CALIFORNIA STATE BOARD OF OPTOMETRY

Board Meeting

Friday, April 11, 2014

Elihu Harris Building
Oakland, CA

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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

To: Board Members **Date:** April 11, 2014

From: Alejandro Arredondo O.D.
Board President **Telephone:** (916) 575-7170

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

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

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

Alexander Kim, MBA, Board Secretary, Public Member

Cyd Brandvein, Public Member

Donna Burke, Public Member

Madhu Chawla, O.D., Professional Member

Frank Giardina, O.D., Professional Member

Bruce Givner, Esq., Public Member

Glenn Kawaguchi, O.D., Professional Member

William H. Kysella, Jr., Public Member

Kenneth Lawenda, O.D., Professional Member

David Turetsky, O.D., Professional Member

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To: Board Members **Date:** April 11, 2014

From: Alejandro Arredondo, O.D.
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 2 – Welcome – President's Report**

Welcome by President Alejandro Arredondo, O.D.

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To: Board Members **Date:** April 11, 2014

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)].

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Memo

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To: Board Members **Date:** April 11, 2014

From: Krista Eklund
Office Technician **Telephone:** (916) 575-7170

Subject: **Agenda Item 4 – Approval of Board Meeting Minutes**

A. August 16, 2013
B. November 1, 2013
C. January 24, 2014

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
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Friday, August 16, 2013 **DRAFT**

Department of Consumer Affairs
1625 North Market Boulevard, First Floor Hearing Room
Sacramento, CA 95834

Members Present		**Staff Present**
Alejandro Arredondo, O.D, Board President		Mona Maggio, Executive Officer
Alexander Kim, MBA, Board Secretary, Public Member		Andrea Leiva, Policy Analyst
Donna Burke, Public Member		Jessica Sieferman, Enforcement Lead
Madhu Chawla, O.D, Professional Member		Cheree Kimball, Enforcement Analyst
Fred Dubick, O.D, MBA, FAAO, Professional Member		Brad Garding, Enforcement Technician
Glenn Kawaguchi, O.D, Professional Member		Lydia Bracco, Enforcement Analyst
William Kysella, Jr., Public Member		Rob Stephanopoulos, Enforcement Analyst
Kenneth Lawenda, O.D., Professional Member		Jeff Robinson, Licensing Analyst
Bruce Givner, Public Member		Michael Santiago, Senior Legal Counsel
Excused Absence		Guest List
Monica Johnson, JD, Vice President, Public Member		On File

9:00 a.m.

FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Alejandro (Alex) Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:06 a.m.

2. Welcome – President's Report

Dr. Arredondo reported on the following:

A. Association of Regulatory Board of Optometry (ARBO) Annual Meeting June 23-25, 2013

Executive Officer, Mona Maggio attended the ARBO Annual Meeting, which she explained, was the first time she was able to attend one of ARBOs meetings. Ms. Maggio stated that she found the meeting to be inspirational, educational, and a great opportunity to network with other administrators of boards of optometry, and meet with optometrists throughout the United States. Educational sessions included continuing education, laws and regulations, scope of practice expansions, and state reports from each state and provinces in Canada, belonging to ARBO.

B. Full Accreditation of Western University of Health Sciences, College of Optometry

Dr. Arredondo congratulated the Western University of Health Sciences, College of Optometry for receiving their full accreditation.

C. *Department of Consumer Affairs (DCA)*

Dr. Arredondo introduced and welcomed Deputy Director of Board and Bureau Relations, Christine J. Lally. Ms. Lally was appointed as Deputy Director of Board and Bureau Relations in June 2013. She has served as Assistant Secretary of Communications and Legislation for the California Technology Agencies since 2011. Additionally, Ms. Lally served as Deputy Secretary of Legislative Affairs at the California State and Consumer Services Agency in 2011.

Ms. Lally expressed appreciation for the opportunity to attend the meeting, and the opportunity to become a resource for the various DCA boards and bureaus. She explained her function as liaison between the DCA board/bureau Executive Officers and Members. Additionally, she works closely with the Governor's Office on appointments and policies pertaining to boards and bureaus.

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3. Continuing Education (CE)

A. Presentation from the Association of Regulatory Boards of Optometry (ARBO), Optometric Education (OE) Tracker Program, Benefits for Licensees and Member Boards

ARBO Program Coordinator, Sierra Rice, and OE TRACKER Committee Chair from Tennessee, Dr. Richard Orgain provided a presentation on the OE Tracker and the benefits it provides to licensing boards and licensees. Dr. Orgain is a practicing optometrist in Hendersonville, Tennessee as well as a member of multiple optometric societies. Ms. Rice has been serving as the Program Coordinator for ARBO for two years. She is responsible for the implementation of the OE tracker by state boards of optometry, CE providers, licensed optometrists, and for uploading CE attendance data submitted by CE providers.

Ms. Rice reported that the OE Tracker system electronically captures, verifies, and stores CE attendance data to benefit licensing boards, optometrists, and CE providers. As of August 2013, the OE Tracker has 46,421 registered, active optometrists, for which 45,457 have some CE data in their accounts. In California, 6,237 licensees are registered with OE Tracker, for which 5,389 have some CE data in their accounts. The value of the OE Tracker system for licensing boards is provision of an easy and quick method of auditing 100% of licensees. The value for optometrists is the ability to check CE in their account 24/7 and keep track of hours accumulated in each state, as well as the requirements for each state. The OE Tracker provides general and detailed types of reports/transcripts.

Dr. Orgain demonstrated how his CE would be managed by the OE Tracker according to optometry laws and regulations of Tennessee.

Professional Member, Dr. Kenneth (Ken) Lawenda asked and Dr. Orgain and Ms. Rice responded that currently 15 states utilize the OE Tracker in some aspect. Also, the OE Tracker provides access to uploaded CE data from state to state where an optometrist is licensed.

Dr. Arredondo inquired and Ms. Rice clarified that CE courses which are 'Counsel of Optometric Practitioner Education' (COPE) approved are already categorized. For non-COPE approved courses, the CE provider is contacted to determine which category the course falls under.

Licensing Analyst, Jeff Robinson stated that if he and OE Tracker were unable to categorize a course, he would forward the course to the CE Committee for acceptance or denial.

Public Member, Donna Burke questioned and it was explained that usually, a licensee knows which category a CE course belongs in prior to taking a course. Dr. Orgain added that for COPE-approved courses, an outline of the course is provided prior to registration.

Enforcement Lead, Jessica Sieferman asked and Dr. Orgain responded that optometrists with a revoked or suspended license may utilize the OE Tracker system as well. The OE Tracker is a database that keeps track of education regardless of status of practice (i.e. retired, some form of suspension).

Professional Member, Dr. Fred Dubick inquired and Dr. Orgain explained how non-COPE approved courses are accepted or rejected. Non-COPE approved courses must fit into a category that COPE already has. If it does not fit into one of COPE's categories, it falls upon the state board to determine whether or not the course meets that board's criteria.

Ms. Rice concluded the presentation with an explanation that OE Tracker reports are customizable. Custom reports can be created, from the general reports. Also a website handbook is available with "how to" assistance on using the application. Whatever makes auditing and verification easier for each board is what ARBO aims to provide through the OE Tracker database.

B. Discussion and Possible Action to Amend California Code of Regulations Section 1536 to Include Medical Coursework as Acceptable CE for Optometrists

Mr. Robinson reported on this action item. Board staff is requesting that Board Members allow the CE Committee to re-examine California Code of Regulations (CCR) section 1536(e) and grant them the opportunity to discuss possible amendments to the regulation before a full Board at a later time.

Over the years staff has received numerous inquiries from its licensed optometrists seeking answers as to why the American Medical Association's (AMA) Continuing Medical Education (CME) courses are not given the same recognition by the Board as are the American Optometric Association (AOA), the American Academy of Optometry (AAO), the Optometric Extension Program (OEP), or the Association of Regulatory Boards of Optometry's (ARBO) Council on Optometric Practitioner Education (COPE).

They contend that many of the AMAs courses are greatly beneficial to optometrists. They seek these courses out primarily, because many of the courses the Board approves, or COPE approves, tend to be a repeat of something previously taken, and they desire to take something new.

California-licensed optometrists often attend these and other courses that could contribute to the advancement of professional skill and knowledge in the practice of optometry but are unable to receive CE credit for completing them because the provider has not been approved as meeting the required standards of the Board which may change in the future if California Senate Bill (SB) 492 (Hernandez), the act to amend Business and Professions Code sections 3041, 3041.1, and 3110, is passed and becomes law.

The AMA accredits their own courses and is not interested in submitting their courses for COPE approval. Consequently, although the Board might wish to approve and give credit for many of these CME courses, it cannot do so because of the limitations in section 1536(e).

Because the AMA is not interested in forwarding individual course information to the Board, for Board approval, staff is proposing that the CE Committee examine this further and decide if the Board should give blanket approval for AMA ophthalmological courses, as is done with COPE approved courses.

Dr. Arredondo inquired and Policy Analyst, Andrea Leiva clarified, that the Board has authority to make the changes through regulation, and it does not need to go through the Legislature.

Dr. Arredondo opened the floor for questions.

Ms. Burke inquired of Mr. Robinson about the reference of SB 492 which the DCA is in opposition of. Mr. Robinson responded that staff has received word that SB 492 will probably be "put on a shelf" for a year, but that it is not over yet.

Dr. Dubick does not see any reason why the CE Committee cannot take a look at this and bring some full recommendations back to the Board in the future. Dr. Arredondo agreed.

Public Member, William (Bill) Kysella expressed his one concern that the Committee focus on AMA courses that relate specifically to optometry practice. Dr. Arredondo responded that this is where the CE Committee would sort out what courses are relevant and which are not.

Ms. Leiva announced that Dr. Pam Miller, O.D. requested this item be placed on the agenda and that she is present to comment on the issue.

Dr. Miller introduced herself. She has a solo practice in Southern California, and she was a member of this Board for nine years when the issue of mandatory education first came about. Dr. Miller believes the issue of expansion of practice needs to be addressed before laws become effective. She stated that as optometry expands its scope of practice, and as this Board looks at extending the licensure and educational requirements, it is incumbent upon this Board to address these issues prior to laws being changed. Optometrists are becoming much more responsible for the overall care of their patients. She urges this Board to use this opportunity proactively and take a much more aggressive stance in terms of continuing education before SB 492 becomes law. Dr. Miller is happy to assist the Board on this issue.

Dr. Lawenda stated that he does not see any problems with education being offered to ophthalmologists or physicians with regards to areas of treatment, and he inquired what the concern might be and why the Board would be resistant in approving CME courses.

Mr. Kysella reiterated his one concern that there exist AMA certified courses not relevant to the practice of optometry, therefore having blanket approval of AMA certified courses may not be appropriate.

Public Member, Alexander Kim expressed his belief that this is a great issue for the CE Committee to consider. Anything which expands the role of optometrists and increases partnership with other healthcare providers assists in making health care more affordable.

Donna Burke moved to send the Discussion and Possible Action to Amend California Code of Regulations Section 1536 to Include Medical Coursework as Acceptable CE for Optometrists to the Continuing Education Committee. Madhu Chawla seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		

C. Discussion and Possible Action to Approve Request for CE Extension/Exemption Form

Mr. Robinson provided an overview of this discussion.

When an optometrist licensee has had difficulty in meeting their CE requirement due to an unforeseen circumstance, it has been Board staff's practice to allow the licensee to submit a letter requesting an extension or exemption from the requirement as is allowed in CCR section 1536(i)(1-3). Board staff has come to the conclusion that the completion and submission of a form might best serve, and help streamline the process, as well as enable staff to keep a better record of those who are granted extensions or exemptions. Board staff relied upon examples of other board's forms for creation ideas for two forms (one for the licensee requesting extension or exemption and one for the health practitioner). Mr. Robinson provided copies of the two forms for Board member review.

Dr. Arredondo opened the floor for comments regarding the forms.

Ms. Burke, Mr. Robinson, and Ms. Maggio discussed the purpose of the forms, the criteria for determination and the method of obtaining determining information. Ms. Burke would like to see criteria established for consistency in the event the Board is ever challenged.

Fred Dubick moved to approve the use of the forms staff development and allow staff to move forward with making the process more efficient. Glenn Kawaguchi seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		

FULL BOARD CLOSED SESSION

4. Pursuant to Government Code Section 11126(e) the Board Will Meet in Closed Session for Discussion and Possible Action on – Nat'l Ass'n of Optometrists & Opticians v. Harris, 133 S. Ct. 1241 (2013) Pending Litigation.

The Board met in closed session for discussion and possible action on Nat'l Ass'n of Optometrists & Opticians v. Harris, 133 S. Ct. 1241 (2013).

FULL BOARD OPEN SESSION

The Board reconvened into open session. Dr. Arredondo called roll and a quorum was established.

5. Approval of Board Meeting Minutes

A. May 10, 2013

There were only two edits made to the minutes. Alexander Kim requested that his full name be used in the minutes. Dr. Arredondo clarified that he was also at the Southern California College of Optometry's graduation.

Ken Lawenda moved to approve as amended the May 10, 2013 minutes. Bill Kysella seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		

6. Executive Officer's Report

A. ***Budget Report*** – Wilbert Rumbaoa, Department of Consumer Affairs (DCA) Budget Office

Budget Analyst, Wilbert Rumbaoa, and Budget Manager, Cynthia Dines presented an overview of the 2013/2014 Budget Report.

The Board's budget for fiscal year (FY) 2012-2013 was $1,693,603. The year-end report reveals expenditures as of June 30, 2012 as $1,433,044, or 85% of the budget. The fiscal year end surplus is $213,803 or 12.6%. The analysis of the Board's fund condition reveals 7.8 months reserve in FY 2012-13 and 7.3 months in FY 2013-14.

The Board's budget for fiscal year 2013-2014 is $1,841,000. Estimated revenue is 1.8 million dollars as well. This amount will change slightly based on directive from the Governor, budget letters and adjustments to the budget.

Ms. Dines reported on the Board's Analysis of Fund Condition. The fund appears to be balanced. Revenues are slightly less than expenditures which may change in the future (i.e., budget change proposals, etc.).

Dr. Lawenda requested Ms. Dines update the Board on the $1 million dollar General Fund repayment which is still outstanding. Ms. Dines responded that when loans are given to the General Fund, a "scheduled" repayment plan does not occur. However, if a board's funds begin to decrease, and/or the board is not able to fund its mandated activities, the department requests repayment of the loan. She stated that there has not been a problem with receiving repayment when needed.

Dr. Arredondo inquired and Ms. Dines explained that the Department of Finance (which is the Governor's financial advisor) implements the policies. The money is actually held in the General Fund with interest. When the loan is repaid, the interest is paid as well.

Dr. Arredondo opened the floor to further questions and there were none.

B. ***Examination Development Overview*** – Bob Holmgren, Office of Professional Examination Services

Supervising Personnel Selection Consultant of the Office of Professional Examination Services (OPES), Bob Holmgren, Ph.D. reported on the OPES examination development process. OPES is the "in-house" DCA licensure examination group. They develop the optometry California Laws and Regulations Examination (CLRE) as well as a number of other exams for various boards and bureaus in DCA.

Mr. Holmgren provided the Members with packets of background material summarizing what they do. OPES performs all aspects of the examination validation process, including occupational analyses, examination development, test scoring and statistical analyses, and audits. OPES follows the highest technical and professional standards in the industry and is committed to ensuring that examinations for licensure are psychometrically sound, job-related, and legally defensible.

OPES provides oversight for DCA's master contract for computer-based testing administration, and a Quality Assurance Program to ensure that the computer-based testing vendor is providing the level of examination security to meet contract requirements.

Dr. Lawenda asked and Mr. Holmgren explained that the CLRE specifically focuses on applicants and OPES is not involved in continuing education. Therefore, if someone already has a license and the laws and regulations change, the licensure exam would not address that issue.

Ms. Maggio added that new laws and regulations are posted on the Board's website, included in the newsletter and emailed via Mail Serve to everyone on the interested parties list.

Dr. Dubick questioned the rational for the 180 day wait period for re-examination. Mr. Holmgren responded that although he's not completely certain of the answer, the primary concern of OPES is preventing overexposure of test questions. Multiple forms are created and each form contains a different sampling of test questions. The 180 day wait period is a common decision OPES makes to avoid applicants returning to take the same form with the same sampling. The 180 days period is also consistent with other boards and bureaus.

Mr. Kysella asked and Mr. Holmgren explained that although he does not have a breakdown (in figures) of graduates taking the exam for the first time versus repeat candidates, typically new grads study hard and do quite well on the exam. Another finding is that the more times an applicant retakes the exam, the more likely it is he or she fails the exam. However, they are fewer in number than those who pass.

BreEZe Overview and Status – Amy Cox O'Farrell, Deputy Director, DCA, Office of Information Services

Ms. Maggio introduced Deputy Director, Office of Information Services, Amy Cox-O'Farrell, and Chief Deputy Director, Awet Kidane.

Ms. O'Farrell became the Department's Chief Information Officer in February 2012. She oversees all of DCA's information technology (IT) and telecommunications services. She has been serving the state for more than 30 years and held numerous positions within DCA.

Mr. Kidane was appointed as Chief Deputy Director in January 2012. He oversees the internal operations of the Department. Prior to his appointment with DCA, Mr. Kidane served in various positions in the state Legislature, where he was a chief of staff, a senior advisor, and a consultant.

Ms. O'Farrell and Mr. Kidane presented an overview (and status) of the BreEZe program.

Mr. Kidane reported that BreEZe is one of the most important and successful IT projects DCA has seen thus far. In addition to Chief Deputy Director, Mr. Kidane is also Executive Sponsor of this project.

BreEZe is an enterprise licensing and enforcement tracking system. The goal is for BreEZe to provide all DCA organizations with an enterprise system that supports all applicant tracking, licensing, renewal,

enforcement, monitoring, cashiering, and data management capabilities. The project was attempted in years past and was unsuccessful for various reasons. DCA is working with Accenture to design, configure, and implement BreEZe which will replace the Department's current Consumer Affairs System (CAS). Mr. Kidane believes that BreEZe will cut down on backlogs and streamline all processes. He spoke about the project going live and estimated implementation date, cost of the system, designing and testing the system, the boards involvement in the process with subject matter experts (SMEs) and full disclosure, transparent communication.

Mr. Kidane opened the floor to questions and concerns from the Board.

Mr. Kysella asked and Mr. Kidane responded that a CE tracker will be included in the BreEZe system if a board communicates need of it.

Dr. Arredondo questioned the cost. Mr. Kidane explained that DCA's boards too variable in size and demands for a figure to be estimated. He assured the Board that the exact cost will be provided, as it becomes known, and it will not be an overwhelming, unexpectedly huge figure.

Ms. Burke inquired and Mr. Kidane stated that although pulling staff away to work on BreEZe has impacted board's other goals and objectives, staff has delivered. He believes staff recognized that not investing the time right now, would drastically increase the cost down the road, as someone who Is not knowledgeable of their board would be making design decisions on their behalf.

Ms. Maggio announced for the Board that optometry staff is very involved in the BreEZe process. Most everyone in the office participates at some level. Some staff are SMEs who assist with Release 1 projects. All staff is performing various data clean-up projects in preparation to ensure that only the most current and accurate data is transferred over to the new system.

Ms. O'Farrell added some comments about the fiscal impact of BreEZe on the Analysis of Fund Condition. She explained that the augmentation of Program Expenditures for state operations in the current FY and in FY 2015-16 includes money necessary to fund the BreEZe project. These figures represent the project based on first approval of the project (2011 Special Project Report). A current report should be approved in the next few months. This first report assumes that BreEZe has been up and running and that by now expenditures are being recovered (paid back). Therefore the figures in the upcoming report will probably be lower than those in this initial report. The report funding will be adjusted as soon as the control agencies approve the new project report.

C. ***Enforcement Program and Consumer Protection Initiative*** – Michael Gomez, DCA, Deputy Director, Division of Investigation and Enforcement Programs

Ms. Maggio introduced Deputy Director of DCA Division of Investigation and Enforcement Programs, Michael Gomez.

Mr. Gomez was appointed in October 2012 to oversee DCA's enforcement activities. Formerly, Mr. Gomez worked as Bureau Chief with the Commission on Peace Officer Standards and Training and has more than 30 years' worth of law enforcement experience. He also served as Vice Mayor of Dixon, California and was Chief of DCA's Division of Investigation from 1995 to 2004.

Mr. Gomez provided an overview of the Enforcement Program and Consumer Protection Enforcement Initiative (CPEI).

Mr. Gomez reported that prior to 2010, DCA received media attention regarding the backlog and delays of complaints and investigations. Additionally, there was criticism regarding the fact that certain practitioners were still treating patients. Although, the complaints had not been completely

investigated, it was public perception that the complaints were of such an egregious nature that the department should have taken actions to suspend these practitioners from seeing patients during the course of the investigations.

DCA responded by exploring strategies for resolving these issues which resulted in the CPEI. This initiative created the Best Practices policy measures for healing arts boards, and quarterly performance measures. A budget change proposal (BCP) established positions throughout the healing arts boards.

At the time CPEI was developed, the Division of Investigation (DOI) had open cases well beyond two years. CPEI identified case complexity models for determining which cases should be investigated at the board level and which should be referred to DOI for formal investigation. Additionally, CPEI monitors intake, investigation, and judication cycle times for each board and bureau throughout DCA.

Dr. Lawenda questioned and Mr. Gomez explained that SB 304 which in an effort of enforcement reform moves all enforcement staff investigating Medical Board practitioners to the DOI, creates a separate unit with the division. Therefore, staff currently providing services to the Board of Optometry will not be impacted by these changes.

D. ***Enforcement Program – Statistics and Update***

Enforcement Lead, Jessica Sieferman reported on the enforcement unit statistics.

The enforcement unit has long been aware of optometry students', applicants', and optometrists' reluctance to communicate with enforcement staff. So staff has been working on efforts to build communication with the licensees and applicants, and help them understand that enforcement is not here to go after licensees. The Enforcement Unit's primary mission is consumer protection and seeks to obtain compliance at the lowest level possible. The majority of cases received by the Board are closed without action after obtaining compliance and educating optometrists, referred to another agency, or closed because no violation is found.

On average, complaints that result in Disciplinary Action taken against a licensee consist of less than 3% of the total volume of complaints received each fiscal year. Further Disciplinary Actions resulting from allegations of Incompetence and/or Gross Negligence consist of less than 1% of the total volume of complaints received each fiscal year.

The Enforcement Unit encourages applicants and optometrists to contact staff to discuss their concerns, and is striving to correct the perception that the Board is "out to get optometrists".

Dr. Arredondo agreed with Ms. Sieferman regarding public perception and shared his own perception of enforcement prior to becoming a Board member.

Mr. Kysella inquired about the "Enforcement Statistical Overview" handout that was provided to the Members. His original interpretation was that during FY 2012/2013 there were no cases of sexual misconduct and just for unprofessional conduct. Ms. Sieferman clarified that this report is based upon how violations are coded. For example if an optometrist was convicted of sexual misconduct, it may have been coded as a conviction case rather than sexual misconduct.

Mr. Kysella requested that staff report on how cases are coded at the next meeting. Ms. Sieferman explained that it can be done but will take some time because there are 20 years of turnover of people coding things differently. Mr. Kysella clarified that he is interested 2009 to current.

Ms. Maggio added that three cases of sexual misconduct coded as conviction have been identified which staff will correct. Mr. Kysella and Ms. Sieferman discussed violation types.

E. ***Examination and Licensing Program – Statistics and Update***

Ms. Sieferman reported that in the past, Board staff reported licensing statistics based on data obtained from reports created by the Board's Applicant Tracking System (ATS). After a concern was raised regarding the accuracy of the licensing statistics during the previous Board meeting, Board staff began researching probable causes for inconsistent data.

Board staff discovered multiple flaws in the ATS reports and the data from which it pulls. These flaws involve multiple people from different units entering inconsistent data since ATS' creation. In addition, the Fictitious Name Permits (FNPs) and Branch Office Licenses (BOLs) are issued only in the Consumer Affairs System (CAS), whereas the Optometric Licenses (OPTs) and Statement of Licensures (SOLs) are issued through ATS and transferred to CAS. Neither ATS nor CAS was designed to track cycle times for issuing a license.

In an attempt to present the most accurate statistics for the Members, Board staff has spent numerous weeks creating AdHoc Reports based on the date application and fees were received and when licenses were issued. Ms. Sieferman put parameters on reports to pull accurate data. The problem is that putting parameters on a report places reliance on the data being correct, which is not always the case.

Therefore, in order to ensure complete accuracy, as of July 1, 2013 Board staff is manually tracking all license applications. This is a very time consuming process but does ensure accuracy. Since July 1, the situation is resolved but it is 100% manually done. Hopefully this process will be alleviated with the implementation of BreEZe.

Dr. Lawenda observed that the pending complaints have increased according to the Performance Measures. Ms. Sieferman clarified that not all of the pending complaints are from the same FY. Some have rolled over from previous fiscal years.

F. ***Strategic Planning Update***

Ms. Maggio reported that on March 13, 2013, she and Ms. Leiva met with Shelly Menzel and Terrie Meduri with the DCA, SOLID Training Solutions to discuss the development of the Board Strategic Plan. It was agreed to create a strategic plan for the period of 2014 – 2018. A preliminary schedule of the Optometry Strategic Plan Schedule has been drafted and is attached. The Board session is scheduled for October 25, 2013.

7. Discussion and Possible Action on Regulations Affecting the Board of Optometry

A. SB 1111 Provisions are as follows:

(1) Board delegation to the Executive Officer regarding stipulated settlements to revoke or surrender a license.
(2) Revocation for sexual misconduct.
(3) Denial of application for registered sex offender.
(4) Confidentiality agreements regarding settlements (Gag Clauses).
(5) Failure to provide documents and failure to comply with court order.
(6) Psychological or medical evaluation of applicant.
(7) Sexual misconduct
(8) Failure to provide information or cooperate in an investigation.
(9) Failure to report an arrest, conviction, etc.

Ms. Leiva provided an overview of the SB 1111 Provisions. At its May 10, 2013 meeting, the Board adopted provisions 5, 6, and 8, and rejected provision 1 as recommended by the SB 1111 Regulations Committee. The Board requested additional information on the nine provisions. Ms. Leiva requested

that the Board consider provisions 2, 3, 7, and 9 to determine which regulations to adopt. She informed the Board that they must then direct staff to begin the regulatory process for all approved provisions.

Mr. Kidane provided a brief background of SB 1111. He then urged the Board, on behalf of the Department, to approve all of these standards/provisions. He stated that although they are not in law, consumer protection is the Department's and the Board's mission. The Department strongly urges the Board to fully implement all of the requirements because it furthers transparency and consumer protection and is in the best interest of the consumer.

Mr. Gomez added that during his tenure in law enforcement, and protection of the public, he also served as an advisor to the executive officers and staff regarding enforcement tools they could and should provide to their board for decision making. Additionally, he explained there was a time when the Legislature was looking to create a Uniform Enforcement Act. The provisions of SB 1111 begin to create a small portion of best practices called uniform standards.

Dr. Arredondo reported that SB 1111 caused a lot of controversy at the Board's last meeting, and asked why SB 1111 did not pass during the legislative process. Mr. Gomez stated his belief that at the time SB 1111 was introduced to the Legislature the Uniform Enforcement Proposal was just too much to digest. However, a pattern of uniform standards exists now throughout the boards.

Mr. Kidane agreed. He stated that the fact of the Legislative proposal not making it into law, should not preclude the Board from adopting all of the standards. It is the right thing to do.

Dr. Arredondo questioned and Mr. Kidane explained that pursuant to guidelines set forth, this Board, uses certain guidelines and definitions to provide guidance to the Administrative Law Judge (ALJ) and the Deputy Attorney General (DAG) on how they prosecute.

Dr. Lawenda asked if by adopting provision 2 of the standards the Members would be unable to ever question the ALJ's judgment and be able to respond to the complainant. Mr. Kysella clarified that currently, a DAG goes before the ALJ and makes a recommendation that the Board members can either accept or reject. Adoption of proposal 2 requires the ALJ to revoke the license of someone convicted of sexual misconduct which may not be stayed. It removes discretion from both the ALJ and the Board.

Mr. Kysella made the argument that if some 18 year old (for example) became a registered sex offender for having relations with his/her high school sweetheart, and six years later he/she is married and decides he/she wants to become a professional health care provider, provision number 3 requires automatic denial of an application. There can be no discussion and no discretion. He made the point that this may be constitutionally inappropriate. Additionally, the system currently in place protects consumers without such extreme steps.

Mr. Kysella closed his argument by reading an excerpt from Frontiers Magazine, June 11, 2013 issue. The article states that an 18 year old Florida High School student (Catlin Hunt) was expelled and charged with a felony over her consensual relationship with a 15 year old classmate which began when Catlin was 17 years. The 15 year old's parents demanded Catlin be arrested and charged stating she made their daughter gay. In eight to ten years, if these proposals pass, the ALJ will have no right to give Catlin a license to practice optometry in California even if she becomes an exemplary student.

William Kysella moved to reject the SB 1111 proposed regulation changes to CCR 1575. Fred Dubick seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla	X		
Mrs. Burke	X		
Mr. Kysella	X		
Dr. Dubick	X		

William Kysella moved to accept the committee's recommendation to not implement provision 3 of the SB 1111 provisions. Kenneth Lawenda seconded. The Board voted 6-Yes; 0-No; 1 Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla	X		
Mrs. Burke			X
Mr. Kysella	X		
Dr. Dubick	X		

William Kysella moved to accept the committee recommendation to reject provision 7 by striking through the proposed 1575.2 language. Alexander Kim seconded. The Board voted 5 – Aye; 1 – No; and 1 – Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla			X
Mrs. Burke		X	
Mr. Kysella	X		
Dr. Dubick	X		

Donna Burke moved to accept the committee recommendation to delete the language pertaining to arrests, add clarifying language that any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government of the United States military should be related to the practice of optometry, and discuss with the Board if the language pertaining to misdemeanors should be kept in the regulation. Fred Dubick seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla	X		
Mrs. Burke	X		

Mr. Kysella	**X**		
Dr. Dubick	**X**		

B. Fees for Retired License Statuses

Ms. Leiva provided an update on the fees for retired license statuses. At its December 14, 2012 meeting, the Board voted to initiate a rulemaking to establish the retired license status fees. The rulemaking action was printed in the California Regulatory Notice Register on March 1, 2013, and the 45-day comment period for the public started on March 1, 2013 and ended on April 15, 2013. The hearing was on the same date. No comments were received from the public. On May 10, 2013, the Board voted to continue with the rulemaking package. The package is currently being reviewed by the Department of Consumer Affairs. The Board has until May 1, 2014 to complete this rulemaking package.

8. Discussion and Possible Action to Approve Guidelines for Closing an Optometric Practice

Ms. Sieferman provided an update on this agenda item.

Over the past year, the Board of Optometry's Enforcement Program has seen an increase in consumer complaints regarding optometrists closing their practice without any form of patient notification. Additionally, Board staff have received an increased number of phone calls from families of optometrist who have passed away and requested guidance on who can help facilitate patient care and record transfer.

While the Board has attempted to educate optometrist about this in the past, further outreach is needed. The law requires that medical records be accessible to patients, but it does not specifically address how that should be handled by an optometrist when a practice is closed.

To help address this issue, the Practice and Education Committee assisted staff in drafting language to be posted on our website, published in our newsletter and used in future outreach events. The Committee Members did not believe new legislation was required, as the Enforcement Program has successfully taken action against optometrists who have abandoned their practice.

Kenneth Lawenda moved to accept the Committee recommendations. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

9. Discussion and Possible Action to Approve the Board's Probation Monitoring Plan

Ms. Sieferman provided an update on this agenda item.

Part of the "Worksite Monitor" condition in the Board's new Disciplinary Guidelines (for non-substance abusing licensees) requires the Board to propose a worksite monitoring plan. The worksite monitor can either agree with the proposed plan or submit a revised worksite monitoring plan for Board approval.

On March 8, 2013 and July 12, 2013, the Practice and Education Committee Members provided assistance in drafting the Plan. The Plan was drafted using the previous Probation Monitoring Guidelines, comments from the Committee and documents from the Medical Board.

William Kysella moved to accept implementation of the monitor plan as directed by the Committee. Alexander Kim seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

10. Discussion and Possible Action on Legislation Affecting the Board of Optometry
Ms. Leiva reported on the following bills:

A. ***Assembly Bill 186 (Maienschein) Professions and vocations: military spouses: temporary licenses***
Status: Two-year bill.
Recommended Position: Watch

B. ***Assembly Bill 213 (Logue) Licensure and Certification requirements: military experience***
Status: Two-year bill.
Recommended Position: Watch

C. Assembly Bill 258 (Chavez) State agencies: veterans
Status: Third reading in Senate Appropriations Committee.
Staff Comments: Adding the question to the Board's forms will not be a significant workload or cost.
Recommended Position: Watch

D. Assembly Bill 480 (Calderon) Service contracts
Status: Third reading in Senate Appropriations Committee.
Staff Comments: Last year, a similar bill, AB 1926 (Solorio), was held in the Senate Appropriations Committee suspense file and died.
Recommended Position: Watch

E. Assembly Bill 512 (Rendon) Healing arts: Licensure exemption
Status: Passed Senate and ordered to Assembly for concurrence.
Staff Comments: The Board has implemented the regulations; effective April 15, 2013.
Recommended Position: Watch

F. Assembly Bill 1057 (Medina) Professions and vocations: licenses: military service
Status: Third reading in Senate Appropriations Committee.
Staff Comments: Costs would be minor and absorbable within existing resources to implement this bill. This bill accommodates for BreEZe, which is a huge consideration for the Board.

G. ***Senate Bill 305 (Price) Healing arts: boards: optometry board sunset bill***
Status: The Board has submitted its report and had its hearing.
Staff Comments: The next step is for the Board to make a motion to draft and send a letter to the Governor supporting the bill and requesting his signature.
Recommended Position: Continue support of this bill.

Madhu Chawla moved to direct staff to draft and send a letter to the Governor supporting SB 305 and requesting his signature. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

H. Senate Bill 430 (Wright) Pupil health: vision appraisal: binocular function

Status: Assembly Health Committee. Hearing date – August 13, 2013.
Staff Comments: With the Board's approval, a letter with a position of "oppose unless amended" was sent to the author. The Board recommended that the bill be amended to require comprehensive eye examinations, not just vision appraisals with an added binocular function test. The author made the amendments recommended by the Board and the Board's position was changed to "support."
Recommended Position: Continued support.

I. ***Senate Bill 492 (Hernandez) Optometrist: practice; licensure***

Status: Two-year bill.
Staff Comments: With the Board's approval, a letter with a position of "support if amended" was Sent to the author on July 29, 2013, DCA opposed the May 8, 2013 version of this bill.
Recommended Position: Watch. Because this is a two-year bill and will not be heard again until this time next year, it is best to watch the bill. This bill will probably be amended again as the author works with stakeholders to determine how to best expand the scope of optometrists. The Board is one of those stakeholders and will continue to provide input and participate in the process.

J. Senate Bill 723 (Correa) Veterans

Status: Assembly Appropriations suspense file. The suspense file is a holding place for bills which carry appropriations over $50,000 or more.
Staff Comments: This bill will most likely be implemented by DCA and the Board will assist.
Recommended Position: Watch.

K. Senate Bill 724 (Emmerson) Liability: charitable vision screenings

This bill was approved by the Governor on July 11, 2013. It will become effective January 1, 2014.

Summary: Provides qualified immunity from liability for damage or injury to a nonprofit charitable organization that provides vision screenings and, if applicable, donated or recycled glasses, as well as participating licensed optometrists, ophthalmologists, or trained volunteers who work with such non-profit charitable organizations to provide charitable vision screenings under appropriate conditions.

L. Senate Bill 809 (DeSaulneir & Steinberg) Controlled substances: reporting

Status: Assembly Business, Professions, and Consumer Protection Committee. Hearing date - August 13, 2013.
Staff Comments: Optometrists that are Therapeutic Pharmaceutical Agents (TPA) certified are permitted to prescribe codeine and hydrocodone with compounds, a schedule III drug, for a maximum of three days for specified conditions. If a TPA certified optometrist chooses to prescribe codeine and hydrocodone, then they must obtain a Drug Enforcement Agency (DEA) registration. To gain access

to the Controlled Substance Utilization Review and Evaluation System (CURES) database, an optometrist must have a DEA registration. At this time, the Board does not have a tracking mechanism to determine which TPA certified optometrists have DEA registrations. As a result, all TPA certified optometrists will be affected by the CURES fee attached to optometrist renewal fees. As of May 2013, that is a total of 6, 877 licensees. The bill does permit the health boards to determine if the proposed fee of $6 should be lowered if it is found that a lower fee will provide sufficient monies to fund CURES.
Recommended Position: Support.

M. Senate Bill 829 (Senate BP & CP Committee) Healing Arts: Omnibus

Status: Assembly Appropriations Committee.
Staff Comments: This proposal was submitted by the Board earlier this year and was deemed non-Controversial, one of the criteria to be included in the omnibus bill.
Recommended Position: Continue support and direct staff to draft and send a letter to the Governor requesting his signature.

Madhu Chawla moved to direct staff to draft and send a letter to the Governor supporting SB 829 and requesting his signature. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

11. 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)]

Dr. Arredondo opened the floor to public comment. There were no comments.

