



CALIFORNIA STATE BOARD OF
OPTOMETRY

Board Meeting

Tuesday, February 24, 2015

Teleconference



MEMBERS OF THE BOARD

Alejandro Arredondo, OD, President
Madhu Chawla, OD, Vice President
Donna Burke, Secretary
Cyd Brandvein
Frank Giardina, OD
Glenn Kawaguchi, OD
Alexander Kim, MBA
William H. Kysella, Jr.
Kenneth Lawenda, OD
Rachel Michelin
David Turetsky, OD



CALIFORNIA STATE BOARD OF
OPTOMETRY



BOARD MEETING TELECONFERENCE

Tuesday, February 24, 2015

9:00 a.m. – 5:00 p.m.

(or until conclusion of business)

Western University of Health Sciences
College of Optometry
Vision Science Lab 2205
Health Education Center
701 E. Second Street
Pomona, CA 91766

Starbucks
14 Villiers Street
London, UK

Department of Consumer Affairs
First Floor Hearing Room
1747 North Market Boulevard
Sacramento, CA 95834

140 C Tower Street
Beaconsfield, Quebec. H9W 6B2

1004 White Rock Rd, Ste. 100
El Dorado Hills CA 95762

ORDER OF ITEMS SUBJECT TO CHANGE

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations of resources.

FULL BOARD OPEN SESSION

1. Call to Order/Roll Call and Establishment of a Quorum
2. Public Comment for Items Not on the Agenda
Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]
3. Process for Selection of a New Executive Officer
4. Discussion and Possible Action Regarding Legislation Sponsored by the Board
 - a. Discussion and Possible Action to Amend Business and Professions Code §3041.3, Certificate Requirements
 - b. Discussion and Possible Action to Amend Business and Professions Code §3151.1 Issuance of License with Retired Volunteer Service Designation Requirements; Duties of Applicant; Holder of Retired License
 - c. Discussion and Possible Action to Add Business and Professions Code §3070.2, Requirements to Practice in a Mobile Optometric Facility or Portable Optometric Facility
 - d. Discussion and Possible Action to Amend §49455 of the Education Code to Change the Requirement from "Vision Appraisal" to "Comprehensive Eye Exam"
 - e. Discussion and Possible Action to Amend Business and Professions Code §3152, Fee Schedule

5. Discussion and Possible Action Regarding Business and Professions Code §655, Prohibition of Business Arrangements Between Optometrists and Opticians or Persons in Optical Product Business
 - a. Update Regarding Meeting with Assembly Member Bonilla
 - b. Possible Legislative Changes Impacting Section 655
6. Adjournment

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

Meetings of the California State Board of Optometry are open to the public except when specifically noticed otherwise in accordance with the open meeting act. Public comments will be taken on agenda items at the time the specific item is raised. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

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

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

To: Board Members

Date: February 24, 2015

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 1 – Call to Order/Roll Call and Establishment of a 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

Madhu Chawla, O.D., Vice President, Professional Member

Donna Burke, Board Secretary, Public Member

Cyd Brandvein, Public Member

Frank Giardina, O.D., Professional Member

Glenn Kawaguchi, O.D., Professional Member

Alexander Kim, MBA, Public Member

William H. Kysella, Jr., Public Member

Kenneth Lawenda, O.D., Professional Member

Rachel Michelin, Public Member

David Turetsky, O.D., Professional Member

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www.optometry.ca.gov

To: Board Members

Date: February 24, 2015

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 2 – 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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To: Board Members

Date: February 24, 2015

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7170

Subject: **Agenda Item 3 – Process for Selection of a New Executive Officer**

Olivia Trejo, Classification and Pay Manager with the Department of Consumer Affairs, Office of Human Resources will provide information on the process for selection of a new executive officer. Ms. Maggio has notified the Department that her retirement date is June 30, 2015.

Attachment

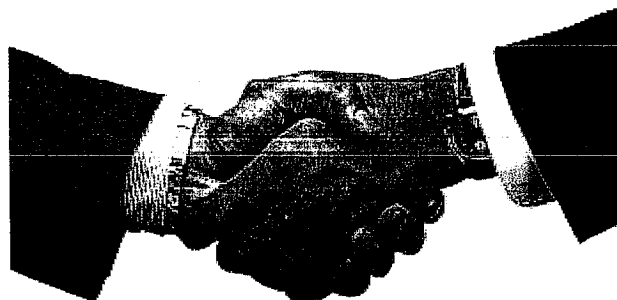
1. Executive Officer Recruitment Outline

STATE OF CALIFORNIA

dca

DEPARTMENT OF CONSUMER AFFAIRS

**EXECUTIVE OFFICER
RECRUITMENT
OUTLINE**





Prepared by
Department of Consumer Affairs
Office of Human Resources
1625 N. Market Blvd. Suite N-321
Sacramento, CA 95834

Revised January 2015

FOREWORD

The purpose of this outline is to provide a practical guide for Board Members in the recruitment of qualified Executive Officers (EO). This manual is intended as a useful reference and common terminology is used insofar as possible. It should be considered a supplement to working with the Deputy Director for Board and Bureau Relations and/or the Department of Consumer Affairs (DCA) Office of Human Resources (OHR) Personnel Officer (PO) or assigned Classification and Pay Analyst (C&P) in the selection of an EO.

A sample listing of activities and a timeline for EO recruitment is included as **Attachment A**.

Any inquiries or comments relating to this manual should be directed to the DCA OHR.

**BOARD ACTION:
REVIEW DUTY STATEMENT**

An updated and current EO duty statement that clearly and accurately describes the functions and responsibilities of the position, as determined by the Board is required. The duty statement provides the foundation upon which recruitment is based. See **Attachment B** for a sample EO duty statement.

The duty statement will be used to develop recruitment flyers (**Attachment C**) or advertisements for the position. In addition, it will be used to define the criteria for the screening of applications and the development of interview questions.

If a current duty statement is not available, the OHR C&P Analyst assigned to the Board will obtain a duty statement from another Board of similar size and activities and can assist the Board in developing an appropriate duty statement.

Any changes to the duty statement require Board review and approval at a publicly announced Board Meeting.

RECRUITMENT OF QUALIFIED CANDIDATES

Recruitment and appointments of EOs shall be made in accordance with the provisions of civil service laws to ensure consistency and transparency throughout the department.

Unless licensure is required, there are no specific qualifications established for EO positions. Board Members must determine the qualifications that will produce the best EO for that Board. Therefore, it is necessary for the Board (or the Selection Committee) to develop a set of qualifications to be used in the recruitment of EOs.

The following criteria are general in nature; however, they may be used for many of the EO positions:

✓	Demonstrated supervisory and management skills.
✓	Administrative experience including fiscal responsibility, budget preparation, development of regulations, policy development and implementation.
✓	Legislative or lobbying experience and a working knowledge of the State and federal statutes and rules pertaining to the particular Board.
✓	Regulatory and/or enforcement experience such as processing complaints, monitoring investigations or hearings on disciplinary matters.
✓	Ability to communicate effectively both orally and in writing and deal effectively with a broad spectrum of people interacting with the board.
✓	Prior experience working with Boards.
✓	Experience with licensure including, but not limited to, professional examination or testing procedures and techniques.
✓	Knowledge of current consumer issues in the licensed profession.

