake** – Average number of days from monitor assignment to the date the monitor makes first contact with the probationer. The Board has set a target of 6 days for this measure.
 - a. For the 2010-2011 Fiscal Year, the average number of days was 1 day.
 - b. For the 2010-2011 Fiscal Year, the average number of days was 1 day.
- **Probation Violation Response** – Average number of days from the date a violation of probation is reported to the date the assigned monitor initiates appropriate action. The Board has set a target of 8 days for this measure.
 - a. For the 2010-2011 Fiscal Year, the average number of days was 3 day.
 - b. For the 2010-2011 Fiscal Year, the average number of days was 1 day.

In order to improve performance in each category, the Board's enforcement unit has recently created internal timelines for each phase of a complaint. For example, after sending a case to the Division of Investigation, the analyst will follow-up with the investigator within 5 days of receiving notification of the assignment. In addition, Board staff has recently completed a training course with emphasis on effective time management. The enforcement unit is also promoting accountability in weekly enforcement meetings by reviewing and providing status updates for each pending complaint. The Board, through budget change proposals, has requested additional enforcement staff to help manage the case load and to act as the enforcement lead of the unit. These requests, however, continue to be denied.

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Enforcement Statistics and Process Improvement

Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

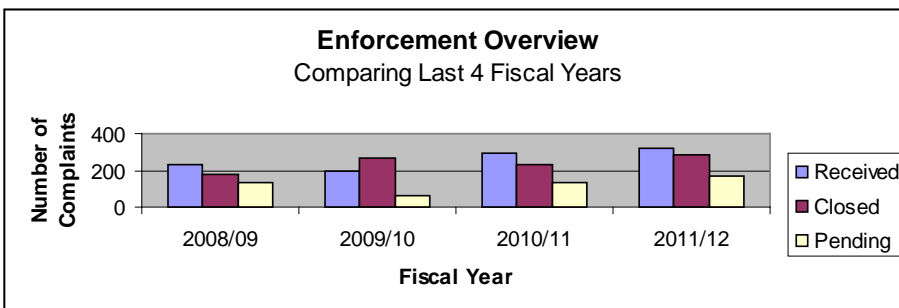
The Board receives an average of 260 complaints a year with the largest percentage (52%) of complaints filed by consumers. In addition, the Board closes an average of 238 complaints and maintains an average of 126 pending caseload per year. In the last fiscal year, the board saw a 7% volume increase compared to FY 2010/11 and a 38% increase since FY 2009/10.

With the implementation of the fingerprint program, the board encountered a challenge with receiving DOJ and FBI fingerprint results. Due to missing, incorrect, and/or duplicative data provided by the licensees, DOJ/FBI, and/or the Board, the majority of the fingerprint results did not transfer correctly into the Board's database. As a result, the cycle time to complete intake, intake and investigation, and formal discipline (in some cases) are negatively effected.

During Fiscal Year 2011/12, the enforcement unit operated with two less analysts than the previous year. In addition, the unit's enforcement lead analyst transferred outside of the Board, leaving the unit to function without the direction, guidance, and accountability a lead provides. The responsibilities are handled by the Executive Officer but due to a number of priorities, timely direction and guidance **are** not always available and cases have to wait.

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To address these issues, the enforcement unit has implemented process timelines to increase efficiency, assisted in updating regulation for clarity and enforceability, and holds weekly enforcement meetings to review pending caseload. In addition, the implementation of BreEZe will help with case tracking and staff accountability. The Board has also made multiple requests for additional staffing through various budget change proposals.



	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Complaints Received	229	197	295	318
Complaints Closed	180	264	227	281
Complaints Pending	133	66	134	171
Referred for Sworn Investigation	0	3	38	28
Accusation Filed	4	6	9	3
Disciplinary Action	0	4	6	7

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Table 9a. Enforcement Statistics			
	FY 2009/10	FY 2010/11	FY 2011/12
COMPLAINT			
Intake (Use CAS Report EM 10)			
Received	173	239	224
Closed	0	37	22
Referred to INV	177	202	201
Average Time to Close	11	5	10
Pending (close of FY)	1	1	2
Source of Complaint (Use CAS Report 091)			
Public	134	131	140
Licensee/Professional Groups	21	23	28
Governmental Agencies	36	137	123
Other	6	4	25
Conviction / Arrest (Use CAS Report EM 10)	24	56	92
CONV Received	22	21	128
CONV Closed	13	3	189
Average Time to Close	3	38	2
CONV Pending (close of FY)	173	239	224
LICENSE DENIAL (Use CAS Reports EM 10 and 095)			
License Applications Denied	1	0	0
SOIs Filed	1	0	0
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	330	0	0
ACCUSATION (Use CAS Report EM 10)			
Accusations Filed	6	9	3
Accusations Withdrawn	0	1	1
Accusations Dismissed	0	0	1
Accusations Declined	0	2	1
Average Days Accusations	612	410	623
Pending (close of FY)	6	9	3

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Table 9b. Enforcement Statistics (continued)

	FY 2009/10	FY 2010/11	FY 2011/12
DISCIPLINE			
Disciplinary Actions (Use CAS Report EM 10)			
Proposed/Default Decisions	1	2	1
Stipulations	3	3	6
Average Days to Complete	881	695	879
AG Cases Initiated	10	9	14
AG Cases Pending (close of FY)	13	12	16
Disciplinary Outcomes (Use CAS Report 096)			
Revocation	0	2	1
Voluntary Surrender	0	1	1
Suspension	0	0	0
Probation with Suspension	0	0	1
Probation	4	2	4
Probationary License Issued	0	1	0
Other	0	0	0
PROBATION			
New Probationers	5	3	5
Probations Successfully Completed	8	5	5
Probationers (close of FY)	18	16	15
Petitions to Revoke Probation*	2	1	1
Probations Revoked	0	2	1
Probations Modified**	0	2	1
Probations Extended	0	0	0
Probationers Subject to Drug Testing	5	7	9
Drug Tests Ordered	4	387	230
Positive Drug Tests***	0	0	0
Petition for Reinstatement Granted	1	1	0
DIVERSION			
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A

