

MEMBERS OF THE BOARD

Mark Morodomi, JD, President
 Glenn Kawaguchi, OD, Vice President
 Rachel Michelin, Secretary
 Cyd Brandvein
 Madhu Chawla, OD
 Martha Garcia, CLD, SLD
 Debra McIntyre, OD
 Maria Salazar Sperber, JD
 David Turetsky, OD
 Lillian Wang, OD
 Vacant, Public Member



DRAFT BOARD MEETING MINUTES

Friday, August 2, 2019
 Time: 9:00 a.m. – 5:00 p.m.

Meeting Location:
 UC Berkeley School of Optometry
 Minor Hall, Room 491
 380 Minor Lane
 Berkeley, CA 94720-2020

Teleconference Location:
 Western University of Health Sciences
 Health Education Center, Classroom E
 701 E. Second St.
 Pomona, CA 91766

Members Present	Staff Present
Mark Morodomi, JD, President	Sara Murphy, Executive Officer
Glenn Kawaguchi, OD, Vice President	Cheree Kimball, Enforcement Coordinator
Cyd Brandvein	Jessica Swan, Board Liaison
Madhu Chawla, OD	Michael Santiago, Legal Counsel
Martha Garcia, CLD, SLD	
Debra McIntyre, OD	
David Turetsky, OD	
Lillian Wang, OD	
Members Absent	Guest List
Rachel Michelin	On File
Maria Salazar Sperber, JD	

Part One - link for the audio of discussions: <https://www.youtube.com/watch?v=-x4nF473a0M>

FULL BOARD OPEN SESSION

1. Call to Order/Roll Call and Establishment of a Quorum

Audio of Discussion: 0:10 / 3:21:45

Board President Mark Morodomi called the meeting to order and took roll at 9:00 a.m. An 8-2 quorum was established. Dr. Chawla was present via teleconference from Pomona, CA. Ms. Michelin and Ms. Sperber were absent.

Mr. Morodomi opened the floor to Dr. Chawla for an explanation of her presence at Western University College of Health Sciences, teleconferencing for this meeting. Dr. Chawla explained that the Founding Dean of Western University of Health Sciences passed away last month. Dr. Kurtz was

a great professor, influencer, supporter and mentor within the Optometry profession. Dr. Kutz was the driving force behind Dr. Chawla's involvement with the Board. Dr. Chawla recruited Ms. Salazar-Sperber, and in turn Dr. Kutz was responsible for Ms. Sperber's involvement as well. Dr. Chawla requested to represent the Board in honor of his memory and influence in the current composition of the Board.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 5:06 / 3:21:45

There were no public comments.

3. Discussion and Possible Action on Board Meeting Minutes for April 5, 2019

Audio of Discussion: 7:01 / 3:21:45

There were no changes to the minutes. There were no public comments.

Debra McIntyre moved to approve the April 5, 2019 Draft Meeting Minutes. Glenn Kawaguchi seconded. The Board voted unanimously (8-0-2) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin				X	
Mr. Morodomi	X				
Ms. Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

4. President's Report

Audio of Discussion: 10:17 / 3:21:45

Mr. Morodomi noted that 4 years ago the US Supreme Court struck down actions of the Dental Board (regulating practice in a state outside of California) because that board was protecting the interests of its licensees more than that of the consumer. This is far from the case for the California State Board of Optometry. This is the second time in a row that the Board has appointed a non-optometrist as Board President. The dedication of each member is displayed in their priorities which are always patient protection and access to health care.

There were no public comments.

5. Election of Board Secretary

Audio of Discussion: 16:41 / 3:21:45

Ms. Murphy announced that due to a tie for Board Secretary at the April 5, 2019 Board Meeting, an additional round of voting for Secretary is required. For consideration is the nomination of Dr. McIntyre. Her public statement was provided in the Board materials.

There were no public comments.

Mark Morodomi moved to elect Debra McIntyre as Board Secretary. Cyd Brandvein seconded. The Board voted unanimously (8-0-2) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin				X	
Mr. Morodomi	X				
Ms. Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

6. Executive Officer's Report

Audio of Discussion: 18:55 / 3:21:45

A. Enforcement Program

Ms. Murphy explained that enforcement program reports were provided in the Board meeting materials.