12. Suggestions for Future Agenda Items

Dr. Arredondo opened the floor to suggestions for future agenda items.

Dr. Arredondo restated his concern about the Los Angeles School District's eye exams. Not much is known about how the Los Angeles schools are performing their eye examinations which makes Dr. Arredondo uncomfortable. He suggested future discussion regarding this concern.

Dr. Chawla suggested a discussion regarding possibly extending the allowable hours of online CE for glaucoma certified optometrists.

Ms. Burke requested a future report from Ms. Sieferman on the National Practitioners Data Bank data merge.

Dr. Arredondo sought clarification and Ms. Leiva confirmed that the Practice and Education and the CE Committees have been merged. Dr. Arredondo announced Dr. Lawenda's interest in serving on this

Committee and suggested placing this as an item on the next agenda.

13. Petitions for Reduction of Early Termination of Probation

A. Dr. Susanne Anderson, O.D., OPT 6613
B. Dr. Jeffery Hall, O.D., OPT 6242

FULL BOARD CLOSED SESSION

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

Pursuant to Government Code Section 11126(c)(3), the Board met in Closed Session for discussion and possible action on disciplinary matter.

FULL BOARD OPEN SESSION

15. Adjournment

Fred Dubick moved to adjourn the meeting. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

The meeting was adjourned.

CALIFORNIA STATE BOARD OF OPTOMETRY

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov

Friday, November 1, 2013 **DRAFT**

UC Berkeley School of Optometry
Minor Hall, Room 491
Berkeley, CA 94720-2020

And Via Teleconference at:
140 C Tower Street
Beaconsfield, Quebec H9W682

Members Present		**Staff Present**
Alejandro Arredondo, O.D., Board President		Andrea Leiva, Policy Analyst
Alexander Kim, MBA, Board Secretary, Public Member		Jessica Sieferman, Enforcement Lead
Donna Burke, Public Member		Michael Santiago, Senior Legal Counsel
Madhu Chawla, O.D., Professional Member		Anahita Crawford, Deputy Attorney General Liaison
Fred Dubick, O.D., MBA, FAAO, Professional Member		
Glenn Kawaguchi, O.D., Professional Member		**Staff Absent**
William Kysella, Jr., Public Member		Mona Maggio, Executive Officer
Kenneth Lawenda, O.D., Professional Member		
Bruce Givner, Esq., Public Member		
Cyd Brandvein, Public Member		

9:30 a.m.
FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Alejandro Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:45 a.m.

2. Welcome – President's Report

Dr. Arredondo welcomed everyone in attendance. He thanked Dr. Dennis Levi, O.D., Ph.D, Dean of the Berkeley School of Optometry for hosting the meeting. He reported that after 13 years as Dean, Dr. Levi will be stepping down and continuing on as Professor of Optometry and Vision Science as well as continuing his work in the etiology of Amblyopia.

A. *Welcome by Dennis Levi, O.D., Ph.D, Dean, Berkeley School of Optometry*

Dr. Levi welcomed everyone in attendance. He continued by praising the Berkeley School of Optometry students as typically scoring 10 percent higher on the national exam scores. Dr. Levi reported that their students are provided incredible exposure to clinical training and by graduation, have experienced an average of 2500 patient encounters.

B. *Executive Officer Status and Staff Update*

Dr. Arredondo announced that Executive Officer, Mona Maggio is out on medical leave for a few months. Policy Analyst, Andrea Leiva is leaving the Board of Optometry as she has accepted a promotional position with the Bureau of Security and Investigation. Dr. Arredondo wished Ms. Leiva the best and he and Board and staff members provided congratulatory applause for Ms. Leiva.

Ms. Leiva introduced the staff members present.

Dr. Arredondo thanked the public for attending and announced that former Public Board Member, Monica Johnson's term ended and she was thanked for her service by the Governor. Dr. Arredondo stated that Ms. Johnson was a great asset to the Board with her legal mind, her advocacy for consumer protection and she will be missed. He thanked her for her service on the Board.

Next, Dr. Arredondo welcomed the Board's recently appointed Member, Public Member, Cyd Brandvein and invited her to introduce herself. Ms. Brandvein reported that she has started her 25th year as Senior Vice President for AECOM Technology, a Fortune 500 architectural engineering company, working in the Office of Americas. She serves by working on senior operations project initiatives to help drive performance, succession pipeline, and revenue.

C. *Sunset Date Extension*

Dr. Arredondo announced that Senate Bill 305 known as the "Sunset Bill" was signed by the Governor extending the review date from January 1, 2014 to January 1, 2018. Dr. Arredondo thanked Members and staff for their efforts in getting the bill passed.

D. *Resolution by Senator Ed Hernandez Commemorating Board's Centennial*

Dr. Arredondo announced a resolution by Senator Ed Hernandez. He thanked Senator Hernandez for recognizing the Board for 100 years of service (since 1903). Senator Hernandez is an optometrist, licensed in California and a former Board member as well as a former Board President. The framed resolution will be displayed in the lobby of the Board's office.

3. Discussion and Possible Action on Senate Bill 1111; Provision 720.10 Pertaining to revocation for Sexual Misconduct or Sexual Contact with a Patient, Which May Not be Stayed

Ms. Leiva provided an overview of Senate Bill 1111; Provision 720.10 and the discussion and possible action pertaining to sexual misconduct.

The Senate Business, Professions and Economic Development Committee is requesting that the Board consider adopting the remainder of Provision 2 as a regulation and to direct staff to begin the regulatory process.

After review of the nine provisions at its May 2013 and August 2013 Board meetings, the Board voted, unanimously, to not implement this provision. However, the Legislature is pushing towards stronger consumer protection, and therefore added some provisions to the Board's sunset bill which will become law. The provisions added are as follows:

- Provision 3 - Implemented by Senate Bill 305 (Lieu, Chapter 516, Statutes of 2013). This provision becomes effective January 1, 2014 and requires the Board to deny the application for licensure of a registered sex offender.
- Provision 7 – Implemented by Senate Bill 305 (Lieu, Chapter 516, Statutes of 2013). Defines sexual misconduct as unprofessional conduct.
- Provision 2 – Partial Implementation by Senate Bill 305 (Lieu, Chapter 516, Statutes of 2013). Strengthens the Board's authority to revoke a license for sexual misconduct. The non-adopted portion made revocation mandatory for such acts and removed all discretion from the Board and an Administrative Law Judge. That section was considered controversial and will be discussed by the Board today for possible adoption. The Committee continues to recommend that this provision be fully adopted. The California Optometric Association (COA) is opposed and the Board originally rejected adopting the entire provision at its August 2013 meeting.

Ms. Leiva explained that provision 2 was only partially implemented and discretion by the Board remains since this is a controversial bill. The Committee wanted to give the Board another opportunity to discuss and consider their requests to adopt the entire provision. Ms. Leiva provided Members with copies of a letter from Senator Ted Lieu, explaining their reasons for wanting the Board to adopt this as regulation. She also provided copies of a letter from the COA who continues to have concerns and remain opposed to adoption of the remainder of the provision. Additionally, Ms. Leiva announced that staff has received letters of opposition from optometrists.

Ms. Leiva opened the floor for discussion.

Ms. Leiva, Professional Members, Drs. Kenneth Lawenda and Fred Dubick, and Public Members, Bruce Givner and William Kysella discussed a most recent listing of boards who have adopted this provision, boards that have not, and boards whose regulations are pending adoption. For the benefit of the two new Board members, Dr. Arredondo explained that this discussion is simply about whether the Board has discretion in cases of sexual misconduct, or if they go directly to the Office of Administrative Hearings for scheduling of a hearing before an Administrative Law Judge (ALJ).

Mr. Givner inquired, and Members and staff discussed the fact that this provision removes the Board's discretion in making a decision on setting discipline against a licensee convicted of a crime that is defined as sexual misconduct. If passed, this provision would require revocation of the optometrist's license. Legal Counsel, Michael Santiago clarified that the Senate Business, Professions, and Economic Development Committee wishes to modify the language to make it mandatory for the Board to automatically revoke a license if a sexual misconduct crime is committed and the licensee may not petition for reinstatement until a year has passed since the revocation. The revocation cannot be stayed.

Dr. Lawenda inquired and Mr. Santiago clarified that sexual misconduct accusations would still go to hearing. The optometrist would still be able to practice until the order is final, as in all cases which go to hearing.

Mr. Kysella shared his belief that mandatory sentencing provisions are inefficient for the process. They tie the hands of the bench officer, and yield bad results including prisons full of individuals with various levels of drug charges because the judge has no other option but to send them there.

Ken Lawenda moved to not seek any legislative amendments or promulgate any regulatory rulemaking changes to adopt provision 2 of SB 1111. William Kysella seconded. The Board voted 8-Aye; 2- No; 0-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi		**X**	
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner		**X**	
Cyd Brandvein	**X**		

4. Approval of the August 16, 2013 Board Meeting Minutes

Ken Lawenda moved to approve the August 16, 2013 Board Meeting Minutes as amended. William Kysella seconded. The Board voted 9-Aye; 0-No; 1-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner	**X**		
Cyd Brandvein			**X**

5. Petition for Reduction of Penalty or Early Termination of Probation – Dr. James Herzman, O.D., OPT 10935

FULL BOARD CLOSED SESSION

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

7. Pursuant to Government Code Section 11126(a)(1), the Board will meet in Closed Session to discuss the continued employment of the Executive Officer unless the Executive Officer exercises her right to have this agenda item heard in open session. If the matter is heard in open session, the Board may still meet in closed session to conduct its deliberations pursuant to Government Code Section 11126(a)(4)

8. If necessary, depending on the action of Agenda Item 7, the Board will meet in closed session pursuant to Government Code section 11126(a)(1) to discuss and take possible action regarding the appointment of an Acting or Interim Executive Officer.

FULL BOARD OPEN SESSION

9. Process for Selection of a New Executive Officer (if necessary, depending on the action of Agenda Item 7)

10. Executive Officer's Report

Ms. Leiva reported on behalf of Ms. Maggio.

A. Budget

Ms. Leiva reported that the Board's budget for fiscal year (FY) 2012-2013 was $1,433,044. The budget report reveals expenditures as of September 30, 2013 as $478,881 or 51% of the budget. As of September 30, 2013 the surplus is $157,208 or 8.5%. The analysis of the Board's fund condition reveals 7.9 months reserve in FY 2012-13 and 6.8 months in FY 2013-14.

B. Personnel

Staff will be working to recruit new staff for the following vacancies:

1) Associate Government Analyst (Policy),
2) Office Assistant (Receptionist),
3) Two Temporary employees to assist when current staff is out of the office working on BreEZe.

C. Examination and Licensing Programs

Ms. Leiva stated that the statistics were distributed and opened the floor to questions. Dr. Lawenda inquired as to how much was budgeted for facilities operations. Ms. Leiva agreed to seek clarification from Ms. Maggio regarding this.

D. Enforcement Program

Enforcement Lead, Jessica Sieferman provided an update.

Ms. Sieferman announced, as previously reported in May 2013, that the National Practitioners Data Bank (NPDB) and the Healthcare Integrity & Protection Data Bank (HIPDB) merged.

The 2012 Sunset Legislative Committee recommended that the Board work with the Department of Consumer Affairs to ensure the Board is provided funds to apply to the NPDB and HIPDB.

While the funding may be unclear, Ms. Sieferman stated she has been working with NPDB staff to explore the feasibility of implementing a continuous query, given the Board's current staffing resources. She explained that initially staff was told they would have to manually input every license into the database. However, it has been discovered that there exists a way to perform a mass import into their database. Ms. Sieferman reports that although she and NPDB staff are currently working out incompatible formats, they are very close to completion.

Ms. Sieferman reported that in the beginning of October, the Enforcement Unit set a goal to meet the DCA's Performance Measures by the end of the fiscal year. Knowing the Board will soon be involved in Release 2 for BreEZe and resources will be pulled thin, the Unit has cracked down hard on our pending cases in order to still meet our goal. With the benefit of a fully staffed Unit, we were able to close a record 70 cases. The Enforcement Unit went from 138 cases pending in the beginning of October to 89.

Mr. Givner and Ms. Sieferman discussed what it means to close a case, and the various reasons they are closed.

E. Strategic Planning

Ms. Leiva announced that the strategic planning meeting for the full Board has been re-scheduled to December 2, 2013. This will be a public meeting in Sacramento at the Department of Consumer Affairs. Ms. Leiva explained that the Board's strategic planner, Dennis Zanchi has already completed a survey of stakeholders, one-on-one interviews with the Members and Executive Officer, and a strategic planning session with staff. At the December 2 meeting, the Board will have the chance to review the results of all the collected information in an environmental scan report, and review the mission, vision, and values. The Board will also review and possibly approve the staff's suggested objectives and/or develop new objectives for each of the Board's major functions of licensing, exams, outreach, enforcement, and legislation/regulation.

F. BreEZe

Ms. Sieferman provided an update on BreEZe.

She reported that Release 1, comprised of ten Department of Consumer Affairs Boards, went live on October 8, 2013. The Board of Optometry is currently in Release 2. The schedule for Release 2 and Release 3 Boards has not been released, but it is estimated to become available shortly.

Once Release 2 begins, Board staff will be heavily involved in BreEZe's design, testing, and implementation for several months to ensure the Board has a system that will meet its needs. The devotion of staff to BreEZe during this period, may have an impact on licensing and enforcement cycle times.

Dr. Arredondo asked Ms. Sieferman to explain BreEZe to the new Members. Ms. Sieferman explained that currently the Board has two databases: The Applicant Tracking System (ATS) which is primarily for licensing, and the Consumer Affairs Systems (CAS) which is used for both licensing and enforcement purposes. Both databases are over 20 years old. BreEZe will provide a more efficient database (in one form) for the entire Department of Consumer Affairs.

11. Discussion and Possible Action on Regulations Affecting the Board of Optometry

A. California Code of Regulations (CCR) Section 1570. Educational Equivalency – Addition of Newly Accredited Optometry Schools

Ms. Leiva reported on CCR Section 1570. It is requested that the Board consider this regulatory proposal for the addition of the newly accredited optometry schools. Business and Profession Code (BPC) Section 3023, 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 audits and reporting by the Accreditation Council on Optometric Education (ACOE) for the purpose of determining approval for accreditation of the schools/colleges of optometry.

The ACOE has accredited or pre-accredited 21 schools and colleges of optometry, three of which are in California.

Ms. Leiva explained that regulation CCR Section 1570, which lists the accredited schools/colleges of optometry, needs to have the following added:

- Inter-American University of Puerto Rico, School of Optometry
  Bayamon, Puerto Rico (Full Accreditation),

- University of Montreal, Ecole d Optometrie
  Montreal, Quebec (Full Accreditation),

- MCPHS University, School of Optometry
  Worcester, Massachusetts (Preliminary Accreditation),

- Midwestern University Arizona, College of Optometry
  Glendale, Arizona (Preliminary Accreditation),

- University of the Incarnate Word Rosenberg, School of Optometry
  San Antonio, Texas (Preliminary Accreditation).

The above schools/colleges should be listed in the CCR Section 1570. This will ensure optometry students graduating from these schools can practice in California if they choose to and not have to re-take equivalent courses in California.

Donna Burke moved to approve the proposed language to begin a regulation for CCR 1570. Fred Dubick seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner	**X**		
Cyd Brandvein	**X**		

B. CCR Section 1506. Certificates Posting – Clarification of SOL Expiration Date

Ms. Leiva explained that prior to beginning the practice of optometry, an optometrist must obtain a Statement of Licensure (SOL) from the Board to be placed in all practice locations other than their principal place of practice. The SOL must be renewed biennially, on the same date as an optometrist (OPT) license. The SOL renewal date was tied to the OPT license renewal date to ensure renewals are completed timely.

It is not clear to licensees that their SOL must be renewed on the same day that their OPT license is renewed. Although sections of law (BPC Section 3152 and CCR Section 1524(j)(1)) state that SOLs must be renewed biennially, nothing in current law explicitly states that an SOL must be renewed on the same date as an OPT license. This has resulted in licensees purchasing new SOLs when they did not have to because they did not know a renewal form was on its way and licensees completely disregarding the SOL renewal form because they did not know renewal was mandatory. Also, not having this language explicitly in law creates enforcement difficulties due to the lack of clarity.

Ms. Leiva advised that to ensure clarity that a SOL is renewed on the same date as an OPT license, CCR Section 1506, the regulation that specifies the requirements of a SOL, should also include language stating the specific renewal time. Fictitious Name Permits, Branch Office, and OPT licenses all have language within the regulations that describe what is required to obtain such a license or permit, stating specifically when the permit or license must be renewed. For consistency with other optometrist licenses and permits, it is recommended that CCR Section 1506 be amended to include information that a SOL is renewed at the same time as an OPT license.

William Kysella moved to authorize staff to perform a CCR 1506 amendment to include recommended language. Madhu Chawla seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner	**X**		
Cyd Brandvein	**X**		

C. Update on rulemaking package pertaining to CCR Section 1524. Retired License Status Fees

Ms. Leiva reported that this package is currently being reviewed by the Department of Finance. Staff anticipates that it will be approved. Once the Department of Finance approves this package, it will be returned to the Board, and the Board can submit it to the Office of Administrative Law for final consideration.

D. Update on rulemaking package pertaining to CCR Sections 1516. Applicant Medical Evaluations and 1582. Unprofessional Conduct Defined

Ms. Leiva provided an update. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013. The hearing will be on December 2, 2013 in Sacramento at the Department of Consumer Affairs. A report on the hearing will take place at the Board's January 2014 meeting and next steps will be determined then. The Board has until October 18, 2014 to complete this rulemaking package.

12. Discussion About Senate Bill 492 Workgroup to Expand the Scope of Practice of Optometrists
Ms. Leiva provided an update on this agenda item. No action is requested.

Assembly member Susan A. Bonilla and Senator Ed Hernandez, O.D. have developed a working group, to collaborate with stakeholders for the purpose of creating a scope expansion bill.

The working group is chaired by Assembly member Bonilla and is comprised of the following stakeholders:

- Senator Ed Hernandez and staff;
- California Optometric Association;
- California Academy of Eye Physicians and Surgeons;
- California Medical Association;
- Representatives from a California accredited school or college of optometry;
- Representatives from a Department of Ophthalmology in California;
- An expert in educational curricula;
- Senate Business, Professions and Economic Development Committee;
- Board of Optometry;
- Department of Consumer Affairs; and
- Other participants, as needed, to provide additional expertise.

The working group began meeting on October 15, 2013 and will continue to meet every Tuesday until January 7, 2014. Board staff is providing advice and expertise in the areas of consumer protection, what will be required on the Board's end to implement the bill if signed by the Governor (i.e., regulations, costs, staffing needs, BreEZe, etc.), and best practices of healing arts regulatory entities. Board staff's main concerns are as follows:

1) If the bill will outline the number of pathways that may be needed for currently licensed optometrist to become certified to perform the new advanced procedures;
2) If the bill will address the appropriate number of training hours needed to ensure competency and consumer protection; and
3) If the Legislature will consider the Board's staffing needs to implement the bill in a timely manner.

So far, the first two meetings staff has attended have been very collaborative. The working group is very data based, and they are enforcing this to make certain everyone has the numbers needed.

Dr. Arredondo asked Ms. Leiva to explain the steps involved in a scope expansion bill for the new Members. Ms. Leiva explained that when a profession wishes to expand its scope of practice, the association working with the stakeholders brings it before the Legislature. There may be years of discussions and disagreements. Finally a bill is crafted, written, and introduced to the Legislature. If discussions on the backend (before the introduction of legislation) were successful, then the bill goes through the process. She explained that this is a very complicated and difficult process.

Dr. Arredondo asked Dr. Dubick to provide an overview of the scope of practice expansion bill and the states that are currently performing some of the procedures.

Dr. Dubick reported, for full disclosure, as well as being the President of the California Optometric Association (COA), that he is the lead negotiator for the association in this work group; therefore, he is more knowledgeable then most concerning this issue.

Dr. Dubick explained that Senator Hernandez is the author of SB 492. The sponsoring organization of the bill is the COA. Anytime there is a scope of practice expansion, in any profession; there is a give and take and a pull between the profession that wishes to expand their practice and organized medicine that wishes to resist the expansion. SB 492 has passed through the Senate and is currently sitting in Assembly Business and Professions Committee, where it will be heard at the beginning of the year.

What SB 492 accomplishes, <u>as currently written</u>, is as follows:

- The bill cleans up the language of current law which lists diseases optometrists can treat, drugs optometrists can prescribe, and procedures optometrists can perform (i.e., if a drug is government approved and relates to the eyes, optometrists may use that drug);
- Most of the random protocols for referral have been removed because they do not have scientific background, and in collaborative efforts of negotiations, ophthalmologists have agreed to revisit them;
- SB 492 creates an "advanced practice" optometrist. Currently, the Board has diagnostic certified optometrists, therapeutic certified optometrists, and glaucoma certified optometrists. Only glaucoma certified optometrists would be able to obtain an advanced practice certification. These optometrists would be able to perform immunizations and perform small superficial procedures around the eye and lid (i.e., remove benign skin tags, ext.). They would be able to perform limited laser procedures, and some anterior segment glaucoma procedures.

13. Discussion and Possible Action of Legislation Affecting the Board of Optometry

Ms. Leiva provided updates on legislation affecting the Board of Optometry as follows:

A. Legislation Signed by the Governor and Effective January 1, 2014

1. Assembly Bill 258 (Chavez) State agencies: veterans

Staff will work to update its applications and forms to include the question of whether a person is a veteran by July 1, 2014.

2. Assembly Bill 480 (Calderon) Service contracts

Staff will monitor this bill to see how it will affect licensed optometrists, if at all. If necessary, educational materials will be created to provide guidance to affected optometrists.

3. Assembly Bill 512 (Rendon) Healing arts: licensure exemption

The Board has already completed its regulations for implementation, and has information and instructions on its website so out-of-state practitioners can apply.

4. Assembly Bill 1057 (Medina) Professions & vocations: licenses: military service

Staff will work to update its applications and forms to include the question of whether the individual applying for licensure is serving in, or has previously served in the military by January 1, 2015.

5. **Senate Bill 305 (Lieu) Healing arts: boards – optometry sunset bill**
   No action is necessary. Staff will work to familiarize themselves with the new enforcement language so it can be utilized appropriately.

6. **Senate Bill 724 (Emmerson) Liability: charitable vision screenings**
   Staff will work to familiarize themselves with this new section of law and add it to its law book. Staff will also work to add educational materials on its website for consumers and licensees focusing on both parties' rights.

7. **Senate Bill 809 (DeSaulnier) Controlled substances: reporting**
   Staff will be working with the Department of Consumer Affairs (Department) to finalize implementation of this bill. The Department has already established a Controlled Substance Utilization Review and Evaluation System (CURES) fund in preparation for the collection of the $6 annual fee required by this bill. About 5,200 optometrists are affected at this time, but this number will change as new doctors become licensed and others cancel their license. This fee will be assessed regardless of whether a TPA certified optometrist exercises their authority to prescribe the scheduled drugs specified in the optometry practice act. The Department will be meeting with all health boards affected to obtain feedback and come to agreement on how the fee will be displayed on the renewal forms so the fee can begin to be assessed by April 1, 2014.

8. **Senate Bill 821 (Committee on Business, Professions & Economic Development) Healing Arts**
   In existing law, the Optometry Practice Act refers to the authorization to practice optometry issued by the Board as a certificate of registration. This bill would instead refer to that authorization by the Board as an optometrist license and would make other technical and conforming changes.

   There is no action required of the Board.

B. Legislation That Will Continue to be Monitored in 2014
Ms. Leiva reported that the following legislation will be revisited at the January 2014 meeting when the legislative session begins again, and can be discussed further at that time.

1. **Assembly Bill 186 (Maienschein) Professions & vocations: military spouses: temporary licenses**
2. **Assembly Bill 213 (Logue) Healing Arts: licensure/certification requirement: military experience**
3. **Senate Bill 430 (Wright) Pupil health: vision examination: binocular function**
4. **Senate Bill 492 (Hernandez) Optometrist: practice: licensure**
5. **Senate Bill 723 (Correa) Veterans (Vetoed)**

C. Legislative Proposals
Ms. Leiva announced that the following legislative proposals would not be discussed during this meeting because additional research is required before presenting to the full Board.

1. **Clarification of Licensure Requirement – Treatment and Management of Ocular Disease Component of the National Board of Examiners in Optometry Examination**
2. **Clarification of License Reinstatement Requirements – Fees**
3. **Clarification of Retired License Status Provisions**
4. **Define as Unprofessional Conduct, the Failure to Provide Services Purchased by a Patient**
5. **Other Non-Substantive Amendments**

14. Tour of UC Berkeley Optometry Clinic (4:00 p.m. approximately)
The Board was not able to tour the clinic due to the lateness of the meeting.

15. 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)]

Dr. Arredondo opened the floor to public comment for items not on the agenda. There were no comments.

16. Suggestions for Future Agenda Items

Dr. Arredondo requested that the subject of school eye exams be discussed. He explained that in his practice he sees a lot of cases where children report that their eyes were examined at school and they were given glasses. Dr. Arredondo would personally like to know exactly what they are doing and by whose authority.

Public Member, Alexander Kim announced that he will be attending a vision fair with a free mobile vision clinic for the children in the Westchester area of Los Angeles. Mr. Kim has been asked to speak on behalf of the Board and he considers this a great opportunity for outreach and promote what the Board is doing.

17. Adjournment

Donna Burked moved to adjourn the meeting. Madhu Chawla seconded. The Board voted unanimously (10-0) to pass the motion. The meeting adjourned at 2:10 p.m.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner	**X**		
Cyd Brandvein	**X**		

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov

Friday, January 24, 2014 **DRAFT**

Western University of Health Sciences, College of Optometry
Vision Science Lab 2205
(HEC Building, 2nd Floor)

Health Education Center
701 E. Second Street
Pomona, CA 91766

Members Present		**Staff Present**
Alejandro Arredondo, O.D., Board President		Mona Maggio, Executive Officer
Alexander Kim, MBA, Board Secretary, Public Member		Jessica Sieferman, Enforcement Lead
Cyd Brandvein, Public Member		Michael Santiago, Senior Legal Counsel
Madhu Chawla, O.D., Professional Member		
Frank Giardina, O.D., Professional Member		
David Turetsky, O.D., Professional Member		
Glenn Kawaguchi, O.D., Professional Member		
William H. Kysella, Jr., Public Member		
Kenneth Lawenda, O.D., Professional Member		
Bruce Givner, Esq., Public Member		
Excused Absence		Guest List
Donna Burke, Public Member		On File

9:35 a.m.
FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Alejandro Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:35 a.m.

Public Member Bruce Givner arrived at 9:50 a.m.

2. Welcome – President's Report

Dr. Arredondo welcomed everyone in attendance and introduced new Board Members Frank Giardina, O.D. and David Turetsky, O.D. Dr. Arredondo thanked Dr. Fred Dubick for his service to the Board.

Dr. Arredondo then confirmed the following dates and locations for upcoming Board Meetings:

- April 11, 2014 at Southern California College of Optometry (SCCO) - Tentative
- August 1, 2014 in Sacramento
- November 14, 2014 in San Diego

3. Approval of Board Meeting Minutes

A. September 13, 2013

B. November 1, 2013

C. December 2, 2013

Ken Lawenda moved to approve the September 13, 2013 minutes as amended. Madhu Chawla seconded. The Board voted: 7-Aye; 0-No; 3-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein			X
Dr. Chawla	X		
Dr. Giardina			X
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky			X

The November 1, 2013 Board Meeting Minutes were deferred to the next meeting to confirm the voting record for Glenn Kawaguchi, O.D.

William Kysella moved to approve the December 2, 2013 Meeting Minutes as amended. Ken Lawenda seconded. The Board voted: 8-Aye; 0-No; 2-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Dr. Chawla	X		
Dr. Giardina			X
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky			X

4. Review and Possible Approval of the 2014-2018 Strategic Plan

On December 2, 2013, the Board met for Strategic Planning in Sacramento at the Department of Consumer Affairs (DCA). DCA's strategic planners, Dennis Zanchi and Shelly Menzel from SOLID Training and Planning Solutions, facilitated the meeting. During this meeting, the Board reviewed the results of all the collected information in an environmental scan, and was given the opportunity to update the Board's mission, vision, and values. The Board developed new objectives for each of the Board's major functions of licensing, exams, outreach, enforcement, and legislation/regulation.

Members were asked to review, make any edits, and approve the Board's draft 2014-2018 Strategic Plan.

<u>The Board's revised Mission Statement</u>:

To protect the health and safety of California consumers through licensing, education, and regulation of the practice of Optometry.

The Board's revised Vision Statement**:**

To ensure excellent optometric care for every Californian.

The Board's revised Values Statement:

Consumer protection - We make effective and informed decisions in the best interest and for the safety of Californians.

Integrity - We are committed to honesty, ethical conduct, and responsibility.

Transparency - We hold ourselves accountable to the people of California. We operate openly so that stakeholders can trust that we are fair and honest.

Professionalism - We ensure qualified, proficient, and skilled staff provides excellent service to the State of California.

Excellence - We have a passion for quality and strive for continuous improvement of our programs, services, and processes through employee empowerment and professional development.

Cyd Brandvein moved to accept the strategic plan as amended. Frank Giardina seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		
Dr. Chawla	**X**		
Dr. Giardina	**X**		
Mr. Givner	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Dr. Turetsky	**X**		

The Board changed the order of the Petitions for Reduction of Penalty or Early Termination of Probation hearing agenda item 6 and then agenda item 5.

Petition for Reduction of Penalty or Early Termination of Probation

Administrative Law Judge (ALJ) Joseph D. Montoya presided over the Hearings. Anita Crawford was the Deputy Attorney General (DAG). Board members heard the following Petitions. The first Hearing was called to order at 10:30 am.

6. Dr. Wyman Chan, O.D.

Petition for Reduction of Penalty or Early Termination of Probation

5. Dr. Sharon Samski, O.D.

Due to sensitive background information the public was recused from the Hearing.

Dr. Giardina made Members and staff aware that he knows the petitioner and recused himself from the decision making

FULL BOARD CLOSED SESSION

7. Pursuant to Government Code Section 11126(c)(3), the Board will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

a) Steven M. Polatis (OPT 10401) – Case No. CC 2012-38 - Stipulated Surrender of License and Order

b) Jennifer Anne Jensen – Case No. CC 2011 315 – Proposed Decision and Order

Dr. Giardina left the meeting at 1:40 p.m.

FULL BOARD OPEN SESSION

8. Discussion and Possible Action Pertaining to Granting Continuing Education Credits for Pro Bono Comprehensive Eye Examinations

Enforcement Analyst Cheree Kimball prepared the following update and action request.

Dr. Turetsky has requested that the Board consider providing continuing education credits to licensees for performing pro-bono comprehensive eye examinations and providing eye glasses when indicated. An amendment would need to be made to California Code of Regulations section 1536 to allow the Board to accept this work for continuing education credit. For the proposes of continuing education credit, only comprehensive eye examinations – not screenings - would qualify for credit, and the examinations would need to be documented and verifiable by the sponsoring organization.

Members were asked to discuss and possibly refer this issue to the Practice and Education Committee for further research and clarification of questions and issues, including the following

1. Do any other states or licensing agencies do this, and, if so, what are their procedures and regulations?
2. How does this provide for the ongoing enhancement of a licensee's education?
3. What is an appropriate amount of credit for hours served and what would be the maximum hours of credit allowed per renewal cycle?
4. How would the service be verified?

Board members discussed that, even with the Expansion of Affordable Care Act, there are still people without healthcare (i.e. homeless, indigent, undocumented corporations). For needy people referred by official or quasi-official organizations like the Red Cross and Salvation Army, this type of outreach would be good public relations for the Board.

Board members discussed possible ratios for CE credit. Possibly 2 exams might equal 1 credit of CE, with a maximum of 4 or 8 in a renewal period.

Professional Member Glenn Kawaguchi, O.D. expressed concern over not wanting to create too much extra work for staff.

Public Member William Kysella asked if there is an option for self-certification. He suggested that (for the purpose of getting optometrists to provide pro-bono service) it might be best to impose a requirement for all licensees to provide service just as students must perform community service as a graduation requirement.

Cyd Brandvein moved to refer this issue to the Practice and Education Committee. David Turetsky seconded. The Board voted unanimously (8-0) to pass the motion. Bruce Givner was not present during the vote. Frank Giardina left the meeting at 1:40 p.m.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		
Dr. Chawla	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Dr. Turetsky	**X**		

9. Discussion and Possible Action on Regulations Affecting the Board of Optometry
Executive Officer, Mona Maggio reported on the following:

A. Update on rulemaking package pertaining to CCR Section 1524. Retired License Status Fees

At its December 14, 2012 meeting, the Board voted to initiate rulemaking to establish the retired license status fees. The rulemaking action was printed in the California Regulatory Notice Register on March 1, 2013; the 45-day comment period for the public started on March 1, 2013 and ended on April 15, 2013; the hearing was on April 15, 2013. No comments were received from the public. On May 10, 2013, the Board voted to continue with the rulemaking package.

The package has been approved by DCA, the Business, Consumer Services, and Housing Agency, and the Department of Finance. It was submitted to the Office of Administrative Law on November 22, 2013 and approved on January 7, 2014. The regulation becomes effective on April 1, 2014. Board staff is working to implement these regulations. Information about the process and the applications will be posted on the Board's website once the vacant policy analyst position is filled. Staff will be ready to process these requests starting April 1, 2014.

B. Update on rulemaking package pertaining to CCR Sections 1516. Applicant Medical Evaluations and 1582. Unprofessional Conduct Defined

At its August 16, 2013 meeting, the Board voted to initiate rulemaking to give the Board authority to compel an applicant to submit to a psychological or physical examination, and further define unprofessional conduct. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013, and the 45-day comment period for the public started on October 18, 2013 and ended on December 2, 2013. The hearing was held December 2, 2013 in Sacramento at DCA. No comments were received. The Board has until October 18, 2014 to complete this rulemaking package.

Staff is requesting that the Board direct staff to continue with the finalization of the rulemaking package for CCR § 1516 and 1582. Additionally, staff requests that the Board grant the Executive Officer delegation to make non-substantive changes to the rulemaking file as it goes forward in the process.

10. Discussion and Possible Action on Legislation Affecting the Board of Optometry
The updates were prepared by Enforcement Analyst, Robert Stephanopoulos

A. Legislation Signed by the Governor and Effective January 1, 2014

1. **Assembly Bill 258 (Chavez) State agencies: veterans**
   Staff will work to update applications and forms to include this question by July 1, 2014.

2. **Assembly Bill 480 (Calderon) Service contracts**
   Staff will monitor this bill to see how it will affect licensed optometrists, if at all. If necessary, educational materials will be created to provide guidance to affected optometrists.

3. **Assembly Bill 512 (Rendon) Healing arts: licensure exemption**
   The Board has already completed regulations for implementation, and has information and instructions on its website so out-of-state practitioners can apply.

4. **Assembly Bill 1057 (Medina) Professions & vocations: licenses: military service**
   Staff will work to update applications and forms to include this question by January 1, 2015.

5. **Senate Bill 305 (Lieu) Healing arts: boards – optometry sunset bill**
   Staff will work to familiarize themselves with the new enforcement language so it can be utilized appropriately.

6. **Senate Bill 724 (Emmerson) Liability: charitable vision screenings**

   Staff will work to familiar themselves with this new section of law and add it to the law book. Staff

will also work to add educational materials on the website for consumers and licensees focusing on both parties' rights.

7. Senate Bill 809 (DeSulnier) Controlled substances: reporting

Staff will be working with DCA to finalize implementation of this bill. DCA has already established a CURES fund in preparation for the collection of the $6 annual fee required by this bill.

8. Senate Bill 821 (Committee on Business, Professions & Economic Development) Healing arts

There are no next steps for this bill.

B. Legislation That Will Continue to Be Monitored in 2014

1. Assembly Bill 186 (Maienschein) Professions & vocations: military spouses: temporary licenses

This bill proposes to require the boards within DCA to issue a 12-month temporary license to an applicant who is a military spouse or domestic partner, and meets certain requirements, while their license application is being processed.

2. Assembly Bill 213 (Logue) Healing arts: licensure/certification requirement military experience

This bill proposes to require the State Department of Public Health, upon the presentation of evidence by an applicant for licensure or certification, to accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate for specified professions and vocations if that education, training, or experience is equivalent to the standards of the department. If a board with DCA or the State Department of Public Health accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than January 1, 2015, require those schools seeking accreditation or approval to have procedures in place to evaluate an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification, as specified.

3. Senate Bill 430 (Wright) Pupil health: vision examination: binocular function

This bill proposes to require a child at an elementary school to, upon first enrollment in a private or public elementary school, receive a vision examination by a physician, optometrist, or ophthalmologist and require that screening to include a test for binocular function, refraction and eye health.

4. Senate Bill 492 (Hernandez) Optometrist: practice: licensure

This bill proposes to expand the scope of practice of optometrists

5. Senate Bill 723 (Correa) Veterans (Vetoed)

This bill was vetoed by the Governor, and is back in the Senate where the veto is being considered. The Legislature has 60 days to override a veto with a 2/3 vote in each house.

This bill proposes to require the Employment Development Department (EDD), and DCA, on or before January 1, 2015, to jointly send a report to the Legislature containing best practices by state government agencies around the nation in facilitating the credentialing/licensing of veterans by using their documented military education and experience.