*Includes No. of Surrendered Probations

**Includes Granted Petitions for Early Termination of Probation

***Does not include positive drug tests resulting from authorized prescriptions

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Table 9c. Enforcement Statistics (continued)			
	FY 2009/10	FY 2010/11	FY 2011/12
INVESTIGATION			
All Investigations (Use CAS Report EM 10)			
First Assigned	199	223	329
Closed	263	190	257
Average days to close	193	110	191
Pending (close of FY)	62	95	167
Desk Investigations (Use CAS Report EM 10)			
Closed	258	169	235
Average days to close	178	88	177
Pending (close of FY)	60	76	142
Non-Sworn Investigation (Use CAS Report EM 10)			
Closed	NA	NA	NA
Average days to close	NA	NA	NA
Pending (close of FY)	NA	NA	NA
Sworn Investigation			
Closed (Use CAS Report EM 10)	5	21	22
Average days to close	936	285	330
Pending (close of FY)	2	19	25
COMPLIANCE ACTION (Use CAS Report 096)			
ISO & TRO Issued	1	0	0
PC 23 Orders Requested	0	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	0	0
Cease & Desist/Warning	0	0	0
Referred for Diversion	0	0	0
Compel Examination	0	0	0
CITATION AND FINE (Use CAS Report EM 10 and 095)			
Citations Issued	5	2	2
Average Days to Complete	269	390	292
Amount of Fines Assessed	18250	13000	15501
Reduced, Withdrawn, Dismissed	5000	14250	0
Amount Collected	750	2500	5500
CRIMINAL ACTION			
Referred for Criminal Prosecution	0	0	2

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Table 10. Enforcement Aging						
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	0	0	0	0	0	0
2 Years	0	1	3	3	7	41
3 Years	0	2	3	2	7	41
4 Years	0	1	0	2	3	18
Over 4 Years	0	0	0	0	0	0
Total Cases Closed	0	4	6	7	17	100
Investigations (Average %)						
Closed Within:						
90 Days	70	111	126	97	407	47
180 Days	38	53	31	59	181	21
1 Year	26	55	21	62	164	19
2 Years	14	39	12	35	100	11.5
3 Years	3	1	0	4	8	.5
Over 3 Years	7	4	0	0	11	1
Total Cases Closed	158	263	190	257	868	100

What do overall statistics show as to increases or decreases in disciplinary action since last review.

Still working on this one...

Case Prioritization. Mandatory Reporting, and Statutes of Limitation

How are cases prioritized? What is the board’s compliant prioritization policy? Is it different from DCA’s *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.

While the Board does follow DCA’s *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009), the vast majority of the complaints received by the Board do not rise to the “Urgent” level as set by DCA’s guidelines. The Board prioritizes the following as the most urgent complaints:

- Patient harm
- Potential patient harm
- Fraud
- Convictions
- Unlicensed Practice

Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report actions taken against a licensee. Are there problems with receiving the required reports? If so, what could be done to correct the problems?

There are three mandatory reporting requirements.

- BPC section 801(a) requires every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency mentioned in subdivision (a) of

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Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

- BPC section 802 requires optometrists (or their attorney, if represented by counsel) to report any settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by the licensee's negligence, error or omission in practice, or by rendering of unauthorized professional services.
- BPC section 803 requires the clerk of the court to report, within 10 days after judgment made by the court in California, any person who holds a license from the Board who has committed a crime or is liable for any death or personal injury resulting from a judgment for an amount in excess of \$30,000 caused by his or negligence, error or omission in practice or by rendering of unauthorized professional services.

Although these are mandatory reporting requirements, the Board only receives a very small number of these reports each year. During the last four fiscal years, the Board only received a total of eight reports. As the agencies charged with the submission of these reports are largely outside of the authority of the Board, correction of this problem has been challenging. The Board is researching the effectiveness of using outreach and education to these agencies in an effort to obtain more compliance.

Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases were lost due to statute of limitations? If not, what is the board's policy on statute of limitations?

Yes. The Board operates with a statute of limitations under BPC section 3137 (**Provide footnote**). In general, the Board has three years from the date the Board discovers the act or seven years after the act occurs, whichever occurs first. Specific exemptions pertaining to fraud, willful misconduct, unprofessional conduct and sexual misconduct are provided.

The first recorded instance of a statute of limitations closure was in 2008. Since then, 101 cases have been closed due to statute of limitations. Of those 101 cases, the overwhelming majority involved past convictions discovered with BPC section 144 Fingerprint Requirement implementation (**Provide footnote**).

Describe the board's efforts to address unlicensed activity and the underground economy.

The Board's enforcement unit works closely with the Department of Consumer Affairs, Division of Investigation to investigate allegations of unlicensed activity, this includes undercover sting operations and investigation of companies outside of California providing unlicensed services to California consumers. In addition, the Board has held press conferences around Halloween to advise the public of the potential harm of purchasing and wearing "plano" cosmetic contact lenses without the benefit of an examination and proper fitting by an optometrist, has participated in outreach events, distributed fliers, and created pamphlets related to the illegal distribution of plano contact lenses.

Cite and Fine

Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and last time regulations were updated. Has the board increased its maximum fines to the \$5,000 statutory limit?

