

**STATE BOARD OF OPTOMETRY**

2420 Del Paso Road, Suite 255, Sacramento, CA 95834

P (916) 575-7170 F (916) 575-7292

web: [www.optometry.ca.gov](http://www.optometry.ca.gov)



## Meeting Minutes

March 25, 2010

California State Board of Optometry  
San Diego State Building  
1350 Front Street  
Auditorium  
San Diego, CA 92101

### Members Present

Lee Goldstein, OD, MPA  
Board President  
Alejandro Arredondo, OD  
Board Vice President  
Fred Naranjo, MBA, Public Member  
Katrina Semmes, Public Member  
Edward Rendon, MA, Public Member  
Susy Yu, OD, MBA, FAAO

### Staff Present

Mona Maggio, Executive Officer  
Lydia Bracco, Fingerprint Coordinator  
Andrea Leiva, Policy Analyst  
Margie McGavin, Enforcement Manager  
Jessica Siefertman, Enforcement Analyst  
Michael Santiago, Staff Counsel

### Guest List

On File

### Members Absent (Excused)

Monica Johnson, Public Member  
Board Secretary  
Kenneth Lawenda, OD

**Thursday March 25, 2010**

**1:00 p.m.**

### **FULL BOARD OPEN SESSION**

#### **1. Call to Order – Establishment of a Quorum**

Board President, Lee Goldstein, OD called the meeting to order at 1:10 p.m. Four members were present. A quorum could not be established at this time. Dr. Goldstein deferred all agenda items requiring votes and motions to later in the day when a quorum was established.

Board member, Edward Rendon arrived at 1:30 p.m. Board member, Fred Naranjo arrived at 3:07 p.m.

#### **2. Welcome and Introductions**

Dr. Goldstein welcomed everyone in attendance. Board members, staff and members of the audience were invited to introduce themselves.

#### **3. President's Report**

Dr. Goldstein reported on the following:

##### *A. California Optometric Association's House of Delegates*

Dr. Goldstein noted, that on January 29 and 30, 2010 he attended the California Optometric Association's (COA) House of Delegates. Dr. Goldstein reported on the key activities and issues that were presented at this event.

Dr. Goldstein announced Harue J. Marsden, OD, MS , and Associate Professor at the Southern California College of Optometry (SCCO as the newly elected President of the COA. Dr. Marsden is the first full-time optometric educator to be elected to the COA Presidency. Additionally, Dr. Marsden is chief of the Stein Family Cornea Masters/Residency; a Fellow of the American Academy of Optometry and Diplomat in the Cornea and Contact Lens Section. Dr. Marsden has provided international lectures, publications and research in the areas of orthokeratology, contact lens management of the post-surgical cornea and laboratory testing.

- Dr. Goldstein advised that as a result of the meeting, three matters of interest were brought forward that may appear on future Board agendas: Amending the Optometric Practice Act to include all continuing education courses on the subject of Neuro-optometric diagnosis and treatment of vision dysfunctions following traumatic brain injury and that these courses be recognized for Therapeutic Pharmaceutical Agents (TPA) continuing education. California has not taken a specific position on this.
- Board Certification which is a continuing item of controversy.
- Expansion of optometric access to health care plans.

*B. Other Items of Interest*

Dr. Goldstein reported that on March 24, 2010 he and Board Executive Officer, Mona Maggio and Enforcement Manager, Margie McGavin participated in a discussion at the COA Keyperson Day 2010 held at the Sacramento Convention Center. Interchange transpired regarding current Board activities and the status of the glaucoma certification rulemaking process. He added that this event provided an opportunity for the Board to reach out to optometric students and share information about licensing requirements, enforcement processes, and feeling comfortable about contacting the Board. Dr. Goldstein noted this was probably the first time such a large number of students, from the three California colleges, met together in one place to participate in such a comprehensive discussion.

Dr. Goldstein invited comments from Ms. Maggio and Ms. McGavin. Ms. Maggio reported that she found this event to be very informative. She noted that she particularly enjoyed the interchange with the students and she looks forward to working with the students as they become licensees.

On March 16, 2010, Dr. Goldstein and Ms. Maggio participated in a meeting of board presidents, executives officers, the Department of Consumer Affairs (DCA) executive staff and representatives from the Senate Business, Professions, and Economic Committee to discuss the DCA's Consumer Protection Enforcement Initiative (CPEI) and the Consumer Health Protection Enforcement Act, Senate Bill 1111 (Negrete McLeod).

Dr. Goldstein explained this initiative is a comprehensive look at the enforcement processes of healing arts boards in an effort to create more resources and improve process efficiency. He added that this comprehensive review by the DCA is of utmost concern.

**4. Director's Report – Representative from Department of Consumer Affairs**

Dr. Goldstein deferred this agenda item to the March 26, 2010 meeting when the Director's representative, Kimberly Kirchmeyer will be present.