Professional Member Kenneth Lawenda, O.D. asked if optometrists in the field are requesting areas to be added to the scope of practice. Also if there is collaboration between the Board and the California Optometric Association (COA) regarding this bill? Board members discussed these issues.

11. Executive Officer's Report

Ms. Maggio provided the Executive Officer's Report on the following topics:

A. Budget

The 2013/2014 budget released for the Board is $1,901,030.00. As of December 31, 2013, the Board has spent $933,241.00 reflecting 49% of the total budget. It is projected that the Board will spend $1,7985,566.00, leaving an unencumbered balance of $99,464.00 - a surplus of 5.2%. Any surplus funds are reverted to the Board's reserve fund. The Boards fund condition has 7.4 months in reserve.

Ms. Maggio will meet with the Board's DCA budget analyst in the next few weeks to go over the Governor's Budget that was released on January 10, 2014.

B. Personnel

Staff is working to recruit for the following vacancies:

1) Associate Governmental Program Analyst (Policy)
2) Office Assistant (Receptionist)

In addition, staff is working to recruit two temporary employees to assist when current staff is out of the office working on BreEZe.

C. Examination and Licensing Programs

Licensing statistics were prepared by Ms. Sieferman and provided to the Board members.

Effective April 1, 2014, licensed optometrist that are Therapeutic Pharmaceutical Agents (TPA, TPG, TLG) certified will be charge an additional $12 per renewal cycle, pursuant to Senate Bill (SB) 809. SB 809 established the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES. This fee will be assessed regardless of whether a TPA certified optometrist exercises their authority to prescribe the scheduled drugs specified in the Optometry Practice Act.

D. Enforcement Program

Enforcement statistics were prepared by Ms. Sieferman and provided to the Board members.

E. BreEZe

Ms. Sieferman provided an update on the BreEZe project.

As previously reported, BreEZe will replace the existing Consumer Affairs System (CAS), Applicant Tracking System (ATS), and multiple "workaround" systems with an integrated, industry-proven system for use by DCA's organizations. The goal is for BreEZe to provide all of DCA's organizations with an enterprise system that supports all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities.

Release 1, comprised of ten of DCA's boards, went live on October 8, 2013. The Board of Optometry is currently in Release 2. The schedule for Release 2 and Release 3 boards has not been announced, but is estimated to become available shortly.

BreEZe team and Accenture held an informational meeting on December 2, 2013 to provide Release 2 boards with updates and an overview of expected BreEZe activities. In addition, the Board's enforcement and licensing units have met with the BreEZe team and Accenture for lab sessions and pre-configuration interviews.

Configuration interviews for the Board's licensing unit are scheduled for February 24-26, 2014 and the enforcement unit is scheduled for March 3, 2014.

12. 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)].

There were no comments.

13. Suggestions for Future Agenda Items

Members of the Board suggested items for staff research and discussion at future meetings.

Dr. Turetsky stated he would like to discuss amending the Board's laws concerning mobile practice to include allowing optometrists to go into schools of low income areas and provide free comprehensive eye exams and free glasses.

Dr. Turetsky added that healthcare professionals who are coming to Skilled Nursing Centers and Mental Health Hospitals are interested in working with the Department of Public Health and healthcare boards for the purpose of posting on the facilities websites information about who is providing care. The postings would include names of practitioner providing services at the facility, the board who has jurisdiction over each practitioner and which agency to go to with complaints.

Dr. Lawenda requested holding a discussion on the National Board of Examiners in Optometry (NBEO) Certification and whether the Board intends to take any action.

Additionally, Dr. Lawenda suggested a discussion about the maintenance of competence and recommended obtaining information from all optometric organizations.

Public member Alexander Kim stated that he attended a Vision to Learn meeting and suggested adding this topic to a future agenda.

Dr. Kawaguchi requested more information about SB 430 and stated he wants the Board to take a position.

14. Adjournment

Bruce Givner moved to adjourn the meeting. Glenn Kawaguchi seconded. The Board voted unanimously (9-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		

Dr. Chawla	**X**		
Mr. Givner	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Dr. Turetsky	**X**		

The meeting was adjourned at 3:15 pm.

CALIFORNIA STATE BOARD OF OPTOMETRY

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

Memo

To: Board Members **Date:** April 11, 2014

From: Jessica Sieferman, Lead Enforcement Analyst **Telephone:** (916) 575-7184

Subject: **Agenda Item 5 – Controlled Substance Utilization Review and Evaluation (CURES)**

Background:
The California Department of Justice (DOJ) Controlled Substance Utilization Review and Evaluation System (CURES) Program is comprised of components designed to identify and deter drug abuse and fraud without affecting legitimate medical practice and patient care. CURES includes a searchable database that provides a powerful prevention and intervention tool for health care professionals, investigative support from DOJ Special Agents for law enforcement and regulatory boards, and data for educational researchers.

Business and Professions Code (BPC) section 208, regarding CURES, Prescription Drug Monitoring Program (PDMP) was signed by the Governor and became effective January 1, 2014. BPC section 208 requires healthcare professionals who are authorized to prescribe or fill prescriptions for controlled substances to pay $6.00 annually to support the CURES/PDMP. This fee will be collected at the time of a licensee's renewal.

Effective April 1, 2014, all optometrists with TPA certification will see an additional $12.00 added to their renewal fee ($6.00 per year). The $12.00 will be transferred to the DOJ to fund the CURES/PDMP. Renewal notices sent out with an expiration date of April 30, 2014 and later will have to pay this fee, no matter when the renewal fee is submitted. Failure to pay these additional fees will result in the renewal not being issued.

In addition, pursuant to Health and Safety Code Section 11165(a)(1), TPA certified optometrists (and above) "shall, before January 1, 2016, or upon receipt of a federal Drug Enforcement Administration (DEA) registration, whichever occurs later, submit an application developed by the Department of Justice to obtain approval to access information online regarding the controlled substance history of a patient that is stored on the Internet and maintained within the Department of Justice, and, upon approval, the department shall release to that practitioner or pharmacist the electronic history of controlled substances dispensed to an individual under his or her care based on data contained in the CURES Prescription Drug Monitoring Program (PDMP)."

CURES/PDMP Presentation
Department of Justice Administrator II Mr. Mike Small has 30 years of criminal justice program and administrative experience with the California Department of Justice. Mr. Small has served as a manager in the Firearms Division, Western State Information Network, and DOJ's Intelligence Operations Program. Mr. Small assumed CURES program manager duties in December, 2011. Mr. Small was asked to educate

the Board on the importance of CURES/PDMP in fighting drug abuse as well as how to register and use CURES/PDMP.

Attachments:

1. Copy of Mike Small's PowerPoint Presentation
2. PDMP Brochure

PDMP

A Powerful Tool in the Shed

February, 2014

pdmp

No reportable financial interest.

pdmp

"During the spring and summer of 2001, U.S. intelligence agencies received a stream of warnings that al Qaeda planned, as one report put it, "something very, very, very big."

The Director of Central Intelligence said, "The system was blinking red."

Executive Summary, The 9/11 Commission Report, Page 6

pdmp

The FBI's approach to counterterrorism investigations was, "case-specific, decentralized, and geared toward prosecution."

Executive Summary, The 9/11 Commission Report, Page 13

"Each agency's incentive structure opposes sharing, with risks (criminal, civil, and internal administrative sanctions) but few rewards for sharing information."

The 9/11 Commission Report, Page 417

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The 9/11 Commission's bottom-line recommendation called for a…

Unity of Effort

pdmp

One fight, one team

pdmp

2,390 Pearl Harbor Deaths

2,973 9/11 Deaths

http://www.cbsnews.com/2100-224_162-2035427.html

pdmp

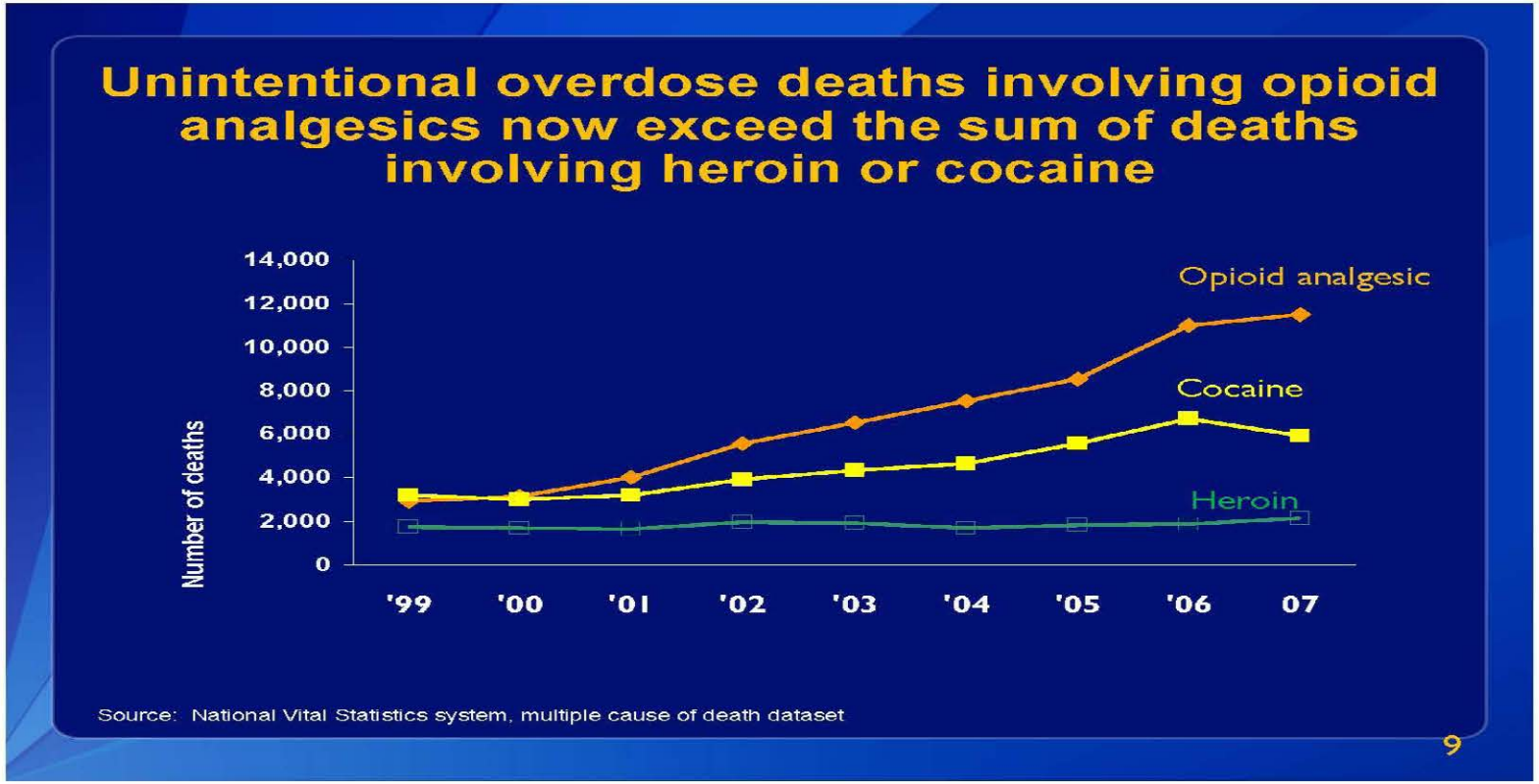
> 15,500

Prescription Painkiller Overdose Deaths

CY 2009

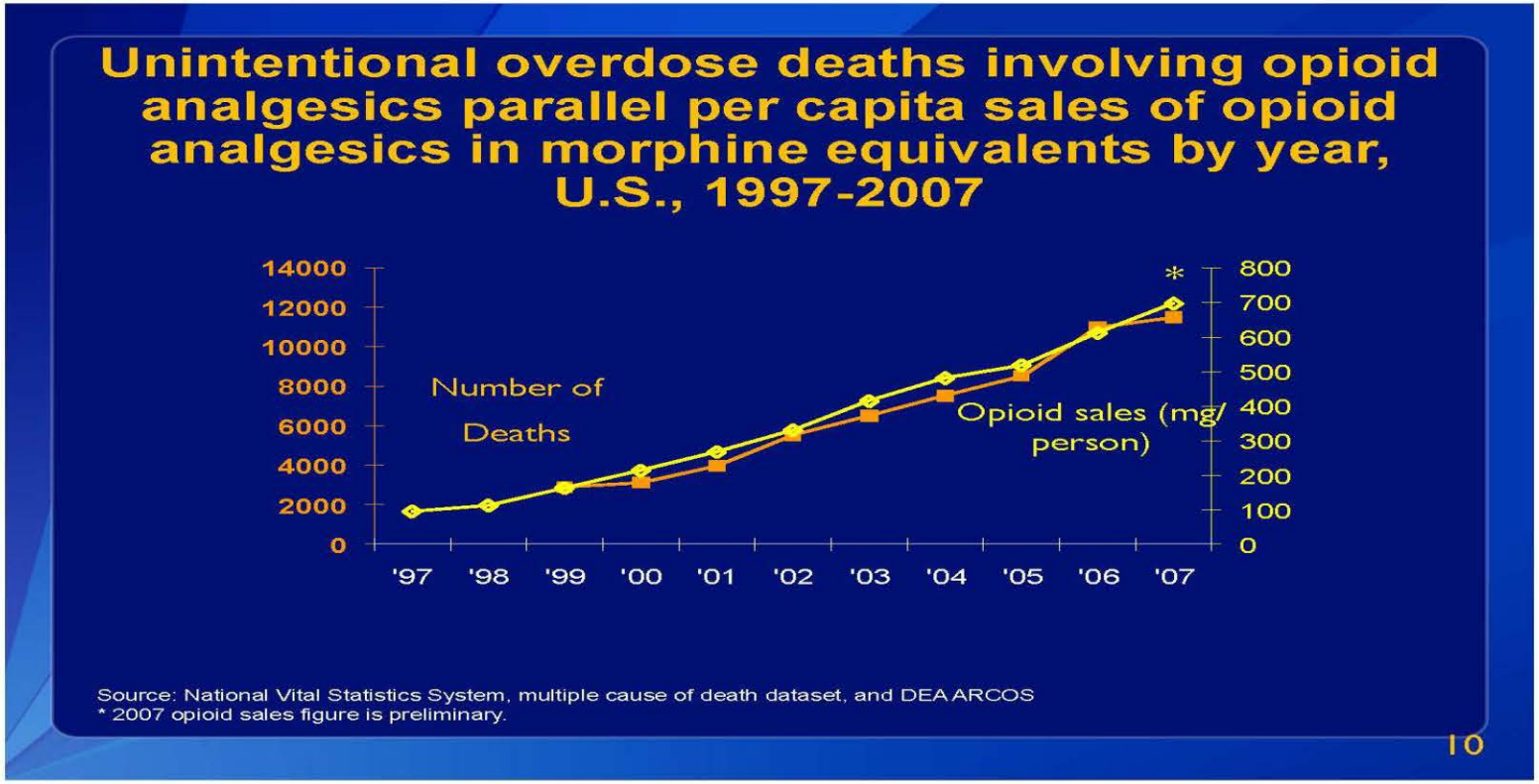
http://www.cdc.gov/vitalsigns/MethadoneOverdoses

pdmp



The Prescription Drug Overdose Epidemic and the Role of PDMPs in Stopping It, Len Paulozzi, MD, MPH, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention

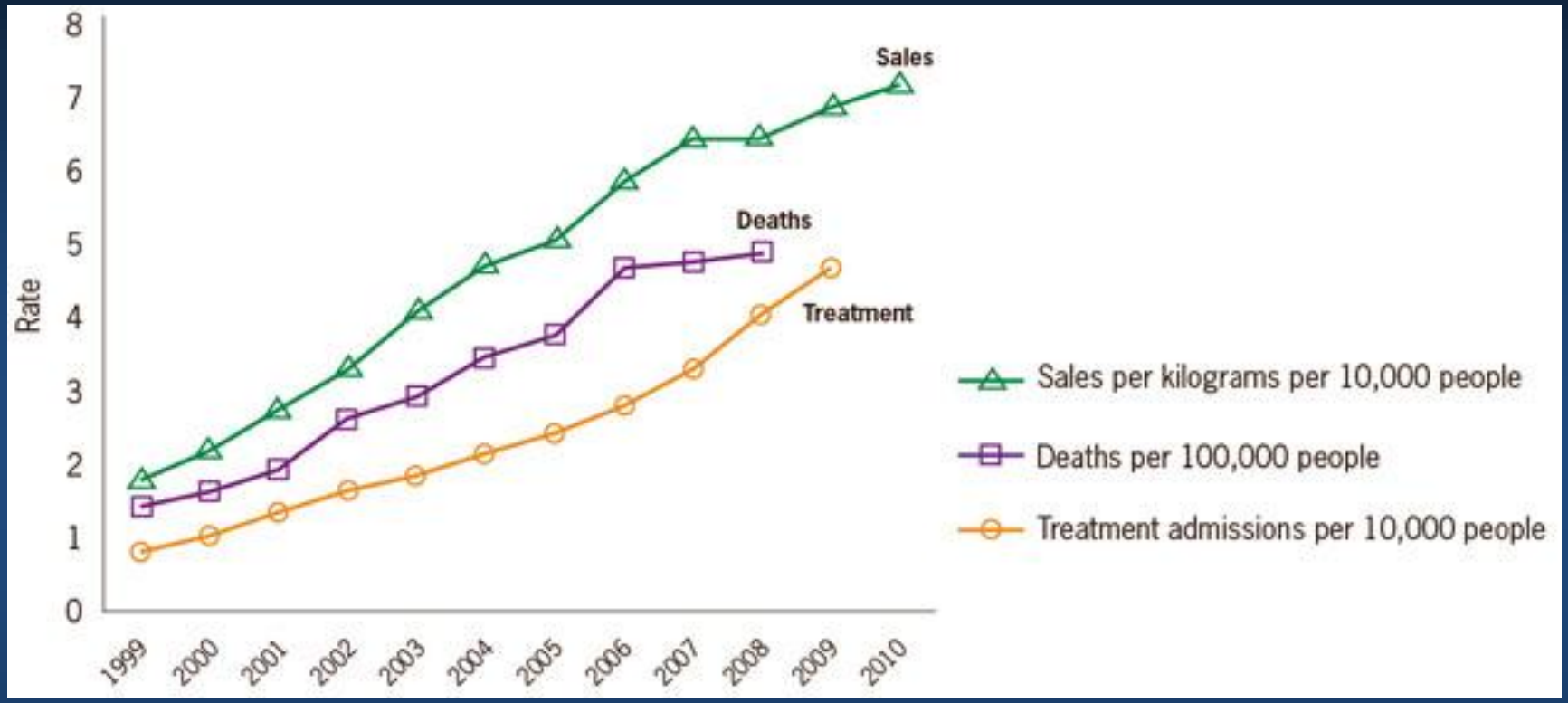
pdmp



The Prescription Drug Overdose Epidemic and the Role of PDMPs in Stopping It, Len Paulozzi, MD, MPH, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention

pdmp

Rates of Prescription Painkiller Sales, Deaths and Substance Abuse treatment admissions (1999-2010)



SOURCES: National Vital Statistics System, 1999-2008; Automation of Reports and Consolidated Orders System (ARCOS) of the Drug Enforcement Administration (DEA), 1999-2010; Treatment Episode Data Set, 1999-2009

http://www.cdc.gov/vitalsigns/PainkillerOverdoses/index.html

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Two keys to prescription acquisition…

The Prescriber
The Dispenser

pdmp

Prescription Medicine Actors…

The Prescriber
The Dispenser
The Patient

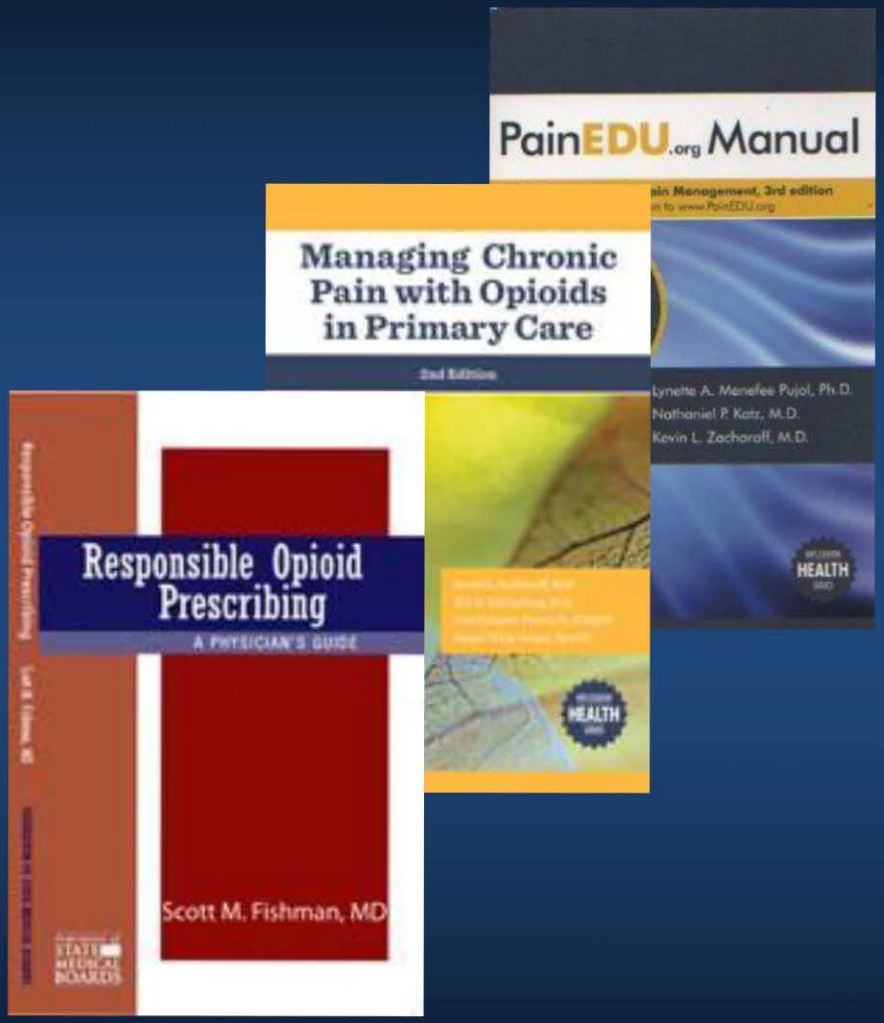
pdmp

Most prescription painkillers are prescribed by primary care and internal medicine doctors and dentists, not specialists.

Roughly 20% of prescribers prescribe 80% of all prescription painkillers.

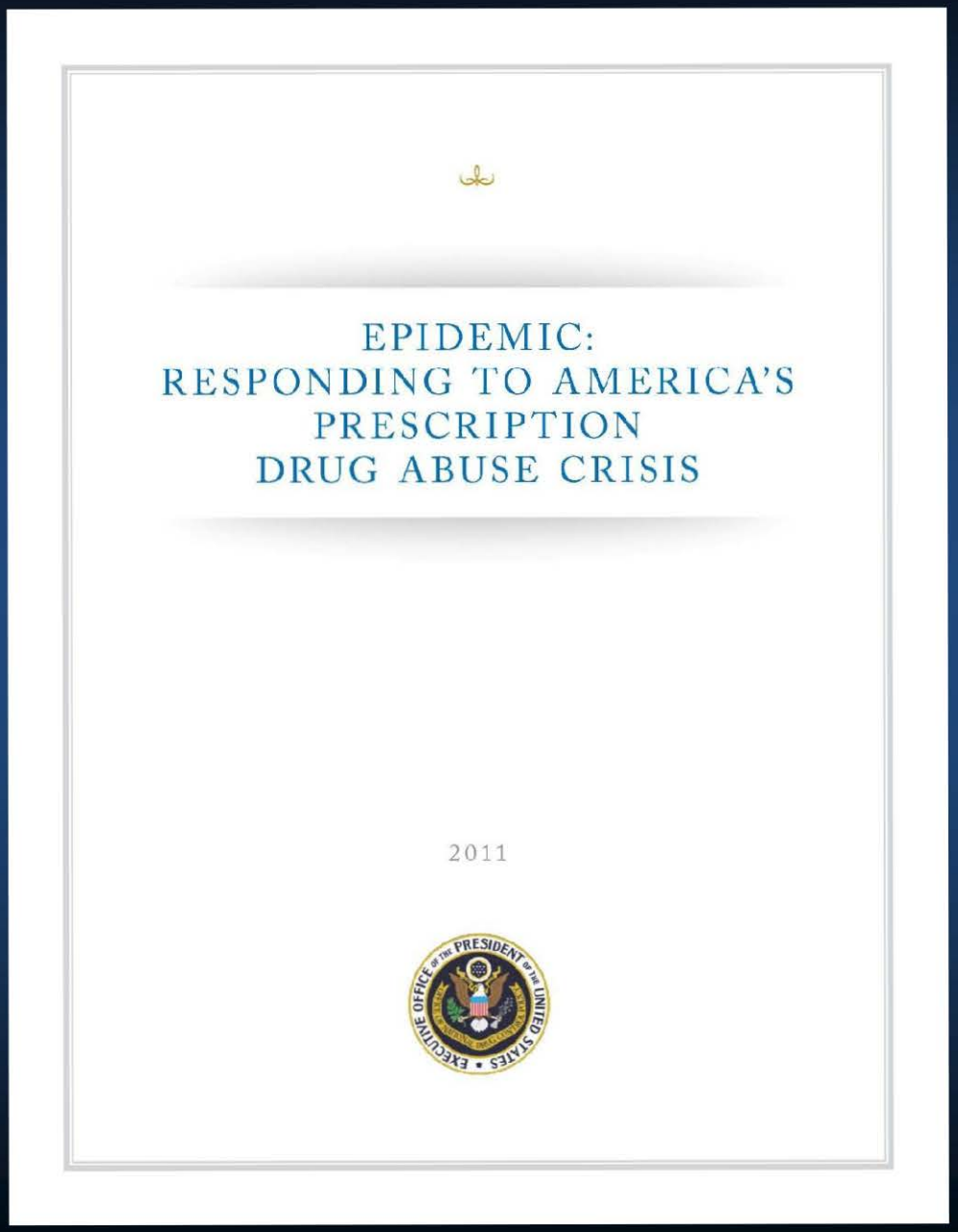
Policy Impact: Prescription Painkiller Overdoses, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, Page 7, November 2011

pdmp


PainEDU.org Manual
Managing Chronic Pain with Opioids in Primary Care
2nd Edition
Lynette A. Menefee Pujol, Ph.D.
Nathaniel P. Katz, M.D.
Kevin L. Zacharoff, M.D.
HEALTH
Responsible Opioid Prescribing
A PHYSICIAN'S GUIDE
Scott M. Fishman, MD
HEALTH


Rx

pdmp


EPIDEMIC:
RESPONDING TO AMERICA'S
PRESCRIPTION
DRUG ABUSE CRISIS
2011
EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES


Rx

pdmp

Education: critical for the public and for healthcare providers to increase awareness about the dangers of prescription drug abuse, and about ways to appropriately dispense, store, and dispose of controlled substance medications.

Tracking and Monitoring: the enhancement and increased utilization of prescription drug monitoring programs will help to identify "doctor shoppers" and detect therapeutic duplication and drug-drug interactions.

Proper Medication Disposal: the development of consumer-friendly and environmentally-responsible prescription drug disposal programs may help to limit the diversion of drugs.

Enforcement: provide law enforcement agencies with support and the tools they need to expand their efforts to shut down "pill mills" and to stop "doctor shoppers" who contribute to prescription drug trafficking.

Epidemic: Responding to America's Prescription Drug Abuse Problem. Office of National Drug Control Policy, 2011, Pages 2-8

pdmp

CDC Prevention Strategies

Prescription Monitoring…

to stop users of multiple providers for the same drug. Insurers can contribute substantively.

Improve legislation and enforcement of existing laws…

i.e., anti-doctor shopping and pill mill

Improve medical practice in prescribing opioids…

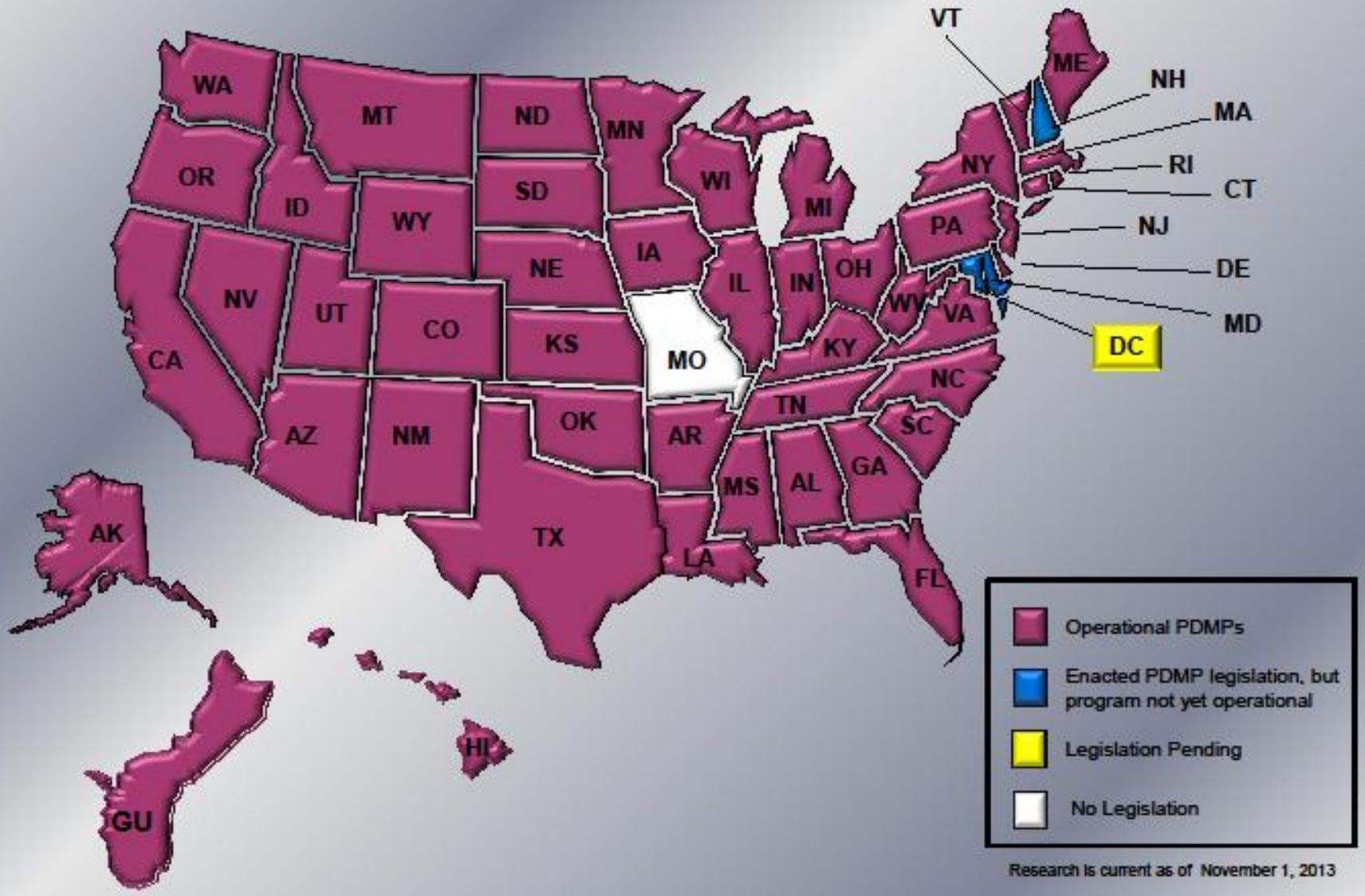
to update prescribers on under-appreciated risks of high-dosage therapy and provide evidence-based guidelines

Centers for Disease Control and Prevention, CDC Grand Rounds: Prescription Drug Overdoses – a U.S. Epidemic, January 13, 2012

PDMP Training & Technical Assistance Center

Status of Prescription Drug Monitoring Programs (PDMPs)

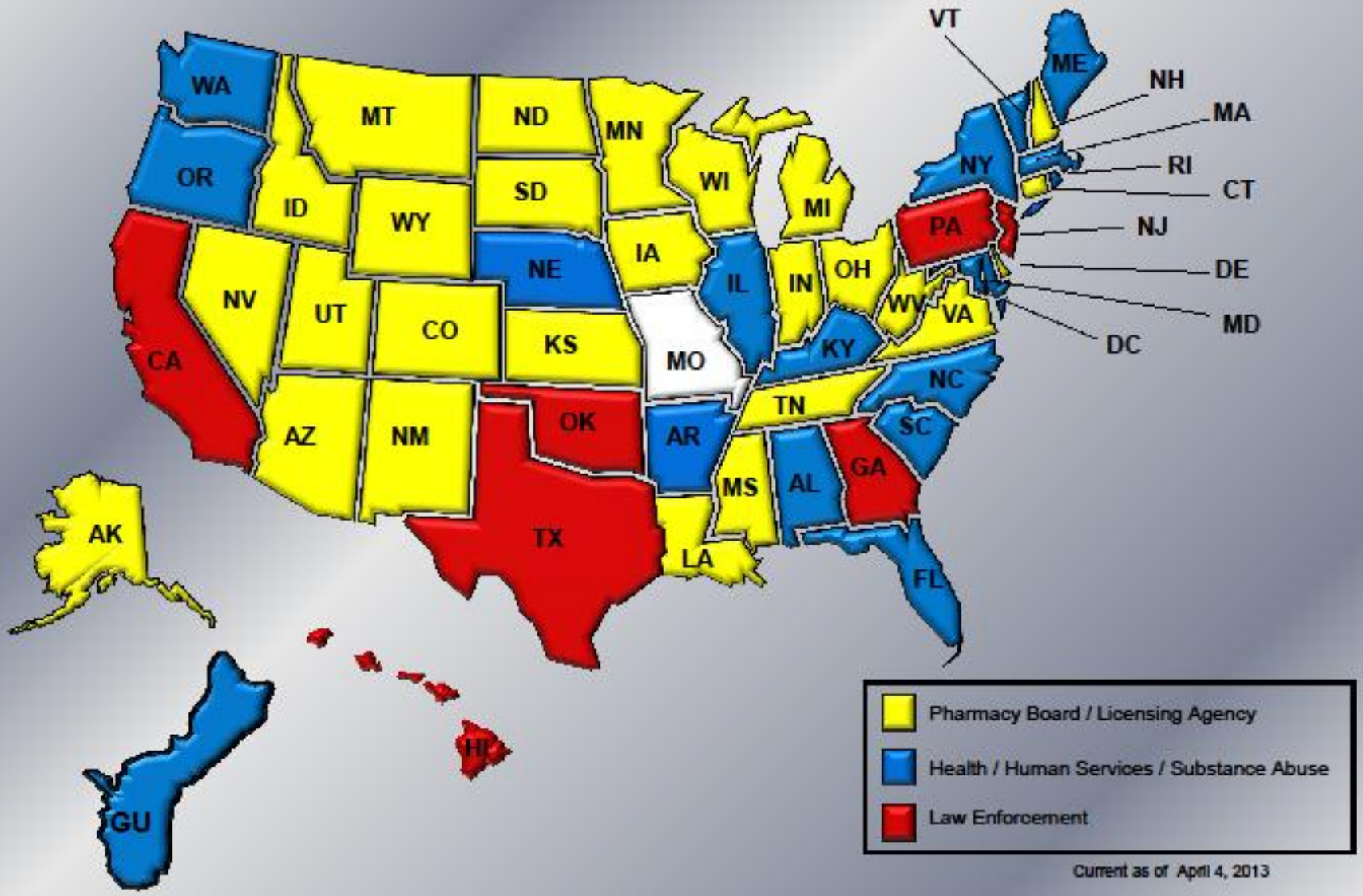
** To view PDMP Contact information, hover the mouse pointer over the state abbreviation*



Research is current as of November 1, 2013

PDMP Training & Technical Assistance Center

Prescription Drug Monitoring Program (PDMP) Agency Types



Current as of April 4, 2013

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Relevant prescription drug monitoring provisions of laws:

- Health Insurance Portability and Accountability Act (HIPAA)
  & Attendant Regulations
  42 U.S.C. §§ 1320d to 1320d-8, and 45 CFR 164, et seq.
- State Confidentiality of Medical Information Act
- State Information Practices Act
- State PDMP Legislation

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1939 The California Triplicate Prescription Program (TPP) was created in 1939, capturing Schedule II prescription information.

1997 CURES was initiated, operating in parallel with the TPP's Automated Triplicate Prescription System (ATPS) to evaluate the comparative efficiencies between the two systems.

1999 CURES replaced the TPP/ATPS and began capturing Schedules II through IV prescription information.

2005 TPP/ATPS decommissioned after Senate Bill (SB) 151 eliminated the triplicate prescription requirement for Schedule II controlled substances, making CURES permanent.

2009 PDMP introduced as a searchable, client-facing component of CURES.

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Current CURES/PDMP Program

- CURES stores and reports Schedule II, III and IV prescription dispensation data reported by dispensers to DOJ.
- Pharmacists are required to report dispensations of Schedules II through IV controlled substances at least weekly.
- In order to reflect exactly what dispensers report to DOJ, the department does not touch or modify dispenser-reported data.
- Presently, the database contains over 100 million entries of controlled substance drugs that have been dispensed in California.

