

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

MEMBERS OF THE BOARD

Lillian Wang, O.D., President
Jeffrey Garcia, O.D., Vice President
Eunie Linden, J.D., Secretary
Stacy Bragg, O.D.
Robert Klepa, J.D., Public Member
Joseph Pruitt, O.D.
Sandra D. Sims, J.D., Public Member
Paul Hsu, Public Member
Vacant Governor Appointee, Public Member
Vacant Governor Appointee, Professional Member
Vacant Governor Appointee, Professional Member
Gregory Pruden, Executive Officer



BOARD MEETING AGENDA

Friday, August 25, 2023

Time: 10:00 a.m. to 4:00 p.m. or until completion of business

PUBLIC WEBEX MEETING

Link:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m408996c410b813aa904c3e3784d98ce0>

If joining using the link above

Webinar number: 2493 694 3978

Webinar password: CSBO08252023

If joining by phone

+1-415-655-0001 US Toll

Access code: 249 369 44978

Passcode: 27260825

PHYSICAL LOCATION:

Department of Consumer Affairs

Hearing Room

1625 North Market Blvd.

Sacramento, California 95834

The California State Board of Optometry (CSBO) will hold a public meeting via in-person and via the Webex platform.

Members of the public may, but are not obligated to, provide their names or personal information as a condition of observing or participating in the meeting. When signing into the Webex platform, participants may be asked for their name and email address. Participants who choose not to provide their names will need to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address like in the following sample format:

XXXXX@mailinator.com

To avoid lack of access due to potential technical difficulties, please consider submitting written comments via email prior to the meeting:

optometry@dca.ca.gov

Action may be taken on any item on the agenda.

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

2. Public Comment for Items Not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections [11125](#), [11125.7\(a\)](#)].

3. Discussion and Possible Approval of Meeting Minutes

A. May 12, 2023 Board Meeting

4. Board President's Report

A. Welcome New Board Members

B. Discussion on Board Committee Membership

C. 2023 ARBO Meeting Delegate Report from former Board Member Glenn Kawaguchi

5. Department of Consumer Affairs Update

A. Executive Office

B. Budget Office

i. Fund condition

C. Presentation from DCA OPES re: Occupational Analysis of the Optometric Assistant Profession and Scope of Practice of Opticianry

6. Executive Officer's Report

A. Program Update

B. Enforcement Program

i. Statistical Review, Quarter 4, Fiscal Year 2022-2023

ii. Continuing Education Audit Statistics

C. Examination and Licensing Programs

i. Statistical Review, Quarter 4, Fiscal Year 2022-2023

D. Regulatory Update

i. Mobile Optometric Office

ii. Continuing Education

iii. Implementation of AB 458

iv. Optometry Disciplinary Guidelines

v. Optician Program Omnibus Regulatory Changes

vi. Dispensing Optician Disciplinary Guidelines

vii. Requirements for Glaucoma Certification

7. Discussion and Possible Action on Legislation

A. AB 1028 (McKinnor) Reporting of crimes: mandated reporters

B. AB 1570 (Low) Optometry: certification to perform advanced procedures

C. AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law

- D. SB 340 (Eggman) Medi-Cal: eyeglasses: Prison Industry Authority
- E. SB 457 (Menjivar) Vision care: consent by a minor
- F. SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing

8. Consideration and Possible Action on Legislative Proposal to Encourage Optometrist Licensees to take Continuing Education in Diversity, Equity, Inclusion, and Belonging.

9. Future Agenda Items

CLOSED SESSION

10. Pursuant to Government Code §11126(c)(3), the Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters

ADJOURNMENT

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

Action may be taken on any item on the agenda. Items may be taken out of order for any reason including to accommodate speakers, for convenience, or to maintain a quorum. Meetings of the California State Board of Optometry and its committees are open to the public except when specifically noticed otherwise in accordance with the Bagley-Keene Open Meeting Act. Public comments will generally be taken on agenda items at the time the specific item is raised. Please respect time limits, which the Board President may request on an as-needed basis to accommodate all interested speakers and the full agenda.

The meeting is accessible to persons with disabilities. To request disability-related accommodations, use the contact information below. Please submit your request at least five (5) business days before the meeting to help ensure the availability of the accommodation.

Contact Person: Erica Bautista
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
916-575-7170
Erica.Bautista@dca.ca.gov



ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | August 25, 2023 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Lillian Wang, O.D., President |
| SUBJECT | Agenda Item #1 – Call to Order, Roll Call, and Establishment of a Quorum |

Board President Lillian Wang will call the meeting to order. Please note the date and time for the record.

Board Secretary Eunie Linden will call roll to establish a quorum of the Board.

1. Lillian Wang, O.D., President
2. Jeffrey Garcia, O.D., Vice-President
3. Eunie Linden, JD, Secretary
4. Stacy Bragg, O.D.
5. Paul Hsu
6. Robert Klepa, J.D.
7. Joseph Pruitt, O.D.
8. Sandra D. Sims J.D.



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | August 25, 2023 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Lillian Wang, O.D., President |
| SUBJECT | Agenda Item #2 – Public Comment For Items Not on the Agenda |

The Board welcomes public comment for items not on the agenda.



ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Eunie Linden, J.D., Board Secretary |
| SUBJECT | Agenda Item #3 – Discussion and Possible Approval of Meeting Minutes |

The following meeting minutes are presented for discussion and possible approval:

- A. May 12, 2023 minutes

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

MEMBERS OF THE BOARD

Lillian Wang, O.D., President
 Jeffrey Garcia, O.D., Vice President
 Eunie Linden, J.D., Secretary
 Stacy Hancock, Optician
 Glenn Kawaguchi, O.D.
 Mark Morodomi, J.D., Public Member
 Joseph Pruitt, O.D.
 Jonathon M. Ross, O.D.
 Sandra D. Sims, J.D., Public Member
 Donald Yoo, J.D., Public Member
 Vacant Governor Appointee, Public Member



Gregory Pruden, Executive Officer

BOARD MEETING DRAFT MINUTES

Friday, May 12, 2023

**Department of Consumer Affairs
 Hearing Room
 1625 North Market Blvd.
 Sacramento, California 95834**

| Members Present | Staff Present |
|------------------------------------|---|
| Lillian Wang, O.D. (In-person) | Gregory Pruden, Executive Officer (in-person) |
| Jeffrey Garcia, O.D. (remote) | Randy Love, Administration and Licensing Manager (remote) |
| Stacy Hancock, Optician (remote) | Joely Walker, Enforcement Program Manager (in-person) |
| Glenn Kawaguchi, O.D. (remote) | Terri Villareal, Enforcement Lead (in-person) |
| Mark Morodomi, J.D. (remote) | Brad Garding, Enforcement Analyst (remote) |
| Joseph Pruitt, O.D. (remote) | Cricket Borges, Enforcement Analyst (remote) |
| Sandra D. Sims, J.D. (remote) | Jonathan Gasca, Policy Analyst (in-person) |
| Jonathon M. Ross, O.D. (in-person) | Eric Baustista, Administrative Analyst (remote) |
| | Kathleen Gregorio, Licensing Technician (remote) |
| | Monica Peterson, Licensing Analyst (remote) |
| | Pink Crosby, Enforcement Technician (remote) |
| | Elizabeth Dietzen-Olson, Legal Counsel (in-person) |
| | Brittany Ng, Legal Counsel (remote) |
| Members Absent | Guests |
| Eunie Linden, J.D. | On File |
| Donald Yoo, J.D. | |

Open session of this Board Meeting was webcast.

A recording of the webcast is available at:

Part 1: https://youtu.be/27QJCRXECW0?list=PLAGnBcqB9ibsZa10FNv-W_X8SNphuH3HY

Part 2: https://youtu.be/Tpz5RRn7H3Q?list=PLAGnBcgB9ibsZal0FNv-liW_X8SNphuH3HY

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

Audio of Discussion: [0:20](#)

Member Lillian Wang called the meeting to order at 10:00 a.m. In Member Eunie Linden's absence, Member Jeffrey Garcia took roll call and a quorum was established.

2. Public Comment for Items Not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections [11125](#), [11125.7\(a\)](#)].

Audio of Discussion: [1:16](#)

There were no comments from Members.

Public comment was heard from Dr. Doug Major, O.D. representing Children's Vision Now Coalition. The coalition is still working closely with the Department of Health Care Services and particularly spoke a number of times with the department head, Michelle Bass, and the head of CalAim. Dr. Major expressed disappointment that after a lot of work they included one line regarding vision care in their 300-page report. He noted Senate Bill (SB) 340 regarding Medi-Cal vision benefits is in the Senate Appropriations Committee with zero opposition, and Senator Eggman has done a great job. The coalition's goal is to ensure that children are receiving the vision care that they need. Dr. Major also commented on AB 236 (Holden) regarding updating provider directories and made the point that the directories should distinguish between those who provide exams and those who provide glasses. He invited anyone who is interested to join their team. He noted that they have good momentum going this year but they do need help.

3. Board President's Report

A. Board Officer Elections

B. Commemorate Departing Board Members

Audio of Discussion: [4:54](#)

Member Wang took a few minutes to recognize a past Board member, Dr. Kenneth Lawenda, O.D., who recently passed away. Dr. Lawenda was an optometrist, a regulatory specialist, and a consultant to many in the eye care field. He was a leader who was passionate about legislation and service.

Executive Officer Gregory Pruden read the election nominations into record. Member Wang was nominated by Member Garcia. Members Garcia and Linden were nominated by Member Wang. All nominations were accepted.

There were no requests for public comment.

Glen Kawaguchi moved to elect the Board officers as nominated here today, Lillian Wang for President, Jeffrey Garcia for Vice President, and Eunie Linden for Secretary for a one-year term beginning July 1, 2023. Mark Morodomi seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

Four Members with expired terms will be departing from the Board. These four Members are Stacy Hancock, Dr. Jonathon Ross, O.D., Mark Morodomi, and Dr. Glenn Kawaguchi, O.D. Member Wang presented certificates of appreciation and commemorative words to each of these departing Members.

4. Department of Consumer Affairs Update

- A. Executive Office
- B. Budget Office
 - i. Fund condition

Audio of Discussion: [16:38](#)

Brian Clifford, Manager with the DCA Executive Office, provided an update. In honor of Public Service Recognition Week, he thanked Members and staff for all of their hard work.

Mr. Clifford provided a Diversity, Equity, and Inclusion (DEI) update. The Department's DEI Steering Committee (comprised of 12 executive leaders from the DCA, boards, and bureaus) has been working on several items, including the strategic planning process and the training and development of an informational DEI fact sheet, which was distributed to board leadership. The DCA's strategic planning has been updated to embed DEI into the process, which includes a survey, a DEI section in the environmental scan, video messages, and a brief training video. The DCA SOLID team will be reaching out to executive officers to develop or update new strategic plans.

Mr. Clifford advised that there are two DCA wide mandated trainings for 2023, which include sexual harassment prevention (SHP) and information security awareness training. All DCA employees and appointees (including board and advisory council members) will need to complete the sexual harassment training this year. Board members are required to take the two-hour supervisory training, and advisory council members must take the one-hour non-supervisory training. He announced that legislation was recently introduced (SB 544) which removes certain teleconference requirements from the Open Meeting Act. This bill was recently amended to do the following: require members of a state body participating remotely to disclose whether any individuals who are 18-years or older are present in the room at the remote location and the general nature of the members relationship with those individuals. It also requires the bodies to end or adjourn a meeting upon discovery that a means of remote participation required by the bill has failed and cannot be restored. This bill does not contain an urgency clause and would not take effect until January 1, 2024. Board and bureaus should be prepared to conduct public meetings in person, beginning July 1, 2023. On January 5, 2023, a federal law took effect that

enabled service members and their spouses who have professional licenses in a different state to practice in California within the same professional discipline and at a similar scope of practice if they are required to relocate to California due to military orders. Since becoming aware of the new law, DCA has been collaborating with the (Business, Consumer Services and Housing) Agency on how to best implement it. DCA will share information as it becomes available. Finally, DCA submitted its 2022 annual report to the Legislature, and this report is now available on DCA's homepage.

There were no requests for public comment.

Veronica Hernandez, DCA Budget Analyst, provided the Board's expenditure projections and fund condition statement. The Board's expenditure projections are based on actual data through fiscal month 9 (March through the remainder of the fiscal year). The Board had a beginning budget of just over \$4 million year-to-date (YTD) and expended approximately 2 million and is expended to spend a total of 2.9 million. This will create a reversion for the Board's fund of just over \$1.1 million or 28.54%. The fund condition statement shows the Board had a beginning adjusted balance of just over \$2 million. The Board collected \$2.5 million in revenue, expended \$2.4 million and ended 2021-2022 with just over \$2 million as a reserve balance equating to 7.9 months in reserve. For the current year, the Budget Office is projecting the Board to bring in approximately \$2.5 million in revenue, expend approximately \$3 million between authorized expenditures and direct draws, leaving the Board with a fund balance of just over \$2.6 million, which is 7.5 months in reserve. In budget year, revenue is projected to come in just under \$3 million at \$2.87 million. Expenditures are projected at full appropriation, reducing the reserve balance to 3.5 months by the end of FY 23-24. The Budget Office will continue to monitor the Board's revenue and expenditures and report back to the Board with monthly expenditure projections as fiscal months are closed in the current year.