B. Examination and Licensing Programs

Ms. Murphy reported that the exam processing time has been reduced by nine days. In FY 18-19 staff was able to process 84 more licenses than in FY 17-18. 198 applications have been processed so far and approximately 160 are remaining.

C. Legislative and Regulatory Update

Ms. Murphy reported that the Board's sponsored bill AB 458 is moving through the Legislature and has received no opposition.

D. Report on June 2019 Association of Regulatory Boards of Optometry Meeting

Ms. Murphy reported on her attendance at the Association of Regulatory Boards in Optometry (ARBO) in St. Louis this past June. She stated it was an excellent opportunity to meet with other boards from all over the nation. There where round table discussion regarding telemedicine, registration of assistants, and a wide variety of other topics. She also announced that the Board of Optometry's budget has been approved for two spots for next year's conference.

There were no questions from Board members concerning the Executive Officer's Report. There were no public comments.

9. (Taken out of order) Discussion and Possible Action on Updates provided by DCA Representatives regarding the Department's Divisions and Programs, including Legislative, Regulatory and Policy updates

Audio of Discussion: 26:24 / 3:21:45

A. DCA Assistant Deputy Director of Board and Bureau Services Patrick Le

Mr. Le provided an update for the Board. He announced that DCA's former Director, Dean Graffilo, left the Department earlier this year. The Governor's office continues to work towards identifying a successor. DCA's Executive Office is preparing to ensure a smooth transition as soon as the new appointment is made. Mr. Le reported that on June 3rd, Chief Deputy Director, Chris Shultz hosted the DCA's quarterly Director Meeting. Mr. Shultz communicated his commitment to performing both roles during this interim period. He encouraged Executive Officers and Board Members to send ideas regarding cross-cutting projects that can be worked on collaboratively and suggestions on which the new leadership and administration can focus.

Mr. Le provided an update on the Executive Officer's Salary Study. study aimed to provide an in-depth analysis of programmatic and operational complexities of DCA boards and bureaus; specifically looking at how the role of Executive Officers has evolved over the years. The study also provided a benchmark salary comparison from other states. The DCA Executive Office hosted a meeting to discuss the findings of the study on July 12, 2019. DCA will be reaching out to its boards to engage in one-on-one meetings with the Executive Officers and Board Presidents to discuss program specific findings. Mr. Le also announced the launch of the DCA Open Data Portal. It is a publicly accessible one-stop-shop, for all licensing and enforcement data, in a larger effort of DCA to make data more transparent and available to the public.

B. Current Occupational Analysis for Contact Lens Dispensers – Dr. Heidi Lincer, Chief, Office of Professional Examination Services

Dr. Lincer's presentation included PowerPoint slides that were provided in the Board materials for the meeting. There were no Board member comments made. There was no public comment.

7. Discussion and Presentation on the Practice of Optometry Via Telemedicine

Audio of Discussion: 31:19 / 3:21:45

Dr. Melissa Bailey, O.D, PhD

Dr. Melissa Bailey presented on telehealth/telemedicine. She shared her motive for getting involved in telemedicine, which is to improve optometric ability in obtaining refractive measurements. She explained that vision does not begin in the eye and vision begins in the Occipital Cortex in the back of the brain. One of the problems is that optometrists are regularly modifying their patients' eyeglass prescriptions to account for what is happening in the back of the brain (what their preferences are, how their brain has developed over time to adapt to effects of magnification etc.). Many optometrists agree an objective auto-refraction can be obtained without a patient's input. In auto-refraction, it is important that measurements are taken while the patient is looking very far away, which is challenging to do without a doctor in the room. She noted that a self-refraction application on a phone is useful to patients in developing countries where eye care is not available. Other examples of

beneficial usage for self-refraction applications are in cases of non-communicative patients, such as those with autism, infants, or those with a language barrier. Dr. Bailey provided a history of auto-refractors (the development and usage).

Dr. Jorge Cuadros, O.D., PhD

Dr. Jorge Cuadros provided his presentation on telehealth/telemedicine. He stated that since telehealth will obviously remain an evolving part of the optometry profession in the future, it is good to know that the other regulatory boards across the country are cognizant of this fact.