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Current CURES/PDMP Program

- In FY 11/12, the program responded to 1,063,952 requests.
- Provides registered prescribers and dispensers with 6- or 12-month Patient Activity Reports (PAR).
- CURES/PDMP serves the public health and the public safety. CURES data can assist health practitioners identify, intervene, and deter abuse of scheduled drugs. CURES data can assist investigators, regulators, and prosecutors.
- Use of the PDMP by prescribers and dispensers for prescription abuse prevention/intervention is *voluntarily*.

pdmp California PDMP Participation

Dentists	37,494
Medical Physicians	128,697
Optometrists	4,939
Osteopathic Physicians	6,376
Physician Assistants	8,520
Podiatrists	1,918
Registered Nurse Midwives (Furnishing)	778
Registered Nurse Practitioners (Furnishing)	12,125
Veterinarians	10,985
Prescribers	**174,338**
Pharmacists	**38,29**
TOTAL	**212,631**

PDMP Registrants **20,847**

(as of 01/22/20147)

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9.80%

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The NEW ENGLAND JOURNAL of MEDICINE

Perspective

Medication Reconciliation for Controlled Substances — An "Ideal" Prescription-Drug Monitoring Program

Jeanmarie Perrone, M.D., and Lewis S. Nelson, M.D.

N Engl J Med 2012; 366:2341-2343 June 21, 2012 | DOI: 10.1056/NEJMp1204493

Article

The United States is in the midst of an epidemic of misuse of prescription opioids and related deaths. Between 1997 and 2007, the use of prescription opioids more than quadrupled,[1] and it has become clear that the risk of opioid overdose is correlated with the quantity of these drugs being prescribed.[2] This liberalization of opioid prescribing can be attributed to a heightened focus on pain management, reflected in such developments as a Joint Commission mandate that pain be assessed as a "vital sign," the use of pain scores to measure patient satisfaction, and an extension of the indications for long-term opioid treatment to include chronic non–cancer-related pain. In this new model, physicians, dentists, and nurse practitioners — rather than drug cartels and street dealers — play prominent roles in escalating drug use. Paradoxically, there are simultaneous pressures to increase opioid prescribing for the benefit of individual patients and to reduce it for the sake of public health. As health care providers attempt to balance these mandates, we must advocate for more informed prescribing.

Since 1993, federal legislation has supported the formation of state-based prescription-drug monitoring programs (PDMPs) to track prescribing of controlled substances. In the pre-Internet era, such programs had limited effects, owing to the lag time inherent in reporting with paper documentation, the absence of off-hours access to the programs, and the voluntary nature of reporting. Now, these programs are benefiting from renewed interest and increased funding. 42 states currently have operational PDMPs, and 6 have enacted legislation to develop programs.[3]

The White House Office of National Drug Control Policy, the Centers for Disease Control and Prevention, and the Food and Drug Administration suggest that state-based PDMPs should be expanded.[4] Yet many clinicians are unaware of these programs, and their use varies among states and specialties.[5] Research examining the effect of these monitoring systems has been limited by the variations and evolution of states' PDMP designs. As states develop, expand, or retool their PDMPs, it is worthwhile to analyze the current thinking regarding the usefulness and successful characteristics of the existing programs so as to enhance their future impact (see table).

Characteristics of an Ideal Prescription Drug Monitoring Program

Clinical evaluation of a new patient with chronic pain can be difficult without a comprehensive pain-management record. Although relying solely on the patient's history is generally acceptable and well incentivized, it may lead to dangerous misprescribing. Furthermore, primary care providers who embrace the mandate to treat patients' chronic pain are faced with guidelines suggesting the use of patient–provider agreements ("pain contracts") and urine drug screening. Some physicians may feel uncomfortable with the mistrust implied by such confrontational approaches and may find that a highly functional PDMP readily alerts the users to signs of aberrant drug-procurement behavior. A benefit for clinicians and patients is the opportunity to intervene immediately when aberrant behavior is first noted and while the patient is in the medical setting. In addition, a PDMP may identify patients who are receiving multiple legitimate prescriptions for opioids or benzodiazepines and are at risk for complications from polypharmacy.

Web-based PDMPs solve many of the problems that limited earlier fax-based systems, but they also raise new concerns. In a recent survey of prescribers, respondents cited barriers to use of PDMPs that included "time" and "access issues" but not computer availability (see graph). To facilitate access, a simple log-on with user-specified passwords may

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Drs. Perrone and Nelson noted barriers to today's PDMPs include:

- Time and access issues.
- Complicated application and notarization procedures
- Prescribers will have to be educated about PDMPs if voluntary compliance is to be improved and routine use encouraged.

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Integration / Interoperation

PDMPs need to integrate and interoperate with the major health care systems in their regions.

PDMP data can be rendered by the health care system to be presented with the EHR when the practitioner walks into the exam room to see the patient.

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Integration / Interoperation

Integration/Interoperation leverages a trust arrangement that the various interoperation partners vet their respective members.

Integration/Interoperation can facilitate peer-to-peer collaboration.

Integration/Interoperation can facilitate “watch” flags across member systems.

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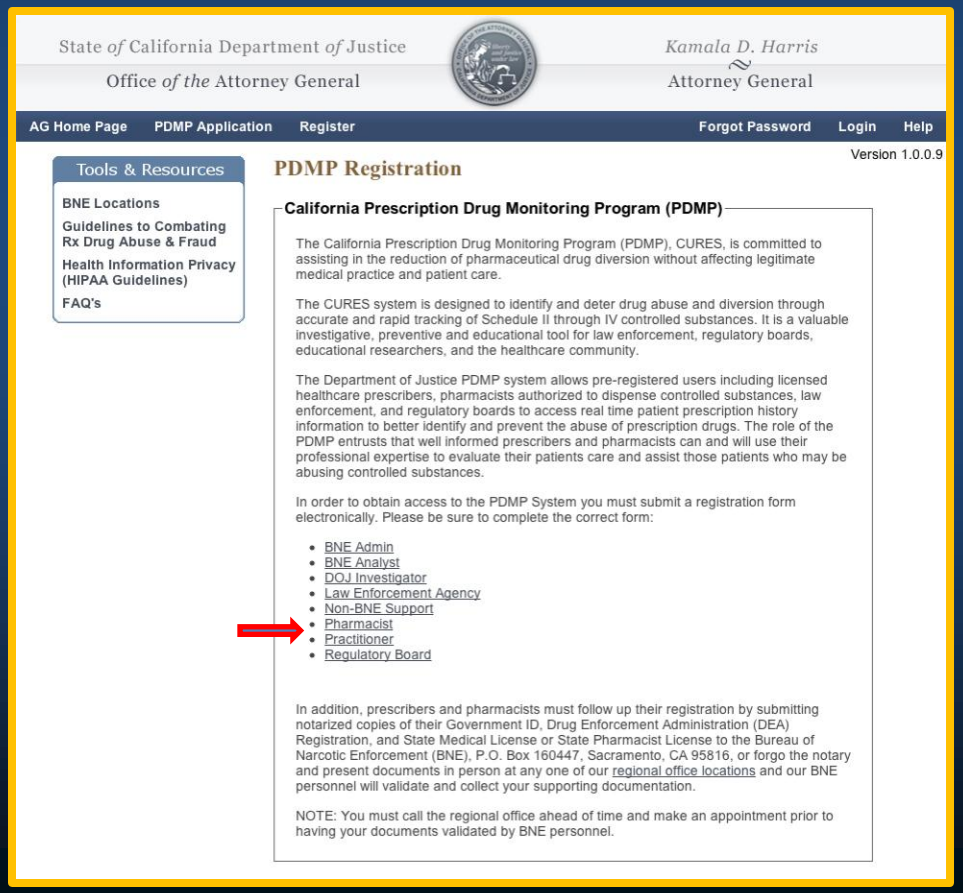
Registration Process

The registration process is initiated electronically via a web-based application form.

HTTP://OAG.CA.GOV/CURES-PDMP



Select the appropriate registration form according to profession:

- BNE Admin
- BNE Analyst
- DOJ Investigator
- Law Enforcement Agency
- Non-BNE Support
- Pharmacist
- Practitioner
- Regulatory Board

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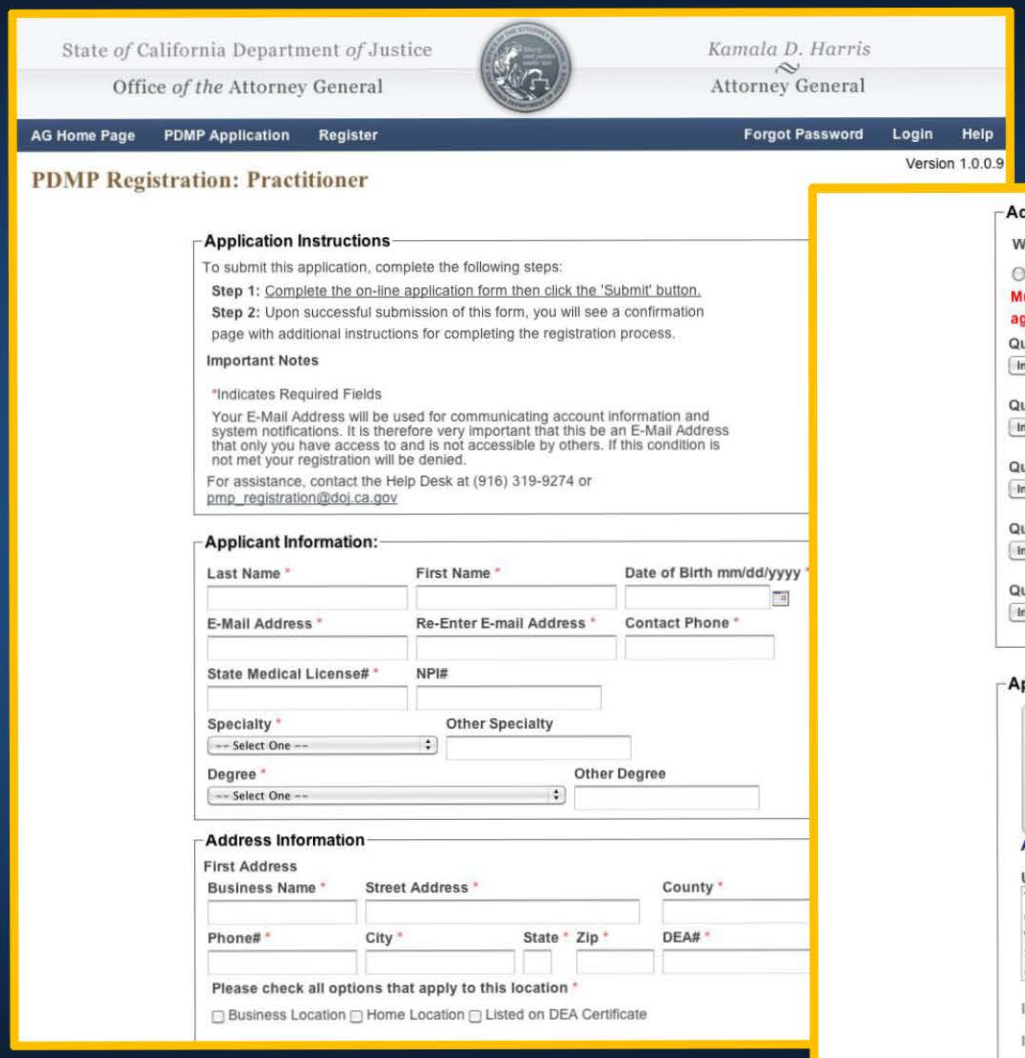
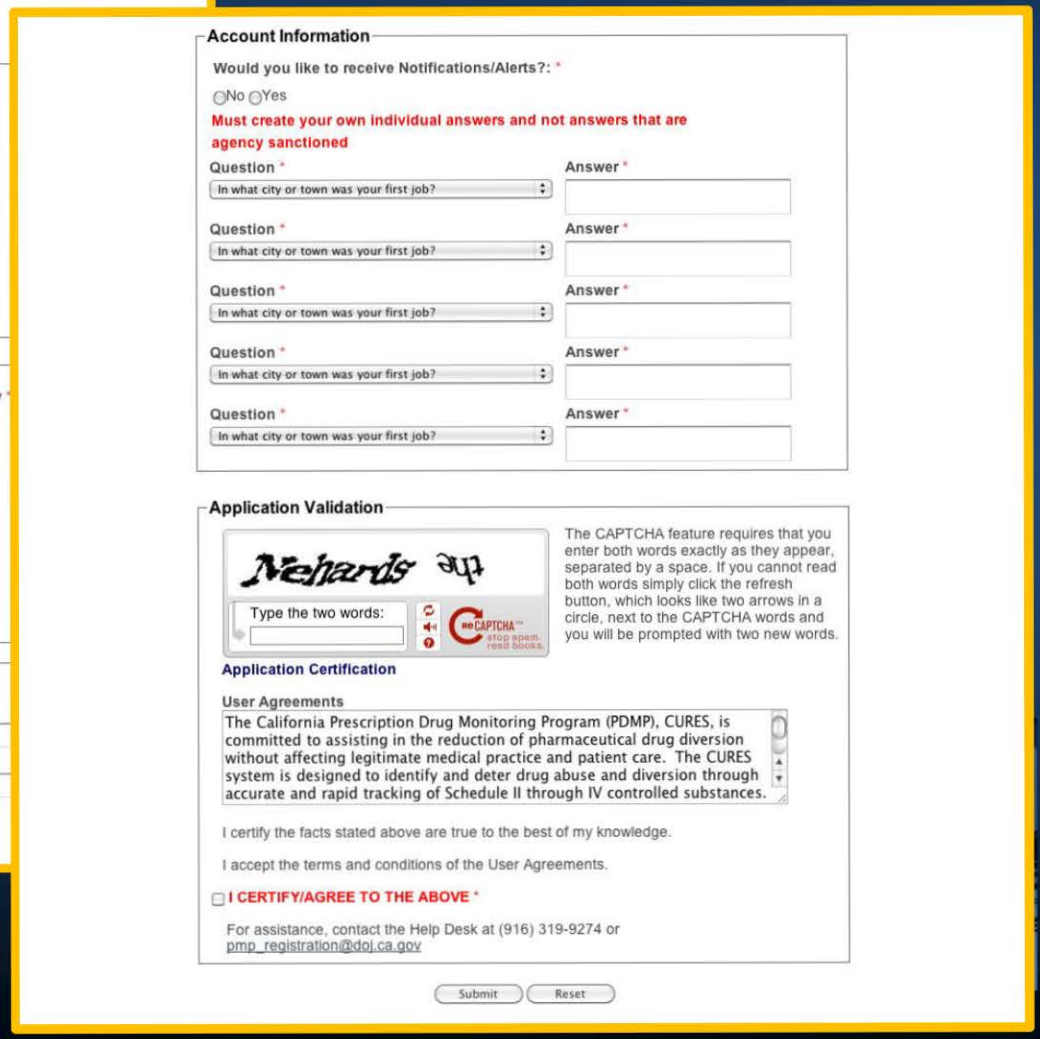
Registration (Continued)





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Registration *(Continued)*

ADDITIONAL REGISTRATION PROCESS STEPS:

Print registration confirmation and have notarized.
Respond to e-mail verification request.
Mail notarized application & required supporting documents to CA DOJ.

Required Documentation:

- Notarized application
- Copy of government-issued identification
- Copy of Medical License (Pharmacy or Regulatory License)
- Copy of Drug Enforcement Administration Registration

Approval Notification

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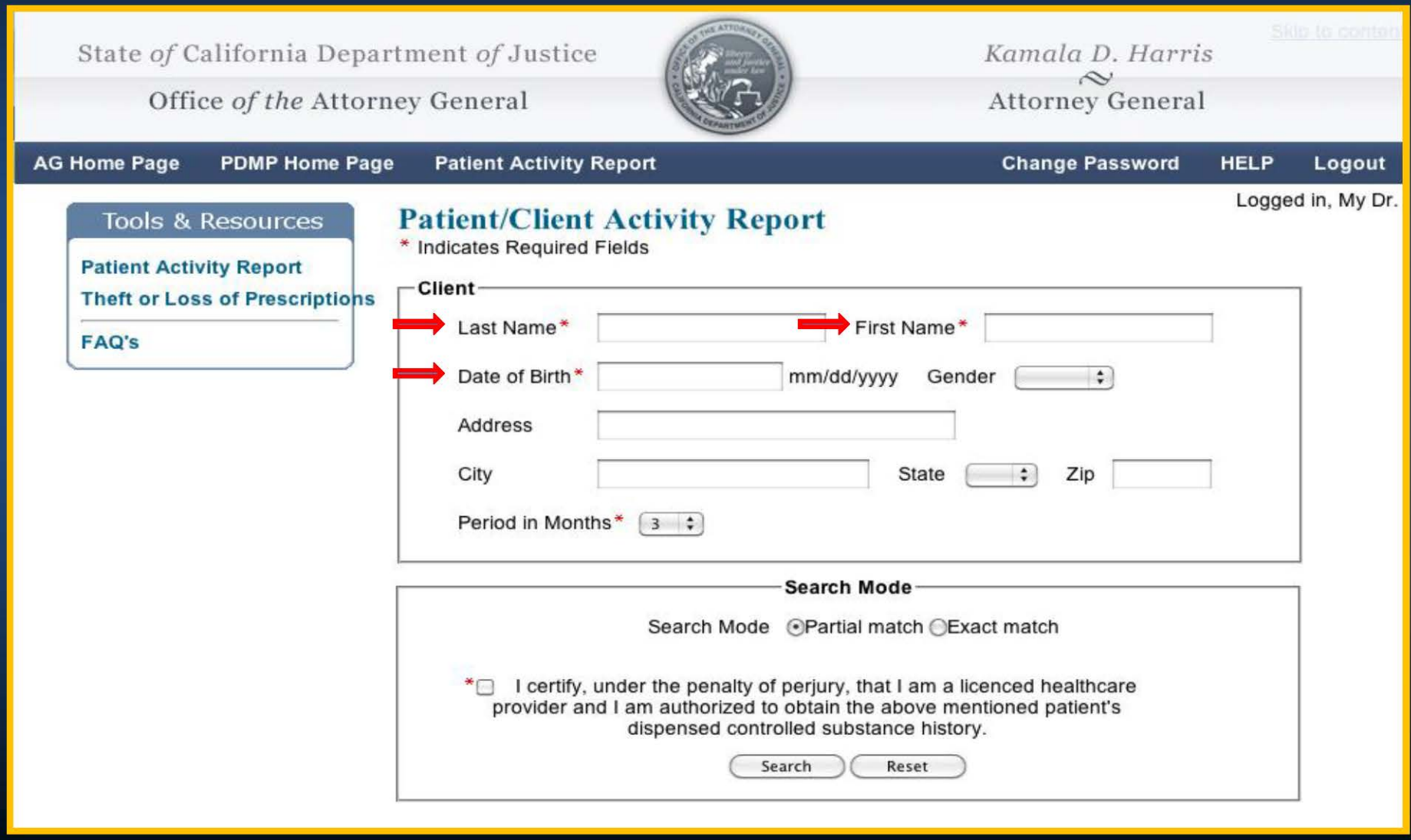
Patient Activity Report (PAR)

https://pmp.doj.ca.gov/pdmp/index.do

- Prescribing and dispensing history of Schedule II-IV controlled substances.
- Registered prescribers and dispensers can quickly review a patient's controlled substance history.
- Enables a prescriber to identify and prevent drug abuse through accurate & rapid tracking.

pdmp

Patient Activity Report (PAR)



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Patient Activity Report (PAR)

Save Comments View/Print Report View/Print Consolidated Report Reset

pdmp Patient Activity Report (PAR)

Department of Justice - Bureau of Narcotic Enforcement
Controlled Substance Utilization Review & Evaluation System

PATIENT/CLIENT ACTIVITY: CONSOLIDATED REPORT

01/17/2013 11:19

CONFIDENTIAL DOCUMENT

Prescription Drug Transaction Details:

Number of Hits: 9 **Start Date: 01/17/2012** **End Date: 01/17/2013**

Date Filled	First Name	Last Name	DOB	Address	Drug Name	Form	Str	Qty	PHY Name	PHY#	Dr.'s DEA #	Dr.'s Name	RX#	Refill#
01/20/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	VICODIN	TAB	1000 MG-5 MG	10	WALGREENS #610	PHY12345	AB5678909	SMITH, JOHN	02345678	3
1/23/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	APAP/HYDROCODONE BITARTRATE	TAB	500 MG-5 MG	40	CVS/PHARMACY #110	PHY12345	AB5678909	SMITH, JOHN	02375678	1
02/01/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	XANAX	TAB	100 MG-5 MG	60	WAL-MART #926	PHY12345	AB5678909	SMITH, JOHN	00284920	1
02/04/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	VICODIN	TAB	200 MG-5 MG	60	TARGET #261	PHY12345	AB5678909	SMITH, JOHN	09244920	2
03/01/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	APAP/HYDROCODONE BITARTRATE	TAB	5000 MG-5 MG	60	WALGREENS #100	PHY12345	AB5678909	SMITH, JOHN	04247940	4
03/08/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	XANAX	TAB	500 MG-5 MG	80	CVS/PHARMACY	PHY12345	AB5678909	SMITH, JOHN	02434960	1
03/07/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	APAP/HYDROCODONE BITARTRATE	TAB	500 MG-5 MG	60	WALGREENS	PHY12345	AB5678909	SMITH, JOHN	02795765	1
03/10/2012	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	APAP/HYDROCODONE BITARTRATE	TAB	500 MG-5 MG	90	CVS/PHARMACY #934	PHY12345	AB5678909	SMITH, JOHN	02549607	2
01/01/2013	JOHN	DOE	05/23/1960	2560 COLLEGE WAY, SACRAMENTO, CA, 95821	VICODIN	TAB	1000 MG-5 MG	30	TARGET #234	PHY12345	AB5678909	SMITH, JOHN	02648603	3

Disclaimer: The Patient Activity Report (PAR) is compiled from information maintained in the Department of Justice's Controlled Substance Utilization Review and Evaluation System (CURES). The CURES maintains Schedule II, Schedule III and Schedule IV prescription information that is received from California Pharmacies and is therefore only as accurate as the information provided by the Pharmacies. If data was submitted with errors or have unknowns within a field, it will not be displayed within this report.

pdmp

CURES Program Contacts

California Department of Justice
PDMP/CURES
P.O. Box 160447
Sacramento, California 95816

Phone: (916) 227-3843
FAX: (916) 227-4589
Email: PMP@doj.ca.gov

http://oag.ca.gov/cures-pdmp

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¿¿¿ One fight, one team ???

OFFICE OF THE ATTORNEY GENERAL
CALIFORNIA DEPARTMENT OF JUSTICE

PDMP
Frequently Asked Questions

Q. Who can access the PDMP?
A. Practitioners eligible to prescribe controlled substances, pharmacists authorized to dispense controlled substances, sworn law enforcement personnel, and authorized regulatory boards.

Q. How can prescribers and pharmacists register for PDMP access?
A. Prescribers and pharmacists can initiate the application process electronically at: https:/pmp.doj.ca.gov/pmpreg/.

Q. Where do I send my completed application and copies of validating documents?
A. Mail your notarized application and documents to:
BCIIS
Attn: PDMP Registration
P.O. Box 160447
Sacramento, CA 95816

Q. Can I share my PDMP login and password?
A. The patient information contained in the PDMP is confidential information protected by federal and state law. It is illegal to share a PDMP login and password with anyone.

Q. What do I do if I find out my patient is obtaining multiple prescriptions from various practitioners?
A. Work with your patients to get them the help they need. Refer to the Medical Board of California "Guidelines for Prescribing Controlled Substances for Pain" at: http://www.medbd.ca.gov/pain_guidelines.html. References in your county are listed on the California Department of Alcohol and Drug Programs website: http://www.adp.cahwnet.gov.
You may also wish to contact other practitioners or pharmacists listed in the PAR to alert them.

CURES/PDMP

P.O. Box 160447
Sacramento, CA 95816
(916) 227-3843
http://oag.ca.gov/cures-pdmp

pdmp

Prescription Drug Monitoring Program

KAMALA D. HARRIS, ATTORNEY GENERAL

The CURES Program

The California Department of Justice (DOJ) Controlled Substance Utilization Review and Evaluation System (CURES) Program is comprised of components designed to identify and deter drug abuse and fraud without affecting legitimate medical practice and patient care. CURES includes a searchable database that provides a powerful prevention and intervention tool for health care professionals, investigative support from DOJ Special Agents for law enforcement and regulatory boards, and data for educational researchers.

Drugs Sorted by Schedule

There are five categories, or "schedules" of drugs and substances. Inclusion on a schedule is determined by the DEA, the FDA, and federal law. Schedule I drugs and substances (e.g., heroin) have no accepted medical use or safe dosage and high potential for abuse which may lead to dependence, while Schedule V drugs do have an accepted medical use, and very low potential for abuse.

History and Background

CURES evolved from the California Triplicate Prescription Program (TPP). Created in 1939, the TPP was the nation's first multiple-copy prescription program to regulate the distribution of controlled substances. For 60 years, the TPP captured information regarding prescriptions of Schedule II controlled substances, such as cocaine, morphine, methadone, and oxycodone.

In 1998, CURES, an electronic monitoring system, began the process to replace the TPP. Since then, the system has been enhanced a number of times, and now captures data regarding prescriptions for all substances in Schedules II through IV.

Prevention and Intervention – The Prescription Drug Monitoring Program

In 2009, the DOJ instituted the Prescription Drug Monitoring Program (PDMP), the searchable database component to CURES. The PDMP allows licensed practitioners eligible to prescribe controlled substances and pharmacists authorized to dispense controlled substances the ability to access patient prescription information at the point of care. The PDMP provides a patient's prescription history (Patient Activity Report, or PAR) to a practitioner to help evaluate a course of patient care, while also allowing the prescriber or pharmacist to use their expertise to determine whether a patient might be abusing controlled substances.

Practitioners and pharmacists apply to the DOJ for access to the PDMP by providing a copy of their DEA certificate, state medical or pharmacy license, and government-issued identification. The DOJ requires a notarized signature on all applications.

Investigation and Enforcement

Law enforcement and regulatory agencies search the PDMP database to investigate cases such as:

- A patient with multiple prescriptions for pain medications from different physicians filled at different pharmacies. The patient might be addicted to pain medications and "doctor shopping" to support an addiction.
- A patient who is misrepresenting their condition or medical history in order to gain prescription narcotics to sell for profit.
- A patient with prescriptions for multiple medications that when ingested together in the body combine to form a much stronger narcotic, such as heroin.

Research, Education and Trend Analysis

The CURES system produces reports on general trends in the use of Schedule II through IV controlled substances. These reports provide information on drug prescribing practices and alert law enforcement, prescribers, and dispensers to emerging trends in controlled substance abuse in California. In addition, research organizations can request data from CURES staff in order to conduct trend analysis and special studies.

California Security Prescription Printers

California law requires prescribers of Schedule II through IV controlled substances to order and use tamper-resistant prescription forms only from state-approved security printers. Vendors seeking to be security printers must apply with DOJ at http://oag.ca.gov/security-printers.

In 2011, 2.7 billion tablets or liquid doses containing Schedule II through IV drugs were prescribed in California. That's more than 100 doses/tablets for every California adult!

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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

To: Board Members **Date:** April 11, 2014

From: Christine Lally
Deputy Director of Board/Bureau Relations **Telephone:** (916) 575-7170

Subject: **Agenda Item 6 – Department of Consumer Affairs Report**

Christine Lally, Deputy Director of Board and Bureau Relations will provide a report for the Department.

CALIFORNIA STATE BOARD OF OPTOMETRY

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Memo

To: Board Members **Date:** April 11, 2014

From: Jessica Sieferman, Lead Enforcement Analyst **Telephone:** (916) 575-7170

Subject: **Agenda Item 7 – BreEZe Overview and Update**

Presentation by Sean O'Connor, DCA BreEZe Business Project Manager and Awet Kidane, DCA Chief Deputy Director

Biographies:

Sean O'Connor
As BreEZe Business Project Manager, Sean O'Connor is the liaison between Boards and Bureaus and the BreEZe Project Team to ensure the BreEZe system meets the business needs of its users. Prior to his position on the BreEZe Project Team, Sean was a policy analyst and outreach coordinator for the California Board of Behavioral Sciences. He has over ten years of civil service experience, all gained at the California Department of Consumer Affairs. Sean earned his undergraduate degree in English and his graduate degree in Public Policy and Administration from CSU, Sacramento.

Awet Kidane, DCA Chief Deputy Director
Awet Kidane serves as the BreEZe Project's Executive Project Sponsor. Mr. Kidane was appointed Chief Deputy Director in January, 2012. As Chief Deputy Director, Mr. Kidane oversees the internal operations of the Department. Before being appointed to DCA, he served in various positions in the state Legislature, where he was a chief of staff, a senior advisor, and a consultant.

BreEZe Background

Vision:
BreEZe will support the DCA's highest priority initiatives of Job Creation and Consumer Protection by replacing the DCA's aging legacy business systems with an integrated software solution that utilizes current technologies to facilitate increased efficiencies in the DCA boards' and bureaus' licensing and enforcement programs.

Overview:
The DCA is working with Accenture, LLP to design, configure, and implement an integrated enterprise-wide enforcement and licensing system (BreEZe). BreEZe will replace the existing Consumer Affairs System (CAS), Applicant Tracking System (ATS), and multiple "workaround" systems with an integrated, industry-proven system for use by the DCA organizations.

BreEZe will provide all DCA organizations with an enterprise system that supports all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. BreEZe will be web-enabled to allow application, renewal, and payment processing via the Internet for applicants and licensees. Furthermore, BreEZe will allow the public to file complaints and lookup licensee information and complaint status through the Internet. As part of the BreEZe implementation, interfaces to electronically share data with internal and external systems will be established; existing data will be converted and migrated into BreEZe; user training will be conducted; and system documentation will be created.

The BreEZe project is being driven by the business for the business. The BreEZe project team includes strong representation by each board, bureau, committee, and program to ensure that BreEZe meets the unique licensing and enforcement needs of the department.

BreEZe Project Status:

BreEZe is being released in three phases; the Board is scheduled for Release 2.

Release 1 was deployed to the following boards/committee on October 8, 2013:

- Barbering and Cosmetology
- Board of Behavioral Sciences
- Board of Naturopathic Medicine Committee
- Medical Board of California
- Osteopathic Medical Board of California
- Physician Assistant Board
- Podiatric Medicine, Board of
- Psychology, Board of
- Registered Nursing, Board of
- Respiratory Care Board

DCA continues to work with Accenture and the boards/committee to ensure that the system is meeting operational needs according to system requirements or modifications. Production meetings, release scheduling and testing continue as we refine the system.

A kickoff presentation was held at the DCA Evergreen location on December 3, 2013 for the following R2 boards/bureaus/committees:

- Dental Board
- Dental Hygiene Committee
- Board of Occupational Therapy
- Board of Optometry
- Pharmacy Board
- Physical Therapy Board
- Veterinary Medical Board and Veterinary Technician Examining Committee
- Board of Vocational Nursing and Psychiatric Technicians
- Bureau of Security and Investigative Services

In keeping with integrating lessons learned from Release 1, Accenture conducted training for the Release 2 Subject Matter Experts (SME) on December 4, 2013. This training was intended to provide the programs with an introduction to the functionality within the BreEZe system prior to Configuration Interviews. SME checkpoints were held with all R2 board during the week of December 16th. The checkpoints provided an opportunity to identify the license types and business process functional patterns prior to the Configuration Interviews. Data Conversion meetings have also been held with all R2 programs to help them understand the importance of data cleanup during data migration.

The Board's Configuration Interviews have been scheduled for April 9-10. DCA and Accenture are continuing discussions regarding the work plan, schedule and resources, which is why there is no detailed schedule available at this time.

Media Attention

Since R1 deployment, BreEZe struggles pertaining the Board of Registered Nursing (BRN) have gained negative attention from various media outlets as well as the attention of Assembly Member Kristin Olsen (R-Modesto). In February 2014, Olsen requested an "audit of policies and procedures on the planning, development and implementation of new electronic processing systems for licensing within the Department of Consumer Affairs (DCA), specifically the system called BreEZe." However, said audit request was later withdrawn, due to the amount of time and resources an audit would require. Instead, Olsen held a town hall meeting on April 3, 2014 in Modesto to discuss the IT struggles. Attached are related news articles pertaining to the struggles and Olsen's audit request.

Attachments:

1. Assembly Member Kristin Olsen's Audit Request
2. Sacramento Bee Article, February 6, 2014, "Kristin Olsen wants audit of California licensing boards' computer system"
3. Sacramento Bee Article, February 7, 2014, "New computer system's trouble starts with state workers, officials say"
4. Los Angeles Times Article, February 12, 2014, "Computer system upgrades delay licensing for nursing graduates"
5. Modesto Bee Article, March 14, 2014, "Questions persist about nurse licensing technology failure in California"
6. Modesto Bee Article, March 27, 2014, "Kristin Olsen: Looking for answers to state's technology failures"

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KRISTIN OLSEN
ASSEMBLYMEMBER, TWELFTH DISTRICT

COMMITTEES
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ACCOUNTABILITY & ADMINISTRATIVE REVIEW
HIGHER EDUCATION

February 5, 2014

Members of the Committee
Joint Legislative Audit Committee
1020 N Street, Room 107
Sacramento, CA 95814

Dear Chairman Gray,

This letter is to request that the Joint Legislative Audit Committee approve an audit of policies and procedures on the planning, development and implementation of new electronic processing systems for licensing within the Department of Consumer Affairs (DCA), specifically the system called BreEZe that is currently used by the Board of Registered Nursing (BRN).

In fall 2013, the BRN was scheduled in the first of three rollouts of the boards and bureaus overseen by the DCA to transition to the BreEZe paperless internet system. According to the DCA website, the completion of BreEZe will provide "improved access to our services, greater ease of use for our stakeholders and improved back-office functionality that will greatly enhance our licensing and enforcement efficiency." These are excellent goals that I have been promoting though legislation since I was first elected to the Assembly. By the spring of 2015, all of the boards and bureaus under the DCA are supposed to be using this new system.

My office has been contacted by a number of nursing graduates, professors and hospital administrators who have experienced a great deal of difficulty since the implementation of the new electronic system. Hardworking students who recently graduated from nursing programs are unable to have their applications processed in a timely manner. Due to the unsuccessful rollout, graduates are unable to secure local jobs and local hospitals remain understaffed.

Difficulty in unrolling new websites and technology systems has become an alarming trend in California State agencies. Last fall, the Employment Development Department (EDD) upgraded its internet technology system, which resulted in delayed unemployment benefit payments to roughly 150,000 California residents. In October of last year, Covered California was unable to process many applications online after its launch and had to shut its website down while trouble shooting. Although staff was on hand to walk people through the enrollment process in person, without access to the website, there was little staff could do to help them.

Last year, a Senate Budget Sub-Committee held a hearing when the State Controller's office lost hundreds of millions of dollars after a complex internet upgrade to the state payroll system failed

to launch properly. Legislative analysts say an effort to learn from the project's mistakes was hampered by a decision not to pursue an independent assessment of what went wrong.

After speaking with officials from the DCA, BRN and affected parties, it is clear that the BRN's delay in license processing stems from the launch of BreEZe. While I applaud efforts to improve services, functionality and customer/stakeholder experience, the exact opposite has occurred in this scenario.

As a result of the immediate need to get licensed nurses into hospitals, as well as the DCA's intent to bring other boards and bureaus into the BreEZe system, I am requesting an audit of the policies and procedures on adopting, updating and installing new electronic processing systems within the Department of Consumer Affairs before the end of this year:

1. Were laws, rules, regulations and/or best practices followed in planning, developing and implementing the BreEZe system?
2. Was there appropriate and adequate oversight and testing throughout the project?
3. Were employees provided appropriate and adequate training on the BreEZe system?
4. What was the processing time before and after the launch of the BreEZe system? In other words, what impact did the automated system have on the licensing process?
5. What were the primary contributors to the current delay in the licensing process and what corrective action has been taken?
6. What is the current backlog of applications, how is it being addressed, and what measures are in place to provide service to new and renewing applicants?
7. What were the estimated and actual costs and timeline for the BreEZe project?
8. Is the state adequately protected if the vendor(s) are responsible for the problems that occurred in the implementation of the system?

When costly and time-consuming internet technology projects are in the planning, development and implementation stages, it is expected that the state has progressed with consideration to past failures. As Californians attempt to take state exams, secure jobs, obtain paychecks, or subscribe for health benefits and the system fails, it is unacceptable to rely upon excuses. We should expect that the services our economy and people have to depend on are reliable.

Thank you for your consideration of this request.

Kristin Olsen
Assemblymember, District 12

Kristin Olsen wants audit of California licensing boards' computer system

By Jon Ortiz
jortiz@sacbee.com
Published: Thursday, Feb. 6, 2014 - 1:26 pm
Last Modified: Saturday, Feb. 8, 2014 - 10:47 am

Problems with a new state nurse-licensing system have prompted so many complaints from nursing school graduates and hospital administrators that a state Assembly member has called for an audit of the project to figure out what has gone wrong.

In a letter to the Joint Legislative Audit Committee, Assemblywoman **Kristin Olsen**, R-Modesto, said she's heard that the BreEZe system launched last fall has delayed nursing license applications so long that it's affected graduates ability to secure work.