One of the main factors driving the expenditure increases in future years is a result of personnel service adjustments, including general salary increases as well as employee compensation, and retirement rate adjustments. The Budget Office includes an ongoing 3% increase to expenditures on the fund condition statement to account for the ongoing incremental adjustments. The fund condition does not include any future increased licensing or enforcement expenditures, which could result in additional costs to the Board's fund in out years by requiring additional resources to support the increase. Ms. Hernandez noted that any future legislation or anticipated events could result in the Board's need for additional regional resources, which include increased pressure to the fund. The Budget Office will continue to monitor the Board's fund condition statement and keep a line of communication with the Board's executive staff for any future needs or expectations.

Member Morodomi asked about the reason for the big jump in expenditures, which increased from \$2.86 million to over \$4 million. Mr. Pruden explained that the \$2.86 million is what the Board is projected to spend through the year ending June 30. The \$3.1 million is the actual total expenditures the Board is projected to spend at the end of this FY ending, June 30. The \$4.2 million is what the Board is authorized to expend if the Board fully expends its budget. The Board is holding positions vacant and realizing significant salary savings. This is the reason why the actual spending this year is about \$1 million less than what the authorized expenditures could be under the Governor's budget.

There were no requests for public comment.

5. Discussion and Possible Approval of Meeting Minutes

A. March 17, 2023 Board Meeting

Audio of Discussion: [34:02](#)

There were no requests for public comment.

Glenn Kawaguchi moved to approve the minutes of the March 17, 2023, Board meeting as written. Mark Morodomi seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

6. Executive Officer's Report

A. Program Update

B. Enforcement Program

i. Statistical Review, Quarter 3, Fiscal Year 2022-2023

ii. Continuing Education Audit Statistics

C. Examination and Licensing Programs

i. Statistical Review, Quarter 3, Fiscal Year 2022-2023

D. Regulatory Update

i. Mobile Optometric Office

ii. Continuing Education

iii. Implementation of AB 458

iv. Optometry Disciplinary Guidelines

v. Optician Program Omnibus Regulatory Changes

vi. Dispensing Optician Disciplinary Guidelines

vii. Requirements for Glaucoma Certification

Audio of Discussion: [37:01](#)

Mr. Pruden introduced Sarah who will be the Board's new Budget Analyst. He announced that the Board has recently filled two of the vacant positions, an enforcement SSA position and a licensing SSA position. Monica Peterson has filled the licensing SSA position. She will be working on both opticianry and optometry items. On March 24th, staff welcomed Elizabeth Dietzen-Olsen, the Board's new regulatory counsel.

At the March Board meeting, Mr. Pruden reported on the Board's partnership with the Department's Organizational Improvement Office. In February of this year, an anticipated year-long project to review and evaluate all the Board's business processes began. The goal is to identify opportunities for efficiency and best practices across our licensing, enforcement, and administrative units. To date, staff and this team have mapped 54 different process maps in just the licensing side. The optometry licensing side has just

concluded, and the Board is about to enter into a very exciting graduation season for the optometry licensing program. Staff have recently begun work on the opticianry licensing processing maps and hope to conclude them soon. Upon conclusion the project will move on to the enforcement then administrative units. The purpose of the project is to identify opportunities for efficiencies and best practices. Mr. Pruden provided some examples of efficiencies staff have identified from this project. For licensure verification requests, most states have a license lookup functionality and, in most cases, it is able to be used as a primary source verification. On the applicant side, they may save some nominal money by not having to apply for and pay their home state for a letter of verification. On the Board's side, we are likely to save a few weeks of application time. Staff are starting to see other states reach out proactively to our Board encouraging the use of their very own online lookup systems.

Paper applications are another opportunity to realize efficiencies.. If the Board is able to move these applications online, it would reduce paper and likely have a much more efficient process. Examples of these include the retired and retired volunteer applications, the glaucoma and immunization certification applications, and the fictitious name permit (FNP) applications. The Board receives approximately 150 of these FNP applications per year, and the overwhelming majority are deficient at the moment they arrive at the Board. Most of these applications are missing items such as lease agreements, proof of ownership, or the Articles of Incorporation. Staff is exploring technological solutions with BreZE that would enable this license type to not be submitted unless all the required items are provided. This would speed up the process and result in a much more efficient outcome for our licensees.

Mr. Pruden reported on some recent outreach efforts that staff have been engaged in. The optometry schools have a large graduation week upon them, so staff have been meeting with the California schools most recently and also had a tour of the Sacramento City College's new optical technology lab, which was eye-opening and exciting. Recently, an updated consumer complaint form was released in two common languages (Spanish and simplified Chinese) that staff frequently encounter. The Spring edition of The Spectacle is in production and will hopefully come out at the end of this month. This edition focuses on continuing education requirements and staff are very honored to have contributions from Member Ross in that newsletter.

There were no requests for public comment.

Enforcement Manager, Joely Walker presented an update on agenda item 6.B.i. Enforcement Program. The Enforcement Unit recently hired a Staff Services Analyst (SSA), Scott Creswell for the Board's enforcement program. He began on May 1, 2023. Previously, he worked in the private sector as a Director of Store Management. Scott has a degree in criminal justice and staff are excited to have him on the team. Terri Villareal is retiring on May 30th, so this is her last Board meeting. Terri has worked for the state of California for 34 years. The statistics provided for Members today include some new categories that were requested by Members. This includes the priority and categorization of the Board's complaints, ranging from urgent to routine for both optometry and opticianry. Additionally, the Enforcement Unit is now providing probation monitoring statistics on the quarterly. All the disciplinary actions that have taken place, including citations that have been issued, are on the report.

Member Kawaguchi asked about the Case Complexity section. Ms. Walker clarified that it shows one in all three quarters for a year-to-date (YTD) total of three separate cases.

Member Sandra Sims was one of the Members who had requested the more robust information, and she thanked staff for providing the statistics.

Member Ross asked for a description of how cases are determined to end up in the high priority or urgent category. Ms. Walker explained that the case categories are listed below the complexity. Cases that the Enforcement Unit considers urgent, for example, would be sexual misconduct, drug or mental impairment, unprofessional conduct resulting in patient harm, and incompetence/negligence. These types of allegations that fall under case complexity are automatically elevated to "urgent" or "high priority". Determination of complexity is immediately categorized at the time of receipt. Urgent cases must be run by Ms. Walker, who determines the classification or complexity. Member Ross asked if the four cases on the report are within the 181-day to one-year time frame for resolution. Ms. Walker clarified that urgent and/or high priority cases have to go to the Division of Investigation (DOI), and staff does not typically have the results within a year. It may have been other high priority cases that were resolved. If it was these cases, then possibly there was a criminal conviction. She stated that she is not sure of the specifics of each of these cases. She also clarified that high priority and urgent cases are acted upon immediately and are sent to DOI within one to three days. Routine cases take much longer because staff usually work those from their desks. If a medical release must be requested, that can take up to 2-3 weeks to obtain back from the consumer. When staff does obtain medical records or respondent summary of treatment back, they have to be sent out for a review because staff are not doctors.

Mr. Pruden reported on agenda item 6.B.ii. CE audit statistics and provided some background. During the Board's last Sunset Review in 2020, the Board was faulted related to its CE audit performance. Resources were secured at the Board to begin revamping the audit program and Members should expect to see CE audit statistics at every Board meeting going forward. The audit program got off to a slow start in quarter one and quarter two; however, things have been picking up in quarter three. The data is limited and Members and staff should be cautioned that this reflects a very small sample size currently. However, the pass rate is showing close to 90%. One of the things the Board was faulted for coming out of the Sunset Review was this perception that the compliance or pass rate was not very high or not good enough. All the specific requirements for CE can be found in Business and Professions Code (BPC) 3059 and in Title 16, California Code of Regulations (CCR) 1536. Additionally, staff encourages licensees to utilize the tools that are available to them to track their CE, including the ARBO Optometric Education (OE) Tracker. Also, licensees can attend Board meetings in person or virtually and acquire a very easy four hours of CE.

Member Wang asked what options licensees have when they fail their audit. Ms. Walker explained that if you are chosen for a random audit, you will be contacted by Enforcement Analyst, Cricket. She will reach out and ask for additional CE. She pulls what she can from ARBO's OE Tracker. If course credit was taken somewhere else and not uploaded to the OE Tracker, you are welcome to provide all of your information. If you still come up short, you would be issued a citation and fine, and required to come into compliance with the education that is lacking. Mr. Pruden added that in addition to a possible citation, there is an order of abatement that requires you to become compliant with the CE. Coming into

compliance with CE that one was short on does not count doubly for the subsequent renewal cycle. It only brings you into compliance with the prior cycle.

Member Kawaguchi commented that in Q3 the percentage of non-pass was relatively high, as it was over 20%. He wants to ensure that the Board has this continued discussion so that we are proactively communicating with optometry licensees to ensure that they are in compliance. Member Kawaguchi believes the Board's audits should always be above a 95% pass rate. Mr. Pruden agreed and explained that staff have been talking internally about ways that the Board can provide further outreach, specifically to this point about CE and making licensees aware of not just the requirements, but also of the tools that are available to them in this process. For example, the Board has a CE Exemption form that allows optometrists additional time to become compliant if they are falling short coming up to their license expiration date. Ms. Walker mentioned that Mr. Pruden did outreach as well at the optometry schools. He has announced to upcoming graduates that the Board is doing CE audits and what to look for in the new Spectacle newsletter edition. Also, Member Ross wrote a highly informative article that is targeting graduates as well, informing them of the CE process and the benefits of utilizing the ARBO OE Tracker.

Public comment was received from Dr. Paul Reamers who asked if optometrists with retired volunteer designation may be able to receive reduced CE requirements. Mr. Pruden explained that the law does not presently allow for that. The retired volunteer designation license is a license that enables optometrists to fully practice with just limitations in terms of location. He noted that the Board does have a CE regulation that has been publicly noticed and is in the middle of public comment as well. The public comment period ends at the end of this month. Mr. Pruden stated that Dr. Reamers's comment would certainly be welcomed in that venue as well. Mr. Pruden believes that due to the statutory allowance for a retired volunteer holder to fully practice optometry, this is why they are required to take 50 hours of CE. Member Wang added that the Board changed its CE requirement to allow for live virtual CE, making it somewhat easier to obtain the requirement.

Public comment was heard from Tiffany Witherspoon who asked if there exists a report that provides a description as to why an optometrist was not able to meet their requirement? Mr. Pruden stated that when a citation is issued, the citation is public and on the Board's website. It will state in detail the specific information related to that person. The enforcement statistics reported on earlier today include an example of this.

Member Morodomi recalled asking a similar question in the past as to whether it is the responsibility of the Board or the licensee to keep their license up. Why is the Board blamed for licensees not fulfilling their obligations? The explanation he received was that although the statistics were high, the errors were minor or inadvertent and not an outright disregard of the Board's CE requirement rules. Member Kawaguchi tagged onto this stating that as the Board continues to roll forward with auditing CE, he believes that we will have an opportunity to continue to educate because our regulations will be changing related to CE requirements, and anytime there is any change there will always be confusion.. This will be a great opportunity for the Board to be proactive in communication, whether it be directly with licensees or through partners, such as the California Optometric Association (COA).

Public comment was received from Dr. David Turetsky who asked if a licensee fails their CE requirement, and they receive a citation, is their license is temporarily suspended until

the CE requirement is met? Mr. Pruden responded that the license is not suspended when a citation is issued for failing to meet the CE requirements. Member Wang asked if there is a certain period that they have to complete their CE. Mr. Pruden explained that in the order of abatement, there is information that provides them a certain length of time (depending upon how deficient they were on their CE) to come into compliance.

Administration and Licensing Manager, Randy Love presented agenda item 6.C.i. examination and licensing programs statistical review for quarter 3 of fiscal year 2022-2023. Mx. Love reported that the modifications and amendments to BreEZe continue. Some of the changes that are occurring currently include more mailing address functionality, as well as bypassing the continuing education question for optometrist who are renewing their license as inactive. Staff are working on updating the fictitious name permit applications and making changes to the non-resident contact lens seller application. Those applications and materials will refer to the current correct name of the Non-Resident Ophthalmic Lens Dispensers. The ability to order a verification of license will be added to the BreEZe system. The application for a temporary license will also be added. An issue staff have encountered is the way BreEZe interacts with our exam vendor, PSI for the California Laws and Regulations Exam (CLRE). There have been some issues this graduation season; when an applicant is approved to sit for the exam, that approval does not automatically go to PSI. This is one of the issues staff have been working on. The statistics provided show the manual processing time that had to be involved.

Mx. Love reported that regarding outreach, Mr. Pruden provided some presentations to the current graduating class of optometrists. Mx. Love has done this several times and they have always found it to be a great experience and very helpful for the upcoming applicants. In the statistical review of quarter three, Members can see that the exam request volume almost triples. The volume of applicants applying to sit for the CLRE skyrockets at the beginning of the calendar year. He noted that while the number of applicants is rising, the processing time for approving the applications is shortening.