In the last three fiscal years, the Board has issued a totality of nine citations for violations of the Optometry Practice Act that did not rise to a level that warranted ed revocation, suspension, or imposition of probationary terms. While the \$5,000 statutory fine limit has not increased, in 2006, CCR 1579 was amended to further define the Board's ability to issue fines for violations, and includes the ability for the Board to levy fines for additional violations, and an additional fine for multiple violations.

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How is cite and fine used? What types of violations are the basis for citation and fine?

The citation and fine program provides the Board with an expedient method of addressing violations which do not warrant revocation, suspension, or imposition of probationary terms. The types of violations that are the basis for citations and fines include, but are not limited to, the following: advertising violations, failure to post license, failure to provide records, disciplinary actions in other states, using name other than registered name, and unlicensed practice.

How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals in the last 4 fiscal years?

Since July 1, 2008, the Board has conducted five informal citation conferences and has had one citation appealed to hearing per the Administrative Procedures Act.

What are the 5 most common violations for which citations are issued?

The Board's 5 most common violations for which citations are issued are advertising violations, failure to post license, failure to provide records, disciplinary actions in other states, and using a name other than registered name.

What is average fine pre and post appeal?

Of citations that were appealed, the average fine pre appeal was \$3,350, and the average fine post appeal was \$500.

Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

The Board sent one case to FTB to collect outstanding fines; due to the low volume of fines issued, FTB has not been necessary; for those who are licensed, the Board will hold renewal until the fines are paid.

Cost Recovery and Restitution

Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.

When cost recovery is ordered, payment plans are implemented unless the probationer can pay the amount in one lump sum; probationers are not allowed to complete probation until all cost recovery is received.

As demonstrated in the table below, the Board had a 45% decrease in enforcement expenditures since the last review. In addition, the Board had a 44% decrease in potential cases for cost recovery, resulting in a 65%

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decrease in amount of cost recovery ordered. However, the cost recovery amount collected increased by 30% since the last review.

	Previous Sunset	Current Sunset
Total Enforcement Expenditures	1,367,430	748,467
Potential Cases for Recovery	34	19
Cases Recovery Ordered	28	14
Amount of Cost Recovery Ordered	232,747	\$81,476
Amount Collected	101,021	\$143,964

How many and how much is ordered for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

According to Board records, \$231,182 in cost recovery has been ordered for revocations, surrenders and cost recovery. Of that, only 21% (\$49,387.71) is being actively collected through probationers on payment plans. Roughly 79% of that (\$181,794.29) was ordered for revocations, surrenders, and probationers who are tolling and is believed to be uncollectable. These licensees only have to repay their cost recovery upon reinstatement or returning to practice in California. The majority of them never return to practice in California; therefore, they have no desire or requirement to pay their outstanding balance.

Are there cases for which the board does not seek cost recovery? Why?

The Board seeks cost recovery in most cases. Cost recovery is used as a negotiation tool in stipulated settlements. The board may agree to decrease or eliminate cost recovery if it expedites the disciplinary process through settlement.

Describe the board’s use of Franchise Tax Board intercepts to collect cost recovery.

The Board has not used FTB for cost recovery in the past, but will be using it where appropriate in the future depending on order language.

Describe the board’s efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

The Board has no jurisdiction to order restitution unless written into a disciplinary order or stipulated settlement. While the Board does not have a formal restitution policy, we have sought restitution in cases involving insurance fraud. In addition, if the board obtains evidence of substantial financial harm from a consumer by a licensee, the Board would seek restitution at the hearing or in a stipulated settlement.

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Total Enforcement Expenditures	160,974	175,929	258,806	152,758
Potential Cases for Recovery *	3	4	5	7
Cases Recovery Ordered	3	4	3	4
Amount of Cost Recovery Ordered	20,147.25	12,627.06	8,612.00	40,089.75
Amount Collected	49,000.06	28,599.14	31,332.44	35,032.75

* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice act.

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Table 12. Restitution

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Amount Ordered	0	1	0	0
Amount Collected	0	0	8,785.64	0

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Section 6 Public Information Policies

How does the board use the internet to keep the public informed of board activities?

The Board's website was created in the 1990's and is constantly being updated and re-designed to provide a variety of information to applicants, licensees, and the public. The website features links to the Board's laws and regulations, forms and publications, online license verification, disciplinary actions against licensees, Board activity, and links to related professions and associations. The website also offers a feature for individuals to enroll in a Subscriber List which provides an e-mail notification to subscribers when new information is added on the website.

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Does the board post board meeting materials online? When are they posted? How long do they remain on the website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?

The Board does post meeting materials online, typically a week before the meeting date. At this time, the materials remain on the website indefinitely.

Draft minutes are not posted on the website, only final meeting minutes. Final minutes are posted after they have been reviewed by the Board Secretary and approved at the next scheduled meeting of the Board. At this time, minutes remain available online indefinitely.

Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings?

The Board only webcasts meetings at the Department of Consumer Affairs (DCA) in Sacramento. It is too expensive for the Board to pay for the travel and attendance of a DCA representative to webcast the meetings at off-site locations. Also, due to state-wide travel restrictions, the Board meets exclusively in Southern California. All the members of the Board, except for one, are from Southern California. As a result, it is most cost-effective for the minimum required amount of employees to fly down to Southern California. In the future, the Board hopes to identify locations that have webcast capabilities in Southern California. The Board holds meetings at the schools and colleges of optometry and state buildings in Southern California, free of charge.

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Does the board establish an annual meeting calendar, and post it on the board's web site?

Yes. All committee and board meeting dates for the upcoming calendar year are posted a couple of months prior to the end of the current calendar year.

