

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

MEMBERS OF THE BOARD

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



**APPROVED BOARD MEETING MINUTES
 Friday, February 28, 2020**

Location:
 Silicon Valley Community Foundation
 3rd Floor, Redwood Room
 2440 West El Camino Real, Suite 300
 Mountain View, California 94040-1498

Members Present	Staff Present
Mark Morodomi, President	Shara Murphy, Executive Officer
Glenn Kawaguchi, OD, Vice President	Cheree Kimball, Assistant Executive Officer
Debra McIntyre, OD, Secretary	Marc Johnson, Policy Analyst
Martha Garcia, CLD, SLD	Natalia Leeper, Optician Program Coordinator
Cyd Brandvein	Will Maguire, Legal Counsel
Rachel Michelin	
David Turetsky, OD	
Lillian Wang, OD	
Members Absent	Guest List
Maria Salazar Sperber	On File
Madhu Chawla, OD	

Webcast Link: <https://youtu.be/cm4-a0xufeY>

FULL BOARD OPEN SESSION

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

Audio of Discussion: 0:02 / 3:42:49

Mr. Morodomi called the meeting to order at 9:30 a.m. An 8-2 quorum was established.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 1:49 / 3:42:49

Comments were made by Dr. Nikki Iravani, OD, regarding her difficulties in changing her license status from inactive back to active. Dr. Iravani requests that the Board put a process in place where doctors on inactive status receive notifications that their license is about to expire. She also recommended institution of a program whereby a doctor with a canceled license can participate in a workshop or take a crash course that will assist them in passing the NBEO Clinical Exam. Mr. Morodomi asked staff to provide an update on the inactive process for a future board meeting. There was no other public comment.

3. President's Report

Audio of Discussion: 16:08 / 3:42:49

No report was given.

4. Presentation by Assembly Member Evan Low, Chair, Assembly Business and Professions Committee

Audio of Discussion: 18:35 / 3:42:49

[Assembly Member Evan Low](#) introduced himself. He explained that this is the first time he has ever appeared and presented before a board. His purpose was to address some matters regarding Vision to Learn (VTL) that relate to Assembly Bill (AB) 896.

Mr. Morodomi explained that patient protection is important and consumer access to care is also extremely important; he believes the two issues can live and work with each other. He stated that this issue (with VTL) and this bill are extremely important to the Board and it is the Board's desire to work with Mr. Low to try to solve the problem of VTL's non-compliance with the laws of California. Dr. Kawaguchi affirmed that the Board is interested in working with Member Low to ensure that the children's VTL services are protected. Dr. Turetsky stated his deepest concern with AB 896 is that it is not far reaching enough. AB 896 is currently worded in such a way that one mode of volunteer practice will be legal and other modes will suddenly be knocked out. Dr. Turetsky would like to see this bill expanded. Assembly Member Low responded that he shares the same optimism about getting to that point. Ms. Michelin commented that she considers this is a great first step in getting the conversation going and urges full Board support of the bill.

Mr. Morodomi explained that the Board deals with issues on telehealth on a regular basis. He asked Assembly Member Low what his thoughts and guidance are concerning the issue of telehealth. Assembly Member Low responded that the dangers of these tech companies bypassing doctors is clear. The Better Business Bureau has over a thousand complaints against these companies that are bypassing doctors altogether. He added that comprehensive eye exams also check the overall health of

the eyes and look for evidence of eye disease. These telehealth companies do not provide comprehensive eye exams and may be doing significant harm. Ms. Murphy noted the Board has a telehealth workgroup working on these issues.

Dr. Turetsky explained that in his practice they see approximately 50,000 Medi-Cal patients a year and feels there is a huge access problem. He is dealing with an enormous number of patients who are covered by Medi-Cal and a limited doctor pool. The individuals who want to treat these folks cannot obtain a Medi-Cal number in a reasonable period of time. Dr. Turetsky requested that if there is anything that Assembly Member Low can do to expedite this system; it would benefit all health care professions greatly and consumers would especially benefit from it. Assembly Member Low promised members from the Business and Professions Committee staff will follow up with Dr. Turetsky on this issue.

