



MEETING MINUTES

Wednesday, July 28, 2010
Department of General Services
East End Complex, Auditorium
1500 Capitol Avenue
Sacramento, CA 95814

Members Present

Lee Goldstein, O.D., MPA
Board President
Alejandro Arredondo, O.D.
Board Vice President
Katrina Semmes, Public Member
Edward Rendon, MA, Public Member
Susy Yu, O.D., MBA, FAAO
Kenneth Lawenda, O.D.

Members Absent (Excused)

Monica Johnson, Public Member
Board Secretary
Fred Naranjo, MBA, Public Member

Staff Present

Mona Maggio, Executive Officer
Lydia Bracco, Enforcement Analyst
Andrea Leiva, Policy Analyst
Margie McGavin, Enforcement Manager
Jessica Sieferman, Probation Monitor
Dillon Christensen, Enforcement Technician
Brianna Miller, Enforcement Analyst
Cheree Kimball, Enforcement Analyst
Nancy Day, Licensing Technician
Jeff Robinson, Lead Licensing Analyst
Elvia Melendrez, Assistant Licensing Technician
Elizabeth Bradley, Receptionist
Krista Eklund, Office Technician
Michael Santiago, Staff Counsel

Guest List

On File

Wednesday, July 28, 2010

10:00 a.m.

FULL BOARD OPEN SESSION

1. Call to Order – Establishment of a Quorum

Board President, Lee Goldstein, O.D. called the meeting to order at 10:18 a.m. Dr. Goldstein called roll and a quorum was not established. Dr. Goldstein welcomed everyone in attendance. Board members, staff, and members of the audience were invited to introduce themselves.

Public member, Katrina Semmes arrived at 10:51 a.m. and a quorum was established.

Dr. Goldstein announced, Executive Officer, Mona Maggio's second year anniversary with the Board. Staff members presented Ms. Maggio with a gift in celebration.

2. President's Report

Dr. Goldstein announced that Monica Johnson has been reappointed to the Board of Optometry (Board) by Governor Arnold Schwarzenegger, effective July 1, 2010. Her term will expire on June 1, 2013.

Dr. Goldstein reported that he, Dr. Susy Yu, and Ms. Maggio attended a Board Member and Advisory Committee Member training day on Tuesday, July 27, 2010 at the Sacramento Public Library. Kim Kirchmeyer (representative from Department of Consumer Affairs) facilitated the event. Dr. Goldstein noted that many basic board issues were discussed (i.e. continuous competency, standards, laws, board certification), and that he was very pleased with the level of interaction.

Dr. Goldstein invited comments from Ms. Maggio and Dr. Yu. Ms. Maggio reported that she thought the event was an excellent opportunity for board chairs, presidents, advisory members, and executive officers to collectively discuss best practices and the responsibilities of each individual. Ms. Maggio and Dr. Yu agreed that the level of interaction was impressive.

Dr. Goldstein invited Dr. Kenneth Lawenda to report on the American Optometric Associations (AOA) 113th Annual meeting held on June 16 – June 20, 2010 at the Gaylord Palms Convention Center in Orlando, Florida.

Dr. Lawenda congratulated Hillary Hawthorne, former president of the California Optometric Association (COA). Ms. Hawthorne has now been elected, by the House of Delegates, to the AOA Board of Trustees.

Dr. Lawenda reported that the conference held a strong emphasis/focus on preventative and primary care. He provided a summary of the Patient Protection Affordability Care Act (PPACA) which will facilitate access to a full scope of eye and vision care throughout optometry practices. Dr. Lawenda explained that there will be state run programs (backed by federal law) which will seek to extend health insurance coverage to 32 million Americans through a system of 50 state-based health insurance exchanges (Obama plan). He cautioned that one area of focus should be insuring there is sufficient optometric manpower to accommodate the larger number of people requiring eye/vision care services. As a part of this consideration, boards should evaluate current regulations and practices to identify areas in which the status quo may unnecessarily hinder the efficient expansion of the licensed healthcare workforce. Dr. Lawenda noted that the approval of the Harkin Amendment is a tremendous victory for optometry. The final bill includes non-discriminatory standards to outlaw unfair restrictions against optometrists and other providers by exclusionary health plans (i.e. self-insured ERISA plans). This healthcare reform bill goes into effect in 2014.

The AOA was concerned with three primary focuses:

- 1) *Regulations of state healthcare exchanges,*
- 2) *Children's vision benefits within these exchanges,*
- 3) *Making certain that vision care is included as an essential care with school based healthcare plans, eye health and vision care plans, and community health centers.*

Dr. Lawenda noted that electronic health records will become very valuable nationwide.

Dr. Goldstein invited Dr. Yu to provide an update on the Association of Regulatory Board's of Optometry (ARBO). The 91st ARBO Annual Meeting was held June 13-15, 2010 at the Gaylord Palms Hotel, Kissimmee, Florida.

Dr. Yu reported that she had the opportunity to attend the 91st ARBO Annual Meeting, not as a delegate from California, but rather as a Board member for ARBO. ARBO is a 53 member association of regulatory boards in the U.S. and International (excluding Canada)

whose mission is consumer protection. Dr. Yu explained that ARBO offers three major products:

- 1) *Council on Endorsed Licensure Mobility for Optometrists (CELMO) which provides a license mobility vehicle to assist state optometry boards in reviewing applications for licensure from established practitioners in other jurisdictions. This program is not widely endorsed.*
- 2) *Council on Optometric Practitioner Education (COPE) a continuing education standards program.*
- 3) *OE Tracker which is a database for maintaining continuing education (CE) attendance. OE tracker provides access to course history 24/7.*

Dr. Yu noted that one of the “hot topics” on the agenda was the issue of Board Certification. ARBO’s intent is to facilitate some kind of national consistency with an association of regulatory boards who act very independently, and who’s opinions are varied from one end of the spectrum to the other.