Is the board's complaint disclosure policy consistent with DCA's Recommended Minimum Standards for Consumer Complaint Disclosure? Does the board post accusations and disciplinary actions consistent with DCA's Web Site Posting of Accusations and Disciplinary Actions (May 21, 2010)?

Yes.

What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

Consumers can access a licensee's information on the Board's website using the License Verification tool. A query can be performed by entering the licensee's name, license number, business name, city or county. A record will then appear with the licensee's name, address or record, optometrist license information (renewed, issued, expired), certifications held (i.e., TPA, TPG, etc.), disciplinary status if any, and other licenses held (BOL, FNP, SOL).

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Upon written request and in compliance with the Public Records Act, information contained in the licensee's file that may be disclosed will be provided to the public.

What methods are used by the board to provide consumer outreach and education?

The Board uses the following methods to provide consumer outreach and education:

- Website;
- Brochures;
- Biennial press conference about the dangers of cosmetic contact lenses sold illegally at flea markets/jewelry stores in Sacramento; and
- Provide brochures to DCA outreach unit to distribute at health fairs.

Staff ~~attended~~ health related and other optometric events in previous years, but in order to reduce government spending, the Board can no longer ~~participate in~~ events that are not mission critical. Currently, the Board cannot attend any events that are not in Sacramento. Board publications for licensees and consumers remain available on the website.

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Section 7 Online Practice Issues

Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate Internet business practices or believe there is a need to do so?

Online practices for health care purposes are starting to increase amongst consumers and health practitioners as technological advances make it possible to conveniently access information and services straight from home or one's place of practice. When it comes to the practice of optometry, pursuant to Business and Professions Code (BPC) section 3041(i), optometrists are permitted to practice telehealth. Telehealth is defined as the delivering of health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site (BPC 2290.5). Effective January 1, 2013, optometrists that choose to practice telehealth must make certain disclosures, verbally, to the patient and note agreement from the patient in the patient's chart before services are rendered (BPC 2290.5). Telehealth is beneficial in that it permits optometrists to reach underserved populations, who, due to geographic and/or economic barriers, cannot access health care. The downside to telehealth is the possibility of missing verbal, body, or language cues. Also, there is the possible lack of security when transmitting patient information and dealing with emergency situations.

To the Board's knowledge, optometrists are practicing telehealth as needed, but the Board does not have a mechanism to track the exact amount of licensees doing so, and to what extent. Examples of optometrists utilizing online practices include the use of Twitter, Facebook, Groupon and other similar discount advertisers, to reach out to current and potential patients. Some optometrists may use online contact and spectacle lens dispensers, while others might just simply e-mail a patient, or make a telephone call. The schools and colleges of optometry use various online tools in line with current technology so that students learn the most cutting edge optometric practices.

So far, there are only a couple of issues the Board has encountered related to unlicensed activity involving online practices. The first is the illegal sale of plano contact lenses without a prescription to consumers. The Board is already working with the Department of Investigation to investigate companies and distributors who do this. The second issue involves online dispensers of glasses and contact lenses. The Board may have to work to ensure that all prescribing laws related to glasses and contact lenses apply to online dispensers. There has not been an increase in the number of complaints received by the Board related to this practice, thus a change in policy is not necessary at this time.

The Board will be monitoring how online practices develop, keeping patient safety and quality of care in the forefront. The laws currently in place are sufficient to regulate this type of practice.

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Section 8 Workforce Development and Job Creation

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What actions has the board taken in terms of workforce development?

The Board's primary focus is to ensure that candidates for licensure entering the optometric health profession possess the required skills and knowledge to provide services to the diverse population of Californians who seek primary eye care. These efforts are listed below:

- Always, ensure that applications for a California optometrist license are processed quickly and efficiently;
- Starting in 2009 through 2010, the Board worked with the schools and colleges of optometry and successfully implemented Senate Bill 1406 (Correa & Aanestad, Ch. 352, Stats. 2009) so that California optometrist could become glaucoma certified in a more expedient manner;
- Yearly, visit the schools and colleges of optometry students and graduates to introduce them to the Board and how to navigate through the licensure process.

Describe any assessment the board has conducted on the impact of licensing delays.

Licensing delays can adversely affect the profession of optometry's workforce, the optometrist's ability to make a living, and the public's ability to have their eye care needs met in a swift and professional manner by a competent eye care professional. Board staff constantly seeks licensing measures that diminish and often prevent licensing delays.

Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

Part of the Board's outreach and education include visits to California's schools/colleges of optometry to provide 3rd and 4th year students with an introduction to the Board's role and commitment to its stakeholders.

Provide any workforce development data collected by the board, such as:

- a. Workforce shortages
- b. Successful training programs.

The Board does not collect these data.

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Section 9 Current Issues

What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

The Board is incorporating the Uniform Standards for Substance Abusing Licensee to its disciplinary guidelines. On September 21, 2012, the rulemaking package was submitted to DCA for final review. Upon its return, it will be submitted to the Office of Administrative Law (OAL). The Board has until October 21, 2012 to submit the package to OAL or request an extension.

What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

In 2011, these regulations were originally a part of the rulemaking package that includes the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines. The Board voted to remove the regulations from this joint rulemaking package so that staff could fully focus on implementing Senate Bill 1441 (Ridley-Thomas, Ch. 548, Stats. 2008), which is mandatory. At the August 10, 2012 meeting, the Board again discussed proposed amendments to add the provisions of the Consumer Protection Enforcement Initiative to its regulations. Because the Board has five new members that are not familiar with the proposal, the members requested that staff conduct more research specific to optometry to determine which of the regulations are suitable for the Board. The regulations will be considered at the November 2012 meeting.