Mr. Pruden reported that during the December meeting, staff reported on a backlog of Fictitious Name Permit (FNP) applications. Members can see that staff has done a lot of work closing out that backlog and staff had completed well over a hundred FNP applications. Members can see this visually on the statistical graphs provided, which also go into the opticianry program. Management and staff feel that the workload is being managed within the set timelines. Timelines are heading downward. He wished to call Members attention to these new stats and highlight a few of the wins the Board is seeing as a result of this visual data.

Member Garcia questioned the stats of the canceled licenses that were expired more than three years and if it was a running total. Mx. Love confirmed that it is the current running total of canceled licenses as of the day that this was reported. Mr. Pruden noted that by law, expired licenses cancel after three years of expiration.

Member Sims congratulated staff on the handling of the backlog and on the new stats stating that they look great. She thanked staff for making the adjustments.

Member Stacy Hancock asked, regarding the Registered Dispensing Optician (RDO), Spectacle Lens Dispenser (SLD), and the Contact Lens Dispenser (CLD) registrations, if they will show as surrendered or canceled since there is not a retirement status option? Mr. Pruden confirmed that this is his understanding. He is not aware of a retired category

on the optician side. Member Hancock asked if the Board might have a time to address this? Mr. Pruden explained that it would most likely require a statutory change.

There were no requests for public comment.

Mr. Pruden reported on agenda items 6.D.i., 6.D.ii., 6.D.iii., 6.D.iv., 6.D.v., 6.D.vi., and 6.D.vii. The current status of the mobile optometric practice regulations remains at the staff level. Staff are working on package documents and have recently consulted with the Budget Office on updating several of the workload calculations related to the fiscal side of these regulations. It is anticipated that the regulations will be submitted to the DCA Legal Office this June. The second previously approved regulation package is the optometry continuing education regulations. This regulation was noticed on April 14, 2023, and is in the Office of Administrative Law (OAL) for a 45-day public comment period. The public comment period ends on May 31st. Public comment is welcome from anyone on these proposed regulations. The third regulation is the implementation of AB 458, the home residence permit. Staff development on this regulation is beginning, but there is not an estimated timeline for submission at this time. This same comment would apply for the next several Board-approved regulations: the optometry disciplinary guidelines, the optician program omnibus regulations, the dispensing optician disciplinary guidelines, and the requirements for glaucoma certification. All of these remain at staff level without an anticipated date of submission at this time.

Public comment was received from Dr. James Deardorff who asked how long it will take upon approval for the mobile optometric office regulations to be implemented. Mr. Pruden stated that staff are not able to provide a certain date; however, July 1st of next year is the target date. The process moves from submission to the Division of Legal Affairs. Their review process time could be a month or more. It is Mr. Pruden's intention to submit materials that minimize any back and forth during the review. Upon approval from the Division of Legal Affairs, the package will move throughout the Department and then go to Agency. There will be a 45-day public comment period once the regulations are noticed. Mr. Pruden fully recognizes the importance of this endeavor. This is a statutory requirement that this Board has failed to meet for the last few years. His commitment is to carry the baton forward and implement the regulations as the Legislature directed. He looks forward to sharing more updates at future meetings regarding this and all the other Board-approved regulations. Dr. Deardorff commented that it is great to learn that progress is being made. He is eagerly anticipating the day that he can have a mobile optometric office up and functioning.

7. Legislation and Regulation Committee Report and Consideration and Possible Action on Committee Recommendations

- A. AB 1028 (McKinnor) Reporting of crimes: mandated reporters.
- B. AB 1570 (Low) Optometry: certification to perform advanced procedures
- C. AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law
- D. SB 340 (Eggman) Medi-Cal: eyeglasses: Prison Industry Authority
- E. SB 457 (Menjivar) Vision care: consent by a minor
- F. SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing

Audio of Discussion: [1:46:25](#)

Mr. Pruden provided an update on several legislative bills as follows:

At the March 17, 2023, meeting, the Board referred several legislative bills to the Legislation and Regulation Committee (LRC) for further discussion and analysis. At the April 21, 2023, LRC meeting, the Committee made recommendations on several bills, reported in the materials provided. The LRC discussed pursuing a legislative proposal that would encourage optometrists to take continuing education in Diversity, Equity, Inclusion, and Belonging (DEIB). The LRC requested that staff bring to the full Board a legislative proposal for consideration in 2024 to pursue a statutory change which would encourage optometrists to take continuing education courses in DEIB. Staff anticipates bringing this item to the August 2023 meeting for the Board's review and consideration.

The next update was regarding the discussion on the recent federal Military Spouse Licensing Relief Act (Licensing Relief Act). The Licensing Relief Act applies to both service members and their spouses and is intended to make it easier to transfer professional licenses across state lines when making a military move. The Licensing Relief Act permits a service member or a spouse of the service member to practice in a state where they reside because of military orders, which is not the state in which they are licensed to practice. To qualify for the federal practice privilege, the service member or spouse must have a license with a similar scope of practice that is in good standing with the state licensing entity that issued the license, and the licensee must have actively used the license during the two years prior to their relocation. To take advantage of license portability, the service member or spouse must provide a copy of the military orders that require residency in California to the Board and submit to the authority of the Board for purposes of standards of practice, discipline, and fulfillment of continuing education requirements. The license of the service member or spouse must also remain in good standing with the state licensing entity that issued the license.

There is some question within the Department and within this Board about how exactly this reciprocity would apply. Optometry and opticianry licensees in any other state would be able to come to California and use that license to practice here. They would not have to apply for or receive any authorization from the Board. However, they would have to submit to their new state's requirements, and the federal law specifically mentions CE. Therein lies a very specific question about how this would apply to us. Does this mean they must meet our CE requirement? It is an open-ended question in terms of impact to our Board. Historically, CSBO does not receive a high volume of service member or military spouse applicants, so it remains to be seen what type of impact the Licensing Relief Act will have on the Board and its staff. Staff is working with DCA Office of Legal Affairs on guidance for how to apply the provisions of the Licensing Relief Act to individuals who may avail themselves of the provisions of the statute in the future. The Board already under current law performs a variety of necessary services for our military families and certainly looks forward to assisting them and helping them navigate this new federal law.

Member Kawaguchi noted that as the Board rolls forward with its interpretation, potentially the Board may have to consider some regulatory changes for optometry. He asked if we are waiting to hear from DCA or if this is something the Board will internally evaluate? Mr. Pruden believes the Department is further examining this from a legal perspective and having conversations in that regard, with the objective of trying to provide some guidance to all of the boards and bureaus within DCA. Member Kawaguchi argued that not having anything in regulations puts the Board in a bad situation of a practitioner potentially demanding to practice in a certain way or get certain things that other states are allowing. Mr. Pruden acknowledged this great point and explained that staff are still in an education

and learning mode currently, but are looking forward to providing both good service and the right service to all our applicants and licensees, and certainly those folks who have served our country. Staff are very interested in ensuring that the Board applies the law correctly and in ensuring that it assists our military families in the way they deserve to be served.

There were no requests for public comment.

Mr. Pruden reported on AB 1028 (McKinnor) Reporting of crimes: mandated reporters. All healing arts professionals are required to report to law enforcement when they suspect physical harm, sexual or domestic violence. This bill would eliminate that requirement for optometrists when they suspect that a patient has suffered physical injury caused by assault or abuse. It would replace that existing mandate with the requirement that they be given brief counseling education and a warm handoff to a local or national provider of violent advocacy services. It exempts health care professionals from civil or criminal liability for reports they make in good faith. There is a very large group of both proponents and opponents lined up on either side of this bill. When the Committee considered this bill on April 21st, the recommendation from Committee Members was neutral. There was a split vote of 2 to 1. Nothing would prevent the practitioner from making a report; it would only change the mandate from a mandate to a permissive.

Member Garcia stated that of all the bills, this one fit most cleanly in our duty for protecting the health and safety of all Californians, especially the most vulnerable. This mandated reporting law has been in place for decades and he does not see any reason why there would be any need to change it. If providers see something, they should say something, and Member Garcia believes this bill waters down that responsibility to a point where a lot of providers will say, "It's not mandated anymore; I'm just not going to get involved," which will lead to more cases of assault and child abuse. He stated as a Board, this kind of protection is what we are here to do, and he sees no reason to take a neutral or a support position.

Member Sims concurred with Member Garcia. She believes it should continue to be mandated and wants to ensure that her opinion is on record.

Member Morodomi noted that this bill applies to all health care providers, not just optometrists. He questions whether the Board wants to take a position on this. He is not advocating that the mandate be changed but whether this is a bill that we want to oppose on record. Member Morodomi suspects that the proponent's argument is that the mandate deters people from seeing psychologists or other health care professionals because if they know that abuse will be reported, some folks may be deterred from seeking medical help.

Member Garcia responded to Member Morodomi's comment stating that optometry is often the gateway to health care for these folks. Often those who do not seek primary care end up in optometry offices because they see ODs as a specialty who can help them and is non-threatening. Member Garcia believes the Board should be proactive and take a position and say that mandated reporting is healthy and provides safety and advocacy. He does not believe it would in any way negatively affect the other professions.

Member Ross echoed Member Garcia's sentiments. He believes taking a neutral position would be the wrong move in this situation because health care providers are always in the position of protecting patients.

Member Kawaguchi commented that he agrees with some aspects of this and disagrees with others. He is not ready to take a position on this bill but sees it as an opportunity to wait a while and see how things proceed forward. He does not see a necessity for taking a position at this time.

Member Morodomi commented that he thought that not taking a position is the equivalent of neutral. Mr. Pruden clarified that this was brought to the Board because of its direct impact to the licensee. This impacts our licensees as well as all other healing arts professionals. There are a variety of reasons (political and other) why one would take a neutral position and not support or oppose. For example, if there is a split vote at the Board and a support or oppose position cannot be arrived at, a neutral position could be a compromise position. Another reason why somebody might stay neutral on a bill is to see how developments in that bill unfold as it moves throughout the legislative process.

Member Sims asked, if the Board remains neutral at this time, at what point can the Board come in and say that we are in support of maintaining the mandate? Mr. Pruden explained that taking a position on any legislative bill is a formal action by the Board. If the item was appropriately agendaized, the Board would have the authority to entertain a motion and make a different determination. Member Sims clarified that she is asking specifically about timelines. What is the progression of this particular bill, and do we anticipate having an opportunity during the August meeting to make a more affirmative response? Mr. Pruden responded stating that where this bill will be in August is impossible to know; however, the August meeting is quite late into the legislative year, and so by that time most bills have moved into a place where your ability to influence the outcome is less than what it would have been earlier in the year. This does not mean that there is no future opportunity. The Board can call a special Board meeting and entertain possible actions on items via that route as well. Mr. Pruden also noted that we are in the first year of a two-year legislative session. If this bill is not acted on this year, it does have the ability to still be alive and acted on next year.

Member Morodomi commented that he is still unclear as to what choice the Board has on bills in general. Mr. Pruden clarified that there are a number of choices the Board can take. It can take a formal “no” position, a support position, a support if amended position, an oppose unless amended position, or a “no position” position.

Member Pruitt stated that he is somewhat on the fence with this bill. He can see what they are trying to achieve with this bill; that the ability to report abuse is not removed but rather more options for addressing it are permissible. He argued that there are so many nuances with things like this and even where he is currently practicing (in Indian health) there are many cultural factors that come into play where the mandated reporting sometimes does not fit and can even be counterproductive. He described a situation when he was at the VA where he had a patient suspicious of elder abuse. At that time, the protocol was for VA police to come in, armed, and escort the patient to Social Services. That patient never returned for follow-up care. Member Pruitt is trying to understand this bill and he sees it as not removing the ability to report, but trying to find more options to allow it to be handled in the best way that suits the situation.

Member Garcia noted that there are great arguments on both sides, but he argued that by removing the mandate, you remove responsibility and if you take that away, it becomes someone else’s problem. Member Garcia feels the Board should oppose the bill.

There were no requests for public comment.

Jeffrey Garcia moved to take an oppose position on AB 1028. Sandra Sims seconded. The Board voted as a split (4-Aye, 4-No) and the motion did not pass.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | | X | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | | X | | | |
| Mr. Morodomi | | X | | | |
| Dr. Pruitt | | X | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

Member Sims suggested that the Board request that they amend this bill to indicate that reporting suspected abuse is mandated; however, the health care professional may consider and decide whether it should be mandated to the police or handed off to a community resource. Member Pruitt agreed that he is in full support of this suggestion.

Mr. Pruden stated that he does not see the permissiveness that a health care provider has with respect to the warm handoff to the domestic violence agencies. He believes the bill does require that. Mr. Pruden, Legal Counsel, and Members debated the bill's language.

There were no requests for public comment.