Dr. Wang asked what the main cause of blindness was among working-age adults. Dr. Cuadros replied that is diabetic retinopathy which is a complication of uncontrolled diabetes. The reason people are becoming blind is that they are not seeking eye exams on time. This is where telemedicine has taken off. A picture is taken; the image is transmitted via the internet; professionals (optometrists and ophthalmologists) are reading these images and providing a consult back to the primary care provider who can then triage the patient in a timely manner. He reported that over 5 million images have been collected from patients throughout the country and other countries. Telemedicine has been incorporated into the curriculum at UC Berkeley.

Dr. Kawaguchi noted that the core responsibility as a regulatory body is the protection and interests of our consumers. He asked Dr. Cuadros if he has any suggestions regarding how the Board of Optometry, as a regulatory body, can stay abreast to ensure we can balance being reactive yet also pro-active for the benefit of the consumer. Dr. Cuadros responded by noting many of the new telemedicine/ artificial intelligence companies create a board of advisors, and suggested the Board broaden its input to include medical primary care and understanding all facets of the issue. Dr. Kawaguchi believes the Board needs to improve its knowledge base in order to react as quickly as possible. He also commented that some of the current laws that define optometry may require another look to ensure they are more encompassing.

Ms. Garcia inquired about the populations that have already been using telemedicine; has it been widely studied? Dr. Cuadros replied that many satisfaction surveys have been completed, and satisfaction, in general, has been very positive and opticians may be involved in this in the area of data collection.

Ms. Murphy reported that more models are being seen where optometrists remotely interact and use remote-controlled refractors. The refractors are positioned and initially set by technicians, opticians, and assistants. The remote control is used by the licensed professional and the initial prescription is reviewed by another licensed professional. Is there an opportunity for the underserved populations to gain access they previously could not acquire? At some point are we reducing the standard of care and opportunity for optometry professionals to perform the types of accommodations mentioned in Dr. Bailey's presentation? Dr. Bailey responded that she believes these new "other" models need to prove that they are effective models of care. She believes we need to watch and remain open-minded yet also remain cautious and continue monitoring what is being done.

Dr. Cuadros responded to Dr. Bailey's comment stating that a distinction needs to be made between the "perceived" standard of care versus what is occurring in many communities. Live (face-to-face) eye care does not have oversight, and according to the reports coming back from the local health care providers, they are not doing a very good job; and they are the standard of care. Telehealth helps in that there is the ability for oversight; data that can be reviewed post-appointment.

Ms. Brandvein asked what the definition of telemedicine is; a definition/explanation that can be clearly articulated to the patient. She suggested taking this issue back to a committee or working group to

further define it, so the Board knows what it is providing oversight for, on behalf of the public. Ms. Murphy explained that this is one of the reasons staff has brought this before the Board today; to develop some tools and guidelines for defining telehealth and developing standards of care.

Dr. Turetsky noted that in California, for many years now, optometrists have been trying to legislate some type of incentive for children to receive vision care before starting and while attending school. He asked Drs. Bailey and Cuadros if they are aware of any inexpensive and readily available methods of performing mass vision exams whereby a good measure can be obtained of children’s refractive and eye health status. Currently, with the methods of eye screenings performed in schools, 40% of children are being missed, having some sort of eye condition. Dr. Bailey responded that her interest is mainly in developing better tools and in other people deciding how to best utilize those tools. She shared that one of the main reasons for her interest in developing better tools is because she embarked on a five-year study in an affluent suburb of an Ohio area and monitored children and whether they became nearsighted. She performed vision screenings for school nurses. She saw several children in an affluent community with vision problems that had been missed. Dr. Bailey believes we need a solution to this problem. She noted that school nurses are not equipped with the training and expertise to detect all vision problems in such volume. Dr. Cuadros added that the question is not about the technology; rather it is about the liability. The liability is closely tied to the cost-effectiveness. The determination of cost-effectiveness lies in the question, is it good enough? Dr. Cuadros stated it is the Board’s role to define that.

Dr. Chawla noted Dr. Bailey’s dedication to quality tools and technology. She has personally provided vision care to children in underserved areas and noted: “it is challenging.” Dr. Chawla explained they had to use older refractive tools in some underserved areas which made it especially challenging, and quality does matter. She agreed that the Board needs to have these discussions.