**5. Executive Officer's Report**

Mona Maggio provided an overview of the following:

*A. Budget Report*

Ms. Maggio reported that the Board's budget authority for the 2009/2010 fiscal year is \$1,488,161. The Board's expenditure projections, including commitment to revert \$25,000 from the Board's Operating Expense and Equipment (OE&E) budget line for the OE&E reduction plan, and transferring \$125,000 to the Architectural Revolving Fund (ARF) for expenses related to the Board's future move, indicate that at the end of the 2009/2010 fiscal year, the Board anticipates an unexpended reserve in the amount of \$200,478.

Ms. Maggio explained that on January 8, 2010, the Governor issued an Executive Order S-01-10 which directs state agencies to take immediate steps to achieve an additional five percent salary savings by July 1, 2010 and maintain this additional salary savings level. State agencies are required to submit a plan to achieve the salary savings. Ms. Maggio stated that the Board's calculations for compliance with the Executive Order indicate the Board has already met this salary savings request due to the vacancies the Board has experienced this year. Ms. Maggio added that although the Board's budget for the new fiscal year includes two new half time positions, she does not expect to fill those positions immediately making it possible to meet the five percent reduction in the Board's personnel line as well.

B. *Furlough*

Ms. Maggio reported that the furloughs are ongoing. Despite recent court rulings in favor of state employees, including one ruling ordering the discontinuance of the furlough order for all special fund state agencies, it is expected these rulings will be challenged by the Governor. Ms. Maggio stated she anticipates the furloughs will continue through June 30, 2010. She added that several Executive Officers recall that, last year, the Governor won in a ruling which allows him to order state workers salaries to the federal minimum wage when furloughs end, providing he does not order layoffs.

C. *Operations Report*

Dr. Alejandro (Alex) Arredondo inquired about where the Board's revenue comes from. More specifically, he questioned if it comes from licensing fees. Ms. Maggio clarified and explained that a small amount of revenue comes from applications but the majority of the Board's budget comes from renewal fees.

Ms. Maggio announced that staff will attend an informational meeting on March 30, 2010 regarding participation in an on-line renewal program this will allow licensees to pay their license renewal fees by credit card. Ms. Maggio explained that to implement this program now, the Board would have to absorb the costs out of its current budget, which would be approximately \$7 per renewal. She added that the Board has the option of waiting until fiscal year 2011/2012, and submit a Budget Change Proposal (BCP) to request a budget augmentation to cover the new costs. Ms. Maggio noted that upon attending the meeting, a decision will be made to either participate in the pilot program or submit a BCP, for additional funding, during the next fiscal year.

Ms. Maggio announced, and congratulated Ms. Andrea Leiva, for the completion of the "2010 Optometry Business and Professions Code and Optometry Act" and the "2010 California Code of Regulations, Title 16, Division 15" (law book) which is updated and available on the Board's website. Ms. Maggio reported that staff had attempted to obtain a contract with Lexis Nexis, whereby changes and updates could be made to the law book by staff, and where staff would not have to rely upon Lexis Nexis, nor absorb the costs. This was not approved and Ms. Maggio noted that Ms. Leiva took it upon herself to make the revisions herself, whenever she had a spare moment.

Ms. Maggio reported that the “Frequently Asked Questions Pertaining to Glaucoma Certification” and the meetings page have also been updated.

#### *Personnel Update*

##### *New Employees*

Brianna Miller joined the Board on January 4, 2010 as the Enforcement Technician in the Enforcement Program. Lydia Bracco joined the Board on January 19, 2010 as the new Fingerprint Coordinator and Jessica Siefertman joined the Board on February 1, 2010 as the new Probation Monitor.

##### *Departures*

Elizabeth Bradley accepted a position as a legal secretary with the Department of Industrial Relations. Her last day with the Board was on December 31, 2009. Michelle Linton-Shedd accepted a position as a staff services analyst with the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation. Her last day with the Board was February 16, 2010. Ms. Maggio announced that the Board is in current recruitment for both positions (receptionist and analyst for the Enforcement Program).

##### *Sunset Review*

Ms. Maggio reported that the sunset review process has been reinstated and the Board of Optometry is in the 2012/2013 review cycle. Ms. Maggio noted that she welcomes the sunset review process as an internal audit of how well the Board is doing.

#### **6. Licensing Program Report**

Mr. Jeff Robinson provided a statistical report of the applications received and licenses issued from July 1, 2009 through February 1, 2010.

Mr. Robinson reported that he foresees the licensing process to occur more swiftly this year due to the fact that the Board now requires applicants to submit applications for licensure prior to taking the California Laws and Regulations exam.

