



CALIFORNIA STATE BOARD OF
OPTOMETRY

DRAFT

Sunset Review Report 2016

**Presented to the California Legislature
Senate Committee on Business, Professions and
Economic Development**

November 17, 2016



California State Board of Optometry

Board Members

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

Executive Staff

Jessica Siefertman, Executive Officer
Robert Stephanopoulos, Assistant Executive Officer

Additional copies of this report can be obtained from www.optometry.ca.gov

DRAFT Sunset Review Report Prepared by:
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California State Board of Optometry
BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT
REGULATORY PROGRAM

DRAFT

As of November 17, 2016

Background and Description of the Board and Regulated Profession

History and Function of the Board

Since its inception over 100 years ago, the California State Board of Optometry (Board) has supported and helped consumers by advocating consumer interests before lawmakers, regulating to protect consumers from unlicensed practitioners and guarding our licensees against unfair competition, enforcing laws to protect the consumer and resolving disputes between business and a customer or a consumer and a licensee.

Our authority to protect the health and safety of California patients receiving optometric care through licensing, education, and regulation of the practice of Optometry was expanded on January 1, 2016, when Governor Jerry Brown signed Assembly Bill 684, transferring the practice of optical dispensary from the Medical Board of California to our State Board. Overnight, the Board's regulatory population grew by 50% - expanding its regulatory oversight from 8,000 licensees to roughly 12,000 licensees and registrations.

Today, the Board regulates the largest population of optometrists and dispensers in the United States with over 17,400 licenses, registrations, and permits. The Board is also responsible for issuing optometry certifications for Diagnostic Pharmaceutical Agents, Therapeutic Pharmaceutical Agents, Lacrimal Irrigation and Dilation, and Glaucoma.

With this significant change in population come new, emerging responsibilities. Our Board stands ready and has the capabilities and resources to maintain the same level of accountability, efficiency, effectiveness, integrity and customer service it has delivered since the last Sunset Review. Further, it is in the best interest of California consumers to continue protecting their eye care health and safety through the California State Board of Optometry in its current constituted state – an independent Board that relies on the Department of Consumer Affairs for administrative support. As we continue our evolution – from a Board with challenges in 2002 to a well-functioning Board today – we are poised to meet the regulatory changes, adjust through internal improvements to our organizational structure and set a new path forward through a revised Strategic Plan that better aligns with our evolving consumer protection mandate.

Achieving our Mission and Positioned to Move Forward

The Board's mission is to protect the health and safety of California consumers through licensing, education, and regulation of the practice of Optometry¹. The Board accomplishes its mission through the following responsibilities:

- Promulgating regulations governing Board procedures, admission of applicants for examination for an optometric license; minimum standards of optometric and dispensing services offered and performed, the equipment and sanitary conditions in all registered locations;
- Investigating consumer complaints and criminal convictions including, but not limited to substance abuse, unprofessional conduct, incompetence, fraudulent action, and unlawful activity;
- Taking disciplinary action for violations of laws and regulations governing the practice of optometry and dispensing when warranted.
- Accrediting schools and colleges of optometry²;
- Establishing educational and examination requirements to ensure the competence of candidates for licensure/registration;
- Setting and enforcing standards for continued competency of existing licensees;
- Establishing educational and examination requirements for optometrists seeking certification to use and prescribe certain pharmaceutical agents and other procedures; and
- Issuing branch offices licenses, statements of licensure and fictitious name permits.

California became the third state to regulate the optometry profession³ in 1903, and a new Optometry Practice Act⁴, enacted in 1913, created the Board, defined its duties and powers, and prescribed a penalty for violations of the Act. The Act was later incorporated in the Business and Professions Code (BPC)⁵. Empowered with rulemaking authority (BPC Sections 3025 and 3025.5), the Board promulgated the first rule for the practice of optometry in 1923. In the same year, the legislature passed a law⁶ requiring all applicants for licensure to meet certain educational requirements, i.e., graduate from an accredited school or college of optometry and charged the Board with the responsibility of accrediting these schools. Prior to this time, individuals desiring to practice were not required to have any specific formal education.

On January 1, 2016, Assembly Bill 684, moved the RDO Program under the Board's jurisdiction, and created a Dispensing Optician Committee, comprised of two public members, two dispensers, and one Board Member to advise the Board on dispensing-related matters and education for registered opticians. Assembly Bill 684 replaced one of the Board's professional members with registered optician.

¹ As adopted in the 2012 Strategic Plan; however, the Board recognizes the need to revise its Strategic Plan and incorporate the RDO Program into the Board's mission statement. The Board is currently in this process.

² The Board accepts schools and colleges of optometry who have received accreditation through the Accreditation Council on Optometric Education (ACOE).

³ Optometry Act of 1903 (California Statutes of 1903, Chapter CCXXXIV) later repealed by Statutes of 1913, Chapter 598

⁴ Statutes of 1913, Chapter 598, derived from the 1903 Act as amended by enactments of 1907 and 1908

⁵ Chapter 7, Division 2, Healing Arts

⁶ Chapter 164, Statutes of 1923

The Board is comprised of eleven board members: five licensed optometrists, five public members and one registered optician. Nine members are appointed by the Governor, one public member is appointed by the Speaker of the Assembly, and one public member is appointed by the Senate Rules Committee.

Board Committees

The Board has the following committees composed of professional and public members:

Legislation and Regulation

Responsible for recommending legislative and regulatory priorities to the Board and assisting staff with drafting language for Board-sponsored legislation and recommending official positions on current legislation. The committee also recommends regulatory additions and amendments.

Practice and Education

Advises Board staff on matters relating to optometric practice, including standards of practice and scope of practice issues. Reviews staff responses to proposed regulatory changes that may affect optometric practice. Also reviews requests for approval of continuing education courses, and offers guidance to Board staff regarding continuing education issues.

Consumer Protection

Oversees the development and administration of legally defensible licensing examinations and consulting on improvements/enhancements to licensing and enforcement policies and procedures.

Public Relations – Outreach

Assists with the development of outreach and development of educational materials to the Board's stakeholders

The Board President appoints members to each committee, utilizing their individual strengths and experiences to best meet the overarching purpose of each committee. In addition, the Board created several workgroups to focus on specific areas requiring unique attention. Currently, the Board has the following workgroups:

Children's Vision Workgroup

SB 402 was created to address the gap in providing eye exams to entry elementary school students as a result of budgetary cuts in the public school system. Among other things, it mandated that children entering school receive a comprehensive eye exam in order to combat the one in three school vision screenings which miss vision problems. Due to the failure of SB 402 to pass out of the Senate Appropriations Committee, the Board created this workgroup, comprised of two members, tasked with meeting with stakeholders on this issue and providing legislation recommendations to the Board for consideration during the 2017 legislative session.

Mobile Clinic Workgroup

Protecting and providing families' access to convenient, quality eye care, and support to optometrists so they continue providing the vision care services Californians need and deserve in many environments, the Board created the Mobile Clinic Workgroup. Prior to the workgroup, Senate Bill 349 was introduced, which focused on creating guidelines for mobile optometric facilities; however it failed to pass out of the Senate Committee on Business and Professions in 2015. The workgroup, comprised of two members, is tasked with meeting with stakeholders on this issue and providing legislation recommendations to the Board for consideration during the 2017 legislative session.

Foreign Graduate Workgroup

Recognizing that there was no pathway for foreign graduates to become licensed in California after they pass all required state and national examinations, the Board sponsored Senate Bill 496 (Senator

Nguyen). If passed, this would have created the pathway for foreign graduates to become licensed in California; however, it was pulled by the author in 2015 after receiving several equivalency concerns from schools/colleges of optometry and the professional association. In order to determine the best avenue to move forward, the Board created this workgroup, comprised of two members, and tasked it to meet with stakeholders, including the accredited schools and colleges of optometry, to provide stronger legislation recommendations to the Board for consideration during the next legislative session.

Dispensing Optician Committee – Development Workgroup

The Board created a DOC Appointments Committee, comprised of two members, to vet potential candidates and make recommendations to the full Board. The DOC will begin meeting in 2017.

Sunsetted Workgroups

Executive Officer Appointment Workgroup

Due to the retirement of the Board's Executive Officer in 2015, this workgroup was created to take the lead in the outreach, advertising, and vetting process to fill the Board's Executive Officer position. The workgroup worked hand in hand with DCA's Office of Human Resources and implemented new hiring techniques in order to perform a nationwide search for the ideal candidate.

The committees and workgroups meet on an "as needed" basis pursuant to the Board Member's Handbook. The current committee and workgroup structure (cf., Section 12, Attachment B) provides multiple opportunities for consumers, licensees, professional organizations, and educational institutions to actively participate and comment on topics before the Board. All committee and workgroup recommendations are presented to the Board for consideration during a publicly noticed Board meeting.

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Board Member Meeting, Committee, and Workgroup Attendance

CURRENT MEMBERS

Madhu Chawla, OD, President					
Date Appointed:		June 15, 2012			
Date Reappointed:		June 5, 2015			
Term Expires:		June 1, 2019			
	Meeting Type	Meeting Date	Meeting Location	Attended?	
2016	Board Meeting	November 21	Teleconference	Y	
	Board Meeting	November 4	Los Angeles	Y	
	Board Meeting	October 21	Teleconference	Y	
	Legislation and Regulation Committee Meeting	October 14	Sacramento	N	
	Board Meeting	September 23	Teleconference	N	
	Board Meeting	August 26	Irvine	Y	
	Practice and Education Committee Meeting	July 29	Teleconference	Y	
	Board Meeting	May 27	Oakland	Y	
	Practice and Education Committee Meeting	May 27	Oakland	Y	
	Special Board Meeting*	May 13	Teleconference	Y	
	Practice and Education Committee Meeting	April 21	Teleconference	Y	
2015	Board Meeting	February 19	Los Angeles	N	
	Board Meeting	November 20	Oakland	Y	
	Legislation and Regulation Committee Meeting	November 12	Sacramento	Y	
	Board Meeting	October 16	Sacramento	Y	
	Special Board Meeting*	September 9	Teleconference	Y	
	Board Meeting	August 28	Sacramento	Y	
	Certification Posting Workgroup Meeting	July 23	Sacramento	Y	
	Board Meeting	June 12	Teleconference	Y	
	Board Meeting	April 27	Sacramento	Y	
	Board Meeting	April 23, 24	Sacramento	Y	
	Practice and Education Committee Meeting	April 23	Sacramento	Y	
2014	Practice and Education Committee Meeting	March 19	Teleconference	Y	
	Board Meeting	February 24	Western University & Quebec	Y	
	Board Meeting	January 23	Van Nuys State Building	Y	
	Board Meeting	November 21	Western University	N	
	Board Meeting	August 8	Sacramento	Y	
	Special Board Meeting*	June 23	Teleconference	Y	
	Board Meeting	April 11	Oakland	Y	
	Board Meeting	January 24	Western University	Y	
	2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
		Board Meeting	November 1	Bay Area	Y
		Board Meeting	September 13	Western University	Y
Board Meeting		August 16	Sacramento	Y	
Practice & Education Committee		July 12	Teleconference	Y	
Board Meeting		May 10	Western University	Y	
SB 1111 Regulations Committee		April 30	Los Angeles	Y	
Practice & Education Committee		March 8	Los Angeles	Y	
Board Meeting		March 6	Teleconference	Y	

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

Donna Burke, Vice President				
Date Appointed:		October 1, 2010		
Date Reappointed:		February 24, 2016		
Term Expires:		June 1, 2019		
	Meeting Type	Meeting Date	Meeting Location	Attended?

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2016	Board Meeting	November 21	Teleconference	N
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Board Meeting	September 23	Teleconference	Y
	Board Meeting	August 26	Irvine	Y
	Public Relations and Outreach Committee	June 16	Sacramento	Y
	Board Meeting	May 27	Oakland	N
	Special Board Meeting*	May 13	Teleconference	Y
	Public Relations and Outreach Committee	April 21	Teleconference	Y
	Board Meeting	February 19	Los Angeles	Y
2015	Public Relations and Outreach Committee	December 16	Teleconference	Y
	Board Meeting	November 20	Oakland	Y
	Board Meeting	October 16	Sacramento	N
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	N
	Certification Posting Workgroup Meeting	July 23	Sacramento	Y
	Board Meeting	June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	Y
	Board Meeting	February 24	Western University & Quebec	Y
	Board Meeting	January 23	Van Nuys	Y
2014	Board Meeting	November 21	Western University	Y
	Board Meeting	August 8	Sacramento	Y
	Special Board Meeting*	June 23	Teleconference	N
	Board Meeting	April 11	Oakland	Y
	Board Meeting	January 24	Western University	N
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
	Board Meeting	September 13	Western University	Y
	Board Meeting	August 16	Sacramento	Y
	Board Meeting	May 10	Western University	Y
	SB 1111 Regulations Committee	April 30	Los Angeles	Y
	Sunset Review Hearing	March 11	State Capitol	Y
	Board Meeting	March 6	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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Lilian Wang, OD, Secretary				
Date Appointed:		March 27, 2015		
Date Reappointed:				
Term Expires:		June 1, 2018		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Legislation and Regulation Committee Meeting	October 14	Sacramento	Y
	Board Meeting	September 23	Teleconference	Y
	Board Meeting	August 26	Irvine	Y
	Practice and Education Committee Meeting	July 29	Teleconference	Y
	Board Meeting	May 27	Oakland	Y
	Practice and Education Committee Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	Y
	Board Meeting	February 19	Los Angeles	Y
2015	Board Meeting	November 20	Oakland	Y
	Legislation and Regulation Committee Meeting	November 12	Sacramento	Y
	Board Meeting	October 16	Sacramento	Y
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	Y
	Board Meeting	June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	Y

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Cyd Brandvein				
Date Appointed:		October 25, 2013		
Date Reappointed:				
Term Expires:		June 1, 2017		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Board Meeting	September 23	Teleconference	N
	Board Meeting	August 26	Irvine	Y
	Practice and Education Committee Meeting	July 29	Teleconference	Y
	Board Meeting	May 27	Oakland	Y
	Practice and Education Committee Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	N
	Practice and Education Committee Meeting	April 15	Teleconference	Y
	Board Meeting	February 19	Los Angeles	Y
2015	Board Meeting	November 20	Oakland	Y
	Board Meeting	October 16	Sacramento	Y
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	Y
	Certification Posting Workgroup Meeting	July 23	Sacramento	Y
	Board Meeting	June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	Y
	Practice and Education Committee Meeting	April 23	Sacramento	Y
	Practice and Education Committee Meeting	March 19	Teleconference	Y
	Board Meeting	February 24	Western University & Quebec	Y
	Board Meeting	January 23	Van Nuys	Y
	2014	Board Meeting	November 21	Western University
Board Meeting		August 8	Sacramento	Y
Special Board Meeting*		June 23	Teleconference	N
Board Meeting		April 11	Oakland	Y
Board Meeting		January 24	Western University	Y
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.				

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Martha Ruby Garcia, CLD, SLD				
Date Appointed:		March 4, 2016		
Date Reappointed:				
Term Expires:		June 1, 2019		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Board Meeting	September 23	Teleconference	Y
	Board Meeting	August 26	Irvine	Y
	Board Meeting	May 27	Oakland	-
	Special Board Meeting*	May 13	Teleconference	-

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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Glenn Kawaguchi, OD				
Date Appointed:		August 10, 2012		
Date Reappointed:		May 6, 2015		
Term Expires:		June 1, 2018		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	N
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	N
	Board Meeting	September 23	Teleconference	Y
	Children's Vision Workgroup	September 22	Sacramento	Y
	Board Meeting	August 26	Irvine	Y
	Public Relations and Outreach Committee	June 16	Sacramento	N
	Board Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	Y
	Children's Vision Workgroup	April 28	Sacramento	Y
	Mobile Clinic Workgroup	April 28	Sacramento	Y
	Public Relations and Outreach Committee	April 21	Sacramento	Y
	Board Meeting	February 19	Los Angeles	Y
	Children's Vision Workgroup	February 18	Los Angeles	Y
2015	Public Relations and Outreach Committee	December 16	Teleconference	Y
	Board Meeting	November 20	Oakland	Y
	Board Meeting	October 16	Sacramento	Y
	Special Board Meeting*	September 9	Teleconference	N
	Board Meeting	August 28	Sacramento	Y
	Certification Posting Workgroup Meeting	July 23	Sacramento	Y
	Board Meeting	June 12	Teleconference	N
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	Y
	Board Meeting	February 24	Western University & Quebec	Y
Board Meeting	January 23	Van Nuys	Y	
2014	Board Meeting	November 21	Western University	Y
	Board Meeting	August 8	Sacramento	Y
	Special Board Meeting*	June 23	Teleconference	Y
	Board Meeting	April 11	Oakland	Y
	Board Meeting	January 24	Western University	Y
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
	Board Meeting	September 13	Western University	Y
	Board Meeting	August 16	Sacramento	Y
	Board Meeting	May 10	Western University	Y
	Board Meeting	March 6	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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Debra McIntyre, OD				
Date Appointed:		March 15, 2016		
Date Reappointed:				
Term Expires:		June 1, 2017		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Consumer Protection Committee	October 13	Teleconference	Y
	Consumer Protection Committee	September 28	Teleconference	Y
	Board Meeting	September 23	Teleconference	Y
	Board Meeting	August 26	Irvine	Y
	Board Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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California State Board of Optometry 2016 Sunset Review Report

Rachel Michelin				
Date Appointed:		October 13, 2014		
Date Reappointed:		June 5, 2015		
Term Expires:		June 1, 2019		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Legislation and Regulation Committee Meeting	October 14	Sacramento	Y
	Consumer Protection Committee	October 13	Teleconference	Y
	Consumer Protection Committee	September 28	Teleconference	Y
	Board Meeting	September 23	Teleconference	Y
	Children's Vision Workgroup	September 22	Sacramento	Y
	Board Meeting	August 26	Irvine	Y
	Board Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	Y
	Children's Vision Workgroup	April 28	Sacramento	Y
	Mobile Clinic Workgroup	April 28	Sacramento	Y
	Board Meeting	February 19	Los Angeles	Y
Children's Vision Workgroup	February 18	Los Angeles	Y	
2015	Board Meeting	November 20	Oakland	Y
	Legislation and Regulation Committee Meeting	November 12	Sacramento	Y
	Board Meeting	October 16	Sacramento	Y
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	Y
	Board Meeting	June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	Y
	Board Meeting	February 24	Western University & Quebec	Y
	Board Meeting	January 23	Van Nuys	Y
2014	Board Meeting	November 21	Western University	Y
*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.				

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Date Appointed:		April 7, 2015		
Date Reappointed:				
Term Expires:		June 1, 2018		
Meeting Type				Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	N
	Consumer Protection Committee	October 13	Teleconference	Y
	Consumer Protection Committee	September 28	Teleconference	Y
	Board Meeting	September 23	Teleconference	Y
	Board Meeting	August 26	Irvine	Y
	Board Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	N
	Board Meeting	February 19	Southern California	Y
2015				
		September 9	Teleconference	
		August 28	Sacramento	Y
		June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	Y
Board Meeting	April 23, 24	Sacramento	Y	

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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California State Board of Optometry 2016 Sunset Review Report

Maria Salazar Sperber, JD				
Date Appointed:		March 4, 2016		
Date Reappointed:				
Term Expires:		June 1, 2019		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Legislation and Regulation Committee	October 14	Sacramento	Y
	Board Meeting	September 23	Teleconference	N
	Board Meeting	August 26	Irvine	Y
	Board Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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David Turetsky, OD				
Date Appointed:		December 18, 2013		
Date Reappointed:				
Term Expires:		June 1, 2017		
Meeting Type		Meeting Date	Meeting Location	Attended?
2016	Board Meeting	November 21	Teleconference	Y
	Board Meeting	November 4	Los Angeles	Y
	Board Meeting	October 21	Teleconference	Y
	Consumer Protection Committee	October 13	Teleconference	Y
	Consumer Protection Committee	September 28	Teleconference	Y
	Board Meeting	September 23	Teleconference	Y
	Board Meeting	August 26	Irvine	Y
	Board Meeting	May 27	Oakland	Y
	Special Board Meeting*	May 13	Teleconference	Y
	Board Meeting	February 19	Los Angeles	Y
2015	Public Relations and Outreach	December 16	Sacramento	Y
	Board Meeting	November 20	Oakland	N
	Board Meeting	October 16	Sacramento	Y
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	Y
	Certification Posting Workgroup Meeting	July 23	Sacramento	Y
	Board Meeting	June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	Y
	Board Meeting	February 24	Western University & Quebec	Y
	Board Meeting	January 23	Van Nuys	Y
2014	Board Meeting	November 21	Western University	Y
	Board Meeting	August 8	Sacramento	Y
	Special Board Meeting*	June 23	Teleconference	Y
	Board Meeting	April 11	Oakland	Y
	Board Meeting	January 24	Western University	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

Previous Board Members

Alejandro Arrenondo, OD				
Date Appointed:		November 1, 2007		
Date Reappointed:		June 15, 2012		
Term Expires:		June 1, 2015		
Meeting Type		Meeting Date	Meeting Location	Attended?
2015	Board Meeting	November 20	Oakland	Y
	Board Meeting	October 16	Sacramento	N
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	N
	Certification Posting Workgroup Meeting	July 23	Sacramento	Y
	Board Meeting	June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	N
	Board Meeting	February 24	Western University & Quebec	Y
	Board Meeting	January 23	Van Nuys State Building	Y
	2014	Board Meeting	November 21	Western University
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
	Board Meeting	September 13	Western University	Y
	Board Meeting	August 16	Sacramento	Y
	Practice & Education Committee	July 12	Teleconference	Y
	Board Meeting	May 10	Western University	Y
	Practice & Education Committee	March 8	Los Angeles	Y
	Board Meeting	March 6	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

California State Board of Optometry 2016 Sunset Review Report

Fred Dubick, O.D, MBA, FAAO				
Date Appointed:		August 9, 2012		
Date Reappointed:				
Term Expires:		June 1, 2013		
Meeting Type		Meeting Date	Meeting Location	Attended?
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
	Board Meeting	September 13	Western University	Y
	Board Meeting	August 16	Sacramento	Y
	Practice and Education Committee	July 12	Teleconference	Y
	Board Meeting	May 10	Western University	Y
	SB 1111 Regulations Committee	April 30	Los Angeles	Y
	Practice & Education Committee	March 8	Los Angeles	Y
	Board Meeting	March 6	Teleconference	Y

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California State Board of Optometry 2016 Sunset Review Report

Frank Giardina, OD				
Date Appointed:		December 18, 2013		
Date Reappointed:				
Term Expires:		January 28, 2016		
Meeting Type		Meeting Date	Meeting Location	Attended?
2015	Board Meeting	November 20	Oakland	N
	Board Meeting	October 16	Sacramento	Y
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	Y
	Board Meeting	June 12	Sacramento	Y
	Board Meeting	April 27	Sacramento	Y
	Board Meeting	April 23, 24	Sacramento	Y
	Board Meeting	February 24	Van Nuys & Quebec	N
	Board Meeting	January 24	Van Nuys	Y
2014	Board Meeting	November 21	Western University	Y
2013	Board Meeting – Strategic Planning	December 2	Sacramento	N
	Board Meeting	November 1	Bay Area	N
	Board Meeting	September 13	Western University	N
	Board Meeting	August 16	Sacramento	N
	Board Meeting	May 10	Western University	N
	Board Meeting	March 6	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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California State Board of Optometry 2016 Sunset Review Report

Bruce Givner, Esq				
Date Appointed:		September 11, 2013		
Date Reappointed:				
Term Expires:		November 1, 2015		
	Meeting Type	Meeting Date	Meeting Location	Attended?
2014	Board Meeting	August 8	Sacramento	Y
	Special Board Meeting*	June 23	Teleconference	Y
	Board Meeting	April 11	Oakland	Y
	Board Meeting	January 24	Western University	Y
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.				