"My office has been contacted by a number of nursing graduates, professors and hospital administrators who have experienced a great deal of difficulty since the implementation of the new electronic system," Olsen told the committee. "Due to the unsuccessful rollout, graduates are unable to secure local jobs and local hospitals remain understaffed."

A spokesman for the **Department of Consumer Affairs**, which is responsible for the BreEZe project, couldn't be immediately reached this morning for comment.

The department rolled out the first phase of the program last year. Among other features, it allows online license applications and license renewals for registered nurses, physician assistants, doctors and respiratory care practitioners. In all, 10 of the 37 boards, bureaus and committees under Consumer Affairs now license through the BreEZe system. The rest are supposed to switch over by next year.

New computer system's trouble starts with state workers, officials say

By Jon Ortiz
jortiz@sacbee.com
Published: Friday, Feb. 7, 2014 - 11:33 pm
Last Modified: Saturday, Feb. 8, 2014 - 10:47 am

Before the state launched a new computer system to license nurses, the old paper process took six to eight weeks, sometimes less.

Since the Internet-based BreEZe program went online last fall, nursing graduates are waiting up to three months for a test date – and losing jobs because of it.

But unlike some other state information technology snafus caused by glitchy software, this time state officials say state workers are the root problem. They've have had trouble switching from a "green-screen" program in use for decades to the $52 million Web-based system installed by New York-based tech firm Accenture PLC.

"We've been caught a little short with the change management issue," said Russ Heimerich, spokesman for the Department of Consumer Affairs, which issues business and professional licenses through 39 boards, commissions and bureaus.

Heimerich said the employees' struggle to adapt to the new system is like "changing your golf swing. It's like muscle memory."

Delays stemming from the computer switch prompted so many complaints from upset graduates, hospital administrators and nursing schools that Assemblywoman Kristin Olsen, R-Modesto, has asked a joint legislative audit committee to figure out what has gone wrong.

"My office has been contacted by a number of nursing graduates, professors and hospital administrators who have experienced a great deal of difficulty since the implementation of the new electronic system," Olsen told the committee in a letter earlier this week.

Consumer Affairs moved 10 licensing and license-renewal programs online in early October, including those for registered nurses, physician assistants, doctors and respiratory care practitioners.

Under the old paper system, licensing applicants mailed in a form and a check to the Board of Registered Nursing. Staff keyed in the information. Once an applicant cleared a background check, the board would authorize the licensing test.

“The board used to say six to eight weeks” from application to test authorization, Heimerich said, “but it was almost always less.”

The new system’s delays don’t affect license renewals, but now the board is telling graduates applying for a nursing licenses with the online BreEZe system that they’ll have to wait 90 days. The state’s struggle to switch to the BreEZe system has coincided with peak season for nursing license test applications to the state, since most schools graduate students in December. Hospitals and other facilities with nursing grad hiring programs often look to fill openings by February.

Liliana Ichim, a single mother who graduated from Sacramento City College’s nursing program last October, said she had a job lined up and lost it because she didn’t test in time.

“I’m not working. I can’t take my test,” she said. “I don’t know what to do.”

Audrey Berman, dean of nursing at Samuel Merritt University in Oakland, said the state’s delay is adding stress to an already stressful situation for nursing grads entering a tightening job market.

The recession kept many experienced nurses from leaving the field and prompted others who had left to return, Berman said. Meanwhile, some hospitals are downsizing. Last month, for example, Sutter Health affiliate Alta Bates Summit Medical Center cut nearly 360 positions, including nursing jobs.

Upset graduates are calling Berman pleading with her to do something about the state’s snafu, she said, “But there’s nothing I can do.”

Heimerich said that Consumer Affairs is asking employers to be patient. Meanwhile the department is “throwing bodies” at the nurse licensing backlog.

“We’re parachuting people in to help with basic tasks,” he said. “We have 10 people from our call center working this weekend to help with routine filing tasks to free up (application) evaluators.”

Heimerich said that the department is responsible for training staff on the BreEZe system, which will eventually replace paper applications for all 39 of its licensing boards, commissions and bureaus by next year.

The $52 million agreement between the state and Accenture, which installed the CalPERS $550 million online system a few years ago, phases in payment to the company as the system successfully expands to eventually cover the 3 million license renewals and 30,000 new license applications the department processes each year.

Computer system upgrades delay licensing for nursing graduates

Problems with a new state computer system used by 37 boards and agencies delay licenses for many recent graduates. The software was intended to improve efficiency.

By Eryn Brown

8:14 PM PST, February 12, 2014

In December, Ben Villarreal graduated with a bachelor's degree from Samuel Merritt University's nursing program in Oakland. In short order, he received two job offers at UC hospitals with programs for new graduates.

But with less than a month to go before his start dates, the 22-year-old said he is concerned that he could lose both promising opportunities. As of mid-February, California's Board of Registered Nursing still hadn't given him the go-ahead to take the nursing exam needed to get his license and start a new job.

"I've been told my application is on my evaluator's desk with hundreds of others," he said. "My name could be at the bottom of the pile, or it could be at the top. There's no way to know when they'll get to it."

Problems with a new computer system are leaving thousands of recent nursing graduates like Villarreal in the lurch. California's new BreEZe online licensing and enforcement system, managed by the Department of Consumer Affairs in Sacramento, was intended to improve efficiency for 37 licensing boards and bureaus.

But since the state's Board of Registered Nursing and nine other agencies started using the software Oct. 8, applications for graduating nurses have spent weeks in limbo. Approximately 4,000 were pending as of Tuesday, according to Russ Heimerich, a spokesman for the Department of Consumer Affairs.

"Our BreEZe computer system is not doing everything it was designed to do yet," he said.

BreEZe, a $52-million system, cannot yet accept online applications for nursing licenses, so board workers have to type in applicant data from paper forms before they can determine eligibility to take the licensing exam.

"BreEZe is causing additional steps and additional workload," Heimerich said, adding that the pileup grew worse when large numbers of nurses graduated in December.

The nursing board is now advising graduates it may be as long as 90 days before they receive the go-ahead to take the licensing exam. Before the transition to BreEZe, its website warned applicants they might have to wait 6 to 8 weeks — but the process rarely took that long.

Audrey Berman, dean of nursing at Samuel Merritt University, which operates campuses in Oakland, Sacramento and San Mateo, said she had heard from at least a dozen distressed students, including Villarreal, out of about 250 who graduated from her program in November and December.

"They have done what they're supposed to do and they found a job, but they can't start without their license in hand," Berman said, adding that she wasn't sure how many other Samuel Merritt graduates were facing delays.

A nursing program administrator in Southern California told The Times that more than a third of the 40 people who graduated from her school in October had contacted her with worries about delayed licenses.

Heimerich said the Department of Consumer Affairs was trying to get the online application process working as soon as the contracts with its BreEZe vendor would allow. There is no target date for a fix yet.

In the meantime, Heimerich said, the department will move at least 15 additional staff members over to the nursing board to help the staff of 18 who process applications with manual tasks like data entry, which should help eliminate the backlog.

Heimerich said the nursing board was also working on a letter applicants will be able to share with employers, explaining that license delays aren't the job candidates' fault.

Hospitals have been giving new nurses extra time to get their licenses when they can, said state Assemblywoman Kristin Olsen (R-Modesto).

Last week, she asked for an audit of the BreEZe implementation to figure out what went wrong.

"There are many other examples of persistent problems with tech system failures in state agencies," she said, mentioning the Covered California exchange and the Employment Development Department, where unemployment checks to as many as 300,000 people were delayed in September 2013 after a botched system upgrade.

"One would think we could save time and money by putting systems online," Olsen added. "These technology systems should be fully tested, and problems fixed, before rollout."

The Joint Legislative Audit Committee will consider Olsen's request at a March 4 hearing.

Villarreal said he didn't blame the nursing board for the delays.

"I'm not sure whose fault this really is," he said. "I just hope that they'll learn to do this more quickly for future classes."

eryn.brown@latimes.com

Questions persist about nurse licensing technology failure in California

By Ken Carlson

kcarlson@modbee.comMarch 14, 2014

Megan Reese of Turlock said she learned to be patient as a nursing student. She spent a few years taking the prerequisite classes and waited 18 months before getting into the two-year nursing program at Merced College.

What's unusual – and many say unacceptable – are the technology failures at the California Board of Registered Nursing, which have caused recent nursing graduates such as Reese to wait more than three months for approval to take the required licensing test, so can they start working.

Reese sent her application to the nursing board Nov. 18 before graduating in December. The nursing board verified Dec. 4 that her application was received and her $200 check had been cashed.

Despite statements from the California Department of Consumer Affairs that problems are being fixed, Reese has now waited three months and 10 days for approval to take the test.

"I have friends who got their authorization last week and there are no available testing dates until April," said Reese, who keeps working as a waitress to pay her bills.

Reese and others ran into tech failures that created a backlog of 3,600 applications at the Board of Nursing in Sacramento. In the past, it took six to eight weeks for the board to authorize and schedule a test date. The wait has been more than three months for many who graduated from California nursing schools in December.

Assemblywoman Kristin Olsen, R-Riverbank, is not confident all the problems are being fixed or that the snags will not reappear before the next graduation wave in May and June. "I want this backlog to be fixed immediately and to ensure this problem never happens again," Olsen said.

The legislator dropped her recent request for a state audit of the $52 million in technology upgrades that was supposed to streamline licensing and improve enforcement functions for the 37 boards and bureaus under the state Department of Consumer Affairs.

Saying that an audit would take a year, Olsen plans a town hall meeting April 3 in Modesto to discuss the "IT failures." Representatives of Consumer Affairs, the nursing board and contractors are being invited to the meeting. The location has not been set.

The online program, called BreEZe, was launched for the nursing board in October and is used by nine other state licensing agencies. In the next couple of years, it will be unrolled for 27 other agencies that license building contractors, pharmacists and other professionals.

Consumer Affairs spokesman Russ Heimerich said the first problem emerged in December with the interface between the nursing board and testing vendors. The problem with exchanging data was repaired in January, he said.

In addition, defects were discovered in BreEZe's online license application module, which has been offline until it is fixed. That failure required nursing board employees to manually enter data from paper applications into the BreEZe program, resulting in the huge backlog.

Hospitals have been unable to hire graduates because they are not licensed. Nurses from other states have been stymied in getting licensed in California so they can fill the gaps at shorthanded hospitals.

"We sent people to assist the board with processing applications," Heimerich said this week. "We are catching up on the backlog in a large way. We are probably back to (a wait time of) six to eight weeks for giving authorizations to take the test."

Heimerich said the online module for license applications and payments should be working within a few weeks, lifting the load from office staff.

The BreEZe program was supposed to simplify license applications and improve the enforcement functions for licensing agencies. BreEZe already is used by the Medical Board of California for people to check on a physician's license or any enforcement action.

Heimerich said the nursing board's older computer system, made in the 1980s, was worn out and had problems with data integrity.

Brandon Estes, a graduate from Modesto Junior College, said he was prevented from accepting a job offer from Doctors Medical Center.

Estes, a veteran of two military tours in Iraq, mailed his application to the nursing board the first week in November, and the state cashed his check Nov. 10. From then until mid-February, when he contacted Rep. Jeff Denham, R-Turlock, about the delays, no one touched his application, he said.

"I must have called (the nursing board) 20 times a day and I drove four times to Sacramento," Estes said. "When I called, the phone system would give you a menu. I would choose 'licensing' and it would transfer the call and then disconnect me. Or I would get a recording that they were experiencing a higher-than-normal call volume and was told to hang up."

Reese said she was treated rudely when she drove to the Sacramento office and asked to talk with a supervisor. "When they told me I couldn't see a supervisor, I told them I drove two hours,

so a supervisor should be able to see me," Reese said. "He was rude. He told me they didn't expedite applications there."

Estes said a Denham staff member promptly responded to his email and started making calls last month. Two days later, the nursing board verified it had his transcripts and other things were in order. A week later, he was issued a test date, and he took the exam Feb. 27 in Fairfield. His results were sent to the state and the website showed he was licensed March 1.

Estes accepted a job with Memorial Medical Center and starts April 7. "There is a big push to hire veterans," he said. "My hands were tied for two or three months while I could have been working and contributing to the community."

Reese said she is concerned that further delays could affect her ability to pass the exam. She said she took a review in January and likely will pay for a prep test to make sure she's ready. She paid an extra $50 for an interim permit that would allow her to go through hospital training, but has not received the permit.

"They are short-staffed at these hospitals. They need to hire us," Reese said. "It's hard for someone to hire me if they don't know what's going on at the (board of nursing)."

Bee staff writer Ken Carlson can be reached at kcarlson@modbee.com or (209) 578-2321

Kristin Olsen: Looking for answers to state's technology failures

By Kristin Olsen

March 27, 2014

Last month, I requested an audit of the Department of Consumer Affairs because of licensing delays at the Board of Registered Nursing that occurred after a new Internet technology system called BreEZe was implemented in October. During the course of several conversations with the DCA and Assembly member Adam Gray, D-Merced, chairman of the Joint Legislative Audit Committee, I decided it would be more prudent to put the audit request on hold so we can get more immediate answers.

That's why Assembly member Gray and I have scheduled a town hall hearing in Modesto on April 3 so we can ask the DCA, BRN and technology provider Accenture direct questions. That way, all stakeholders will have an opportunity to work together to fix the taxpayer-funded BreEZe system and ensure that it is in full working order soon.

BreEZe was designed to provide consumers and employees more convenient and faster processing for licensing requests and other services and to create continuity between the boards and the DCA's departments. The first phase of implementation was scheduled just weeks before the graduation date of one of the larger nursing school cohorts of the year – traditionally a very busy time at the Board of Registered Nursing.

Due to system malfunctions, more than 4,000 nursing school graduates were unable to get test dates or licenses – and neither the BRN nor DCA had any clue as to when the problem would be fixed.

Meanwhile, graduates with job offers were forced to decline or delay accepting them because they could not be sure when they would be tested and licensed. Compounded with a major flu epidemic in December, hospitals were in danger of becoming understaffed because graduates could not begin their on-site training. To fulfill mandated nurse-to-patient ratios, full-time nurses were forced to work overtime and some hospitals even had to pay other hospitals to take patients for them. In some instances, hospital administrators vetted traveling nurses from other states, only to learn that due to the BRN backlog they would be unable to get a license to work in California.

The good news is that the DCA now assures me that the backlog is gone. Nevertheless, how well the BRN manages the next cohort of nursing school graduates this coming May and June – roughly 7,000 students – will be the real test.

Technology failures in California government are not new – malfunctions at Covered California, the State Controller's Office, the Department of Motor Vehicles, the Administrative Office of the

Courts and the Employment Development Department have effectively shut down business for weeks at a time.

Technology enhancements can create more efficient and lower cost government services, but the persistent failures of upgrades are inexcusable.

We need to find the common denominator in these problems so people who rely on government services to do their jobs get the help they need. If the issues are contractual, we need answers from the vendor. If it is miscommunication between vendors and agencies, we need to know how to prevent this breakdown from happening. If the agency is understaffed or undertrained, we need to make sure they are better prepared. We must get answers.

Government departments exist to provide services the Legislature has deemed necessary for people to work in California. It is ridiculous that IT failures have placed more obstacles in people's way in the name of efficiency. To restore public trust, Californians need to know that the state is finding solutions.

I remain focused on discovering the missing link in all these failed technologies to ensure the state makes successful technology investments in the future. The April 3 hearing should provide more specific information to help guide short and long-term solutions.

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Memo

2450 Del Paso Road, Suite 105
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To: Board Members **Date:** April 11, 2014

From: Brad Garding
Enforcement Technician **Telephone:** (916) 575-7170

Subject: **Agenda Item 8 – California Optometric Association – Presentation by Kristine Shultz**

Presentation by Kristine Shultz, Director of Government and External Affairs for The California Optometric Association (COA).

Kristine has worked for COA in this position for the past three years. Before that she worked for the California Chiropractic Association for nine years as Director of Government Affairs. She has a master's degree in Public Policy and Administration from Sacramento State University.

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Memo

To: Board Members **Date:** April 11, 2014

From: Mona Maggio, Executive Officer **Telephone:** (916) 575-7170

Subject: **Agenda Item 9 – Executive Officer's Report**

A. Budget

The Board of Optometry (Board) is a Special Fund California state government agency, which means it supports its operations entirely through fees. The Board's licensees, pay renewal and application fees that fund operations, including complaint investigation, and licensing examination administration. Renewal fees represent the vast majority of revenue. Application fees and other forms of income (i.e., interest, fines, etc.) make up the remaining balance of the Board's revenues. The Board does not receive any funds from the state General Fund.

Although categorized as a Special Fund agency, the Board's budget is incorporated into the Governor's budget. Upon approval of the Governor's budget, the Board is permitted to spend its funds. Any increase to the Board's spending authority is requested through the Budget Change Proposal (BCP) process. BCPs are typically sought for additional staff, to increase in a position's time base (half time to full time), or funding for a position that was established without funds or to increase spending authority for a special project such as an occupational analysis. BCP requests are prepared a year in advance.

The Board's expenditures are attributed to three major categories: Personnel, Operating Expenses and Equipment (OE&E), and Enforcement. Personnel expenses include salaries and wages, employee benefits, and board member per diem. Operating Expenses and Equipment (OE&E) includes items such as supplies, postage, examination development, travel, and departmental pro rata (e.g. office rent, IT and data services). Enforcement expenses are comprised of costs associated with the formal disciplinary process and complaint investigations.

2013/2014 Budget

The 2013/2014 budget released for the Board is $1,901,030.00. As of February 28, 2013 2013, the Board has spent $1,177,261 reflecting 62% of the total budget. It is projected that the Board will spend $1,771,672.00, leaving an unencumbered balance of $123,358.00, a surplus of 6.5%. Any surplus funds are reverted to the Board's reserve fund. The Boards fund condition has 7.4 months in reserve.

Attachments

1. Expenditure Report
2. Analysis of Fund Condition

Out of State Travel
Staff is currently working on out-of-state travel requests. In the last few years all such travel has been denied; however, there is hope that some travel may be approved if the justification meets the criteria for mission critical travel.

Budget Change Proposals
Staff will begin working on concept papers for Budget Change Proposals (BCPs) that will be due in July 2014. This is the process for the Board to request staff and augmentation to its budget.

B. Personnel
Interviews were held and a job off has been made to fill the vacant Associate Governmental Analyst (Policy Analyst) position. The Department of Consumer Affairs, Office of Human Resources is completing the necessary paperwork and the new person is scheduled to start May 2014.

The DCA Office of Human Resources is reviewing the justification to upgrade the receptionist position from an Office Assistant (entry level clerical) to and Office Technician (journey level clerical) classification. Interviews will be held by the end of April.

Nancy Day, Management Services Technician currently works half time in the licensing unit. Nancy will begin working full time on May 1, 2014.

In addition, staff is working to recruit one temporary employee to assist when current staff is out of the office working on BreEZe. The Board was planning to recruit two temporary employees but blanket funding can be used to bring Nancy on full time which will alleviate the need to train a new person on licensing procedures.

C. Examination and Licensing Programs
Presentations to third year students have been scheduled, staff requests Board Member participation for April 14th and April 29th presentations:

April 14th University of California, Berkeley School of
Jeff Robinson, Jessica Sieferman
April 29th Western University, College of Health Sciences, College of Optometry
Jeff Robinson, Jessica Sieferman
April 30th Marshall B. Ketchum University, Southern California College of Optometry
Jeff Robinson, Jessica Sieferman and Cyd Brandvein.

Attachments
3. Licensing Statistics

D. Enforcement Program
Prepared by Jessica Sieferman, Lead Enforcement Analyst/Probation Monitor

During DCA's Sunset Hearing in March, the legislature asked DCA about CPEI's Performance Measures. Specifically, our Board was identified as one of the Boards not meeting Performance Measure 3: Intake and Investigation (90 day target cycle time) in the last two fiscal years. Citing various reasons for the missed target (e.g., staffing, technology issues, potentially unrealistic target, etc), the Board worked with DCA's Budget Office to respond to concerns raised.

As previously reported, however, the Board's Enforcement Program is diligently working to meet its performance measures. In October 2013, the Enforcement Program made a goal to meet its performance measures by the end of the fiscal year. Armed with a fully staffed program, increased DAG and DOI communication, and streamlined processes, the Board's Enforcement Program closed

March (end of Quarter 3) with an average cycle time of 88 days. In addition, the Board's Enforcement Program has the lowest pending caseload it has had in years, with only 68 complaints pending.

Enforcement Statistics

Complaints				
	2010/11	**2011/12**	**2012/13**	**2013/14***
Total Received	295	318	254	190
Total Closed	227	282	289	257
Total Pending	134	170	135	68
Citations				
	2010/11	**2011/12**	**2012/13**	**2013/14***
Issued	2	1	3	11
Discipline				
	2010/11	**2011/12**	**2012/13**	**2013/14***
Referred to AG	9	14	15	11
Accusations Filed	9	1	18	7
Statement of Issues Filed	0	0	1	0
Pending at AG	13	17	22	17
Disciplinary Decision Outcomes				
Revoked	4	1	2	1
Revoked, Stayed, Probation	4	2	4	7
Surrender	1	1	2	1
Other	0	0	0	1

*July 1, 2012 – March 31, 2014

Attachments
4. Enforcement Performance Measures

E. Strategic Planning

During the January 2014 Board meeting, the Board voted to adopt the Strategic Plan as amended. On March 19, 2014, Board staff met with SOLID Training Solutions to draft an extensive action plan to assist staff in meeting each objective identified in the Board's Strategic Plan. The action plan includes timelines for each task and deadlines for each objective. Staff will continue to provide updates throughout the year to keep the Board members apprised of its progress.

BOARD OF OPTOMETRY - FUND 0763
BUDGET REPORT
FY 2013-14 EXPENDITURE PROJECTION

February 28, 2013

OBJECT DESCRIPTION	FY 2012-13 ACTUAL EXPENDITURES (MONTH 13)	FY 2012-13 PRIOR YEAR EXPENDITURES 2/28/2013	FY 2013-14 BUDGET STONE 2013-14	FY 2013-14 CURRENT YEAR EXPENDITURES 2/28/2014	FY 2013-14 PERCENT SPENT	FY 2013-14 PROJECTIONS TO YEAR END	FY 2013-14 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	351,486	226,694	**431,171**	237,022	55%	**364,689**	66,482
Statutory Exempt (EO)	77,956	51,971	**81,732**	56,120	69%	**84,180**	(2,448)
Temp Help Reg (907)	25,118	13,760	**41,000**	16,086	39%	**27,576**	13,424
Temp Help (Exam Proctors)			**0**				0
Board Member Per Diem	6,800	3,500	**7,353**	6,100	83%	**7,000**	353
Committee Members (DEC)			**0**				0
Overtime	841	553	**0**				0
Staff Benefits	194,426	123,757	**270,353**	125,512	46%	**193,116**	77,237
TOTALS, PERSONNEL SVC	656,627	420,235	**831,609**	**440,840**	**53%**	**676,561**	155,048
OPERATING EXPENSE AND EQUIPMENT							
General Expense	8,019	7,019	**15,519**	5,310	34%	**7,500**	8,019
Fingerprint Report	5,860	2,920	**5,306**	1,274	24%	**3,000**	2,306
Minor Equipment	10,408		**6,100**	3,170	52%	**3,170**	2,930
Printing	8,140	5,090	**7,523**	9,160	122%	**12,000**	(4,477)
Communications	5,425	2,832	**5,446**	2,724	50%	**5,000**	446
Postage	14,075	7,991	**11,056**	10,110	91%	**17,400**	(6,344)
Insurance			**0**				0
Travel In State	20,833	10,992	**7,651**	20,714	271%	**26,000**	(18,349)
Travel, Out-of-State			**0**				0
Training	737	287	**1,037**	85	8%	**85**	952
Facilities Operations	105,595	104,330	**58,676**	107,838	184%	**108,960**	(50,284)
Utilities			**0**				0
C & P Services - Interdept.	79	32	**2,943**	0	0%	**0**	2,943
C & P Services - External	10,094	36,571	**76,000**		0%	**25,000**	51,000
DEPARTMENTAL SERVICES:							
OIS Pro Rata	119,375	96,566	**142,337**	106,753	75%	**142,337**	0
Admin Pro Rata	94,224	76,106	**106,494**	79,871	75%	**106,494**	0
Interagency Services	0	0	**146**	0	0%	**0**	146
IA w/ OPES	24,264	24,264	**0**	22,520		**22,520**	(22,520)
DOI-Pro Rata	4,111	3,083	**3,409**	2,557	75%	**3,409**	0
Public Affairs Pro Rata	5,097	4,358	**4,792**	3,594	75%	**4,792**	0
PCSD Pro Rata	6,748	5,360	**4,102**	3,077	75%	**4,102**	0
INTERAGENCY SERVICES:							0
Consolidated Data Centers	769	615	**14,509**	528	4%	**1,000**	13,509
DP Maintenance & Supply	4,435	0	**942**	1,036	110%	**4,500**	(3,558)
Central Admin Svc-Pro Rata	80,753	60,565	**65,849**	49,387	75%	**65,849**	0
EXAM EXPENSES:							0
Exam Supplies			**0**				0
Exam Freight	0	0	**484**		0%	**0**	484
Exam Site Rental				0			0
C/P Svcs-External Expert Administrative	8			98		**98**	(98)
C/P Svcs-External Expert Examiners	0	0	**20,703**	0	0%	**0**	20,703
C/P Svcs-External Subject Matter	12,323	6,929		4,656		**12,000**	(12,000)
ENFORCEMENT:							0
Attorney General	148,591	65,161	**229,055**	146,635	64%	**251,500**	(22,445)
Office Admin. Hearings	13,079	2,467	**37,930**	29,137	77%	**40,000**	(2,070)
Court Reporters	1,488	223		379		**1,500**	(1,500)
Evidence/Witness Fees	3,800	12,200	**15,017**	14,200	95%	**15,000**	17
DOI - Investigations	120,843	91,067	**217,895**	163,421	75%	**217,895**	0
Major Equipment			**8,500**	0		**0**	8,500
Special Items of Expense							0
Other (Vehicle Operations)							0
TOTALS, OE&E	829,173	627,028	**1,069,421**	788,234	74%	1,101,111	(31,690)
TOTAL EXPENSE	1,485,800	1,047,263	**1,901,030**	1,229,074	127%	**1,777,672**	123,358
Reimb. - State Optometry Fund	(5,488)	(3,775)		(100)			0
Sched. Reimb. - Fingerprints	(7,252)	(4,116)	**(6,000)**	(1,666)	28%	**(6,000)**	0
Sched. Reimb. - Other	(4,800)	(2,635)		(3,370)			0
Probation Monitoring Fee - Variable				(9,300)			0
Unsched. Reimb. - Investigative Cost Recover	(35,167)	(30,882)		(37,276)			0
Unsch - DOI ICR Administrative Case	(49)	(49)					0
Unsched. Reimb. - ICR - Prob Monitor				(100)			0
NET APPROPRIATION	1,433,044	1,005,806	**1,895,030**	1,177,261	62%	**1,771,672**	**123,358**
						SURPLUS/(DEFICIT):	**6.5%**

0763 - State Board of Optometry
Analysis of Fund Condition

Prepared 3/26/14

(Dollars in Thousands)

NOTE: $1 Million Dollar General Fund Repayment Outstanding	Actual 2012-13	CY 2013-14	Governor's Budget BY 2014-15
BEGINNING BALANCE	$ 961	$ 1,270	$ 1,130
Prior Year Adjustment	$ 13	$ -	$ -
Adjusted Beginning Balance	$ 974	$ 1,270	$ 1,130
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	$ 27	$ 19	$ 21
125700 Other regulatory licenses and permits	$ 153	$ 137	$ 144
125800 Renewal fees	$ 1,538	$ 1,550	$ 1,569
125900 Delinquent fees	$ 10	$ 11	$ 11
141200 Sales of documents	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ 3	$ 3	$ 3
150300 Income from surplus money investments	$ 4	$ 3	$ 3
160400 Sale of fixed assets	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 1	$ 1	$ 1
161400 Miscellaneous revenues	$ 1	$ 1	$ 1
Totals, Revenues	$ 1,737	$ 1,725	$ 1,753
Totals, Revenues and Transfers	$ 1,737	$ 1,725	$ 1,753
Totals, Resources	$ 2,711	$ 2,995	$ 2,883
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	$ 1	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 8	$ 8	$ 2
1110 Program Expenditures (State Operations)	$ 1,432	$ 1,857	$ 1,842
Total Disbursements	$ 1,441	$ 1,865	$ 1,844
FUND BALANCE			
Reserve for economic uncertainties	$ 1,270	$ 1,130	$ 1,039
Months in Reserve	8.2	7.4	6.6

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.

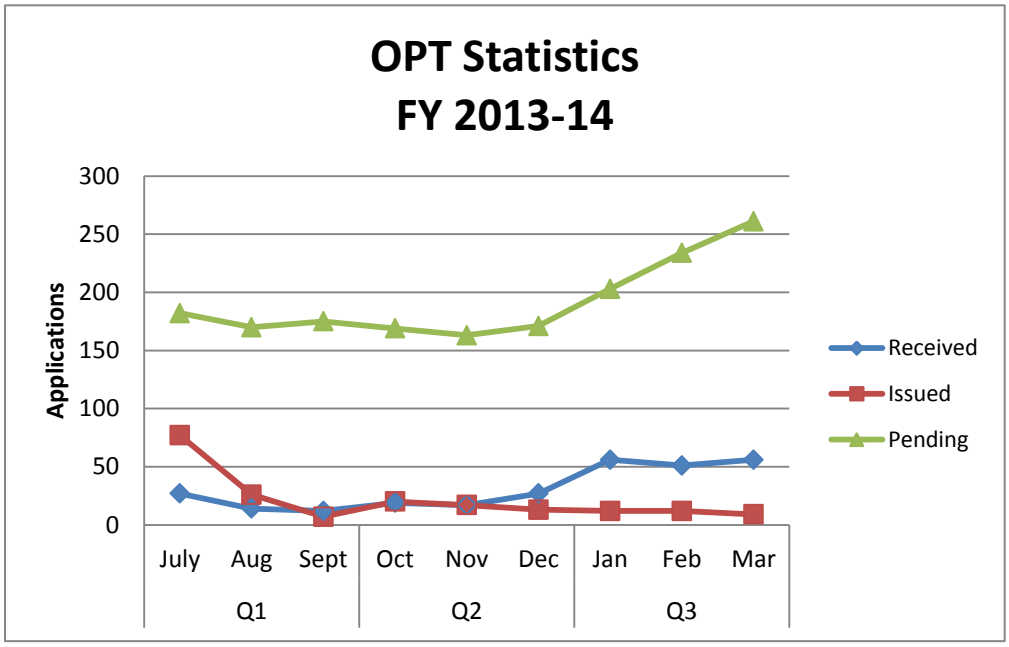
B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.

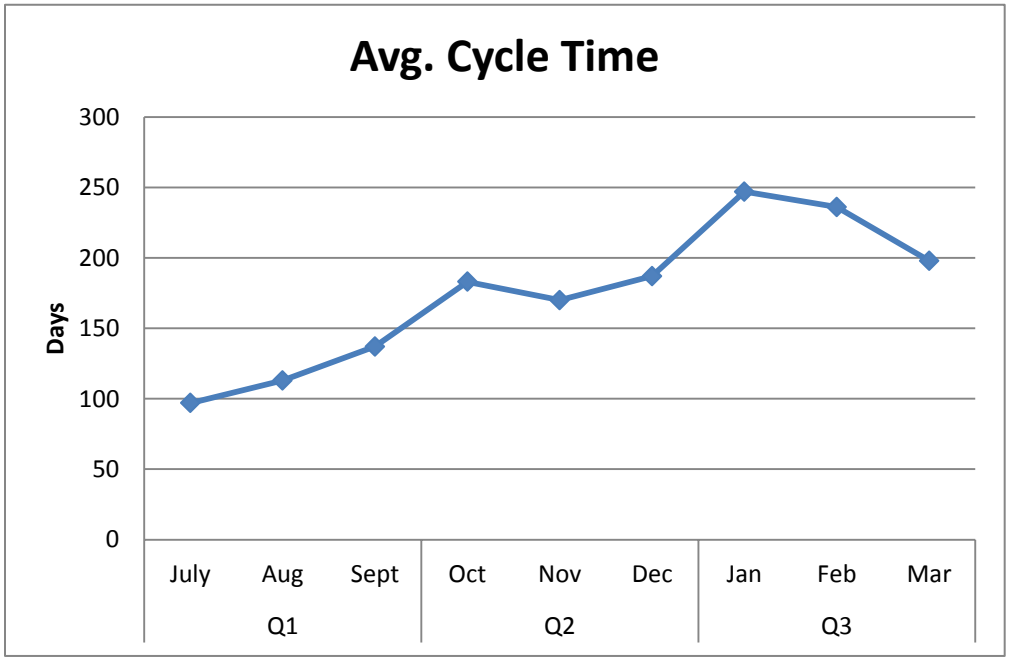
C. ASSUMES INTEREST RATE AT 0.3%.