Dr. McIntyre acknowledged that the applications are not addressing the medical aspect; the health and refractive aspects are not fully integrated. She noted that optometrists have a dual role, and a specific set of standards needs to be established. Dr. Bailey responded that a huge aspect of what any healthcare professional does is in the psychological aspect of care. This is a huge part of patient care. Patients want to know they are being heard and reassured they are going to be okay. Dr. Bailey stated there is not enough literature on telehealth yet to determine whether doctors who are not physically present can derive the same amount of cooperation from their patients. She believes the psychological aspect is just as important as the measurements obtained.

Public Comment: Dr. Arthur Row addressed the use of the auto-refractor, wondering if optometrists provide a pair of glasses or prescription to an individual based on information from an auto-refractor? Dr. Chawla commented that technology is a great tool for optometrist; however, the auto-refractor is a data collector and not the end-user in terms of providing the prescription. She stressed it is a crucial point that oversight from a doctor should always be included. Kristine Shultz representing the California Optometric Association (COA) commented that she would love to participate in the workgroup. Additionally, she believes it is critically important for the Board to hold online exams to the same standard of care as of brick and mortar produced exams.

Lillian Wang moved to establish a workgroup. Debra McIntyre seconded. The Board voted unanimously (8-0-2) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				

Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin				X	
Mr. Morodomi	X				
Ms. Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

Drs. McIntyre and Chawla volunteered for the workgroup.

8. Update, Discussion and Possible Action Regarding 2020 Legislation

Audio of Discussion: 1:52:38 / 3:21:45

A. Optometrists Employing Opticians

Ms. Murphy reported that Business and Professions Code Section 2559 allows a spectacle lens dispenser (SLD) and a contact lens dispenser (CLD) to work for a Registered Dispensing Optician (RDO); however, it does not specify employment under that license by any other entity. What staff is hearing is that there is a greater reliance for optometrists to want opticians to perform those services within their practices. Staff is unsure whether the law currently allows opticians to work under their licenses when working with an optometrist.

Ms. Garcia commented that all opticians are performing the same job responsibilities. Some of the opticians are demonstrating accountability in becoming licensed and registered in California; however, many of them working under a doctor's license are not. She noted that an optician who has received discipline in another state could easily just obtain a job under a doctor and therefore, never be discovered as having had discipline.

Dr. Kawaguchi commented that he has not interpreted anything in the law that precludes or limits opticians from working under a doctor's license. He is concerned that by attempting to clarify, we may end up complicating matters further. He fears that if we attempt to over-regulate this, we may end up precluding an SLD or CLD from working in this industry.

A discussion commenced on unlicensed personnel working in optometry offices. Dr. Turetsky noted that this issue related to unlicensed personnel is well addressed in B&P Code 2544, which describes what duties an assistant working under the license of a doctor can perform. Ms. Wang clarified that Ms. Garcia is more concerned about background history. Dr. Turetsky replied that everyone hiring anyone should always perform a background criminal history check.

Dr. Turetsky asked if the Board may interpret the statute on its own. Mr. Santiago responded that in reviewing B&P Code 2559, he does not believe any ambiguity exists because it clearly states what duties the license allows and where the duties may be performed.

There was no motion made for this item.

B. Practice Act to Combine Both Programs

Audio of Discussion: 2:22:01 / 3:21:45

Ms. Murphy provided the Board with a recommendation for this item. Ms. Murphy explained that staff is currently engaged in a very detailed review of the statutes of regulations around the RDO licenses. She asked that Board not pursue combining both programs until staff has determined what the Dispensing Optician Committee (DOC) recommends in the way of changes.

Public Comment: Kristine Shultz asked the Board a question related to the previous topic. She asked Enforcement how many enforcement actions are there. Is it a high number or a handful? Ms. Murphy explained that staff is seeing more questions from licensees (Spectacle Lens Dispensers) who desire to accept employment under optometrists, trying to update their employment in the BreZE system and not finding a path to update their employment record.

There was no motion made for this item.