Dr. Goldstein announced that this issue will be an agenda item during the October 2010 Public Board Meeting.

3. Approval of Board Meeting Minutes

- A. *March 16, 2010*
- B. *March 25-26, 2010*
- C. *May 11, 2010*

Dr. Goldstein continued this agenda item to the October 2010 meeting.

4. Director’s Report – A Representative from DCA

Kimberly Kirchmeyer, a representative from the Department of Consumer Affairs (DCA) provided a report on behalf of Director, Brian Stiger.

Ms. Kirchmeyer provided an update on the Consumer Protection Enforcement Initiative (CPRI). The goal of this initiative is to reduce the enforcement processing time down to 12 – 18 months (from time a complaint is received to the time disciplinary action is enforced). In moving forward with this goal, the DCA’s budget change proposal (BCP) was approved for 140 new positions. Additionally, data has been obtained on the 8 performance measurements requested by the DCA. These measures address cycle time, volume of complaints, cost of customer service, and probation monitoring. The data collected will be posted on the Board’s website beginning in October 2010.

Ms. Kirchmeyer reported that the BCP for the BreEZe Project was also approved. The goal of the BreEZe project is to replace the DCA’s antiquated computer systems with an integrated database for licensing and enforcement. The BreEZe project will allow applications for licensure and renewal to be submitted and paid for on-line (internet).

The DCA intends to continue encouraging boards to evaluate their enforcement statistics and include the findings (including time frames) in their Board meeting packets.

Ms. Kirchmeyer announced that the DCA is embarking upon a project for licensing reform, brought about by the Governor’s Job Creation Initiative. Beginning in March, the DCA asked boards to determine if they have any backlogs. Gathering statistics is phase one of this project. Boards are asked to gather statistics which will be submitted to the DCA, and then on to the agency and Governor’s Office. September 8, 2010 is the due date for phase one (a monthly report for boards to submit to the DCA). The second phase of the project will include improving efficiency; creating performance measures; evaluating laws and

regulations for needed changes, and best practices (what boards can do to improve their processes).

Ms. Kirchmeyer reported on Senate Bill (SB) 1441 (Uniform Standards Bill). The DCA is encouraging all of the boards to move ahead with the regulatory process for implementation of the standards.

Ms. Kirchmeyer announced that the DCA is requesting the boards make the federal healthcare reform a standing agenda item.

Ms. Kirchmeyer thanked Board members and staff for looking into continuing competency. She noted that this is a difficult project which the Board of Optometry is taking on.

Dr. Goldstein thanked Ms. Kirchmeyer, Director Brian Stiger, and everyone involved for all of the outreach that has taken place. He noted that the discussions have been very productive.

5. Executive Officer's Report

Executive Officer, Mona Maggio provided an overview of the following:

A. Budget Report

Ms. Maggio reported that although the state does not have a budget going forward, the Board of Optometry managed to close the fiscal year with \$160,000 reverted back to the reserve fund. June 2010 reflects 6.6 months in the reserve.

Ms. Maggio explained that she has placed \$125,000 into the architectural revolving fund to assist staff with the upcoming move. Ms. Maggio reported that the budget for 2011 will be \$1,717,000.00. Additionally, the Board was granted approval for two new positions (.5 Associate Governmental Program Analyst in the Enforcement Program, and a .5 Management Services Technician in the Licensing Program). Ms. Maggio explained that at the request of personnel, she will be holding off on filling these positions until later in the year in order to achieve a salary savings.

B. Operations Report

The Board has secured office space at 2450 Del Paso Road (one building over from where the Board is currently located). Ms. Maggio is working with DCA Facilities Unit to design the floor plan. The goal is for the Board to move in November/December 2010. The new space will have cubical space for 16 staff, including a manager's space, a small meeting room, a copy/equipment room and a coffee bar.

Ms. Maggio noted that currently, four of the Board's enforcement staff are using cubical space at the Bureau of Security and Investigative Services (BSIS), due to a lack of space within the Board's office. It's difficult for the cohesiveness of staff, to interact with one another while working out of different offices.

Ms. Maggio announced that Policy Analyst, Andrea Leiva was promoted to the Associate Governmental Program Analyst (AGPA) classification effective April 1, 2010. And Brianna Miller was promoted to the Staff Services Analyst (SSA) classification effective June 1, 2010. Elizabeth Bradley was welcomed back to the Board effective July 1, 2010. Elizabeth had accepted a limited term position as a legal secretary within the Department of Industrial Relations (DIR) on December 31, 2009. the limited term position was terminated when the DIR employee returned to work after a long-term medical leave of absence. Dillon Christensen joined the Board on July 12, 2010. Dillon was hired to fill the office technician position in the Enforcement Program.

Ms. Maggio praised Ms. Leiva for taking it upon herself to update the California State Board of Optometry's Law Book. The Board was unsuccessful in obtaining an agreement with Lexis Nexis to update the law book. Ms. Leiva updated the law book on her own initiative and it's now posted on the Board's website. The Board will be seeking bids to contract for the actual publishing and printing of the revised law book.