		FY 2013-14									
		Q1			Q2			Q3			FY TOTAL
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
OPTs	Received	27	14	12	19	17	27	56	51	56	**279**
	Issued	77	26	7	20	17	13	12	12	9	**193**
	Closed*	6	0	3	5	6	6	12	8	20	**66**
	Pending	182	170	175	169	163	171	203	234	261	**261****
	Avg. Cycle Time	97	113	137	183	170	187	247	236	198	**145**

*** Closed includes denied, withdrawn, abandoned, etc. applications**

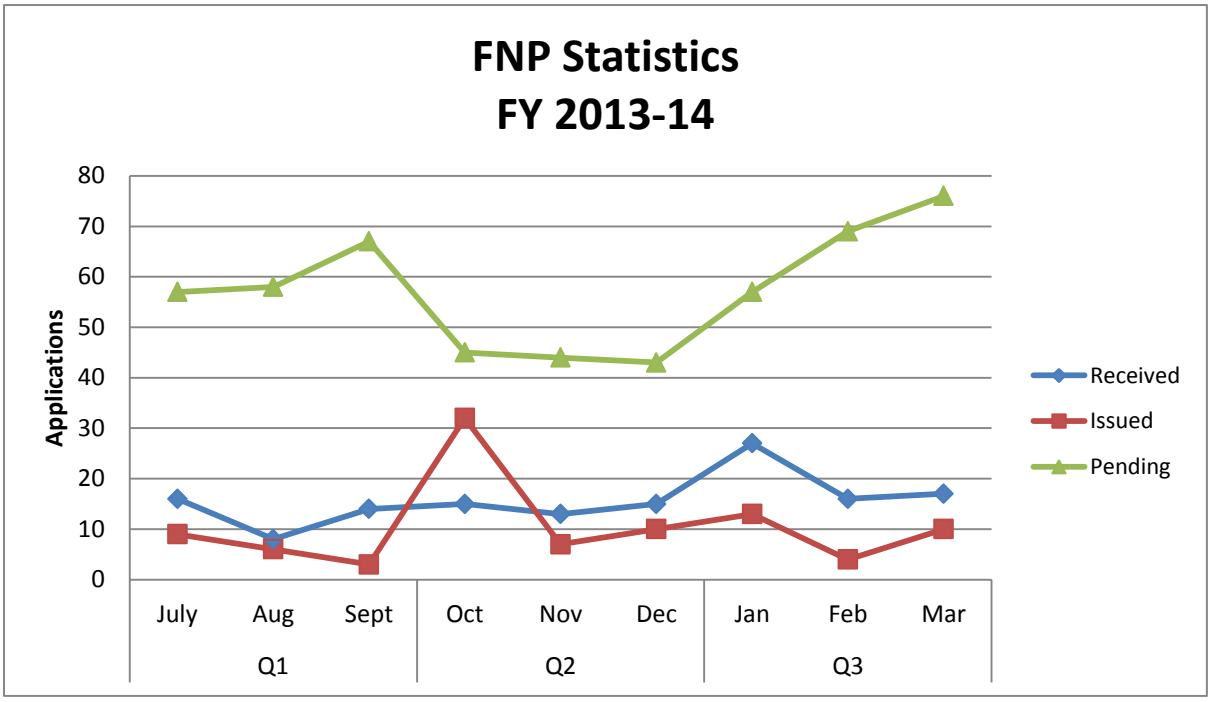
**** Pending includes 27 Board sponsored applicants**

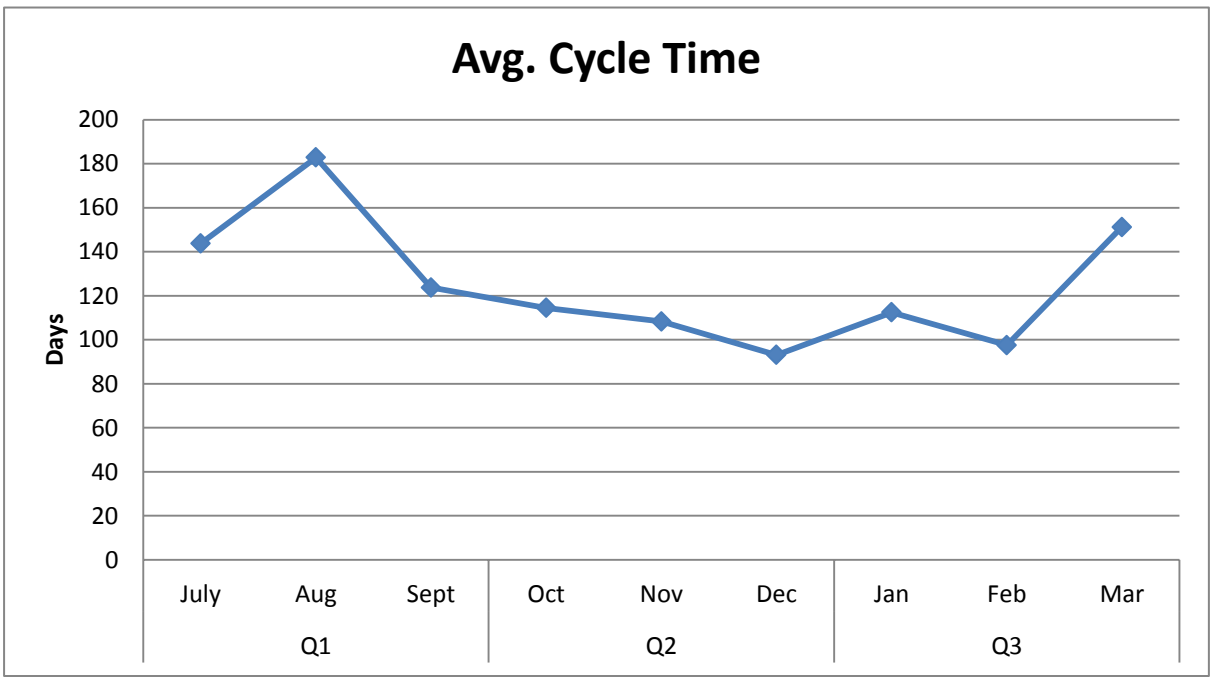




		FY 2013-14									
		Q1			Q2			Q3			FY TOTAL
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
FNPs	Received	16	8	14	15	13	15	27	16	17	**141**
	Issued	9	6	3	32	7	10	13	4	10	**94**
	Closed*	0	1	2	5	7	6	0	0	0	**21**
	Pending	57	58	67	45	44	43	57	69	76	**76**
	Avg. Cycle Time	144	183	124	114	108	93	112	98	151	**122**

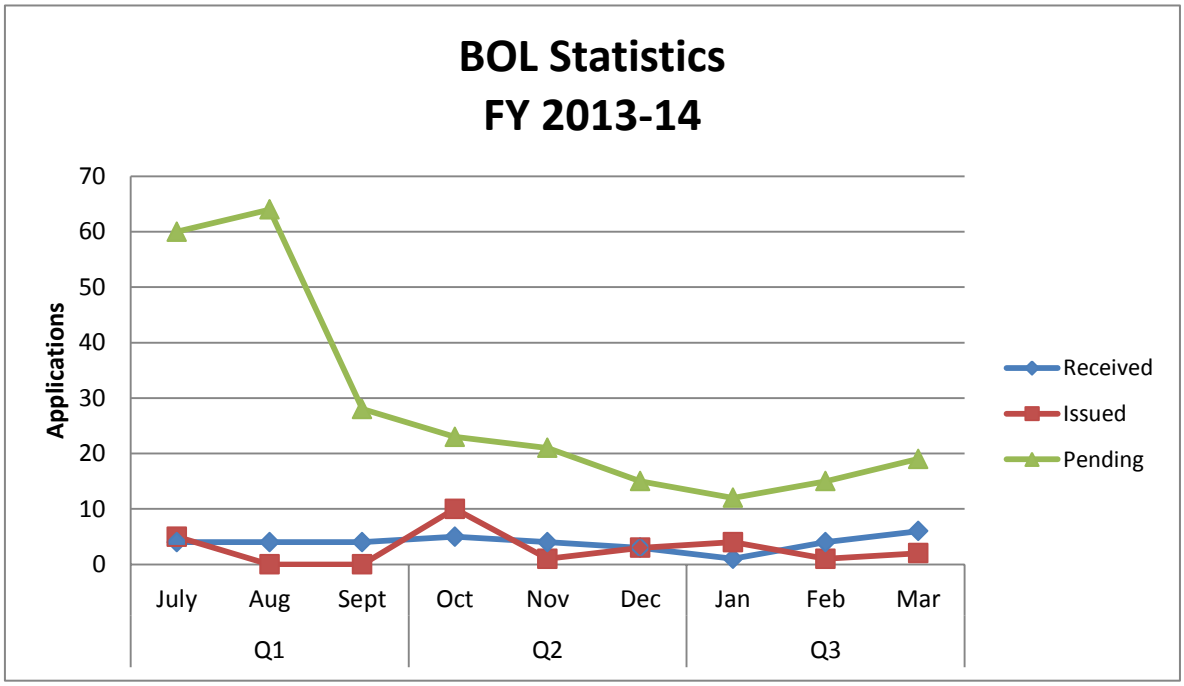
*** Closed includes denied, withdrawn, abandoned, etc. applications**

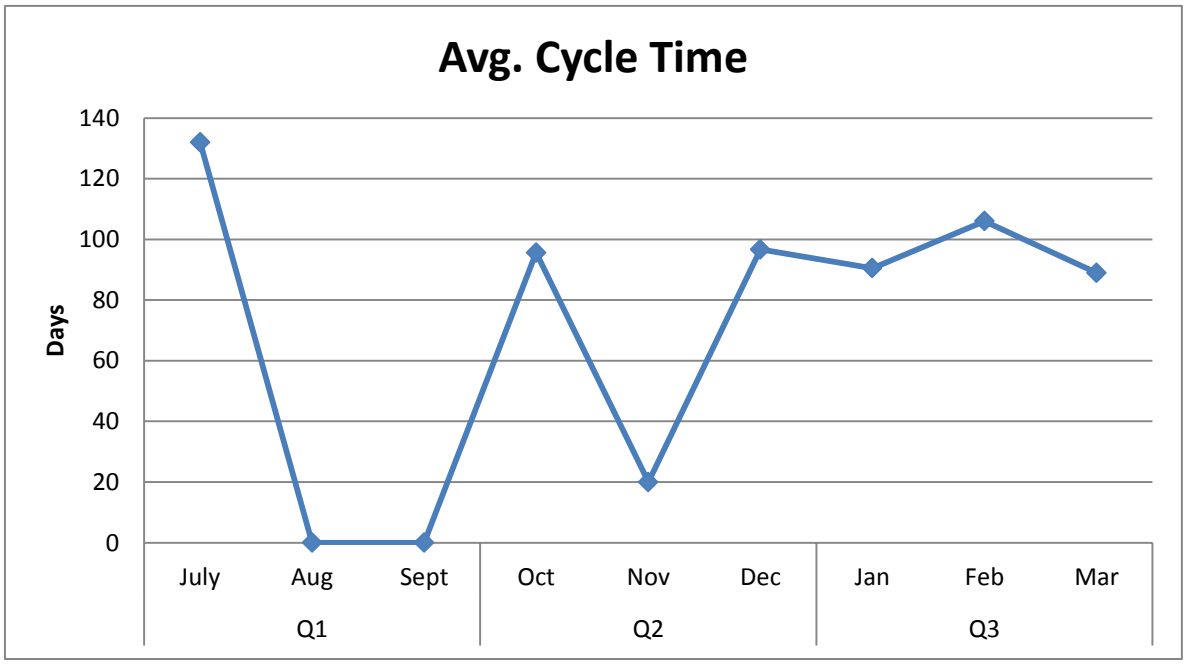




		FY 2013-14									
		Q1			Q2			Q3			FY TOTAL
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
BOLs	Received	4	4	4	5	4	3	1	4	6	**35**
	Issued	5	0	0	10	1	3	4	1	2	**26**
	Closed*	0	0	40	0	5	6	0	0	0	**51**
	Pending	60	64	28	23	21	15	12	15	19	**19**
	Avg. Cycle Time	132	0	0	96	20	97	91	106	89	**99**

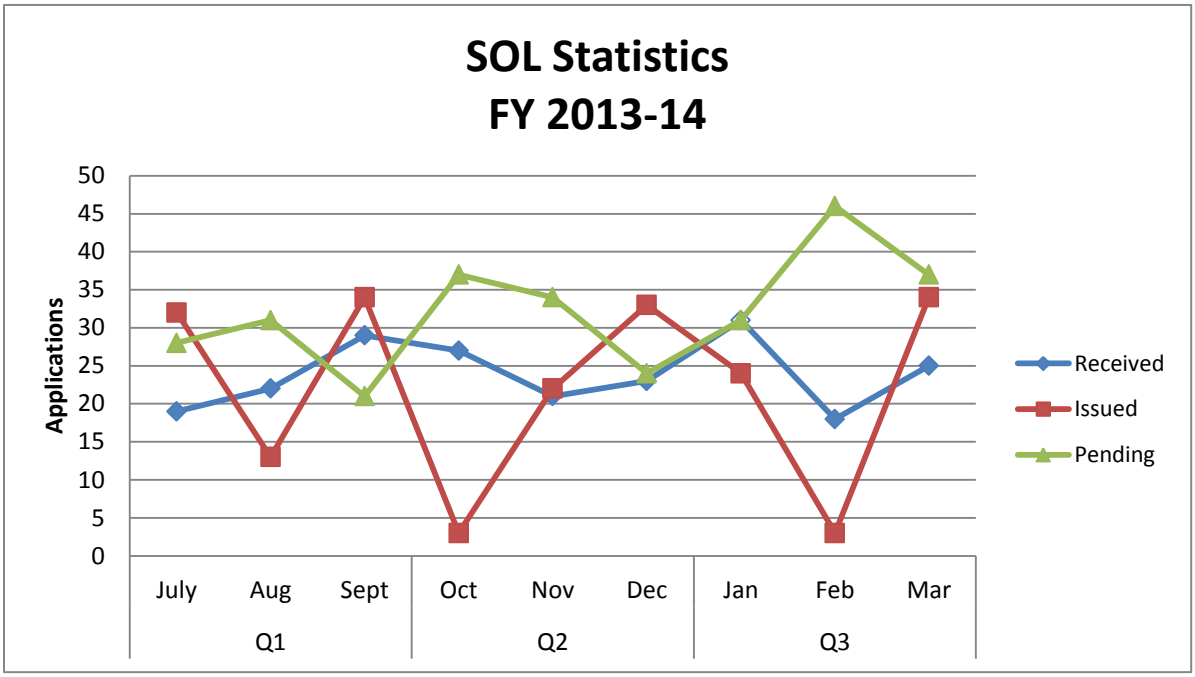
*** Closed includes denied, withdrawn, abandoned, etc. applications**

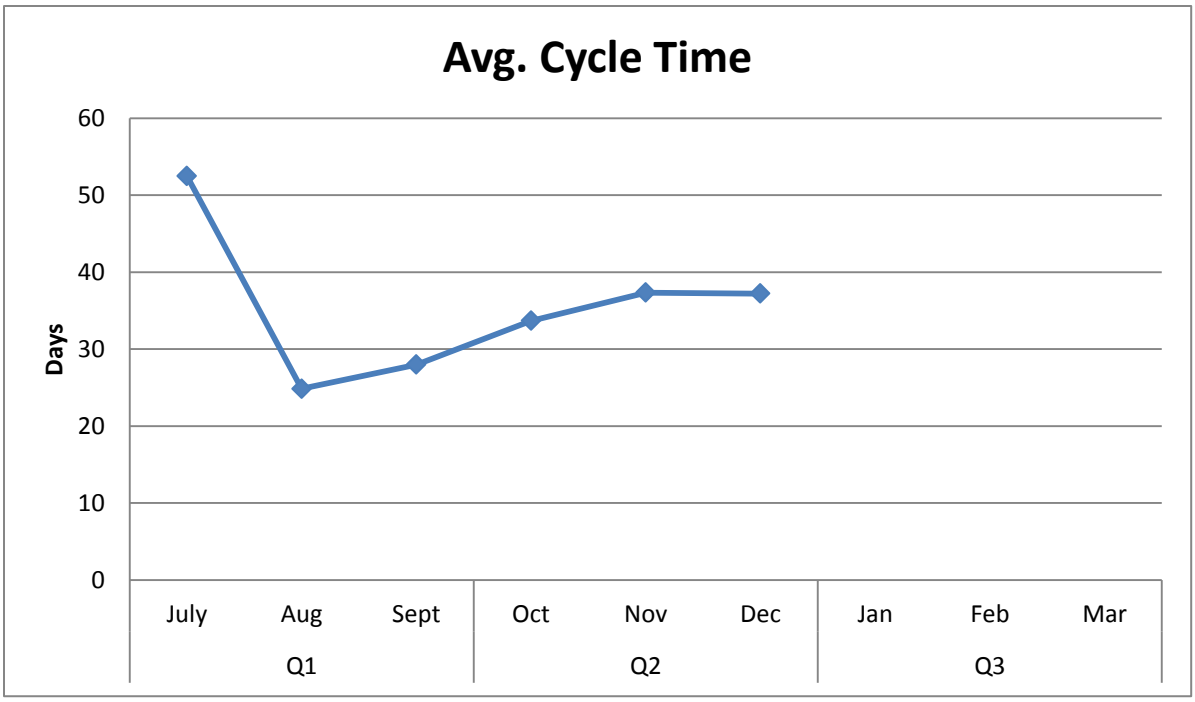




		FY 2013-14									
		Q1			Q2			Q3			FY TOTAL
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
SOLs	Received	19	22	29	27	21	23	31	18	25	**215**
	Issued	32	13	34	3	22	33	24	3	34	**198**
	Closed*	0	6	5	8	2	0	0	0	0	**21**
	Pending	28	31	21	37	34	24	31	46	37	**37**
	Avg. Cycle Time	52	25	28	34	37	37				**37**

*** Closed includes denied, withdrawn, abandoned, etc. applications**





Department of Consumer Affairs

Board of Optometry

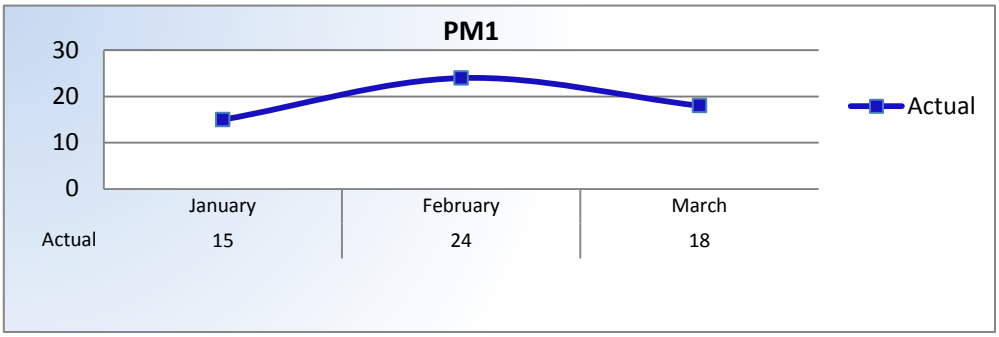
Performance Measures

Q3 Report *(January - March 2014)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

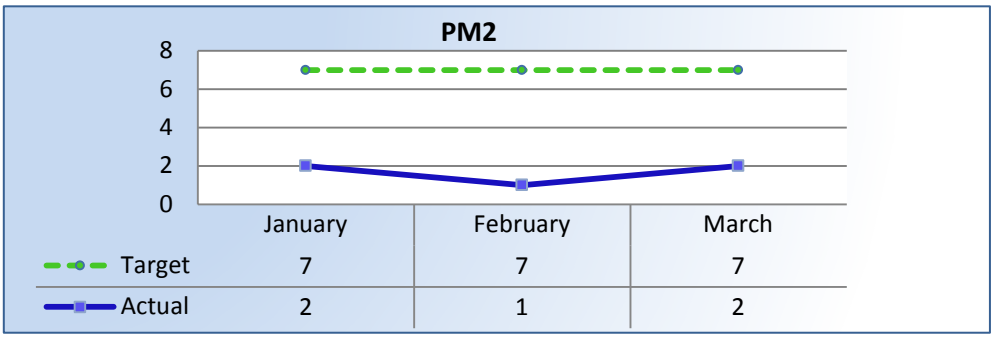


Total Received: 57 Monthly Average: 19

Complaints: 55 | **Convictions**: 2

PM2 | Intake

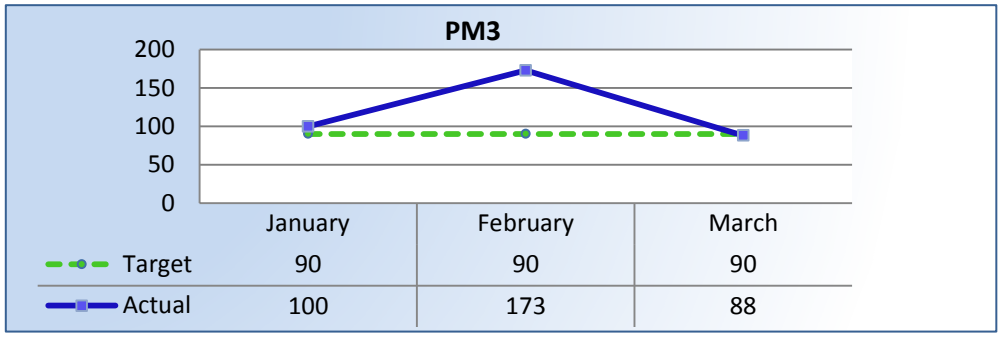
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | **Actual Average:** 2 Days

PM3 | Intake & 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.

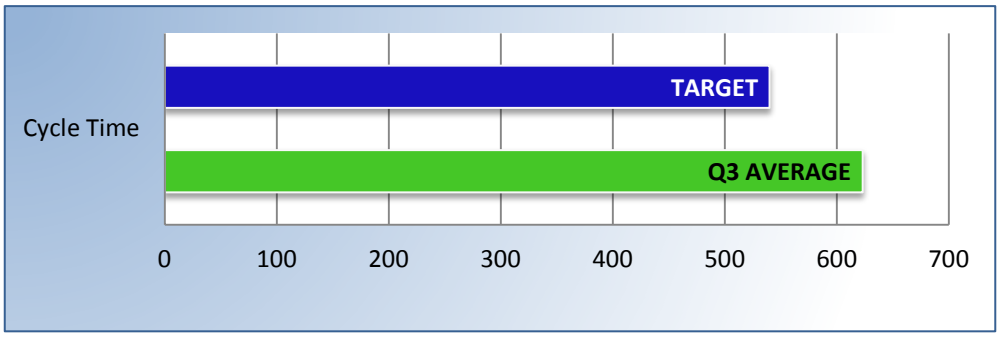


	January	February	March
Target	90	90	90
Actual	100	173	88

Target Average: 90 Days | **Actual Average:** 138 Days

PM4 | 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 the AG).



Target Average: 540 Days | **Actual Average:** 623 Days

PM7 |Probation Intake

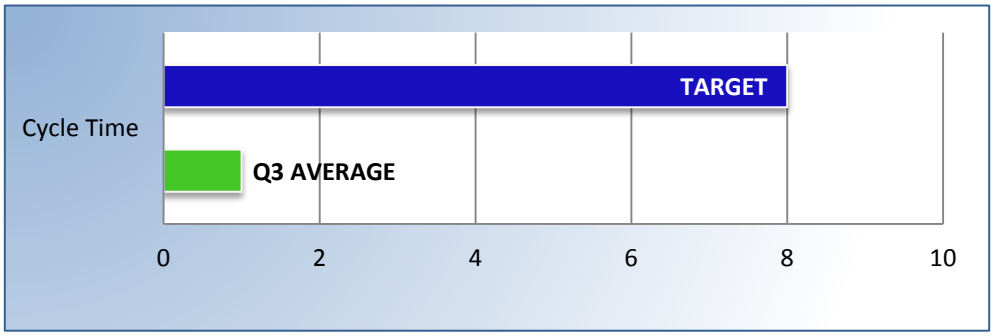
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 6 Days | **Actual Average:** N/A

PM8 |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.



Target Average: 8 Days | **Actual Average:** 1 Day

CALIFORNIA STATE BOARD OF OPTOMETRY

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

Memo

To: Board Members **Date:** April 11, 2014

From: Brad Garding, Enforcement Technician **Telephone:** (916) 575-7170

Subject: **Agenda Item 10 – Election of Officers**

Election of Officers

Business and Professions Code (BPC) Section 3014, Officers. The board shall elect from its membership a president, a vice president, and a secretary who shall hold office for one year or until the election and qualification of a successor.

The Board's policy regarding Election of Officers is found in the California State Board of Optometry's Board Member Handbook, Chapter 4, Selection of Officers and Committees, which states: The Board elects the officers at the last meeting of the fiscal year. Officers serve a term of one-year beginning July 1 of the next fiscal year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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

To: Board Members **Date:** April 11, 2014

From: Brad Garding
Enforcement Technician **Telephone:** (916) 575-7170

Subject: **Agenda Item 11 – Discussion and Possible Action on Committee Appointments**

The Board's policy on Committee Appointments is found in the California State Board of Optometry's Board Member Handbook, Chapter 4. Selection of Officers and Committees.

The President shall establish committees, whether standing or special, as necessary. The composition of the committees and the appointment of the members shall be determined by the Board President, Secretary and the Executive Officer. Appointment of non-Board members to a committee is subject to the approval of the Board.

Board of Optometry 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.

CALIFORNIA STATE BOARD OF OPTOMETRY

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

Memo

To: Board of Optometry Members **Date:** April 11, 2014

From: Lydia Bracco
Enforcement Analyst **Telephone:** (916) 575-7170

Subject: **Agenda Item 12 - Review and Possible Approval of Amendments to Records Retention Schedule**

Records Management is the professional management and control of the records of an organization from the time they are created or received up to their eventual disposal. This may include processing, distribution, organization, retrieval, classification, storing, securing, and destruction (or in some cases, archival preservation) of records.

The Records Retention Schedule (RRS), Amendment 2 was approved by the Board at the December 14, 2012 meeting. Since that meeting, staff found the RRS needed to be amended to include the following:

- Add a new Item number to include Statement of Licensure as it was not included in the original RRS.
- Breakout the License Renewal Receipts from the Licensed Optometrist File and make it a separate Item number.
- Change retention years for Fictitious Name Permits, Branch Office Licenses and Corporation Licenses.

The policy recommends all Records reflect a description of files in certain categories, i.e., Applicant Examination License File, Licensed Optometrist File, Fictitious Name Permit File, etc. These categories have specific years of retention attached to them, thus making the files more organized and convenient when the maximum specified retention period is reached and it is time to purge the documents.

Following the DCA Business Services Guidelines, a Records Retention Schedule has been updated and will be maintained throughout the years.

Action:
Staff requests Board members review and approve the Records Retention Schedule, Amendment 3.

Attachment:
Records Retention Schedule (prior RRS & current)

STD.73 (REV. 6/2002)

RECORDS RETENTION SCHEDULE

STATE OF CALIFORNIA – DEPARTMENT OF GENERAL SERVICES

STATE RECORDS PROGRAM

Submit three copies to: Department of General Services, California Records and Information Management, 707 Third St. 2nd Fl., W. Sacramento, CA 95605.

A CalRIM Consultant may be reached by phone at (916) 375-4404, by fax at (916) 375-4408 or by email at CalRIM@dgs.ca.gov

(1) DEPARTMENT, BOARD OR COMMISSION	(2) AGENCY BILLING CODE	(3)
Department of Consumer Affairs	57190	PAGE 1 OF 7 PAGES

(4) DIVISION/ BRANCH/ SECTION	(5) ADDRESS
Board of Optometry	2450 Del Paso Rd., Suite 105, Sacramento, CA 95834

CHECK THE APPROPRIATE BOX

(6) ☐ New schedule of records that have never been scheduled. [Complete boxes (9) – (12)]

(7) ☐ Revising a previous schedule. [Complete boxes (13) –(16)] (A new approval number will be assigned)

(8) ☒ Amending some pages of a previous schedule. [*Complete boxes (13) – (16)] (The original approval number will remain in effect.)*

NEW SCHEDULE INFORMATION (*If applicable*)	(9) SCHEDULE NUMBER BO-4 A3	(10) SCHEDULE DATE 4/11/14	(11) NUMBER OF PAGES 7	(12) CUBIC FEET (*Total Schedule*) 566.75
PREVIOUS SCHEDULE INFORMATION (*If applicable*)	(13) SCHEDULE NUMBER BO-4 A2	(14) APPROVAL NUMBER 11-051	(15) APPROVAL DATE (S) 1/10/13	(16) PAGE NUMBER(S) REVISED 1, 2, 3, 4, 5, 6, 7

(17) MISSION/FUNCTIONAL STATEMENT :

The mission of the California State Board of Optometry 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.

PART I – AGENCY STATEMENTS

As the program manager (*or person authorized to sign for the program manager*) directly responsible for the records listed on this records retention schedule, I certify that all records listed are necessary and that each retention period is correct. ***For revisions, all items on the previous schedule are included or accounted for on the recapitulation. Vital records identified by this schedule are protected. If protection is not currently provided but plans are underway, the details of such plans are shown in Column 45, Remarks.***

(18) SIGNATURE - MANAGER RESPONSIBLE FOR THE RECORDS	(19) TITLE	(20) PHONE NUMBER	(21) DATE SIGNED

In accordance with Government Code 14755, approval of this Records Retention Schedule by the Department of General Services is hereby requested. Retention periods shown have been established in accordance with the criteria set forth by Section 1667 of the State Administrative Manual.

(22) SIGNATURE- RECORDS MGMT. ANALYST	(23) CLASSIFICATION	(24) NAME (*Printed or Typed*)	(25) PHONE NUMBER	(26) DATE SIGNED

PART II – DEPARTMENT OF GENERAL SERVICES APPROVAL (*Per Government Code Section 14755*)

(27) SIGNATURE –CalRIM CONSULTANT	(28) APPROVAL NUMBER	(29) DATE SIGNED	(30) EXPIRATION DATE

PART III – ARCHIVAL SELECTION (*Per Government Code Section 14755*)

FOR ARCHIVES' STAMP

THE ATTACHED RECORDS RETENTION SCHEDULE:

(31) ☐ Contains no material subject to further review by the California State Archives

(32) ☐ Contains material subject to archival review. Items stamped "NOTIFY ARCHIVES" may not be destroyed without clearance by the California State Archives. (*Per Section 1671 of the State Administrative Manual*.)

(33) SIGNATURE – CHIEF OF ARCHIVES OR DESIGNATED REPRESENTATIVE	(34) DATE SIGNED

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (*Double spaces between items*) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
PROGRAM MANAGEMENT											
1	3		Application License File (applications, (abandoned, withdrawn, denied, etc.), forms, letters, transcripts, score reports, requests))	PM		C+2			C+2	X,I	PRA; IPA - GC6254 – Law requires these records remain confidential. Confidential Destruct (CD). Current (C) until licensed then merge into Licensed Optometrist File. If not licensed after 2 years from the date application is received, then destroy. Scores are only applicable for 5 years per B & P Code 3054
2	4		Foreign Optometry School/College Graduate Sponsorship File (letters, diplomas, transcripts, score reports/results, requests)	PM		A+10			A+10	X,I	PRA; IPA - GC6254 – Law requires these records remain confidential. CD Active for 10 years from date the application was received then destroy.
3	6		California Laws & Regulations Examination (CLRE) Materials (booklets, answer keys, reports, results)	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. CD Active for historical reference until policy change.
4	331		Licensed Optometrist File (applications, certificates, approval documents, Fingerprint forms, Nat'l Bd. of Examiners in Optometry score reports)	P		A			A	X,I	PRA, IPA - GC6254 – Law requires these records remain confidential. CD Active until licensee is deceased, after Board is notified of death, move to deceased file storage.
5	8		License Renewal Receipts	P		C+5			C+5		Current for 5 years from renewal year. Recycle (R)
6	4		Licensed Optometrist File (deceased) (application, license, correspondence)	P		C			C	X	PRA - GC6254 – Law requires these records remain confidential. CD Current, combine with Licensed Optometrist File and destroy.
7	15.5		Fictitious Name Permit File (application, correspondence)	P		A			A	X	PRA - GC6254 – Law requires these records remain confidential.

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (*Double spaces between items*) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
											Active until licensee is deceased then combine with Licensed Optometrist File until destruction.
8	.5		Statement of Licensure	P		A			A	X	PRA - GC6254 – Law requires these records remain confidential. Active, combine with Licensed Optometrist File until destruction.
9	6.5		Branch Office License File (application, correspondence)	P		A			A	X	PRA - GC6254 – Law requires these records remain confidential. Active until licensee is deceased then combine with Licensed Optometrist File until destruction.
10	21		Licensed Optometrist File (cancelled)	P		C+25			C+25	X,I	PRA - GC6254 – Law requires these records remain confidential. CD Current for 25 years from date of cancellation then destroy.
11	.5		Fictitious Name Permit File (cancelled) Cancels after 3 years	P		C+2			C+2	X,I	PRA - GC6254 – Law requires these records remain confidential. CD Current for 2 years from date of cancellation then destroy.
12	1.5		Branch Office License File (cancelled) Cancels after 3 years	P		C+2			C+2	X,I	PRA - GC6254 – Law requires these records remain confidential. CD Current for 2 years from date of cancellation then destroy.
13	.5		Statement of Licensure (cancelled) Cancels after 3 years	P		C+2			C+2	X,I	PRA - GC6254 – Law requires these records remain confidential. CD Current for 2 years from date of cancellation then destroy.
14	.75		Corporation License File (cancelled)	P		C+2			C+2	X,I	PRA - GC6254 – Law requires these records remain confidential. CD Current for 2 years from date of cancellation.

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (*Double spaces between items*) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
15	63		Disciplinary File (Dept. of Investigation (D of I) or other investigation court/hearing documents, related correspondence, mail votes))	PM		C+75			C+75	X	PRA - GC6254 – Law requires these records remain confidential. CD Current for 75 years from date of closure or until board is notified of death then destroy.
16	21		Criminal Cases (Dept. of Investigation (D of I) or other investigation police/court documents, related correspondence)	PM		C+25			C+25	XI	PRA - GC6254 – Law requires these records remain confidential. CD Current for 25 years from date of closure then destroy.
17	4		Open Complaint File (original complaint, requests for DOI/other investigation documents & resulting findings, related correspondence)	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. Active until investigation is complete. Outcome of investigation will determine placement of file in other category.
18	16		Non-jurisdictional, Referred to Another Agency Complaint File and similar types of closure (original complaint, complaint opening/closing documents)	PM		C+2			C+2		Current for 2 years from date of closure then destroy. R
19	10		No Violation, Closed Without Merit Complaint File and similar types of closure (original complaint, complaint opening/closing documents)	PM		C+5			C+5		Current for 5 years from date of closure then destroy. R
20	23		Non-Disciplinary Action Taken, Insufficient Evidence, Administrative Action Taken Complaint File and similar types of closure (original complaint, D of I investigation document, possibly court documents)	PM		C+5			C+5		Current for 5 years from date of closure then destroy. R
21	2		Consumer Complaint Statistics (surveys, logs, reports)	PM		A			A		Active for historical reference until policy change. R
22	4		Board Statistics (reports, license information)	PM		A			A		Active for historical reference until policy change. R
23	4		Continuing Education Course File (approvals/denials)	PM		A+3			A+3		Active for 3 years from course date then destroy. R
24	1		License verification letters from applicants	P		C+3			C+3		Current for 3 years from verification request date then destroy. R

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (*Double spaces between items*) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
25	2		License Print Audit Control Reports	PM		A+3			A+3		Active for 3 years from course date then destroy. CD
26	3		Rules & Regulations (rulemaking files, amended/changed regulations)	PM		A			A		Active for historical reference until policy change.
27	2		Legislative Analysis & Proposed Legislation	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. CD Active for historical reference until policy change.
ADMINISTRATIVE MANAGEMENT											
28	1		Executive Officer general correspondence	PM		A			A		Active for historical reference until policy change.
29	6		Board/Committee meeting minutes	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. CD Active for historical reference until policy change.
30	2		Board Policy	PM		A			A		Active for historical reference until policy change.
31	1		Legal Opinions (Attorney General and DCA legal)	PM		A			A		Active for historical reference until policy change.
32	6		Budget (Dept. of Finance/DCA submissions, Annual Financial Plans, CALSTARS reports)	PM		A			A		Active for historical reference until policy change. R
33	4		Reports of Revenue Collection (checks/payments, audit reports; payroll records)	P		C+5			C+5		Current for 5 years, retain in office until after attributed fiscal year, then destroy. R
34	2		Claims (travel expense/per diem, witness, subject matter expert; contracts, purchase requests/orders, vouchers, vendor invoices/payment records, direct payment transfers, property transactions)	PM		A+2			A+2		Active until person/witness/expert separates, retires or transfers. Retain additional 2 years then destroy. CD Other records not associated with person/witness/expert: retain for 5 years after attributed fiscal year then destroy. R
35	3		Personnel Records (board member/staff personnel files; attendance records; miscellaneous transactions (appointment notices, etc.))	PM		A+2			A+2	X,I	PRA, IPA - GC6254 – Law requires these records remain confidential. CD Active until person separates, retires,

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (*Double spaces between items*) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
											or transfers. Retain additional 2 years then destroy.
36			Records Management (Records Retention Schedule Approval Request and Records Retention Schedules (RRS) (Std. 72 and 73)	PM		C			C		Retain as current until superseded. R
37			Std. 70-records inventory worksheet	PM		A			A		Retain as current until next inventory. R
	***582.75**										
			SUMMARY OF CHANGES This RRS BO-4 A3 revises BO-4 A2(approval date (4/13/2011). The item number (not page number, unless indicated by "Page") changes are as follows: BO-4 A2 (amended) — BO-4 A3 #5 — 6 #6 — 7 #7 — 10 #8 — 11 #9 — 12 #10 — 14 #11 — 15 #12 — 16 #13 — 17 #14 — 18 #15 — 19 #16 — 20 #17 — 21 #18 — 22 #19 — 23 #20 — 24 #21 — 25 #22 — 26 #23 — 27 #24 — 28 #25 — 29 #26 — 30 #27 — 31 #28 — 32 #29 — 33 #30 — 34								

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			#31 35 #32 36 #33 37 *5 new *8 new *9 new *13 new Item #4, 11, 12 – change in language/verbiage # - indicates items moved * - indicates items that are new								

INSTRUCTIONS FOR FILLING OUT MS Word ELECTRONIC FORM

The California Records and Information Management (CalRIM) Program of the Department of General Services will review schedules for compliance with their Records Retention Handbook, Records Retention Schedule Guidelines and the records retention section of the California Acquisition Manual. The Chief of State Archives in the Office of the Secretary of State will review schedules for records series worthy of preservation for historical or research purposes. Titles, and descriptions of records listed on the schedule must be sufficiently detailed to insure understanding by persons unfamiliar with the business process of the department. For additional information concerning the scheduling of records refer to the aforementioned publications available on the DGS website (www.dgs.ca.gov).

* The attached form is formatted as a table; therefore, to add line items after page two, add additional rows to make formatting easier and consistent.

1. Department that the schedule belongs to.
2. Enter the appropriate billing code of the department.
3. Enter page numbers and total pages (e.g. 1 of 3, 2 of 3)
4. Division/ branch/ section within the department.
5. Address of the division/ branch/ section.
6. Double Click on the box if submitting a new schedule.
7. Double Click on the box if submitting a revision to previous schedule.
8. Double Click on the box if amending pages of a previous schedule.
9. Each department should establish its own system of numbering schedules. Enter the assigned number on each page.
10. Enter the date schedule was prepared.
11. Enter total number of pages of the schedule.
12. Enter the total number of cubic feet for all items scheduled (round off to nearest cubic foot).
13. If applicable, enter the schedule number from the previous schedule.
14. If applicable, enter the approval number assigned to the previous schedule.
15. If applicable, enter the CalRIM approval date shown in block 28 of the previous schedule on STD 73 Rev.6-02. (Block 22 if referring to STD 72 Rev. 2-96 on the previous schedule.
16. If applicable, enter the total number of pages included on the previous schedule.
17. Enter the mission/functional statement for the entity responsible for the records described on the schedule.
18. Signature of manager responsible for the records.
19. Manager's title.
20. Manager's phone number.
21. Date schedule signed by the manager.
22. Signature of the department's records management analyst (RMA).
23. Enter the official state classification of the department's RMA, i.e., Records Management Analyst I, Business Services Officer I, etc.
24. Name of the RMA.
25. RMA's phone number.
26. Date schedule is signed by the RMA.
27. Signature of CalRIM consultant.
28. Approval number assigned by CalRIM consultant.
29. Date schedule signed by CalRIM consultant.
30. This date is computed by adding five years to the date shown in Block 29.
31. This block is checked by the California State Archives if the schedule does not contain archive or long term reference records.
32. This block is checked by the California State Archives if the schedule contains material subject to archival review.
33. Signature of Chief of Archives or designated representative.
34. Date schedule is signed by Archives.
35. Enter the CalRIM Approval number shown in block 28.
36. Page numbers will automatically be entered in this field starting at page 2

Item numbers must be sequentially assigned beginning with number 1 on the second page of the schedule.

37. Enter cubic feet of records (office and departmental) contained in each item (round off to nearest cubic foot). Leave blank when scheduling electronic/magnetic records.
38. This column is used by the Chief of Archives to designate records which may be of historical value. If the notation "Notify Archives" appears in this column, the

Secretary of State's Archive Unit must be notified before the records can be destroyed or transferred (SAM Section 1673.1).