C. Other Possible Legislation

Dr. Wang commented that the issue of foreign graduates wanting to practice in the United States has been a long-standing issue. She explained there is no way the Board can audit or verify their course work to determine how qualified they are to practice in the United States. To accommodate foreign-trained optometrists and medical doctors, a pathway has been created. There are three colleges, on the East coast, that offer an accelerated two-year program, so foreign graduates can obtain certification to practice in the United States, and the Board can ensure quality of education and consumer protection. Dr. Wang stated that it would be great for an accelerated program to become available west of the Mississippi and perhaps even one in California.

Additionally, Dr. Wang commented that foreign-trained optometrists are currently employed at schools of optometry and noted business and professions code section 3042 allows for a special license to be granted for a specific period of time. Ms. Murphy noted that if a school wants to hire a foreign-trained optometrist, their education and qualifications have already been thoroughly vetted, and chances are the optometrist is very well qualified. Her concern is that the language “*for a specific period of time*” is very vague. She questioned whether the Board should make it more specific and if the Board should require they take the California Law Exam?

Mr. Morodomi asked about how such changes could be implemented. Ms. Murphy assured the Board that their questions and concerns about licensure implementation, continuing education requirements, better clarification of the opportunity for foreign-trained optometrists to teach in the clinics of the academic institutions where they are employed would be addressed via legislation. The issue will be researched by staff and brought to the Legislation and Regulation Committee for review and potential for recommendation to the full Board for legislation.

Public Comment: Dean of UC Berkeley School of Optometry, Dr. John Flanagan, who is himself a foreign-trained optometrist from Ontario, commented that he considers it to be a difficult barrier that he is not able to practice and/or teach under his own authority. He requests that a mechanism for a special type of permit be implemented whereby an expert with an appropriate license from another country can work as a clinician within the school setting.

10. Update, Discussion and Possible Action on Potential Occupational Analysis for Optometric Assistants

Audio of Discussion: 2:35:21 / 3:21:45

Dr. Lincer provided the results of the Board’s Contact Lens Occupational Analysis. The objective of the analysis is to make certain the Board licenses competent, qualified individuals; protects the public, and does not keep individuals out of the profession.

Dr. McIntyre asked if, during the analysis, there was any discussion regarding unlicensed practitioners. Dr. Lincer responded that there was concern about the fact that the public does not know the difference between the licensed and unlicensed practitioner, and that licensees are confused about their scope of practice and what they can and cannot do.

Mr. Morodomi asked about the background of the occupational analysis panel. Dr. Lincer provided a description of the background of the experts who developed the analysis and also explained that OPES discussed the amount of education is needed for these professionals. It is ultimately up to the Board to review the knowledge base and the tasks that licensees are performing. Members and Ms. Murphy discussed the next steps needed and whether CLDs should be tested to the full breadth of the scope of practice.

Lillian Wang moved to allow staff to submit an application for a budget change proposal that would allow an occupational analysis to determine how the pieces can come together, how services are delivered in the optometric setting and understand who assists and what happens there. Martha Garcia seconded. The Board voted unanimously (8-0-2) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin				X	
Mr. Morodomi	X				
Ms. Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

FULL BOARD CLOSED SESSION

12. Pursuant to Government Code Section [11126\(c\)\(3\)](#), the Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters

The Board went into closed session.

FULL BOARD OPEN SESSION

The Board resumed Open Session.

Part Two - link for the audio of discussions: <https://www.youtube.com/watch?v=Ay7AOayGt-0>

12. (Taken out of order) Update, Discussion and Possible Action Regarding Board Committee Reports

A. Dispensing Optician Committee

Ms. Murphy reported the DOC would be reviewing the statutes and laws at future committee meetings and would report back to the Board.

B. Legislation and Regulation Committee

Ms. Murphy noted the items from the LRC would be part of the next agenda item.

C. Practice and Education Committee

Dr. Chawla briefly reported on the immunization courses currently being offered by Marshall B Ketchum university. Dr. Wang added that their courses are being taught by the pharmacy school rather than their own college professors. Many of their courses were non-TPA information being blanketed overall.

There were no public comments.