Frequently Asked Questions Pertaining to Glaucoma Certification and the meeting pages have also been updated. The most current update to the Board's website is information on the reinstatement of Medi-Cal optometric benefits. Dr. Cory Vu has been instrumental in assisting staff with these updates.

C. Outreach Report

Ms. Maggio reported that In April, Cheree Kimball, Jessica Sieferman, Lydia Bracco, Brianna Miller and Andrea Leiva traveled to the University of California, Berkeley (UCB) School of Optometry to observe the clinical portion of the National Board of Examiners of Optometry (NBEO) examination.

In May, Jeff Robinson, Margie McGavin, Ms. Kimball, Ms. Sieferman and Ms. Leiva made presentations to graduating classes at the Southern California College of Optometry (SCCO) and the UCB, School of Optometry. Staff provided an overview of the history of the Board, the licensing process, enforcement process, and how the Board can serve them while they transition from students to licensed professionals.

Ms. Maggio announced that on April 19, 2010, she was able to participate in the accreditation review at Western University School of Health Sciences, School of Optometry in Pomona, California. She was able to serve as an observer to the Accreditation Council on Optometric Education (ACOE's) team site visit. Ms. Maggio noted this was a fascinating and amazing event. She reported that when the Board visited in 2008, the School of Optometry was just breaking ground and was a vision on paper. Now the School is state of the art, with monitors in each exam area for sharing of patient exams to aide in training; conference rooms are wired for webcasting, and many teaching rooms can be re-arranged depending on the needs of the faculty/students for a particular subject. The curriculum is designed to be integrated studies so some classes would have students from different health sciences in a class, and class schedules can change from week to week. The students spoke highly of their education, service to the public, and how both the faculty and administration went above and beyond the student's expectations. They felt cared for and that there was support for them to succeed. Faculty expressed their excitement for the school, its mission/vision/values, compensation, willingness to let faculty be creative and try new ways of teaching students, sharing ideas, and the administration is very supportive of them. Ms. Maggio noted her observation is that the team does an incredible amount of work to ensure that the schools/colleges of optometry are meeting the accreditation standards and that Western University is doing an outstanding job in meeting the standards. Ms. Maggio looks forward to the Board meeting there in 2011.

Ms. Maggio introduced the Board of Optometry's new budget analyst, Wilbert Rumbaoa.

Dr. Goldstein opened the floor to questions for Mr. Rumbaoa and there were none. Dr. Goldstein asked if Mr. Rumbaoa wished to volunteer anything regarding the budget. Mr. Rumbaoa reported that according to his preliminary reports, everything looks good.

6. Discussion and Possible Approval of New Board Logo/Branding

Ms. Leiva provided Board members with a presentation of sample logos created by DCAs' Office of Publication, Design and Editing (PDE), as well as logo voter's ballots. Ms. Leiva provided instructions on the voting process. Board members were asked to review

the proposed logos and vote on their preferred logo. The new logo will replace the Board's current logo. The new logo will be placed on the Board's website, and all future correspondence and publications such as brochures, strategic plan, law book, etc.

7. Review and Possible Approval of the Proposed Revisions to the Board of Optometry's Record Retention Schedule

Enforcement Analyst, Lydia Bracco provided an overview of the Board's record retention schedule. Record's management is the method of keeping track of all the records each Board, Bureau, and Division are responsible for. Records retention schedules must be renewed every five years. Ms. Bracco is now responsible for corresponding with the DCA Records Management Coordinator, maintaining and amending records retention schedules, transfer lists, and State Record Center file requests. Ms. Bracco reported that the records retention schedule was updated and will be maintained throughout the years. Staff requests Board members review and approve the records retention schedule.

Dr. Goldstein inquired if there is anything in the report the Board should be particularly aware of. Ms. Bracco responded that every page has been changed (for example the addition of electronic storage which the Board now has a considerable amount of). Ms. Bracco added that we are not currently sending anything to archives due to the fact that it is a tremendous undertaking. Eventually, this will have to be accomplished as there are many boxes in staff's storage room.

Dr. Lawenda inquired as to how fingerprint information is stored. Mr. Robinson replied that fingerprint information is now stored electronically. He explained that staff receive a notice from the Department of Justice (DOJ) and the Federal Bureau of Investigations (FBI) that the person is clear, and to not receive the actual fingerprints via this electronic communication.

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

Dr. Kenneth Lawenda moved to approve the new records retention schedule. Ed Rendon seconded. The Board voted unanimously (6-0) to pass the motion.

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

7. Examination Program

Ms. Leiva provided an overview on the examination program. She reported that on April 1, 2010, Psychological Services Inc. (PSI), began administering the California Laws and Regulations Exam (CLRE). So far, Board staff is pleased with PSI's procedures and customer service. PSI staff and the Board's liaison, Nicole Woods, Office of Professional Examination Services (OPES), have been very helpful in assisting the Board during this transition. Ms. Leiva explained that the use of PSI has streamlined the licensing process in the following manner:

- 1) It's reduced staff time. Previously, staff had to print up to 300 hard copies of the examination, purchase Scantron forms (Scantrons), then mail everything to the National Board of Examiners in Optometry (NBEO). Once the examination was taken,

NBEO had to mail all the materials back to the Board. Staff had to then verify the returned exam booklets and Scantrons, and then submit the Scantrons for scoring to OPES. This process took 2-3 months to accomplish.