Dr. Goldstein inquired if the applications for glaucoma certification were all from doctors who have completed their certification according to the SB 929 protocol and if there have been any issues with any of them. Mr. Robinson responded that they were and there have not been any concerns.

#### **7. Examination Program Report**

Ms. Andrea Leiva provided an overview of the following:

##### *A. Computer Administered California Laws and Regulations*

Ms. Leiva announced that effective April 1, 2010, the Board would be contracting with Psychological Services, LLC (PSI) in order to administer the California Laws and Regulations Exam (CLRE). August 28, 2009 was the last time the National Board of Examiners in Optometry administered the CLRE. Ms. Leiva explained that information was posted to the Board’s website in August 2009. In January 2010, Board staff sent a flyer for distribution to the schools and colleges of optometry; specifically to the student liaisons. In February 2010, an email blast was sent to all subscribers regarding the new testing format and study guide availability. The Spring 2010 newsletter included an article providing information regarding the new law exam.

On March 23, 2010 Ms. Leiva and Mr. Robinson participated in a BETA testing session of the CLRE at PSI’s Sacramento test site and were pleased with the look of the

computerized exam and procedures for administration. Ms. Leiva reported that students taking the new exam would know whether they have passed or failed upon leaving the testing area, and typically they will receive their exam results within 30 days, expediting the licensing process.

Dr. Goldstein inquired if the testing sites are testing centers operated by PSI. Ms. Leiva confirmed that PSI has multiple testing centers for testing convenience.

Ms. Maggio added that the testing centers are very secure. Candidates taking the exam are photographed and fingerprinted and there are cameras and proctors in the exam room at all times.

**B. CLRE Subject Matter Experts Survey Results**

Staff and the Office of Professional Examination Services conducted a survey in order to determine what would be the best days of the week to hold the workshops so that there would be maximum participation. Saturdays, Sundays and Mondays were the best days of the week and staff scheduled the workshops accordingly.

**C. CLRE Development Workshops Schedule**

Ms. Leiva announced that Board staff have scheduled the workshops for the development of the California Laws and Regulations examination questions.

Ms. Leiva explained that she and staff from the Office of Professional Examination Services (OPES) worked together to schedule workshop dates where maximum participation would be achieved. The upcoming workshops dates are as follows:

April 11-12, 2010 (Sunday & Monday): Item Writing and Review Workshops

Purpose: To review the current questions in the California Laws and Regulations examination and to write new questions. Participants will receive training on how to write an exam question and will work in conjunction with a testing specialist to develop examination questions.

May 10, 2010 (Monday): Exam Construction Workshop

Purpose: In this workshop, subject matter experts will select potential questions for the 2010-2011 California Laws and Regulations Exams. Participants will evaluate items for each content area included in the examination and select those that best represent the knowledge required for entry into the profession.

June 7, 2010 (Monday): Passing Score Workshop

Purpose: This workshop establishes the passing score of the 2010-2011 California Laws and Regulations Exams. Under the facilitation of a testing specialist, participants will apply minimum competence standards to establish a criterion-referenced passing score.

**8. Fingerprint Program Report**

Division 15, of Title 16 of the California Code of Regulations (CCR) Regarding the Mandatory Submission of Fingerprints for Board Licensees

Lydia Bracco, Fingerprint Coordinator reported on the following:

Background

The DCA has long been aware that a percentage of its licensee population was never fingerprinted. However, a series of articles in the LA Times focused on a number of health care practitioners that possess a criminal past and intimated that the magnitude of the problem is more widespread. Additionally, these articles raised serious questions concerning the timeliness to the disciplinary process and whether individual practitioners are being held accountable.

DCA's healing arts boards fingerprinting budget change proposal for special fund augmentations; steps for criminal self disclosure; and current steps in the process.

Ms. Bracco reported that she and Ms. Maggio utilized the assistance of the Board of Registered Nursing (BRN) and the Board of Behavioral Sciences (BBS) for information regarding their fingerprint processes. Rather than 'reinvent the wheel', a decision was made to mimic many of the BRN's processes and forms.

Ms. Bracco presented samples of, and explanations for, the Board's 'next steps' in the process which include:

- Finalize notification letter that will be sent to those optometrists who need to comply or may be affected by the regulations.
- Update license renewal form to add fingerprint compliance question.
- Finalize rejection letter.
- Finalize Incomplete Renewal Application form and add form to the website.
- Complete the Fingerprint Information sheet which lists the procedures for using the Live Scan or manual fingerprint processes and provides suggestions on the type of businesses that do the work.
- Update the Request for Live Scan Service form to reflect the renewal type of application and add to the website.
- Finalize the Fingerprint Requirements for License Renewal and add to the website.

Mr. Rendon inquired if fingerprinting is at the Board's discretion. Ms. Bracco clarified that State Law requires fingerprinting under Business and Professions Code (BPC) Section 144.