Jeffrey Garcia moved to oppose the AB 1028 unless amended to mandate reporting to either law enforcement or other social services that are available. Sandra Sims seconded. The Board voted (7-Aye, 1-No) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | | X | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

Mr. Pruden reported on AB 1570 (Low) Optometry: certification to perform advanced procedures. This bill was introduced in February of this year. The current status, since this is a 2-year bill, is that it will not be moving forward during this calendar year. It remains eligible for the Legislature to act upon in January 2024. This bill is a reintroduction of AB 2236, which was substantially similar. It would create a new certificate type to allow

optometrists to perform the following: advanced laser surgical procedures, excision or drainage of non-recurrent lesions of the adnexa, injections for treatment of chalazia and to administer local anesthesia, and corneal cross-linking procedures. Prior to this certification, optometrists would need to pass a specific training and exam and complete education requirements developed by the Board. It would also require optometrists to report any adverse treatment outcomes to the Board, which the Board would be required to review. This bill is important as it expands the scope of optometry to enable most licensed optometrists to provide optometric services in California that are consistent with their education and training. The LRC focused largely on the implementation work that would be required in the present version of the bill, which includes implementing forms, setting fees, and developing a process to receive and review adverse reports. It is a two-year bill, which gives the Board and staff an opportunity to partner with the sponsor of the bill, the COA, and other stakeholders. Much of the LRC's conversation focused around how to make the bill more easily implementable from a Board and staff regulatory perspective. The Committee recommendation was support if amended with those amendments involving those implementation items. It was a unanimous vote by the Committee.

Public comment was received from Kristine Shultz with the COA who stated that she has had good conversations about how to address the implementation issues and the COA has been working through the process. Ms. Shultz is looking forward to working with the Board in the future.

There were no more requests for public comment.

Lillian Wang moved to support AB 1570 if amended. Jonathon Ross seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

The Board took a break for lunch then reconvened at 1:45 p.m. Member Garcia took roll call. All Members were present except for Eunie Linden and Donald Yoo, who remained absent. A quorum was established.

Mr. Pruden reported on AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law. This bill impacts optometrists, but most principally it impacts healing arts colleagues in other professions, such as medical doctors, physicians, and nurses. Essentially this bill tries to prohibit all healing arts boards under DCA from denying an application for license or imposing discipline solely based on the civil judgement, criminal conviction, or disciplinary action taken in another state.

There were no requests for public comment.

Jonathon Ross moved to support AB 1707. Stacy Hancock seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|----------------------|------------|-----------|----------------|---------------|----------------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

Mr. Pruden reported on SB 340 (Eggman) Medi-Cal: eyeglasses: Prison Industry Authority. This bill is substantially similar to SB 1089, which was sponsored by the COA last year. This Board considered SB 1089 last year and took a support position on it. SB 1089 was amended and SB 340 was introduced this year to bring this proposal forward again. This bill, for purposes of Medi-Cal reimbursement for covered optometric services, would authorize a provider to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from the Prison Industry Authority (PIA), which current law requires and has done so for approximately the last 30 years. The bill would condition implementation of this provision on the availability of federal financial participation. The eyeglass benefit for children is mandatory and optional for adults. There was a robust conversation with the LRC regarding some challenges within the CalPIA / eyeglass benefit relationship which include wait times and the length of time it takes from when eyeglasses are ordered to receipt of the glasses. There was also some conversation around costs - how much the eyeglasses cost under the current program versus how much they might cost under this bill. Costs range from \$6.5 million to \$29.1 million to implement this bill. Some but not all of the costs would be borne by the general fund. There is no fiscal impact to this Board or our fund. The cost mentioned are impacts elsewhere. The current estimated pay-out payment rate for CalPIA is \$19.82 per pair of lenses and the LRC analysis estimates that the non-CalPIA rate would be \$47.76. In addition, the Appropriations analysis mentions possible impacts to the state prison system and the general fund because incarcerated individuals who work on these orders would likely realize a reduction in their work meaning a reduction in their service credits for the term of their imprisonment. The conversation in the LRC resulted in a neutral recommendation with a split vote of two-to-one.

Member Garcia announced that he was one of the supporters for this bill. As a private practice optometrist who accepts Medi-Cal and who also worked in the prison optometry realm for over 20 years, he understands this from both private practice optometry and prison optometry perspectives. Member Garcia does not believe this bill in any way is proposing eliminating CalPIA optical services. It is a valuable program which helps inmates acquire a technical skill that is usable when they are released. He believes this bill is important for access to eye care in California. Access to eye care (especially with Medi-Cal) is very poor and the wait time for Medi-Cal CalPIA glasses is very long, much longer than in a private lab. He argued that the CalPIA service is good but it is placing all of our

eggs in one basket. Member Garcia argues that the estimated cost of \$47.76 per pair of glasses is inaccurate. In his private practice, when he pays a lab to make glasses it averages out to less than the \$19.82 that CalPIA says their glasses cost.

Member Morodomi commented that this is a difficult decision. One of the most fulfilling decisions he has made as a Board Member is hearing about someone who, following incarceration for a very serious crime, was rehabilitated and has been able to utilize the CalPIA program to become an optician and become an extremely productive and inspiring member of society. He would hate to kill those opportunities. Member Morodomi stated that he was not ready to take a position on this and thus voted neutral. CalPIA has statewide data claiming their turnaround time to be 5.5 days. The Board also has anecdotal information from very respectable optometrists who claim the time is much longer. He is very concerned about how this might debilitate the CalPIA program.

Member Hancock commented that in her 29 years of experience, she has known this system to be broken and causes more harm than good. She also believes that the cost discrepancies are very highly inflated. She would be interested in seeing more information as to how they are arriving at those numbers because in any realm, they seem very inaccurate.

Member Garcia noted that there are 13 million Californians on Medi-Cal who are dependent upon this system to work efficiently. This bill is not designed to kill the CalPIA program and he believes the Board should support it in terms of what is doing to help train those incarcerated individuals; however, the numbers of rehabilitated inmates who benefit from the program long term upon release are very small compared to 13 million Californians. The benefits of this bill are that turnaround times for glasses will become normalized, it will help the California economy and it will introduce more jobs into smaller businesses and labs in California.

Public comment was received from Kristine Shultz with the COA who argued that for more perspective, this is an equity matter. People on Medi-Cal should not have to wait three to five times longer for their eyeglasses. Regarding costs, COA is working with the Department of Health Care Services (DHCS) to address those concerns. DHCS has the ability to set the rates through regulation. They can reduce the rate to match the CalPIA rate. Additionally COA is looking at legislative language in the bill that would potentially set the rate. She argued that ultimately this is not about making money; rather it is about ensuring that people have access to care right now.

Public comment was heard from Michele Kane with CalPIA. She argued that there is no need for SB 340. CalPIA has system tracked time and currently their turnaround rate for glasses is 4.4 days. This timeframe represents the average amount of time it takes CalPIA to process and order, receive the order in its lab, and ship to the provider. This is the only part of the process that CalPIA can control. This does not include the time that an order may be with an optometrist before it is sent to CalPIA, or the time it takes for an individual to actually collect their glasses. Additionally, CalPIA has a contractual agreement that orders are shipped from its lab to the provider within two business days. Their quality well exceeds the industry standard, and CalPIA has had this partnership with DHCS for 35 years providing Medi-Cal glasses. She also noted that this bill would incur a huge cost to the state of \$41.5 million in one year. Ms. Kane argued that CalPIA is experiencing great success with the program. There are 420 incarcerated men and women currently that work in the optical lab. CalPIA has rehabilitated individuals working at VSP, Lenscrafters, and A

Site for Sore Eyes National Vision. These are well sought-after jobs in prison and it would be devastating for this program to dissolve. Ms. Kane reiterated when it comes to quality and turnaround time, the CalPIA program is top notch currently. With COVID everything was delayed, but CalPIA is back to normal and the inmates take such pride in this program.

Public comment was heard from Ruby Garcia. She commented that there are other options in our state currently. Many optician programs are opening up in California. Anyone can come from anywhere, from prison, or from any industry and there will be the opportunity for training. She does not believe the Board or this bill is closing opportunity for anyone. She noted that we are here to help them.

Member Morodomi stated that he would like to hear the CalPIA's representative's analysis for why they believe CalPIA would be detrimentally affected if this bill passes. Ms. Kane responded explaining that the average cost to house someone in prison is \$127,000 and just to get someone to have those job skills to work on the outside in real world experience, this would be huge. Ms. Kane argued that she believes folks will decide to not send the orders for the prisoners to fulfill but rather to other places, which will hurt these job-training programs. She noted that these are rehabilitative job training programs and they work. CalPIA has a 15% recidivism rate overall. This means 85% of the men and women are remaining out of prison and they have careers. They have successful jobs. These statistics were arrived at by a UC Irvine study that was recently done in 2021. Member Morodomi asked if other states have prisoners making optical products and if so, do those other states allow their Medi-Cal or equivalent programs use the private sector as well? Ms. Kane responded stating that the federal prison system recently gave a tour at California State Prison (CSP) Solano and they were quite impressed with what they saw. She does not want to say that no other states have a program similar to CalPIA; she is not sure about that, but the federal prison system is looking at mimicking what CalPIA has.

Member Wang asked why Ms. Kane is so certain that people will choose not to use the CalPIA system since the turnaround time is 4.4 days? Ms. Kane clarified that she is basically saying not to give people the option because CalPIA wants to provide those job skills to rehabilitate prisoners and the system works. Member Wang agreed and clarified that she is just confused because Ms. Kane seems so certain that if the bill passes folks will not choose their system. Ms. Kane stated that she hopes they would choose CalPIA, but at the same time, everyone that chooses to use another lab provider will mean positions will go to the wayside and CalPIA prisoners would not be able to have as many job training positions.

Member Garcia commented that he respects everything Ms. Kane has said but he also thinks it is unreasonable to assume that with 13 million Medi-Cal patients, allowing options is somehow going to decimate the program. Member Garcia noted that if in fact their turnaround time is 4.4 days, he would think that none of the optometrists who accept Medi-Cal would move away from their program. If the bill passes, providers will have options, which he believes is a good thing because it is helping the 13 million Medi-Cal recipients that are not getting the benefit that the private sector patients are receiving. Additionally, if the timeframe is 4.4 days, nobody is going to move away from the CalPIA program.

Member Kawaguchi asked if any of the numbers the Board is being presented with, are any of them vetted with an outside source? Or all they all internal numbers that were presented? Member Garcia responded that he believes COA did a survey in January. Mr.

Pruden stated that staff did not verify with any third party. Ms. Shultz asserted that the COA did perform a survey in January which revealed that over 40% of people had waited over one month for their eyeglasses. This was just a survey of the COA's members and not an external validation of that data. Ms. Kane stated that their data is system tracked data from working with DHCS. She also noted that the survey referenced was back in January. She is not sure when the survey was taken. If it was taken back in 2020-2022, that was during COVID. She believes that the longest processing time CalPIA incurred during COVID was two weeks, and then it was brought right back down. Ms. Shultz clarified that they performed multiple surveys and her understanding is that CalPIA's data is the data they submit to the DHCS.

Member Kawaguchi commented that consumers covered by Medi-Cal are already underserved, and it concerns him that there exists a possible lack of access to treatment for those who need it. Member Kawaguchi feels a little misguided by all the data because he does not know if that data is fully reliable from either party. He does feel that there is an opportunity to improve access, not only to treatment in the form of glasses, but also care as far as services for our Medi-Cal patients in California.

Member Garcia argued that this problem has historically existed in the practice of optometry since 1993, when he graduated and probably before that. So, this is not new; it is not just a COVID issue. COVID made it worse, but it is an inherent efficiency issue that has occurred for a long time. Member Garcia added that he thinks the program is a great program and he does not believe that anything arising from this bill is going to negatively impact the number of opticians trained through the program.

Member Morodomi asked if eyeglass manufacturers offer any incentives to place orders with their company? If an eyeglass manufacturer offers an incentive to an optometrist to send the glasses order to them, would not an optometrist be inclined to send it to that private manufacturer? Therefore, would the private sector have an unfair advantage over CalPIA? Member Hancock replied that in her experience, it has been just the opposite. The only incentives that a lab is going to offer would be on the higher end products, which are products not covered under Medi-Cal. She has never seen an incentive program for a base product.

Jeffrey Garcia moved to support SB 340. Jonathon Ross seconded. The Board voted (7-Aye, 1-No) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | | X | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

Mr. Pruden reported on SB 457 (Menjivar) Vision care: consent by a minor. This bill was amended in March of this year and it is currently in the Assembly. It is moving fairly

quickly. Under existing law, minors (15 years or older) may consent to various medical services without the authorization of their parents or guardians if they are not living with their parent or guardian and manage their own financial affairs. Under existing law, these minors are able to consent to medical and dental care. Because the law does not explicitly authorize these minors to consent to vision care, some independent minors are denied care unless parental consent is provided. This bill has been included because the author has identified specific challenges around homeless youth on accessing vision care. This bill seems to be a commonsense measure to apply what already exists from medical and dental care to include vision care. It does provide a definition of vision care, which is “diagnosis, prevention, treatment, and management of disorders, diseases, and dysfunctions of the visual system and the provision of habilitative and rehabilitative optometric services by an optometrist licensed in California”. The language is consistent with language in our Practice Act, Business and Professions Code Section 3041. This bill is supported and sponsored by the California Coalition for Youth and is also supported by the Alliance for Children’s Rights and the COA. The Committee recommendation was to support with a unanimous vote.

Public comment was received from Kristine Shultz who expressed strong support for this bill.