Initial recruitment will include advertising on the California Department of Human Resources' website (www.calhr.ca.gov). Other recruitment activities can include advertising the position in regional newspapers, minority publications and professional publications, depending on the

available budget and the needs of the Board. Reaching a group of candidates whom the Board considers to be the most likely to be excellent candidates will dictate the focus and direction of the advertising.

PUBLIC MEETING REQUIREMENTS

Your Board Attorney from the DCA Legal Affairs Office should address issues regarding public meeting requirements. When a committee of the Board, consists of more than two members, it is considered a public meeting and must be noticed, as required by law. Therefore, a Selection Committee, established by the Board to assist in the recruitment effort, should be limited to no more than two Members.

BOARD ACTION:
ESTABLISH SELECTION COMMITTEE

The Board should identify two members who will have sufficient time and interest to commit to actively participating in the selection process. Certain Boards require the EO selection to be approved by the DCA Director, as noted on page seven herein. In those instances, the Board should consider whether or not a designee of the Director should be part of the Selection Committee.

COMMITTEE ACTION:
SCREENING APPLICATIONS

The Selection Committee will work with the OHR PO or assigned C&P Analyst, and the DCA Deputy Director for Board and Bureau Relations to advertise, develop screening criteria, review applications, conduct initial interviews and obtain a manageable number of candidates to be interviewed by the full Board at a publicly noticed meeting.

Initial (pre-) screening of qualified applicants can be performed by the C&P Analyst or by the Selection Committee, in accordance with the qualifications established by the Board or the Selection Committee. The screening criteria can be very general in nature, and is intended to eliminate those candidates who clearly do not meet the criteria established by the Board or Selection Committee.

A final screening by the Selection Committee will identify a target number of candidates for an initial interview. Typically, a candidate pool of at least five to six applicants is recommended.

Applicants who were screened out during the initial screening process should be notified by mail of the results. These notifications can be done by Board staff or the C&P Analyst. Per Government Code Section 12946, OHR will retain the applications a minimum of two years following the completion of the selection process.

SELECTION COMMITTEE ACTION:
INITIAL INTERVIEWS

If initial interviews are held to narrow the field of candidates, the Selection Committee is responsible for conducting the interviews. Board staff or the C&P Analyst may assist in scheduling the interviews, on the date(s) and at the location(s) selected by the Selection Committee. If interviews

EXECUTIVE OFFICER RECRUITMENT OUTLINE

are scheduled for more than one day, the interviews may be scheduled in different locations depending upon Board interest, candidate locations and budget considerations.

In scheduling interviews, the notifications should provide at least a one-week advance notice for the candidates. In determining the location of the interviews, consideration should be given to where the majority of candidates reside, as candidates must endure any costs associated with appearing for an interview.

If references were not requested in the recruitment advertisement, candidates should be advised to bring a list of at least three professional references to the first interview.

Forty-five to fifty minutes should be allowed for each candidate's interview. Prior to the interview, the duty statement should be provided. [Note: For confidentiality purposes, examples of effective interview questions will only be provided to the Selection Committee.]

In the initial interview, the following topics should be thoroughly covered:

✓	The exact duties of the position.
✓	The supervision given and/or received.
✓	The frequency and level of public contact.
✓	The value of independent decision-making.
✓	The responsibility of training staff, if applicable.
✓	The EO's relationship with the Board.
✓	The education desired/required.
✓	The qualifications of the position.

In closing the interview, advise the applicants when a decision is expected to be made and that all candidates will be notified in writing if they will proceed to the next step, a final interview before the full Board.

CHECKING REFERENCES

The references of the final candidates may be obtained and contacted prior to any final interviews. This can be done by the Board members or by the C&P Analyst assigned to the Board. This provides the Board with all necessary information to make a decision on the day of the interviews and eliminates the need for another public meeting on the same issue. See **Attachment D** for a sample of appropriate reference check questions.

BOARD ACTION:
CONDUCTING TOP CANDIDATE INTERVIEWS

Final interviews of the top two to three candidates are conducted by a quorum of the full Board in closed session. This meeting must conform to the notice requirements of the Bagley-Keene Act for all Board meetings. This interview gives all Board Members an opportunity to meet the candidates and assess their qualifications and to determine how well s/he will perform the duties of the position, in addition to how well s/he will work, on a personal level, with the Board.

A different set of interview questions should be developed for the final interviews and the questions should cover a range of topics that will give the Board a strong sense of the applicant's understanding of, and readiness for the position. The following four areas are typically covered:

1. Ability to communicate effectively, both orally and in writing.
2. Experience working with Boards.
3. Experience with licensure, enforcement, professional examinations/testing.
4. Knowledge of current consumer issues in the licensed profession(s).

In closing the interview, advise each applicant when a decision is expected to be made and that all candidates will be notified of the final outcome in writing.

**BOARD ACTION:
SELECTION OF FINALIST**

After all of the candidates are interviewed in closed session, the Board must vote to select the final candidate for the EO position. This vote is also held in closed session.

Setting the Salary

When the final selection has been voted on by the Board, the Board must also determine the appropriate salary in closed session. All appointments shall be within the salary range for the established Exempt level approved by the CalHR. Upon the initial appointment, the Exempt shall be entitled to the rate within the salary range five percent above the rate last received or the minimum within the salary range, whichever is higher.

All exceptions to the appointment salary must be submitted to the DCA Executive Office, the Business, Consumer Services and Housing Agency Secretary, the Governor's Office Appointments Secretary, and CalHR for approval.

After the Board has made its final selection and determined the salary to be offered in closed session, the Board President/Chairperson shall return to open session to generally announce that the Board has made a selection. The announcement of the selected successful candidate should wait until the candidate notification and acceptance process outlined below has been completed and the unsuccessful candidates have been notified (at least verbally).

Note: Some Boards¹ have statutes requiring that the DCA Director approve the Board's selection for EO and the proposed salary. In such case, the Board President/Chairperson should send a written notice to the Director of the DCA, via the Deputy Director for Board and Bureau Relations,

1

- Board of Barbering and Cosmetology – BP7303(c). The appointment of the executive officer is subject to the approval of the director.
- Contractor's State License Board - BP7011. The board by and with the approval of the director shall appoint a registrar of contractors and fix his or her compensation.
- Dental Board – BP1616.5. The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer..."
- Structural Pest Control Board - BP8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties. The registrar is the executive officer and secretary of the board.

indicating that the Board had selected its Executive Officer and the proposed salary and is requesting the Director's approval. See **Attachment E** for a sample Director's Office Approval letter.