- 2) Reduced staff time (licensing analyst). Previously, staff had to manually enter the CLRE fulfillment date to their file.

Now, exam scores are electronically transferred to the candidate's record, fulfilling the law exam requirement for licensure automatically. Exam scores are transferred 24 hours after the examination date. If exam scores are delayed, it is only for a few days and not months as in the past. Also, staff do not have to prepare a document to post on the Board's website with the candidate's scores because the scores are received at the test site. These changes have enabled staff to focus on other initial licensing matters and reduced the influx of telephone calls and e-mail messages from anxious applicants.

Ms. Leiva reported that from April 1, 2010 to June 30, 2010 the Board has had 128 examinees; for which, 118 passed. At the end of the exam, candidates are asked to complete a mini survey rating their experience. So far, the candidates are rating the new testing vendor favorably.

Ms. Leiva announced the PSI partner website. Staff can now keep track of all aspects of testing. The following reports can be generated via the PSI partner website:

- Survey Results
- Examinee Scores
- Total Summary of Examination
- Statistics and Exam Count by Site
- Candidate Feedback
- Attendance
- Portion Pass Rate
- Eligibility Summary
- Candidate Comments
- Handbook Distribution
- Special Accommodation
- Candidate Info & Registration Activity Page
- Daily Authorization Report
- Scheduled Candidates
- Registered Candidates
- Absent Candidates
- Expired Eligibility

Dr. Lawenda noted that most of the applicants who failed, live out of state. He inquired if there has been a correlation (in the past) between those who didn't pass and their residing out of state.

Ms. Leiva responded that she and Mr. Robinson provide guidance as to what applicants need to study via a study guide. They also walk applicants through the study materials via telephone.

Dr. Goldstein noted that the reason for not passing is not because they don't have sufficient ability to prepare.

Dr. Alex Arredondo inquired if the test is given twice annually.

Ms. Leiva confirmed that the exam is offered twice a year; However, if the applicant fails the exam, he/she must wait 180 days before testing again, due to the fact that the Board's

question bank is very small. Ms. Leiva explained this is why staff continually hold law exam workshops, to create new questions.

Dr. Susy Yu, Ms. Leiva and Ms. Maggio discussed the candidate handbook and feedback received.

9. Licensing Program Report

Mr. Robinson provided an overview of the licensing program.

A. Operational Improvements

Mr. Robinson reported a great improvement in the speed and efficiency of processing applications for optometrists. The Board's new vendor, Psychological Services Inc. (PSI), with assistance from the DCA Office of Professional Examination Services (OPES) and Applicant Tracking System (ATS) staff, has helped streamline the candidate review process by enabling the Board to send and receive pertinent applicant information via electronic transmissions.

Mr. Robinson added that Board Enforcement staff are auditing optometric practices to ensure compliance with California law. Enforcement staff have been enclosing "educational letters" along with applications for fictitious name permits and have seen an increase in the submission of those applications.

B. Program Statistics

Mr. Robinson provided the total number of applications for licenses, certificates, and/or permits received in the last half of this fiscal year (February 2, 2010 – June 30, 2010). He also provided the total number of licenses, certificates, and/or permits issued in the last half of this fiscal year.

Mr. Robinson noted that the numbers of applications for glaucoma certification are very high because he counted in the new applicants. Minus the new applicants, Board staff have only certified 5 optometrist for glaucoma.

Dr. Goldstein and Mr. Robinson discussed the possibility of reconfiguring the categories for gathering statistics.

Dr. Arredondo inquired what age group of patients can optometrists treat with lacrimal irrigation and dilation procedures.

Dr. Goldstein and Mr. Robinson replied the patient be over 12 years of age.

C. Review of Revised Applications/Forms/Instructions

Mr. Robinson stated that as part of the DCA's newly formed job initiative, licensing staff have been working to improve efficiency by updating applications and forms to help reduce processing time.

10. Enforcement Program Report

Enforcement Manager, Margie McGavin reported on the following:

A. Report on Enforcement Academy

Ms. McGavin stated that the Board's Enforcement staff attended and participated in the newly created DCA Enforcement Academy. The academy consisted of two sessions with eight modules each. A wealth of knowledge was shared by some of the Department's most experienced veterans, in all aspects of the enforcement and disciplinary process. The modules included topics on case intake, investigations, document and evidence gathering, inspections, disciplinary actions, probation monitoring. Ms. McGavin added that this was a

great networking and information sharing opportunity. Staff came away from the training with new ideas, and a better understanding of the enforcement process overall.

B. New Reporting Requirements to DCA

Ms. McGavin reported that staff continue to submit the Consumer Protection Enforcement Initiative (CPEI) reports, by the 15th of each month for the prior month's statistics.

In addition to the monthly reporting, starting July 1, 2010, enforcement staff will be responsible for tracking information relating to the cycle time and efficiency of certain investigation and probation processes, as well as consumer satisfaction. These Performance Measures Reports will be due to the Department quarterly, starting October 1, 2010.

Ms. McGavin stated that Board staff are currently working on the Annual Report for fiscal year 2009/2010. This report constitutes a comprehensive overview of the Board of Optometry and its enforcement program for the last fiscal year and is due to the Department in August, 2010.