Public comment was heard from Kim Lewis with the California Coalition for Youth and the sponsor of SB 457. She thanked the Members for their consideration of taking a support position. She also noted that there is a definition of medical and dental care in a different part of the code. It does not show up in this bill because it is a whole new section that they are adding to this definition to be consistent with the Board’s scope of practice.

Jonathon Ross moved to support SB 457. Sandra Sims seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|----------------------|------------|-----------|----------------|---------------|----------------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

Mr. Pruden reported on SB 544 (Laird) Bagley-Keene Open Meeting Act teleconferencing. This bill was most recently amended on April 27th. It was set for hearing just a few days ago in the Committee on Appropriations. Mr. Pruden noted that the Board has benefited from our current law, which enabled the Board to meet virtually in a hybrid setting. However, current law only authorizes that ability until July 1st of this year. This bill would authorize the Board and every other board who has been enjoying this hybrid environment to continue meeting in this way without having to notice or otherwise make publicly accessible those virtual locations. This bill does not contain an urgency clause and current law only authorizes the ability to meet in a hybrid way until July 1st. Therefore there would be a six-month gap where this bill would not benefit the Board. The Committee

recommendation was support, and Mr. Pruden believes Members and staff want to continue to enjoy the flexibility. Another benefit by being able to meet virtually is saving money by not having to pay for travel and other expenses.

There were no requests for public comment

Jonathon Ross moved to support SB 544. Glenn Kawaguchi seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

8. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16 California Code of Regulations Sections 1524, 1399.260, 1399.261 and 1399.263, relating to fees.

Audio of Discussion: [57:36](#)

Mr. Pruden presented this discussion and possible action to initiate a rulemaking to amend Title 16 California Code of Regulations related to fees. At the August 2022 meeting, this Board received detailed information from the DCA Budget Office regarding our fund condition. At that time, the Board was facing a nearly \$1 million structural imbalance in the current fiscal year ending July 1st. If the Board had fully expended our appropriation, we were informed that the structural imbalance would likely grow and accelerate over time unless action was taken. At the December meeting, updated information showed that the projected imbalance had come down slightly to \$850 thousand dollars. This result was realized due to a combination of reduced spending, but also lower than previously projected revenues. At the most recent meeting in March, updated information presented showed that the projected deficit through the end of this fiscal year had been further reduced to approximately \$544 thousand. This reduction occurred primarily due to salary savings realized by not filling vacant positions. The revenue projections remain consistent. Currently the Board is looking at a projected \$515 thousand structural deficit in the current fiscal year ending June 30th. The current projections show that expenditures are continuing to outstrip revenues, and this structural deficit is expected to deplete our fund by Fiscal Year 24-25, assuming the Board fully expends its appropriation.

The Board has identified a few items believed to be the cause of the structural deficit. The first item is the budget change proposals (BCPs) that the Board secured over the last couple fiscal years. These budget change proposals increased costs by about \$1.4 million. Additional explanations for the deficit include failing to implement regulations and other programs which would have brought in some additional revenue. Pursuant to the analysis, the Board over projected annual revenue going back a couple fiscal years. Together the BCPs have grown the Board’s personnel expenditures by more than \$600 thousand over

just the last three fiscal years. Staff believe that in failing to implement regulations and over projecting revenue that this contributed to approximately \$300 thousand or more in unrealized revenues over the last two fiscal years. Staff will be working closely with the Budget Office revising revenue estimates going forward. Staff is committed to getting the regulatory work done: two of those regulations are the mobile optometric office program and the home resident permit.

At the March meeting, the Board directed staff to bring to this meeting proposed regulatory language that would increase all of the fees that are currently not at their statutory cap to that cap. This action is necessary to begin to put this Board on a more prudent fiscal path. Additionally, ways to improve efficiencies need to be explored. Mr. Pruden stressed that the main tool this Board has for managing this fiscal problem is to continue to hold vacant positions open. That is the only way to achieve real salary savings. Of course positions can only be held open if it is not jeopardizing our consumer protection mandate. Therefore, this is a constant balance that must be examined and achieved because at the moment, this mission is being jeopardized and the Board needs to start filling those positions. Given the length of time it can take for a regulatory action to be implemented, today's action is the most prudent step that can be taken to put this Board on a sustainable fiscal path.

Mr. Pruden reported that the Board has only raised its fees twice in the last 30 years. The last increase occurred in 2009. The application fee and the biennial renewal fee have been in place for 14 years. These two fees represent almost two-thirds of the Board's overall total revenue. Optician fees have been raised somewhat more recently with the last increase occurring in 2017. The current application fee has remained in place since the Board assumed that program. A few other fees are on the table today, including the continuing education course approval fee, which has also remained at its present level since it was instituted back in 2008, and a few other ancillary fees that have also not been adjusted since they were implemented. The analysis presented today shows that if all of these fees were raised to their statutory cap, the approximate revenue the Board would realize would be just under \$600 thousand. That is about what the structural deficit is, so that action by itself is not enough to put the Board's fund condition on a fiscally sound path and begin building a prudent fund condition and a reserve. Therefore, the Board would also need to begin pursuing a fee study which would inform what a more sustainable fiscal structure would look like for this Board.

Completed desk audits showed that the actual cost of processing the optometrists' renewals, glaucoma applications, lacrimal application, continuing education course applications and all the optician applications, registrations and renewals exceed the current fees that the Board is charging. It also exceeds the current statutory maximum. Action today, if approved, would lead to staff working with the DCA Regulatory Counsel to begin a rulemaking package of materials for submission to the OAL. The process would generally take longer than a year to complete with a target effective date of July 1, 2024.

Mr. Pruden stressed again that raising fees to their statutory cap will not put the Board on a long-term fiscally sustainable path. Assuming the Board fully expends its expenditures, we would still go negative in the exact same Fiscal Year 24-25 and would just be slightly less negative. Today's action is necessary and a prudent step to begin putting the Board's fund on a fiscally sustainable path, but pursuing a fee study is still necessary.

Member Morodomi asked, regarding the over projection of fees, who performs those projections for the Board? Mr. Pruden explained that the Board staff performed the

projections and made the mistake. Staff gave the information to the Budget Office. In Mr. Pruden's analysis of how staff over projected, he noted that in the numbers given to the Budget Office, the number of delinquent licensees that were expected to be renewing were included. However, those folks did not renew and did not intend to renew. Consequently, staff accidentally gave the Budget Office a number that was a bit artificially inflated and that number is used in calculations to build projections. Member Morodomi asked who checks the numbers and how these mistakes can be avoided going forward? Mr. Pruden assured that staff will not be making these mistakes again. Member Morodomi wishes to encourage Members to ensure that the numbers given by staff have been checked by somebody. He added that unlike a business, this Board has no control over its expenses. As labor costs rise, the Board's costs rise and the Board has no ability to negotiate how much it pays employees. The only thing the Board can do is increase its fees, but the fees are not really tied in any way to our labor costs.

Mr. Pruden clarified that raising fees is not the Board's only tool. The Board did not need to grow via five BCPs, increasing personnel expenditures so quickly while at the same time not bringing in additional revenue by implementing statutory mandates. So, he does not think fees are the only question here. He believes the Board is in the place it is now of raising fees partially because of actions we have already taken. However, going forward some of this can be mitigated by ensuring that we have more accurate numbers, and ensuring that we are implementing things; so, fees are not and should not be the only tool the Board has.

Member Garcia commented that Mr. Pruden walked into this current fiscal situation and that he has given the Board real tools and direction for getting us out of this. However, Member Garcia noted that it has been 14 years since the last fee increase and that is the problem. He asked what in our economy has stayed the same price for 14 years? Nothing. Labor costs have risen particularly in the last five years. He argued one does not have to be an economist to figure out what went wrong. Past Board Members and staff should have taken action sooner and if a fee study was done sooner, the Board would not be in this situation. Member Garcia believes it is clear what needs to be done.

Member Kawaguchi asserted that looking back, there has not been just one instance or opportunity where a potential miss occurred. The Board did a very large study that took more than two years when the optician program merged into optometry. At that time the Board was told repeatedly that the optician program would be self-sufficient with changes that were going to be made. He asked what this Board is going to do moving forward to ensure that the data it is given is correct? What happens if this current analysis is actually not fully correct? The Board was told for several years that our program is solvent and there was no need for a fee study only to be told that it is not. Member Kawaguchi wants to ensure that sweeping decisions the Board makes that effect registrants and licensees in California are fair, that they make sense, and that we do not end up with regret. He noted that the Board needs to look at all three solutions that it has. He believes it is unwise to wait to find somebody who will support a bill for the Board to get some statutory changes to the fee structure. He believes that along with the fee study, staff need to figure out if there are some vacant positions that the Board does not intend to fill, so that can be some finalization to that.

Member Kawaguchi argued that he is not certain that he can support sweeping changes from a regulatory standpoint to raise all fees to their maximum because he is not sure that this is fully fair. He noted that raising the initial CLD and SLD application fees to their cap

would more than double those fees. From a consumer standpoint perspective, California needs more SLDs and CLDs, not less. His concern is that if the Board raises those fees to their cap, it will result in a mass exodus of CLDs and SLDs from California. Mr. Pruden clarified that although it appears in the materials that the fee would be raised from \$75 to \$200, this is not actually true. He explained that existing regulatory language is actually outdated regulatory language. When the RDO program came over to the Board in 2017/2018, statute at the time actually set a fee higher than \$75. Therefore, opticians are not being charge \$75 today. Mr. Pruden also noted that one of the reasons the Board needs to do a fee study is because it has not done one since the optician program merged with optometry six or seven years ago.

There were no requests for public comment.

Jeffrey Garcia moved to support discussion and possible action to initiate rulemaking to amend Title 16 California Code of Regulations Sections 1524, 1399.260, 1399.261 and 1399.263, relating to fees. Joseph Pruitt seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | X | | | | |
| Ms. Linden | | | | X | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Mr. Morodomi | X | | | | |
| Dr. Pruitt | X | | | | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | | | | X | |

9. Future Agenda Items

Audio of Discussion: [1:33:01](#)

Member Kawaguchi requested a discussion of CE and making the process simpler and more efficient and a possible linking to the OE Tracker system.

Members Morodomi, Kawaguchi, Ross, and Hancock expressed their appreciation for staff's hard work, and sentiments of gratitude and how wonderful their experience has been serving on the Board. These Members will be greatly missed.

There were no requests for public comment.

CLOSED SESSION

10. Pursuant to Government Code §11126(c)(3), the Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters

ADJOURNMENT

Upon the completion of closed session the meeting was adjourned.



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Lillian Wang, O.D., President |
| SUBJECT | Agenda Item #4 – Board President’s Report |

A. Welcome New Members

Since the Board's prior meeting in May, five members have departed, and three new members have been appointed. Today, we welcome:

Stacy Bragg, O.D.

Robert Klepa, J.D., and

Paul Hsu.

Dr. Bragg, O.D. was appointed to the Board by Governor Gavin Newsom on May 23, 2023. Dr. Bragg, O.D. has been a Telehealth Optometrist at Empire Vision Center since 2022 and an Optometrist at Regency Eye Care Inc since 2017. She was an Optometrist at Stacy A. Bragg, O.D., Inc from 2016 to 2017. She was a Managing Optometrist for EYEXAM of California, Inc. from 2014 to 2016. Dr. Bragg, O.D. was an Independent Subleasing Optometrist at FirstSight Vision Services, Inc. from 2005 to 2014. Dr. Bragg, O.D. earned a Doctorate degree in Optometry from Pacific University College of Optometry and a Bachelor of Science in Biology from Mercer University.

Robert Klepa, J.D. was appointed to the Board by Governor Gavin Newsom on May 23, 2023. Mr. Klepa has been a Hearing Officer for the Orange County Employee Retirement System since 2019, for the Los Angeles City Housing Department since 2018, for the Ventura County Employees Retirement Association since 2016, for the Los Angeles County Chief Executive Office’s Disability Division since 2011, and for the Los Angeles County Civil Service Commission since 2002. Mr. Klepa has been an Adjunct Instructor with Santa Monica College since 2002 and the University of California, Los Angeles’s Extension Program since 1998. Mr. Klepa was a Hearing Officer for the Los Angeles County Housing Authority from 2009 to 2019 and for the city of Santa Monica from 2005 to 2015. Mr. Klepa was a Judge Pro Tem, Arbitrator and Mediator with the Los Angeles County Superior Court from 1998 to 2014. Mr. Klepa has been a California licensed attorney since 1989, having previously earned his Juris Doctorate from Loyola Law School and his Bachelor of Arts in Political Science from the University of California, Los Angeles.

Paul Hsu was appointed to the Board by Assembly Speaker Anthony Rendon as a public member on June 23, 2023. Mr. Hsu is National Governing Board Member of the Asian Pacific Islander American Public Affairs organization, and the CEO of eAuto Technology LLC and PCH Construction Inc.