39. Exact title of the records series must be entered in this column. The same title must also be used on the Records Transfer List, STD 71, if the records are later transferred to the State Records Center. **Do not delete** records for a discontinued program until all such records (including any stored at the Records Center) have been destroyed or ownership transferred to another entity. Acronyms must be spelled out in full the first time they are shown on the schedule.

40. Enter the appropriate storage media code for the series of records described; P-- paper (except for computer printouts); C -- computer printouts; M—magnetic or electronic (computer hard drives, computer tapes or disks, or word processing discs); D – diazo microfilm or microfiche (working copies); S – Silver halide microfilm; RM – Removable Media consisting of ZIP, JAZ , etc.; CD – Compact Disk, etc.; OD – Optical Disk; RAID (redundant array of independent disks).

41. Enter an "X" if the series of records is considered vital (essential) to department operations. Vital records require special protection from loss through the use of vault storage, microfilm, CD, magnetic tape or similar storage media. Enter the method of protection used in Column 48 (Remarks).

42. Enter the length of time the records series will be retained in the office. For records such as active license files or active tax accounts, enter the word "Active" in this column. Then enter the length of time (if any) the records will be held in office space when they are no longer active. In these cases Column 48 must state the event which terminates the active life of the records. Intermediate terms (such as, "indefinite" or "continuous") must be avoided unless specifically stipulated by law or government code.

43. Records removed from office space and retained in less expensive spaces (such as a basement or other storage area) are considered to be department stored.

44. Records should be stored in the State Records Center when they meet the eligibility test of Section 1681 of the State Administrative Manual. The number of years records will remain in the Records Center must be entered in this column.

45. Enter the total number of years from Columns 43, 44, and 45. Include the active periods, if any.

46. PRA (Exempt) and IPA
    a. Enter an "**X**" if the record is exempt from disclosure under the provisions of the Public Records Act. (Records so identified must show the authority for such exemption in Column 48.)
    b. When the record is exempt from disclosure, but the data subject is allowed access under the provisions of the Information Practices Act, enter an "**I**".

47. Enter information which will explain or clarify treatment of the records, such as: citations from the Public Records Act (Government Code Section 6250 et seq.), Information Practices Act (Civil Code Section 1798 et seq.) or other State or federal statutes, the State Administrative Manual (SAM), California Acquisition Manual (CAM), State or Federal audit guidelines, Attorney General's instructions, or agency policy statements, etc. Other helpful information includes, but is not limited to:

    a. Events that trigger purging, updating or transferring records or that terminate active status.

    b. Cross references to previous retention schedules under which material is stored at a records center, such as "See superseded Schedule 58, Item 166, Approval 88-200."

    c. Type of destruction required when the records have reached the end of their retention period (such as, confidential witnessed destruction).

    d. Authority that stipulates the retention period of a record series.

    e. Authority that exempts disclosure of information to the public.

Prepare three copies of the schedule and forward all to the California Records and Information Management Program (CalRIM), 707 3rd Street, 2nd Floor, West Sacramento, California 95605, interagency mailing address is Z-1.

This form is provided in MS Word for your convenience. If the required fields or format are altered in any way, CalRIM will not accept the form.

STD.73 (REV. 6/2002)

RECORDS RETENTION SCHEDULE

STATE OF CALIFORNIA – DEPARTMENT OF GENERAL SERVICES
STATE RECORDS PROGRAM

Submit three copies to: Department of General Services, California Records and Information Management, 707 Third St. 2nd Fl., W. Sacramento, CA 95605.

A CalRIM Consultant may be reached by phone at (916) 375-4404, by fax at (916) 375-4408 or by email at CalRIM@dgs.ca.gov

(1) DEPARTMENT, BOARD OR COMMISSION	(2) AGENCY BILLING CODE	(3)
Department of Consumer Affairs	57190	PAGE 1 OF 6 PAGES

(4) DIVISION/ BRANCH/ SECTION	(5) ADDRESS
Board of Optometry	2450 Del Paso Rd., Suite 105, Sacramento, CA 95834

CHECK THE APPROPRIATE BOX

(6) ☐ New schedule of records that have never been scheduled. [Complete boxes (9) – (12)]

(7) ☐ Revising a previous schedule. [Complete boxes (13) –(16)] (A new approval number will be assigned)

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	(9) SCHEDULE NUMBER	(10) SCHEDULE DATE	(11) NUMBER OF PAGES	(12) CUBIC FEET (*Total Schedule*)
NEW SCHEDULE INFORMATION (*If applicable*)	BO-4 A2	12/5/12	6	566.75
PREVIOUS SCHEDULE INFORMATION (*If applicable*)	(13) SCHEDULE NUMBER	(14) APPROVAL NUMBER	(15) APPROVAL DATE (S)	(16) PAGE NUMBER(S) REVISED
	BO-4 A1	11-051	10/14/11	3

(17) MISSION/FUNCTIONAL STATEMENT :

The mission of the California State Board of Optometry 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.

PART I – AGENCY STATEMENTS

As the program manager (*or person authorized to sign for the program manager*) directly responsible for the records listed on this records retention schedule, I certify that all records listed are necessary and that each retention period is correct. ***For revisions, all items on the previous schedule are included or accounted for on the recapitulation. Vital records identified by this schedule are protected. If protection is not currently provided but plans are underway, the details of such plans are shown in Column 45, Remarks.***

(18) SIGNATURE - MANAGER RESPONSIBLE FOR THE RECORDS	(19) TITLE	(20) PHONE NUMBER	(21) DATE SIGNED
Lydia Bracco		916 575-7170	12/20/12

In accordance with Government Code 14755, approval of this Records Retention Schedule by the Department of General Services is hereby requested. Retention periods shown have been established in accordance with the criteria set forth by Section 1667 of the State Administrative Manual.

(22) SIGNATURE-RECORDS MGMT. ANALYST	(23) CLASSIFICATION	(24) NAME (*Printed or Typed*)	(25) PHONE NUMBER	(26) DATE SIGNED
Mac Aguilar	AGPA / RMC	Mac Aguilar	916 574-7260	1-3-13

PART II – DEPARTMENT OF GENERAL SERVICES APPROVAL (*Per Government Code Section 14755*)

(27) SIGNATURE –CalRIM CONSULTANT	(28) APPROVAL NUMBER	(29) DATE SIGNED	(30) EXPIRATION DATE
Janice C Sanchez	11-051	1/10/2013	5/12/2016

PART III – ARCHIVAL SELECTION (*Per Government Code Section 14755*)

FOR ARCHIVES STAMP

THE ATTACHED RECORDS RETENTION SCHEDULE:

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(32) ☒ Contains material subject to archival review. Items stamped "NOTIFY ARCHIVES" may not be destroyed without clearance by the California State Archives. (*Per Section 1671 of the State Administrative Manual.*) Key #30768

(33) SIGNATURE – CHIEF OF ARCHIVES OR DESIGNATED REPRESENTATIVE	(34) DATE SIGNED
Sydney Bailey, Archivist	Jan 24, 2013

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (Double spaces between items) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
PROGRAM MANAGEMENT											
1	3		Applicant Examination License File (applications, forms, letters, transcripts, score reports, requests)	PM		C+5			C+5	X,I	PRA; IPA - GC6254 – Law requires these records remain confidential. Current (C) until last time candidate sat for license examination then merge into Licensed Optometrist file. Scores are only applicable for 5 years pe B & P Code 3054
2	4		Foreign Optometry School/College Graduate Sponsorship File (letters, diplomas, transcripts, score reports/results, requests)	PM		C			C	X,I	PRA; IPA - GC6254 – Law requires these records remain confidential. Current until foreign graduate applies for California licensure then merge into Licensed Optometrist file.
3	6		California Laws & Regulations Examination (CLRE) Materials (booklets, answer keys, reports, results)	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. Confidential destruct (CD). Active for historical reference until policy change.
4	331		Licensed Optometrist File (applications, certificates, approval documents, Fingerprint forms, corporation licenses, branch office licenses, Nat'l Bd. of Examiners in Optometry score reports)	P		A			A	X,I	PRA, IPA - GC6254 – Law requires these records remain confidential. CD Active until licensee is deceased, after Board is notified of death, move to deceased file storage, keep for 5 years then destroy.
5	4	NOTIFY ARCHIVES	Licensed Optometrist File (deceased) (application, license, correspondence)	P		C+5			C+5	X	PRA - GC6254 – Law requires these records remain confidential. CD Current, combine with Licensed Optometrist file and keep 5 years. Notify Archives
6	15		Fictitious Name Permit File (application, correspondence)	P		A			A	X	PRA - GC6254 – Law requires these records remain confidential. Active until licensee is deceased then

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											combine with Licensed Optometrist file until destruction.
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12	21		Criminal Cases (Dept. of Investigation (D of I) or other investigation police/court documents, related correspondence)	PM		C+25			C+25	XI	PRA - GC6254 – Law requires these records remain confidential. Current for 25 years from date of closure. CD
13	4		Open Complaint File (original complaint, requests for DOI/other investigation documents & resulting findings, related correspondence)	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. Active until investigation is complete. Outcome of investigation will determine placement of file in other category.
14	16		Non-jurisdictional, Referred to Another Agency Complaint File and similar types of closure (original complaint, complaint opening/closing documents)	PM		C+2			C+2		Current for 2 years from date of closure then destroy. Recycle (R)

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (Double spaces between items) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
15	10		No Violation, Closed Without Merit Complaint File and similar types of closure (original complaint, complaint opening/closing documents)	PM		C+5			C+5		Current for 5 years from date of closure then destroy. R
16	23		Non-Disciplinary Action Taken, Insufficient Evidence, Administrative Action Taken Complaint File and similar types of closure (original complaint, D of I investigation document, possibly court documents)	PM		C+5			C+5		Current for 5 years from date of closure then destroy. R
17	2		Consumer Complaint Statistics (surveys, logs, reports)	PM		A			A		Active for historical reference until policy change. R
18	4		Board Statistics (reports, license information)	PM		A			A		Active for historical reference until policy change. R
19	4		Continuing Education Course File (approvals/denials)	PM		A+3			A+3		Active for 3 years from course date then destroy. R
20	1		License verification letters from applicants	P		C+3			C+3		Current for 3 years from verification request date then destroy. R
21	2		License Print Audit Control Reports	PM		A+3			A+3		Active for 3 years from course date then destroy. CD
22	3	NOTIFY ARCHIVES	Rules & Regulations (rulemaking files, amended/changed regulations)	PM		A			A		Active for historical reference until policy change. Notify Archives
23	2	NOTIFY ARCHIVES	Legislative Analysis & Proposed Legislation	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. CD Active for historical reference until policy change. Notify Archives
			ADMINISTRATIVE MANAGEMENT								
24	1	NOTIFY ARCHIVES	Executive Officer general correspondence	PM		A			A		Active for historical reference until policy change. Notify Archives
25	6	NOTIFY ARCHIVES	Board/Committee meeting minutes	PM		A			A	X	PRA - GC6254 – Law requires these records remain confidential. CD Active for historical reference until policy change. Notify Archives
26	2	NOTIFY ARCHIVES	Board Policy	PM		A			A		Active for historical reference until policy change. Notify Archives

(35) CalRIM APPROVAL NUMBER 11-051

(36)

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (*Double spaces between items*) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
27	1	NOTIFY ARCHIVES	Legal Opinions (Attorney General and DCA legal)	PM		A			A		Active for historical reference until policy change. Notify Archives
28	6		Budget (Dept. of Finance/DCA submissions, Annual Financial Plans, CALSTARS reports)	PM		A			A		Active for historical reference until policy change. R
29	4		Reports of Revenue Collection (checks/payments, audit reports; payroll records)	P		C+5			C+5		Current for 5 years, retain in office until after attributed fiscal year, then destroy. R
30	2		Claims (travel expense/per diem, witness, subject matter expert; contracts, purchase requests/orders, vouchers, vendor invoices/payment records, direct payment transfers, property transactions)	PM		A+2			A+2		Active until person/witness/expert separates, retires or transfers. Retain additional two years then destroy. CD Other records not associated with person/witness/expert: retain for 5 years after attributed fiscal year then destroy. R
31	3		Personnel Records (board member/staff personnel files; attendance records; miscellaneous transactions (appointment notices, etc))	PM		A+2			A+2	X,I	PRA, IPA - GC6254 – Law requires these records remain confidential. CD Active until person separates, retires, or transfers. Retain additional 2 years then destroy.
32			Records Management (Records Retention Schedule Approval Request and Records Retention Schedules (RRS) (Std. 72 and 73)	PM		C			C		Retain as current until superseded. R
33			Std. 70-records inventory worksheet	PM		A			A		Retain as current until next inventory. R
	*566.75										

(35) CalRIM APPROVAL NUMBER

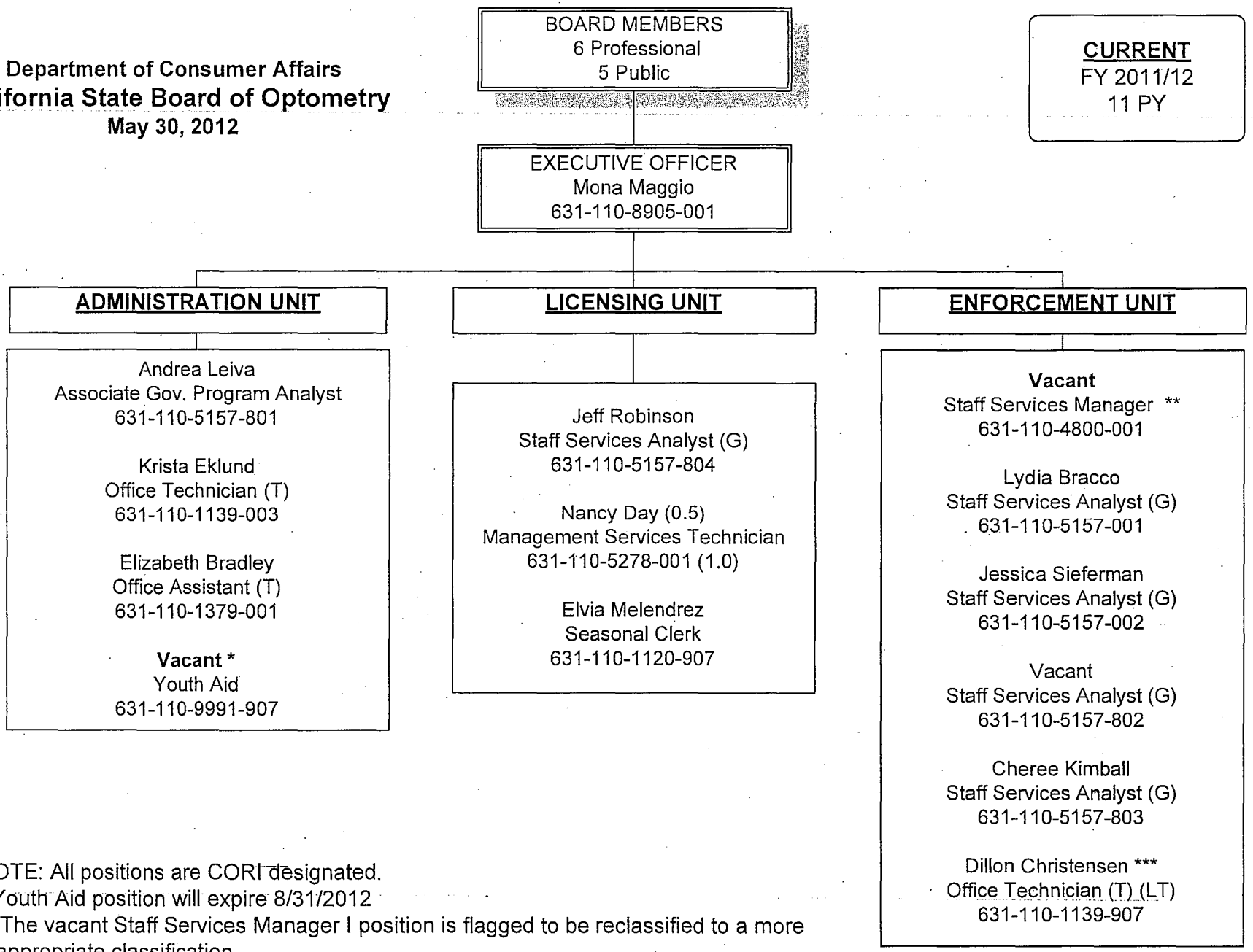
11-051

(36)

ITEM # (37)	CUBIC FEET * (38)	CA. STATE ARCHIVES USE ONLY (39)	TITLE AND DESCRIPTION OF RECORDS (*Double spaces between items*) (40)	MEDIA (41)	VITAL (42)	RETENTION OFFICE (43)	RETENTION DEPT. (44)	RETENTION SRC (45)	RETENTION TOTAL (46)	PRA (Exempt) & IPA (47)	REMARKS (48)
			SUMMARY OF CHANGES This RRS BO-4 A2 revises BO-4 A1 (approval date (10/14/2011). The item number (not page number, unless indicated by "Page") changes are as follows: BO-4 A1 (amended) → BO-4 A2 #12 → 13 #13 → 14 #14 → 15 #15 → 16 #16 → 17 #17 → 18 #18 → 19 #19 → 20 #20 → 21 #21 → 22 #22 → 23 #23 → 24 #24 → 25 #25 → 26 #26 → 27 #27 → 28 #28 → 29 #29 → 30 #30 → 31 #31 → 32 #32 → 33 Item #12 – additional verbiage # - indicates items moved								

*** Provide total of office and departmental**

Department of Consumer Affairs
California State Board of Optometry
May 30, 2012



NOTE: All positions are CORI designated.
* Youth Aid position will expire 8/31/2012
** The vacant Staff Services Manager I position is flagged to be reclassified to a more appropriate classification.
*** Office Technicia (T)(LT) will expire 7/2012

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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

To: Board Members **Date:** April 11, 2014

From: Jessica Sieferman
Lead Enforcement Analyst
Telephone: (916) 575-7184

Subject: **Agenda Item 13 – Proposed Auditing Plan for Probation**

In the Board's 2012 Disciplinary Guidelines, Condition 32 Audit Required (Attachment 1) is an optional condition placed on licensees who are disciplined for inappropriate billing and/or insurance fraud. According to this condition, the Board is required to provide the approved billing auditor with copies of the decision(s), accusation(s), and a proposed auditing plan.

However, the Board currently does not have a formal proposed auditing plan to present to the auditor. To remedy this, Board Expert, Dr. Cory Vu, OD worked with Board staff to draft an auditing plan for Board review (Attachment 2), discussion, and possible approval.

As stated in the condition, once presented with the decision(s), accusations(s), and the proposed auditing plan, the auditor shall sign an affirmation that he or she has reviewed the terms and conditions of the Respondent's disciplinary order, fully understand the role of the auditor, and agrees or disagrees with the proposed auditing plan set forth by the Board. If the auditor disagrees with the proposed auditing plan, the auditor shall submit a revised auditing plan with the signed affirmation for approval by the Board or its designee.

Action Requested:
Please review, discuss, and possibly approve the attached proposed auditing plan. Once approved, it will be used in all probation cases that include Condition 32 as part of their order.

Attachments:
1. Condition 32. Audit Required
2. Draft Proposed Auditing Plan
3. Dr. Cory Vu, OD's Qualifications

CALIFORNIA STATE BOARD OF OPTOMETRY

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
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32. AUDIT REQUIRED

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

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

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

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

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

The Board shall be advised of the results of the audit, and may obtain any and all copies of any documents audited or the results of the audit. The cost of the audits shall be borne by Respondent.

Failure to pay for the audits in a timely fashion within ten (10) calendar days from audit completion shall constitute a violation of probation.

Quarterly reports of the audit results are due each year of probation and the entire length of probation from the auditor as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

The quarterly report shall include, but not be limited to:

1. the Respondent's name;
2. license number;
3. auditor's name and signature;
4. auditor's license number;
5. dates Respondent had face-to-face contact or correspondence (written and verbal) with auditor;
6. the Respondent's compliance with this condition;
7. the Respondent's compliance with accepted auditing/accounting standards and practices;

8. any change in behavior and/or personal habits;
9. assessment of the Respondent's ability to practice safely;
10. recommendation dependant on Respondent's audit results and compliance with this condition on whether to continue with current audit plan or modify the plan;
11. other relevant information deemed necessary by the auditor, or the Board.

Respondent is ultimately responsible for ensuring his/her auditor submits complete and timely reports. Failure to ensure each auditor submits complete and timely reports shall constitute a violation of probation.

If the auditor resigns or is no longer available, Respondent shall, within five (5) days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the names and qualifications of a replacement third party auditor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement auditor within 60 calendar days of the resignation or unavailability of the auditor, Respondent shall receive a notification from the Board or its designee to cease the practice of optometry within three (3) calendar days. After being so notified, Respondent shall cease practice until a replacement auditor is approved and assumes auditing responsibility.

PROPOSED AUDITING PLAN

This proposed Auditing Plan (Plan) outlines the written protocols for the quarterly audit of the optometrist's health and billing records as a condition of probation for those who have been disciplined by the California State Board of Optometry (Board). The Plan details a process to determine whether data in a Probationer's health record and/or other records documents and supports services listed on the Probationer's bill (billing audit). Specific data for audit includes but are not limited to, health records of patient visits, billing and insurance payment records and/or other administrative records.

Definitions

Billing audit: A process to determine whether data in a provider's health record and/or other related records documents or supports services listed on a provider's bill.
Claim: Any document that represents a provider's request for payment. (Also referred to as an invoice or bill)
Concurrent audit: a billing audit conducted before the issuance of an interim or final bill.
Retrospective audit: a billing audit conducted after the issuance of a final bill.
Health record: A compilation of data supporting and describing an individual's health care encounter including data on diagnoses, treatment, and outcomes.
Payers*:* In health care, generally refers to entities including the patient that finance or reimburse the cost of health services. In most cases, this term refers to insurance carriers, other third-party payers, or health plan sponsors (employers or unions).
Probationer: An optometrist whose license is on probation.

Scope

The scope of the plan is limited and is intended to verify charges on the detailed claim are accurate, represent services rendered to the patient, and are ordered by the optometrist. The billing audit does not assess the "reasonableness" of the charges, or medical necessity related to services provided.

Quarterly Audits

Auditor shall conduct a minimum of four site visits every twelve months until the end of the Probationer's probation period.

Preliminary Billing Audit

Auditor will use the Preliminary Billing Audit Checklist during preliminary billing audit to identify the appropriateness of coding, documentation and completeness of a claim. After the review of these records is completed, if no or non-significant billing errors or issues are discovered, the audit is considered complete for the Quarter and the Probationer and the Board are notified of the findings of the audit.

Selection of Health Records
Auditor will randomly select the following sample of health records to review per month:

- Minimum of five records per federal payer (i.e., Medicare, Medicaid)
- Minimum of five records per commercial payer (i.e., Vision Service Plan, Eyemed Vision Care, Davis Vision, etc.)
- Minimum of five records with claim for comprehensive eye examinations (CPT code 92004 and 92014)
- Minimum of five records with claim for Evaluation and Management code (CPT code 99201 – 99215)

- Minimum of five records with claim for diagnostic and ancillary eye procedures (e.g., visual fields test, gonoscopy, serial tonometry, etc.)
- Minimum of five records where eyeglasses or contact lenses were supplied to patient.

Health records should be chosen with last date of service within two (2) years of audit date from a random sample of paid claims, claims by payer, and denied claims.

Comprehensive Billing Audit

If significant billing errors or issues are discovered as a result of the preliminary billing audit, the Board may request that the auditor commence with a comprehensive audit. The auditor will determine the size of the sample covering a billing period no greater than two (2) years by a statistical formula. During the course of a comprehensive billing audit, in addition to reviewing health records, the auditor may interview selected patients and Probationer staff, and perform other actions as deemed appropriate. If the health records combined with any other supporting evidence substantiate the Probationer's billings, the audit is considered complete for the Quarter and the Probationer and the Board are notified of the findings of the audit. If the audit uncovers significant billing errors or issues, the auditor will report the findings to the Board who will determine if the Probationer has violated his/her condition of probation.

Patient Verification of Services Rendered

Auditor will verify and determine if any discrepancy exists between the service(s)/item(s) billed by the Probationer and the information supplied by the beneficiary by randomly selecting claims and the sending of confirmation letters/questionnaires to a minimum of ten (10) patients for verification of recent services.

Auditor Reports

The Auditor shall submit a written report at least once each quarter to the Board's Probation Monitor summarizing the quarterly audit results. The report shall be written on the Auditor's letterhead and bear the original signature of the Auditor.

- Auditor shall include, but not limited to, the following in the Quarterly report:
    - Probationer's name;
    - license number;
    - auditor's name and signature;
    - auditor's license number;
    - dates Probationer had face-to-face contact or correspondence (written and verbal) with auditor;
    - the Probationer's compliance with this condition;
    - the Probationer's compliance with accepted auditing/accounting standards and practices;
    - any change in behavior and/or personal habits;
    - assessment of the Probationer's ability to practice safely (if applicable);
    - recommendation dependent on Probationer's audit results and compliance with this condition on whether to continue with current audit plan or modify the plan;
    - other relevant information deemed necessary by the auditor, or the Board.

- In addition, Auditor shall describe in the Quarterly reports any identified problems or deficiencies in the documentation or support of charges included in or omitted from a bill, medical record keeping, billing practices, or other practice related issues.
- Auditor shall conduct the initial and all subsequent billing audits during normal business hours at the Probationer's practice location. If Probationer has more than one practice location, Auditor will conduct the initial billing audit onsite at each location. On-site audits prevent unnecessary photocopying and better ensure confidentiality of the health records. In

addition, on-site reviews encourage or promote mutual understanding of the records and afford both parties the opportunity to quickly and efficiently handle questions that may arise.

- Auditor shall review an adequate number of the Probationer's patient health records as necessary to successfully perform the billing audit in accordance with accepted auditing/accounting standards and practices. Auditor will determine the best method of random chart selection to adequately assess each area specified in the proposed auditing plan.
- Auditor shall submit complete and timely Quarterly reports of the audit results to the Board for the entire length of probation based on the following schedule:

Reporting Time Period	Due No Later Than
January 1 to March 31 (Quarter I)	April 7th
April 1 to June 30 (Quarter II)	July 7th
July 1 to September 30 (Quarter III)	October 7th
October 1 to December 31 (Quarter IV)	January 7th

Audit Procedures

Documentation

The health record documents pertinent information related to the patient's care, including clinical data on diagnoses, treatments, and outcomes. It is not designed to be a billing document. The health record may not back up each individual charge on the bill.

Verification of charges shall include the investigation of whether or not (1) services were delivered by the Probationer with a plan of treatment; (2) services were provided to the patient; (3) services were documented in the health or other appropriate records and support services that were rendered to the patient; and (4) charges were accurately billed.

Auditors may have to review a number of other documents to determine valid charges. Auditors must recognize that these sources of information are accepted as reasonable evidence that the services rendered and billed by the Probationer were actually provided to the patient. When sources other than the health record are providing such documentation, the Probationer should make those sources available to the auditor.

Risk Areas

Claim Submission

Claim submission should reflect the services rendered, be appropriately documented, and based on medical necessity. As such, each Probationer is responsible for:

- Choosing the most appropriate procedure (e.g., American Medical Association's Current Procedural Terminology (CPT) codes) and diagnosis (International Classification of Diseases, Clinical Modification (ICD-9-CM)) codes for services to patients billed under his or her name;
- Using only his/her billing number when submitting claims;
- Ensuring services rendered are appropriate and medically necessary (requires clinical review and is outside scope of billing audit);
- Ensuring documentation of the health record and related documents of services rendered are accurate and legible with correct date of service and signature present.
- Verifying that information obtained from patients (e.g., demographic information, insurance information, eligibility, etc.) is accurate; and
- Protecting the integrity of the health record (i.e., health records should not be backdated; any amendment or addition of records should be in the form of a signed addendum with current date a not date of the earlier record, etc.).

Auditor will identify any issues (e.g., erroneous, incomplete, or inaccurate) with information on the claim that is supplied by the Probationer.

Fraud and Abuse

Federal and State laws extensively regulate health care activities to prevent fraud and abuse. Fraud is defined as obtaining or attempting to obtain services or payments by dishonest means with intent, knowledge, and willingness. Abuse is defined as medical or billing practices that are inconsistent with acceptable medical, business, or fiscal standards.

Auditor will verify the integrity of claims submitted by the Probationer by focusing on the risk areas identified by the Office of the Inspector General of the U.S. Department of Health and Human Services that may be vulnerable to fraud and abuse. Examples of fraud and abuse include, but are not limited to, the following:

- Unbundling of services: billing separately for procedures that are normally covered by a single fee;
- Billing for services not rendered or not provided as claimed;
- Billing for services not documented;
- Billing for non-covered services as if covered;
- Submitting claims for items or services that are not reasonable and necessary;
- Over utilization of services;
- Upcoding the level of service provided; charging for a more complex service than was performed;
- Miscoding: using a procedure or diagnosis code that does not apply to the service rendered or the condition of the patient;
- Inappropriate balance billing when accepting assignment;
- Knowing misuse of Probationer identification numbers;
- Duplicate billing: charging more than once for the same service;
- Routine waiver of co-payments, coinsurance, and deductibles; and
- Discount for service.

Attachments

1. Auditor Qualifications
2. Auditor Roles and Responsibilities
3. Auditor Agreement
4. Billing Audit Pre-visit Probationer Information
5. Preliminary Billing Audit Checklist

Auditor Qualifications

Auditors are expected to have appropriate knowledge, experience, and/or expertise in a number of areas of health care including, but not limited to, the following areas:

- Medical and Insurance terminology;
- Documentation standards as it relates to format and content of the health record as well as other forms of medical/clinical documentation;
- Coding, including applicable ICD-CM, CPT, HCPCS, and use of modifiers;
- Applicable billing claims forms (e.g., CMS 1500) plus charging and billing procedures and reading and understanding EOB, EOMB, and Remittance;
- All state and federal regulations (e.g., HIPAA, CMIA, IPA) concerning the use, disclosure, and confidentiality of all patient records in addition to insurance and health record billing compliance; and
- Generally accepted auditing standards and practices as they may apply to the audit.

Auditors are expected to conduct themselves in an acceptable, professional manner and adhere to ethical standards, confidentiality requirements, and objectivity. The auditor shall avoid conflict of interest (i.e., any prior or current business, personal, or other relationship with the optometrist on probation) which could appear inappropriate or produce audit findings that are not fair, objective, reliable, and unbiased.

Auditor Roles and Responsibilities

Roles

The role of the Auditor is to ensure, to the extent possible, that the probationer is using acceptable billing practices and record keeping. The Auditor is responsible for reporting to the Board any identified problems or deficiencies in the quality of the probationer's billing practices and associated record keeping. The Auditor also fulfills the role of an educator and advisor to the optometrist, with the goal of assisting the probationer to improve billing practices and gain insight into the practices that led to the disciplinary action, so that learning and rehabilitation will occur.

Auditors are expected to render fair, objective, reliable, and unbiased reports to the Board's Probation Monitor. In order to do this, the Monitor cannot have any *prior or current* business, personal or other relationship with the probationer.

Responsibilities

The Auditor's responsibilities include:

1. Reviewing all background information include the Accusation and Decision pertaining to the probationer.
2. Performing quarterly audits of the probationer's billing records for his/her entire probation period (unless otherwise stated in the Order) according to the Board's requirements.
3. Adhering to all HIPPA regulations and guidelines with respect to patient privacy
4. Working together with the probationer to ensure the Auditing Plan is being followed as outlined.
5. Telephoning the probationer as needed to discuss the results or concerns from the quarterly audit.
6. Completing and providing written quarterly reports to the Board's Probation Monitor in accordance to the Auditing Plan
7. Communicating regularly with the Board regarding the probationer's progression and any concerns he/she may have.
8. The Auditor will immediately notify the Board if the Probationer fails or refuses to make the records available for inspection and/or copying.
9. Auditor shall communicate results and/or concerns with the Probationer and/or the Board as necessary to ensure successful completion of the proposed auditing plan.

Auditor Agreement

THIS AGREEMENT for auditor services ("Agreement") is made as of the Agreement Date set forth below by and between the California Board of Optometry (Board), and _____ Certified Public Accountant Firm (Auditor).

In consideration of the Services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

1. Services.

BOARD agrees to provide AUDITOR with copies of the decision(s) and accusation(s), and a Proposed Auditing Plan.

AUDITOR agrees to provide Quarterly Billing Audit of [enter probationer's name], O.D., herein referred to as the CLIENT as described in the Proposed Auditing Plan. AUDITOR shall provide said services at the time, place and in the manner specified in Sections V (Qualifications of Auditors); VI (Roles and Responsibilities); VII (Documentation); VIII (Risk Areas), and IX (Audit Procedures) of the Proposed Auditing Plan.

AUDITOR agrees to comply with the federal Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in regards to the confidentiality of patient protected health information (PHI). AUDITOR agrees to maintain policies and procedures ensuring the confidentiality of PHI in their possession and the proper disposal of this information.

AUDITOR agrees to make any and all reports relating to the Quarterly Billing Audit available for inspection and review by the Board or the Attorney General's Office at any time. AUDITOR agrees that its report and findings shall not be privileged in any way to these agencies and/or their designees.

2. Term.

The term of this AGREEMENT shall become effective on [enter date], and shall continue in force and effect until the end of the CLIENT's probationary period or a period of [enter number] day(s), unless sooner terminated in accordance with the terms of this Agreement.

3. Payment

In full consideration AUDITOR's service under this contract, the CLIENT shall, pursuant to the terms and conditions of probation by the BOARD, make payment to AUDITOR for services rendered pursuant to this Agreement in the rate of [enter rate] per hour within ten (10) calendar days from audit completion. AUDITOR shall submit all billings for said services to CLIENT in the manner agreed upon by the AUDITOR and CLIENT.

4. Termination

BOARD and AUDITOR COUNTY shall each have the right to terminate this Agreement upon [enter number] days written notice to the other party.

5. Effectiveness of Agreement

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on [enter date].
I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct.

BOARD	**AUDITOR**
_____	_____
[enter name]	[enter name]

_____	_____
Date	Date

Billing Audit Probationer Pre-Visit Information

(To be completed by Probationer)

Instructions: Please complete all sections below. If you have more than one practice location, please submit a separate form for each location. If you change your practice location, you must submit a new form.

Name			
List name exactly as it appears on your current license/registration.			
Last	Middle I.	First	
Practice Address		**Home Phone Number**	
Number Street State			
		Mobile Phone Number	
Business Name		**Office Phone Number**	
Email Address			
Office Hours			
Monday	-	Friday	-
Tuesday	-	Saturday	-
Wednesday	-	Sunday	-
Thursday	-	Number of Hours Present at this location:	
Patient Volume			
Average number of patients seen *per month:*			
Office Staff			
Number of Optometrists in the Practice:			
OD CA License Number:			
Number of assistants in the practice:			
Number of other support staff:			
Do you instruct office personnel on patient billing and coding? ☐ Yes ☐ No			
Preferred Times for Site Visits			
Auditor may be in your office for a minimum of four hours per visit. Please indicate three options for your preferred time(s) for the site visits (some visits may be unannounced).			
Monday	-	Friday	-
Tuesday	-	Saturday	-
Wednesday	-	Sunday	-
Thursday	-		

Preliminary Billing Audit Checklist

Patient Name:_____ DOB: _____

Medical Record Number: _____ Service Date: _____

Medicare ID Number:_____ Medicaid ID Number: _____

Commercial Payer ID Number: _____ Private Pay: Yes No Materials: Yes No

Criteria	Yes	No	N/A
I. Documentation			
1. Is documentation in health record legible and complete?			
2. Is there visible evidence of health record tempering (e.g., visible white out and eraser marks, etc.)			
3. Are the patient's name, DOB, and other identifying information present on the claim?			
4. Does patient's name on the claim match the patient's health record?			
5. Does patient's payer ID number(s) in billing data match ID number(s) on health record?			
6. Does Probationer's name on the claim match the name on the health record?			
7. Does the Probationer's billing number of the claim match the number on the health record?			
8. Is the signature of the Probationer and date present on the claim?			
9. Is there evidence of health records being backdated (i.e., any amendment or addition of records should be in the form of a signed addendum with current date a not date of the earlier record, etc.)?			
10. Are the reason for the encounter and relevant history, physical examination findings, prior diagnostic test results (if applicable), assessment, clinical impression, or diagnosis, and medical plan of care documented in the health record?			
II. Coding			
1. Are there any unbundling of services on the claim?			
2. Are there services not rendered or not provided that are billed on the claim?			
3. Are there services not documented in the health record that are billed on the claim?			
4. Is coding on the claim supported for the level of service provided (i.e., is there evidence of upcoding or charging for a more complex service than was performed)? See Section VI.			
5. Is there evidence of miscoding or using a procedure or diagnosis code that does not apply to the service rendered or the condition of the patient on the claim?			
III. Charges			
1. Is there evidence of duplicate billing or charging more than once for the same service in claims data?			
2. Are Usual and Customary charges to Medicare, Medicaid, and/or other commercial plan the same as private pay for similar services?			
3. Is there balance billing when accepting plan assignment?			
4. Are co-payments, coinsurance, and deductibles routinely waived for patients?			
5. Are patient balances (copayment, deductibles, and full charges for cash pay patients) routinely collected at the time of service?			