13. Update, Discussion and Possible Action on 2019 Legislation Impacting the Practice of Optometry

A. Assembly Bill 458 (Nazarian): Optometrists: home residence permit

Ms. Murphy provided a history and update on AB 458. She felt the discussions from the LRC committee were very useful, and staff was able to gain a better understanding of the Board's intent of the bill. She reported the Board was able to enact amendments according to the Committee's requests. This bill is currently on the Senate floor having discussions with the Governor's Office. Senator Glazer has agreed to sponsor the bill on the Senate side. Although the Board is an official sponsor, we have not taken an official, support position. Ms. Murphy explained that staff would like to send a letter to the Governor that clearly states we not only sponsor the bill but also support the way in which the language has been drafted.

Lillian Wong made a motion to take a support position. Glenn Kawaguchi seconded. The Board voted unanimously (8-0-2) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin				X	
Mr. Morodomi	X				
Ms. Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

Cyd Brandvein moved for Mark Morodomi to work with the Chair of the Public Relations and Outreach Committee on public relations that will help support the bill. Lillian Wang seconded. The Board voted unanimously (8-0-2) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin				X	
Mr. Morodomi	X				
Ms. Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

There were no public comments.

B. Senate Bill 53 (Wilk): Open meetings

Audio of Discussion: 9:44 / 1:20:43

Ms. Murphy reported that SB 53 has run through the Legislature several times. However, this is the first time the bill is coming through with a new Governor on the end. Many of the boards, Board of Optometry staff, and DCA fear that this sort of strict open meeting law that corresponds more with the Brown Act than with the Bagley Keene, would make it very difficult for the Board to do the type of review discussed on this letter, or to conduct workgroups on issues such as telehealth. The meetings would need to be agendized and noticed 10 days in advance. Ms. Murphy emphasized staff fears SB 53 will stymy their ability to perform groundwork and then have productive conversations during publicly noticed meetings.

Mr. Morodomi stated he fears this proposal will hurt consumers. He stated, for example, that as a non-optometrist, public member this bill would prevent him from reaching out to a professional, optometrist member to make intelligent decisions at a public meeting.

Cyd Brandvein moved to take a position of opposition to SB 53. Debra McIntyre seconded. The Board voted unanimously (8-0-2) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin				X	
Mr. Morodomi	X				
Ms. Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

There were no public comments.

C. Assembly Bill 1714 (Rubio): Extended Optometric Clinical Facilities

Audio of Discussion: 15:33 / 1:20:43

Ms. Murphy reported that Vision to Learn has been negotiating with the California Optometric Association (COA) and having conversations with the Legislature about an avenue for non-profit and public benefit organizations to perform mobile practice without the current requirements, such as having an agreement with an optometric academic institution.

Mr. Morodomi questioned how the new Legislative counsel language packet substantively differs from the former packet; Ms. Murphy responded the new packet includes the urgency clause. Additionally, it looks for regulations promulgated by 2021. Dr. Wang asked how this bill will affect mobile clinics (as a whole) in the future? Ms. Murphy explained that staff has been informed by Vision to Learn and the COA that the intention is for this to be very narrowly crafted. Ms. Brandvein commented that if for-profit vendors come in stipulating that they are providing services to children just to use as the avenue for getting in, the Board would then have set precedent. Ms. Murphy responded that they are not allowed to accept payment for services except for Medi-Cal payments.

Dr. Turetsky views this as a good first step, and that it should be expanded to a much larger audience than just school kids. Dr. Kawaguchi stated that Vision to Learn (VTL) has been on a similar journey as the Board and the workgroup for children's vision around improving accessibility for those children that are not getting eye care services. He believes we need to take steps forward if not a leap forward. He is very interested to see how this may change and to hear more from a representative from Vision to Learn.

Public Comment: Damian Carroll, National Director of Vision to Learn, clarified a few provisions of the bill as follows:

- The bill is not limited to serving only children.
- It is a charitable enterprise providing services regardless of the ability to pay.
- VTL desires to work with the Board and the COA to narrowly open the door to mobile clinics without "opening the barn door" to other uses.
- The Center for Medicaid and Medicare Services law, which was enforced for years and made it a requirement for a charitable enterprise offering free services to offer free services to everyone (including those with insurance) has changed recently.

Dr. Turetsky asked about implementing regulations; Ms. Murphy clarified that the current language allows the Board to set regulations that would stipulate what follow up care would be involved, but the statute does not speak to this directly. Mr. Morodomi is comfortable with this bill because it gives the Board the power to promulgate regulations to ensure the standard of care is maintained.