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Monica Johnson				
Date Appointed:		December 20, 2005		
Date Reappointed:		May 5, 2010		
Term Expired:		June 1, 2013		
Meeting Type		Meeting Date	Meeting Location	Attended?
2013	Board Meeting	September 13	Western University	N
	Board Meeting	August 16	Sacramento	N
	Board Meeting	May 10	Western University	Y
	Board Meeting	March 6	Teleconference	Y

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California State Board of Optometry 2016 Sunset Review Report

Alexander Kim, MBA				
Date Appointed:		November 1, 2010		
Date Reappointed:				
Term Expires:		June 1, 2014		
Meeting Type		Meeting Date	Meeting Location	Attended?
2014	Board Meeting	November 21	Western University	N
	Board Meeting	August 8	Sacramento	Y
	Special Board Meeting*	June 23	Teleconference	Y
	Board Meeting	April 11	Oakland	Y
	Board Meeting	January 24	Western University	Y
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
	Board Meeting	September 13	Western University	Y
	Board Meeting	August 16	Sacramento	Y
	Board Meeting	May 10	Western University	Y
	Board Meeting	March 6	Teleconference	N

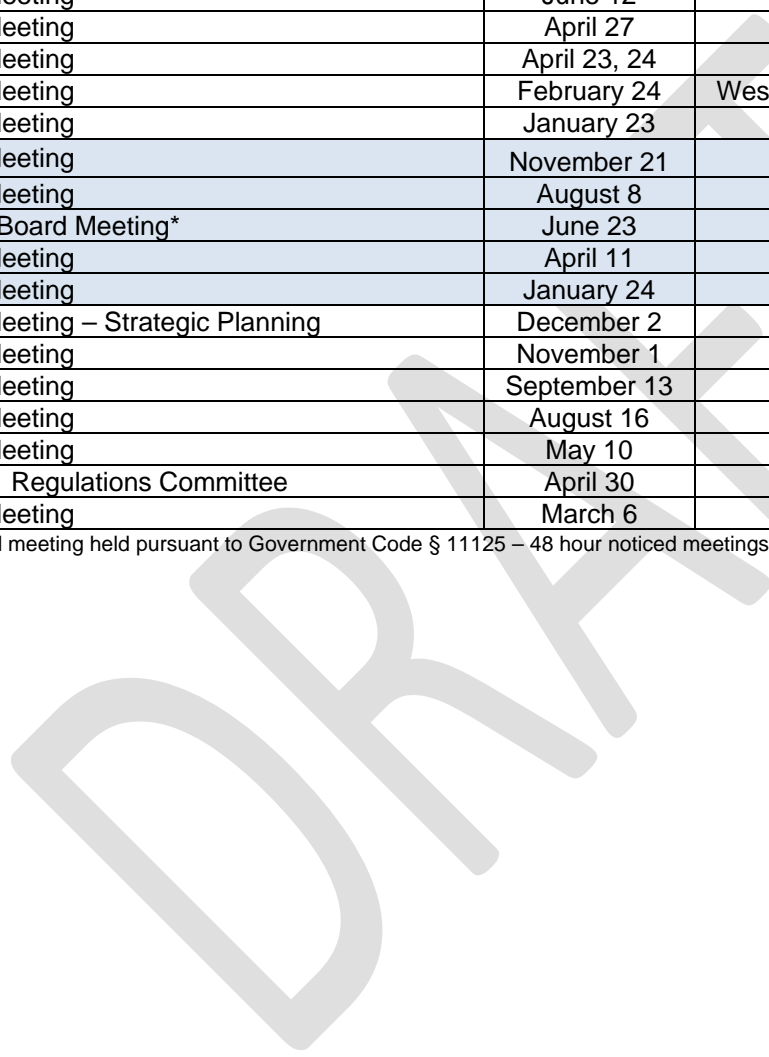
*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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California State Board of Optometry 2016 Sunset Review Report

Date Appointed:		July 25, 2012		
Date Reappointed:				
Term Expires:		June 1, 2015		
Meeting Type		Meeting Date	Meeting Location	Attended?
2015	Board Meeting	November 20	Oakland	Y
	Legislation and Regulation Committee Meeting	November 12	Sacramento	Y
	Board Meeting	October 16	Sacramento	Y
	Special Board Meeting*	September 9	Teleconference	Y
	Board Meeting	August 28	Sacramento	Y
	Board Meeting	June 12	Teleconference	Y
	Board Meeting	April 27	Sacramento	N
	Board Meeting	April 23, 24	Sacramento	Y
	Board Meeting	February 24	Western University & Quebec	Y
	Board Meeting	January 23	Van Nuys	Y
2014	Board Meeting	November 21	Western University	Y
	Board Meeting	August 8	Sacramento	Y
	Special Board Meeting*	June 23	Teleconference	N
	Board Meeting	April 11	Oakland	Y
	Board Meeting	January 24	Western University	Y
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
	Board Meeting	September 13	Western University	Y
	Board Meeting	August 16	Sacramento	Y
	Board Meeting	May 10	Western University	Y
	SB 1111 Regulations Committee	April 30	Los Angeles	Y
	Board Meeting	March 6	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.



California State Board of Optometry 2016 Sunset Review Report

Kenneth Lawenda, OD				
Date Appointed:		November 1, 2007		
Date Reappointed:		December 2, 2010		
Term Expires:		June 1, 2014		
Meeting Type		Meeting Date	Meeting Location	Attended?
2015	Practice and Education Committee Meeting	March 19	Teleconference	Y
	Board Meeting	February 24	Western University & Quebec	Y
	Board Meeting	January 23	Van Nuys	Y
2014	Board Meeting	November 21	Western University	Y
	Board Meeting	August 8	Sacramento	Y
	Special Board Meeting*	June 23	Teleconference	Y
	Board Meeting	April 11	Oakland	Y
	Board Meeting	January 24	Western University	Y
2013	Board Meeting – Strategic Planning	December 2	Sacramento	Y
	Board Meeting	November 1	Bay Area	Y
	Board Meeting	September 13	Western University	Y
	Board Meeting	August 16	Sacramento	Y
	Board Meeting	May 10	Western University	Y
	SB 1111 Regulations Committee	April 30	Los Angeles	Y
	Board Meeting	March 6	Teleconference	Y

*Special Board meeting held pursuant to Government Code § 11125 – 48 hour noticed meetings.

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Board Member Roster

Board Member Roster					
Member Name	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type (Public or Professional)
Madhu Chawla, OD	06/15/2012	06/5/2015	06/01/2019	Governor	Professional
Donna Burke	10/01/2010	02/01/2016	06/01/2019	Senate	Professional
Lillian Wang, OD	03/27/2015		06/01/2018	Governor	Professional
Cyd Brandvein	10/25/2013		06/01/2017	Governor	Public
Martha Garcia, CLD, SLD	03/04/2016		06/01/2019	Governor	Professional
Glenn Kawaguchi, OD	08/10/2012	05/06/2015	06/01/2018	Governor	Professional
Debra McIntyre, OD	03/15/2016		06/01/2017	Governor	Professional
Rachel Michelin	10/13/2014	06/24/2015	06/01/2019	Governor	Public
Mark Morodomi	04/07/2015		06/01/2018	Governor	Public
Maria Salazar Sperber, JD	03/04/2016		06/01/2019	Assembly	Public
David Turetsky, OD	12/18/2013		06/01/2017	Governor	Professional
Previous Members					
Alejandro Arredondo, OD	11/01/2007	06/15/2012	06/01/2015	Governor	Professional
Fred Dubick, OD	08/09/2012		06/01/2013	Governor	Professional
Frank Giardina, OD	12/18/2013		06/01/2017	Governor	Professional
Bruce Givner, Esq	09/11/2013		11/01/2014	Governor	Professional
Monica Johnson	12/20/2005	05/05/2010	06/01/2013	Governor	Public
Alexander Kim, MBA	11/01/2010		06/01/2014	Governor	Public
William Kysella, Jr.	07/25/2012		06/01/2015	Assembly	Public
Kenneth Lawenda, OD	11/01/2007	12/02/2010	06/01/2014	Governor	Professional

In the past four years, the Board has not canceled any meetings due to a lack of quorum.

Major Changes since the Last Sunset Review

Reorganization

Since the last sunset review in 2012, the Board has experienced a significant reorganization. Through a reclassification in December 2014, the Board gained a Staff Services Manager I position to serve as the Board's Assistant Executive Officer (AEO). Focusing primarily on program management and staff supervision, the AEO position allows the Executive Officer (EO) to efficiently oversee all Board aspects. While working collaboratively with the Department of Consumer Affairs (DCA), the EO can now focus on interpreting and executing the intent of board policies, meeting Board mandates and executing the Board's Strategic Plan in order to adequately protect the public.

Following an EO change in 2015, Board positions were evaluated, restructured and/or re-classified to meet the Board's operational needs more efficiently with its existing resources. These changes provide a stronger foundation for the Board to provide consumer protection on a much broader scale. For example, the Board is able to increase its continuing education auditing by 15% while using less resources. The Board has also increased its focus on unlicensed practice activities and implemented quarterly peer review checks in its licensing and enforcement units.

With the passing of AB 684, the Board acquired the Registered Dispensing Optician (RDO) Program from the Medical Board of California (MBC) in January 2016. This move resulted in the Board regulating roughly 50% more licensees⁷. Prior to the move, the RDO Program consisted of a 0.9 (filled at 1.0) Management Services Technician (MST) for processing applications and license maintenance. All other program services (e.g., administration, clerical, enforcement, program oversight, etc) were provided by the MBC and billed to the program. However, with significantly less staff, the Board was unable to absorb many of those services. Therefore, an approved 16/17 BCP reallocated funds from previously dedicated MBC shared services to authorized positions within the program.

Since the implementation of AB684, the Board has experienced a rise in both the number of applications and complaints received for the RDO program compared to the numbers reported by MBC. Further, as the Board does not have a dedicated call center like MBC, all phone calls for the RDO program are sent directly to the RDO MST for response. These factors lead to an increase in staff demand for the administration of the RDO program.

Relocation

The Board has been in its present location, 2450 Del Paso Road, Suite 105, Sacramento, California since 2011.

Change in Leadership

Prior to January 1, 2016, the Board consisted of eleven Board Members: six licensed optometrists and five public members. However, AB 684 replaced one licensed optometrist member and with a registered dispenser.

AB 684 also created a mandated Dispensing Optician Committee (DOC) consisting of two public members, a registered dispensing optician, a contact or spectacle lens dispenser and a Board Member. The DOC was created to advise and make recommendations to the Board regarding the

⁷ "License" includes registrations within the RDO Program.

regulation of dispensing opticians, spectacle lens dispensers, and contact lens dispensers (BPC § [3020](#)).

Board Members elect a President, Vice President, and Secretary annually. Current Board policy provides that in the event the President of the Board is unable to continue his or her role as President, the Vice President shall immediately assume the duties of the President until the next election of officers.

In September 2015, the Board appointed a new Executive Officer. The previous incumbent, having served since 2008, retired after 30 years of state service. In addition, the Board

Strategic Planning

The Board revised its Strategic Plan in 2014. The revision defined the Board's goals for licensing, examination, laws and regulations, enforcement, outreach, and organizational effectiveness. The Board's mission was revised to the following: *To protect the health and safety of California consumers through licensing, education, and regulation of the practice of Optometry.*

Many of the Strategic Plan objectives have been met and/or are on course for completion in 2018. However, given the significant reorganization and acquiring the RDO Program, the Board decided to re-evaluate its goals in order to adequately protect consumers given its new responsibilities. Therefore, the Board is currently working on revising its Strategic Plan.

Legislative Activity

The following legislative actions were submitted and/or enacted since the last sunset review. For each bill, only the affected sections contained within the Optometry Practice Act [commencing with Business and Professions (B&P) Code section 3000], General Provisions of the B&P Code, or sections of other Codes pertaining to the Board are listed.

- 1. Bill Number:** Assembly Bill (AB) 512 (Rendon), Chapter 111, Statutes of 2013
Subject Matter: Healing arts: licensure exemption
Sections Affected: BPC § 901
Effective Date: January 1, 2014
Summary: The law extends the Board's sunset date from January 2014 to January 2018, on existing law permitting qualified, out-of-state health care practitioners to volunteer their services on a limited basis at health care events designed to provide free services for underinsured individuals in California.
- 2. Bill Number:** AB 1711 (Cooley), Chapter 779, Statutes of 2014
Subject Matter: Administrative Procedures Act: Economic Impact Assessment
Sections Affected: Government Code (GC) § 11346.2, 11346.3, and 11357
Effective Date: January 1, 2015
Summary: This law requires an economic impact assessment to be included in the initial statement of reasons that a state agency submits to the Office of Administrative Law when adopting, amending, or repealing a non-major regulation.
- 3. Bill Number:** AB 186 (Maienschein), Chapter 640, Statutes of 2014
Subject Matter: Professions & vocations: military spouses: temporary licenses
Sections Affected: BPC § 115.6

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Effective Date: January 1, 2015
Summary: This law requires specified boards and bureaus (boards) under the Department of Consumer Affairs (DCA) to issue to the spouse or domestic partner of a military member on active duty and who is licensed in another state a temporary license to practice up to 12 months if he or she meets certain requirements.

4. Bill Number: AB 2396 (Bonta), Chapter 737, Statutes of 2014

Subject Matter: Convictions: expungement: licenses
Sections Affected: BPC § 480
Effective Date: January 1, 2015
Summary: This law prohibits boards within the Department of Consumer Affairs (DCA) from denying a professional license based solely on a criminal conviction that has been withdrawn, set aside or dismissed by the court.

5. Bill Number: AB 258 (Chávez), Chapter 227, Statutes of 2013

Subject Matter: State agencies: veterans
Sections Affected: GC § 11019.11
Effective Date: January 1, 2014
Summary: This law requires, on or after July 1, 2014, every state agency that requests on any written form or written publication, or through its Internet Website, whether a person is a veteran, to request that information in a specified manner.

5. Bill Number: AB 2720 (Ting), Chapter 510, Statutes of 2014

Subject Matter: State agencies: meetings: record of action taken
Sections Affected: GC § 11123
Effective Date: January 1, 2015
Summary: This law requires a state body to publicly report any action taken or the vote or abstention on that action of each member present for the action.

6. Bill Number: AB 480 (Calderon), Chapter 421, Statutes of 2013

Subject Matter: Service contracts
Sections Affected: BPC § 9855
Effective Date: January 1, 2014
Summary: This law includes optical products in the current definition of retail service contract, which would require agreements for pre-paid services relating to the replacement, maintenance or repair of prescription and non-prescription eyewear to be in a written contract, among other duties.

7. Bill Number: AB 809 (Logue), Chapter 404, Statutes of 2014

Subject Matter: Healing arts: telehealth
Sections Affected: BPC § 2290.5
Effective Date: January 1, 2015
Summary: This law deletes a requirement that informed consent for telehealth must be made by a provider at the originating site where the patient is located, allows written consent to be provided, rather than requiring consent to be

verbal, and clarifies that current telehealth law does not preclude a patient from receiving in-person health care delivery services after agreeing to receive services via telehealth. Contains an urgency clause to ensure that the provisions of this bill go into immediate effect upon enactment.

8. Bill Number: Senate Bill 1159 (Lara), Chapter 752, Statutes of 2014
Subject Matter: Professions and Vocations: License Applicants: Federal Tax Identification Number
Sections Affected: BPC § 30, 135.5, 2103, 2111, 2112, 2113, 2115, 3624, and 6533
Family Code § 17520
Revenue and Taxation Code § 19528
Effective Date: January 1, 2015
Summary: This law prohibits licensing boards under the Department of Consumer Affairs (DCA) from denying licensure to an applicant based on his or her citizenship or immigration status, and requires a licensing board and the State Bar to require, by January 1, 2016, that an applicant for licensure provide his or her individual taxpayer identification number (ITIN) or a social security number (SSN) for an initial or renewal license.
9. Bill Number: Senate Bill 1172 (Steinberg), Chapter 925, Statutes of 2014
Subject Matter: Pupil health: vision appraisals
Sections Affected: Education Code § 49455
Effective Date: January 1, 2015
Summary: This law deletes the existing vision screening requirements and instead, requires, during the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, the pupil's vision to be appraised by the school nurse or other authorized person.
10. Bill Number: Senate Bill 305 (Lieu), Chapter 516, Statutes of 2013
Subject Matter: Healing arts: boards - Optometry Sunset Bill
Sections Affected: BPC § 1000, 2450, 2450.3, 2530.2, 2531, 2531.06, 2531.75, 2532.6, 2533, 2570.19, 3010.5, 3014.6, 3046, 3056, 3057, 3110, 3685, 3686, 3710, 3716, and 3765
Effective Date: January 1, 2014
Summary: This law extends the sunset, until January 1, 2018, of several licensing boards within the Department of Consumer Affairs (DCA) and makes certain statutory changes to those board's responsibilities.
11. Bill Number: Senate Bill 430 (Wright)
Subject Matter: Pupil health: vision examination: binocular function
Sections Affected: Education Code § 49455
Location/Status: Assembly; Inactive 2013
Summary: This bill deletes an existing requirement that upon first enrollment in a California school district of a child at an elementary school, and at least every third year thereafter until the child has completed the eighth grade, the child's vision to be appraised by the school nurse or other authorized person, and replaces it with a requirement that, upon first enrollment in a

private or public elementary school, a pupil receive a vision examination from a physician, optometrist, or ophthalmologist and requires that screening to include a test for binocular function, refraction, and eye health.

11. Bill Number: Senate Bill 492 (Hernandez)

Subject Matter: Optometrist: practice: licensure

Sections Affected: BPC § 3051

Location/Status: Assembly; Inactive 2014

Summary: This bill authorizes an optometrist to administer influenza and herpes zoster virus (shingles) immunizations for persons 18 years of age and older after completing a training program.

11. Bill Number: Senate Bill 724 (Emmerson), Chapter 68, Statutes of 2013

Subject Matter: Liability: charitable vision screenings

Sections Affected: Civil Code § 1714.26

Effective Date: January 1, 2014

Summary: This law provides qualified immunity from liability for damage or injury to a nonprofit charitable organization that provides vision screenings and, if applicable, donated or recycled glasses, as well as participating licensed optometrists, ophthalmologists, or trained volunteers who work with such nonprofit charitable organizations to provide charitable vision screenings under appropriate conditions.

12. Bill Number: Senate Bill 809 (DeSaulnier), Chapter 400, Statutes of 2013

Subject Matter: Controlled substances: reporting

Sections Affected: BPC § 08, 209, and 2196.8, Health and Safety Code § 11164.1, 11165, 11165.1, and 11165.5

Effective Date: January 1, 2014

Summary: These laws establish a funding mechanism to update and maintain the Controlled Substance Utilization Review and Evaluation System (CURES) and Prescription Drug Monitoring Program (PDMP), requires all prescribing health care practitioners to apply to access CURES information, and establishes processes and procedures for regulating prescribing licensees through CURES and securing private information.

13. Bill Number: Senate Bill 821, Chapter 473, Statutes of 2013

Subject Matter: Healing arts

Sections Affected: BPC § 1613, 1915, 1926.2, 3024, 3025, 3040, 3041.2, 3051, 3057.5, 3077, 3093, 3098, 3103, 3106, 3107, 3109, 3163, 4021.5, 4053, 4107, 4980.36, 4980.397, 4980.398, 4980.399, 4980.40, 4980.43, 4980.50, 4984.01, 4984.7, 4984.72, 4989.68, 4992.05, 4992.07, 4992.09, 4992.1, 4996.1, 4996.3, 4996.4, 4996.9, 4996.17, 4996.18, 4996.28, 4999.33, 4999.45, 4999.46, 4999.47, 4999.50, 4999.52, 4999.53, 4999.55, 4999.64, and 4999.100; Welfare and Institutions Code § 14132

Effective Date: January 1, 2014

Summary: These laws had several technical and noncontroversial changes to provisions within the Business and Professions Code (BPC) related to the regulation of the Dental Board of California (DBC), California Board of

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Optometry (CBO), Board of Behavioral Sciences (BBS), and Board of Pharmacy (BOP), as well as dental hygienists regulated under the Welfare and Institutions Code, as specified.