Describe how the board is participating in development of BreZE and any other secondary IT issues affecting the board.

The Board currently has two employees working part time on the BreZE project as subject matter experts; another employee has contributed to a forms and correspondence work group as part of BreZE.

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Section 10 Board Action and Response to Prior Sunset Issues

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Include the following:

1. Background information concerning the issue as it pertains to the board.
2. Short discussion of recommendations made by the Committee/Joint Committee during prior sunset review.
3. What action the board took in response to the recommendation or findings made under prior sunset review.
4. Any recommendations the board has for dealing with the issue, if appropriate.

ISSUE #1: Should the licensing and regulation of optometrists be continued?

2002 Committee Recommendation

The Joint Legislative Sunset Review Committee (JLSRC) and the Department of Consumer Affairs (DCA) recommended that the profession of optometry continue to be regulated.

2002 Committee Comments

"Due to the highly technical procedures performed by optometrists and the health and safety implications for consumers, DCA and the JLSRC recommend continued regulation of the optometric profession."

Board Response and/or Recommendation

The Board agrees with the JLSRC's and DCA's recommendation.

ISSUE #2: Should the composition or membership qualifications of the Board be changed?

2002 Committee Recommendation

The addition of two public board members appointed by the Governor, for a total of eleven members (six professional, five public). The JLSRC states, "This new composition would provide more consumer representation while continuing to maintain the expertise needed for technical regulatory and enforcement issues. Two additional Board members would not substantially increase the Board's operational costs.

2002 Committee Comments

"The Board currently consists of nine members, six professional and three public. The majority of the Board under the purview of DCA have a balanced composition with an equitable number of professional and public members. Unlike these other Boards, the Board of Optometry has a two-to-one ratio of professional to public members. It has been argued that this professional super majority necessarily results in professional bias, and less focus on consumer protection."

"Public participation on regulatory boards ensure a balanced approach to decision-making, and enhances public protection. In recent years, the JLSRC has expanded the number of public members on DCA regulatory boards."

Board Response and/or Recommendation

The Board agrees with the JLSRC's and DCA's recommendation. The Board was indeed reconstituted in 2002 with all new Board members and an Executive Officer, and has not had issues of this nature since then.

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ISSUE #3: What actions should the Board take to resolve some of the ongoing problems between professional members and public members?

2002 Committee Recommendation

The JLSRC and DCA recommend that the Board needs to continue its efforts to reconcile conflicts between professional and public members.

2002 Committee Comments

"As reported in the Minority Report to the JLSRC and DCA, the Board's public members argue that they are treated differently than the professional members, suggesting the potential for a two-tiered approach by the Board staff in addressing the concerns of the public members."

"Significant conflict exists between the professional and public members of the Board. This is resulting in an inability to meet with a full quorum due to the public members' unwillingness to attend meetings under current conditions. The absence of Board meetings undermine the purpose of the Board – which in part is to engage in regular public discourse."

"This impasse and consistent inability to resolve difference is unprecedented. DCA has been asked on more than one occasion to facilitate conversations between the Board's two factions so that a Board meeting may be convened. DCA believes this is the responsibility of the Board's chair and executive officer."

"It was recommended that professional facilitators or conflict mediation expert be brought in to resolve the conflict so that the Board can carry out its business. While DCA was encouraged by the Board's recent decision to do so, it is disappointed by the plan engaged to effectuate conflict mediation. DCA has profound concerns about the Board leadership."

Board Response and/or Recommendation

The Board agrees with the JLSRC's and DCA's recommendation. The Board was indeed reconstituted in 2002 with all new Board members and an Executive Officer, and has not had issues of this nature since then.

ISSUE #4: What corrective steps should the Board take to comply with deficiencies found during a recent audit conducted by the Department of Finance?

2002 Committee Recommendation

The JLSRC and DCA recommend the Board should comply with corrective steps recommended in the Board's recent audit.

2002 Committee Comments

"The DOF's draft audit identified several areas needing improvement. These included the need to submit monthly bank statements on a timely basis, take physical inventories of and tag board property, process purchase invoices in a timely manner, and maintain independent leave balance report."

"The Board agreed with the audit findings and recommendations for remedial behavior in its response to DOF. DCA would like to underscore the importance of these corrective steps and the need to have sound internal fiscal controls in place prior to the next sunset review cycle."

Board Response and/or Recommendation

The monthly bank statement related to the Cal-Card is paid timely each month upon receipt. In FY 08/09 the Board implemented a purchasing tracking system to monitor its purchases and for comparison to the monthly statement. This made for a more efficient tracking of purchases which in turn expedited the review of the statement and approval of payment.

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In July 2012, a physical inventory of all board equipment, furniture, and storage was completed. The inventory was taken after final closure of the Board's relocation to its new office to ensure that all newly purchased and newly acquired items from other DCA boards/bureaus were accounted for and tagged according to the property criteria.

Each month the Executive Officer receives the Leave Activity & Balance Report (LAB) from the DCA Office of Human Resources (OHR). This report is used by the EO to compare the monthly leave usage against the leave balances for each employee. Annually staff are given an accounting of their leave balances from DCA OHR and asked to compare these data against their worn tracking so any discrepancies can be researched and changed if substantiated. Additionally employee direct deposit and pay check notifications from the State Controller's Office shows the employee his/her leave balance from the previous month, including redits/usage and the beginning balance for the month.

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ISSUE #5: Should the Board adopt supervision and training standards for unlicensed optometric assistants?

2002 Committee Recommendation

The JLSRC and DCA recommend that the Board should conduct an occupational analysis for optometric assistants to identify the tasks they will perform, and the attendant training and skill level required. An occupational analysis should be developed before unlicensed assistants are permitted to engage in practices that until now require licensure as an optometrist. Following the occupational analysis, regulations clarifying the level of training and supervision of assistants should be promulgated.