*Status of California Code of Regulations 1525, 1525.1 and 1525.2*

Ms. Leiva provided a summary of the issues regarding this rulemaking file.

Ms. Leiva stated that Board staff withdrew the rulemaking file for the fingerprint regulations from the Office of Administrative Law (OAL) on Friday, March 19, 2010. OAL discovered a few problems with the file (specifically regarding the renewal form, which was not incorporated by reference in the proposed language). OAL has recommended minor corrections to the format of the language. Board staff and legal counsel have made the changes needed to the proposed language and the renewal form in order to comply with OAL's standards. Staff requests that the Board review, make any edits necessary and approve the proposed revisions in order to distribute the modified text and the renewal form. These items will be available for a 15-day comment period in order to allow public comment.

Ms. Leiva added that Board staff is working with the DCA and Employment Development Department (EDD) in order to update the form as quickly as possible. Staff hopes to resubmit this rulemaking file to OAL in the coming month. The Board has until June 26, 2010 to complete this rulemaking file.

Edward Rendon moved to approve the modified text. Dr. Alejandro Arredondo seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

Dr. Alejandro Arredondo moved to approve the addition of the fingerprint compliance question to the license renewal form, and to delegate authority to the Executive Officer to proceed with rulemaking process, provided no negative comments are received. Katrina Semmes seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

## 9. 2010 Legislation Proposals

### A. AB 2683 (Hernandez) (Introduced) The Practice of Optometry in Health and Residential Care Facilities

Ms. Leiva reported that on February 19, 2010, Assembly Member Dr. Edward Hernandez introduced Assembly Bill (AB) 2683 to add Section 3070.1 to the BPC, relating to the practice of optometry in health and residential care facilities. Ms. Leiva stated that this bill would authorize the practice of optometry at a health or residential care facility, provided the optometrist meets the specified requirements, including, but not limited to, those related to maintaining a nonresidential primary business office, patient access to, and disclosure of, patient records, and specified record-keeping requirements. Ms. Leiva explained that optometrists who practice in a variety of non-traditional optometric settings have asked the Board to set minimum standards and clarify what is required for optometrists who work in these settings. She added that as a consumer protection agency, the Board feels it is necessary to establish guidelines in order to prevent any possible abuse by licensees regarding billing and services provided.

Dr. Goldstein opened the floor to questions and concerns from the Board members and members of the public.

It was asked if optometrists often practice in hospitals. Dr. Goldstein replied not in the State of California, although there is nothing that would prevent them from practicing in hospitals other than, possibly, hospital policies.

Dr. David Turetsky introduced concerns (on behalf of himself and his partner). Dr. Turetsky explained that although many providers are working in the patient's best interest, there are some optometrists who take advantage of patients who are not fully alert (i.e. Alzheimer's and Dementia patients) and provide these patients with quick, incomplete examinations, yet bill them. Additionally, he cited (for example) optometrists who provide

eye exams for staff members of these facilities and not patients. He noted that there is need of an enforcement component to properly audit patient care and reduce the potential for abuse. He added that the legislation of AB 2683 lacks an enforcement component.

Dr. Goldstein responded that there is an enforcement process with the Board. Additionally, hospitals have their own enforcement process. He added that anybody (not just the patient) can make a complaint. Enforcement Manager, Margie McGavin confirmed that this is correct. Anybody can make a complaint and an investigation would be conducted.

Dr. Turetsky noted that when it comes to nursing home facilities, people do not tend to have an overwhelming concern with the kind of care these patients receive. For that reason there is a huge opportunity for abuse.

Ms. McGavin responded that the intent of this bill is to address this potential for abuse but questioned if the language really captures this, or if it is just assumed.

Dr. Turetsky believes the language should require that exams be performed only under a physician's order to cut down on the abuse of facility staff receiving eye exams by the attending optometrist. He added that the Board might consider it beneficial to maintain listings of all of the facilities where the optometrists are practicing.

**B. Omnibus Bill (Senate Business, Professions and Economic Development Committee)**

Ms. Leiva announced that on March 11, 2010, the Committee on Business, Professions and Economic Development introduced Omnibus SB1489. She explained that an Omnibus bill enacts, amends, or repeals a number of provisions relating to the state's licensure of professions and vocations under the Department of Consumer Affairs, primarily in the BPC. Ms. Leiva noted that the bill makes non-controversial changes and is intended to clarify, update and strengthen licensing laws. If at any time, provisions in the bill become controversial, they will be removed.