There was also a change to the annual Outstanding Receivables report, which is turned in after the end of each fiscal year. The report tracks the amount of cost recovery and administrative fines ordered in the prior fiscal year, the payments received toward those amounts and the total outstanding balances. This year, the report broke the requested information down into what was ordered in the last fiscal year and prior.

Ms. McGavin reported on the BreZE Project. As part of the Consumer Protection Enforcement Initiative, the DCA is in the process of the procurement and implementation of a new database capable of handling both licensing and enforcement requirements. The new database will not only streamline many of the processes used by Board staff on a day to day basis, but will also enable staff to track and report a wider variety of statistics with greater accuracy. Ms. McGavin announced that Ms. Kimball and Ms. Siefertman have acted as subject matter experts for this project.

Ms. McGavin explained that the Enforcement Activity Reporting (EAR) system, 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, electronically. The EAR system will be used concurrently with the Consumer Affairs Systems (CAS) database and should allow for more detailed tracking.

Ms. McGavin stated that the EAR system will track time spent on each case, which will be valuable for identifying where some of the bottlenecks are in the enforcement process, and provide ideas for process improvement.

C. Operational Improvements

Ms. McGavin announced that she attended the Enforcement Manager's Roundtable meeting on March 22, 2010, and the Division of Investigation (DOI) quarterly meeting on June 25, 2010. DOI provided an overview of their goals in complying with the CPEI. They're working diligently to shorten the time it takes to close a case. They reported that they have closed most of the cases over three years old, and have a goal of no cases older than 12 months.

Ms. McGavin reported that on June 25, 2010, Ms. Kimball attended the Enforcement Manager's Roundtable meeting. Information was shared regarding the progress of DOI's goals and regarding fluid testing of licensees on probation.

On June 30, 2010, Ms. Kimball and Ms. Sieferman attended the Enforcement User's Group meeting. This group meets on a regular basis to discuss issues relating to CAS. Enforcement staff meet weekly to discuss case status and other enforcement issues.

Ms. McGavin reported that the disciplinary actions taken by the board are now being posted to the Board's website under the "Consumer's" section. Under the title of "Citations or Disciplinary Actions", the viewer will find a brief description of the action and be able to view the actual document in PDF format.

Ms. McGavin added that enforcement staff are also working with staff from the office of the Department's Deputy Director of Enforcement and Compliance in implementing the ability to view pending Accusations directly on the "license look-up" for the licensee. The anticipated completion of this project is January 30, 2011

Dr. Goldstein raised his concern about making an accusation public when it may not result in discipline and the unintended harm that may could ensue.

Dr. Lawenda voiced his concern that insurance companies may look at accusations (which have not been proven) and deny the individuals until the matter is resolved.

Legal Counsel, Michael Santiago, Ms. Maggio, and Ms. McGavin explained that once an accusation has been served upon a licensee, it becomes public information. If the accusation does not result in any discipline, the accusation is withdrawn. Ms. Maggio and Ms. McGavin added that they do not believe an insurance company would cancel an optometrist solely on an accusation; however, the Board cannot direct them.

Dr. Arredondo inquired if there's difference between optometric related accusations versus unrelated accusations. Ms. McGavin explained that if a licensee is convicted of anything, the Board may or may not file an accusation. Ms. McGavin and Ms. Maggio re-stated that once an accusation is filed it becomes public information.

Ms. Semmes inquired about unsubstantiated accusations. Ms. Maggio clarified that an accusation remains public record until it is withdrawn.

Dr. Craig Kliger, M.D. raised a concern that there should be some statement on the Board's website saying an accusation was rescinded as opposed to just being gone. Ms. Kimball clarified that when an accusation is dismissed, the dismissal becomes public record. At that time it is stated on the Board's website that the accusation was dismissed and the reasons for the dismissal.

Ms. Kirchmeyer further clarified that once an accusation is dismissed the accusation cannot appear on the Board's website. However it's still a public record and anyone can request that the accusation documents be sent to them.

Dr. Lawenda asked for clarification on the sworn and non sworn field investigations. Ms. McGavin explained the majority of the Board's investigations are desk investigations and are non sworn. The cases the Board sends to DOI are sworn investigations.

Dr. Lawenda voiced a concern that given the lengthy amount of time it takes for investigations to be completed, the public may be at risk since the optometrist is practicing during the investigation. Ms. McGavin explained that when there exists any immediate risk to the public an interim suspension order is issued, and the optometrist is suspended from practice.

Ms. Maggio provided an explanation for the why some of the Board's cases are so old (as long as three years back).

- 1) DOI has a priority list for the cases they receive. Complaints against optometrists don't result in patient harm to the degree of death. Therefore DOI pushed the priority of our cases way down.
- 2) DOI didn't have full staffing. They now have full staffing and have cleaned up their backlog.
- 3) The Board didn't have full staffing. Ms. Maggio stated that when she came to the Board there were only two enforcement staff. The Board's enforcement unit is now fully staffed.

Ms. Maggio stated she believes over the next few months our case load numbers will drop and the number of days shorten. She noted that enforcement cleanup and efficiency is what the CPEI is all about.

Ms. Maggio asked Krista Eklund to provide an overview of the changes made in the CalAter's travel system.

D. Program Statistics

Ms. McGavin provided an enforcement statistical overview.

11. Fingerprint Program Report

Fingerprint Coordinator, Ms. Bracco provided an overview of the Fingerprint Program.