2002 Committee Comments

"Senate Bill 929 (Polanco, Ch. 676, Stats. 2000) expanded the scope of practice for optometrists and expanded the duties that an unlicensed assistant may perform under the direct responsibility and supervision of an optometrist. This is a dramatic change in the delivery of optometric services."

"The provisions of SB 929 reclassified technicians, who previously were only authorized to fit contact lenses, to assistants who can perform various testing procedures including glaucoma testing, visual perception testing, measurement of the thickness of the cornea, screening of the corneal curvature, administering topical agents, and performing sonograms to measure the length of the eye and structures of the eye, generally used for surgical procedures and may involve direct contact with the eye. Clearly, this is a significant expansion of the tasks that unlicensed assistants were able to perform prior to the passage of SB 929, and consumers should not be placed at risk until duties of these assistants are clarified and regulations are adopted clarifying the level of training and supervision."

"Specifically, the Board needs to establish standards to ensure that unlicensed assistants demonstrate adequate knowledge and skill. In the absence of clarifying regulations, individual practitioners in the field could interpret the law in a variety of ways. To protect consumers, the Board should expedite the adoption of clarifying regulations."

Board Response and/or Recommendation

In an effort to comply with the JLSRC and DCA's recommendations, the Board submitted a budget change proposal (BCP) in 2003 to obtain spending authority to conduct an occupational analysis for optometric assistants. The BCP was denied, therefore the occupational analysis was never conducted. At the Board's January 16, 2004 meeting, the prior Executive Officer reported the denial of the BCP and indicated that due to the current budget situation, it was unlikely that the Board would be granted additional funds to conduct the analysis any time soon. Despite this set-back, the Executive Officer presented proposed regulatory language, and the Board voted to approve it and initiate the rulemaking process. A public hearing was conducted on November 16, 2004 to solicit comments from the public, and the Board received support from the California Optometric Association (COA). After two 15-day modified text comment periods prompted by comments from

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DCA in May 2005, and later, the COA in August 2005, the final proposed regulatory language would have been as follows:

Key - Regular text signifies the proposed language originally drafted by the Board.

Italic text signifies the recommendations from DCA

Underlined text signifies the recommendations from COA

Title 16, California Code of Regulation Section 1508. Optometric Assistants

As used in this regulation:

(a) An optometric assistant is an individual working in an office of an optometrist and acting under the optometrist's direct responsibility and supervision.

(b) Supervision by an optometrist of an optometric assistant means the supplying or providing of direction, control, instruction and evaluation, to include personal review of, and responsibility for the results of testing.

(c) Prior to the assignment of a task or procedure, an optometric assistant must first demonstrate to the satisfaction of the supervising optometrist that he/she possesses the necessary understanding of, and ability to perform such tasks that may lawfully be assigned in a safe manner. *There shall be a written policy outlining what procedures can be done and by whom that is approved by the supervising optometrist which is to be maintained in his/her office. The written policy must also state that no exercise of professional judgment or interpretation of data by an optometric assistant which exceeds his/her scope of practice as authorized by Section 2544 of the Business and Professions Code is permitted.*

Note: Authority cited: Section 3025, Business and Professions Code, Reference: Section 2544 and 3042, Business and Professions Code.

Also in April 2005, for the rulemaking package's fiscal analysis, the staff conducted a survey of 100 optometrists who utilized optometric assistants to determine the costs of supervising and training them. Based on the survey results, the average initial training time for procedures authorized in BPC section 2544 is 122.8 hours, with estimated optometrist/non-optometrist staff time costs of \$4,882.65. Annual refresher training time totals 35.5 hours with related staff time costs of \$1,169.93.

Unfortunately, the second 15-day modified text comment period to address COA's recommendations started on September 26, 2005 and ended on October 11, 2005. This rulemaking package was noticed on October 1, 2004, so pursuant to the Administrative Procedures Act, it expired October 1, 2005. After this date, the Board did not discuss this rulemaking package again.

This sunset review period has brought the issue back to the Board's attention. The Board plans to review the work that has already been done by prior staff, and discuss new proposed regulatory language before the end of this year.

The Board does want to note that the 2009 occupational analysis for the Board's California Laws and Regulations Examination (CLRE) and the National Board of Examiners in Optometry Examination included data related to the knowledge that an optometrist must have pertaining to what tasks an optometric assistant can perform. An optometrist's knowledge of what an optometric assistant can and can't do is important because the optometrist is fully responsible for all the actions taken by the assistant, who is not required to be licensed. In other words, the optometrist's license is in jeopardy if the assistant makes a mistake and patient harm takes place. With the inability to obtain a BCP to conduct an occupational analysis solely for optometric assistants, the Board used the resources it had available to them to at least educate optometrists on their responsibility as a supervisor of optometric assistants.

ISSUE #6: Should the profession of optometry continue to be regulated by the current Board, or should the Board be reconstituted, or become a bureau under the Department of Consumer Affairs?

2002 Committee Recommendation

The JLSRC recommends that current membership of the Board should be allowed to sunset.

2002 Committee Comments

"Since the last sunset review this Board has struggled with scope of practice issues, criticism of its enforcement efforts, an impasse between Board members that has effectively rendered the Board impotent, and a persistent perception that the profession exercises inordinate control of the Board."

"In 1999 the Director of DCA intervened in a Board dispute with the Department of Justice which has severely impaired the Board's relationship with the Department of Justice's licensing division."