The following statutes have been incorporated into S B1489 and are being amended for clarity purposes:

- 1) *BPC Section 3046, Expiration of Certificates; Renewal of Unexpired Certificates*  
This amendment will change the language from singular examination to plural examinations. This was a typographical error when the initial language was drafted.
- 2) *BPC Section 3057.5, Eligibility of Graduates from Foreign Universities*  
This statute was amended as a result of the amendment to BPC Section 3046 for consistency.
- 3) *BPC Section 3147, Renewal of Expired Certificates*  
Current law does not specify that certifying completion of optometric continuing education is a requirement of license renewal for optometrists in the State of California. This amendment will clarify the requirements of license renewal.
- 4) *BPC Section 3147.6, Restoration of Certificate Following Failure to Renew Within Specific Period*  
This amendment will clarify the requirements for licensure renewal for California licensed optometrists who fail to renew their license within three years after the expiration of the license.
- 5) *BPC Section 3147.7, Applicability of Provision to Out of State Licensees*



The proposal clarifies the requirements for licensure renewal for California licensed optometrists who fail to renew their license within three years after the expiration of the license. This amendment will require that out of state licensed optometrists who let his/her California license lapse for more than three years, but who can substantiate an active and current optometric license in another state, take and pass the California Laws and Regulations Exam (CLRE) in addition to meeting the other requirements for license renewal.

**10. Discussion of Optometrists Treating Blepharitis**

***(By Michael Santiago, Legal Counsel)***

Dr. Goldstein moved this agenda item to the March 26 meeting.

**11. Review and Adoption of Strategic Plan**

***(Facilitated by Sarah Wilson, Strategic Development Specialist, Department of Consumer Affairs Strategic Organization, Leadership and Individual Development)***

Sarah Wilson presented an overview of the Board's Strategic Plan and actions to date. The Board met on October 23, 2009 and December 1, 2009 to review and revise its 2007 Strategic Plan. Members made revisions to the Board's Mission, Vision, and Values Statements and identified the Plan's six goals.

Board staff met on February 11, 2010 for an opportunity to review the Board's edits and make their recommendations to the Plan.

**Dr. Susy Yu moved to adopt the Strategic Plan. Dr. Alejandro Arredondo seconded. The Board voted unanimously (6-0) to pass the motion.**

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

**12. Public Comment for Items Not on the Agenda/Suggestions for Future Agenda Items**

Dr. Alejandro Arredondo requested a status update on the cosmetic contact lenses discussions. Ms. McGavin reported that the unlicensed activity unit has been absorbed by the Department of Consumer Affairs Division of Investigations (DOI), but enforcement staff has not been receiving any reports from them. She added that she would like to pursue the possibility of having enforcement staff send out the notices of alleged unlicensed activity and refer to the Unlicensed Activity Unit when compliance is not attained by the violator.

Dr. Pam Miller with the American Board of Clinical Optometry (ABCO) announced that ABCO is a new credentialing agency for the purpose of board certification in clinical optometry. ABCO will be contacting all of the state boards requesting information and ensuring compliance with all state laws and regulations. She added that it is the goal of ABCO to support and work with the regulatory organizations as a liaison/advisor. Dr. Goldstein thanked Dr. Miller for providing the board with this information.

Ms. Maggio announced that the next board meeting would be scheduled for one of the days between July 26-28, 2010 in coordination with DCA's Board Member Training Day. This meeting will be held in Sacramento.

Board member, Fred Naranjo arrived and quorum was established.

**13. Adjournment**

**Dr. Susy Yu moved to adjourn for the day and Katrina Semmes seconded the motion. The Board voted unanimously (6-0) to pass the motion.**

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

**The meeting was adjourned at 3:25 p.m.**

# Meeting Minutes

March 26, 2010

San Diego State Building  
1350 Front Street  
Auditorium  
San Diego, CA 92106-3106

## Members Present

Lee Goldstein, OD, MPA  
Board President  
Susy Yu, OD, MBA, FAAO  
Board Vice President  
Monica Johnson, Public Member  
Board Secretary  
Alejandro Arredondo, OD  
Katrina Semmes, Public Member  
Fred Naranjo, MBA, Public Member

## Staff Present

Mona Maggio, Executive Officer  
Margie McGavin, Enforcement Manager  
Andrea Leiva, Policy Analyst  
Jeff Robinson, Lead Licensing Analyst  
Michael Santiago, Legal Counsel

## Guest List

On File

## Members Absent (Excused)

Kenneth Lawenda, OD  
Edward Rendon, MA, Public Member

**Friday March 26, 2010**

**9:00 a.m.**

### **FULL BOARD OPEN SESSION**

#### **14. Call to Order – Establishment of a Quorum**

Board President, Lee Goldstein, OD called the meeting to order at 9:15 a.m.  
Dr. Goldstein called roll and a quorum was established.