B. Discussion on Committee Appointments

The [2019 Board Member Handbook](#) provides for the following with respect to the board's committees and appointments:

“Notwithstanding the Dispensing Optician Committee, the President shall establish committees, whether standing or special, as necessary. The composition of the committees and the appointment of the members shall be determined by the Board President in consultation with the Vice President, Secretary and the Executive Officer. In determining the composition of each committee, the president shall solicit interest from the Board Members during a public meeting. The President shall strive to give each Board Member an opportunity to serve on at least one committee. Appointment of non-Board Members to a committee is subject to the approval of the Board.”

The Board has several committees through which it may conduct its business. These committees, and their current makeup, are:

Children's Vision Workgroup

Eunie Linden, J.D.

Jeffrey Garcia, O.D.

Consumer Protection, Public Relations, and Outreach Committee

Eunie Linden, J.D. – Chair

Jeffrey Garcia, O.D.

Legislation and Regulation Committee

Lillian Wang, O.D. – Chair

Jeffrey Garcia, O.D.

Eunie Linden, J.D.

Vacant

NBEO/ARBO Workgroup

Lilian Wang, O.D.

Vacant

Optometry and Optician Practice Act Workgroup

Vacant

Vacant

Practice and Education Committee

Jeffrey Garcia O.D. – Chair

Lillian Wang, O.D.

Vacant

Telehealth Workgroup

Vacant

Sandra Sims, J.D.

C. 2023 ARBO Meeting Delegate Report

The Board will receive a delegate report from former Board Member Glenn Kawaguchi, who served as the board's ARBO representative.

Attachments: 2019 Board Member Handbook

State of California
Business, Consumer Services, and Housing Agency
Department of Consumer Affairs



Board Member Handbook



California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
www.optometry.ca.gov

2019 Edition

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1. Introduction

Overview

The [California State Board of Optometry](#) (hereafter Board) was created by the California Legislature in 1913 under the Department of Professional and Vocational Standards to safeguard the public's health, safety, and welfare. In 1923, the Board promulgated the first rules for the practice of optometry and the State Legislature first required all applicants for licensure to be graduates of an accredited school or colleges of optometry. The Board is responsible for accrediting these schools. To assure competent and ethical practitioners and protect the public from harm, no person may engage in the practice of optometry in California unless he or she possesses a valid and unrevoked license from the Board.

The Board is one of the boards, bureaus, commissions, and committees within the [Department of Consumer Affairs](#) (DCA), part of the [Business, Consumer Services and Housing Agency](#) under the aegis of the [Governor](#). DCA is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While the DCA provides administrative oversight and support services, the Board has policy autonomy and sets its own policies, procedures, and initiates its own regulations.

Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code (BPC) § [3010.1](#)).

The Board consists of [11 members](#), five of whom shall be public members and one of the nonpublic members shall be an individual registered as a dispensing optician. The registered dispensing optician member shall be registered pursuant to Chapter 5.5. (commencing with Section 2550) and in good standing with the Board. The remaining five members are California licensed optometrists actually engaged in the practice of optometry at the time of appointment or faculty members of a school or college of optometry. No more than two faculty members may be on the Board at any one time and they may not serve as public members. No person except the registered dispensing optician member, including the public members, shall be eligible to membership in the board who is a stockholder in or owner of or a member of the board of trustees of any school of optometry or who shall be financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale. The public members shall not be licensees or registrants of the Board or of any other Healing Arts Board (BPC § 3011).

The Governor appoints three public members and the six professional members. The [Senate Rules Committee](#) and the [Speaker of the Assembly](#) each appoint one public member. Board Members may serve up to two, four-year terms (BPC § 3013). Board Members are paid \$100 for each day actually spent in the discharge of official duties and are reimbursed travel expenses.

In January 2016, the legislature established a dispensing optician committee under the Board to advise and make recommendations to the Board regarding the regulation of dispensing opticians pursuant to Chapter 5.5 (commencing with Section 2550). The committee shall consist of five members, two of whom shall be registered dispensing opticians, two of whom shall be

public members, and one of whom shall be a member of the board. Initial appointments to the committee shall be made by the board. The board shall stagger the terms of the initial members appointed. The filling of vacancies on the committee shall be made by the board upon recommendations by the committee.

After the initial appointments by the board pursuant to subdivision (a), the Governor shall appoint the registered dispensing optician members and the public members. The committee shall submit a recommendation to the board regarding which board member should be appointed to serve on the committee, and the board shall appoint the member to serve. Committee members shall serve a term of four years except for the initial staggered terms. A member may be reappointed, but no person shall serve as a member of the committee for more than two consecutive terms.

The purpose of this handbook is to provide guidance to Board and Committee Members regarding general processes and procedures involved with their position on the Board and/or Committee. It also serves as a useful source of information for new Board Members as part of the induction process. Board Members are typically asked to create and review policy and administrative changes, make disciplinary decisions, and attend regular and special meetings. This handbook is additive to the Bagley-Keene Open Meeting Act and the Administrative Procedure Act which provide public meeting laws.

Mission Statement

To protect the health and safety of California consumers through licensing, education and regulation of the practice of Optometry and Opticianry.

Vision Statement

To ensure excellent optometric care for every Californian.

Values Statement

Consumer protection – We make effective and informed decisions in the best interest and for the safety of Californians.

Integrity – We are committed to honesty, ethical conduct, and responsibility.

Transparency – We hold ourselves accountable to the people of California. We operate openly so that stakeholders can trust that we are fair and honest.

Professionalism – We ensure qualified, proficient, and skilled staff provide excellent service to the State of California.

Excellence – We have a passion for quality and strive for continuous improvement of our programs, services, and processes through employee empowerment and professional development.

Board Responsibilities

With approximately 8,800 licensed optometrists, the largest population of optometrists in the United States, 3,000 branch office licenses, statements of licensure, and fictitious name permits, 24,000 practice certifications, and 4,200 registered dispensing opticians, contact lens dispensers, spectacle lens dispensers, and non-resident contact lens sellers, the Board is charged with the following duties and responsibilities:

- Accrediting the schools and colleges providing optometric education.
- Establishing educational requirements for admission to the examination for a license to practice optometry in California.
- Establishing examination requirements to ensure the competence of individuals licensed to practice optometry in California and administering the examination.
- Setting and enforcing standards for continued competency of existing licensees.
- Establishing educational and examination requirements for licensed optometrists seeking certification to use and prescribe authorized pharmaceutical agents.
- Issuing certifications to diagnose and treat glaucoma for patients over the age of 18.
- Licensing practice locations and issuing fictitious name permits.

- Effective January 1, 2007, the Board no longer registers Optometric Corporations. However, the Board has maintained the authority to regulate those in existence.
- Promulgating regulations governing:
 - Procedures of the Board
 - Admission of applicants for examination for licensure as optometrists
 - Minimum standards governing the optometric services offered or performed, the equipment, or the sanitary conditions
- Registering dispensing opticians, contact lens and spectacle lens dispensers, and nonresident contact lens sellers
- Investigating allegations of substance and patient abuse, unprofessional conduct, incompetence, fraudulent action, or unlawful activity.
- Instituting disciplinary action for violations of laws and regulations governing the practice of optometry and dispensing optician when warranted.

This procedures manual is provided to Board Members as a ready reference of important laws, regulations, DCA policies, and Board policies in order to guide the actions of the Board Members and ensure Board effectiveness and efficiency.

Definitions

| Term | Acronym | Definition |
|--|---------|--|
| Administrative Law Judge | ALJ | A judge from the Office of Administrative Hearings (OAH) who presides over license denial and discipline cases (the trier of fact) and makes a Proposed Decision to the Board that includes findings of fact, conclusions of law, and a recommended level of discipline. |
| Administrative Procedure Act | APA | The law that sets out the procedure for license denial and license discipline, to meet constitutional requirements for due process of law. |
| Bagley-Keene Open Meeting Act | - | Provisions of the public meetings law governing state agencies |
| Business and Professions Code | BPC | California Law related to business and professions. The majority of DCA entities fall under this code. |
| Department of Consumer Affairs | DCA | The DCA protects and serves California consumers while ensuring a competent and fair marketplace. The DCA issues licenses in more than 100 business and 200 professional categories, including doctors, dentists, contractors, cosmetologists and automotive repair facilities. The DCA includes 41 regulatory entities (25 boards, nine bureaus, four committees, two programs, |

and one commission). These entities establish minimum qualifications and levels of competency for licensure. They also license, register, or certify practitioners, investigate complaints and discipline violators. The committees, commission and boards are semiautonomous bodies whose members are appointed by the Governor and the Legislature. DCA provides them administrative support. DCA's operations are funded exclusively by license fees.

| | | |
|---|------|--|
| Executive Officer | EO | An individual who serves at the pleasure of, and receives direction from the Board in the areas of program administration, strategic planning, and coordination of meetings. He or she is responsible for the day to day operations of the Board |
| Office of Administrative Hearings | OAH | The state agency that provides neutral (unaffiliated with either party) judges to preside over administrative cases. |
| Office of Administrative Law | OAL | The state agency that reviews regulation changes for compliance with the process and standards set out in law and either approves or disapproves those regulation changes. |
| Regulation | - | A standard that implements, interprets, or makes specific a statute enacted by the legislature. It is enforceable the same way as a statute. |
| State Administrative Manual | SAM | A reference source for statewide policies, procedures, requirements and information developed and issued by authoring agencies. In order to provide a uniform approach to statewide management policy, the contents have the approval of and are published by the authority of the Department of Finance Director and the Department of General Services Director. |
| Statute | - | A law passed by the legislature. |
| Stipulation | STIP | The matter in which a disciplinary or licensing case is settled by negotiated agreement prior to a hearing. The Board's Uniform Standards Related to Substance Abuse and Disciplinary Guidelines are used to guide these negotiated settlements. |

Licenses and Certification Issued by the Board

The following chart provides an overview of the various licenses, certifications, and registrations issued by the Board.

| TYPE | DESCRIPTION | Authority |
|---|--|---|
| Optometric License (OPT) | Required to practice optometry in California. | BPC § 3040 , BPC § 3041 |
| Statement of Licensure (SOL) | Required for each practice location other than the licensee's principal place of practice. | BPC § 3070 CCR § 1506(d) . |
| Immunization Certification | Certified to administer immunizations for influenza, herpes zoster virus, and pneumococcus in compliance with CDC recommendations for persons 18 years of age or older. | BPC § 3041 |
| Fictitious Name Permit (FNP) | Required if a fictitious name is used in conjunction with the practice of optometry. | BPC § 3078 , CCR § 1518 |
| Diagnostic Pharmaceutical Agents (DPA) | Certified to use diagnostic pharmaceutical agents for examination purposes only. Not certified to treat diseases of the eye or its appendages. | BPC § 3041.2 , CCR § 1561 |
| Therapeutic Pharmaceutical Agents (TPA) Certification | Certified to use therapeutic pharmaceutical agents to treat certain conditions of the human eye or any of its appendages. May also perform certain procedures on the eye as listed in California Business and Professions Code Section 3041. TPA is the minimum certification required in order to obtain licensure in California. | BPC § 3041.3 , CCR § 1568 |
| Lacrimal Irrigation and Dilation Certification | TPA certified with additional certification to perform lacrimal irrigation and dilation procedures for patients over the age of 12 years. | BPC § 3041(e)(6) , BPC § 3041.3 |
| Glaucoma Certification | TPA certified with additional certification to diagnose and treat primary open angle glaucoma in patients over the age of 18 years. | BPC § 3041(f)(5) , CCR § 1571 |
| Registered Dispensing Optician (RDO) | Registered Dispensing Opticians can fill prescriptions for glasses or contacts. | BPC § 2550-2559 |
| Contact Lens Dispenser (CLD) | A person registered as a contact lens dispenser took and passed the Nation Contact Lens Examiners - Contact Lens Exam. | BPC § 2560-2564.6 |
| Spectacle Lens Dispenser (SLD) | A person registered as a contact lens dispenser took and passed the American Board of Opticianry - Spectacle Exam exams. | BPC § 2559.1-2559.6 |

| TYPE | DESCRIPTION | Authority |
|---|--|------------------------------------|
| Non-Resident Contact Lens Seller (NCLS) | The NCLS certificate authorizes a business located outside of California to ship, mail, or deliver in any manner, replacement contact lenses at retail, pursuant to a valid prescription, to a patient at a California address | BPC § 2546-2546.10 |

General Rules of Conduct

The following rules of conduct detail expectations of Board Members. The Board is comprised of both public and professional members with the intention that, together, the Board can collectively protect the public and regulate the Optometry profession.

- Board Members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board Members shall recognize the equal role and responsibilities of all Board Members.
- Board Members shall adequately prepare for Board responsibilities.
- Board Members shall not speak or act for the Board without proper authorization.
- Board Members shall maintain the confidentiality of non-public documents and information.
- Board Members shall act fairly, be nonpartisan, impartial and unbiased in their role of protecting the public.
- Board Members shall treat all applicants and licensees in a fair and impartial manner.
- Board Members shall not use their positions on the Board for personal, familial or financial gain.