- 14. Bill Number:** Assembly Bill 684 (Alejo), Chapter 405, Statutes of 2015
Subject Matter: State Board of Optometry: optometrists: nonresident contact lens sellers: registered dispensing opticians:
Sections Affected: BPC § 655, 2546.2, 2546.9, 2550.1, 2556.1, 2554, 2556, 2556.2, 2567, 3010.5, 3011, 3013, 3020, 3021, 3023.1
Effective Date: January 1, 2016
Summary: These laws transferred the RDO Program from the MBC to the Board, established a RDO Advisory Committee under the Board and replaced an optometrist member with a RDO member. In addition, AB 684 established a three-year transition period for compliance, authorized landlord-tenant relationships between RDOs and optometrists, and granted the Board inspection authority.
- 15. Bill Number:** Assembly Bill 1253 (Steinorth), Chapter 125, Statutes of 2015 **Subject Matter:** Optometry: license: retired volunteer service designation
Sections Affected: BPC § 3151.1
Effective Date: January 1, 2016
Summary: This law establishes educational and training requirements for an optometrist seeking a license with retired volunteered service designation (volunteer license) who had not held an active license in more than three years.
- 16. Bill Number:** Assembly Bill 1359 (Nazarian), Chapter 443, Statutes of 2015
Subject Matter: Optometry: therapeutic pharmaceutical agents certification
Sections Affected: BPC § 3041.3
Effective Date: January 1, 2016
Summary: This law revises criteria for obtaining certification to administer and prescribe therapeutic pharmaceutical agents (TPAs) for licensed optometrists who graduated from an accredited optometry school before or after 1996.
- 17. Bill Number:** Assembly Bill 2744 (Gordon), Chapter 360, Statutes of 2016
Subject Matter: Healing Arts: Referrals
Sections Affected: BPC § 650
Effective Date: January 1, 2017
Summary: This law clarifies that certain types of advertising do not constitute a referral when the third party advertiser does not recommend, endorse, or otherwise select a healing arts licensee.
- 18. Bill Number:** Assembly Bill 1057 (Medina), Chapter 693, Statutes of 2013
Subject Matter: Professions & vocations: licenses: military service

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Sections Affected: BPC § 114.5
Effective Date: January 1, 2014
Summary: This law requires every licensing board under the Department of Consumer Affairs (DCA) to inquire in every license application if the applicant is serving in, or has previously served in the military, commencing in January 1, 2015.

19. Bill Number: Senate Bill 1195 (Hill)

Subject Matter: Professions and Vocations: Board Actions: Competitive Impact
Sections Affected: BPC § 109, 109.5, 116, 153, 307, 313.1, 2708, 4800, 4804.5, 4825.1, 4826.3, 4826.5, 4826.7, 4830, 4846.5 4846.5, 4848.1, 4853.7, 4904, and 4905; GC § 825 and 11346.5
Location/Status: Senate; Inactive
Summary: This bill made various changes that are intended to improve the effectiveness of the Veterinary Medical Board (VMB), extends the VMB's sunset dates. This bill also authorizes the Director of the Department of Consumer Affairs (DCA) to review, veto, or modify actions and decisions of DCA boards to ensure such actions or decisions conform with public policy; and prohibits any board executive officer (EO) from being an actively licensed member of the profession the board regulates.

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20. Bill Number: Senate Bill 349 (Bates)
Subject Matter: Optometry: mobile optometric facilities
Sections Affected:
Location/Status: Senate Business, Professions and Economic Development; Inactive 2014
Summary: This bill would define “mobile optometric facility” as mobile optometric equipment, including, but not limited to, a trailer or van that may be moved. The bill would limit ownership of a mobile optometric facility to a nonprofit or charitable organization, a governmental agency, or a school, as specified. The bill would require a mobile optometric facility, while providing services, to have access to, among other things, sufficient lighting around the perimeter of the work site from which the mobile optometric facility provides those services. The bill would require an owner of a mobile optometric facility to be responsible for certain things, including, but not limited to, maintaining the mobile optometric facility in good repair and in a clean and sanitary manner. The bill would also require the optometrist or owner of a mobile optometric facility to maintain and disclose patient records as specified. The bill would make these provisions operative on January 1, 2017.
21. Bill Number: Senate Bill 402 (Mitchell)
Subject Matter: Pupil Health: Vision Examinations
Sections Affected: Education Code § 49455
Location/Status: Senate Appropriations; Inactive 2014
Summary: This bill requires a pupil’s vision to be examined by a physician, optometrist, or ophthalmologist, as specified, and requires the pupil’s parent or guardian to provide the results of the examination to the pupil’s school. This bill prohibits a school from denying admission to a pupil or taking any other adverse action against a pupil if his or her parent or guardian fails to provide the results of the examination. If the results of the examination are not provided to the school, this bill requires a pupil’s vision to instead be appraised pursuant to existing law.
22. Bill Number: Senate Bill 482 (Lara), Chapter 708, Statutes of 2016
Subject Matter: Controlled Substances: CURES Database
Sections Affected: Health and Safety Code § 11165, 11165.1, 11165.4
Effective Date: January 1, 2017
Summary: This law requires a health care practitioner, as specified, authorized to prescribe, order, administer, furnish, or dispense a controlled substance to consult the Controlled Substance Utilization Review and Evaluation System (CURES) database no earlier than 24 hours before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance for the first time and at least annually thereafter. It further provides that a health care practitioner who knowingly fails to consult the CURES database is subject to administrative sanctions by the appropriate state professional licensing board. This law also exempts a health care practitioner, as specified, or any person acting on behalf of the health care practitioner, from civil or administrative liability arising from false, incomplete, or inaccurate

information submitted to or reported by the CURES database or for failure to consult the database.

22. Bill Number: Senate Bill 496 (Nguyen)
Subject Matter: Optometry: graduates of a foreign university: examinations and licensure
Sections Affected: BPC § 3057.5 and 3058
Location/Status: Senate Business, Professions, and Economic Development; Inactive
Summary: This bill expands and specifies requirements for a graduate of a foreign university to be eligible for California licensure.
23. Bill Number: Senate Bill 622 (Hernandez)
Subject Matter: Optometry
Sections Affected: BPC § 3041, 3041.1, 3041.2, 3041.3, 3041.4, 3041.5, 3041.6, 3041.7, and 3041.8
Location/Status: Assembly Business and Professions; Inactive
Summary: This bill expands the scope of practice for optometrists to include the use noninvasive, nonsurgical technology to treat a condition authorized by the Optometric Act (Act), perform laser and minor procedures, and administer certain vaccines.
24. Bill Number: Senate Bill 800 (Committee on Business, Professions & Economic Development), Chapter 426, Statutes of 2016
Subject Matter: Healing arts,
Sections Affected: BPC § 28, 146, 500, 650.2, 800, 1603a, 1618.5, 1640.1, 1648.10, 1650, 1695, 1695.1, 1905.1, 1944, 2054, 2401, 2428, 2529, 2650, 2770, 2770.1, 2770.2, 2770.7, 2770.8, 2770.10, 2770.11, 2770.12, 2770.13, 2835.5, 3057, 3509.5, 4836.2, 4887, 4938, 4939, 4980.399, 4980.43, 4980.54, 4984.01, 4989.34, 4992.09, 4996.2, 4996.22, 4996.28, 4999.1, 4999.2, 4999.3, 4999.4, 4999.5, 4999.7, 4999.45, 4999.46, 4999.55, 4999.76, and 4999.100
Effective Date: January 1, 2017
Summary: These laws faced several non-controversial minor, non-substantive, or technical changes to various provisions pertaining to the health-related regulatory boards under the Department of Consumer Affairs.
25. Bill Number: Senate Bill 836 (Committee on Budget and Fiscal Review), Chapter 31, Statutes of 2016
Subject Matter: State government
Sections Affected: BPC § 655, 2556.1, 2556.2, 3010.5, 3011, 3013, and 3020 (and other non-pertinent code sections)
Effective Date: June 27, 2016
Summary: These laws, notwithstanding any other law and in addition to any action available to the board, authorize the board to issue a citation containing an order of abatement and an order to pay an administrative fine, not to exceed \$50,000, for a violation of law. The bill would also delete the authorization to redact personal information from a lease agreement, and would, therefore, expand an existing crime resulting from imposition of a state-mandated local program.

Regulation Activity

The following regulatory changes were enacted by the Board since the last sunset review and/or are currently in progress:

1. Subject Matter: Sponsored Free Health Care Events
Sections Affected: California Code of Regulations (CCR) §1508.1§1508.2. §1508.3
Effective Date: April 15, 2013
Summary: This rulemaking packet implemented AB 2699 (Bass) (effective January 1, 2011); the bill provided a regulatory framework for certain health-care events at which free care is offered by volunteer health-care practitioners where those practitioners may include individuals who may be licensed in one or more states but are not licensed in California. However, each individual healing arts board was responsible for promulgating regulations to prescribe the specific requirements for the approval of an out-of-state practitioner and a sponsoring entity.

2. Subject Matter: Uniform Standards Related to Substance Abuse and Disciplinary Guidelines
Sections Affected: CCR § 1575
Effective Date: April 1, 2013
Summary: This rulemaking package implemented SB 1441 by incorporating Uniform Standards in Substance Abuse 1-12 in its Disciplinary Guidelines. The Legislature declared that substance abuse monitoring programs, particularly for health care professionals, must operate with the highest level of integrity and consistency. Patient protection is paramount. The legislation, in part, mandated that the Department of Consumer Affairs establish a Substance Abuse Coordination Committee comprised of the Executive Officers of the Department's healing arts boards, a representative of the California Department of Alcohol and Drug Programs, and chaired by the Director of the Department of Consumer Affairs. The Committee was charged with developing consistent and uniform standards and best practices in sixteen specific areas for use in dealing with substance abusing licensees, whether or not a Board chooses to have a formal diversion program.

3. Subject Matter: Unprofessional Conduct, Medical Evaluations
Sections Affected: CCR § 1516, 1536, 1582
Status: Submitted to OAL in 2015; Rulemaking file pending
Summary: As part of its continued efforts to reduce the average enforcement completion timelines from three years or more to between 12 and 18 months, the Department of Consumer Affairs identified nine provisions that could be implemented via regulation. The rulemaking package included; define the failure to comply with a court order as unprofessional conduct. Permit the Board to conduct a psychological or physical evaluation on an applicant if deemed necessary. Define the failure to provide information or cooperate in an investigation as unprofessional conduct. Define as unprofessional conduct the failure to report to the Board within 30 days a felony indictment or charge, and any felony or misdemeanor conviction.
4. Subject Matter: Continuing Optometric Education
Sections Affected: CCR § 1536, 1571
Status: Submitted to OAL in 2016; Rulemaking file pending
Summary: These regulations enable licensees to obtain CME credits for their renewal requirements. The courses approved for Category 1 CME credits by the American Medical Association (“AMA”) and Category 1-A CME credits by the American Osteopathic Association (“AOA”) would qualify for the optometrists’ comprehensive understanding the human body and how systematic health issues, such as diabetes and cardiovascular issues, related to eye health. These proposed regulations would also move the glaucoma CE requirements stated in 16 CCR §1571(b) to 16 CCR §1536(k). The language remains the same; this would only be a clean-up and allow for the public to have all the CE requirements listed in one section of the CCR.
5. Subject Matter: Certificate Posting
Sections Affected: CCR § 150
Status: Board Approved July 2015; Rulemaking file pending
Summary: After an optometrist has been issued a license to practice optometry in the State of California, he/she may obtain certifications that allow the optometrist to provide certain additional optometric procedures and services. Such certifications are listed immediately to the right of the doctor's license number. The regulation would require the five different certification designations and their meanings be posted in the optometry’s office.

6. Subject Matter: Qualifications of Foreign Graduates
Sections Affected: CCR § 1530.1
Status: Board Approved November 2015; Rulemaking file pending
Summary: In order for foreign graduates to obtain sponsorship to sit for the National Board of Examiners in Optometry (NBEO) examination, applicants were required to submit the Application for International (Foreign) Graduate Sponsorship. In addition, applicants were required to submit fingerprints and have their education evaluated by a professional credential evaluation service. The rulemaking packet adds the application and additional requirements into regulation.
7. Subject Matter: Delegation of Authority
Sections Affected: CCR § 1502
Status: Board Approved November 2015; Rulemaking file pending
Summary: The regulatory revision would also authorize the EO to accept default decisions and stipulated surrenders of a license.
8. Subject Matter: Co-Location Reporting Requirements
Sections Affected: Adding CCR § to implement BPC § 2556.1
Status: Board Approved November 2015; Amended November 2015
Summary: Once effective, BPC Section 2256.1 requires optometrists who are in co-located settings with registered dispensing opticians to report that business relationship to the Board.
9. Subject Matter: Examination Requirements
Sections Affected: CCR § 1523
Status: Board Approved February 2016; Rulemaking pending
Summary: This rulemaking package adds the application for licensure as an optometrist shall be made on a form incorporated by reference. Also adding an electronic record of fingerprints or, for an out of state applicant, one classifiable set of fingerprints on a form provided by the Board.
10. Subject Matter: Abandonment of Applications
Sections Affected: CCR § 1523.5
Status: Board Approved February 2016; Rulemaking pending
Summary: An application for a license, permit or registration shall be deemed abandoned and the initial license fee forfeited when the applicant fails to complete the application within one year after it is originally received by the board.
11. Subject Matter: Accreditation
Sections Affected: CCR § 1503
Status: Board Approved February 2016; Rulemaking pending
Summary: This rulemaking package codifies the Board's accreditation process through a third party accreditation service. It clarifies the Board only accepts schools and colleges of optometry who have received

accreditation through the Accreditation Council on Optometric Education (ACOE).

Major Studies

California Board of Optometry Registered Dispensing Opticians Program – Fee Audit (Section 12, Attachment C)

The Board of Optometry, in conjunction with the Medical Board of California, conducted an audit on the RDO program to determine if the current fee structure was adequate to sustain the program. The results of the audit are attached in Section 12, Attachment C. The fee report indicates that the current fee structure is inadequate to support the program. Within this document it is estimated that without a fee increase the fund will under recover the program's cost by a significant margin. The Fee Audit recommended immediate action to address the structural imbalance (California Board of Optometry Registered Dispensing Opticians Program – Fee Audit). The audit report concluded that the fees should be increased above the maximum that statute allows. The increase in the RDO fees is being addressed through legislation and regulatory change which is discussed in other parts for this report.

National Association Activity

Association of Regulatory Boards of Optometry (ARBO)

ARBO is an international association, providing resources to regulatory boards of optometry since 1919. ARBO's membership consists of 66 regulatory boards throughout the United States, Canada, Australia, and New Zealand. ARBO provides programs to accredit optometric continuing education courses, to track and audit the CE attendance of licensed optometrists and to assist with license mobility. ARBO's goal is also to be a conduit for sharing information among licensing boards to help them increase efficiency and decrease costs.

The Board is a voting member of ARBO. Historically, the Board faced enormous difficulty in obtaining approval due to state travel restrictions. This has hindered the Board's participation in any committees, workshops, work groups or task forces related to its ARBO membership. While the Board's Executive Officer was able to attend the 2013 ARBO Annual meeting, due to an in-state location (San Diego), the Board continued to experience difficulty obtaining approval for the 2014 and 2015 meetings. Fortunately, after collaboratively working with DCA, Agency, and the Department of Finance, the Board's Executive Officer was approved to attend ARBO's 2016 meeting in Boston Massachusetts.

Attendance at this meeting is an outstanding avenue for the Board to stay on the inside track of the profession on a national scale, while providing insight into issues directly affecting all regulatory boards. The Board obtained approval to send one attendee to ARBO's 2017 meeting in Washington DC; however, the benefit of attending this meeting can only be enhanced if the Board is able to send the president as well as the Executive Officer.

National Commission of State Opticianry Regulatory Boards (NCSORB)

NCSORB is a not-for-profit organization that exclusively represents the interests and serves the needs of States requiring licensure in Opticianry. The purpose of NCSORB is to provide state opticianry licensing boards a forum for education, assessment, exchange of information, and

research that further strengthens licensing laws to lessen the burden of government and operations, and to better serve public needs and further the common welfare and well-being of the community. NCSORB provides a national forum on issues related to opticianry licensure.

The Board is working with NCSORB to become a member and will request approval to participate in future annual meetings. Much like ARBO's annual meetings, these meetings provide a national platform to discuss topics impacting all licensing boards. The 2016 annual meeting included discussion topics covering license mobility, public protection through valid and reliable examinations, performance standards, the National Optician's Practical Examination, struggles facing individual boards.

In addition, some of the member states reported on legislation that would have consolidated state opticianry boards with state optometry boards. They discussed internal challenges they faced and reported that they are still considering the consolidation. The Board may be able to share what it has experienced since the CA consolidation arising from AB684, and be of assistance to other State Boards.

Attending these meetings would allow the Board to strengthen consumer protection on a national level as well as improve consumer protection in California.

Performance Measures and Customer Satisfaction Surveys

Quarterly and Annual Performance

Please refer to Section 12, Attachment E for the quarterly and annual performance measures.

Customer Satisfaction Survey

The Board is committed to providing superior customer service to consumers, licensees/registrants, applicants and other stakeholders. To assist the Board in this commitment, the Board utilizes three customer satisfaction surveys (general, licensing, and enforcement). All responses are anonymous.

From the time the surveys were adopted by the Board in 2009 through FY 14/15, the Board received a relatively low response rate. Surveys were distributed in the following ways:

- Periodically mailed to applicants, licensees, and consumers who interacted with the Board's licensing and enforcement units;
- A link on the Board's website;
- A link on all staff's e-mail signature blocks;
- A link on follow-up e-mails to licensees/consumers, that had been recently assisted by staff, requesting completion of the survey; and
- A link in every e-mail sent to the Board's website subscribers.

Near the end of FY 15/16, in an effort to increase the response rate, the Board revised its email distribution format and survey introduction and began distributing the survey every other month to stakeholder emails stored in the Board's ListServ database. In addition, the survey introduction on the

Board's website and signature blocks were revised. Surveys are also emailed to all newly licensed optometrists as well as individuals who interacted with the enforcement unit.⁸

This method of delivery has drastically increased survey responses; the first three months of FY16/17 accounted for 39% of the Board's total general surveys results; 46% of the total licensing survey results; and 43% of the total enforcement survey results.

As reported in the Board's prior Sunset Report and explained above, survey response rates for FY 12/13-15/16 were low compared to the amount of contact the Board has with the public and its licensees. Nevertheless, the General, Licensing, and Enforcement survey results show a trend of increasingly positive results over the past four fiscal years.

Those who utilize these surveys also have the opportunity to provide written comments regarding the different aspects of the Board. These comments provide an opportunity for management to follow up with both the consumer and staff to ensure exceptional customer service.

The Board will continue to research additional methods to increase response rates, and provide excellent service to consumers and licensees. This is an important component to the Board's mission and strategic goals.

Each survey allows individuals to provide additional written comments. Summaries of the comments are listed after each table and organized by fiscal year.

⁸ Surveys are emailed upon enforcement case closure. Not all subjects are sent the survey because not all are aware an enforcement case existed.

California State Board of Optometry 2016 Sunset Review Report

	Answer Options	Response Count				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
Are you a(n):	Applicant	1	3	0	0	0
	Licensee	8	22	8	11	56
	Consumer	1	0	0	0	1
	Government Agency	0	0	0	0	0
	Optometric Association	0	1	1	0	4
	Other	0	1	0	1	3
	Total Respondents	10	27	9	12	64
	Response Count					
	Answer Options	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
On average, how many times do you contact the Board per month?	0-1 times	10	25	8	12	59
	2-3 times	0	2	1	0	2
	4-5 times	0	0	0	0	2
	6 or more times	0	0	0	0	1
	Response Count					
	Answer Options	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
What was your purpose for contacting the Board? Choose all that apply.	Board Meetings	1	0	1	3	7
	Board Member Contact	0	0	0	1	0
	Executive Officer	0	0	0	0	5
	Forms	4	7	2	3	14
	Laws and Regulations	3	7	4	6	29
	Law Exam Workshops	0	1	1	1	5
	Newsletter	0	1	0	1	6
	Public Records Act Request	0	0	0	0	1
	Request for Information	2	9	2	2	21
	Subject Matter Expert Info	0	1	0	0	3
	Other	4	9	3	2	12
	Response Percent					
	Answer Options	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
Were you transferred to the appropriate individual if you were unable to get a response from your initial contact with the Board?	Yes	60%	52%	78%	92%	78%
	Response Percent					
	Answer Options	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
Based on your contact with the Board, please rate the following:	Staff Courteous/Helpful	3.89	3.59	4.13	4.33	4.06
	Staff Knowledgeable	3.67	3.86	4.13	4.33	4.08
	Staff Accessible	3.22	3.61	4.13	4.25	3.98
	Staff Responsiveness	2.88	3.52	4	4.25	4.02
	Overall Satisfaction	3.2	3.39	4.38	4.08	3.85
	Rating Average (1=Unacceptable, 5 = Excellent)					
	Answer Options	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
Prior to contacting the Board, did you visit the Board's website at www.optometry.ca.gov?	Yes	70%	93%	44%	75%	77%
	Response Percent					
	Answer Options	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
Did you receive the service you needed as a result of your contact with the Board?	Yes	60%	63%	78%	92%	77%
	Response Percent					

*Through November 17, 2016

2016/2017

Out of the 64 General Survey responses received, 20% (13) provided additional written comments. Of those, 8% (1) provided positive feedback related to services received by the Board. 77% (10) experienced some level of dissatisfaction with customer service related to staff demeanor and availability. The remaining 15% (2) related to negative experiences involving not enforcing the law and the requirement to post disciplinary actions pursuant to BPC § 27. To improve the Board's customer service, the Board has focused its efforts on additional staff development. Part of this includes having all staff complete all customer service classes offered through DCA's SOLID Training Solutions.

2015/2016

Of the 12 General Survey Responses received, 17% (2) included additional written comments. Both related to the Board posting disciplinary actions, pursuant to Business and Professions Code § 27.

2014/2015

Of the 9 responses received, 22% (2) included additional written comments. One related to the Board's inability to interpret statutes and regulations for individuals and the amount of time to receive a license by mail. The other comment related to the Board not enforcing BPC § 655.

2013/2014

Out of the 30 survey responses received, 43% (13) provided additional written comments. Of those, 69% (9) reported dissatisfaction with staff demeanor, customer service, process and availability. 7% (1) reported positive staff feedback. In addition, 7% (1) reported dissatisfaction with the Board's posting disciplinary actions, pursuant to Business and Professions Code § 27, 7% (1) was reported dissatisfaction with a respondent's enforcement case, and 7% (1) related to the Board not enforcing BPC § 655.