#### **15. Welcome and Introductions**

Dr. Goldstein welcomed everyone in attendance

#### **16. Approval of Meeting Minutes**

##### ***A. October 22-23, 2009 Board Meeting***

**Monica Johnson moved to approve the minutes as amended. Dr. Susy Yu seconded the motion and the Board voted unanimously (6-0) to pass the motion.**

<b>Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstention</b>
<b>Dr. Goldstein</b>	<b>X</b>		
<b>Dr. Yu</b>	<b>X</b>		
<b>Dr. Arredondo</b>	<b>X</b>		
<b>Mr. Naranjo</b>	<b>X</b>		
<b>Ms. Johnson</b>	<b>X</b>		
<b>Ms. Semmes</b>	<b>X</b>		

##### ***B. December 1, 2009 Strategic Planning Session***

Dr. Susy Yu moved to approve the minutes as amended. Monica Johnson seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Ms. Johnson	X		
Ms. Semmes	X		

**C. December 17, 2009 Legislation and Regulation Committee Meeting and the Joint Meeting of the Practice and Education Committees**

Dr. Alejandro Arredondo moved to approve the minutes as amended. Dr. Susy Yu seconded. The Board voted (5 – Ayes; 0 – No; 1 abstention) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Ms. Johnson			X
Ms. Semmes	X		

**D. January 21, 2010 Board Meeting**

Dr. Alejandro Arredondo moved to approve the minutes as amended. Katrina Semmes seconded. The Board voted (5 – Ayes; 0 – No; 1 abstention) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Ms. Johnson			X
Ms. Semmes	X		

**4. Director’s Report – Representative from Department of Consumer Affairs**

Dr. Goldstein welcomed Ms. Kimberly Kirchmeyer Department of Consumer Affairs (DCA) Deputy Director for Board & Bureau Relations. Ms. Kirchmeyer introduced a background of her activities. Ms. Kirchmeyer was appointed to her current position in December. Formerly, she worked for the DCA for 20 years with the Board of Barbering and Cosmetology, and the California Medical Board. Ms. Kirchmeyer thanked Board staff for a quick turnaround on requests from the Executive Office. Additionally, she expressed her desire to learn about issues facing the Board.

Ms. Kirchmeyer provided a report on the following:

- A. Senate Bill (SB) 139, Chapter 522, Office of Statewide Health Planning and Development (OSHDP)

The purpose of OSHPD is to determine healthcare workforce shortage and the need for schools by developing a workforce health database. The DCA is very supportive of OSHPD. OSHPD will be contacting the board to assist staff in participation. One possibility for data collection would be to attach a survey to each renewal form, which the DCA would forward to OSHPD.

Dr. Goldstein shared his concern that this would create more lead time instead of solve the problem. He stated that there is an increase of 15% of optometry schools (three new schools in the United States), and the profession is becoming less diverse based on school enrollment.

**B. Consumer Protection Enforcement Initiative (CPEI)**

Ms. Kirchmeyer explained that the length of time it takes to investigate and prosecute a licensee has come under intense scrutiny. In recent years some of DCA's healing arts boards have been unable to investigate and prosecute in a timely manner. Some boards take an average of 3 years which is an unacceptable timeframe that could put consumers' safety at risk. The CPEI's main purpose is to improve processing and shorten the time from 3 years to 12 -18 months. The CPEI is a systematic approach designed to address and streamline three specific areas:

- Administrative Improvements
- Staffing and IT Resources
- Legislative Changes

Steps the DCA is taking for this purpose include the following:

- Building best practices for developing an enforcement academy
- A Deputy Director was hired for enforcement and compliance to review and monitor the Board's enforcement programs.
- Making performance agreements with other state agencies (i.e. Attorney Generals Office and Office of Administrative Hearings)

**C. Consumer Health Protection Enforcement Act Enforcement Reform (SB 1111)**

The Consumer Health Protection Enforcement Initiative (CPEI) is a comprehensive initiative the DCA has launched to overhaul the enforcement process at the healing arts boards it oversees. The program is needed to enable healing arts boards to more efficiently investigate and prosecute consumer complaints against licensees under their regulation.

**Monica Johnson moved to support SB 1111 as introduced and remain open to the possibility of evaluating further amendments to the bill. Fred Naranjo seconded. The Board voted unanimously (6-0) to pass the motion.**

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Ms. Johnson	X		
Ms. Semmes	X		

**D. Uniform Standards Regarding Substance Abusing Healing Arts licensees (SB 1441)**

As required by SB 1441, the Substance Abuse Coordination Committee adopted 16 Uniform Standards to protect the public from substance abusing health care practitioners.

The DCA's legal unit helped establish legislation that will be introduced where legislation is needed in the following areas:

- Suspension of license
- Public notification of licensee restrictions
- Obtaining records.