Candidate Notification

After the Board has determined the candidate and salary, and if applicable, secured the approval of the Department's Director, the Board President/Chairperson will contact the selected candidate and offer the position. Once the candidate accepts, the effective date the candidate will begin the duties of EO must also be determined. After the discussion, the Board President/Chairperson will provide the candidate with a confirmation letter (**Attachment F**) drafted by the C&P Analyst, which outlines the facts of the appointment. The Board President/Chairperson will forward a copy of the confirmation letter to the C&P Analyst and the Deputy Director for Board and Bureau Relations, at DCA headquarters. The DCA OHR will provide an attachment for the confirmation letter outlining the State's benefits package.

CRIMINAL OFFENDER RECORD INFORMATION (CORI) CLEARANCE REQUIREMENT

DCA is authorized to receive CORI from the Department of Justice. DCA is required to obtain fingerprints and conduct a criminal conviction record review for all individuals who have access to CORI. DCA Policy *Non-Sworn Employee Fingerprints Access to CORI* outlines the process for obtaining and reviewing the CORI of affected personnel.

All EOs will require CORI clearance before their start date and preferably before the selection is publically announced. The Board's CORI Coordinator or OHR can assist with the facilitation of the CORI clearance.

OATH OF OFFICE

Executive Officer Appointment

The Oath of Office (Std. 688) (**Attachment G**) must be administered on or prior to the effective date of the EO's appointment. The Oath of Office may be administered by any Board Member or by the DCA Director, Chief Deputy Director or their designee. The Deputy Director for Board and Bureau Relations can assist with arrangements for the Director or Chief Deputy to administer the Oath of Office.

Letters should be sent to all candidates notifying them of the hiring decision. Notifications can be performed by Board staff or DCA OHR staff.

Prior to a Board selecting a permanent EO, it may be necessary for the Board to select or designate an individual to a temporary appointment to the position in order to continue Board business without interruption. Two such temporary appointments are the Acting Assignment and the Interim Assignment.

Acting Assignment

In the absence of an EO, the Board President/Chairperson can designate a Board staff person to act as the EO, either until a Board meeting can be convened to appoint an *Interim* EO (who may be the same person as the *Acting*) or until a permanent EO takes office. An *Acting* assignment requires the administration of an Oath of Office and confirmation of the position's authority by a letter from the Board President/Chairperson. See **Attachment H** for a sample Acting Assignment

Confirmation Notice. An *Acting* assignment does not confer any status upon the individual and there is no additional monetary compensation, so these appointments should only be used for short-term needs.

Interim Assignment

Appointment of an *Interim* EO requires a vote by a quorum of Board Members at a publicly noticed meeting and administration of the Oath of Office. Typically, an *Interim* appointment is used to maintain the Board's daily activities during the recruitment process and to compensate an individual (usually a Board staff person) for taking on the additional responsibilities. See **Attachment I** for a sample Interim Assignment Confirmation Notice.

POST SELECTION

BOARD ACTION:
**EXECUTIVE OFFICER PERFORMANCE EVALUATION
AND SALARY INCREASES**

Annually, each Board is expected to provide the EO with a written evaluation of his or her performance. The Board President/Chairperson should contact the DCA OHR PO to obtain a copy of the EO Performance Evaluation Form.

The Board President/Chairperson may request Board staff or OHR send out the Executive Officer Performance Evaluation Form to each Board Member to obtain an evaluation of the EO's performance.

Board Members should complete the Executive Officer Performance Evaluation Form, rating and commenting on the EO's performance in each category the Board Member can evaluate.

The Board President/Chairperson can collate all Board Member ratings and comments for discussion. In order to abide with the Bagley-Keene Act, the Board must discuss the EO ratings and the evaluation only during a properly noticed Board meeting.

Evaluations are usually discussed in a closed session under Government Code Section 11126(a). Your assigned Attorney may assist you during this process, if desired.

After the Board determines the contents of the final Executive Officer Performance Evaluation Form and any outcome, it should determine who will meet with the EO to discuss his/her performance, which must also be in compliance with the Bagley-Keene Act. When the EO's performance meets or exceeds the expectations of the Board, the Board may request a salary increase for the exempt level assigned to the EO for that Board. OHR will advise the Board of the current salary standards. Any request for a salary increase must be reported on the Executive Officer Performance Evaluation Form.

The original Executive Officer Performance Evaluation Form, signed by both the Board President/Chairperson and the EO, is forwarded to the DCA OHR PO to be filed in the EO's Official Personnel File. The EO must also receive a final signed copy of the evaluation.

EXECUTIVE OFFICER RECRUITMENT OUTLINE

The Bagley-Keene Act requires that after a closed session where there was an action taken to appoint, employ or dismiss a public employee, the Board must, during open session at a subsequent public meeting, report that action and the roll call vote, if any was taken.

CONTACT INFORMATION

DCA aims to make the EO recruitment process as seamless as possible. To ensure this, DCA has resources to assist the Board throughout the process. Please feel free to contact the following resources if you have any questions regarding the process:

Deputy Director for Board and Bureau Relations
(916) 574-8200

DCA Legal Affairs Office
(916) 574-8220

Office of Human Resources
Personnel Officer
(916) 574-8301

Attachment A

Department of Consumer Affairs Executive Officer Recruitment

Tasks/Events	Responsible Party	Tentative Target Completion Date
At (or prior to) scheduled/noticed Board Meeting:		
<ul style="list-style-type: none"> • Provide Duty Statement to Board for consideration (If there are changes, the Board will need approve the changes at a publicly announced Board meeting) 	DCA OHR	
At scheduled/noticed Board Meeting:		
<ul style="list-style-type: none"> • Meet with Board to discuss recruitment options, recruitment timeline, etc. • Board discusses having Assistant EO (or other staff if no AEO) serve as <i>Interim</i> or <i>Acting</i> EO during recruitment period¹ • Board makes motion/votes to appoint Interim or Acting EO, if applicable • Board determines 2-member SCOM conduct preliminary recruitment activities 	DCA OHR	
Subsequent to Board Meeting - Advise SCOM throughout recruitment period		
<ul style="list-style-type: none"> • Provide sample recruitment bulletin, timeline of events • Develop final recruitment bulletin; obtain SCOM and the Deputy Director for Board and Bureau Relations' approval • Advertise on State (CalHR) website and Board/DCA website (minimum 10 days; normally 3-4 weeks) 	DCA OHR	
Advertise externally (optional)	Board Staff	
Copy external advertisement(s) for recruitments file	DCA OHR	
During Recruitment Period		
<ul style="list-style-type: none"> • Meet/work with SCOM and the Deputy Director for Board and Bureau Relations to determine application screening criteria • Meet/work with SCOM to determine interview questions • Work with SCOM to determine interview dates • Receive applications; copy applications and provide to SCOM 	DCA OHR	
Review applications using screening criteria; determine candidates for initial (optional) or final interview	SCOM	
Schedule initial Interviews, if applicable (optional step)	Board Staff or DCA OHR	

¹An Interim appointment is placed into the position and receives the pay of the position; Acting appointments are typically of very short duration and do not receive the exempt pay. Both require the administration of the Oath of Office.

Department of Consumer Affairs Executive Officer Recruitment

Continued.....