2012/2013

Out of the 10 survey responses received, 20% (2) provided additional written comments. One response expressed dissatisfaction with the Board's inability to accept another Board's Authorization for Medical Records release and the other response provided positive staff feedback.

California State Board of Optometry 2016 Sunset Review Report

Are you a(n):	Answer Options	Response Count				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
	Applicant	11	11	4	0	13
	Licensee	6	4	1	1	76
	Consumer	2	1	2	2	1
	Total Respondents	19	16	7	3	90
with the Board, please rate the following:		(1 = Unacceptable, 5 = Excellent)				
	Staff Courteous/Helpful	4.67	3.73	4.14	5	4.2
	Staff Knowledgeable	4.79	3.87	4.57	5	4.21
	Staff Accessible	4.6	3.73	4.71	5	4.17
	Staff Responsiveness	4.56	3.79	4.29	5	4.11
	Overall Satisfaction	4.55	3.71	4.14	5	4.01
During your initial contact with the Board, were you transferred to the appropriate individual in the Licensing Unit?	Answer Options	Response Percent				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
	Yes	89%	75%	86%	100%	80%
On average, how many times do you contact the Board's Licensing Unit per month?	Answer Options	Response Count				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
	0-1 times	16	10	4	3	71
	2-3 times	1	4	2	0	11
	4-5 times	0	1	0	0	4
	6 or more times	0	1	0	0	0
What was your purpose for contacting the Licensing Unit? Choose all that apply.	Answer Options	Response Count				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
	Address Change	0	1	1	1	14
	Application for Licensure	5	4	2	0	18
	Application for Licensure (out-of-state)	5	6	2	0	7
	CLRE	2	5	2	0	12
	Business Licenses	1	0	0	0	10
	Laws and Regulations	1	2	0	1	14
	Optometry License Renewal	1	2	0	1	35
	Verification of Licensure	1	2	0	0	10
	Other	6	2	2	2	14
Based on your contact with the Board's Licensing Unit, please rate the following:	Answer Options	Rating Average (1 = Unacceptable, 5 = Excellent)				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
	Staff Courteous/Helpful	4.75	3.8	4.5	5	4.26
	Staff Knowledgeable	4.81	3.87	4.67	5	4.26
	Staff Accessible	4.63	3.8	4.83	5	4.27
	Staff Responsiveness	4.56	3.8	4.83	5	4.11
	Overall Satisfaction	4.63	3.87	4.67	5	4.08
Prior to contacting the Board's Licensing Unit, did you visit the Board's website at www.optometry.ca.gov ?		Response Percent				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
	Yes	79%	94%	71%	67%	78%
Did you receive the service you needed as a result of your contact with the Board Licensing Unit?		Response Percent				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
					81	

*Through November 17, 2016

2016/2017

Of the 90 survey response received, 50% (45) provided additional written comments. Of those, 51% (23) reported positive experiences with licensing staff, processes, timeliness, and the BreZE system. 22% (10) reported negative experiences with staff and 16% (7) about technical difficulties. 11% (5) included negative experiences outside of the Board's control (e.g., not enforcing laws outside of our jurisdiction, license/certification requirements, etc.).

2015/2016

Of the 3 survey responses received, none contained additional written comments.

2014/2015

Of the 7 survey responses received, 29% (2) provided additional written comments. One reported a positive staff experience and another was unable to reach staff while in a meeting.

2013/2014

Of the 18 survey responses received, 33% (6) provided additional written comments. Of those, 22% (4) reported negative experiences with staff and process timeliness. 11% (2) reported positive staff experiences.

2012/2013

Of the 19 survey responses received, 37% (7) provided additional written comments. Of those, 29% (2) provided feedback to improve the license application and information distribution, 29% (2) reported positive staff experiences and 43% (3) reported negative staff experiences.

California State Board of Optometry 2016 Sunset Review Report

Are you a(n):	Answer Options	Response Count				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
	Applicant	N/A	0	N/A	0	0
	Licensee	N/A	1	N/A	0	18
	Consumer	N/A	0	N/A	1	3
	Total Respondents	N/A	1	N/A	1	21
with the Board, please rate the following:	(1 = Unacceptable, 5 = Excellent)					
	Staff Courteous/Helpful	N/A	1	N/A	5	3.65
	Staff Knowledgeable	N/A	1	N/A	5	3.5
	Staff Accessible	N/A	1	N/A	5	3.3
	Staff Responsiveness	N/A	1	N/A	5	3.3
	Overall Satisfaction	N/A	1	N/A	5	3.53
During your initial contact with the Board, were you transferred to the appropriate individual in the Enforcement Unit?	Answer Options	Response Percent				
	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	
Yes	N/A	100%	N/A	100%	78%	
On average, how many times do you contact the Board's Licensing Unit per month?	Answer Options	Response Count				
	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	
	0-1 times	N/A	1	N/A	0	19
	2-3 times	N/A	0	N/A	1	0
	4-5 times	N/A	0	N/A	0	0
6 or more times	N/A	0	N/A	0	0	
What was your purpose for contacting the Licensing Unit? Choose all that apply.	Answer Options	Response Count				
	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	
	Disciplinary History	N/A	0	N/A	0	1
	Laws and Regulations	N/A	0	N/A	1	9
	Request to File a Complaint	N/A	0	N/A	0	3
	Pending Complaint	N/A	1	N/A	0	4
Probation	N/A	0	N/A	0	0	
Other	N/A	0	N/A	0	6	
Based on your contact with the Board's Enforcement Unit, please rate the following:	Answer Options	Rating Average (1 = Unacceptable, 5 = Excellent)				
	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	
	Staff Courteous/Helpful	N/A	1	N/A	5	3.25
	Staff Knowledgeable	N/A	1	N/A	5	3.31
	Staff Accessible	N/A	1	N/A	5	3.06
	Staff Responsiveness	N/A	1	N/A	5	2.81
Overall Satisfaction	N/A	1	N/A	5	2.81	
Prior to contacting the Board's Enforcement Unit, did you visit the Board's website at www.optometry.ca.gov ?	Answer Options	Response Percent				
	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	
Yes	N/A	100%	N/A	100%	84%	
Did you receive the service you needed as a result of your contact with the Board	Answer Options	Response Percent				
	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	

*Through November 17, 2016

2016/2017

Of the 21, 19% (4) provided additional comments. Of those, 50% (2) were enforcement respondents unhappy with the enforcement process and timeliness of staff responses. 25% (1) negative response related to the Board posting disciplinary actions pursuant to BPC § 27, and the other 25% (1) was dissatisfied with enforcement's response time and consumer outreach.

2015/2016

Of the one response received, no additional comments were provided.

2014/2015

The Board received survey no responses for FY 14/15.

2013/2014

The Board received one response from a Respondent for FY 13/14. The Respondent was unhappy about the enforcement process.

2012/2013

The Board received no survey responses for FY 14/15.

DRAFT

Fiscal and Staff

Fiscal Issues

The Board statutorily has two separate funds: the Optometry Fund (BPC § 3145) and the Dispensing Opticians Fund (BPC § 2567). The Board is not continuously appropriated.

Optometry Fund

The Board ended FY 2015/2016 with a \$1,908,000 reserve balance, which equates to 12 months in reserve. The Board estimates FY 2016/2017 reserve balance to be approximately \$2,827,000 equaling 17.4 months in reserve. The high reserve balance is due to staff vacancies over the last several fiscal years, forced position savings, and the anticipated repayment of \$1 million dollar loan to the General Fund in FY 2011/2012.

Current Board projections indicate a structural deficit with higher expenditures than anticipated revenue, resulting in a decreased reserve. However, the reserve is currently adequate so there are no immediate plans to increase or reduce fees. A fee increase may be needed in the future to maintain core business functions (licensing, enforcement and consumer protection) in the regulatory program, to rebuild the reserve funds, and absorb the anticipated and necessary increases in the operating budget in future years. The Board closely monitors revenue, expenditures and reserve to ensure a fee increase will only be pursued as a last resort. The last fee increase was effective April 28, 2009; prior to that, the Board had not sought a fee increase since FY 1996/1997. The following table reflects the Board's fund condition by fiscal year.

Optometry Fund Condition						
(Dollars in Thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Beginning Balance	\$961	\$1,270	\$1,438	\$1,517	\$1,902	\$2,823
Revenues and Transfers	\$1,737	\$1,834	\$1,844	\$1,896	\$2,831	\$1,834
Total Revenue	\$1,737	\$1,834	\$1,844	\$1,896	\$1,831	\$1,834
Budget Authority	\$1,694	\$1,895	\$1,851	\$1,835	\$1,889	-
Expenditures	\$1,432	\$1,668	\$1,753	\$1,469	\$1,907	\$1,945
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$1,000	\$0
Fund Balance	\$1,270	\$1,438	\$1,518	\$1,902	\$2,823	\$2,712
Months in Reserve	9.1	9.8	12.4	11.9	17.4	16.4

Dispensing Opticians Fund

The Dispensing Opticians Fund ended FY 2015/2016 with a \$158,000 reserve balance, which is a 6.1 month reserve. The Board estimates FY 2016/2017 reserve balance to be approximately \$28,000 equaling 1.1 months in reserve. The Dispensing Opticians Fund does not operate under a statutory reserve requirement.

When the RDO Program transferred to the Board, there was a significant structural fund imbalance, with expenditures far exceeding revenue. The fee structure, which had not changed since initially created in 2000, was inadequate to support the program. A third party audit indicated that, without a fee increase, the fund will under recover the program's cost by a significant margin. The fund is forecasted to be insolvent in FY 2017/2018. The Board requested an appropriate fee structure to ensure adequate consumer protection while endeavoring to make the RDO program self-sustaining.

Senate Bill 1039 (Hill, 2016), effective January 1, 2017, created a new fee structure for the program. The bill specified a minimum and maximum application fee amount for nonresident contact lens sellers, registered dispensing opticians, and spectacle lens dispensers and increased minimum and maximum amounts for already established fees. The following table reflects the Board's fund condition by fiscal year.

Dispensing Opticians Fund Condition						
(Dollars in Thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Beginning Balance	\$345	\$308	\$249	\$172	\$158	\$28
Revenues and Transfers	\$176	\$177	\$197	\$190	\$180	\$180
Total Revenue	\$176	\$177	\$197	\$190	\$180	\$180
Budget Authority	\$340	\$323	\$336	\$354	\$310	-
Expenditures	\$210	\$237	\$275	\$203	\$310	\$316
Fund Balance	\$308	\$249	\$172	\$158	\$28	-\$108
Months in Reserve	15.5	10.9	10.1	6.1	1.1	-4.0

In FY 2011/2012, the Board made a \$1 million dollar loan to the General Fund out of the Optometry fund and has not been repaid. The RDO program did not make any general fund loans.

Program Expenditures

The following tables reflect the Board's expenditures by program component. During the last four fiscal years, on average, the Board's enforcement program accounts for 35.2% of the Board's expenditures and the licensing program accounts for 19.4%. For the RDO Program, 0% of expenditures account for enforcement and 76.9% accounts for licensing. The administration program includes costs for executive staff, board, administrative support, and fiscal services. The Board does not have a Diversion Program.

Optometry Expenditures by Program Component								
(Dollars in Thousands)	FY 2012/13		FY 2013/14		FY 2014/15		FY 2015/16	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	169	375	298	634	158	417	135	156
Examination	0	12	0	45	0	15	0	20
Licensing	196	102	159	84	274	109	233	111
Administration *	291	110	202	62	410	133	346	125
DCA Pro Rata	0	230	0	258	0	306	0	383
TOTALS	\$656	\$829	\$659	\$1,083	\$842	\$980	\$714	\$795

*Administration includes costs for executive staff, board, administrative support, and fiscal services. Executive staff members provide oversight over all enforcement, Examination, Licensing, and Administrative units.

RDO Expenditures by Program Component								
(Dollars in Thousands)	FY 2012/13		FY 2013/14		FY 2014/15		FY 2015/16	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	0	0	0	0	0	0	0	0
Examination	0	0	0	0	0	0	0	0
Licensing	48	84	71	121	74	149	48	120
Administration *	0	0	0	0	0	0	0	0
DCA Pro Rata	0	78	0	45	0	51	0	34
TOTALS	\$48	\$163	\$71	\$166	\$74	\$200	\$48	\$154

*Administration includes costs for executive staff, board, administrative support, and fiscal services. Executive staff members provide oversight over all enforcement, Examination, Licensing, and Administrative units.

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BreZE Costs and Funding

The chart below identifies what the Board of Optometry and Registered Dispensing Opticians Program has paid for the system (through FY 2015-16) and what the anticipated costs of the system are through FY 2018-19.

BreZE Funding Needs

	PROJECT							MAINTENANCE		
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Budget	Budget	Budget
Total Costs	427,051	1,495,409	5,349,979	6,753,287	14,825,159	16,657,910	27,468,154	23,497,000	22,456,000	21,530,000
Redirected Resources	427,051	1,495,409	3,198,486	4,818,002	5,806,881	7,405,427	7,430,456	2,080,000	2,080,000	2,080,000
Total BreZE BCP	-	-	2,151,493	1,935,285	9,018,278	9,252,483	20,037,698	21,417,000	20,376,000	19,451,000

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Program	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Budget	Budget	Budget
Optometry	1,482	5,092	19,772	16,661	33,349	64,652	138,369	134,349	135,000	131,000
RDO	527	-	7,053	10,869	22,226	24,089	50,866	49,226	50,000	47,000

License and Renewal Fees

Optometry

Current Optometrist and Statement of Licensure renewals are paid biennially based on the licensees' birth month. Fictitious Name Permit and Branch Office License renewals are paid annually on January 31 and February 1 respectively. All other fees for exams and initial license are received and processed on an on-going basis.

Optometry Fee Schedule and Revenue									
	Fee Type	Authority	Current Fee Amount	Statutory Limit	FY 2012/13 Revenue	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	% of Total Revenue
Initial License Application	Optometrist	BPC § 3044 BPC § 3152 CCR § 1524	\$275	\$275	\$97,900	\$111,100	\$105,875	\$89,209	4.7%
	Optometrist Retired	BPC § 3152 CCR § 1524	\$25	\$25	-	-	\$25	\$750	-
	Optometrist Retired Volunteer	BPC § 3152 CCR § 1524	\$50	\$50	-	-	-	\$500	-
	Statement of Licensure	BPC § 3075 BPC § 3152 CCR § 1524	\$40	\$40	\$10,160	\$10,640	\$11,440	\$10,840	0.5%
	Branch Office License	BPC § 3077 BPC § 3152 CCR § 1524	\$75	\$75	\$3,300	\$3,675	\$4,575	\$3,450	0.1%
	Fictitious Name Permit	BPC § 3078 BPC § 3152 CCR § 1524	\$50	\$50	\$7,500	\$8,350	\$8,850	\$7,950	0.4%
Renewal	Optometrist	BPC § 3152 CCR § 1524	\$425	\$500	\$1,435,811	\$1,492,700	\$1,510,723	\$1,577,978	83.2%
	Optometrist Retired Volunteer	BPC § 3152 CCR § 1524	\$50	\$50	-	-	-	\$50	-
	Statement of Licensure	BPC § 3075 BPC § 3152 CCR § 1524	\$40	\$40	\$15,740	\$15,720	\$16,840	\$15,176	0.8%
	Branch Office License	BPC § 3077 BPC § 3152 CCR § 1524	\$75	\$75	\$25,575	\$25,350	\$25,350	\$24,825	1.3%
	Fictitious Name Permit	BPC § 3078 BPC § 3152 CCR § 1524	\$50	\$50	\$61,400	\$62,275	\$65,650	\$69,150	3.6%
Delinquent	Optometrist	BPC § 3152 CCR § 1524	\$50	\$50	\$6,375	\$7,025	\$7,475	\$6,775	0.3%
	Statement of Licensure	BPC § 3075 BPC § 3152 CCR § 1524	\$20	\$20	\$680	\$660	\$680	\$620	-
	Branch Office License	BPC § 3077 BPC § 3152 CCR § 1524	\$25	\$25	\$750	\$625	\$725	\$750	-
	Fictitious Name Permit	BPC § 3078 BPC § 3152 CCR § 1524	\$25	\$25	\$1,895	\$1,425	\$1,650	\$2,316	-

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Certification	Therapeutic Pharmaceutical Agent	BPC § 3152.5 CCR §1524	\$25	\$50	\$8,800	\$9,425	\$8,775	\$7,875	0.4%
	Lacrimal Irrigation and Dilation	BPC §3152 CCR §1524	\$25	\$50	\$8,130	\$8,725	\$8,525	\$8,150	0.4%
	Glaucoma	BPC §3152 CCR §1524	\$35	\$50	\$23,870	\$24,220	\$19,495	\$15,670	0.8%
Other	Cite & Fine	BPC §2545, 3145.5	Various	Various	\$2,236	\$23,866	\$17,128	\$6,476	0.3%
	CE Course Provider	BPC §3152	\$50	\$100	\$4,800	\$5,750	\$6,500	\$11,950	0.6%
	Free Care Participant	BPC §901 CCR §1508.2	\$40	\$40	-	\$40	-	\$160	-
	Replacement	BPC §3152	\$25	\$25	\$14,925	\$14,825	\$15,525	\$10,400	0.5%
	Dishonored Check Fee	BPC §3145.5	Various	Various	\$90	\$175	\$300	\$75	-
	Misc. Serv to Public-General	BPC §3145.5	Various	Various	\$2,953	\$2,525	\$2,550	\$225	-
	Miscellaneous Income	BPC §3145.5	Various	Various	\$528	\$237	-	-	-
	Over/Short Fees	BPC §3145.5	Various	Various	\$62	\$20	\$54	\$32	-
	Surplus Money Investment	BPC §3145.5	Various	Various	\$3,595	\$3,632	\$4,349	\$8,621	0.4%
	Cancelled Warrants	BPC §3145.5	Various	Various	\$630	\$775	\$1,560	\$1,636	-
Total Revenue					\$1,737,670	\$1,834,425	\$1,844,208	\$1,895,940	

Optometry Statutory Fee History (Last 10 Years)		
Name of Fee	Date Amended	Date Added
Optometrist Renewal (\$300 to \$500)	01/01/2008	
Optometrist Delinquent Renewal (\$25 to \$50)	01/01/2008	
Lacrimal Irrigation & Dilation Certification (\$50)		01/01/2008
Lacrimal Irrigation & Dilation Certification (\$50)		01/01/2008
Continuing Education Course Approval (\$100)		01/01/2008
Statement of Licensure Application (\$40)		01/01/2008
Statement of Licensure Renewal (\$40)		01/01/2008
Statement of Licensure Delinquent Renewal (\$50)		01/01/2008
Fictitious Name Permit Application (\$50)		01/01/2008
Fictitious Name Permit Renewal (\$50)		01/01/2008
Fictitious Name Permit Delinquent Renewal (\$25)		01/01/2008
Free Care Participant Fee (\$40)		01/01/2014
Retired/Volunteer Application (\$50)		01/01/2015
Retired/Volunteer Renewal (\$50)		01/01/2015
Retired License Application (\$25)		01/01/2015

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RDO Program

Current registration renewals are paid biennially based on the licensees' birth month. All other fees for exams and initial license are received and processed on an on-going basis. There have not been any fee amendments/additions since 2000. Effective January 1, 2017, all registration fees increase.

RDO Fee Schedule and Revenue									
	Fee	Authority	Current Fee Amount	Statutory Limit	FY 2012/13 Revenue	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	% of Total Revenue
Initial Application	Registered Dispensing Optician		\$75	\$100	\$5,700	\$4,500	\$6,225	\$6,975	3.6%
	Contact Lens Dispenser		\$75	\$100	\$7,025	\$4,875	\$5,400	\$6,675	3.6%
	Spectacle Lens Dispenser		\$75	\$100	\$15,225	\$14,775	\$18,023	\$22,275	11.7%
	Non-Resident Contact Lens Dispenser		\$10	\$10	-	-	\$100	\$100	-
Renewal	Registered Dispensing Optician		\$75	\$100	\$33,800	\$41,400	\$38,775	\$35,825	18.9%
	Contact Lens Dispenser		\$75	\$100	\$33,725	\$31,422	\$35,450	\$32,125	16.9%
	Spectacle Lens Dispenser		\$75	\$100	\$73,100	\$74,050	\$74,200	\$77,325	40.7%
	Non-Resident Contact Lens Dispenser		\$75	\$100	\$500	\$400	\$400	\$200	-
Delinquent	Registered Dispensing Optician		\$25	\$25	\$625	\$650	\$1,000	\$700	0.3%
	Contact Lens Dispenser		\$25	\$25	\$1,350	\$825	\$1,775	\$1,250	0.6%
	Spectacle Lens Dispenser		\$25	\$25	\$3,125	\$3,675	\$4,175	\$4,125	2.1%
	Non-Resident Contact Lens Dispenser		\$25	\$25	-	-	-	\$25	-
Replacement	Registered Dispensing Optician		\$25	\$25	\$300	\$175	\$275	\$400	0.2%
	Contact Lens Dispenser		\$25	\$25	\$100	\$125	\$75	\$100	-
	Spectacle Lens Dispenser		\$25	\$25	\$100	\$175	\$150	\$325	0.1%
Other	Citation Fee – RDO		Varies	Varies	-	-	\$2500	-	-
	Surplus Money Investment		Various	Various	\$1038	\$689	\$596	\$750	0.3%
	Cancelled Warrants		Various	Various	\$416	\$350	\$418	-	-
	ICR Probation Monitoring		Various	Various	-	-	\$6,341	-	-
	Other		Various	Various	\$164	-\$506	\$1029	\$348	0.1%
Total Revenue					\$176,293	\$177,580	\$196,907	\$189,523	

Budget Change Proposals

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Annually, the Board reviews all relevant data such as workload statistics to determine if the Board has sufficient staff resources to address the Board's workload. When the Board determines there is a critical need for additional staff, a Budget Change Proposal (BCP) is submitted.

In the past four fiscal years, the Board has submitted BCPs for additional staff resources. The charts below reflect the outcome of the Board's proposed BCPs since the last Sunset Review.