There was no public comment.

5. Update by Representatives of the Department of Consumer Affairs, Which May Include Updates, Discussion and Possible Action Pertaining to the Department's Administrative Services, Budgetary, Human Resources, Enforcement, Information Technology, Communications and Outreach, as Well as Legislative, Regulatory and Policy Matters

A. Brian Skewis, Department of Consumer Affairs (*remote participation*)

Audio of Discussion: 48:20 / 3:42:49

Mr. Morodomi announced that Department of Consumer Affairs (DCA) representative Brian Skewis would talk with the Board via Skype regarding problems with the Board's budget that have been uncovered. Dr. Kawaguchi noted Ms. Murphy and Mx. Kimball have done a lot of research in partnership with the finance team culminating in an annual budget meeting that he himself also attended. There are some opportunities uncovered; the key being an imbalance in the authority to spend and what the Board needs to spend for appropriate staffing and Board administration.

Mr. Skewis provided a budget update, explaining that the fund condition statement is essentially a savings account from which each year's budget is allocated and revenue is deposited. While there may be enough cash in the account, the Board is still required to adhere to its annual budget as approved by the Governor and Legislature. The fund condition has three main components: (1) beginning and ending balance; (2) revenues and transfers; and (3) expenditures. He reported that the Board began the fiscal year with approximately \$2.8 million in the fund; is projecting to collect \$2.075 million in revenue and is authorized to spend \$2.31 million. The ending balance is \$2.18 million, which leaves a slight gap causing the fund balance to decline, which Mr. Skewis noted should be monitored; however, no action is required.

He also noted the budget office recently completed the building of the FY 20-21 budget which was released by the Governor's Office in January and the Board submitted a budget change proposal (BPC) for expenditure authority related to an occupational audit. Mr. Skewis explained that the Board's budget is extremely tight, reverting approximately 0.1% of its expenditures. The shortfalls are occurring in four main areas: staffing, facilities, Attorney General and Office of Administrative Hearings, and charges related to the Office of Professional Examination Services. Charges from the Attorney General's (AG) Office and Office of Administrative Hearings (OAH) have increased significantly and consistently over the fiscal years from 2015 to 2020. Part of the increase in these charges is due to an increase in the hourly rate by the AG and OAH. Moving forward, Mr. Skewis recommends Board staff work with the Budget Office to craft specific BCPs centered around these areas with identified deficiencies.

Ms. Brandvein recalled a past board meeting when a detailed accounting and distribution of time and materials billed to the Board was requested. Ms. Murphy confirmed that there was a request made in February of 2019 and staff did provide additional detail in April of last year. Part of the increase is due to a fully staffed enforcement unit; and consequently, more cases being sent to the Office of Administrative Hearings (OAH). Additionally, the significant increase in fees charged by the AG's Office has greatly contributed to the increase in expenditures. Mx. Kimball and Mr. Skewis announced that the hourly rate for the AG office increased from \$170 to \$225 per hour.

Ms. Brandvein recalled another discussion related to finding another mechanism for vetting these cases prior to sending them to the AG to ensure that all possible actions are taken for mitigating costs. She asked about the comment regarding the imbalance in authority to spend. Mx. Kimball addressed the process by which the enforcement unit vets cases and escalates claims to the AG's Office, which involves the entire case investigation process which involves obtaining information, obtaining evidence/documents and testimony. Sometimes staff sends the Department of Investigation (DOI) sworn peace officers out to collect information and/or testimony. If staff decides to take disciplinary action on a case, staff will send the case to an expert witness to determine whether the issue involves standard of care or negligence and incompetency. Prior to making the decision to send a case to the AG's Office, staff weighs whether it would be more appropriate to issue a citation. Cases are sent to the AG's Office only when staff feels revoking the license and/or placing the licensee on probation is the best scenario for consumer protection.