"Following criticism that the Board was unlawfully permitting optometric exams to be conducted by unlicensed personnel...the Board being fully aware of the Department's interest in resolving the matter....amended late in the session optometry scope bill, SB 929, to permit unlicensed assistant personnel to perform optometric exams. ...it as achieved with virtually no public discussion, and without even cursory notification to the Department."

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"In 2001, the Department worked with the Board and the Office of Examination Resources (OER) to evaluate the national exam...however, the Board did not conduct an independent audit of the national exam in spite of the significant changes in their scope of practice that occurred as a result of SB 929...until the Department intervened.

Board Response and/or Recommendation

The Board agrees with the JLSRC's recommendation. The Board was indeed reconstituted in 2002 with all new Board members and an Executive Officer, and has not had issues of this nature since then.

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Section 11 New Issues

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This is the opportunity for the board to inform the Committee of solutions to issues identified by the board and by the Committee. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., legislative changes, policy direction, budget changes) for each of the following:

Issues that were raised under prior Sunset Review that have not been addressed.

New issues that are identified by the board in this report.

New issues not previously discussed in this report.

New issues raised by the Committee.

Board Operations

Current California budget issues requiring the Board to take cost saving measures such as cut much needed staff positions, participate in furlough programs, and reduce resources for staff to conduct their day-to-day tasks hinder the work of the Board. These constraints adversely affect the Board's operations, the profession the Board regulates, and most importantly, the public. Even though the Board is a "special fund" agency, which is funded solely by the fees of applicants, licensees, certifications and business licenses, the Board recognizes that it must support efforts to improve California's economic environment. Unfortunately, these efforts are preventing the Board from meeting its mission effectively. Since the 2002 sunset review period, the Board has demonstrated its fiscal responsibility by operating well within its budget allocation.

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The Board is mandated to use its resources on the licensure, examination and regulation of the profession of optometry. This also includes educating and protecting consumers. Without sufficient staff, funds and resources, this may result in the Board failing to meet its mandate, and inadequately giving California consumers the protection they deserve.

National and California Association Attendance

One of the Board's goals in its strategic plan is to solidify the Board's national presence as a regulator of optometry. Without the ability to travel to meetings and events held by the Association of Regulatory Boards of Optometry (ARBO), in which the Board has voting privileges, the Board is not represented and cannot participate in discussions about possible developments and trends in the optometric profession. California has the highest population of optometrists nation-wide and is typically regarded as one of the most innovative states when it comes to health-care, yet the Board does not have a voice in the national arena.

The Board is aware that it can receive informational packets from meetings that take place, try to call-in during meetings, or use web casting, but it's not the same. Actually making the effort to attend gives the Board the opportunity to build relationships, establish credibility, learn of new ways to better protect consumers, and be part of the optometric world.

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Likewise, the Board is restricted from traveling to different parts of California to participate in meetings and events held by the California Optometric Association, an affiliate of the American Optometric Association. The Board has strong concerns that these restrictions will perpetuate the perception that the Board does not care about national and state-wide issues. Also, it is particularly frustrating to the Board and its licensees because

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[licensing fees, which do not impact the General Fund, could be used to accomplish this beneficial form of travel.](#)

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The Board is not requesting to attend all meetings, just one or two a year. The Board would pick the meetings that would most advance the Board's provision of its program and services.

Continued Competency

One of the Board's legal and regulatory goals in its strategic plan is to establish a process for assessing continuing competency of optometrists. In order to explore the options available for this type of assessment of health practitioners, at its January 2011 meeting, the Board invited David Swankin, President and CEO of the Citizens Advocacy Center (CAC), to provide an overview of their organization and their mission to research health professional continuing competency. Since the 1990's, the CAC has been a leader in the belief that from a consumer protection point of view, it does not make sense to assess a professional's competence only once in the course of a career. The CAC believes that it is the state's responsibility to assure continuing competence, just as they are responsible for assuring that the health practitioner meets minimum standards for licensure. The CAC discussed the challenges of implementing valid and reliable programs to accomplish continued competency (i.e., cost, professional associations) and how to reach the goals of state-based programs that assure the public of the ongoing competency of their health practitioners.

Additionally in 2011, the CAC scheduled meetings with DCA and various other health boards, prompting DCA to regularly discuss continuing competency at its monthly conference calls with health board chairs. This led to the Board discussing the creation of a "Continuing Competency Pilot Program" to further explore this potential transition from the use of continuing education to continued competency. So far, a pilot program has not been developed due to a change in Board leadership, and acquisition of various new members in 2012.

Overall, along with other professions such as chiropractors, physical therapists, psychologist, and podiatrists, the Board has mainly remained as an observer of these discussions. Despite the fact that since the change in administration continuing competency is no longer a primary concern for DCA, the Board plans to continue monitoring the issue and gathering information to ensure the Board is ready for changes, if any, in the maintenance of licensure.

Registered Dispensing Optician Program

The Board and the Medical Board of California (MBC) are interested in transferring the duties, powers, purposes, responsibilities and jurisdiction of the Registered Dispensing Optician (RDO) Program from the purview of the MBC to the Board.

The primary problem with current oversight of the RDO program is enforcement. The MBC is tasked with multiple enforcement objectives; with finite resources it must prioritize the investigation of complaints and administrative actions. For this reason the MBC frequently focuses on cases relating to physician misconduct where lives have been lost or threatened and as a result addressing complaints relating to RDOs are often delayed.

This transfer will ensure more complete and efficient regulation of individuals and businesses with RDO registrations and licenses, and streamline the delivery of government services. While ophthalmologists regulated by the MBC and optometrists regulated by the Board are both authorized to prescribe and dispense contacts and spectacle lenses, and likewise utilize RDOs for the dispensing of these products, optometrists are more likely to employ RDOs or work more closely with them.