Optometry Budget Change Proposals (BCPs) (Dollars in Thousands)								
BCP ID #	Fiscal Year	Description of BCP Purpose	Personnel Services				OE&E	
			# Staff Requested	# Staff Approved	\$ Requested	\$ Approved	\$ Requested	\$ Approved
1110-09	12-13	Enforcement Staffing Augmentation	1.0 Office Technician (T)		\$53,000	\$0	\$0	\$0
1110-10	12-13	Rent Augmentation					\$47,000	\$0
	14-15	Licensing	0.5 Management Services Technician		\$29,000	\$0	\$10,000	\$0
	14-15	Occupational Analysis					\$37,000	\$0
	14-15	Operating Equipment & Expenses Augmentation					\$53,000	\$0
	15-16	Enforcement Program	1.0 Staff Services Analyst 1.0 Associate Governmental Program Analyst 1.0 Staff Services Manager I		\$271,000	\$0	\$24,000	\$0
	15-16	Occupational Analysis	0.5 Staff Services Analyst (LT) 0.5 Management Services Technician		\$67,000	\$0	\$90,000	\$0

Budget Change Proposals (BCPs) – RDO (Dollars in Thousands)								
BCP ID #	Fiscal Year	Description of BCP Purpose	Personnel Services				OE&E	
			# Staff Requested	# Staff Approved	\$ Requested	\$ Approved	\$ Requested	\$ Approved
	16-17	AB 684	0.5 Office Technician 0.6 Special Investigator		\$101,000	\$101,000	\$0	\$0

Staffing Issues

Currently, the Board has authorization for 11.4 staff positions, 2.0 temporary help positions, 0.6 blanket positions (BL12-03). While the Board has not received approval for additional staffing in the last four fiscal years, the Board is currently focused on making critical and positive changes to the organizational structure to ensure that the Board's mission and business operational needs are met with existing resources.

Registered Dispensing Optician Program Move

The passing of AB684 was a pivotal event for the Board, as it moved the RDO program from the MBC to the Board. This move brought one part time Management Services Technician (MST) to the Board; however, the incumbent chose to stay with MBC. As a result, MBC and the Board partnered to quickly recruit, hire, and train a new staff member to run the RDO Program. While at the MBC, the MST position was solely responsible for processing registration applications. Any phone calls for general questions and license maintenance were routed to MBC's call center.

Now, however, the MST is responsible for maintaining over 4000 RDO registrations, answering all RDO calls, and processing all registration applications. In addition, the Board received 20% more applications for the RDO Program during the last year (FY15/16) than the prior year, and anticipates the growing trend to continue. The RDO Program was approved for a 0.5 Office Technician to answer the phones and perform some clerical duties; once the RDO fund can sustain itself, the position will be filled. The Board will continue to closely monitor the program and may need to submit a BCP in the near future.

Vacancies and Staff Turnover

During FY 15/16, the Board experienced turnover due to retirement, lateral transfers, and promotions. As a result, the Board faced vacancies for its policy analyst, licensing lead, enforcement lead, and fingerprint coordinator/HR liaison positions - all of whom were singly responsible for their duties. These vacancies were reposted multiple times in order for the Board to receive a sufficient candidate pool of qualified applicants who would succeed in these positions.

Use of Temporary Staff to Meet Operational Needs

During 2015, the majority of licensing and enforcement staff participated in the design, development, and testing of the BreEZe system. This testing was necessary to ensure that data conversion from the Board's legacy databases was accurate and that the system was performing as designed. The absence of BreEZe staff from the office meant remaining office staff took on additional workload whenever possible. The Board utilized a retired annuitant to assist with application processing while staff participated in BreEZe related activities. Although BreEZe is implemented, the retired annuitant assists the licensing unit with applications and will be able to shift focus to developing additional outreach materials for consumers and licensees. In addition, the retired annuitant is able to assist the Enforcement Unit in addressing its pending caseload.

Reclassification of Positions and Organizational Realignment

Managing a complex, dynamic organization requires the flexibility to adjust the workforce to respond with maximum efficiency to the emerging and changing needs of the organization. Thus, in FY 15/16, the majority of the staff's duty statements were dramatically revised to reflect actual job duties and meet the operational needs of the Board. Each unit faced significant restructuring in order to effectively protect California patients and consumers in the most efficient manner possible. This restructuring included reclassifying two existing Staff Services Analyst (SSA) positions to Associate Governmental Program Analysts within the Enforcement Unit.

Recruitment and Retention Efforts

Due to recent staff turnover, the Board focused on recruiting exceptional employees who met the Board's operational needs. This included setting more strict criteria on desired experience, qualifications, and working knowledge of related job duties and processes. It also included seeking employees working within the Department of Consumer Affairs whenever possible and conducting in depth reference checks. When the Board received poor candidate responses, the Board reposted the job announcements to increase the candidate pool rather than lowering the desired screening process.

Through meetings, events, and trainings the Board was able to network with potential staff and highlight the Board's focus on its employee. This type of networking allowed management to meet and recruit standout individuals about vacancies within the Board.

Despite the recent turnover, the Board remains committed to retaining its exceptional staff. The Board offers a variety of flexible work schedules, encourages staff development, and focuses on a positive staff environment.

Enforcement and Licensing Units meet monthly to discuss complex cases or licensing issues currently facing the team. Board management and staff work together to continuously improve existing processes. In addition, management meets with staff on a regular basis to assess individual job satisfaction and seek feedback for management to better serve Board employees. Positive recognition is frequently given to staff who are performing well, improving, or have gone above and beyond their existing job duties.

Succession Planning

Succession planning was largely accomplished during BreZE implementation. The Board worked with DCA's Organizational Change Management team in order to document all enforcement and licensing procedures. This provided the Board with a series of procedure guides, which both new and veteran staff can utilize. In the event the Board loses a staff member, these guides will allow their replacement a quick method to acclimate to their new position.

Staff development and mentoring is vital to succession planning. In addition to the available training, staff recently began cross-training so they are knowledgeable in all positions at the Board.

Staff Development Efforts
(Section 12, Attachment D)

The Board is especially pleased with leadership actions taken by the current Executive Officer Jessica Siefertman and Assistant Executive Officer Robert Stephanopoulos related to improvements in staff development. Staff development is a high priority to the Board and, as part of the restructuring in the latter half of FY 15/16, the Board's focus shifted dramatically to staff training. Since this restructuring, staff training increased over 100% compared to the prior Sunset Review. Roughly 10% of staff time is devoted to formal and informal training, group and one-on-one meetings, and morale building.

The Board has made it clear that all staff should be given the tools to not only be successful in their current positions, but also receive the training necessary to grow within state service. As a result, staff has been provided with any information and opportunities concerning training, education, and mentoring.

Management currently holds monthly staff meetings in order to review processes which staff feels may be duplicative or unnecessary. Staff is encouraged to bring new ideas on how to address procedural issues they face, giving other staff the opportunity to provide input. These meetings also allow management to go over problematic applications or cases and provide feedback on how to complete the task.

In addition to staff meetings, management holds annual Individual Development Plans (IDP) with staff. During these meetings, management performs an appraisal of each staff member's performance, after which, new performance objectives are set, along with methods to achieve these objectives. These plans are redone annually, but are revisited every few months in order to monitor performance and update or change objectives.

One-on-one meetings are also held on monthly basis in order to set and revisit goals, review performance, and provide a safe space for staff to voice concerns they may not be comfortable mentioning during staff meetings.

Management has also began conducting staff satisfaction surveys, giving staff the opportunity to express their satisfaction, desires, concerns, etc. with their current position and the Board as a whole. This gives management insight into each staff member, providing for individually tailored plans which fully engage staff based on their priorities.

In 2016, DCA implemented the mentorship program. This provides a pathway for all DCA employees who are seeking to improve specific skillsets to be paired with a mentor proficient in those skills. Management is actively participating in this program and have encouraged Board staff to seek out mentors who can help them grow. Many staff members have already met with mentors and have found it extremely valuable.

DCA has also begun a series of "brown bag" meetings, in which the Board is involved. These meetings provide management throughout DCA with the opportunity to come together and discuss office challenges and ways to overcome these challenges. This not only gives Board management a snapshot of issues which other Boards face, but it can prepare them for issues which may come up in the future.

In addition, attending the 2016 ARBO meeting served as a unique educational and developmental opportunity for the Board's Executive Officer. This was an excellent opportunity for Executive Directors from other states to come together and discuss ways to better manage their boards. This experience provided the Executive Officer with insight into the similarities between boards, differing approaches to controversial topics, and unexplored methods to meeting the Board's mission.

DRAFT

Licensing Program

Licensing Performance Targets

The Board has consistently met (and exceeded) its licensing targets set in California Code of Regulations (CCR) § 1564 (optometrist applications) and § 1564.1 (fictitious name permit applications). These regulations mandate that the Board inform an applicant in writing within 45 from receipt of an application as to whether the application is complete or deficient. They further mandate the Board inform an applicant in writing within 120 days after completion of an application as to whether the application meets the requirements for licensure.

With the recent BreEZe transition and internal restructuring, the Board's licensing unit evaluated its current cycle times and set performance targets and expectations for the licensing program. Optometrist license applications were given a 90 day processing target, while all other application types were given 30 days. These performance targets will be monitored monthly and reported during the Board's quarterly board meetings.

With the consistently growing amount of applicants and licensees taking advantage of BreEZe services, efficiencies have been realized resulting in shorter processing times. In addition, the Board has approved several regulation changes that will greatly improve licensing processes and procedures as well as provide clearer guidance to its licensees. The Board anticipates approving even more regulatory changes over the next few years.

The Board is unaware of any previous performance targets/expectations for the RDO Program. However, the Board has identified a number of opportunities for improvement since the January 2016 transition. Most notably, the RDO Program has yet to be available online through BreEZe. In addition, the program remains under the MBC BreEZe domain – resulting in several additional steps and workarounds for the Board to process applications. The Board submitted and received approval of a work authorization to remove the RDO Program from the MBC and reconfigure each transaction in BreEZe and add online capabilities for consumers and applicants.

In addition, many RDO Program improvements require legislation and/or regulatory amendments as well as significant revision to all forms and applications. The Dispensing Optician Committee will focus its efforts on these necessary improvements within the next year.

Application and Licensure Processing Times

The average time needed to issue optometrist licenses largely depends on the receipt of the items required for the issuance of the license which are, for the most part, outside of Board control. Prior to FY 2015-2016, the process could take anywhere from 16 to 365 days to complete. The Board's acceptance in 2002 of all parts of the NBEO examination as the Board's licensure examination, greatly streamlined the testing process for applicants. Not having to develop and manage the testing of its own licensure examination permitted the Board to focus on decreasing the processing times to issue an optometric license. In FY 2015-2016, the minimum amount of time needed is 16 days, the median, 99 days, and the maximum, 365 days (this average includes applications from recently graduated optometrists and out-of-state optometrist license applicants). Since the California Laws and Regulations examination (CLRE) can now be taken at almost any time, applicants for licensure

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no longer have to wait for one of the two days the CLRE used to be administered, thereby eliminating a significant portion of the processing time.

Licensing Activity

On average, the Board issues 781 optometry licenses and permits each year. The Board renews an average of 5811 optometric licenses each year. The RDO Program issues an average of 344 registrations and 1895 renewals each year. The following tables provide the licensing, registration and renewal activity by fiscal year.

Licensee/Registrant Population*					
		FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Optometrist License	Active	5949	6178	6776	6936
	Current Inactive	1174	1143	730	516
	Out-of-State	820	806	796	747
	Out-of-Country	45	47	47	43
	Delinquent	1492	1502	449	572
Statement of Licensure	Active	976	1019	1098	1011
	Delinquent	188	121	165	217
Branch Office License	Active	354	354	367	353
	Delinquent	42	38	39	64
Fictitious Name Permit	Active	1284	1321	1409	1449
	Delinquent	54	61	63	64
Registered Dispensing Optician	Active	1174	1047	991	1017
	Delinquent	178	N/A	N/A	344
Contact Lens Dispenser	Active	998	921	933	970
	Delinquent	241	353	407	323
Spectacle Lens Dispenser	Active	2331	2110	2143	2261
	Delinquent	762	1064	1227	992
Non-Resident Contact Lens Dispenser	Active	10	6	7	8
	Delinquent	0	N/A	N/A	2

*Registered Dispensing Optician Program data provided by the Medical Board of California

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Optometry Licensing Data by Type						
Fiscal Year			Received	Issued	Total Pending (Close of FY)	Average Cycle Time*
Optometrist License	2013/14	(License)	354	354	103	156
		(Renewal)	3700	3618	754	3
	2014/15	(License)	334	309	128	173
		(Renewal)	3891	3773	872	3
	2015/16	(License)	329	233	224	142
		(Renewal)	3823	3787	908	2
Branch Office License	2013/14	(License)	49	32	11	N/A
		(Renewal)	350	337	20	2
	2014/15	(License)	61	55	17	N/A
		(Renewal)	352	340	32	2
	2015/16	(License)	38	51	4	34
		(Renewal)	371	347	56	1
Statement of Licensure	2013/14	(License)	250	254	3	N/A
		(Renewal)	477	405	170	11
	2014/15	(License)	302	299	6	N/A
		(Renewal)	494	419	245	7
	2015/16	(License)	293	277	22	21
		(Renewal)	567	447	365	5
Fictitious Name Permit	2013/14	(License)	167	132	89	N/A
		(Renewal)	1259	1233	33	1
	2014/15	(License)	177	178	88	N/A
		(Renewal)	1320	1302	51	1
	2015/16	(License)	114	183	19	38
		(Renewal)	1465	1425	91	1

* Exam application data is incorporated in the license application process.

**Initial Cycle Times were not captured prior to BreEZe. BreEZe Cycle Times are as of January 19, 2016.

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RDO Program Registration Data by Type						
			Received	Issued	Total Pending (Close of FY)	Average Cycle Time
Fiscal Year						
Registered Dispensing Optician	2013/14	(Registration)	36	55	3	48
		(Renewal)	448	440	506	36
	2014/15	(Registration)	72	63	12	28
		(Renewal)	489	531	464	61
	2015/16	(Registration)	86	81	17	33
		(Renewal)	499	474	489	66
Contact Lens Dispenser	2013/14	(Registration)	47	63	11	52
		(Renewal)	336	433	445	12
	2014/15	(Registration)	74	83	2	39
		(Renewal)	460	474	431	17
	2015/16	(Registration)	86	82	6	26
		(Renewal)	443	424	450	16
Spectacle Lens Dispenser	2013/14	(Registration)	149	186	31	37
		(Renewal)	786	949	1301	11
	2014/15	(Registration)	251	257	25	38
		(Renewal)	992	1019	1274	17
	2015/16	(Registration)	304	279	50	32
		(Renewal)	1020	974	1320	20
Non-Resident Contact Lens Dispenser	2013/14	(Registration)	0	0	0	0
		(Renewal)	3	2	4	37
	2014/15	(Registration)	1	0	1	0
		(Renewal)	5	5	4	104
	2015/16	(Registration)	1	1	1	56
		(Renewal)	3	5	2	123

Total Licensing/Registration Data *			
	FY 2013/14	FY 2014/15	FY 2015/16
Initial Licensing/Registration Data:			
Initial License/Registration Applications Received	1021	1264	1241
Licenses/Registrations Issued	978	1234	1187
Initial License/Registration Pending Application Data:			
Pending Applications (total at close of FY)	308	341	343
Initial License/Registration Cycle Time Data (WEIGHTED AVERAGE):			
Average Days to License/Registration Issued	114	98	52
License/Registration Renewal Data:			
Licenses/Registrations Renewed	7398	7821	7863

*Based on available data. Initial Cycle Times were not captured prior to BreEZe. BreEZe Cycle Times are as of January 19, 2016.

Applicant Information Verification and Requirements

School/college transcripts, examination score reports, letters of good standing (if necessary), and fingerprint reviews are sent directly to the Board from their place of origin. Applicants provide information on a form created by the Board, where they declare that, under penalty of perjury under the laws of the State of California, all the information provided is true and correct.

Optometrist and dispenser applicants are required to be fingerprinted and have their prints reviewed and cleared by the California State Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). If the applicant was licensed in another State, they are required to have that State submit a letter of verification of their license status and history directly to the Board. If the applicant's fingerprints or license history are "flagged" because of unlawful acts, their applications are forwarded to our Enforcement Unit for further review

In order to check for prior disciplinary history, the Board requires letters of good standing from out of state applicants and runs the applicants information through the national data bank.

Fingerprint Activity

All applicants are required to submit to fingerprints as part of the licensure/registration process. The application is held until both the DOJ and the FBI have issued fingerprint clearances (BPC § 144).

All current and active licensees/registrants have been fingerprinted. However, licensees/registrants who have renewed in inactive status are not required to be fingerprinted. If and when that licensee/registrant returns to active status, he/she would be required to be fingerprinted.

National Databank for Disciplinary Actions

The National Practitioners Databank (NPDB) is the national databank relating to disciplinary boards. Information contained in the databank is provided by state regulatory agencies and other entities that are required to report disciplinary information.

The Board began checking the NPDB for all out of state applicants in June 2016. Part of this check includes enrolling the applicants into the continuous query feature. Therefore, the Board is notified whenever discipline or other reportable action is reported to the NPDB – similar to subsequent arrest notifications through DOJ.

The Board is currently researching the feasibility of enrolling all applicants and licensees into the NPDB to further its consumer protection mandate. This is a necessary fix, as it eliminates the possibility of the Board having no knowledge of another state's discipline by way of an applicant's failure to disclose that they have been licensed in another state.

Primary Source Documentation

Optometrist license applicants are required to have the school/college of optometry where they received their degree as a professional eye care provider submit a transcript to the Board prior to being issued a license. In addition, the Board requires fingerprint results directly from FBI and DOJ and examination results directly from PSI and NBEO.

Optician registration applicants are required to have the American Board of Opticianry submit their test scores from the American Board of Opticianry Exam (ABO) and/ or National Contact Lens (NCLE) Exam. In addition, the Board requires fingerprint results directly from FBI/DOJ and verification of licensure from other state agencies.

Out-of-State and Out of Country Applicant Requirements

Any optometrist licensed in another state seeking California licensure must satisfy all of the following requirements (BPC § 3057):

- 1) Has a degree as a doctor of optometry issued by an accredited school or college of optometry.
- 2) Has successfully passed the licensing examination for an optometric license in another state.
- 3) Submits proof that he or she is licensed in good standing as of the date of application in every state where he or she holds a license, including compliance with continuing education requirements.
- 4) Is not subject to disciplinary action as set forth in subdivision (h) of Section 3110. If the person has been subject to disciplinary action, the board shall review that action to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.
- 5) Has furnished a signed release allowing the disclosure of information from the National Practitioner Database and, if applicable, the verification of registration status with the federal Drug Enforcement Administration. The board shall review this information to determine if it presents sufficient evidence of a violation of this chapter to warrant the submission of additional information from the person or the denial of the application for licensure.
- 6) Has never had his or her license to practice optometry revoked or suspended in any state where the person holds a license.

- a) Is not subject to denial of an application for licensure based on any of the grounds listed in Section 480.
 - b) Is not currently required to register as a sex offender pursuant to Section 290 of the Penal Code.
- 7) Has met the minimum continuing education requirements set forth in Section 3059 for the current and preceding year.
 - 8) Has met the certification requirements of Section 3041.3 to use therapeutic pharmaceutical agents under subdivision (e) of Section 3041.
 - 9) Submits any other information as specified by the board to the extent it is required for licensure by examination under this chapter.
 - 10) Files an application on a form prescribed by the board, with an acknowledgment by the person executed under penalty of perjury and automatic forfeiture of license, of the following:
 - a) That the information provided by the person to the board is true and correct, to the best of his or her knowledge and belief.
 - b) That the person has not been convicted of an offense involving conduct that would violate Section 810.
 - 11) Pays an application fee in an amount equal to the application fee prescribed pursuant to subdivision (a) of Section 3152.
 - 12) Has successfully passed the board's jurisprudence examination.

Out of Country Applicants

In order to obtain a license to practice optometry in California, all applicants must have a degree from an accredited school or college of optometry. The Board does sponsor foreign graduates to sit for the National Board of Examiners in Optometry (NBEO) examination, pursuant to BPC § 3057.5 and CCR § 1530.1, but they cannot obtain licensure until meeting all requirements specified in BPC § 3046.

Military Education

In early 2016, the Board began asking applicants if they are currently serving, or previously served, in the military. Those applications are given priority and expedited as quickly as possible.

In addition, the Board approved language to update its optometrist license applications to include questions relating to military history. Board staff is currently in the rulemaking process to implement the updated application. Further, online applications submitted through the BreEZe system contain questions to elicit this information.

The RDO program does not look into this type of training or experience.

To date, the Board has not received an application in which military education, training or experience was submitted towards meeting licensing requirements. Therefore, there does not appear to be a need for the Board to propose any regulatory changes at this time. The Board has very specific requirements for education and experience in its licensing laws. The Board is not aware of any instance in which an individual had military education and/or experience.

The Board has not received any notifications or request to waive renewal fees for any licensees or applicants being called to active duty; therefore board revenues have been unaffected by BPC § 114.3. Similarly, the Board has not had any applicants indicate they are currently married to, or in a

domestic partnership or other legal union with, an active duty military member; thus, the Board has not been impacted by BPC § 115.5

No Longer Interested Notifications

Prior to 2016, the Board sent No Longer Interested (NLI) notifications to DOJ on a seldom basis – typically when the Board received notification of a deceased licensee. However, in 2016 Board identified many licensees who need to be added to the NLI notification list and sent the necessary information to DOJ. To ensure a regular NLI process, the Board runs monthly extracts to identify licensees who would fall into the NLI category and will submit to DOJ. The Board will continue to do this until the automated NLI BreEZe feature is enabled. This feature is scheduled to start January 11, 2017.

Examinations

The following tables reflect the Board’s examination data. All Board developed examinations (through OPES) are administered through the Board’s testing vendor.