Tasks/Events	Responsible Party	Tentative Target Completion Date
Conduct initial interviews, if applicable	SCOM	
Recommend top candidates for final interview with full Board at next noticed meeting		
Conduct reference checks	SCOM or DCA OHR	
Schedule 2 nd /final Interviews w/Full Board (quorum)	DCA OHR	
At scheduled/noticed Board meeting (in closed session)	Full Board (quorum)	
<ul style="list-style-type: none"> • Conduct interviews with top candidates • Determine finalist(s) • Select Finalist² • Determine appointment date • Determine salary³ 		
Post Selection Activities	DCA HR	
<ul style="list-style-type: none"> • Notify all candidates in writing • Candidate submits fingerprints for LiveScan (CORI clearance)⁴ 		
Formal announcement of Executive Officer	Board / DCA Board and Bureau Relations / DCA Public Affairs	
On day of appointment	Board Chair or DCA Director (or designee)	
<ul style="list-style-type: none"> • Administer <i>Oath of Office</i> 		

² By statute, some EO appointments require the approval of the Director, DCA.

³ Exempt salary for appointees is restricted.

⁴ EOs typically have access to criminal record information in the course of reviewing accusations and, therefore, are required to receive clearance from the Department of Justice to review Criminal Offender Record Information (CORI). Refer to DCA Policy DOI 03-01: Non-Sworn Employee Fingerprints - Access to CORI.

Attachment B

Exempt Employee's Name	
Classification Title Executive Officer	Board / Bureau / Commission / Committee
Exempt Level / Salary Range	Geographic Location Sacramento
Position Number	Effective Date of Appointment

General Statement: Under the general direction and leadership of the X-member Board and its Administrative Committee, the Executive Officer of the Board functions as operations officer for management of the Board's resources and staff. The Executive Officer is further responsible for interpreting and executing the intent of all Board policies to the public and to other governmental agencies. This position is an at-will position and the incumbent serves at the pleasure of the Board. These duties include, but are not limited to, the following:

A. Specific Assignments [Essential (E) / Marginal (M) Functions]:

- 40%** (E) Acts as principal operations officer for the Board; manages all Board offices; manages all personnel including recruitment, orientation, professional staff development and evaluation of senior level staff; oversees the procurement and management of space, equipment, and supplies; identifies need for augmentation of operating budget and ensures that all budget change proposals, finance letters, and other fiscal documents are accurate and that they support the Board's goals and mission.
- 30%** (E) Functions as administrative agent for the Board; prepares agendas and minutes for all Board meetings and committee meetings; acts as Board spokesperson at all meetings and hearings as delegated by the Board; serves as liaison between Board, Board Committees, and staff; conducts orientation for new Board members. Delegates, but is responsible for evaluation of credentials of application, endorsement, and renewal for California, the United States, and out-of-country; sees that all meetings and hearings are notices to the public and follows proper administrative procedure; responsible for the regulatory change process from notice of hearing to implementation of approved regulations; provides for initial and continued approval of programs; implements legislation and legislative mandates.
- 10%** (E) Responsible for interpretation and execution of the Business and Professions Code and all Board policies and guidelines related to the Board; seeks wide dissemination of the above information in a structured manner through informational hearings, workshops, and seminars conducted by Board staff and members; seeks legal counsel from the Department of Consumer Affairs in carrying out the above activities.
- 10%** (E) Provides for investigation of complaints; preparation of accusations or statements of issue; signs final accusation; consults with legal counsel on problem cases, monitors flow of cases in system and monitors costs; advises Attorney General's Office and hearing officer of Board's disciplinary guidelines; ensures that Administrative Procedure Act timelines are followed and that all Board disciplinary decisions are appropriately implemented. Meets and confers with outside legal agencies on cases; serves as Board's liaison to media and public on all publicized cases. Maintains confidentiality of information and records in accordance with Public Records Act.

10% (E) Serves as the Board's liaison to a wide array of governmental and voluntary organizations; serves as liaison to professional organizations; participates and serves as Board's staff representative to various associations.

B. Supervision Received

The Executive Officer serves under the administrative direction of the Board and reports directly to the Board President or Chairperson.

C. Supervision Exercised

The Executive Officer is delegated the authority by the Board to provide leadership and oversight for all Board programs and activities. The Executive Officer directly supervises [list direct reports].

D. Administrative Responsibility

The Executive Officer is responsible for all administrative and fiscal functions and aspects of the Board.

E. Personal Contacts

The Executive Officer has regular contact with all levels of Board staff, DCA Executive Management and staff, legislators, the Governor's Office, members of the public and members of the trade and industry groups.

F. Functional Requirements

No specific physical requirements are present. The Executive Officer works in an office setting with artificial light and temperature control. Daily access to and use of a personal computer and telephone are essential. Sitting and standing requirements are consistent with office work. This position requires frequent travel including overnight travel by all available transportation methods.

G. Other Information

This position has access to Criminal Offender Record Information (CORI). Title 11, Section 703(d) of the California Code of Regulations requires criminal record checks of all personnel who have access to CORI. Pursuant to this requirement, incumbents in this position will be required to submit fingerprints to the Department of Justice and be cleared prior to appointment.

This position also requires the incumbent to take an Oath of Office prior to appointment.

Additionally, this position is subject to the Department of Consumer Affairs' Conflict of Interest Code (16 CCR § 3830) and the incumbent must file a Statement of Economic Interests Form upon appointment, annually, and upon separation.

I have read and understand the duties listed above and I can perform these duties with or without reasonable accommodation. (If you believe reasonable accommodation is necessary, discuss your concerns with the hiring supervisor. If unsure of a need for reasonable accommodation, inform the hiring supervisor, who will discuss your concerns with the Health & Safety analyst.)

Employee Signature

Date

Employee's Printed Name, Classification

I have discussed the duties of this position with and have provided a copy of this duty statement to the employee named above.

Board President / Chairperson Signature

Date

Board President / Chairperson's Printed Name

NEW (date) or Revision (date)

Attachment C

SAMPLE RECRUITMENT FLYER

THE BOARD OF _____ INVITES APPLICATIONS FOR THE POSITION OF **EXECUTIVE OFFICER**

[SALARY MONTHLY]

The Executive Officer is hired by the Board and serves at its pleasure. The Executive Officer is responsible for carrying out the policies of the xx-member Board. The mission of the Board is to _____. The Board is responsible for _____. The Executive Officer position is exempt from civil service and is located in Sacramento, CA.

All applicants should possess the following desirable qualifications:

- Administrative experience; e.g., ability to prepare, understand, and work with a government budget, development of regulations, policy development and implementation, etc.
- Demonstrated supervisory experience, ability to organize and control the flow of work.
- Regulatory and/or enforcement experience such as processing complaints, monitoring investigations, keeping abreast of hearings on disciplinary matters, etc.
- Legislative or lobbying experience/coordination including appearing before legislative committees.
- Ability to communicate effectively both orally and in writing.
- Knowledge of current consumer issues in the licensed professions.
- Experience with and/or in taking direction from a board or committee.
- Candidates must have a baccalaureate degree from a WASC comparable accredited school and preferably an advanced or professional degree.