Mr. Morodomi commented that he recalls most of these discussions. He noted that the rate increase accounts for a 30% increase, but the increase in costs involve an 80% increase; therefore, something is askew that the Board should look at. He asked staff to provide the law which requires the Board to engage the AG's Office for stipulation even when the parties agree to a settlement. Ms. Murphy responded that staff works very closely with the AG's Office to determine if there is a fast-track way in which the Board can have a legal aid prepare a document. Ms. Brandvein noted that the rate increase process is a comprehensive and lengthy one and requested that the Board look into

what other fee increases the AG's office anticipates over the next year and add to our radar so when we plan for our next budget, we can account for any further or anticipated rate increases." Mr. Skewis explained that DCA was largely unaware of the fee rate increase with the AG but received a letter on June 28th with an effective date of July 1.

Ms. Murphy announced that the Board may have its current BCP submitted for the occupational analysis of unlicensed assistants and hopes it may be approved for the 2021-2022 fiscal year. For discussion on BCPs, Mr. Skewis advised the Board to work with Legal Counsel to determine what is considered for public consumption and what is considered confidential working documents until approved by the Governor.

There was no public comment.

7. Discussion and Possible Action on Board Meeting Minutes (MOVED UP)

- A. October 25, 2019 Board Meeting**
- B. January 31, 2020 Board Meeting**

Audio of Discussion: 1:25:40 / 3:42:49

Ms. Brandvein offered a list of typographical changes to staff. The Board requested more discussion on meeting locations on page 19. There was no public comment.

Lillian Wang moved to adopt both the October 25, 2019 and January 31, 2020 Draft Board Meeting Minutes with the substantive edits discussed and authorize staff to perform any typographical edits as submitted by the Board. Martha Garcia seconded. The Board voted unanimously (8-0) and the motion passed.

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

FULL BOARD CLOSED SESSION

- 6. 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 at 11:20 a.m.

FULL BOARD OPEN SESSION

The Board resumed open session at 12:45p.m. Ms. Brandvein was no longer present.

10. Update, Discussion and Possible Action on Changes to Title 16, California Code of Regulations §1536 – Continuing Optometric Education; Purpose and Requirements (MOVED UP)

Audio of Discussion: 1:33:04 / 3:42:49

Mr. Johnson presented the proposed changes to CCR §1536 and noted both Practice and Education Committee and Legislative and Regulation committee has reviewed and made changes. He explained that some of the PEC Members wanted staff to define out courses that would be required but would not be considered self-study and Dr. Chawla recommended using the Counsel on Optometric Education (COPE) as a template for the course areas. Staff originally included it in; The LRC recommended removing it because it would create confusion. Mr. Johnson asked if the members wish to add it back in to proposed subsection (n)(2); Dr. Wang noted that the hours optometrists are required to take is already listed per category. Her concern is that this will restrict some of the other possible CE courses that could be taken. Mr. Johnson suggested leaving the list out. Board agrees.

Mr. Johnson continued with the proposed changes. Subsection (c)(1) would define self-study to mean a form of orderly learning without participatory interaction between the licensee and instructor. Although these courses would be mainly accomplished via internet, methods like CD-ROMs, DVDs, books and materials etc. were included. This section would describe what self-study is, which would be something other than live and interactive. Dr. Wang questioned how an individual using home study material without internet interaction can confirm taking the test. She asked if the Board needs to define the testing process for self-study. Mr. Morodomi asked if this is defined somewhere else; Mr. Johnson replied that the criteria for judging courses approve by the Board is found under subsection (g). Ms. Murphy added that within section (h) the Board details out what each licensee needs to maintain in order to have proof of CE attendance.

Mr. Johnson stated that for existing proposed subsection (c)(7) it is proposed that we raise the amount of CE from 8 to 12 hours. Staff and subject matter experts had a very successful two-day workshop recently; they worked for 16 hours but were only give credit for eight hours. Staff believe 12 hours is a good medium. Board agrees with this change. In subsection (d)(2), proposed text based on the Dental Board regulation which further defines what live and in-person interactive means. Additionally, the section sets out that once you have completed your 25 hours of alternative methods, the remaining 25 hours would need to be live and interactive course study, and in theory would not allow these courses to be taught via internet through Skype or something similar. In

Subsection (d)(1) a reference was added to Western Association of Schools and Colleges accredited programs. Board agrees with these changes.