## 17. Enforcement Program Report

Enforcement Manager, Margie McGavin provided an overview of the following:

### A. Consumer Protection Enforcement Initiative

In January 2010, the DCA released its Consumer Protection Enforcement Initiative, "A Systematic Solution to a Systemic Problem". As reported in the Director's Report by representative, Ms. Kirchmeyer, this initiative addresses three specific areas 1) Administrative Improvements, 2) Staffing and IT Resources, and 3) Legislative Changes. These have been identified as areas that limit the boards' ability to investigate and act on enforcement cases. It is expected that once this initiative is fully implemented, it will reduce the average enforcement completion timeline for healing arts boards from 36 months to 12 – 18 months.

### B. New Reporting Requirements to DCA

As part of the new enforcement model, the DCA is implementing new reporting requirements in order to increase accountability, and streamline existing business practices. The Monthly Enforcement Report was implemented beginning January 2010 and is submitted to the DCA on a monthly basis. Additionally, Staff members, Margie McGavin and Cheree Kimball recently attended a training session for the Enforcement Activity Reporting (EAR) system. The EAR is a web-based program that is designed to allow DCA boards, bureaus, committees, and programs to track and maintain their case activity, with time increments. The EAR system is anticipated to begin in April 2010, and will be utilized by the entire enforcement staff.

### C. Consumer Health Protection Enforcement Act Enforcement Reform

As discussed in the Director's Report, the enforcement staff is and will continue to monitor SB 1111 and will implement the provisions once they become law.

### D. Approved Uniform Standards Regarding Substance-Abusing Healing Arts

Senate Bill 1441 established the Substance Abuse Coordination Committee (SACC) within the DCA. This committee is comprised of the Executive Officers of the healing arts boards and a designee for the State Department of Alcohol Drug Programs. The bill required the committee to develop, by January 1, 2010, uniform and specific standards in specific areas that each healing arts board would be required to follow when addressing the issue of a substance abusing licensee and ensuring public protection. The SACC is subject to the Bagley-Keene Open Meeting Act.

### E. Operational Improvements

#### New Members and Training

Since January 2010, the Board's enforcement staff have welcomed three new employees (Brianna Miller, Enforcement Technician; Lydia Bracco, Enforcement Analyst; and, Jessica Siefertman, Probation Monitor). Training is continuing for these new staff members and they are a wonderful asset to our team.

The enforcement unit has established new procedures in case processing and are utilizing the codes and procedures uniformly.

### Web Postings

The Board staff has requested that the DCA Office of Information Services (OIS) post disciplinary history on the Board's website. Staff is now waiting for the completion, which could take place any day.

The enforcement staff has been working on improving our complaint intake and reporting processes. These improvements have been accomplished due to the recent increase in our enforcement staff and our diligent efforts to audit and ensure complete and proper Consumer Affairs System (CAS) reporting. Cases are now assigned and acknowledged within 5 days as opposed to 15 days.

### **F. Program Statistics**

The enforcement staff has been working on improving our complaint intake and reporting processes. These improvements have been accomplished due to the recent increase in our enforcement staff and our diligent efforts to audit and ensure complete and proper Consumer Affairs System (CAS) reporting. Cases are now assigned and acknowledged within 5 days as opposed to 15 days. The Board of Optometry's average for desk investigations of 240 days (reported in January 2010), dropped significantly to 179 days for February 2010. Enforcement staff hopes to decrease this average further in the coming months.

Dr. Goldstein questioned the timelines of the complaint process noting that the Board of Optometry receives about one complaint a day. Ms. McGavin explained the process and average length of time for each step. Ms. McGavin added that all complaints have to be acknowledged, regardless of whether or not the Board of Optometry has jurisdiction.

Ms. Maggio added her observations of the process and noted that just to evaluate a complaint and figure out the steps needed, can take one day (for one complaint).

Mr. Fred Naranjo inquired into the typical kind of complaint. He acknowledged that he is very pleased with the headway that has been made in responding to inquiries and complaint handling by the Board's staff.

### Continuing Optometric Education Audits

Ms. McGavin stated that the most common problem (regarding compliance) seems to be the requirement as set forth in Business and Professions Code section 3059(f) which encourages licensees to take coursework in pharmacology and pharmaceuticals. She explained that there has been some confusion about the requirement itself and which courses meet the requirement. She announced that staff would be meeting with the Continuing Education Committee to explore ways to streamline this, as well as provide outreach to licensees.

### **18. Review and Possible Approval of the Revised Consumer Complaint Form and instructions**

Ms. McGavin explained that in reviewing the Board's Consumer Complaint Form, staff found the information provided to be problematic. This finding is supported by consumer inquiries regarding the complaint process and insufficient information provided in submitted complaints. She clarified that staff recommends revision of the Consumer Complaint Form to include:

- Instructions for completing the form,
- Notice on Collection of Personal Information,
- Authorization for Release of Patient Health Information, and
- Comprehensive review of the complaint and disciplinary process.
- Make the font consistent

**Monica Johnson moved to approve recommended revisions of the Consumer Complaint Form. Fred Naranjo seconded. The Board voted unanimously (6-0) to pass the motion.**

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Ms. Johnson	X		
Ms. Semmes	X		

**19. Discussion and Consideration of Using Mail Ballots for Disciplinary Decisions**

Ms. Maggio reported that the Department has asked staff to consider utilizing mail ballots to vote on disciplinary actions as allowed by the Administrative Procedures Act. She explained that staff is asking to use electronic mail balloting (in secure format) in addition to regular mail balloting for the purpose of the enforcement initiative. It would cut down on the timeframe that it takes for the Board to meet, discuss a case, and then vote on it.