IV. Materials (Spectacles and Contact Lenses)			
1. For health plan patients, are materials medically indicated with a minimum prescription (i.e., no plano or non-prescription sunglasses or contact lenses)?			
2. Are materials billed correctly to the plan?			
3. Is there documented evidence that the patient received the materials?			
4. Does the lab invoice match the materials billed on the claim?			
V. Policies and Procedures			
1. Are there policies and procedures outlining proper billing?			
2. Are educational and training programs provided to staff to address billing issues?			
3. Is there a system in place to track billing or compliance issues such as a payment posting log, accounts receivables or aging report, and the resolution of these issues?			
4. Does Probationer use compliance as an element in evaluating the performance of employees who have responsibility for billing?			
VI. Evaluation and Management (E/M) and Eye Procedure Codes			
1. Are all the required components (history, examination, and medical decision making) of the E/M service met and appropriately documented in the medical record?			
2. Does the Probationer's Medicare E/M frequency data comparable to peers (by state and specialty or other appropriate geographically defined area)?			
3. For E/M codes 99204, 99214, 99205, and 99215, does documentation support the level of service provided (i.e., is there evidence of upcoding or charging for a more complex service than was performed)?			
4. For comprehensive ophthalmological services (CPT code 92004 and 92014), does the health record support this level of service (i.e., does health record include history, general medical observation, external and ophthalmoscopic examination, gross visual fields, basic sensorimotor examination, initiation of diagnostic and treatment programs, and as indicated, biomicroscopy, examination with cycloplegia, and tonometry)? If not, CPT code 92002 or 92012 should be billed.			

Qualifications of Dr. Cory Vu:

Dr. Cory Vu graduated from U.C. Berkeley School of Optometry in 1994 and completed his residency in Vision Rehabilitation and Low Vision at the Palo Alto Veterans Administration Hospital in 1995. He experiences include starting his private practice (1995-2000), employed as staff optometrist for the San Jose Medical Group, Stanford/UCSF Health Care, and Stanford Ophthalmology Clinic (1995-1999), and teaching part-time at U.C. Berkeley School of Optometry as an Assistant Clinical Professor (1999-2010). Dr. Vu has also been an expert witness for the CA Board of Optometry since 2009 providing opinion on complex cases involving optometrist negligence and competence and patient care.

In 1999, Dr. Vu accepted the position as Medi-Cal Vision Care Program Consultant for the CA Department of Health Care Services (DHCS) where he remained until 2011. In this position, he was responsible for all aspects of the Vision Care Program including, but not limited to, the development and implementation of all regulations, policies, and procedures involving vision care benefits, standards, and conditions as they relate to health care provider participation in Medi-Cal; directing quality improvement projects and benchmarking studies pertaining to access and other aspects of care; providing prior authorization for medically necessary contact lenses, low vision devices and other eye appliances. Dr. Vu oversaw the Prison Industry Authority (PIA) Optical Laboratory Project, including implementing risk management strategies and on-site audits for early detection of quality issues, security risks regarding confidential beneficiary information, and other potential adverse occurrences. He developed auditing plans for the monitoring of provider fraud and abuse involving the Medi-Cal program and assisted DHCS Audits & Investigation Branch, DHCS Office of Legal Counsel, and CA Department of Justice as subject matter expert on fraud investigations and prosecutions. He collaborated with DHCS Office of HIPAA Compliance, and Privacy and Security Officers to assure program compliance with State and Federal laws and regulations.

In 2011, Dr. Vu accepted a position at U.C. Davis Student Health and Counseling Services (SHCS) as the Quality Improvement/Risk Manager. At his present position, Dr. Vu is responsible for the administration and oversight of the Quality Improvement, Risk Management, Compliance and Safety Programs for SHCS. He also serve as the organization Custodian of Records, HIPAA Privacy Officer, and member the Executive Committee participating in strategic and long term planning, project development, and management. Dr. Vu currently acts as the survey/audit coordinator for SHCS preparing the organization for various audits/surveys through the gathering the necessary documents, the coordination of auditor/surveyor requests for information and access to health and other records and SHCS clinical and administrative staff, as necessary, and the orientation of auditors/surveyors to SHCS policies and procedures, processes, and record documentation.

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To: Board Members **Date:** April 11, 2014

From: Jeff Robinson
Licensing Analyst **Telephone:** (916) 575-7171

Subject: **Agenda Item 14 –** Discussion and Possible Action on Business and Professions Code Section 3057.5 Eligibility of Graduates from Foreign Universities and California Code of Regulations Section 1530.1 Qualifications of Foreign Graduates

Background

California Code of Regulations (CCR) Section 1523 indicates that optometrist licensure examination requirements include the *"...Satisfactory evidence of graduation from an accredited school or college of optometry approved by the board..."*

The provisions of Business and Professions Code (BPC) 3057.5 authorizes the California State Board of Optometry (Board) to allow graduates of foreign universities who are over the age of 18 years, are not subject to denial of a certificate under BPC Section 480 (Grounds for Denial; Effect of Obtaining Certificate of Rehabilitation), and have received a degree as a *doctor of optometry* issued by a university located outside of the United States (US), to take the examinations required for California optometrist licensure which include the California Laws and Regulations Examination (CLRE), developed and administered by the Board or its contractor; and Parts I (Applied Basic Science), II (Patient Assessment and Management/Treatment and Management of Ocular Disease), and III (Clinical Skills) of the examinations approved by the Board and developed and administered by the National Board of Examiners in Optometry (NBEO).

Some foreign universities do not offer a *doctor of optometry* degree and those that do may not necessarily meet the Board's requirements. Therefore, the Board requires all applicants for sponsorship to have their education evaluated by a reputable credentials evaluation service (i.e., member services of the National Association of Credential Evaluation Services) to determine if the education received as a provider of eye care is equal to or greater than that of a *doctor of optometry* degree.

Applicants that meet the provisions of BPC 3057.5 and CCR 1530.1 are allowed to apply for, register, and schedule themselves for the CLRE, but must also be "sponsored" by a state licensure board of optometry or an ACOE (Accreditation Council on Optometric Education) - accredited school/college of optometry to meet the qualifications required to apply for and take Part I and/or Part II of the NBEO examinations (NOTE: Those sponsored may apply for and take Part III of the examinations after they have successfully passed Parts I & II).

Because the NBEO examinations are required to be taken and passed by those seeking optometrist licensure in the US, and because they will only allow foreign graduates who have been "sponsored" to apply for and take their examinations, the Board has sponsored graduates that they have deemed to be eligible.

Since 1972, the Board has received several hundred requests for sponsorship. A total of **133** of those applicants were able to provide the Board with satisfactory evidence of the age, moral character, and education as was/is required by law. Of the number of applicants sponsored, eight (8) of them have received California optometrist licenses. The licenses were issued between August 1, 2007 and January 30, 2013.

Problems

Our current laws do not specifically address the areas of sponsorship, licensure, or certifications (e.g., TPA) for foreign graduates, but Board staff has granted sponsorship to those foreign graduates who have met the provisions of BPC 3057.5 and CCR 1530.1 and, assuming that the course of instruction received by the foreign graduate was reasonably equivalent to the course of instruction given by an accredited school/college of optometry, issued optometrist licenses to those who appeared to have met all of the requirements for licensure. However, Board staff was recently directed to CCR 1523 (Licensure Examination Requirements) which states that, *"Satisfactory evidence of graduation from an accredited school or college of optometry approved by the Board."* It does not mention anything about education equivalency which has staff concerned about the issuance of licenses to the aforementioned 8 licensees.

TPA didactic courses are no longer being offered by accredited schools/colleges of optometry which makes if difficult, if not impossible, for foreign graduates to obtain TPA certification in California. Without TPA certification, those foreign graduates who are able to obtain California optometrist licensure will also be unable to apply for and receive lacrimal irrigation and dilation or glaucoma certification.

Because the Board no longer provides its own optometrist license examination, BPC sections 3041.3, 3057.5, and CCR sections 1530.1, 1567 (Therapeutic Pharmaceutical Agents), and 1568 (Therapeutic Pharmaceutical Agents Usage – Purpose and Requirements) may require some revision and/or amending.

Discussion

The future of foreign graduates seeking California optometrist licensure and the review and possible amending of BPC sections 3041.3, 3057.5, and CCR sections 1530.1, 1567, and 1568 should be considered by the Board.

Staff Recommendation

The NBEO has informed Board staff that the California and New York Boards of Optometry are the two states that currently sponsor foreign graduates. Because the California Board appears to be the number one choice for foreign graduates seeking sponsorship, staff will continue to accept and review applications for and grant sponsorship to those who meet the provisions of BPC 3057.5 and CCR 1530.1. We have been advised to and will cease the issuance of optometrist licenses for foreign graduates until this matter has been resolved.

Action Requested

With the possibility of the need for new legislation concerning this matter, staff requests that these items be reviewed by the Practice and Education Committee before being brought back to a full Board at a later date for further discussion.

Attachment(s)

1. Excerpt of BPC section 3041.3
2 Excerpts of BPC section 3057.5, and CCR sections 1523 and 1530.1
3. Excerpt of CCR section 1567
4. Excerpt of CCR section 1568

§3041.3. CERTIFICATE REQUIREMENTS

(a) In order to be certified to use therapeutic pharmaceutical agents and authorized to diagnose and treat the conditions listed in subdivisions (b), (d), and (e) of Section 3041, an optometrist shall apply for a certificate from the board and meet all requirements imposed by the board.

(b) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry prior to January 1, 1996, is licensed as an optometrist in California, and meets all of the following requirements:

(1) Satisfactorily completes a didactic course of no less than 80 classroom hours in the diagnosis, pharmacological, and other treatment and management of ocular disease provided by either an accredited school of optometry in California or a recognized residency review committee in ophthalmology in California.

(2) Completes a preceptorship of no less than 65 hours, during a period of not less than two months nor more than one year, in either an ophthalmologist's office or an optometric clinic. The training received during the preceptorship shall be on the diagnosis, treatment, and management of ocular, systemic disease. The preceptor shall certify completion of the preceptorship. Authorization for the ophthalmologist to serve as a preceptor shall be provided by an accredited school of optometry in California, or by a recognized residency review committee in ophthalmology, and the preceptor shall be licensed as an ophthalmologist in California, board-certified in ophthalmology, and in good standing with the Medical Board of California. The individual serving as the preceptor shall schedule no more than three optometrist applicants for each of the required 65 hours of the preceptorship program. This paragraph shall not be construed to limit the total number of optometrist applicants for whom an individual may serve as a preceptor, and is intended only to ensure the quality of the preceptorship by requiring that the ophthalmologist preceptor schedule the training so that each applicant optometrist completes each of the 65 hours of the preceptorship while scheduled with no more than two other optometrist applicants.

(3) Successfully completes a minimum of 20 hours of self-directed education.

(4) Passes the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" examination or, in the event this examination is no longer offered, its equivalent, as determined by the State Board of Optometry.

(5) Passes the examination issued upon completion of the 80-hour didactic course required under paragraph (1) and provided by the accredited school of optometry or residency program in ophthalmology.

(6) When any or all of the requirements contained in paragraph (1), (4), or (5) have been satisfied on or after July 1, 1992, and before January 1, 1996, an optometrist shall not be required to fulfill the satisfied requirements in order to obtain certification to use therapeutic pharmaceutical agents. In order for this paragraph to apply to the requirement contained in paragraph (5), the didactic examination that the applicant successfully completed shall meet equivalency standards, as determined by the board.

(7) Any optometrist who graduated from an accredited school of optometry on or after January 1, 1992, and before January 1, 1996, shall not be required to fulfill the requirements contained in paragraphs (1), (4), and (5).

(c) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry on or after January 1, 1996, who is licensed as an optometrist in California, and who meets all of the following requirements:

(1) Passes the National Board of Examiners in Optometry's national board examination, or its equivalent, as determined by the State Board of Optometry.

(2) Of the total clinical training required by a school of optometry's curriculum, successfully completed at least 65 of those hours on the diagnosis, treatment, and management of ocular, systemic disease.

(3) Is certified by an accredited school of optometry as competent in the diagnosis, treatment, and management of ocular, systemic disease to the extent authorized by this section.

(4) Is certified by an accredited school of optometry as having completed at least 10 hours of experience with a board-certified ophthalmologist.

(d) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who is an optometrist who obtained his or her license outside of California if he or she meets all of the requirements for an optometrist licensed in California to be certified to use therapeutic pharmaceutical agents.

(1) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and graduated from an accredited school of optometry prior to January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (b). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received at the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry in California for persons who graduate before January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (b) be waived based on fulfillment

of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.
(2) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and who graduated from an accredited school of optometry on or after January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (c). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received by the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry for persons who graduate on or after January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (c) be waived based on fulfillment of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.
(3) The State Board of Optometry shall decide all issues relating to the equivalency of an optometrist's education or training under this subdivision.

§3057.5. ELIGIBILITY OF GRADUATES FROM FOREIGN UNIVERSITIES
Notwithstanding any other provision of this chapter, the board shall permit a graduate of a foreign university who meets all of the following requirements to take the examinations for a certificate of registration as an optometrist:
(a) Is over the age of 18 years.
(b) Is not subject to denial of a certificate under Section 480.
(c) Has a degree as a doctor of optometry issued by a university located outside of the United States.

§1523. LICENSURE EXAMINATION REQUIREMENTS (a)(1) Application for licensure as an optometrist shall be made on a form prescribed by the Board (Form 39A-1. Rev. 7-09), which is hereby incorporated by reference, and shall show that the applicant is at least 18 years of age.
(2) Application for licensure by an out of state licensed optometrist as defined in Business and Professions Code Section 3057, shall be made on forms prescribed by the Board (Form OLA-2, Rev. 11/07 and Form LBC-4, rev. 2/07), which are hereby incorporated by reference, and shall show that the applicant is at least 18 years of age.
(b) An application shall be accompanied by the following:
(1) The fees fixed by the Board pursuant to Section 1524 in this Article.
(2) Satisfactory evidence of graduation from an accredited school or college of optometry approved by the Board.
(3) One classifiable set of fingerprints on a form provided by the Board.
(c) An incomplete application shall be returned to the applicant together with a statement setting forth the reason(s) for returning the application and indicating the amount of money, if any, which will be refunded.
(d) Each applicant must achieve passing grades in all Board required examinations before being granted a license to practice optometry.
(e) Permission to take the California Laws and Regulations Examination (CLRE) shall be granted to those applicants who have submitted a paid application.
(f) Licensure shall be contingent on the applicants passing the Clinical Skills portion of the National Board of Examiners in Optometry examination as provided in Section 1531 in this Article and passing the CLRE.
(g) Admission into the examinations shall not limit the Board's authority to seek from an applicant additional information deemed necessary to evaluate the applicant's qualifications for licensure.

§1530.1. QUALIFICATIONS OF FOREIGN GRADUATES Applicants who meet the requirements of Section 3057.5 of the Code shall be admitted to the examination upon furnishing satisfactory evidence that the course of instruction completed is reasonably equivalent, as determined by the Board, to the course of instruction given by a school accredited by the Board; provided, however, that an applicant who is unable to furnish satisfactory evidence of equivalency may take those courses or subjects, in an accredited school or in another program of instruction acceptable to the Board, which would remedy areas of deficiency.

§1567. DEFINITIONS

As used in this Article:

(a) "Infectious" means a type of lesion suspected to be caused by a pathogen.

(b) "NBEO" is the acronym for the National Board of Examiners in Optometry.

(c) "Peripheral Infectious Corneal Ulcers" means those infectious corneal ulcers limited to the area of the eye that lies outside the central 5mm diameter of the cornea.

(d) "Preceptorship service" means 65 hours of training in the diagnosis and treatment of ocular, systemic disease completed in no less than two months nor more than one year in one or more ophthalmologist's office(s) or optometric clinic(s). Preceptor's service shall be authorized by an accredited optometry school or college or recognized ophthalmological residency review committee in California. Preceptors shall be California-licensed ophthalmologists certified by the American Board of Medical Specialties and must be in good standing with the Medical Board of California.(e) "Referral" means the primary responsibility for the treatment of a patient is transferred from the TPA optometrist to a consulting ophthalmologist.

(f) "Therapeutic Pharmaceutical Agents" includes mydriatics, cycloplegics, anesthetics, agents used for the reversal of mydriasis, topical lubricants, topical antiallergy agents, topical steroidal antiallergy agents, topical nonsteroidal and steroidal antiinflammatories, topical antibiotic agents, topical hyperosmotics, topical antiglaucoma agents (use pursuant to the certification process defined in Business and Professions Code section 3041, subdivision (f)), oral antihistaminines, prescription oral nonsteroidal antiinflammatory agents, oral antibiotics limited to tetracyclines, dicloxacillin, amoxicillin, amoxicillin with clavulanate, erythromycin, clarythromycin, cephalexin, cephadroxil, cefaclor, trimethoprim with sulfamethoxazole, ciprofloxacin, and azithromycin (use limited to the eyelid infection and chlamydial disease, topical antiviral medication and oral acyclovir) use specified in Business and Professions Code section 3041, subdivision (c)(12), non-controlled substance oral analgesics, codeine with compounds and hydrocodone with compounds (use limited to three days) and topical miotics for diagnostic purposes and nonprescription medications.

(g) "TMOD" is the acronym for the "Treatment and Management of Ocular Disease" examination administered by the National Board of Examiners in Optometry. Passage of this examination is mandatory for certain TPA certification applicants.

(h) "TPA" is the acronym for Therapeutic Pharmaceutical Agents.

(i) "TPA certified optometrist" means a California licensed optometrist who has met all of the requirements for certification set forth by the State Board of Optometry to use Therapeutic Pharmaceutical Agents in his or her optometric practice.

(j) "Treat" means the use of therapeutic pharmaceutical agents, as described in Business and Professions Code section 3041, subdivision (c), and the procedures described in subdivision (e).

(k) "Approval" means to certify a TPA certified optometrist to perform lacrimal irrigation and dilation of patients over the age of 12 years pursuant to Business and Professions Code section 3041, subdivision (e)(6).

§1568. THERAPEUTIC PHARMACEUTICAL AGENTS USAGE – PURPOSE AND REQUIREMENTS

Only those optometrists meeting the requirements of this Article may apply for TPA Certification to use Therapeutic Pharmaceutical Agents. The Application for TPA Certification (Form TPA-1 Rev. 4/96), which is hereby incorporated by reference, may be obtained from the Board's Headquarters office. Requirements for TPA certification are as follows:

(a) If the applicant is licensed to practice optometry in California and graduated from an accredited school of optometry prior to January 1, 1992:

(1) Completion of an 80-hour TPA didactic course provided either by the University of California at Berkeley School of Optometry or the Southern California College of Optometry or recognized ophthalmological residency review committee or at an accredited school or college located outside of California as provided in Section 1570 in this Article.

(2) Pass the examination given at the conclusion of the TPA course.

(3) Pass the TMOD component of the NBEO administered after July 1, 1992.

(4) Complete 20 hours of self-directed study in the treatment and management of ocular, systemic disease.

(5) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(b) If the applicant is a licensed optometrist in California and graduated from an accredited school of optometry after January 1, 1992 but before January 1, 1996:

(1) Complete 20 hours of self-directed study in the treatment and management of ocular, systemic disease.

(2) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(c) If the applicant is a graduate from an accredited school of optometry after January 1, 1996:

(1) Obtain a California optometrist license.

(2) Be certified by an accredited school of optometry that the applicant is competent in the diagnosis, treatment, and management of ocular, systemic disease.

(3) Be certified by an accredited school of optometry that the applicant has completed 10 hours of experience with an ophthalmologist.

(d) If the applicant is licensed outside California and graduated from an accredited school of optometry before January 1, 1992:

(1) Obtain a California optometrist license.

(2) Completion of an 80-hour TPA didactic course provided either by University of California at Berkeley School of Optometry or Southern California College of Optometry or recognized ophthalmological residency review committee or at an out-of-state school as provided in Section 1570 in this Article.(3) Pass the examination given at the conclusion of the TPA course.

(4) Pass the TMOD component of the NBEO administered after July 1, 1992.

(5) Complete 20 hours of self-directed study in the treatment and management of ocular, systemic disease.

(6) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(e) If the applicant is licensed outside California and graduated from an accredited school of optometry after January 1, 1992 but prior to January 1, 1996:

(1) Obtain a California optometrist license.

(2) Complete 20 hours of self-directed study in the treatment and of management of ocular, systemic disease.

(3) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(f) If the applicant is licensed in a state outside of California, graduated from an accredited school of optometry prior to January 1, 1992 and has practiced in that state, or on a reservation or a facility supported and maintained by the United States government with a TPA license:

(1) Obtain a California optometrist license.

(2) Pass the TMOD component of the NBEO administered after July 1, 1992.

(3) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(g) If the applicant is licensed in a state outside of California, graduated from an accredited school of optometry after January 1, 1992 but before January 1, 1996 and has practiced in that state or on a reservation or a facility supported and maintained by the United States government with a TPA license:

(1) Complete 20 hours of self-directed study in the treatment and of management of ocular, systemic disease.

(2) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(h) All TPA certified optometrists pursuant to this Article must complete 50 hours of continuing education in order to renew licensure. Thirty-five of the required hours shall be in the diagnosis, treatment and management of ocular, and systemic disease consistent with Business and Professions Code section 3059, subdivision (f).

(i) If the applicant is licensed in a state outside of California and requests that the 65-hour preceptorship service requirement contained in subdivisions (e), (f) and (g) be waived based on their optometric practice experience using TPA in another state, the Board, as authorized under Business and Professions Code Section 3041.3(d)(1), shall deem the experience as equivalent to the 65-hour preceptorship service required in California provided the following conditions are met:

1. Applicant is licensed in good standing in their state of licensure.
2. Applicant has graduated from an accredited school of optometry before January 1, 1996.
3. Applicant has met the requirements to treat with therapeutic pharmaceutical agents in their state of licensure.
4. Applicant has been practicing optometry in their state of licensure using therapeutic pharmaceutical agents for 5 continuous years immediately preceding the submission of their application.

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To: Board Members **Date:** April 11, 2014

From: Mona Maggio, Executive Officer **Telephone:** (916) 575-7170

Subject: **Agenda Item 15 – Update Regulations Affecting the Board of Optometry**

A. Update on rulemaking package pertaining to CCR Section 1524. Retired License Status Fees

At its December 14, 2012 meeting, the Board voted to initiate rulemaking to establish the retired license status fees. The rulemaking action was printed in the California Regulatory Notice Register on March 1, 2013; the 45-day comment period for the public started on March 1, 2013 and ended on April 15, 2013. The hearing was on April 15, 2013. No comments were received from the public. On May 10, 2013, the Board voted to continue with the rulemaking package.

The package has been approved by the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency and the Department of Finance. It was submitted to the Office of Administrative Law on November 22, 2013 and approved on January 7, 2014. The regulation becomes effective on April 1, 2014. Board staff is working to implement these regulations. Information about the process and the applications will be posted on the Board's website once the vacant policy analyst position is filled.

Staff is meeting with the Breeze Change Control Board on April 21, 2014 to request the Board be allowed to process retired license applications through the legacy system until such time that the Board transitions to Breeze. There may be a possible charge to configure the legacy systems to allow the processing of applications and issuance of licensure. Otherwise, implementation of issuing the retired licenses would be delayed until the implementation of Breeze.

B. Update on rulemaking package pertaining to CCR Section 1516. Applicant Medical Evaluations and 1582. Unprofessional Conduct Defined

No new information to report on this regulation.

At its August 16, 2013 meeting, the Board voted to initiate a rulemaking to give the Board authority to compel an applicant to submit to a psychological or physical examination, and further define unprofessional conduct. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013, and the 45-day comment period for the public started on October 18, 2013 and will end on December 2, 2013. The Board has until October 18, 2014 to complete this rulemaking package.

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To: Board Members **Date:** April 11, 2014

From: Mona Maggio, Executive Officer **Telephone:** (916) 575-7170

Subject: **Agenda Item 16 – Discussion and Possible Action on Legislation Affecting the Board of Optometry**

Action Requested

Board Member Dr. Glenn Kawaguchi, OD requested the Board review Senate Bill 1172 (See "F" below) and consider writing a letter of support as written or with amendments. All others listed below are being watched by Board staff.

A. Assembly Bill 186 (Maienschein) Professions & vocations: military spouses: temporary licenses

Location: Senate Business, Professions and Economic Committee

This bill would, in addition to the expedited licensure provisions described above, establish a temporary licensure process for an applicant who holds a current license in another jurisdiction, as specified, and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders. The bill would require the temporary license to expire 12 months after issuance, upon issuance of the expedited license, or upon denial of the application for expedited licensure by the board, whichever occurs first.

B. Assembly Bill 213 (Logue) Healing arts: licensure/certification requirement: military experience

Location: This bill is dead.

This bill proposed to require the State Department of Public Health, upon the presentation of evidence by an applicant for licensure or certification, to accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate for specified professions and vocations if that education, training, or experience is equivalent to the standards of the department. If a board within the Department of Consumer Affairs or the State Department of Public Health accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than January 1, 2015, require those schools seeking accreditation or approval to have procedures in place to evaluate an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification, as specified.

C. Assembly Bill 2165 (Patterson) Department of Consumer Affairs, Licensing

Location: Assembly Business, Professions and Consumer Protection

This bill would require each board to complete within 45 days the application review process with respect to each person who has filed with the board an application for issuance of a license, and to

issue, within those 45 days, a license to an applicant who successfully satisfied all licensure requirements. The bill also requires each board to offer each examination the board provides for the applicant's passage of which is required for licensure, a minimum of 6 times per year.

D. Assembly Bill 2598 (Hagman) Department of Consumer Affairs, Pro-Rata
Location: Assembly Business, Professions and Consumer Protection
This bill would require the department to make a claim to the Controller each month against any of the funds of a board for that board's pro rata share of the department's estimated monthly administrative expenses, and would further require the department to base the claim on the amount of filled positions working for a board. This bill would prohibit the Controller from paying the department for a board's pro rata share of total administrative expenses for any fiscal year in an aggregate amount over 20% of a board's budget for any fiscal year.

E. Senate Bill 492 (Hernandez) Optometrist: practice: licensure
This bill proposes to:
Expand the scope of practice of optometrists (Refer to Agenda Item 8).

F. Senate Bill 1172 (Steinberg) – Pupil Health: Vision Examinations
Location: Senate Rules Committee
This bill would revise the vision appraisal procedures for elementary school (through 8th grade) students in California school districts (Attachment 1).

Legislation Specifically Related to Optometry
The following legislation is specifically related to the optometric profession and is being watched by Board staff. No discussion or action can be taken at this time.

AB 1877 (Cooley) – California Vision Care Access Council
Location: Assembly Health Committee (hearing scheduled for 4/8)
This bill proposes to create an insurance exchange, similar to Covered California, for vision coverage plans.

2014 Legislation Potentially Impacting All Healing Arts Programs
The following legislation is specifically related to healing arts programs and will be watched by Board staff. No discussion or action can be taken at this time.

AB 809 (Logue) Telehealth Patient Consent
Location: Senate Health Committee
This legislation would require a health care provider who uses telehealth for the delivery of health care services to obtain verbal or written consent from the patient, and to document the patient's consent.

AB 2102 (Ting) Licensees: Demographic Data Collection
Location: Assembly Business, Professions & Consumer Protection Committee
This legislation would require the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board, and the Board of Vocational Nursing and Psychiatric Technicians to annually collect and report licensee demographic data to the Office of Statewide Health Planning and Development.

AB 2484 (Gordon) Healing Arts: Telehealth
Location: Assembly Business, Professions & Consumer Protection Committee
This legislation would allow a health care provider to obtain written consent, in lieu of verbal consent, to use telehealth to provide patient services.

SB 1215 (Hernandez) Healing Arts Licensees: Referrals.
Location: Senate Rules Committee

Current law makes it a crime for licensed healing arts professionals to receive money or other consideration for, or to engage in various related activities with respect to, the referral of patients, clients, or customers to any person, with specified exceptions. This legislation would provide that this exception does not apply to advanced imaging, anatomic pathology, radiation therapy, or physical therapy for a specific patient that is performed within a licensee's office or the office of a group practice.

SB 1258 (DeSaulnier) Controlled Substances: Prescriptions: Reporting
Location: Senate Rules Committee
This legislation would require the prescribing and dispensing of Schedule V controlled substances to be monitored in CURES and would require specified information regarding prescriptions for Schedule V controlled substances to be reported to the Department of Justice. This legislation would also allow a program within the Department to access CURES for the purpose of investigating an applicant or licensee regarding alleged substance abuse by the applicant or licensee.

SB 1445 (Evans) Use of Telehealth at Regional Centers
Location: Senate Rules Committee
This legislation would include telehealth services and supports among the services and supports authorized to be included as part of an individual program plan provided to a regional center.

SB 1466 (B,P&ED Committee) Modifies Current Law on Patient Death Reporting
Location: Senate Rules Committee
This legislation would expand the scope of current law, which requires a physician or surgeon to report any patient death to the Board within 15 days, to include reporting deaths for patients regardless of whether or not their procedure was scheduled.

2014 Legislation Potentially Impacting All Department of Consumer Affairs Licensing Programs
The following legislation is specifically related to DCA licensing programs and will be watched by Board staff. No discussion or action can be taken at this time.

AB 1600 (Gomez) Changes to Personal Service Contracts
Location: Assembly Accountability and Administrative Review Committee
This legislation would require state agencies to allow state employees to participate in the competitive bidding process for personal services contracts.

AB 1702 (Patterson) Delay or Denial of Licensure Due to Incarceration
Location: Assembly Business, Professions and Consumer Protection Committee
This legislation would provide that an applicant shall not be subject to a delay in processing his or her application or a denial of the license solely based on a prior incarceration, except as provided in Business & Professions Code Section 480, if that individual has satisfied any of the requirements needed to obtain a license while incarcerated.

AB 1711 (Cooley) Economic Impact Assessment
Location: Assembly Appropriations Committee
This legislation would require the inclusion of an economic impact assessment in a rulemaking's initial statement of reasons and would direct the Department of Finance to prepare instructions for agencies to use in preparing the assessment.

AB 1734 (Jones-Sawyer) Small Business Participation in Public Contracts
Location: Assembly Jobs, Economic Development & the Economy Committee
This legislation would require all state bodies to have 25 percent of procurements and contracts come from small business participation, and to report this data to the Department of General Services.

AB 1758 (Patterson) Healing Arts: License Renewal Fees
Location: Assembly Business, Professions and Consumer Protection Committee
This legislation requires prorating of a licensee's first renewal fee for those programs that have a birth month renewal program.

AB 1903 (Donnelly) Department of Consumer Affairs Meetings
Location: Assembly Rules Committee
This is a spot bill regarding meeting locations for boards within the Department of Consumer Affairs.

AB 1921 (Holden) Access to Records for State Contracts
Location: Assembly Accountability and Administrative Review Committee
This legislation would require companies providing state contract services to allow state access to their company records, and additionally would require the contractor to keep and maintain records as provided in the California Public Records Act.

AB 2058 (Wilk) Open Meetings
Location: Assembly Governmental Organization Committee
This legislation would modify the definition of "state body" within the Bagley-Keene Open Meeting Act, to exclude advisory bodies with less than three individuals, except for certain standing committees.

AB 2147 (Melendez) Agency Disclosure of Personal Information
Location: Assembly Judiciary Committee
This legislation would prohibit state agencies from sharing individuals' personal information with third-party contracting agents without prior consent from the subject individuals.

AB 2165 (Patterson) Decrease License Processing to 45 Days
Location: Assembly Business, Professions & Consumer Protection Committee
This legislation would require license applications to be reviewed, processed, and issued to applicants who have completed the necessary requirements within 45 days of the application filing date and also requires that each exam is offered a minimum of six times per year.

AB 2396 (Bonta) Denial of Licensure for Felony Convictions
Location: Assembly Business, Professions & Consumer Protection Committee
This legislation would provide that a person may not be denied licensure solely based upon a conviction that has been dismissed following rehabilitation.

AB 2507 (Bocanegra) Exempts Pending Litigation from Public Records Act
Location: Assembly Judiciary Committee
This legislation would include state agencies' attorney billing documents in the pending litigation records category of exemption from disclosure under the California Public Records Act.

AB 2598 (Hagman) Changes to Pro-Rata Calculations
Location: Assembly Business, Professions & Consumer Protection Committee
This legislation would require the Department to base a program's pro-rata share of the Department's costs on filled positions rather than annual authorized positions. The pro-rata share would also be required to be revised on a monthly basis.

AB 2638 (Chau) The Department of Consumer Affairs
Location: Assembly Rules Committee
This is a spot bill regarding the Department of Consumer Affairs and commissioners on examinations.

AB 2720 (Ting) Requires State Agencies to Record Votes in Meeting Minutes

Location: Assembly Governmental Organization Committee
This legislation would require any recorded vote made by a state body be counted and identified in the minutes of the state body.

SB 981 (Huff) Regulations: Review Process
Location: Senate Governmental Organization Committee
This legislation would require all state agencies to review every regulation adopted before January 1, 2014 and submit a report to the Legislature with specified information on each regulation. It would also require similar review and reporting every five years.

SB 1091 (Galgiani) Administrative Procedures: California Regulatory Notice Register: Proposed Rulemaking Activities
Location: Senate Governmental Organization Committee
This legislation would require state agencies to publish notice of "proposed rulemaking activities" in the California Regulatory Notice Register at least 15 days prior to undertaking the activity. Included activities are informational hearings, workshops, scoping hearings, preliminary meetings, and public and stakeholder outreach meetings.

SB 1159 (Lara) DCA License Suspensions
Location: Senate Rules Committee
This is a spot bill regarding license restrictions and suspensions for the Department of Consumer Affairs.

SB 1240 (Anderson) Changes to State Employment Applications
Location: Senate Committee on Public Employment & Retirement
This legislation would require state employment forms to ask applicants to disclose any previous employment with the state, and whether that person has been prohibited from seeking or accepting any future employment with the state.

Attachments
1. Senate Bill 1172 (Steinberg) – Pupil Health: Vision Examinations

AMENDED IN SENATE MARCH 27, 2014

SENATE BILL No. 1172

Introduced by Senator Steinberg
(Principal coauthor: Assembly Member Gonzalez)
(Coauthor: Assembly Member Buchanan)

February 20, 2014

An act *to amend Section 49455 of the Education Code,* relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1172, as amended, Steinberg. Pupil health: vision ~~examinations.~~ *appraisals.*

Existing law requires, upon first enrollment in a California school district of a child at ~~a California~~ *an* elementary school, and at least every 3rd year thereafter until the child has completed the 8th grade, the child's vision to be appraised by the school nurse or other authorized person, as specified. Existing law requires this appraisal to include tests for visual acuity and color vision. *Existing law requires gross external observation of the child's eyes, visual performance, and perception to be done by the school nurse and the classroom teacher.*

This bill would ~~express the Legislature's intent to enact legislation that would revise the vision examination requirements for pupils in public elementary schools.~~ *instead require a pupil's vision to be appraised by the school nurse or other authorized person during kindergarten, first grade, or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8. The bill would revise the functions to be performed by the school nurse and the classroom teacher in observing a pupil's eyes, appearance, and other factors that may indicate vision difficulties.*

The bill would require the State Department of Education to adopt guidelines to implement those provisions, including training requirements and a method of testing for near vision. Because the bill would impose additional duties on public schools, the bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: ~~no~~ *yes*.

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

SECTION 1. Section 49455 of the Education Code is amended to read:

49455. ~~Upon~~ *(a) During the kindergarten year, first grade, or upon* first enrollment *or entry* in a California school district of a ~~child~~ *pupil* at ~~a California~~ *an* elementary school, and ~~at least every third year thereafter until the child has completed the eighth grade,~~ *in grades 2, 5, and 8,* the ~~child's~~ *pupil's* vision shall be appraised by the school nurse or other authorized person under Section 49452. This ~~evaluation~~ *appraisal* shall include tests for visual acuity, *including near vision,* and color vision; however, color vision shall be appraised once and only on male ~~children,~~ *pupils,* and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade. ~~Gross external observation of the child's eyes, visual performance, and perception shall be done by the school nurse and the classroom teacher.~~ The ~~evaluation~~ *appraisal* may be waived, if the ~~child's~~ *pupil's* parents so desire, by their presenting of a certificate from a physician and surgeon, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or an optometrist setting out the results of

a determination of the ~~child's~~ *pupil's* vision, including visual acuity and color vision.

(b) Continual and regular observation of the pupil's eyes, appearance, behavior, visual performance, and perception that may indicate vision difficulties shall be done by the school nurse and the classroom teacher.

~~The provisions of this~~

(c) This section shall not apply to ~~any child~~ *a pupil* whose parents or guardian file with the principal of the school in which the ~~child~~ *pupil* is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

(d) The department shall adopt guidelines to implement this section, including training requirements and a method of testing for near vision.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. It is the intent of the Legislature to enact legislation that would revise the vision examination requirements for pupils in public elementary schools.~~

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CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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

To: Board Members **Date:** April 11, 2014

From: Alejandro Arredondo O.D.
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 17 – Suggestions for Future Agenda Items**

Members of the Board and the public may suggest items for staff research and discussion at future meetings.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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

To: Board Members **Date:** April 11, 2014

From: Board Staff **Telephone:** (916) 575-7170

Subject: **Agenda Item 18 – Full Board Closed Session**

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

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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To: Board Members **Date:** April 11, 2014

From: Alejandro Arredondo O.D.
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 19 – Adjournment**