Interested persons should submit a resume by _____ to:

Department of Consumer Affairs
1625 N. Market Blvd. Suite
Sacramento, CA 95834

ATTN: _____, Office of Human Resources

All applications will be screened and only the most qualified candidates will be scheduled for a preliminary interview. It is anticipated that interviews will be held during _____. Travel expenses for these interviews are the responsibility of each candidate. For further information, please contact _____ at (916) ____-

_____.

The Department of Consumer Affairs provides equal employment opportunities to all regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age or sexual orientation.

Attachment D

EXECUTIVE OFFICER CANDIDATES

QUESTIONS FOR REFERENCES

1. What was the professional relationship between you and Ms./Mr./Dr. _____?

2. What were the dates of this professional relationship?

3. How would you describe Ms./Mr./Dr. _____'s working or management style?

4. If the position Ms./Mr./ Dr. _____ occupied necessitated contact with a board of directors, how would you characterize Ms./Mr./Dr. _____'s interaction with the board?

5. Is there any other information regarding Ms./Mr./Dr. _____ that you would like to add?

Attachment E

SAMPLE LETTER: DIRECTOR'S APPROVAL

(Board Letterhead)

DATE

DCA Director
Department of Consumer Affairs
1625 N. Market Blvd. Suite S-308
Sacramento, CA 95834

Dear Director _____:

The Board of _____ has selected [NAME] for the position of Interim Executive Officer. S/he will serve in this "at will" capacity until a permanent Executive Officer is selected or his/her appointment is terminated by the Board or s/he otherwise leaves. [If required*:I understand the Board has your concurrence in this appointment.]

NAME is currently a/n (Civil Service class, if appropriate). S/he will assume the Interim Executive Officer duties effective DATE, with a salary of \$_____ per month.

I request your assistance in ensuring that NAME's Oath of Office is administered by DATE so s/he may begin serving in this role.

The Board's Selection Committee will continue to work with the DCA's Office of Human Resources in continuing the search and selection process.

Sincerely,

NAME, Board President/Chairperson
Board of _____

cc: Deputy Director, Board and Bureau Relations
DCA Office of Human Resources
Candidate

Barbering & Cosmetology
Contractors State License Board
Dental Board
Structural Pest Control

Attachment F

SAMPLE LETTER: CONFIRMATION OF ACCEPTANCE

(Board Letterhead)

DATE

CANDIDATE NAME
ADDRESS

Dear Candidate Name,

In accordance with our telephone conversation of DATE, this letter is confirmation that you have accepted the position of Executive Officer, Board of _____ at a salary of \$_____ per month, in accordance with the California Department of Human Resources Exempt Category Level _____.

This position, which is exempt from civil service is an "at will" position. Therefore, you serve at the pleasure of the Board and your appointment may be terminated at any time, without notice and without cause.

We agreed that your start date with the Board would be _____.

Attached is an outline of the benefits package offered by the State of California for a managerial (or supervisory) position.

Congratulations on your appointment. On behalf of the entire Board, we look forward to working with you and together meeting the challenges facing the Board in the future.

Sincerely,

Name, President/Chairperson
Board of _____

cc: Deputy Director, Board and Bureau Relations
Office of Human Resources
Official Personnel File

Attachment: Excluded Benefits Chart

Attachment G

OATH

for the Office of _____

I, _____, do solemnly swear
(or affirm) that I will support and defend the Constitution of the
United States and the Constitution of the State of California
against all enemies, foreign and domestic; that I will bear true
faith and allegiance to the Constitution of the United States and
the Constitution of the State of California; that I take this
obligation freely, without any mental reservation or purpose of
evasion; and that I will well and faithfully discharge the duties
upon which I am about to enter.

Signature _____

Term Expires _____

Subscribed and sworn to before me,

this _____ day of _____

A. D. _____

OATH OF OFFICE
of

Attachment H

SAMPLE LETTER: ACTING APPOINTMENT ACCEPTANCE

(Board Letterhead)

DATE

NAME
ADDRESS

Dear NAME:

This acknowledges your acceptance of the responsibility of *Acting* Executive Officer, Board of _____, effective _____. This Acting assignment will continue until the Board can hold a meeting to appoint an Interim Executive Officer. The Board is unable to provide any additional compensation for the Acting assignment.

This Acting designation confers upon you the authority to act in the full capacity of the Executive Officer, on behalf of the Board, including signature and supervisory authority.

I appreciate your acceptance of this responsibility and look forward to working with you in the future.

Sincerely,

NAME, Board President/Chairperson
Board of _____

cc: Deputy Director, Board and Bureau Relations
Office of Human Resources
Official Personnel File

Attachment I

SAMPLE LETTER: INTERIM APPOINTMENT ACCEPTANCE

(Board Letterhead)

DATE

NAME
ADDRESS

Dear NAME,

This letter is to confirm the decision reached by the Board at the DATE Board meeting in which you were appointed to the position of Interim Executive Officer for the Board of _____.

This Interim appointment, effective DATE, will include compensation at \$ _____ per month, in accordance with the California Department of Human Resources Exempt Category Level ____.

This position, which is exempt from civil service is an "at will" position. Therefore, you serve at the pleasure of the board and your appointment may be terminated at any time, without notice and without cause. At the conclusion of this appointment, you have (or do not have) a mandatory right of return to your former civil service position.

Thank you for your acceptance of this appointment. On behalf of the entire Board, I look forward to working with you in the future.

Sincerely,

NAME, President/Chairperson
Board of _____

cc: Deputy Director, Board and Bureau Relations
Office of Human Resources
Official Personnel File

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

To: Board Members

Date: February 24, 2015

From: Nooshin Movassaghi
Policy Analyst

Telephone: (916) 575-7170

**Subject: Agenda Item 4 – Discussion and Possible Action Regarding Legislation
Sponsored by the Board**

The following amendments to Business and Professions Code (BPC) were approved by the Board at its November 21st, 2014 and January 23rd, 2015 meetings. Staff submitted six proposed languages (§3041.3, §3057.5, §3057, §3058, §3151.1, §3152) to the Senate Business, Professions and Economic Development Committee’s omnibus bill on January 6th, 2015. The committee only included proposed language for BPC §3057. Staff met with California Optometric Association (COA) representatives on February 11th, though some comments are included in the attachments (Attachment 4 and 6) additional comments will be presented on the day of the Board Meeting.

A. Discussion and Possible Action to Amend Business and Professions Code §3041.3, TPA Certificate Requirements

Action Requested:

Staff requests the Board review and approve the public comments added to the Business and Professions Code (BPC) §3041.3 proposed amendments (Attachment 1). If the revised language is approved, please direct staff to move forward with the legislative process.