Additional Resources:

1. California State Board of Optometry: <http://www.optometry.ca.gov/>
2. Department of Consumer Affairs: <http://www.dca.ca.gov/>
3. Business, Consumer Services and Housing Agency: <http://www.bcsb.ca.gov/>
4. Office of Governor Gavin Newsome: <http://gov.ca.gov>
5. California State Assembly: <http://assembly.ca.gov/>
6. Legislation and Statutes (Business and Professions, Government, Health and Safety, etc.): http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml
7. Senate Rules Committee: <http://srul.senate.ca.gov/>
8. Assembly Rules Committee: <http://arul.assembly.ca.gov/>
9. Speaker of the Assembly: <http://asmdc.org/speaker/>
10. California State Board Members: <http://www.optometry.ca.gov/about-us/board-memb.shtml>
11. Administrative Law Judge: <http://www.dgs.ca.gov/oah/GeneralJurisdiction/ALJbio.aspx>
12. Office of Administrative Hearings: <http://www.dgs.ca.gov/oah/Home.aspx>
13. Administrative Procedure Act: http://www.oal.ca.gov/Administrative_Procedure_Act.htm
14. Department of General Services: <http://www.dgs.ca.gov/dgs/Home.aspx>

2. Board Meeting Procedures

All Boards, Bureaus and Programs under the Department of Consumer Affairs, including the Board must meet in accordance with the provisions set forth by the [Bagley-Keene Open Meeting Act](#). The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

Open Meetings

The Bagley-Keene Act of 1967, officially known as the Bagley-Keene Open Meeting Act, implements a provision of the [California Constitution](#) which declares that "the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny", and explicitly mandates open meetings for [California](#) State agencies, Boards, and commissions. The act facilitates accountability and transparency of government activities and protects the rights of citizens to participate in State government deliberations. This is similar to California's Brown Act of 1963, which provides open meeting provisions for county and local government agencies. The Bagley-Keene Act requires that the Board is to provide adequate notice of meetings to be held to the public as well as provide an opportunity for public comment. The meeting is to be conducted in an open session, except where closed session is specifically noted.

Closed Session ([GC § 11126 et seq.](#))

The Bagley-Keene Act of 1967 also contains specific exceptions from the open meeting requirements where government has a demonstrated need for confidentiality.

Should a Closed Session be authorized by law, the Board must disclose in the open meeting a general statement about the closed session items (i.e. by mentioning it on the agenda). Additionally, all closed sessions must take place at a regularly scheduled or special meeting.

All matters discussed in Closed Sessions must remain confidential.

All Closed Sessions must be held during a regular or Special Meeting (§ 11128). A staff person shall be designated to attend the closed session and record the votes taken and matters discussed.

Closed Sessions may take place in the following instances:

- Personnel matters (i.e. appointments, employment, performance evaluations, etc.) of the Executive Officer.
- Administrative disciplinary and licensing proceedings.
- Examination matters, such as when the Board administers or approves an exam.
- Pending litigation.
- Confidential audit reports.

- Protection of privacy when matters discussed would be an invasion of privacy if conducted in open session.
- Response to a threat of criminal or terrorist activity against personnel, property, buildings, facilities, or equipment.

All information discussed in the closed session is confidential and must not be disclosed to outside parties.

Special Meetings ([GC § 11125 et seq.](#))

A Special Meeting may be held where compliance with a 10-day meeting notice would impose a hardship or when an immediate action would be required to protect the public interest.

Notice for a Special Meeting must be posted on the Internet at least 48 hours prior to the meeting. Upon commencement, the Board must state the specific facts that necessitate special meeting as a finding. This finding must be adopted by a two-thirds vote; failure to adopt the finding terminates the meeting.

The purpose and instructions for Special Meetings are detailed in [GC § 11125.4](#). The notice needs to specify the time, place and purpose of the Special Meeting.

Emergency Meetings ([GC § 11125.5](#))

An Emergency Meeting may be held for an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. An emergency situation is where work stoppage, crippling disaster, or other activity severely impairs the public health or safety. A determination of an emergency situation must be made by a majority of the board members.

Media outlets on the board's interested parties list must be given at least one hour's notice of the emergency meeting by telephone, if telephone services are functioning. The minutes of a meeting called pursuant to this section, a list of persons who the president or designee notified or attempted to notify, a copy of the roll call vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

Committee Meeting Requirements

Committee Meetings consist of less than a quorum of the members of the full Board. Subcommittee and Task Force Meetings are variations of Committee Meetings.

Board Meetings have historically been required to be noticed and open to the public, except where a Closed Session is authorized. Committee and Subcommittee Meetings, where less than a quorum of the Board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not

exercise any authority of a state body delegated to it by that state body. (Note: It is the number of persons on the committee [not the number of Board Members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the Board should not attend the meeting, as such attendance would clearly be perceived as a Bagley-Keene Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the Board provided the members of the Board who are not members of the committee attend only as observers. ([GC §11122.5\(c\)\(6\)](#)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a Committee Meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body as observers." The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of [GC §11122.5 \(c\)\(6\)](#), and the opinion of the California Attorney General, if a majority of members of the full Board are present at a Committee Meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The Board Members who are not Committee Members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a Board schedules its Committee Meetings seriatim, and other Board Members are typically present to ultimately be available for their own Committee Meeting, the notice of the Committee Meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body in [Section 11121\(c\)](#)."

Making a Motion at Meetings

When a decision or action is to be considered, a Board Member should make a motion to propose a decision or course of action.

Upon making a motion, Board Members must speak slowly and clearly as the motion is being voice and/or video recorded. Members who opt to second a motion must remember to repeat the motion in question. Additionally, it is important to remember that once a motion has been made and seconded, it is inappropriate to make a second motion until the initial one has been resolved.

The basic process of a motion is as follows:

- An agenda item has been thoroughly discussed and reviewed.
- The Board President opens a forum for a Member to make a motion to adopt or reject the discussed item.
- A Member makes a motion before the Board.
- Another Member seconds this motion.
- The Board President solicits additional comment from the Board and then the public.
- The Board President puts forth the motion to a vote.
- The vote of each Board Member shall be recorded via roll call vote.
- Upon completion of the voting, the President will announce the result of the vote (e.g. “the ayes have it and the motion is adopted” or “the no’s have it and the motion fails”).

Meeting Frequency

[\(BPC § 3017\)](#)

The Board shall hold regular meetings every calendar quarter. Notice of each meeting and the time and place thereof shall be given to each member in the manner provided by the [Bagley-Keene Open Meeting Act](#).

Board Member Attendance at Board Meetings

(Board Policy)

Board Members shall attend each Board Meeting. If a member is unable to attend a meeting, it is the responsibility of the Board Member to contact the President and the Executive Officer prior to the Board Meeting.

Quorum

[\(BPC § 3010.1\)](#)

Six Board Members constitute a quorum of the Board for the transaction of business. Either having members in attendance or by teleconference, with proper notice, can meet the requirement for a quorum. The concurrence of a majority of those members of the Board present and voting at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the Board.

Agenda Items

(Board Policy and [GC § 11125 et seq.](#))

Agenda items are to align with the Board's mandate to protect the health and safety of California consumers. Any Board Member may submit items for a Board Meeting agenda to the Board President with a copy to the Executive Officer 30 days prior to the meeting, where possible. Members may also recommend agenda items during the meeting under Suggestions for Future Agenda Items. A motion and vote may be taken but is not necessary. The Board President will confer with the Executive Officer and Legal Counsel regarding the future agenda items. It will be a standing item to review the status of future agenda items that have been recommended by Board Members that may not have made the current Board Meeting agenda. An item may be placed on the Board's agenda by the President, the Executive Officer, or by a vote of a majority of the members of the Board

Staff maintains a list of items to research and bring back to a future Board Meeting. Staff may recommend the issue be referred to a Committee first to be vetted. Prior to items being placed on the agenda, staff conducts research to determine if an item is appropriate for Board discussion. This research starts with identifying how the item meets our mandate to protect the health and safety of California consumers. In addition, staff researches potential benefits to the State, identifies the current professional trends and what other states are doing. For items requiring legislative and/or regulatory changes, staff identifies potential concerns by anticipating who would be in support of or in opposition to the bill/rulemaking.

No item shall be added to the agenda subsequent to the provision of the meeting notice. However, an agenda item may be amended and then posted on the Internet at least 10 calendar days prior to the meeting.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Items not included on the agenda may not be discussed.

Notice of Meeting

([GC § 11120 et seq.](#))

Regularly scheduled quarterly meeting generally occur throughout the year and address the usual business of the Board. There are no restrictions on the purposes for which a regularly scheduled meeting may be held.

Per the Bagley-Keene Open Meeting Act, the Board is required to give at least ten (10) calendar days for written notice of each Board Meeting to be held.

The meeting notice must include the agenda with a brief description of the item. No changes can be made to the agenda unless the notice is amended accordingly. If this occurs, it must be posted for ten (10) calendar days prior to the meeting.

Notice of Meetings to be posted on the Internet

[\(GC § 11125 et seq.\)](#)

Notice shall be given and also made available on the Internet at least ten (10) calendar days in advance of the meeting and shall include the name, address, and telephone number of any person who can provide information prior to the meeting. However, it need not include a list of witnesses expected to appear at the meeting.

Written notices shall include the address of the Internet site where notices required by this article are available.

Record of Meetings

(Board Policy)

Board action, public comment, and any presenters are recorded by Action Minutes unless the meeting is not audio recorded or webcast. If no recording is available, detailed summary minutes will be recorded. The minutes shall be prepared by Board staff and submitted for review by Board Members before the next Board Meeting. Board Minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting.

Tape Recording

(Board Policy)

The meetings may be tape-recorded if determined necessary for staff purposes. Tape recordings will be maintained with the meeting minutes and kept according to the Board's retention schedule.

Meeting by Teleconference

[\(GC § 11123 et seq.\)](#)

Board Meetings held by a teleconference must comply with requirements applicable to all meetings.

The portion of the meeting that is open session must be made audible to the public present at the location specified in the meeting notice. Each teleconference meeting location must be identified in the meeting agenda. The authorized location must be open to the public and ADA accessible. Additionally, each Board Member participating via teleconference must post appropriate signage for the public and ensure public materials are available to the public, either printed or electronic.

Board Policy does not allow Board Members to participate in petition hearings via teleconference. Thus, Board Members would not be able to participate in the petition deliberations and voting during closed session. However, after petition proceedings are final, the Board Member should be contacted to participate in all other closed session deliberations.

Unless it is during a petition hearing, if a Board Member is participating via teleconference, and the call is disconnected, an effort should be made to reconnect the call.

All votes taken during a teleconference meeting shall be by roll call.

Use of Electronic Devices During Meetings

Use of electronic devices, including laptops, during the meetings is solely limited to Board Meeting purposes.

Additional Resources:

1. Bagley-Keene Open Meeting Act: http://ag.ca.gov/publications/bagleykeene2004_ada.pdf
2. Office of Administrative Law: <http://www.oal.ca.gov/>
3. State Board of Optometry Regulations (Title 16, Division 15)
Registered Dispensing Opticians Regulations (Title 16, Division 13.5)
[https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=(sc.Default))

3. Travel & Salary Policies & Procedures

Travel Approval

(DCA Memorandum 96-01)

Board Members shall have Board President approval for travel except for regularly scheduled Board and Committee Meetings to which the Board Member is assigned.

Travel Arrangements

(Board Policy)

Board staff will make travel arrangements for each Board Member as required.

Out-of-State Travel

(State Administrative Manual § 700 et seq.)

For out-of-state travel, Board Members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the State of California is controlled and must be approved by the Governor's Office.

Travel Claims

(State Administrative Manual § 700 et seq. and DCA Travel Guidelines)

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. Board Members will be provided with completed travel claim forms submitted on their behalf. The Executive Officer's Assistant maintains these forms and completes them as needed. It is advisable for Board Members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, Board Members shall follow the procedures contained in DCA Departmental Memoranda which are periodically disseminated by the DCA Director and are provided to Board Members.

Salary Per Diem

[\(BPC § 103\)](#)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board and Committee Members is regulated by BPC § 103.

In relevant part, this section provides for the payment of salary per diem for Board and Committee Members "for each day actually spent in the discharge of official duties," and provides that the Board and/or Committee Member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

The following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. Board Meetings:

Board Members shall be paid \$100 for each Board meeting attended. In addition, Board Members shall be paid \$100 for all preparation for each Board meeting; provided however, that no meeting preparation salary shall be paid unless the Board Member attends the meeting.

2. Committee Meetings:

Board Policy is to hold all committee meetings quarterly on the same day. Committee Members shall be paid \$100 total for meeting attendance, regardless of the number of meetings attended on the same day. In addition, Committee Members shall be paid \$100 for all preparation for the meeting(s), regardless of the number of meetings attended on the same day. If committee meetings are held outside of the quarterly committee schedule, or if committee meeting preparation and/or attendance is extensive, additional per diems may be approved at the discretion of the Board President.

3. No salary per diem or reimbursement for travel-related expenses shall be paid to Board Members, except for attendance and meeting preparation at official Board or Committee Meetings and unless a substantial official service is performed by the Board Member. Attendance at gatherings, events, hearings, conferences or meetings, other than official Board or Committee Meetings, in which a substantial official service is performed, shall be approved in advance by the Board President. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President prior to the Board Member's attendance.
4. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board Meeting or Committee Meeting to the conclusion of that meeting. Where it is necessary for a Board Member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.
5. Board Members will be provided with a copy of the salary per diem form submitted on their behalf.