To address the potential of continuing to license practitioners who may have a criminal record, DCA has added a standardized question on the applications of all healing arts boards/bureaus for license renewal requiring licensees to self-disclose criminal history, and/or license discipline, as a condition for license renewal. The Board of Optometry is adding a similar question regarding fingerprinting to the License Renewal Application sent to optometrists.

Ms. Bracco, Mr. Robinson, Nancy Day, and Gary Schneegas (Office of Information Services) have worked together to add a fingerprint compliance question, as well as language to improve clarity and streamline completion of the form.

Ms. Bracco also gave a description of the fingerprint regulations fact sheet that will be available on the Board's website.

Dr. Goldstein predicted a lot of phone calls and inquired if staff will have a script available to aid with the calls. Ms. Maggio and Ms. Bracco confirmed that there will be a script based off of the fact sheet.

12. Probation Monitoring Report

Probation Monitor Ms. Siefertman provided a report on probation monitoring.

As part of the Enforcement Academy, Enforcement Unit staff completed Probation and Monitoring training, presented by the Board of Registered Nursing (BRN), on June 14, 2010. Since then, Board staff has been communicating with other Boards and Bureaus to improve the probation monitoring program.

Ms. Siefertman also conducted an extensive audit of the probation cases dating back to July 1, 1987. This audit included clearing up cases that were still open on the books, updating tracking screens, and correcting codes on the Consumer Affairs System (CAS) for the purpose of obtaining accurate statistics.

On July 7, 2010, Ms. Sieferman met with BRN's Probation Program Manager and other probation staff to possibly create a system that will capture accurate probation statistics using the Microsoft program ACCESS. This system will promote transparency within the probation program. It will also enable Board staff to conduct monthly audits of the probation program.

Additionally, Ms. Sieferman is in the process of updating the quarterly reports to fit each individual probationer. This will enable a faster, more efficient audit process and assist in quickly identifying any potential compliance issues.

Ms. Sieferman explained the Department (DCA) just signed a new biological fluid testing contract with Phamatech, Inc. on June 30, 2010. During a conference call with DCA and Phamatech, Ms. Sieferman and Ms. Maggio gathered the necessary details in order to initiate probationer enrollment. The effected probationers were notified of the new vendor my mail on July 9, 2010.

Ms. Sieferman reported she has coordinated face-to-face probation interviews at various Division of Investigation (DOI) offices throughout the state. Due to the lack of the state budget, however, these interviews have been put on hold until a budget is signed.

Ms. Sieferman announced that Board staff is looking into attending training courses offered through the Council on Licensure, Enforcement and Regulation (CLEAR). These courses will help identify best practices throughout the nation that can be considered for incorporation into our own program.

Ms. Sieferman and Ms. Leiva are in the process of revising the Board's Disciplinary Guidelines in order to incorporate the requirements from SB 1441 and make technical changes that will tighten up various language misinterpretations. These changes will create consistency within the probation program.

Ms. Sieferman presented the Probation Program statistics as of July 28, 2010.

Dr. Goldstein opened the floor to question and comments and there were none.

13. Legislation Report

Ms. Leiva provided an update on AB 2683.

A. Board Sponsored Legislation

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

This bill would establish guidelines for the practice of optometry at a health facility or residential care facility, as defined, provided the optometrist meets 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 reported two changes that have occurred since the previous update. The California Hospital Association (CHA) requested that the definition of a health facility be narrowed to exclude general acute care hospitals and acute psychiatric hospitals in section 3070.1. CHA felt that the definitions in the legislation were too broad. The Board accepted the change because optometrists do not typically practice in acute care hospitals anyway.

The California Medical Association (CMA) requested amendments to sections 2544, 2553.6, 2559.4 and 2564 regarding the settings where assistants of physicians or surgeons and optometrists may practice. CMA's amendments would define "setting" to include, without limitation, any facility licensed by the State Department of Public Health or the State Department of Social Services. CMA also added language in the same section specifying that nothing in the section will be construed to authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400. These additions do not affect section 3070.1.

The Board accepted these additions and amendments because it will be beneficial for assistants to have the ability to work with optometrists to provide services in health and residential facilities.

AB 2683 is supported by the California Optometric Association (COA), Visions and Services Plan (VSP), the Board of Optometry, Advanced Eye Care, and the chairman of the UC Davis Eye Center. There are no oppositions. The bill passes on consent and is in appropriations.

Dr. Goldstein opened the floor to questions or comments.

Dr. Kliger voiced support for the bill.

2. *SB 1489 Omnibus Provisions (Senate Committee on Business, Professions Economic Development)*

Ms. Leiva provided an update on SB 1489.

- Amend Business and Professions Code (BPC) Section 3046, Expiration of Certificates, Renewal of Unexpired Certificates

The Board is clarifying for applicants for licensure that they must pass both required licensing examinations, not just one examination (National Boards Examination). This amendment will change the language from singular examination to plural examinations. This was a typographical error when the initial language was drafted.

- Amend 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.

- Amend Section 3147.6, Restoration of Certificate Following Failure to Renew Within Specified 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.

- Amend 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. Adding the requirement of taking and passing the CLRE is another measure of ensuring consumer protection by making certain the licensee is aware and knowledgeable of changes to the laws and regulations governing the profession of optometry in California.

SB 1489 is supported by the California State Board of Pharmacy, the Board of Behavioral Sciences, the Board of Optometry, and the Medical Board of California. There are no oppositions. The bill passes on consent and is in appropriations.