Proposed text for subsections (f)(1) and (2) makes consistent with the Board’s new internal policy for assigning provider numbers and requires providers include that on certificates. It limits approvals to one year, mirroring COPE standards. It also restricts use of the Board’s letterhead, seal or logo to be used on certificates or advertising which will help to prevent fraud and illegal advertising of courses which are not Board approved. This section also changes the 45-day in advance timeline for application submittal to 90 days. Staff believes this will reduce the amount of retroactive approvals the PEC needs to make. Members discussed raising the approval period from one year minus one day to two years minus one day.

Mark Morodomi moved to raise the continuing education course expiration date from one year to two years. Debra McIntyre seconded. The Board voted unanimously (7-0) and the motion passed.

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

Mr. Johnson detailed changes to several more sections. Subsection (g) raises the period of time that a provider must retain all continuing education course records from three-years to four-years, among other requirements. Subsection (f) requires that the providers have and include their course approval numbers provided by the Board (if applicable), and removes the text that states the Board has a certificate. Subsection (k) was modified requiring licensees to maintain their CE course completion certificates or records on file for four-years from the license renewal date, which strengthens staff’s ability to perform CE audits. Subsection (m) prohibits a licensee from taking the same course in the same renewal period. Finally, he referred to changes to the Continuing Education Course Approval Application incorporated by reference into the text. Board agrees with these changes.

There was no public comment.

Mark Morodomi moved to approve the amended text for California Code of Regulations Title 16, Section 1536 and form CE-01 incorporated by reference as presented and discussed here today; to direct staff to submit the text to Office of

Administrative Law for posting for a 45-day public comment period; and if no adverse comments are received; authorize the Executive Officer to take all steps necessary to initiate the rulemaking process; make any non-substantive changes to the package, and set the matter for hearing. Lillian Wang seconded. The Board voted unanimously (7-0) and the motion passed.

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

11. Update, Discussion and Possible Action on 2020 Legislation (MOVED UP)

A. Assembly Bill 896 (Low): Registered Dispensing Opticians: Dispensing Opticians Fund: Optometry Fund: extended optometric clinical facilities.

Audio of Discussion: 2:01:03 / 3:42:49

Mr. Morodomi introduced Robby Sumner, Chief Consultant to the Assembly Committee on Business and Professions and Gina Frisby, Assembly Member Evan Low’s Chief of Staff. At Ms. Michelin’s request, public comment was made first. Damien Carroll, National Director with Vision to Learn (VTL), thanked everyone in attendance to highlight the importance of this legislation. He stated that this legislation takes a huge step forward for allowing nonprofit providers to provide service free of charge (with the exception of Medi-Cal reimbursement), to be able to operate mobile clinics in the state and to allow VTL to serve tens of thousands of kids in California over the years to come.

Mr. Morodomi noted that he is all about patient access. However, recognizing the Board’s duty to consumer protection, his major concern with this bill is how patients obtain follow-up care. Mr. Sumner responded by noting the work VTL does, but they do not offer themselves up as providing the full continuum of care for optometric services. The hope is to get them into the system in hopes of providing that first initial contact. Mr. Carroll agreed that there still needs to be responsibility for providing follow-up care. The amended bill does require that information be provided about any available follow-up care that could be offered.

Mr. Sumner stated he is very willing to contemplate ways to look at having this bill give the Board more authority over the nonprofits and Ms. Frisby added that this is an issue that will be looked at during the sunset review process if it becomes an issue with any of

the VTL services. Mr. Morodomi noted that if there is no accountability for the non-profit, there could be risk of the quality of care the optometrist provides being compromised. He felt that optometrists should be accountable for the care they provide; however, he does not believe they should be solely responsible and feel the bill does not have any kind of shared responsibility. Mr. Sumner explained that the reason the model would work as drafted is because there is a Chief Medical Officer responsible for all the professional services and must be an optometrist licensed in California. This will ensure there is somebody subject to the Board's jurisdiction who oversees the overall activities of the non-profit.