Background:

The Board-approved proposed language was sent as un-backed language to the Legislative Counsel. Assemblymember Adrin Nazarian agreed to author the bill. Assemblymember Nazarian serves on the Assembly Health Committee. As of February 19, 2015, staff received the following comments:

1. All California Academy of Eye Physicians and Surgeons (CAEPS) comments are included in green. Of those, Dr. Craig Kliger, MD recommended adding section 3(c)(2) “to avoid the Board from potentially granting someone who graduated as long ago as 1996 but, at that time, couldn’t meet this standard, TPA certification automatically without review.” Furthermore, Dr. Kliger believes that “this would probably be a rare occurrence or these standards didn’t matter because all schools would have met it, but the fact it concerned someone enough to include back then means the Board should retain discretion.”
2. The Office of Legislative Counsel had minor grammatical comments which staff already added to the amendments.

B. Discussion and Possible Action to Amend Business and Professions Code §3151.1 Issuance of License with Retired Volunteer Service Designation Requirements; Duties of Applicant; Holder of Retired License

Action Requested:

Staff requests the Board review and approve the public comments added to the BPC§3151.1 proposed amendments (Attachment 2). If the revised language is approved, please direct staff to move forward with the legislative process.

Background:

The Board-approved proposed language is currently an un-backed bill, and staff is working to secure an author. Staff received comments from CAEPS which are included in green. Dr. Kliger suggested replacing unpaid with uncompensated “to avoid any bartering.”

C. Discussion and Possible Action to Add Business and Professions Code §3070.2, Requirements to Practice in a Mobile Optometric Facility or Portable Optometric Facility

Action Requested:

Staff requests the Board review and approve the public comments added to the BPC §3070.2 proposed language (Attachment 3). If the revised language is approved, please direct staff to move forward with the legislative process.

Background:

Senator Patricia Bates, vice chair of the Senate Business, Professions and Economic Development Committee, agreed to author this bill. Staff has received comments from the following:

1. Staff was asked by the author’s office and an out-of-state mobile optometric practice, who are interested in branching out in California, why the proposed language limits mobile optometric facilities to operate as non-profit organizations or governmental agencies.
2. The Office of Legislative Counsel had minor grammatical comments which staff already added to the proposed amendments.
3. California Optometric Association (COA) (Attachment 4).

D. Discussion and Possible Action to Amend §49455 of the Education Code to Change the Requirement from “Vision Appraisal” to “Comprehensive Eye Exam”

Action Requested:

Staff requests the Board review and approve the public comments added to the Education Code §49455 proposed language (Attachment 5). If the revised language is approved, please direct staff to move forward with the legislative process.

Background:

With the assistance of Board members Rachel Michelin and Dr. Glenn Kawaguchi, OD, Senator Holly Mitchell agreed to author this bill. Senator Mitchell is on the Senate Health Committee. Staff received public comments from the COA (Attachment 6).

E. Discussion and Possible Action to Amend Business and Professions Code §3152, Fee Schedule

Action Requested:

Staff requests the Board review and discuss the BPC §3152 proposed language (Attachment 7). If approved, please direct staff to move forward with the legislative process.

Background:

The Board discussed the proposed changes to BPC §3152 at its November 21, 2014 Board Meeting. Staff was directed to research and finalize the language.

Attachments

1. BPC §3041.3 Proposed Language with comments
2. BPC §3151.1 Proposed Language with comments
3. BPC §3070.2 Proposed Language with comments
4. COA comments on BPC §3070.2 Proposed Language
5. Education Code §49455 Proposed Language
6. COA comments on Education Code §49455 Proposed Language
7. BPC §3152 Proposed Language

§3041.3. TPA CERTIFICATE CERTIFICATION 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 certification 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 with either an TPA-certified optometrist in good standing, or a physician and surgeon board-certified in ophthalmology in good standing with the Medical Board of California. ophthalmologist's office or an optometric clinic.~~ The training received during the preceptorship shall be on the diagnosis, treatment, and management of ocular, and systemic disease authorized under 3041 (b) using the agents or techniques authorized under 3014 (c) and (e). The preceptor shall certify completion of the preceptorship using a form provided by the Board. ~~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 20-80 hours of documented and accredited self-directed education in ocular and systemic diseases acceptable to the Board within two years prior to meeting the requirements of paragraph (1); and,~~

~~(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 Board 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 certification 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) P~~ (1) passes all sections of the National Board of Examiners in Optometry's national board examination, or its equivalent, as determined by the ~~Board State Board of Optometry~~.
(2) Underwent an acceptable curriculum in the diagnosis, treatment, and management of ocular and systemic disease at an accredited school of optometry, and, as appropriate, has maintained related continuing education, as determined by the Board.

~~-(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 certification 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 certification, 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 ~~a certificate to use~~ therapeutic pharmaceutical agents certification, 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 graduated 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.

**§3151.1. ISSUANCE OF LICENSE WITH RETIRED VOLUNTEER SERVICE DESIGNATION;
DUTIES OF APPLICANT; HOLDER OF RETIRED LICENSE**

(a) The board shall issue, upon application and payment of the fee ~~described~~prescribed in Section 3152, a license with retired volunteer service designation to an optometrist who holds a retired license for less than three years or a license that is current and active.

(b) The holder of a retired license issued for more than three years may convert the license to retired volunteer service designation if he or she satisfies the requirements in Section 3147.6.

(~~bc~~) The applicant shall certify on the application that he or she has completed the required number of continuing education hours pursuant to Section 3059.

(~~ed~~) The applicant shall certify on the application that the sole purpose of the license with retired volunteer service designation is to provide voluntary, uncompensated (take out unpaid) optometric services at health fairs, vision screenings, and public service eye programs, uncompensated teaching activities as authorized by an accredited school of optometry, and other uncompensated activities approved by the Board.

(~~de~~) The holder of the retired license with volunteer service designation shall submit a biennial renewal application, with a fee fixed by this chapter and certify on each renewal that the required number of continuing education hours pursuant to Section 3059 were completed, and certify that the sole purpose of the retired license with volunteer service designation is to provide voluntary, unpaid services as described in subdivision (c). Pursuant to Section 3146, the license expires at midnight on the last day of the license holder's birth month every two years if not renewed.

Added Stats 2012 ch 359 § 6 (SB 1215), effective January 1, 2013.

§3070.2. REQUIREMENTS MOBILE OPTOMETRIC FACILITIES

~~(a) For purposes of this section, the following terms have the following meanings:~~

~~1-(a) For purposes of this section, "Mobile optometric facility" means a self-contained unit housing equipment, which may include a trailer or van, that may be moved, towed, or transported from one location to another in which the practice of optometry is performed as defined in Section 3041. Mobile optometric facilities are limited to non-profit, charitable organizations with federal tax exempt status as described in Section 501(c)(3) of the Internal Revenue Code or mobile unit that is operated by a governmental agency.~~

~~(b) The purpose of this chapter section is to provide requirements for mobile optometric facilities to provide optometric services as authorized in Section 3041, in order to help secure the availability of quality vision care services for patients who receive care in remote or underserved areas and for patients who need specialized types of cost-effective health care.~~

~~(c) An optometrist may engage in the practice of mobile optometry provided that all of the following requirements are satisfied:~~

~~(1) The optometrist maintains a primary business office, separate from mobile optometric facility that meets all of the following requirements:~~

~~(A) Is open to the public during normal business hours by telephone and for purposes of billing services or access to patient records.~~