Ms. Garcia asked Mr. Carroll to clarify VTL's follow-up care. Mr. Carroll explained that VTL's vision exams are geared towards finding kids who need glasses, performing screenings for eye health, performing full refractions and then prescribing glasses as needed. A referral is provided to approximately 10% of the students VTL sees when they need any type of follow-up care. Recently VTL has entered into an affiliation with Western University College of Optometry. This is a pilot program for students in Pomona whereby through data sharing, VTL can provide more information

directly about the student and their reason for referral. Western can then more effectively reach out to the parents and encourage them to bring their children in for the eye exam.

Dr. Turetsky asked if VTL has reached out to Vision Service Plan (VSP) to determine if VSP will pay for these services; Mr. Carroll said they had. The response was that the existing regulation regarding mobile optometry being limited to programs associated with a school teaching program meant that, in their view, they are not allowed to reimburse for the services. Ms. Murphy commented on the requirement that the Board adopts regulations by January 1, 2021. She stated that there is concern that there will not be enough time for the Board to fully vet this have a regulation packet by January 1, 2021. She foresees that the Board will probably need to undertake a great deal of discussion and that some committee work will need to occur before staff is ready to put together a full regulatory package for consideration by the Office of Administrative Law (OAL).

Mr. Morodomi asked about the regulatory timeline. Ms. Murphy responded that it is possible for staff to have a regulatory package ready to be approved by the end of 2020, but OAL's timeline for reviewing and approving a package is approximately two and a half years. Mr. Santiago clarified that the package will not sit in OAL for two and a half years, because once a regulatory package is submitted, OAL has 30 days to review it. The time lag is within DCA and the agency process. He stated that even if the Board was able to fully vet and submit a regulatory package by the end of this year, one year is still not enough time to have it approved at the OAL.

Mr. Carroll replied by saying VTL is happy to amend the date for regulatory efforts, with the understanding that VTL would want to seek some interim language in the bill that would allow VTL to continue operating while the bill is going through the regulatory process. Ms. Murphy has concerns about how the Board would fulfill its enforcement obligation without a clear regulatory framework with timelines. She is concerned that much more Board discussions need to occur in order to develop a program that would fully oversee this type of operation.

Board Members and Ms. Murphy discussed various timelines for completion and holding an urgent Legislation and Regulation Committee meeting. Ms. Murphy noted that this bill will likely be heard by the Policy Committee in the next week to week and a half.

Public Comment: Kristine Shultz commented that taking an opposing stance to the bill for the sake of gaining more time might make the Legislature think there is something wrong with the bill, and that the Board is opposed to the policy. She strongly recommends taking a watch position or no position.

Ms. Murphy explained that if the Board takes a support position and instructs the timeline for the formation of the regulation package, it will impact the work the Board has already authorized. This work is listed in the regulatory update of the Board meeting materials. Mr. Santiago argued that even if the Board dropped everything else and pushed this to the forefront, the January 1, 2021 deadline is unrealistic. He does not believe this is something the Board can accomplish while dealing with deadlines outside of the Board's control. Mr. Carroll made a recommendation to the Board. He stated that VTL would very much be open to a motion to support if the date is amended and work with the Executive Officer on appropriate language for the transition period that allows VTL to continue to operate as it has been until regulations are in place.

No motion was made on this item.

14. Update, Discussion and Possible Action Regarding 2020 Calendar Review

Audio of Discussion: 1:02:10 / 1:20:43

Board Members and Ms. Murphy discussed the Board's travel budget and how meetings can or cannot remain within budget. Ms. Murphy announced that she is currently working with the budget analyst to identify funds in other places that could potentially be moved around to supplement the travel budget. Members and staff discussed possible meeting dates for 2020.

No motion was made on this agenda item. There were no public comments.

14. Future Agenda Items

Audio of Discussion: 1:18:07 / 1:20:43

Mr. Morodomi requested that a link be placed on the Board's website that directs the user to the Federal Trade Commission's video regarding cosmetic contact lenses. There were no public comments.

15. Adjournment

The meeting was adjourned at 3:50 pm.