Dr. Turetsky commented that his concern is that this bill should not be geared so much towards one specific mode of volunteering that it eliminates other modes from volunteering. He believes some of the language needs to be modified a bit because there are other ways to provide on-site care. Dr. Turetsky asked if the optometrists contracted with VTL are independent contractors. Mr. [Carroll](#) assured this is correct; VTL has historically contracted its optometrists due to the provision in California state law regarding direct employment by a non-optometrist. VTL does have a licensed California optometrist on its governing board; staff are considered independent contractors. Dr. Turetsky expressed concern that if we move on this and get it through, optometrists would still be working outside of the legal framework and in a different part of the law. Mr. Sumner acknowledged the independent contractor issue and noted that the ramifications of the Dynamax Decision and AB 5 are being included as boilerplate issue language for each sunset review they have been performing.

Mr. Sumner explained that the Assembly Member Low's initial priority for this bill was for a resolution to the shroud of uncertainty surrounding VTL's current program. He also commented that it is always difficult when somebody is out of compliance either technically or otherwise. The Board must determine what action to take both in terms of the intent of the Legislature and enforcement priorities. The Assembly Committee on Business and Professions worked with Board staff to secure technical expertise in advance of the Board meeting to get language into print, demonstrating the fact that they are trying to take the bill in the direction the Board is ready to support. Ms. Michelin asked if the bill has been set for committee hearing yet; Mr. Sumner explained it is currently pending in the Senate Rules Committee, which was a result of the amendments being so substantial at the end of last year, but anticipates a referral in the Senate. Ms. Michelin felt the bill was a step in the right direction, and it is farther than the Board has ever gotten with its legislation.

Ms. Murphy asked if would be possible for staff to begin with the nonprofit optometric corporation model, by taking a look at court reporters and figuring out how to provide some sort of base licensure for the nonprofit? Mr. Sumner replied that he believes this is absolutely something they can discuss. Ms. Garcia added that Spectacle Lens Dispensers would need to be involved in this as well. Discussion continued on practice responsibility. Mr. Morodomi asked again for clarification if the optometrist would be the one held responsible, and Mr. Sumner confirmed this is correct, saying if the issue is something regarding the non-professional services side, it is not necessarily on the

optometrist and others may be liable. Mr. Sumner pointed out the important thing is to remember that when the language talks about the judgement that is being made regarding anything that is within the scope of practice of an optometrist, those decisions should be made by an optometrist. If anybody is above the optometrist for purposes of this nonprofit, that person must also be an optometrist.

Ms. Michelin recommended that the Board change its position to support, because while there are still some concerns regarding the language, she believes that fundamentally what they are trying to accomplish in terms of access can be addressed at the sunset review next year. Ms. Murphy stated that this allows the Board enough time to put two years' worth of regulations in place. Mr. Sumner noted that if the Board takes a support position today, they are still happy to work with the Board on continuing to consider other ways to improve the bill.

Mr. Morodomi questioned what would happen will happen to the fund merger if the law sunsets; Mr. Sumner explained that this part is not subject to the sunset. He added that the Board is technically getting a sunset on the fund merger because the elimination is not occurring instantly; rather time is being given for finance to migrate all the funds together. Therefore, the Board has an entirely separate set of dates that are for administrative purposes and being able to close out one fund and move its outstanding balance to another. There are repeal dates, effective dates etc. which are separate from the sections dictating the new program for the mobile clinics. Dr. Turetsky noted that staff has made numerous comments about the use of the word "clinic"; can it be modified to something else? The word clinic does not exist anywhere else in the Board's statutes. Mr. Sumner responded that what was previously written has just recently been changed to this new phrase but would be happy to entertain new ones.

Dr. Kawaguchi recommended that whatever action the Board decides to take that the Board also maintain a workgroup. Ms. Garcia noted that she does not see clarity for licensed opticians to be a part of this and she believes the Board can hold them accountable. Mr. Sumner then noted that taking a support position goes a long way in telling members, especially in the Senate, that the Board is interested in taking this on and is working collaboratively. This is the reason they are respectfully asking for a full support position, even though there are issues to be worked out.