For example, the Board receives about 20-30 calls a month from consumers who believe they received services from an optometrist, when in reality they received services from an RDO. Almost all of these calls are complaint related and many times include a combination of issues which also involve an optometrist and optometric assistant. Despite this, the Board must refer all complaints related to RDOs to the MBC, forcing

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both agencies to discipline their respective licensee separately. If the Board had jurisdiction over the RDO Program, a more efficient, joint investigation of the complaint could be conducted in-house. Many consumers do not understand that the functions of these two professions are completely different, with the exception of the fitting and dispensing of contact lenses and spectacles. Unfortunately, this one similarity has consumers incorrectly assuming that optometrists and RDOs are the same profession, resulting in confusion as to which licensing board a complaint should be registered. This could present a consumer protection issue.

The MBC will also be attempting to make this transfer through the Sunset Review Process, as they only want to maintain the allied health professions that are directly involved with physicians and surgeons.

Inspection Authority

The Board's enforcement unit is charged with investigating and ensuring compliance of the laws and regulations regarding optometry. However, these laws and regulations do not include the authority to audit and inspect an optometrist's practice location.

Currently, if an inspection is required, the Board must enlist the assistance of the Division of Investigation, who as peace officers, have inspection authority. These investigators may enter an optometric office and require the inspection of the premises including patient records, financial and billing information, infection control procedures, etc. However, the investigators often are not aware of the specifics in regards to optometric offices, and may overlook important information, critical to the investigation.

The Board of Pharmacy, Board of Barbering and Cosmetology, Board of Respiratory Care, Dental Board, and the Board of Physical Therapy are several of the health boards within DCA that have the authority to inspect the facilities in which their licensees practice. These inspections are to ensure the compliance of the laws and regulations of these boards, which in turn, protect California consumers.

Inspection authority will allow the Board the ability to inspect and ensure compliance in the following areas:

- Licensure - ensure that practicing optometrists have notified the Board of each practice location;
- License postings (usually posted in examination rooms, not visible to the general public);
- Infection Control -use of proper handwashing and other infection control procedures;
- Therapeutic and Ophthalmic Solutions -ensure expiration dates are being adhered to;
- Patient Charting -complete documentation, billing, and financial information; and
- Business and Financial information - ensuring proper ownership, fictitious name and branch office licensure.

The Board plans to explore the best way to implement this proposal in the future.

Scope of Practice Expansion

The practice of optometry has changed dramatically in the last 20 years, and is continuing to do so especially now with health care reform, a rapid increase in baby boomers requiring services, and technological advances.

The Board works to stay informed regarding scope of practice changes that may occur in other states, in order to evaluate if California patients would be better served if the Board initiated those changes in this state. The Board is also constantly monitoring scope of practice changes proposed by the California Optometric Association and the legislature to ensure that the Board has the resources to implement such expansions, if the Board is designated a role.

It is important to the Board that they be considered a stakeholder in any legislation to expand optometry's scope of practice. The Board will be working to join any scope expansion discussions in order to represent

California consumers, and share the capabilities of the Board that may assist or hinder the implementation of potentially beneficial and innovative changes.

Outreach Efforts

The Board continues to bolster its outreach efforts to ensure licensees are receiving the information they need for licensure; and consumers are aware the Board exists, and are receiving the information they need to make informed decisions. Using the resources available, the Board has made the following efforts in recent years:

Licensees

- 2009 – Re-design of newsletter and issuance twice a year;

Consumers

- 2011 - Development of three brochures; 1) Focus on Your Eyes – What to expect at an eye examination; 2) Cosmetic Contact Lenses – Change the look of your eyes safely and legally; and 3) California State Board of Optometry – Focus on consumer protection. These are posted on the Board's website and distributed to optometrist's offices.
- 2009-2012 – Biennial press conference about the dangers of cosmetic contact lenses sold illegally at flea markets/jewelry stores in Sacramento

Both

- 2012 - The Board's website was entirely re-designed to a more user friendly format. The design implemented won first place in the 2010 Best of the Web and Digital Government Achievement Awards. A usability study on the design was conducted to ensure the website continued to deliver citizens services despite tight fiscal constraints. This resulted in California beating all 50 states in the state portal category.
- 2011 - creation of Facebook and Twitter account.
- 2011 - DCA updated all Board's and Bureau's e-mail notification tool for interested parties to increase the ease of use;
- 2011 – creating of a public relations committee composed of two Board members

If travel restrictions are removed so that the Board and its staff can participate in events, outreach efforts can increase. The Board also has experienced a reduction in staff, which is making it difficult for the Board to implement new ideas.

Section 12 Attachments

The following documents are contained in a separate notebook.

A. Board's Administrative Manual

B. Board and Committee Member Organizational Chart

Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).

C. Major Studies

(cf., Section 1, Question 4).

D. Year-end Organizational Charts

Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).

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F. Performance Measures

Enforcement Performance Measures

- First Quarter FY
- Second Quarter FY
- Third Quarter FY
- Fourth Quarter FY

Licensing Job Creation

- Second Quarter FY
- Third Quarter FY
- Fourth Quarter FY

DCA Annual Report – Includes Board of Optometry information. The full report with all DCA Board and Bureaus is available at

- 2008/2009
- 2009/2010
- 2010/2011
- 2011/2012

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www.optometry.ca.gov

To: Board Members

Date: October 19, 2012

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: **Agenda Item 3 – Public Comment for Items Not on the Agenda**

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)].

2450 Del Paso Road, Suite 105
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www.optometry.ca.gov

To: Board Members

Date: October 19, 2012

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 4 - Adjournment