California Laws and Regulations Examination – Optometrist					
Developed by: Office Of Professional Examination Services					
Administered by: PSI, Inc.					
		Pass	Fail	Pass %	Fail %
2012/13		206	62	69.83 %	21.02 %
		24	3	8.10 %	1.02 %
	Total	230	65	77.97 %	22.03 %
2013/14					13.10 %
	Repeat Test Taker				0.69 %
	Total				13.79 %
2014/15	First Time Test Taker	294	35	83.05 %	9.89 %
	Repeat Test Taker	25	0	7.06 %	0.00 %
	Total	319	35	90.11 %	9.89 %
2015/16	First Time Test Taker				7.49 %
Date of Last OA		2009			
Name of OA Developer		Office Of Professional Examination Services			
Target OA Date		2017			

National Optometrist Examination				
Developed and Administered By: National Board of Examiners in Optometry				
Fiscal Year		Part I	Part II	Part III
		Applied Basic Science	Patient Assessment and Management	Clinical Skills
2012/13	# of 1st Time Candidates	1601	1592	1548
	Pass %	85%	94%	N/A
	Total Candidates	2191	1797	1968
	Pass %	72%	89%	78.3%
2013/14	# of 1st Time Candidates	1608	1574	1554
	Pass %	78%	97%	N/A
	Total Candidates	2225	1747	2035
	Pass %	65%	93%	79.3%
2014/15	# of 1st Time Candidates	1675	1557	1542
	Pass %	77%	91%	N/A
	Total Candidates	2578	1782	1993
	Pass %	63%	86%	82.2%
2015/16	# of 1st Time Candidates	1680	1651	N/A
	Pass %	77%	88%	96%
	Total Candidates	2689	2069	N/A
	Pass %	62%	81%	N/A
Date of Last OA		2006		
Name of OA Developer		Office of Professional Examination Services		
Target OA Date		2016		

National Spectacle Examination		
Developed and Administered By: American Board of Opticianry		
2012	# of Candidates	4343
	Pass %	58.3%
2013	# of Candidates	3935
	Pass %	62.5%
2014	# of Candidates	3473
	Pass %	62.7%
2015	# of Candidates	3249
	Pass %	55.0%
Date of Last OA		2013
Name of OA Developer		American Board of Opticianry
Target OA Date		-

National Contact Lens Examination		
Developed and Administered By: National Contact Lens Examiners		
2012	# of Candidates	1496
	Pass %	66.9 %
2013	# of Candidates	1414
	Pass %	53.5%
2014	# of Candidates	1320
	Pass %	56.0%
2015	# of Candidates	1439
	Pass %	56%
Date of Last OA		2013
Name of OA Developer		National Contact Lens Examiners
Target OA Date		-

Optometrist Examinations

Optometrist applicants are required to pass the California Laws and Regulations Examination (CLRE) and the national examination developed by the National Board of Examiners in Optometry (NBEO). The examinations are only offered in English.

CLRE Development Process

The Board works with the DCA's Office of Professional Examination Services (OPES) to develop the CLRE as required by BPC § 139. OPES provides examination-related services to the DCA's regulatory boards and bureaus in order to ensure that licensure examination programs are fair, psychometrically sound, valid, and legal. Specific services provided include performing occupational analyses, conducting exam item development, evaluating performance of examinations, and consulting on matters pertaining to the measurement of minimum competency standards for licensure.

CLRE Administration Process

The CLRE is a computer-based exam administered through an examination vender, PSI, Inc. An introductory tutorial explains the examination process and computer/keyboard functions. Sample questions are included as part of the tutorial so candidates may practice using the keys, answering questions, and reviewing their answers. Time spent on the tutorial (up to 15 minutes) does not count as part of the examination time. Candidates do not need any typing or computer skills to take the test. The CLRE is administered every day of the year (excluding holidays). However, if a candidate fails the exam, he/she must wait 180 days to take another version of the exam.

The test is administered through PSI centers at the following locations:

California		Out of State	
<i>Anaheim</i>	<i>Sacramento</i>	<i>Albuquerque, NM</i>	<i>Nashville, TN</i>
<i>Atascadero</i>	<i>San Diego</i>	<i>Atlanta, GA</i>	<i>North Orem, UT</i>
<i>Burbank</i>	<i>San Francisco</i>	<i>Boston, MA</i>	<i>North Salt Lake City, UT</i>
<i>Carson</i>	<i>Santa Rosa</i>	<i>Charlotte, NC</i>	<i>Phoenix, AZ</i>
<i>El Monte</i>	<i>Santa Clara</i>	<i>Cherry Hill, NJ</i>	<i>Portland, OR</i>
<i>Fresno</i>	<i>Ventura</i>	<i>Chicago, IL</i>	<i>Richmond, VA</i>
<i>Hayward</i>	<i>Visalia</i>	<i>Cranberry Township, PA</i>	<i>Southfield, MI</i>
<i>Redding</i>	<i>Walnut Creek</i>	<i>Dallas, TX</i>	<i>West Des Moines, IA</i>
<i>Riverside</i>		<i>Houston, TX</i>	<i>West Hartford, CT</i>
		<i>Las Vegas, NV</i>	<i>Woodbury, MN</i>
		<i>Milford, CT</i>	<i>Nashville, TN</i>

CLRE Pass Rates

Please refer to the previous tables for first time vs. retake pass rates. As the CLRE table shows, the CLRE has a high pass rate for first time test takers, averaging 78% over the past four years. When repeat test takers are included, the passing rate increases to 86% over the past four years. The number of test takers varies from year to year, ranging from 230 to 375 since 2012/13.

NBEO Examination Development and Administration Process

The national examination, developed and administered by NBEO, has been required since 2001. Prior to that, the Board administered its own practical/clinical skills exam. Currently, all 50 states, the District of Columbia and Puerto Rico use this examination for licensure.

The Board (through OPES) conducted an occupational analysis (OA) of the NBEO examination in 2009. The purpose of an OA is to ensure that the examination met professional guidelines and technical standards outlined in the Standards for Educational and Psychological Testing and the DCA Examination Validation Policy. The OA determined the examination met the prevailing standards for validation and use of the examination for licensure in California. However, the Board needs to conduct another OA as soon as funds are secured through the Budget Change Proposal process.

Applicants can apply to take the NBEO examination without applying to the Board. Applicants must take the first two (of three) parts while still in optometry school. Upon applicant request, NBEO electronically submits passing scores to the Board.

Part I of the NBEO is (and has been) computer-based. Part II of the NBEO just moved to computer-based testing, and Part III is performed in person in North Carolina.

NBEO Pass Rates

Please refer to the previous tables for first time vs. retake pass rates. According to data provided by the NBEO, the pass rates for first time test takers vs. retakes is higher for each part of the test for the past four fiscal years.

Registered Dispensing Optician Program Examinations

Spectacle Lens Dispenser candidates are required to pass the American Board of Opticianry (ABO) examination and Contact Lens Dispenser candidates are required to take and pass the National Contact Lens Examination (NCLE). Both national examinations are developed and administered by the ABO and are available in English and Spanish. The results are neither divided by language nor tracked by first time vs. retakes.

Currently, RDO Program candidates are not required to pass a state law examination.

Both exams are computer based testing and the exams can be taken at any of the 239 PSI testing sites around the country. Both tests are two hours each and are available to take during a two week period, 4 times a year.

Currently, the Board has not identified any statutes that delay or impede the effective processing of Optometry or RDO examination applications.

School Approvals

BPC § 3023 requires the board to accredit schools, colleges and universities in or out of this state providing optometric education, that it finds giving a sufficient program of study for the preparation of optometrists.

The Board accepts accreditations from the Accreditation Council on Optometric Education (ACOE) to The ACOE is the only accrediting body for professional optometric degree (O.D.) programs, optometric residency programs and optometric technician programs in the United States and Canada. Both the U.S. Department of Education and the Council on Higher Education Accreditation recognize the ACOE as a reliable authority concerning the quality of education of the programs the Council accredits.

The Bureau of Private Post-Secondary Education (BPPE) does not play a role in approving the schools/colleges of optometry; therefore the Board does not work with the BPPE in the approval process.

The ACOE has accredited or pre-accredited 25 schools and colleges of optometry. California has three fully accredited schools:

- University of California, Berkeley, School of Optometry;
- Marshall B. Ketchum University, Fullerton; and
- Western University of Health Sciences, College of Optometry, Pomona.

The Board considers the didactic courses offered by the other 18 schools/colleges of optometry accredited by the ACOE to be equivalent to those in California.

Any schools/colleges of optometry that are in the pre-accreditation process are reviewed each year until the program has its first graduating class at which time it becomes fully accredited. The ACOE conducts a formal reevaluation visit at least every eight years for professional optometric degree (O.D.) or optometric residency programs.

All accredited programs are reviewed annually through an annual reporting process, and the ACOE may visit more frequently if deemed necessary through the annual reporting process. The Board receives and reviews the copy of each report prepared by ACOE.

While there are no legal requirements to approve international schools, two are accredited through ACOE and accepted by the Board:

Continuing Education (CE) Requirements

Registered Dispensing Opticians, Registered Spectacle Lens Dispensers, Registered Contact Lens Dispensers, and Nonresident Contact Lens Sellers are not required to complete CE at this time.

Optometrist CE requirements have not changed since the last review. However, regulatory changes are currently pending OAL approval.

Currently, in order to renew an optometrist license, licensees not certified to use therapeutic pharmaceutical agents must complete 40 CE hours. All other licensees must complete 50 hours of CE, 35 of which must be in the diagnosis, treatment, and management of ocular disease in any combination of the following areas: glaucoma, ocular infection, ocular inflammation, topical steroids, systemic medication, and pain medication. Glaucoma certified licensees must complete 10 (of the 35) hours of glaucoma specific CE.

CE Course Approval Policy

Pre-Approved CE courses include the following:

- Officially sponsored or recognized by any accredited US school or college of optometry,
- Provided by any national or state affiliate of the American Optometric Association, the American Academy of Optometry, or the Optometric Extension Program
- Approved by the Association of Regulatory Boards of Examiners in Optometry committee known as COPE (Council on Optometric Practitioner Education)

Pursuant to CCR §1536(f-g), the Board may, through the Practice and Education Committee, approve additional CE courses who meet the following criteria:

- Whether the program is likely to contribute to the advancement of professional skill and knowledge in the practice of optometry.
- Whether the instructors, lecturers, and others participating in the presentation are recognized by the Board as being qualified in their field.
- Whether the proposed course is open to all optometrists licensed in this State.
- Whether the provider of any mandatory continuing optometric education course agrees to maintain and furnish to the Board and/or attending licensee such records of course content and attendance as the Board requires, for a period of at least three years from the date of course presentation.

CE courses are approved by the Board's Practice and Education Committee. Providers must apply for CE course approval on the Board approved form and pay a \$50 application fee. The application

must be accompanied by any course presentation materials and the curriculum vitae of all instructors and/or lecturers involved. Between FY 2012 - 2016, 849 requests for CE approval were submitted. 814 of these submissions were approved. The Board does not currently audit CE providers.

The Board has not reviewed its CE policy for the purpose of moving toward performance based assessments of licensees continuing competence. However, Board staff is currently researching this possibility and will bring it to the Board for consideration during a future Board meeting.

CE Review and Audit Process

The Board requires licensees to certify, under penalty of perjury, meeting the CE requirements pursuant to CCR § 1536 each renewal cycle. If a licensee fails to certify completion of the required CE, the license renewal is held until the licensee certifies completion of CE. A licensee may not practice with an expired or delinquent license.

In order to verify completion, the Board conducts random CE audits. The Board recognizes and utilizes the Association of Regulatory Boards in Optometry's Online Optometric Education (OE) Tracker system as proof of CE course attendance (CCR § 1536(h)). Proof of all other CE attendance must be submitted to the Board.

The Board began conducting random CE audits in December 2009; however, due to staffing issues, and time constraints, CE audits have not been consistently conducted. Currently, the CE audits are conducted by an Enforcement Analyst with the assistance of an office technician.

Licensees that fail a CE audit are subject to fines up to \$2,500 (CCR section 1579). If a licensee fails to remediate the deficiencies and/or pay the determined fine, an enforcement hold is placed on the license, making the license ineligible for renewal until all conditions are met.

In the past four fiscal years, a total of 375 CE audits were conducted with a failure rate of less than 10%. The audit failures have been resolved with the submission of additional credits.

As a result of the Board restructuring, additional resources are now available to conduct more audits. The Board is also researching more efficient ways to increase the number of CE audits, strengthening consumer protection

Enforcement Program

Enforcement Performance Targets

In 2010, DCA developed standard performance measures for each board and bureau to assess the effectiveness of its enforcement program. DCA established an overall goal to complete consumer complaints within 12 to 18 months. Each board and bureau is responsible for determining its performance target for the remaining performance measures to achieve the 12 to 18 month goal. The Board's performance targets are reflected in the next table.

Currently, the Board is meeting all of the performance measures except two: intake and investigation and cases resulting in formal discipline. These increased cycle times are largely due to staffing challenges the Board has faced over the last four years. Enforcement staff spent a significant amount of time in 2015 participating in the design, development, and testing of the BreEZe system.

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While this was crucial to ensuring accurate and complete data conversion and providing a stronger enforcement foundation, it did impact the pending caseload and average cycle times to case closure.

In addition, the enforcement unit experienced staff turnover in fiscal year 2015/16 – one analyst retired and two of the enforcement staff were promoted to other positions. Thus, for the majority of FY 2015/16, the enforcement unit had only one analyst investigating cases

Further, when the RDO Program transitioned to the Board in January 2016, the RDO enforcement caseload (92 additional cases) transferred to the enforcement unit without any additional enforcement staff. A Budget Change Proposal was approved for a 0.6 enforcement position, but the RDO program’s budget is currently unable to sustain the position. As a result, the RDO cases that would be investigated by this position are being absorbed by the Board’s current enforcement staff.

Improvement Plan

In order to address the increased pending caseload and cycle times, the enforcement unit was restructured in 2016. The goal of the restructuring was to use existing resources in the most efficient way possible while streamlining enforcement processes. All analyst duty statements were revised to reflect actual job duties and address specific areas (in addition to cycle times) we needed to improve (e.g., CE audits, building the inspection program, additional consumer outreach). Two enforcement positions were re-classed, recognizing the need for higher level analysts to investigate the more complex cases with increased independence.

The enforcement unit is also working more closely with the Attorney General’s office to streamline the formal discipline process. This includes increased communication with the Board’s Deputy Attorney General (DAG) liaison prior to sending to discipline to identify and address potential barriers, communicating settlement offers (if warranted) when a case is transmitted rather than waiting until the hearing, and increased follow up with assigned DAGs during the disciplinary process.

Enforcement Procedure Manuals will also be updated to reflect improved case investigation processes and BreEZe efficiencies.

Performance Measure	Definition	Target	Actual FY 2012/2013		Actual FY 2013/2014		Actual FY 2014/2015		Actual FY 2015/2016	
			OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO
Volume	Number of complaints and convictions received	-								
Intake	Average cycle time from complaint receipt to the date the complaint was assigned to an investigator	7	7	8	1	1	2	1	1	11
Intake and Investigation	Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General (AG) or other forms of formal discipline	90	191	196	188	80	117	262	220	153
Formal Discipline	Average number of days to complete the entire	540	889	738	783	176	797	939	1200	638

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	enforcement process for cases resulting in formal discipline									
Probation Intake	Average number of days from monitor assignment to the date the monitor makes first contact with the probationer	25	1	N/A	1	N/A	1	N/A	1	412
Probation Violation Response	Average number of days from the time a violation is reported to a program, to the time the assigned probation monitor responds.	14	1	1	1	N/A	1	N/A	1	N/A
*Prior to January 1, 2016 (mid-FY15/16), all enforcement for the RDO Program was conducted by the Medical Board of California										

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Enforcement Statistics

Optometry Enforcement Statistics			
	FY 2013/14	FY 2014/15	FY 2015/16
COMPLAINT			
Intake			
Received	213	376	238
Closed	40	59	21
Referred to INV	174	317	185
Average Time to Close	1	2	1
Pending (close of FY)	0	0	0
Source of Complaint			
Public	110	168	181
Licensee/Professional Groups	0	4	5
Governmental Agencies	68	184	35
Other	35	20	17
Conviction / Arrest			
CONV Received	25	28	26
CONV Closed	26	28	26
Average Time to Close	1	3	2
CONV Pending (close of FY)	0	0	0
LICENSE DENIAL			
License Applications Denied	0	0	0
SOIs Filed	0	0	0
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	0	0	0
ACCUSATION			
Accusations Filed	8	6	0
Accusations Withdrawn	1	2	1
Accusations Dismissed	0	0	0
Accusations Declined	1	0	0
Average Days Accusations	499	476	0
Pending (close of FY)	4	4	1

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RDO Enforcement Statistics			
	FY 2013/14	FY 2014/15	FY 2015/16
COMPLAINT			
Intake			
Received	53	29	46
Closed	0	0	4
Referred to INV	53	29	45
Average Time to Close	1	1	11
Pending (close of FY)	0	0	0
Source of Complaint			
Public	33	26	27
Licensee/Professional Groups	3	3	8
Governmental Agencies	17	0	11
Other	0	0	0
Conviction / Arrest			
CONV Received	38	20	46
CONV Closed	12	36	19
Average Time to Close	1	1	4
CONV Pending (close of FY)	0	0	0
LICENSE DENIAL			
License Applications Denied	0	0	4
SOIs Filed	0	0	1
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	0	0	56
ACCUSATION			
Accusations Filed	7	3	3
Accusations Withdrawn	0	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	0
Average Days Accusations	470	611	592
Pending (close of FY)	1	1	2

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Optometry Enforcement Statistics (continued)			
	FY 2013/14	FY 2014/15	FY 2015/16
DISCIPLINE			
Disciplinary Actions			
Proposed/Default Decisions	3	2	1
Stipulations	11	2	1
Average Days to Complete	783	797	1200
AG Cases Initiated	11	4	5
AG Cases Pending (close of FY)	11	8	8
Disciplinary Outcomes			
Revocation	2	1	0
Voluntary Surrender	3	2	1
Suspension	0	0	0
Probation with Suspension	0	0	0
Probation	9	1	1
Probationary License Issued	0	0	0
Other	0	0	0
PROBATION			
New Probationers	9	1	1
Probations Successfully Completed	1	1	4
Probationers (close of FY)	18	14	7
Petitions to Revoke Probation	1	1	1
Probations Revoked	0	1	1
Probations Modified	5	5	3
Probations Extended	0	0	0
Probationers Subject to Drug Testing	7	4	3
Drug Tests Ordered	196	355	188
Positive Drug Tests	7	1	10
Petition for Reinstatement Granted	4	0	0
DIVERSION			
New Participants	0	0	0
Successful Completions	0	0	0
Participants (close of FY)	0	0	0
Terminations	0	0	0
Terminations for Public Threat	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0

California State Board of Optometry 2016 Sunset Review Report

RDO Enforcement Statistics (continued)			
	FY 2013/14	FY 2014/15	FY 2015/16
DISCIPLINE			
Disciplinary Actions			
Proposed/Default Decisions	2	4	3
Stipulations	1	1	0
Average Days to Complete	716	939	638
AG Cases Initiated	5	4	4
AG Cases Pending (close of FY)	7	5	6
Disciplinary Outcomes			
Revocation	2	3	3
Voluntary Surrender	1	1	0
Suspension	0	0	0
Probation with Suspension	0	0	0
Probation	0	0	0
Probationary License Issued	0	0	0
Other	0	1	0
PROBATION			
New Probationers	0	0	1
Probations Successfully Completed	0	1	0
Probationers (close of FY)	1	0	1
Petitions to Revoke Probation	0	0	0
Probations Revoked	0	0	0
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0
Petition for Reinstatement Granted	0	0	1
DIVERSION			
New Participants	0	0	0
Successful Completions	0	0	0
Participants (close of FY)	0	0	0
Terminations	0	0	0
Terminations for Public Threat	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0

California State Board of Optometry 2016 Sunset Review Report

Optometry Enforcement Statistics (continued)			
	FY 2013/14	FY 2014/15	FY 2015/16
INVESTIGATION			
All Investigations			
First Assigned	200	343	247
Closed	262	244	192
Average days to close	188	117	220
Pending (close of FY)	70	170	184
Desk Investigations			
Closed	242	240	137
Average days to close	167	106	165
Pending (close of FY)	48	97	172
Non-Sworn Investigation			
Closed	0	0	0
Average days to close	0	0	0
Pending (close of FY)	0	0	0
Sworn Investigation			
Closed	20	4	55
Average days to close	443	799	362
Pending (close of FY)	22	73	12
COMPLIANCE ACTION			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	0	1
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	0	0
Cease & Desist/Warning	0	0	0
Referred for Diversion	0	0	0
Compel Examination	1	0	0
CITATION AND FINE			
Citations Issued	13	4	0
Average Days to Complete	345	596	0
Amount of Fines Assessed	\$59,500	\$19,000	0
Reduced, Withdrawn, Dismissed	\$20,500	\$11,500	0
Amount Collected	\$20,380	\$18,348	\$800
CRIMINAL ACTION			
Referred for Criminal Prosecution	0	0	0

California State Board of Optometry 2016 Sunset Review Report

RDO Enforcement Statistics (continued)			
	FY 2013/14	FY 2014/15	FY 2015/16
INVESTIGATION			
All Investigations			
First Assigned	93	50	95
Closed	88	71	66
Average days to close	80	262	153
Pending (close of FY)	54	32	51
Desk Investigations			
Closed	47	29	44
Average days to close	41	106	99
Pending (close of FY)	17	15	45
Non-Sworn Investigation			
Closed	23	17	9
Average days to close	41	137	341
Pending (close of FY)	8	6	0
Sworn Investigation			
Closed	18	25	13
Average days to close	229	195	330
Pending (close of FY)	29	11	6
COMPLIANCE ACTION			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	1	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	1	0
Cease & Desist/Warning	0	0	0
Referred for Diversion	0	0	0
Compel Examination	0	0	0
CITATION AND FINE			
Citations Issued	0	0	0
Average Days to Complete	0	0	0
Amount of Fines Assessed	0	0	0
Reduced, Withdrawn, Dismissed	0	0	0
Amount Collected	\$150	\$2500	\$25
CRIMINAL ACTION			
Referred for Criminal Prosecution	2	0	5

California State Board of Optometry 2016 Sunset Review Report

Optometry Enforcement Aging - Optometry						
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	0%	0%	0%	0%	0	0%
2 Years	17%	38%	50%	50%	10	36%
3 Years	67%	56%	25%	0%	14	50%
4 Years	17%	6%	25%	50%	4	14%
Over 4 Years	0%	0%	0%	0%	0	0%
Total Cases Closed	6	16	4	2	28	
Investigations (Average %)						
Closed Within:						
90 Days	46%	39%	58%	45%	456	47%
180 Days	21%	32%	28%	20%	249	26%
1 Year	16%	13%	11%	14%	129	13%
2 Years	14%	12%	3%	16%	110	11%
3 Years	2%	4%	0%	4%	25	3%
Over 3 Years	1%	0%	0%	1%	6	1%
Total Cases Closed	276	251	246	192	975	

Table 10. Enforcement Aging - RDO						
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	0%	0%	0%	0%	0	0%
2 Years	0%	67%	20%	67%	5	42%
3 Years	100%	33%	60%	33%	6	50%
4 Years	0%	0%	20%	0%	1	0%
Over 4 Years	0%	0%	0%	0%	0	0%
Total Cases Closed	1	3	5	3	12	
Investigations (Average %)						
Closed Within:						
90 Days	20%	55%	28%	48%	94	37%
180 Days	38%	13%	28%	15%	60	24%
1 Year	28%	18%	28%	15%	57	23%
2 Years	15%	13%	15%	17%	38	15%
3 Years	0%	2%	0%	5%	4	2%
Over 3 Years	0%	0%	0%	0%	0	0
Total Cases Closed	61	55	71	66	253	

Overall, the statistics show a 61% increase in disciplinary actions since the last review. In its last review, the Board reported a total of 17 disciplinary actions over the previous four fiscal years. In the four fiscal years prior to the current review, the Board completed a total of 28 disciplinary actions.