Ms. Murphy clarified that the biggest issue discussed today is the accountability of the nonprofits which was addressed in the amendments brought to the Legislature before today and it has not been addressed. Staff wants to make certain that accountability does not just fall on licensees and a "bad actor" of a nonprofit cannot continue to just run through optometrists, schedule kids at 5 to 10-minute intervals and optometrists be the only persons who are then accountable. This is one of two amendments requested by the Board. Mr. Morodomi asked Mr. Sumner to summarize the two amendments which were not incorporated into the bill. Mr. Sumner explained that one amendment would dictate to composition of the board of directors of a non profit corporation be largely composed on optometrists. This is similar language to that used for regulatory boards where discussion revolves around the proportion of public and professional

members. This is not something discussed for nonprofits. The other amendment not taken is requiring there be a website and hotline provided by each nonprofit for them to do their own complaint resolution. It was felt it is more appropriate for the Board to make determinations about whether the professional services result in an investigation, accusation etc. All complaints received by a nonprofit be reported to the Board. Customer service would also be expected because most folks prefer to resolve a complaint without it having to go to the Board.

There was no public comment.

Rachel Michelin moved to support the bill, continue to have the workgroup work with staff and the Author’s assessment of outstanding issues; And should at any time the workgroup feel the need, they can come back to the Board and request a full Board meeting prior to the first hearing. Glenn Kawaguchi seconded. The Board voted unanimously (7-0) and the motion passed.

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

8. Update, Discussion and Possible Action on Adoption of Title 16, California Code of Regulations §1399.273 and Optician Disciplinary Guidelines Incorporated by Reference (TAKEN OUT OF ORDER)

Audio of Discussion: 2:59:00 / 3:42:49

Mr. Johnson reported that staff would like to continue working on this internally and bring it back to a future Board meeting to provide Legal Counsel additional time to refine details.

There was no public comment.

9. Update, Discussion and Possible Action on Changes to Chapters 5.4, 5.45 and 5.5 of the Business and Professions Code (Optician Program Statutes) (TAKEN OUT OF ORDER)

Audio of Discussion: 3:03:13 / 3:42:49

Mr. Johnson provided an overview. The Dispensing Optician Committee (DOC) has been discussing this issue over three meetings and has provided much input; all the changes have been incorporated. Ms. Murphy noted that staff has brought the individual pieces together to create a practice act for opticianry and to standardize the term so that it clear when referring to a business who employs those who fit and adjust, and when referring to an individual spectacle or contact lens dispenser who fits and adjust.

Dr. Kawaguchi commented on page 70 which discusses potentially modifying fines. His feedback to the DOC would be to further define what it means versus just globally increasing a fine; additionally, he is not comfortable with the language “allows the board flexibility to assess fines from minor or major violations”. Dr. Kawaguchi believes it should be very clear what a fine will be for a violation and not be vague. Ms. Leeper explained when these statutes were written, the big corporations were not a factor in the original writing statute. It was basically regarding the Mom and Pop businesses. The fine is not currently a deterrent for very large corporations who can simply pay the fine without much impact. Ms. Murphy added that staff has tried to separate out the fines for business and the fines for individuals. The idea is that large corporations like Stanton Optical would incur a larger dollar amount commiserate with the amount of business they do whereas individuals would have fines commiserate with the earning potential within the profession.

Dr. Kawaguchi disagrees with this thought process because as laws have changed in California there are many potential business players in the state and there needs to be consistency in which violations are addressed. He is looking to the DOC to work through what this will look like, but he does not believe a business should be judged based on their business volume or size. Mx. Kimball clarified that fines for various matters will be addressed down the line; what this language does is set out the minimum fine the Board can issue and the maximum fine the Board can issue. It sets the parameters from which the Board can later set what fines are according to violation.

The agenda item was sent to committee for further review.

There was no public comment.