~~(B) Is licensed to the optometrist or the employer of the optometrist as a local business with the city or county in which it is located.~~

~~(C) Is registered by the optometrist with the Board of Optometry.~~

~~(D) Is owned or leased by the optometrist or by the employer of the optometrist.~~

~~(E) Is not located in or connected with a residential dwelling.~~

~~(2) The optometrist maintains or discloses patient records in the following manner:~~

~~(A) Is open to the public during normal business hours by telephone and for purposes of billing services or access to patient records.~~

~~(B) Is licensed to the optometrist or the employer of the optometrist as a local business with the city or county in which it is located.~~

~~(C) Is registered by the optometrist with the Board of Optometry.~~

~~(D) Is owned or leased by the optometrist or by the employer of the optometrist.~~

~~(E) Is not located in or connected with a residential dwelling.~~

~~(1) The optometrist maintains or discloses patient records in the following manner:~~

(A) Records are maintained and made available to the patient in such a way that the type and extent of services provided to the patient are conspicuously disclosed. The disclosure of records shall be made at or near the time services are rendered and shall be maintained at the primary business office specified in paragraph (1).

(B) The optometrist complies with all federal and state laws and regulations regarding the maintenance and protection of medical records, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(C) Pursuant to Section 3007, the optometrist keeps all necessary records for a minimum of seven years from the date of service in order to disclose fully the extent of services furnished to a patient. Any information included on a printed copy of an original document to a patient shall be certified by the optometrist as being true, accurate, and complete.

(D) If a prescription is issued to a patient, records shall be maintained for each prescription as part of the patient's ~~chart~~ record, including all of the following information about the optometrist:

(i) Name.

(ii) Optometrist license number.

(iii) The place of practice and the primary business office.

(iv) Description of the goods and services for which the patient is charged and the amount charged.

(E) For services provided at a school site, a copy of consent by the parent, guardian, or legal representative and referral or order requesting optometric services from personnel in a school district or county office of education as defined in Education Code Section 49452 and the California Code of Regulations, Title 5, Education, Section 591 shall be kept in the patient's medical record.

(3) The optometrist possesses and appropriately uses the instruments and equipment required for all optometric services and procedures performed within the mobile optometric facility

(4) For mobile optometric facilities, the optometrist informs patients in writing of any condition that requires follow-up care and/or treatment.

(5) Mobile optometric facilities shall comply with all consumer notice requirements of the board.

(6) There is a written procedure for follow-up care of patients treated in a mobile optometric facility and that such procedure includes arrangements for treatment by a local health care professional.

(7) The mobile optometric facility shall arrange for emergency medical care when indicated.

(8) The mobile optometric facility shall ~~have~~ do all of the following:

(A) Have an access ramp or lift if services are provided to disabled persons

(B) Have adequate equipment and supplies for cleaning, disinfection, and sterilization.

(C) Have access to an adequate supply of clean running water, including hot water

(D) Have ready access to toilet facilities

(E) Have a covered galvanized, stainless steel, or other non-corrosive metal container for deposit of refuse and waste materials.

(F) Comply with the applicable requirements of the Vehicle Code, and ~~shall~~ have a vehicle identification number for the mobile optometric facility.

(G) Maintain in good repair and in a clean and sanitary manner.

(H) A written policy and procedures ~~to that~~ include, but are not limited to, all of the following:

(i) Scope of services.

(ii) Procedures for the performance of the services provided.

(iii) Quality assurance.

(iv) Infection control.

(v) Medical record documentation of services provided, as appropriate.

(vi) Transport for patients, including, but not limited to, a method of transportation, special equipment, necessary personnel, and protection from inclement weather.

(vii) Emergency response and evacuation plan for the mobile unit.

(I) Maintain a mobile unit services log that shall include, but shall not be limited to all of the following:

(i) Patient chart or identification number.

(ii) Name, age, and sex of patient.

(iii) Site, date, time, and as appropriate, duration of exam.

(d) An optometrist who satisfies all of the requirements in this section for the practice of optometry in a mobile optometric facility shall not be required to comply with Section 3070 with regard to providing notification to the board of each location at which he or she practices.

~~(e) An optometrist who satisfies all of the requirements in this section for the practice of optometry in a mobile optometric facility shall not be required to comply with Section 3070 with regard to providing notification to the board of each location at which he or she practices.~~

(e)(f) Mobile optometric facilities that are part of an "extended optometric clinical facility" as defined in Section 1507, Title 16, CCR are exempt from the requirements of this section.

(f)(g) The licensed ~~parent facility primary business~~ or office shall be responsible for obtaining approval for parking of the mobile optometric facility as required by the local planning, zoning, and fire authorities. The mobile unit shall be situated for safe and comfortable patient access. The mobile unit shall comply with all local parking laws. Any parking restrictions developed by a ~~parent facility primary business~~ or clinic for mobile units shall be strictly enforced by the parent facility or clinic. The ~~parent facility primary business~~ or clinic shall ensure that there is sufficient lighting around the perimeter of the site from which the mobile unit provides any services.

February 5, 2015

Nooshin Movassaghi
Policy Analyst
California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

RE: Business & Professions Code 3070.2 - Mobile facilities legislation

Dear Ms. Movassaghi:

This letter is in response to the State Board of Optometry's legislative proposal regarding Business & Professions Code section 3070.2

Below is an outline of the California Optometric Association's (COA's) suggestions that would provide clarity and address our concerns with the legislative proposal:

- Ensure that patients receive the same standard of care in mobile facilities as provided in brick and mortar facilities.
- Recognize portable equipment, not strictly vehicles or trailers, as a "mobile facility."
- Clarify that if the mobile facility does not have the capacity for specialized testing as indicated in the eye examination of the patient, that a referral can be made to a facility or provider who can perform the needed testing.
- Protect the standard of medical record retention by matching the language in section 3007 in the Business & Professions Code.
- Clarify that vehicle facilities that do not have a lift gate or cannot fit a wheelchair can provide equivalent care through portable equipment and still follow ADA standards.
- Specify that current laws related to the employment of an optometrist apply in mobile facilities.

Thank you for your consideration. COA looks forward to working with you regarding this important legislation.

Sincerely,



David Redman, OD
Chair, Legislation and Regulation Committee

“Setting the standard in eye care”

49455.

(a) (1) During the kindergarten year 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 pupil's vision shall be appraised by the school nurse or other at least every second year thereafter until the pupil has completed eight grade, the pupil's vision shall be examined by~~ authorized person under Section 49452a physician, optometrist, or ophthalmologist. This examination shall be consistent with the most current standard, policy, or guideline adopted by the American Academy of Pediatrics, the American Academy of Ophthalmology, or the American Optometric Association. This examination shall include tests for visual acuity, binocular function, as well as refraction and eye health evaluations. The parent or guardian of the pupil shall provide results of the examination to the school.