Dr. Goldstein opened the floor to questions or comments and there were none.

B. Legislation Impacting the Practice of Optometry or the Board's Jurisdiction

Ms. Maggio provided an update on the following bills:

- AB 1310 (Hernandez) Healing Arts: Database

This bill will allow the Board to collect demographic information from persons licensed or registered with the Board. At the time of this report the AB 1310 was being held under submission in the Senate Appropriations Committee.

- AB 1609 (Blumenfeld) 2010 – 2011 Budget

This bill would make appropriations for support of state government for the 2010 – 11 fiscal year and would declare that it is to take effect immediately as an urgency statute. This bill has been referred to the Committee on Budget.

- AB 2028 (Hernandez) Confidentiality of Medical Information: Disclosure

This proposal will allow a health care provider or health care service plan to disclose information relevant to an incident of child abuse or neglect, or an incident of elder or dependent adult abuse, without needing written authorization before they can report as specified in current law. This bill has read a second time and amended. It has been re-referred to the Senate Committee on Appropriations.

- AB 2699 (Bass) Healing Arts: Licensure Exemption

This proposal allows a health care practitioner who is licensed or certified in another state to provide health care for which he or she is licensed in the State of California if they meet certain conditions. This bill has been amended and re-referred to the Senate Committee on Appropriations.

- SB 294 (Introduced by Negrete McLeod) Department of Consumer Affairs: regulatory boards

This bill changes the sunset review dates on various boards, bureaus, and programs within the Department of Consumer Affairs (DCA). Specifically for the Board of Optometry it would extend the sunset date from January 1, 2013 to January 1, 2014. This bill has been referred to the Assembly Appropriations Committee. The Hearing date is scheduled for August 4, 2010.

- SB 389 (Negrete McLeod) Fingerprint Submission

This proposal requires, beginning January 1, 2011, specified entities under the Department of Consumer Affairs to require, as a condition of licensure renewal, the submission of fingerprints by licensees for whom an electronic record of the submission of fingerprints no longer exists with the Department of Justice (DOJ). This bill failed passage in committee. Reconsideration is granted and heard on June 22, 2010. In anticipation of this bill not passing, the Board put the provisions that were going to be covered by SB 389 and into regulations for our fingerprint submission. On June 21, 2010, the Board's California Code of Regulations 1525, 1525.1, and 1525.2 became effective, requiring all licensees, who may not have previously submitted fingerprints to the Department of Justice, complete a state and federal level criminal offender record information search through the DOJ before renewal of their license. This rulemaking also clarifies that prior to renewal a licensee has to disclose whether there has been any disciplinary actions against them and if they have any criminal convictions during the renewal cycle.

Ms. Maggio opened the floor to questions or comments and there were none.

14. Review and Discussion of Rulemaking Calendar

Ms. Leiva provided an update of the following regulations:

A. California Code of Regulations (CCR) Title 16, Section 1520 Infection Control

This proposal amends the regulation in order to establish infection prevention practices for proper hand hygiene, appropriate use of personal protective equipment, handling of sharp instruments, and appropriate cleaning of patient care equipment, instruments, devices and environmental care. This proposed regulation will require licensees to adhere to the most current guidelines and standards published by federal, state, local, and other regulatory and accrediting agencies.

The Department has approved this regulation. Now the language will be sent to the Office of Administrative Law.

B. CCR, Title 16, Section 1518, Fictitious or Group Names

This proposal will update subsection (a) of the regulation by correcting the permit fee required to obtain a fictitious name permit from \$10 to \$50. Also to clarify that a permit is to be renewed annually on January 31 and that failure to renew in a timely manner will result in a \$25 delinquency fee. Ms. Leiva stressed that this is not a fee increase. The fee increase went into effect last year and is already in effect. This is language clean up edits to make the regulations match.

August 2, 2010 - The 45-day comment period ends and the regulatory hearing is scheduled for the same day.

C. CCR, Title 16, Section 1523, Licensure Examination Requirements

This proposal will edit all sections of the regulation for grammatical and style purposes. Also updates and clarifies information regarding licensure and examination requirements such as outdated forms incorporated by reference and name change to exam titles.

August 2, 2010 - The 45-day comment period ends and the regulatory hearing is scheduled for the same day.

D. CCR, Title 16, Section 1531, Licensure Examination

This proposal will edit all sections of the regulation for grammatical and style purposes. Also updates and clarifies information regarding the Board's licensure examinations.

August 2, 2010 - The 45-day comment period ends and the regulatory hearing is scheduled for the same day.

E. CCR, Title 16, Section 1532, Re-examination

This proposal will update and clarify information regarding additional re-examination of sections of the national examination and the Board's laws and regulations examination.

August 2, 2010 - The 45-day comment period ends and the regulatory hearing is scheduled for the same day.

F. CCR, Title 16, Section 1533, Re-scoring of Examination Papers

This proposal will edit the title of the regulation to "Re-Scoring of California Laws and Regulations Examination Papers" in order to specify the re-scoring of the Board's California Laws and Regulations Examination since the national exam is handled by the National Board of Examiners in Optometry.

August 2, 2010 - The 45-day comment period ends and the regulatory hearing is scheduled for the same day.

G. CCR, Title 16, Section 1536, Continuing Optometric Education: Purpose and Requirements

The main purpose of the proposed amendments to Title 16, CCR section 1536 are to clean up and update the existing regulation's language for informational and clarity purposes. This proposal also adds new continuing optometric education (CE) opportunities.