12. Executive Officer’s Report

A. Enforcement

Audio of Discussion: 3:16:34 / 3:42:49

Mx. Kimball provided an update on the enforcement program and statistics were provided as part of the meeting materials. Additionally, DCA has begun an expert witness program from various boards and bureaus staff enforcement analysts to work with licensee subject matter experts. Enforcement Analyst Matt McKinney is serving on that panel and hoping to ensure that the Board’s needs are addressed. Eventually, a formal training package will be available.

Dr. Turetsky noted that on page 132, 20% of the pie charts are criminal charges and convictions. He asked how many people these charts refer to; Mx. Kimball responded that she does not have the breakdown. For optometry conviction cases these would be anything from a new applicant who may have had a DUI or something from their younger days, or somebody who has been licensed and has had any number of arrests or convictions occur in the second quarter. The Board received 51 cases in the second quarter; therefore, it would be 20% of 51 cases.

There was no public comment.

B. Examination and Licensing Programs

Audio of Discussion: 3:20:47 / 3:42:49

Ms. Murphy stated that an update on the licensing and examination program and statistics were provided as part of the meeting materials. Dr. Kawaguchi noted that twice as many applications were received from last December and January and views this as a positive. Ms. Leeper added that staff has been implementing changes with BreZE that will provide the pathway for measuring this timeframe.

There was no public comment.

C. Legislative and Regulatory Update

Audio of Discussion: 3:23:48 / 3:42:49

An update on current regulations and legislation was provided as part of the meeting materials. Mr. Johnson announced that the Board has a new updated 2020 version of its law book soon to be published.

Regarding AB 2138, Mr. Johnson explained this is the bill that would relate to denial of applications, revocation, suspension of licensure and criminal convictions. The regulation is out for public comment which closes on March 9th, and to date no comments have been received. He also reported that staff is currently working on the rulemaking package for the Disciplinary Guidelines and hoping to get it to DCA Legal within the next couple months.

There were no public comments.

D. Associations of Regulatory Boards of Optometry

Audio of Discussion: 3:26:55 / 3:42:49

Ms. Murphy announced that she attended last year's conference. At the 2019 conference there was discussion of continued negotiation between ARBO and the

National Board of Examiners in Optometry (NBEO). Staff will come back to the Board to relay the discussion of the viability of ARBO as an organization and its intentions to pursue the creation of its own test.

There were no public comments.

13. Board Committee Minutes

A. Dispensing Optician Committee

Audio of Discussion: 3:31:06 / 3:42:49

Draft meeting minutes were provided as part of the meeting materials. Ms. Garcia announced that the DOC would potentially like to invite the optician college administrators and the college advisory boards to come and talk.

B. Legislation and Regulation Committee

Audio of Discussion: 3:31:06 / 3:42:49

Draft meeting minutes were provided as part of the meeting materials. Board members had no comments.

C. Practice and Education Committee

Audio of Discussion: 3:32:56 / 3:42:49

Draft meeting minutes were provided as part of the meeting materials. Dr. McIntyre commented that the Practice and Education Committee has made short work of most of its approvals of the continuing education courses that were submitted. There were a few questions regarding some providers that were asking for more credit hours than the timeline of their lectures allow; the course credit to lecture time ratio was incorrect. Everything else has been previously discussed earlier today.

D. Public Relations and Outreach Committee

Audio of Discussion: 3:34:04 / 3:42:49

Draft meeting minutes were provided as part of the meeting materials. Board members had no comments.

There were no public comments.

14. Future Agenda Items

Audio of Discussion: 3:35:28 / 3:42:49

The following agenda items were proposed:

- Dr. Turetsky - Discussion regarding development of regulations for AB 458. He wishes to address how licensees can provide care for someone who cannot go to a doctor's office.
- Dr. Turetsky - Discussion regarding how optometrists, opticians and their staff are taking all proper precautions to protect themselves and the public in light of the coronavirus.
- Dr. Kawaguchi – Telehealth workgroup to work with staff to assess the Board's current laws and where the Board is current with regards to regulations.

There were no public comments.

15. Adjournment

Meeting adjourned at 2:14 p.m.