Dr. Goldstein expressed his concern about how a quorum would be established for the exchange of information. He questioned: Would the Board be able to hold an online closed session? Do we have those capabilities? He added that some agenda items require discussion.

Ms. Maggio responded that the Board could hold a closed session via telephone and that items Board members wish to discuss would be voted as “hold for discussion”.

**20. Discussion and Possible Adoption of Customer Satisfaction Survey**

Board President, Dr. Lee Goldstein moved this agenda item to the previous day’s meeting on March 25. Ms. Leiva explained that the Board has determined that good customer service is essential in meeting our own Strategic Plan’s vision, which is to be the leading health care profession Board that continuously provides optometrists and consumers with effective collaborative and proactive services.

Currently, the Board does not have a mechanism in place to measure the quality of service provided to the Board’s constituents. Many of DCA’s other boards and bureaus use customer satisfaction surveys to establish a baseline for the current level of customer satisfaction and obtain possible suggestions for improvement in customer service.

Thus, Board staff used sample surveys from other boards and bureaus and developed a survey for our Board. The survey will go on the Board’s Web site and will be distributed in a variety of formats in order to ensure a high response rate. Board staff will report the feedback received in the surveys at the next Board meeting.

The survey will be distributed in the following ways:

- 1) Placed on the Board Web site in a prominent area;
- 2) Added to staff signature boxes in emails;
- 3) Sent via email blast to our interested parties list;
- 4) Added to the footnote of all outgoing correspondence;
- 5) Added to the Board’s presentations at California schools and colleges of optometry;
- 6) Encourage staff to mention completion of the survey when assisting customer via telephone



Ms. Leiva added that there would be two separate surveys, one for licensing and one for enforcement. Both surveys will contain a “General Questions” page, which will evaluate the customer’s satisfaction with the initial contact with the Board prior to being transferred to their respective unit.

**21. Review of Rulemaking Calendar**

Ms. Leiva provided an overview of the updated Rulemaking Calendar requested by the Office of Administrative Law (OAL). She summarized the proposed regulations implementing statutes enacted during 2009 and those prior to 2009.

**22. Rulemaking Proposals**

Ms. Leiva provided an overview of the proposed amendments to the following regulations:

- A. Discussion and Adoption of Amendments to California Code of Regulations (CCR) Title 16, Section 1520 Infection Control
- B. Discussion and Possible Action to Initiate a Rulemaking to Amend CCR, Title 16, Section 1523, Licensure Examination Requirements
- E. Discussion and Possible Action to Initiate a Rulemaking to Amend CCR, Title 16 Section 1518, Fictitious or Group Names
- F. Discussion and Possible Action to Initiate a Rulemaking to Amend CCR, Title 16, Section, 1531 Licensure Examination
- G. Discussion and Possible Action to Initiate a Rulemaking to Amend CCR, Title 16, Section 1532 Re-examination
- H. Discussion and Possible Action to Initiate a Rulemaking to Amend CCR, Title 16, Section 1533 Re-scoring of Examination Papers

**Katrina Semmes moved to approve the regulations as amended. Dr. Susy Yu seconded. The Board voted unanimously (6-0) to pass the motion.**

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Ms. Johnson	X		
Ms. Semmes	X		

- J. Discussion and Possible Action to Initiate a Rulemaking to Amend CCR, Title 16, Section 1536 Continuing Optometric Education
- K. Discussion and Possible Action to Initiate a Rulemaking to Amend CCR, Title 16, Section 1561 Topical Pharmaceutical Agents Usage – Purpose and Requirements

Monica Johnson moved to approve the regulations as amended. Katrina Semmes seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Yu	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Ms. Johnson	X		
Ms. Semmes	X		

**FULL BOARD CLOSED SESSION**

Pursuant to Government Code Section 1126 (c)(3) the Board convened to close session at 11:35 a.m. to deliberate on the following disciplinary decisions:

- 23. Stipulated Settlement and Disciplinary Order, Richard Martin, OD, License Number 8799
- 24. Stipulated Settlement and Disciplinary Order, Brett Byron Cornelison, OD, License Number 9861

**FULL BOARD OPEN SESSION**

**25. Adjournment**

The meeting was adjourned at 1:00 p.m.