August 16, 2010 – 45-day comment period ends and the regulatory hearing is scheduled for the same day.

H. CCR, Title 16, Section 1561, Topical Pharmaceutical Agents Usage – Purpose and Requirements

This proposal amends the regulation to reflect the current requirements for the usage of topical pharmaceutical agents. This regulation has not been updated since 1989 and the optometric scope of practice and education provided today far surpasses what this regulation currently requires.

August 2, 2010 - The 45-day comment period ends and the regulatory hearing is scheduled for the same day.

I. CCR, Title 16, Section 1569, Scope of Practice

This proposal repeals this regulation because it only mimics Business and Professions Code section 3041 (Scope of Practice of Optometry) and does not clarify or effectuate the statute.

Approved and becomes effective August 20, 2010 - Section 1569 will be repealed.

J. CCR, Title 16, Section 1571, Glaucoma Certification Requirements

This proposal establishes requirements for glaucoma certification pursuant to Senate Bill 1406 (Correa, Chapter 352, Statutes of 2008).

The package has been approved and is at the Department of Finance. When Ms. Leiva receives the package it will send it to the Office of Administrative Law.

Dr. Goldstein opened the floor to questions or comments and there was none.

15. Discussion and Possible Action to Approve Draft Language to Commence a Rulemaking to Add and Amend Regulations Pertaining to Senate Bill 1111 and Senate Bill 1441 to Division 15, Title 16 of the CCR

A. Amend CCR, Title 16, Section 1502, Delegation of Certain Functions

B. Amend CCR, Title 16, Section 1523, Licensure and Examination Requirements

C. Amend CCR, Title 16, Section 1575, Disciplinary Guidelines

D. Add CCR, Title 16, Section 1575.1, Required Actions Against Registered Sex Offenders

E. Add CCR, Title 16, Section 1575.2, Unprofessional Conduct

Ms. Leiva reported on Senate Bill 1111. The DCA sponsored SB 1111 to provide health care boards with the necessary tools to implement the Consumer Protection Enforcement Initiative and streamline the enforcement and discipline process. This bill failed in the Senate Business, Professions, and Economic Development

Committee on April 19, 2010. Despite this outcome, the Department has identified nine provisions from SB 1111 that can be implemented via regulation in order to meet the Department's goal of completing a case in 12-18 months. Board staff was able to find the authority to implement all nine provisions and has worked with Department and the Board's legal counsel in order to draft proposed language.

Ms. Leiva reported on Senate Bill 1441. This bill (Ridley-Thomas, Chapter 548, Statutes 2008) created the Substance Abuse Coordination Committee (SACC). The SACC was mandated to formulate uniform and specific standards in specified areas so that each healing arts board could deal with substance-abusing licensees, whether or not the Board chooses to have a formal diversion program. The standards were completed this year, and upon the Department's recommendation, Boards are being required to incorporate these uniform standards by reference to their disciplinary guidelines.

Board staff request that the Board members review, make edits if necessary, and approve the proposed language for the following regulations prompted by SB 1111 and SB 1441.

Ms. Leiva explained that she looked at other board's authorities to find matching authorities to our own.

Mr. Santiago added that BRN was the first board to implement regulations. The Legal Affairs Office drafted the model regulation language that all the boards can use. It's just a matter of being able to utilize each specific board's practice act to ensure authority.

Dr. Goldstein inquired how the "Delegation of Certain Functions" would affect what the Board currently does. Citing the Stipulated Agreement as an example, Dr. Goldstein asked if the Stipulated Agreement would be Ms. Maggio's responsibility or if it would come to the Board.

Mr. Santiago and Ms. Maggio explained this would only add to Executive Officer authority in revocation cases.

Ed Rendon moved to approve draft language to commence a rulemaking to add and amend regulations pertaining to Senate Bill 1111 and Senate Bill 1441 to Division 15, of Title 16 of the CCR. Dr. Kenneth Lawenda seconded. The Board voted unanimously (6-0) to pass the motion

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

16. Strategic Plan Report

Dr. Goldstein moved this agenda item to the October 2010 Board meeting.

17. Public Comment for Items Not on the Agenda/suggestions for Future Agenda Items

Dr. Goldstein moved this agenda item to the October 2010 Board meeting.

18. Petition for Reinstatement of Licensure

Deputy Attorney General, Char Sachson represented the Board and Administrative Law Judge, Steven J. Smith presided over the hearing as the Board heard the petition in open session for:

- Wyman Chan, O.D., License Number 5017, represented by Craig Steinberg, O.D., J.D.

FULL BOARD CLOSED SESSION

Pursuant to Government Code Section 11126 (c)(3), the Board convened to close session to deliberate on the following disciplinary decisions:

19. Wyman Chan, OD

Petition for Reinstatement of Licensure for Wyman Chan, O.D., License Number 5017

20. Stipulated Settlement and Disciplinary Order for Elizabeth Breen, O.D. - Applicant

21. Executive Officer's Performance Evaluation

Board members convened to discuss the performance evaluation of the Executive Officer.

FULL BOARD OPEN SESSION

22. Adjournment

Dr. Lee Goldstein moved to adjourn the meeting. Ed Rendon seconded. The Board voted unanimously (6-0) to pass the motion.

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

The meeting was adjourned at 5:15 p.m.