The Board's complaint prioritization policy remains as previously reported. While the Board does follow DCA's Complaint Prioritization Guidelines for Health Care Agencies (August 31, 2009), the vast majority of the complaints received by the Board do not rise to the "Urgent" level as set by DCA's guidelines. The Board prioritizes the following as the most urgent complaints:

- Patient harm
- Potential patient harm
- Fraud
- Convictions
- Unlicensed Practice

Settlement Reporting Requirements

The mandatory reporting requirements remains as previously reported. There are three mandatory reporting requirements:

- **BPC section 801(a)**
Requires every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency mentioned in subdivision (a) of section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.
- **BPC section 802**
Requires optometrists (or their attorney, if represented by counsel) to report any settlement, judgment, or arbitration award over \$3,000 of a claim or action for damages for death or personal injury caused by the licensee's negligence, error or omission in practice, or by rendering of unauthorized professional services.
- **BPC section 803**
Requires the clerk of the court to report, within 10 days after judgment made by the court in California, any person who holds a license from the Board who has committed a crime or is liable for any death or personal injury resulting from a judgment for an amount in excess of \$30,000 caused by his or negligence, error or omission in practice or by rendering of unauthorized professional services.

Any settlement, judgment, or arbitration award of \$3,000 or more must be reported to the Board. Although these are mandatory reporting requirements, the Board receives a very small number of these reports each year.

During the last four fiscal years, the Board received a total of 18 reports. As the agencies charged with the submission of these reports are largely outside of the authority of the Board, correction of this problem has been challenging. Over the prior four fiscal years, the average dollar amount of settlements reported to the Board is \$189,699.48.

Disciplinary Action Reporting Requirements

Optometrists are required to disclose any disciplinary actions taken in other states during renewal every two years. State Boards are also mandated by federal law to report disciplinary actions to NPDB and any other state board where the individual holds a license. However, that requires the other states know all states where the individual is licensed. States often, like California, request information of other state licenses on the initial application, but they do not capture information about licenses acquired after licensure.

In addition, insurance companies are mandated by federal law to report any negative actions taken against a provider (e.g., removed or suspended from the panel) to the National Practitioner's Databank, but they are not required to report those actions to the Board.

When the Board does receive a report from an insurance company, licensee, or court clerk, the report oftentimes has already been filed with the NPDB months if not years prior.

The NPDB offers a service through which the Board would automatically receive notifications whenever the NPDB received an action report regarding a licensee submitted by the Board for continuous query. However, the Board has been unsuccessful in securing the funds necessary to submit all of its licensees through the NPDB's continuous query service. As a result, the Board's opportunity to pursue consumer protection based on these reports is inhibited or delayed.

Disciplinary Settlements (Stipulations)

The licensee/applicant and Board may decide to settle the case at any time during the administrative process. Settlements are entered into prior to the date of an administrative hearing. Although settlements prior to the scheduled hearing avoid the expense of a hearing; this is not a reason to settle a case. Settlements are considered in cases where the respondent has presented mitigating information/evidence to demonstrate that he/she may be a good candidate for probation.

The settlement is reduced to a written stipulation and order which sets forth the settlement terms and proposed disciplinary order. The DAG prepares a memo describing the rationale for the proposed settlement. The memo and the written stipulation and order are forwarded to the Board Members for its consideration and decision.

If the Board Members reject the proposed settlement, the case will return to disciplinary process. A new settlement may be submitted to the Board Members at a later time or the case may proceed to an administrative hearing before an ALJ.

Stipulations prior to an administrative hearing also eliminate the six months to one-year delay that may result from attempting to schedule a mutually agreeable hearing date. The public is often better served because the resolution time is reduced and lengthy appeals are avoided, and the Board and respondent save time and money. Further, a licensee on probation is monitored closely by the Board.

Determining Settlement Terms

Stipulations (settlements) are negotiated with the DAG (in consultation with the Executive Officer), the respondent, and the respondent's legal counsel. Stipulation terms are provided to the DAG utilizing the Board's Disciplinary Guidelines (*refer to Attachment J*). These guidelines provide the parameters for settlement terms for specific violations of law.

In negotiating a stipulation, the DAG works closely with the Board's Executive Officer to arrive at a stipulation that will be acceptable to the Board. The Executive Officer considers the evidence, the law, witness and subject matter expert testimony, and protection of the public in the decision process.

The following factors are considered when settlement terms are proposed:

- Nature and severity of the act(s), offense(s), or crime(s)
- Actual or potential harm to any consumer or client
- Prior disciplinary record
- Number and/or variety of current violations
- Mitigation evidence
- Rehabilitation evidence
- In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation
- Overall criminal record
- Time elapsed since the act(s) or offense(s) occurred
- Whether the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties
- Recognition by respondent of her or his wrongdoing and demonstration of corrective action to prevent recurrence

The Board's disciplinary guidelines were established to provide consistency in determining settlement terms. Variation from the guidelines may occur when sufficient mitigating information or evidence warrants a reduction in the term and does not compromise consumer protection.

Enforcement staff considers the disciplinary guidelines when determining whether to seek revocation, suspension, and/or probation of a license. Board Members use the Disciplinary Guidelines when considering cases during closed sessions. The Disciplinary guidelines are updated when necessary and are distributed to DAGs and ALJs who work on Board cases.

A pre-hearing conference may be scheduled to settle the case prior to the administrative hearing. Pre-hearing conferences are a more formal method for developing a stipulated agreement. These hearings involve the Executive Officer, the respondent, respondent's attorney, and an ALJ.

The Board does not have authority to settle a case before an accusation has been filed. In the past four years, 19 cases were settled for Optometry and two for the RDO program. Optometry had four disciplinary decisions resulting from a hearing and the RDO program had two.

Overall, in the past four fiscal years, 68% of Optometry and 17% of RDO disciplinary orders were settled by the Board (or MBC for the RDO Program) rather than an Administrative Law Judge after a hearing. The majority of RDO cases (66%) have resulted in a default decision.

Statute of Limitations

Under the Optometry Practice Act, the Board is subject to a statute of limitations under BPC § 3137. An accusation must be filed within three years from the date the Board discovers the alleged act or violation or within seven years from the incident date, whichever occurs first. Cases regarding procurement of a license by fraud or misrepresentation are not subject to the limitations. Specific exemptions pertaining to fraud, willful misconduct, unprofessional conduct and sexual misconduct are provided.

Since the Board's last report, 38 optometry cases have been closed due to the statute of limitations. Of those, two were based on complaints that were filed over seven years after the alleged incidents had occurred. 15 cases involved convictions prior to licensure that were too old and outside the Board's authority. 21 of the cases were related to convictions and/or subsequent arrest notifications the Board received as part of the 2010 requirement to have licensees re-fingerprinted for purposes of submitting prints to the FBI. All of these cases involved convictions that were old enough to be outside the Board's authority.

Recently, the Board implemented monitoring procedures to ensure that limitation deadlines are identified and that cases are monitored closely through the review and investigation process. This includes a built in alert in BreEZe to notify analysts and management of cases approaching the statute of limitations. In addition, if a case is forwarded for formal investigation, the investigator is informed of the limitation deadline and staff frequently follows up with the assigned investigator to track the progress. If violations are confirmed and the case is transmitted to the office of the Attorney General, the Deputy Attorney General assigned to the case is informed of the limitations deadline to ensure prompt filing of charges.

The RDO Program (not part of the Optometry Practice Act) does not have a statute of limitations. However, the Board recognizes public protection as its highest priority and therefore strives to investigate each complaint as quickly as possible.

Unlicensed Activity/Underground Economy

The Board's enforcement unit continues to work closely with the DCA, Division of Investigation to investigate allegations of unlicensed activity; this includes undercover sting operations and the investigation of companies outside of California providing unlicensed services to California consumers. In addition, the Board pursues opportunities to advise the public of the potential harm of purchasing and wearing "plano" cosmetic contact lenses without the benefit of an examination and proper fitting by an optometrist. The Board accomplishes this by participating in outreach events, distributing fliers, and creating pamphlets related to the illegal distribution of plano contact lenses.

The Board opened multiple investigations against Halloween and novelty stores, as well as online business who sell cosmetic contact lenses. If the investigation reveals that these business are not registered dispensers and/or are not obtaining prescriptions prior to dispensing these devices, they are provided with the applicable laws and asked to come into compliance. Even after compliance is obtained, Board staff will check in with the business at a later time, to ensure it wasn't temporary compliance. At this time, a citation can be issued to the business owner.

In addition, the Board receives notifications from consumers and licensees regarding the unlicensed practice of optometry by individuals who were licensed optometrists and ophthalmologists in other countries. The Board will request that an investigator visit the individual and obtain an eye exam, after which a misdemeanor citation can be issued. This can be followed by a fine for unlicensed practice.

Frequently, applicants for optometrist and dispensing licenses will have job offers waiting while their application is being processed. In some cases, these individuals will begin to practice optometry or dispense lenses prior to issuance of their license by the Board. When this type of activity is discovered by the Board, the Board may deny the application or take discipline against the license, if it has been issued.

Cite and Fine Program

Optometry Program

Since the last review, the Board issued 20 citations for violations that did not rise to a level that warranted revocation, suspension, or imposition of probationary terms. Effective June 27, 2016, the statutory fee limit increased for BPC § 655 and BPC § 2556.2 violations (SB 836). Fines issued for these violations are not to exceed \$50,000. Fines for all other violations are still limited to \$5,000 per investigation.

Citations and fines are used to gain compliance for minor violations that did not rise to rise to levels warranting formal discipline (e.g., advertising violations, minor record keeping violations, etc.). Citations and fines are also issued to address unlicensed practice. Fines are assessed pursuant to CCR § 1579; the fine amount is based on the following classification types:

- Class A
Range \$1,500-2,500 per violation
 - Unlicensed practice, which includes acting, performing, or controlling services defined in the optometric scope of practice (BPC § 3041)

- Class B

Range \$500-\$2,500 per violation

- Statute or regulation violations which would be grounds for discipline by the Board that has caused non-physical financial harm to a person, or
- Violations falling under Class “C” when multiple Class “C” citations were issued within three prior years

- Class C

Range \$250-\$2500 per violation

- Statute or regulation violations which would be grounds for discipline by the Board that did not cause physical or financial harm to a person.

The five most common violations for which citations are issued are:

- Engaging in practice without a license,
- False representation of facts,
- Substantially related convictions,
- Failure to maintain or provide records, and
- Incompetence.

In the last four fiscal years, the Board has conducted 11 informal citation conferences and has had three Administrative Procedures Act appeals. Of citations that were appealed, the average fines pre appeal was \$6,682, and the average fine post appeal was \$1,682.

The Board sent one case to the Franchise Tax Board (FTB) intercept program to collect outstanding fines. Due to the low volume of fines issued, FTB has not been necessary. For those who are licensed, the Board will hold renewal until the fines are paid.

RDO Program

Since the last review, the Medical Board of California (MBC) did not issue any citations according to their annual reports. This is a decrease from the last review, when they reported issuing 9 citations from FY 2009/10-2011/12. In the last four fiscal years, MBC collected \$3,275 from citations issued prior to FY 2011/12. Of that amount, \$250 was collected in March 2016 through the FTB intercept program for a 2004 citation.

MBC previously reported utilizing its citation authority to address and resolve complaints related to an unregistered practice, stating that the majority of the complaints involved either an unregistered employee working in a registered dispensing location or a business that operated without being registered. Those cases were resolved through an order of abatement requiring registration.

SB 836 had the same impact on the RDOs as it did on optometrists. Thus, the statutory fee limit increased for BPC § 655 and BPC § 2556.2 violations (SB 836). Fines issued for these violations cannot not to exceed \$50,000. Fines for all other violations are still limited to \$5,000 per investigation.

Fine amounts are issued pursuant to CCR § 1399.276 based on specific BPC section violations. The amounts range from \$100-\$2500.

Cost Recovery and Restitution

Cost Recovery

The Board seeks recovery of all investigative and prosecution costs in all disciplinary cases (pursuant to BPC § 125.3), because the burden for payment of investigation and disciplinary prosecution should fall upon those whose proven conduct required investigation and prosecution, not upon the profession as a whole. Cost recovery can be ordered as a reinstatement condition of a surrendered or revoked license or as a probation condition.

Payment plans are often implemented if individuals cannot pay the total amount in one lump sum. However, probation cannot be completed and a license cannot be reinstated until cost recovery is paid in full.

Since the last review, enforcement expenditures increased by 62%, ordered cost recovery increased 64%, and collected cost recovery by 16%.

According to Board records, \$231,182 in cost recovery has been ordered for revocations and surrenders. Of that, only 21% (\$49,387.71) is being actively collected through probationers on payment plans. Roughly 79% of that (\$181,794.29) was ordered for revocations, surrenders, and probationers who are tolling and is believed to be uncollectable. These licensees only have to repay their cost recovery upon reinstatement or returning to practice in California. The majority of them never return to practice in California; therefore, they have no desire or requirement to pay their outstanding balance.

The Board seeks cost recovery in most cases. Cost recovery is used as a negotiation tool in stipulated settlements. The board may agree to decrease or eliminate cost recovery if it expedites the disciplinary process through settlement. The board does not have the authority to order cost recovery in cases that result in revocation of registration or licensure by default decision.

To date the Board has not used FTB for cost recovery; since cost recovery is ordered upon reinstatement and/or as part of a probation condition, there has been no need to submit to FTB for collection. The license would either not be reinstated or the licensee would violate probation, which would result in subsequent discipline.

Restitution

The Board has no jurisdiction to order restitution unless written into a disciplinary order or stipulated settlement. While the Board does not have a formal restitution policy, we have sought restitution in cases involving insurance fraud. In addition, if the Board obtains evidence of substantial financial harm from a consumer by a licensee, the Board would seek restitution at the hearing or in a stipulated settlement.

Cases involving restitution are rare, however, and many times insurance agencies who discover fraud will allow the optometrist to continue working in order to pay off the debt prior to reporting it to the Board.

Further, in many cases, optometrists will achieve compliance with regard to fee disputes without the need for restitution. Optometrists notified by the Board of a complaint involving a fee dispute over a product or service, will make the complainant whole by refunding their fees paid. These complaints would not be publicly reported, nor would they be considered restitution.

The MBC did not seek cost recovery or restitution in the RDO Program disciplinary cases.

Table 11. Cost Recovery – Optometry

(Dollars in thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Total Enforcement Expenditures	\$287,801	\$478,790	\$345,831	\$95,786
Potential Cases for Recovery *	8	14	5	3
Cases Recovery Ordered	4	12	4	2
Amount of Cost Recovery Ordered	\$33,238.10	\$57,081.25	\$23,647	\$7,975
Amount Collected**	\$31,539.10	\$40,604.99	\$37,016.70	\$11,337

* Cases in which disciplinary action has been taken based on violation of the license practice act.

** Reflects Cost Recovery payments received in that fiscal year. Payments for one Cost Recovery Order may span multiple fiscal years.

Table 11. Cost Recovery – RDO

(Dollars in thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Total Enforcement Expenditures				\$31,257
Potential Cases for Recovery *	1	3	5	3
Cases Recovery Ordered	\$0	\$0	\$0	\$0
Amount of Cost Recovery Ordered	\$0	\$0	\$491	\$0
Amount Collected	\$0	\$0	\$1,633	\$0

* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.

Table 12. Restitution – Optometry

(Dollars in thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Amount Ordered	\$0	\$165.20	\$0	\$0
Amount Collected	\$0	\$165.20	\$0	\$0

Table 12. Restitution – RDO

(Dollars in thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Amount Ordered	\$0	\$0	\$0	\$0
Amount Collected	\$0	\$0	\$0	\$0

Public Information Policies

Meeting Materials and Minutes

The Board's central Internet resource for disseminating information to applicants, licensees, and the public is its Web site. The website features links to the Board's laws and regulations, forms and publications, the BreEZe system, disciplinary actions against licensees, Board activities, newsletters, and links to related professions and associations. The website also offers a feature for individuals to enroll in a Subscriber List which provides an e-mail notification to subscribers when new information is added on the website.

Since the last sunset report, the Board has grown its social media presence through Facebook, Twitter, LinkedIn, Snapchat, Instagram, and Google+. These outlets are used to provide useful information to consumers and licensees as well as keep them apprised of the actions of the Board.

In addition, the Board has recently retooled its outreach efforts with regard to its interested parties email list via the ListServ system. This system allows the Board to contact via email its over 6000 subscribers, to inform them of regulatory hearings, meetings, surveys, etc. This system was not used to its full potential previously, as the messages would come across as simple text documents. However, after meeting with the Medical Board and learning some basic html coding, the Board has redesigned its templates to make them much more professional looking.

Quarterly Board meetings materials are posted at the time the agenda is posted, at least ten days prior to the meeting. Not all committee meetings require materials, but when materials are required, they are also posted to the Board's Web site. These materials remain on the Board's Web site indefinitely.

Draft meeting minutes are not posted to the Board's Web site. Final Board meeting minutes are posted after they are approved at a Board meeting. These minutes remain on the Board's Web site indefinitely.

All quarterly Board meetings and some committee meetings (depending on resources) are webcast. The majority of teleconference meetings are not Webcast. Webcast meetings remain online indefinitely.

Meeting Dates

All quarterly Board meeting dates for the upcoming calendar year are posted to the Board's Web site one year in advance. In the event the Board meets outside of its quarterly scheduled meeting, those dates are posted as soon as the dates are known, but no later than ten days prior to the meeting (unless it's a Special Meeting pursuant to Government Code § 11125). Committees meet on an "as needed" basis pursuant to the Board's Administrative Procedure's Manual, and if they are public, are noticed 10 days in advance of the meeting date in compliance with the Administrative Procedures Act.

Complaint Disclosure Policy

The Board's complaint disclosure policy is consistent with DCA's Recommended Minimum Standards for Consumer Complaint Disclosure to the extent that disclosure of any complaint information will not impede or impair current or future investigations and will not discourage or deter the filing of consumer complaints. The Board posts accusations and disciplinary actions consistent with DCA's Web Site Posting of Accusations and Disciplinary Actions and the provisions of section 27 of the Business and Professions Code.

The Board provides the following information to the public regarding its licensees and registrants:

- licensee's name;
- address of record;
- license status;
- license type;
- issue date;
- expiration date;
- certification; and,
- Disciplinary/enforcement actions.

Consumer Outreach and Education

The Board reaches consumers via its Web site, social media presence, and ListServ. The Board also keeps a list of interested parties to whom it mails physical copies of regulatory and meeting information.

In addition, the Board provides brochures regarding the importance of a comprehensive eye exam, the dangers of illegally sold cosmetic contact lenses, and what to expect at an eye exam. Links to these brochures are available on the Board's Web site.

Further, the Board regularly teams up with DCA's Public Affairs Office and the Publications, Design and Editing to disseminate information via DCA WordPress page and the Consumer Connections Magazine.

Moreover the 2016 staff restructuring will enable the Board to devote more resources to consumer outreach, including reinstating the Board's newsletter.

Online Practice Issues

With technological advancements in the last several years, online refractions are being offered to California consumers. However, to date, none of the services appear to be offered or provided by California optometrists. To the Board's knowledge, all services are currently offered and provided by California licensed ophthalmologists. Thus, those services fall under the Medical Board of California's jurisdiction. However, the Board continues to monitor this issue closely.

In addition, the Board has investigated several cases involving online illegal sales of cosmetic contact lenses. In the past, the Board's jurisdiction was limited, as it did not oversee the RDO Program and those dispensing lenses without proper registration. Now that the Board oversees the RDO Program, the enforcement unit is able to focus on the "whole picture" rather than small parts, strengthening consumer protection in its entirety.

Workforce Development and Job Creation

Workforce Development Actions

The Board serves a key role in developing the California workforce, as it is the only gateway to applicants seeking to enter the optometric and dispensing professions in California. In order to develop the workforce, the Board focuses on verifying applicants possess the required skills and knowledge to provide services to the diverse population of Californians who seek primary eye care services. These efforts include processing applications timely, working with the schools to identify and resolve student concerns when possible, and annual outreach to the schools and colleges of optometry.

In addition, through BreEZe, the Board is developing reports to identify licensing cycle times and deficiencies in relation to the schools. Based on these results, the Board will be able to provide more specific outreach to schools who may have specific deficiency trends (e.g., untimely transcript submittals, test scores, fingerprint data, etc.). Through increased communication up front, the Board will be able to improve its licensing cycle times, which increases California's workforce quicker and more efficiently.