~~(2) A pupil whose first enrollment or entry occurs in grade 4 or 7 shall not be required to be appraised in the year immediately following the pupil's first enrollment or entry.~~

(b) The ~~appraisal examination~~ shall include tests for visual acuity, including near vision, and color vision; however, color vision shall be ~~appraised~~ examined once ~~at enrollment and only on male pupils,~~ and the results of the ~~appraisal examination~~ 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.~~

~~(c) The appraisal may be waived, if the 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 pupil's vision, including visual acuity and color vision.~~

~~(d) A pupil's vision may be appraised by using an eye chart or any other scientifically validated photoscreening test. Photoscreening tests shall be performed, under an agreement with, or the supervision of, an optometrist or ophthalmologist, by the school nurse or a trained individual who meets requirements established by the department.~~

(e) 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.

(f) This section shall not apply to a pupil whose parents or guardian file with the principal of the school in which the 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.

(g) The department shall adopt [guidelines-regulation](#) to implement this section, including training requirements [and provide participation data.](#) ~~and a method of testing for near vision.~~

(Amended by Stats. 2014, Ch. 925, Sec. 2.5. Effective January 1, 2015.)

February 5, 2015

Nooshin Movassaghi
Policy Analyst
California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

RE: Education Code 49455 – Comprehensive Eye Examinations for Pupils

Dear Ms. Movassaghi:

This letter is in response to the State Board of Optometry's legislative proposal regarding comprehensive eye examinations for school-aged children.

Vision screenings in a pediatrician's office or at school screenings are inadequate and often unable to detect vision or binocular eye teaming problems. **For every 100 children requiring eye exam and glasses to succeed in school, 73 of these 100 children will pass a vision screening, and be sent back to class without needed glasses.** Thus, it is the position of the California Optometric Association (COA) that all children should have a comprehensive eye exam provided by an optometrist or ophthalmologist prior to starting school.

Below is an outline of our suggestions that would provide clarity and address our concerns with the legislative proposal:

- The eye exam requirement should be in addition to the current vision screening process at the schools. Some kids will fall through the cracks and there needs to be a safety net for those who don't get an eye exam. The screening should only be required if someone does not show proof of an eye exam.
- Prohibit a school from denying admission to a child or taking any other adverse action against a child because of his or her parent's or guardian's failure to obtain a vision examination for the child.
- Ensure that the eye examination is performed by an optometrist or ophthalmologist.
- Require the examination to include, at a minimum, tests for visual acuity, binocular function, refractive error and an eye health evaluation.

Thank you for your consideration. COA looks forward to working with you on this important legislation.

Sincerely,



David Redman, OD
Chair, Legislation and Regulation Committee

“Setting the standard in eye care”

§3152. FEE SCHEDULE

The amounts of fees and penalties prescribed by this chapter shall be established by the board in amounts not greater than those specified in the following schedule:

- ~~_(a) The fee for applicants applying for a license shall not exceed two hundred seventy-five dollars (\$275).~~
- (a) The fee for the application and determining the candidate's eligibility to take the Board's jurisprudence examination shall not exceed two hundred and seventy-five dollars (\$275).
- (b) The fee for the application and determining a foreign graduate's eligibility for sponsorship to take any section of the licensing examinations shall not exceed two hundred dollars (\$275).
- (c) The fee for an initial license. This fee will be prorated and established according to the month of issuance, which is the month the fee is received by the Board and expiration date, which is midnight on the last day of the licensee holder's birth month following original issuance of the license. The fee for an initial license shall be charged at an amount equal to the renewal fee in effect at the time the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect at the time the license is issued. The board may provide by regulation the waiver or refund of the fee for an initial license if the license is issued less than 45 days before the date on which it will expire.
- (d-b) The fee for renewal of an optometric license shall not exceed five hundred dollars (\$500).
- (e-g) The delinquency fee for renewal of an optometric license shall not exceed fifty dollars (\$50).
- (f-d) The fee for a branch office license shall not exceed seventy-five dollars (\$75).
- (g-e) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars (\$75).
- (h-e) The ~~penalty for failure to pay the annual delinquency~~ fee for renewal of a branch office license shall not exceed twenty-five dollars (\$25).
- (i-k) The fee for issuance of a statement of licensure shall not exceed forty dollars (\$40).
- (j-l) The fee for biennial renewal of a statement of licensure shall not exceed forty dollars (\$40).
- (j-m) The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars (\$20).
- (k-n) The application fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- (l-o) The renewal fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- (m-p) The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars (\$25).
- (q-r) The fee for a retired license shall not exceed twenty-five dollars (\$25).
- (p-f) The fee for a retired license with volunteer designation shall not exceed fifty dollars (\$50).
- (q-s) The biennial renewal fee for a retired license with volunteer designation shall not exceed ~~fifty-one~~ hundred dollars (~~\$50~~100).
- (r) The delinquency fee for biennial renewal of a retired license with volunteer service designation shall not exceed twenty-five dollars (\$25).
- (s-h) The application fee for a certificate to perform lacrimal irrigation and dilation shall not exceed fifty dollars (\$50).
- (t-i) The application fee for a certificate to treat glaucoma shall not exceed fifty dollars (\$50).
- ~~_(f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars (\$25).~~
- (u) The fee for issuance of a license or a change of name authorized by law of a person holding a license, or change of information under this chapter shall not exceed twenty-five dollars (\$25)
- (v) The fee for the replacement of any license, or renewal thereof that must be reissued because the license is lost or destroyed shall not exceed fifty dollars (\$25).
- (w-j) The fee for approval of a continuing education course shall not exceed one hundred dollars (\$100).
- (x) The fee for a letter of good standing or verification of licensure shall not exceed twenty-five dollars (\$25).

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To: Board Members

Date: February 24, 2015

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7170

Subject: Agenda Item 5 - Discussion and Possible Action Regarding Business and Professions Code §655, Prohibition of Business Arrangements Between Optometrists and Opticians or Persons in Optical Product Business

A. Update Regarding Meeting with Assembly Member Bonilla

On February 10, 2015, Mona Maggio, and Board Members Dr. David Turetsky, O.D. and Donna Burke met with Assemblymember Susan Bonilla and Le Ondra Clark Harvey, Ph.D., Chief Consultant to the Assembly Committee on Business and Professions.

Acknowledging that Business and Professions Code (BCP) §655 and §2556 were deemed constitutional and that the stakeholder meetings held January 7th and 20th have been unproductive thus far, Assemblymember Bonilla requested the following information from the Board:

- The Board's position on BPC §655
- The Staff's difficulties, if any, in enforcing current law; and
- The Board's opinion on what business models could work in California.
- The closure of the negotiations between the Office of the Attorney General and the Optical Retailers.

After reiterating they could not speak for the Board and all questions would ultimately have to be presented to the Board, Ms. Maggio explained difficulties staff is currently facing in regards to regulating and enforcing BPC §655. Those difficulties included having two separate regulatory Boards involved and the lack of inspection authority.

B. Possible Legislative Changes Impacting Section 655

The Board has yet to receive proposed language from the Optical Retailers.

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To: Board Members

Date: February 24, 2015

From: Mona Maggio
Executive Officer

Telephone: (916) 575-7170

Subject: Agenda Item 6 – Adjournment