License Barriers

The Board continues to analyze its licensing and registration requirements (in statute and regulation) to identify any unnecessary barriers to licensure. Removing these barriers equates to increased workforce development and patient access to care. In January 2016, several Board sponsored and/or supported bills took effect, removing some of these barriers. For example, a barrier to obtain a Therapeutic Pharmaceutical Agents (TPA) certification was removed and replaced with an attainable, yet equitable, pathway (Board Sponsored AB 1359). Through SB 800, license barriers to out of state applicants were removed while still ensuring minimum competencies are met and consumer protections remained. Pathways were clarified for retired optometrists seeking to volunteer their services, which enhanced consumer protection (AB 1253).

License mobility (i.e., out-of-state applicants) is another area the Board is analyzing. This national issue was discussed during the 2016 Association for Regulatory Boards of Optometry (ARBO) meeting. After attending this meeting, the Executive Officer identified other state Boards' policies regarding this issue; the Board will continue to analyze this topic in order to remove barriers while still protecting California consumers.

In relation to the RDO Program, the Board believes an in depth analysis is need of the current statutes and regulations related to registrations under the RDO Program. The majority of the applicable laws have not been

updated since their conception several decades ago. Once the Dispensing Optician Committee is filled, it will be tasked with assisting in this effort.

Impact of Licensing Delays

Licensing/registration delays adversely affect the public's ability to have their eye care needs met in a swift and professional manner by competent eye care professionals, the optometric and dispensing profession, and the individual licensees'/registrants' ability to make a living.

As such, the Board continuously assesses its licensing processes in order to be as efficient as possible and prevent any unnecessary delays. As part of the Licensing Unit restructuring, several process improvements have been implemented and many regulatory changes are pending.

Student Outreach

As mentioned above, the Board visits California schools and colleges of optometry annually to educate the third year students about licensing requirements, processes, and the Board in general. The Board used to visit fourth year students; however, since many students apply near the beginning of their fourth year, by the time the Board presented, many of them had already started (and nearly completed) the application process. Therefore, the Board believed presenting to the third year students was more effective.

While presenting to California students is important, its effectiveness is limited to California students. In order to improve its educational student outreach, the Board is currently exploring ways to reach students on a broader scale; this includes building strong working relationships with the Association of Schools and Colleges of Optometry (ASCO) as well as schools and colleges throughout the country. The Board is also identifying ways to record presentations and post them online for all students as well as annually distributing to all schools and colleges.

Attending the 2016 ARBO Annual meeting enabled the Executive Officer to start working with deans from other state colleges to enhance the Board's educational student outreach. Participating in ARBO and other national meetings, such as ASCO's meeting, is essential to improving these educational efforts.

Workforce Development Data

As reported in the last review, the Board does not current collect workforce development data. However, this was another national topic discussed during the 2016 ARBO meeting. After attending, the Executive Officer identified ways to start collecting this data. The Board is currently researching ways to incorporate an optional workforce data survey into the renewal process. Licensees/registrants would have the option to complete the survey as part of their online renewal, but they will not experience any renewal delays should they choose not to participate.

Current Issues

Uniform Standards and Consumer Protection Enforcement Initiative (CPEI)

The Board has incorporated the Uniform Standards for Substance Abusing Licensee to its disciplinary guidelines. On February 27, 2013 the Office of Administrative Law approved the rulemaking package. The regulations become effective on April 1, 2013.

In 2014, the Board approved a portion of the CPEI and moved forward with proposed regulations dealing with unprofessional conduct. The regulatory proposal would give the Board authority to require an applicant to be examined by one or more physicians and surgeons, or psychologists designated by the Board, if it appears that the applicant is unable to practice optometry safely due to a mental or physical illness. The rulemaking file was noticed January of 2015 and has been submitted for approval of the Office of Administrative Law.

During the November 2015 Board meeting, the Board approved the rulemaking package to delegate certain functions to the executive officer, including continuing education course approval, extension/exemption approvals accepting default decisions. Staff is currently working on preparing the rulemaking package for the Office of Administrative Law to publish.

BreEZe Development and Implementation

The Board was part of Release 2 of the BreEZE project, which went live on January 19, 2016. According to the BreEZe team, the Board had one of the most successful launches into the BreEZE system. This can be directly attributed to the Board's active participation in design, configuration, and testing of the BreEZE system. The Board, along with the BreEZE team, has completed 514 requests, with 23 requests currently pending.

The Board will continue to help improve the BreEZe system by soliciting feedback and suggestions from consumers, applicants, licensees, and staff. This will ensure that the system will get better with time, and will increase the methods in which it can facilitate Board processes.

In addition, the Board is currently processing RDO applications in the BreEZe system under the MBC's domain. DCA's Office of Information Services (OIS) team is working with the Board to move the RDO Program from the MBC to the Board's domain. The effort can best be summarized as a mini-BreEZe Project for DCA and the Board as it involves creating four new license types within the Board – effectively doubling the Board's BreEZe footprint.

This effort is being led by the DCA OIS team with the assistance of the BreEZe vendor. This is the OIS Team's first foray into leading an effort of this scope. The positive progress so far is encouraging and successful completion of this project will represent a major milestone in knowledge transfer from the BreEZe vendor to State staff.

The project is scheduled to complete in April of 2017; however, BreEZe resources are extremely taxed which makes the RDO effort susceptible to delay should critical emergencies arise that divert resources. Once implemented, all applicants will be able to apply and renew online. Cycle times are also expected to decrease significantly.

Board Action and Response to Prior Sunset Issues

ISSUE #1: What is the status of the occupational analysis for optometric assistants?

2012 Committee Concerns and Recommendation:

The underlying concerns stemmed from the lack of implementing SB 929 (Polanco, Ch. 676 Stats. 2000) which expanded the scope of practice for optometrists and optometric assistants through regulations. In line with the recommendations made during the 2002 Sunset Review hearing, the Committee recommended that the Board take immediate action to conduct the occupational analysis.

2012 Board Response:

The Board agreed with the Committee recommendations, stating it would work with DCA to secure funds for the occupational analysis of optometric assistants. Expected outcomes included developing regulations to implement the analysis' recommendations, or the need to create a certification process under the Board's oversight for optometric assistants. The latter outcome would require legislation and a permanent Staff Services Analyst.

Board Action and Recommendation:

The Board was unsuccessful in securing funds through the BCP process. However, the Board requests Committee reconsideration of the occupational analysis of optometric assistants. In light of legislative and regulatory amendments made since SB 929 (described below) and the current pursuit of an OA of optometrists and the National Board of Examiners in Optometry (NBEO) examination, the Board believes there is adequate consumer protection without pursuing an OA specific to optometric assistants.

While it wasn't mentioned in the 2012 Sunset Report, optometric assistants were addressed again in 2010 through AB 2683 (Hernandez). That bill did the following:

- Authorized an assistant to fit prescription lenses and perform those additional duties in any setting where optometry or ophthalmology is practiced, under the direct responsibility and supervision of a physician and surgeon, optometrist, or ophthalmologist, respectively
- Defined "setting" for purposes of this provision to include, without limitation, any facility licensed by the State Department of Public Health or the State Department of Social Services.
- Made conforming changes to related provisions.

The analysis stated the following:

Use of Assistants. This bill was amended on May 17, at the request of the California Medical Association to clarify that assistants under the direct oversight of an ophthalmologist or optometrist may carry out certain tasks and functions in any setting where ophthalmology or optometry is practiced. Formerly, the law specified that these assistants may carry out these functions in the office of a physician and surgeon or optometrist.

Writing in support of these amendments, the Chairman of the UC Davis Eye Center states that ophthalmology practices have traditionally employed specialized ophthalmic technicians who are not usually formally trained as medical assistants, but have training that is specifically relevant to eye care. In order to provide efficient and affordable health care, amendments were made by SB 929 in 2000, which authorized assistants to administer medications under the direct supervision of a physician and surgeon or optometrist. Since that time, however, the Department of Public Health has interpreted that amendment as not applying to practice operating in hospital-based clinics, which are under its licensing jurisdiction. Prohibiting supervised technicians from administering drops under direct supervision “greatly impairs our ability to render care in an efficient and cost-effective manner. Moreover, the nature of the practice in academic health centers which often care for larger numbers of patients with more serious health problems seriously impairs our ability to care effectively.”

“The care delivery activities involved in practicing ophthalmology and optometry are no different when performed in a hospital-based clinic compared with a private office. Given that technicians have been administering these medications for decades in private offices (and indeed in hospital-based clinics for nearly that long until the recent DPH challenge) without known issue, this clarification in law only serves to restore what had reasonably been intended in the first place.”

In addition, optometrists’ scope of practice expanded in 2010 (AB 1164) and 2013 (AB 761), which included additional educational requirements set forth in BPC § 3041 and CCR § 1571. Everything an optometric assistant can perform must be done under the “direct responsibility and supervision of an ophthalmologist or optometrist.” If any violations occur, the optometrist is held accountable. The legislature and the Board have enhanced optometrists’ educational requirements as scope expanded. Further, the Board is currently pursuing funds to perform an occupational analysis of the optometric profession and the National Board of Examiners in Optometry (NBEO) examination. That analysis will include optometrists’ current knowledge and supervision level of optometric assistants. Based on the result of that OA, the Board would have more information to see if the current structure is sufficient or if additional regulations are needed for the optometric assistants.

ISSUE #2: Should the Board check the Health Integrity and Protection Databank (HIPDB) and the National Practitioner Databank (NPDB)?

2012 Committee Concerns and Recommendation:

The Committee was concerned with the protection of the public and the effective operation of the profession. The Committee believed it was imperative that methods, such as utilizing the NPDB and HIPDB, be employed to thoroughly examine a potential licensee’s professional background and criminal history. As a result, the Committee recommended the Board work with DCA to ensure that it is provided the funds to apply for the NPDB and HIPDB.

2012 Board Response:

The Board agreed with the Committee’s recommendation and stated it would work with DCA’s Budget’s Office to determine the best method in obtaining the necessary resources – indicated that may include drafting additional BCPs for funds and staffing, or increasing licensing fees which would require statutory and regulatory authority.

The Board stated it would also research if other DCA healing arts board are using these databases and inquire as to their methods for funding.

In addition, the Board proposed an “interim solution” which was to continue the status quo by subjecting applicants to background and criminal history checks by submitting fingerprints to DOJ and the FBI and requiring a letter of good standing from out-of-state applicants.

Board Action and Recommendation:

The Board was unsuccessful in securing funds for the NPDB. However, in May 2013, the HIPDB merged with the NPDB; information previously disclosed through the HIPDB is now collected and disclosed through the NPDB. With this merge, the cost went from \$6.50 per licensee per year to \$3.00.

Although the Board was unsuccessful in securing funds through the BCP process, it began submitting out of state applicants through NPDB's continuous query (meaning the Board receives automatic notifications for reports rather than a one-time query) in October 2015 and is absorbing the costs. In October 2016, costs will be reduced to \$2.00 per licensee per year.

While the Board is able to absorb the costs for out-of-state applicants now, it believes the public is better protected if all licensees are submitted through NPDB's continuous query program. Many applicants become licensed in other states *after* receiving a license in California. The Board would not know to submit those individuals to the NPDB. In addition, if an applicant does not disclose he/she is licensed in another state (where they have been disciplined), the Board would not know to check NPDB.

Though reporting agencies are required to notify the Board when an action is taken, that information, it is very rare and it could be years after the action was posted. Further, those agencies would have to know if the optometrists are licensed with the Board. If other states were not notified of licensure in California, they would never know to notify the Board.

Currently, there could be several licensees who have been disciplined in another state without the Board's knowledge. This poses a threat to public safety, because those optometrists who have been disciplined in another state may be practicing in California, despite having been deemed a threat to public safety in another state.

In the future, in order to fund submitting each applicant and licensee through the continuous query, the Board would need to increase its initial application fee \$2.00 and renewal fee \$4.00.

ISSUE #3: What has led to the time lag in cases referred to the Attorney General?

2012 Committee Concerns and Recommendations:

The Committee was concerned that the Board's target timeframes are still being exceeded by a significant quantity. The Committee was also concerned with the potential harm to the public that may be incurred if an unscrupulous licensee continues to practice during a lengthy disciplinary case review by the Attorney General. Therefore, the Committee recommended that the Board specify what additional measures can be taken to expedite processing of enforcement cases.

2012 Board Response:

The Board responded by explaining the enforcement process and all instances enforcement cases are out of the Board's hands. In addition, the Board mentioned the difficulty tied to the lack of educated investigators and subject matter experts. The Board also stated it had a "statistical disadvantage" due to the smaller discipline caseload compared to other Boards "wherein one or two abnormally lengthy investigations are not sufficiently balanced by a number of more expedient investigations." The Board explained it created a timeline guide for follow up with agencies it cannot otherwise control. The Board also anticipated transitioning to BreEZe during FY 20/13-14.

Board Action and Recommendation:

The Board's Enforcement Unit completely restructured in FY 15/16. While it experienced turnover, vacancies, and participated in BreEZe, the Board's restructure focused on capitalizing on its current resources by dramatically changing duty statements and reclassifying enforcement positions.

Will add more

ISSUE #4: Should the Board be granted the authority to inspect an optometrist's practice location?

2012 Committee Concerns and Recommendation:

The Committee agreed that the Board's enforcement unit should be granted the authority to inspect an optometrist's practice location. However, the Committee noted the Board's inability to carry out its current enforcement duties due to budget constraints and a lack of staff. Thus, the Committee requested the Board provide a plan for increasing the workload of its enforcement officers considering the existing budget and staffing constraints.

2012 Board Response:

In order for the Board to successfully implement inspections in a way that would benefit public safety, the Board would need to seek statutory authority. That proposal would also need to include a request for a new position. The new position would have to be an inspector classification, and the candidate would need to be an optometrist. The current staff at the Board is not qualified to perform inspection duties because they are not optometrists and are needed to perform the job duties they currently have. If current staff were to attempt to take on this increased workload, it would cause a negative ripple effect on all enforcement activities because current duties would be neglected.

For example, enforcement processing timelines would increase which would result in less public protection. Also, since they are not specialists in practice related issues like an actual optometrist, it would be a waste of resources because they would not be as effective as an optometrist. The Board of Pharmacy uses pharmacists in their investigation program, and the Board would most benefit from following the same model.

If the Board were to receive inspection authority, a BCP would need to be submitted to obtain the inspector position and spending authority, or an augmentation to its budget line to contract with an optometrist to conduct inspections.

In the meantime, the Board plans to continue handling cases that require an investigator the same way they have been handled in the past. That involves enforcement staff conducting a desk investigation and identifying the types of violations that require an inspection. Then, Board staff requests that investigator be sent into the field from the Department of Investigation (DOI). If DOI needs an optometrist to develop an investigative plan, one of the Board's experts will be called upon to assist. These services are most commonly used when an optometrist is on probation for reasons such as insurance fraud, violation of infection control guidelines, etc.), or in the investigation of a complaint. DOI typically needs a subpoena to go into an optometrist's office to inspect in this manner.

The Board will also meet with other healing arts boards that currently have inspection authority to learn about and evaluate their programs. Based on the information collected from other programs, the Board may develop a legislative proposal to obtain inspection authority for the profession of optometry.

The primary intent of exploring this issue further is so that the Board can increase consumer protection; be more efficient and effective; reduce investigation timelines; and remove its dependence on outside agencies for assistance, which oftentimes contribute to increased timelines.

In addition to the areas identified in the background of this issue, the Board has yet to consider other situations that would warrant an inspection, whether inspections will only be conducted when there is cause and substantial evidence is provided, if inspections will be random or scheduled yearly similar to continuing education audits, etc.

Board Action:

AB 684 granted the Board inspection authority to inspect locations where an optometrist and RDO were co-located. SB 836 expanded that scope to wherever optometry was being practiced. The Board is researching inspection programs within DCA to determine best inspection implementation methods given its limited resources. In addition, the Board is working with DCA to determine the best way to track inspections within the BreEZe system. One of the enforcement positions was re-classified to a higher level analyst in order to help develop and implement the Board's inspection program.

ISSUE #5: Why was the Board's budget change proposal (BCP) denied?

2012 Committee Concerns and Recommendations:

The Committee was concerned about the Board's ability to regulate the profession as it had limited staff which prevented them from performing essential tasks that will help ensure consumer protection. The Committee recommended the Board inform the Committee of its plan to continue carrying out its various duties if no additional staff is allocated for the Board. The Committee also suggested exploring the possibility of hiring temporary or part-time staff to assist with completing critical tasks.

2012 Board Response:

The Board agreed with the Committee's recommendation to hire temporary or part-time staff to assist in the completion of critical tasks, but stated it already explored this option, but did not have the funding. The Board provided a long list of actions to take, including, but not limited to, allowing overtime, reviewing and reassigning duties, conducting a workload study, assist with BreEZe, and pursue BCPs.

Board Action:

As mentioned above, the Enforcement Unit has completely restructured in hopes to maximize efficiencies within the unit. Positions were re-classed, duties were reassigned, and processes were changed. In addition, overtime is being offered to help address the backlog. Once fully staffed and trained, the Board anticipates significant improvements in the Enforcement Unit. This will be demonstrated by fewer pending cases and shorter cycle times.

ISSUE #6: License portability for military personnel and their spouses.

2012 Committee Concerns and Recommendations:

The Committee encouraged licensing boards to examine their ability to exempt licensees from CE and licensing fee requirements during duty as well as waiving any licensing fees that have accrued upon the end of their duty term. The Committee was also supportive of standards for granting temporary licenses or expediting the licensing process for military spouses. Therefore, the Committee recommended the Board make every attempt to comply with BPC § 115.5 in order to expedite licensure for military spouses. In addition, the Committee recommended the Board consider waiving the fees for reinstating the license of an active duty military licensee.

2012 Board Response:

The Board agreed with the Committee and was also supportive of the Federal and State efforts to assist licensed military personnel and their family members. The Board currently complies with BPC § 114 and 115, which requires the Board to reinstate the license of an optometrist without examination or penalty, who's license expired while he or she was on active duty in the California National Guard or the United States Armed Forces. In addition, California Code of Regulations (CCR) section 1536(i)(1) requires the Board to exempt licensees in the regular armed forces of the United States from continuing education requirements.

The Board is already complying with BPC §115.5 and has posted on its website information educating licensees about this option. This information was also sent to the Board's interested parties e-mail list and posted on the Board's Facebook and Twitter pages. While these applicants will still need to meet the requirements for licensure and ensure that the application is completed correctly, their applications for licensure will be processed before other pending applicants.

Board Action:

Several military bills have passed over the past few years. The Board is working with DCA to implement all new changes in the BreZE system. In addition, the Board's revised license application includes all new military questions for compliance with the applicable bills.

ISSUE #7: Should the current Board continue to license and regulate ODs?

2012 Committee Recommendation:

The Committee recommended that ODs continue to be regulated by the current Board and be renewed again in four years.

2012 Board Response:

The Board agreed with the Committee's recommendation.

Board Action and Recommendation:

The Board recommends optometrists (and registrants within the RDO Program) continue to be regulated by the current Board and be renewed again in four years.

New Issues

Unaddressed Issues from Prior Review

The Board has addressed all issues from the prior review.

New Issues Identified by the Board

The Board has identified the following new issues facing the Board:

Organizational Realignment

- a. On-going operational integration of Registered Dispensing Opticians into the State Board of Optometry structure, such as licensing, enforcement and dispute resolution
- b. Constitute and onboard the Dispensing Opticians Committee, beginning with the launch of the advisory committee and establishing a regular cadence of interaction with the Board
- c. Acknowledge the governance implications of United States Supreme Court's *North Carolina* decision and, if requested, work with the Legislature to develop an operational framework that honors its consumer protection obligation while retaining a level of technical expertise.
- d. Move the RDO Program's registration expiration and renewal authority from the Medical Practice Act (BPC § 2420 and 2423) to the applicable RDO statutes.
The Board notes that with the exception of items c and d, these objectives will not require legislation.

Access to Quality Eye Care

- a. Sponsor and continue support of the legislation enacting Children's Vision initiative, focusing on eye examinations for children
- b. Develop an understanding of the future role of mobile/portable clinics in meeting the optometric needs of Californians across all demographic and economic reaches
- c. Examine alternative methodologies for the delivery of optometric and dispensing services to promote access to optometric services in the most underserved parts of California

Technology and Innovation

- a. In collaboration with other appropriate DCA boards, evaluate online and kiosk refraction practices and other emerging technologies to determine the next steps to promote consumer protection and care.
- b. Assess technological advances in optometric health care with an emphasis on evaluating the operative standard of care wherever these services are provided.
- c. Educate members of the public and Board of Optometry members and staff regarding telemedicine and concierge services in the medical arena as health care insurance programs and others include these services in their plans, including, but not limited to, on-site care at business facilities and locations

New or Emerging Business Models in Optometric Care

- a. Develop a better understanding of new business models for the delivering eye care, including mobile/portable clinics, telemedicine products, innovative technology and other practices seeking entry to the California marketplace and how consumer protection may be impacted
- b. Identify potential impacts to consumer health and safety, and explore partnership with other public entities as appropriate to ensure the protection of consumers in the state

Professional and Technical Excellence

- a. Review pathways to licensing and remove all unnecessary impediments such that all qualified applicants are licensed promptly.
- b. Develop and implement a real-time electronic database to store continuing education (CE) credits acquired by licensees such that they may renew their licenses quickly and efficiently and the Board can be assured that the necessary credits have been obtained.
- c. Pursue legislative authority to process all licensees/registrants through appropriate consumer protection mechanisms, such as the National Practitioner's Data Bank, to validate disciplinary history pre and post licensure.
- d. Assess and clarify existing statutes, such as BPC § 3030 (effective January 1, 2017), to streamline enforcement process and strengthen consumer protection.
- e. Assess and remove unnecessary license barriers, such as BPC § 3057(a)(6), while still adequately protecting the health and safety of California consumers

New Issues Not Previously Discussed

None

New Issues Raised by the Committees

Issues pending Committees review.

Sunset Attachments

- A. Board's administrative manual.
- B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).
- C. Major studies, if any (cf., Section 1, Question 4).
- D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).
- E. Enforcement Quarterly and Annual Performance Measures