In addition to the above per diems, for Board specified work, Board Members will be compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, and committee work. Board Members cannot claim salary per diem for time spent traveling to and from a Board or Committee Meeting.

Per Diem Expenses: Meals, lodging, and all appropriate incidental expenses incurred may be claimed when conducting State business while on travel status.

Additional Resources

1. State Administrative Manual: <http://sam.dgs.ca.gov/TOC.aspx>
2. Department of Finance: <http://www.dof.ca.gov/>

3. Selection of Officers and Committees

Officers of the Board

[\(BPC § 3014\)](#)

The Board shall elect from its members a President, Vice-President, and a Secretary to hold office for one year or until their successors are duly elected and qualified.

Roles and Responsibilities of Board Officers

(Board Policy)

President

- **Board Business:** Conducts the Board's business in a professional manner and with appropriate transparency, adhering to the highest ethical standards. Shall use Roberts Rules of Order as a guide and shall use the provisions of the Open Meeting Act during all Board Meetings.
- **Board Vote:** Conducts roll call vote.
- **Board Affairs:** Ensures that Board matters are handled properly, including preparation of pre-meeting materials, committee functioning and orientation of new Board Members.
- **Governance:** Ensures the prevalence of Board governance policies and practices, acting as a representative of the Board as a whole.
- **Board Meeting Agendas:** Develops agendas for meetings with the Executive Officer and Legal Counsel. Presides at Board Meetings.
- **Executive Officer:** Establishes search and selection committee for hiring an Executive Officer. The committee will work with the DCA on the search. Convenes Board discussions for evaluating Executive Officer each fiscal year.
- **Board Committees:** Seeks volunteers for committees and coordinates individual Board Member assignments. Makes sure each committee has a chairperson, and stays in touch with chairpersons to be sure that their work is carried out. Obtains debrief from each Board Committee chairperson and reports committee progress and actions to Board at the Board Meeting.
- **Yearly Elections:** Solicits nominees not less than 45 days prior to open elections at Board Meeting.
- **Community and Professional Representation:** Represents the Board in the community on behalf of the organization (as does the Executive Officer and Public Outreach Committee).

Vice President

- **Board Business:** Performs the duties and responsibilities of the President when the President is absent.
- **Board Budget:** Serves as the Board's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. Review budget change orders with staff.
- **Strategic Plan:** Serves as the Board's strategic planning liaison with staff and shall assist staff in the monitoring and reporting of the strategic plan to the Board.
- **Board Member On-Boarding:** Welcomes new members to the Board, is available to answer questions, and assist new Board Members with understanding their role and responsibilities. May participate in on-Boarding meeting with staff and new members.

Secretary

- **Attendance:** Calls roll to establish quorum
- **Board Motions:** Restates the motion prior to discussion.
- **Board Business:** Reviews draft minutes for accuracy.
- **Board Minutes:** Ensures accuracy and availability, including but not limited to date, time and location of meeting; list of those present and absent; list of items discussed; list of reports presented; and text of motions presented and description of their disposition. Reviews and provides edits to draft minutes which have been transcribed by staff following recorded webcasts, note taking and other methods to record public meetings.
- **Yearly Elections:** Reviews template for nominee statements and oversees the compilation of statements for inclusion in Board Meeting Materials.
- **Board Documents:** Maintains copies of administrative documents, e.g., Board Member Handbook, Administrative Law Book, Bagley-Keene Open Meeting Act for reference during Board Meeting.

Election of Officers

(Board Policy)

The Board elects the officers at the last meeting of the fiscal year. Officers serve a term of one-year, beginning July 1 of the next fiscal year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board Member is running per office. An officer may be re-elected and serve for more than one term.

Officer Vacancies

(Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice President shall assume the office of the President until the election for President is held. Elected officers shall then serve the remainder of the term.

Committee Appointments

(Board Policy)

Notwithstanding the Dispensing Optician Committee, the President shall establish committees, whether standing or special, as necessary. The composition of the committees and the appointment of the members shall be determined by the Board President in consultation with the Vice President, Secretary and the Executive Officer. In determining the composition of each committee, the president shall solicit interest from the Board Members during a public meeting. The President shall strive to give each Board Member an opportunity to serve on at least one committee. Appointment of non-Board Members to a committee is subject to the approval of the Board.

Attendance of Committee Meetings

(GC § 11122.5 (c)(6))

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) Except as authorized pursuant to Government Code [§ 11123](#), any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person.

(2) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body. This paragraph is not intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by § 54951, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, provided that the members of the state body who are not members of the standing committee attend only as observers.

4. Board Administration and Staff

Board Administration

(DCA Reference Manual)

Board Members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board Members to become involved in the details of program delivery. Strategies for the day-to-day management of programs, operations and staff shall be the responsibility of the Executive Officer. Board Members shall not interfere with day-to-day operations of the Board, which is the responsibility of the Executive Officer.

Board Staff

The Board's essential functions are comprised of ensuring Optometrists, opticians, and dispensers licensed or registered in the State of California meet professional examination requirements and follow legal, legislative and regulatory mandates. The Board is also responsible for enforcement of State of California requirements and regulations as they pertain to the Optometry and Opticianry profession.

- **Licensing:** Staff is responsible for evaluating applications for initial licensure, license renewals, providing certifications, issuing Fictitious Name Permits, monitoring continuing education, and providing license verifications to consumers and customer service to licensees accordingly.
- **Examinations:** Staff assists in the development of the law exam, which is necessary to ensure optometrists understand the California laws and regulations governing their practice. Staff also develops examination procedures.
- **Legislative and Regulatory:** Administrative staff is responsible for monitoring pending legislation impacting the practice of optometry, proposing legislative and regulatory amendments/additions for Board consideration, and assisting in implementing legislative/regulatory changes.
- **Enforcement:** Staff is responsible for ensuring consumer protection predominantly by processing consumer complaints, monitoring probationers, and providing customer service to licensees and consumers by providing information related to Board law.

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board Members shall not intervene or become involved in specific day-to-day personnel transactions or matters.

Appointment of Executive Officer ([BPC § 3027](#))

The Board shall employ an Executive Officer and other necessary assistance in the carrying out of the provisions of the [BPC, Chapter 7](#).

The Executive Officer serves at the pleasure of the Board Members who provide policy direction to the Executive Officer in the areas of program administration, legislative and regulatory development, strategic planning, and coordination of meetings. The Executive Officer shall not be a member of the Board. With the approval of the Director of Finance, the Board shall determine the salary of the Executive Officer. The Executive Officer shall be entitled to traveling and other necessary expenses in the performance of his/her duties as approved by the Board.

Executive Officer Evaluation (Board Policy)

Board Members shall evaluate the performance of the Executive Officer on an annual basis.

Legal Counsel

Generally, the Office of the Attorney General represents the Board for litigation and represents complainant (the Executive Officer) for licensing and discipline cases. The DCA legal counsel assigned to the Board provides “in-house” counsel, assistance on closed session discipline and licensing matters. It is the Board’s policy to have DCA counsel present in closed sessions held pursuant to government code section 11126(c)(3), including deliberations on petition hearings.

Strategic Planning (Board Policy)

The Executive Committee shall have overall responsibility for the Board’s strategic planning process. The Vice President shall serve as the Board’s strategic planning liaison with staff and shall assist staff in the monitoring and reporting of the strategic plan to the Board. The Board will update the strategic plan every three years, with the option to use a facilitator to conduct the plan update. At the end of the fiscal year, an annual review conducted by the Board will evaluate the progress toward goal achievement as stated in the strategic plan and identify any areas that may require amending.

Board Budget (Board Policy)

The Vice President shall serve as the Board’s budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. Staff will conduct an annual budget briefing with the Board with the assistance of the Vice President.

The Executive Officer or the Executive Officer’s designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislation.

Press Releases

(Board Policy)

The Executive Officer, in coordination with the DCA's Public Information Office, may issue press releases with the approval of the Board President.

Legislation

(Board Policy)

In the event time constraints preclude Board action, the Board may delegate to the Executive Officer and the Board President and Vice President the authority to take action on legislation that would affect the practice of optometry, opticianry, or responsibilities of the Board. The Board shall be notified of such action as soon as possible.

6. Other Policies and Procedures

Board Member Orientation and Training

([BPC § 453](#))

Newly appointed members shall complete a training and orientation program provided by DCA within one year of assuming office. This one-day class will discuss Board Member obligations and responsibilities.

([GC § 11121.9](#), [GC § 12950.1](#))

All Board Members shall complete all required training and submit compliance documentation, including but not limited to, the documents specified below:

- [Board Member Orientation Training](#) provided by the DCA (complete within one (1) year of assuming office).
- [Ethics Orientation Training](#) (complete within first six (6) months of assuming office) and every two (2) years thereafter.
- [Conflict of Interest](#), [Form 700](#) (submit annually), within 30 days of assuming office, and upon leaving the Board.
- [Sexual Harassment Prevention Training](#) (complete within first six (6) months of assuming office) and every two (2) years thereafter.
- [Defensive Drive Training](#) (if driving state vehicles, vehicles rented by the state or drive personal vehicles for state business) required once every four years

Upon assuming office, members will also receive a copy of the Bagley-Keene Open Meeting Act, which lists public meeting laws that provide the guidelines for Board Meetings. The current version of this Act can also be found at the following:

http://www.dca.ca.gov/publications/bagleykeene_meetingact.pdf

Additional Board Member resources can be found at <http://www.dcaboardmembers.ca.gov/>. Business cards will be provided to each Board Member with the Board's name, address, telephone and fax number, and website address. A Board Member's business address, telephone and fax number, and email address may be listed on the card at the member's request.

Board Member Disciplinary Actions

(Board Policy)

The Board may censure a member if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner. The President of the Board shall sit as chair of the hearing unless the censure involves the President's own actions, in which case the Vice President of the Board shall sit as chair. In accordance with the Open Meeting Act, the censure hearing shall be conducted in open session.

Removal of Board Members

(BPC §§ [106](#) and [106.5](#))

The Governor has the power to remove from office at any time any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor may also remove from office a Board Member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Resignation of Board Members

([GC § 1750](#))

In the event that it becomes necessary for a Board Member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. State law requires written notification. A copy of this letter shall also be sent to the Director of DCA, the Board President, and the Executive Officer.

Conflict of Interest

([GC § 87100](#))

No Board Member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board Member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. Any Board Member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Contact with Candidates, Applicants and Licensees

(Board Policy)

Board Members shall not intervene on behalf of a candidate or an applicant for licensure for any reason. Nor shall they intervene on behalf of a licensee. All inquiries regarding licenses, applications and enforcement matters should be referred to the Executive Officer.

Communication with Other Organizations and Individuals

(Board Policy)

Any and all representations made on behalf of the Board or Board Policy must be made by the Executive Officer or Board President, unless approved otherwise. All correspondence shall be issued on the Board's standard letterhead and will be created and disseminated by the Executive Officer.

Gifts from Candidates

(Board Policy)

Gifts of any kind to Board Members or the staff from candidates for licensure with the Board shall not be permitted.

Request for Records Access

(Board Policy)

No Board Member may access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the Office of the Board.

Ex Parte Communications

([GC § 11430.10 et seq.](#))

The Government Code contains provisions prohibiting *ex parte* communications. An *ex parte* communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of § 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Board Members are prohibited from an *ex parte* communication with Board enforcement staff while a proceeding is pending. Occasionally an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board Members or attend a meeting.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board Member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter. If the person insists on discussing the case, he or she should be told that the Board Member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board Member believes that he or she has received an unlawful *ex parte* communication, he or she should contact the Executive Officer promptly.

Additional Resources:

1. Board Member Orientation Training:
<http://www.dcaboardmembers.ca.gov/training/orientation.shtml>
2. Ethics Orientation Training:
http://www.dcaboardmembers.ca.gov/training/ethics_orientation.shtml
3. Conflict of Interest, Form 700:
http://www.dcaboardmembers.ca.gov/member_info/form_700.shtml
4. Sexual Harassment Prevention Training:
http://www.dcaboardmembers.ca.gov/training/harassment_prevention.shtml
5. Defensive Driver Training: <http://www.dgs.ca.gov/orim/Programs/DDTOnlineTraining.aspx>
6. DCA Board Member Resource Center: <http://www.dcaboardmembers.ca.gov/>

7. Complaint and Disciplinary Process

The Board conducts disciplinary proceedings in accordance with the Administrative Procedure Act, [GC § 11500](#), and those sections that follow. The Board conducts investigations and hearings pursuant to [Government Code §§ 11180 through 11191](#). The Board also uses its [Uniform Standards Related to Substance Abuse and Disciplinary Guidelines, in regulation](#), as a guide when determining appropriate levels of discipline.

Typically, the disciplinary process begins with a complaint. Complaints can come to the Board via consumers, optometrists, and other agencies. Under Business and Professions Code 800 et seq., civil judgments or settlement against a licensee that exceeds three thousand dollars (\$3,000) must be reported to the Board by an insurer or licensee. These will result in an enforcement investigation.

To begin an investigation, the Board's enforcement staff determines jurisdiction over a complaint case. If jurisdiction has been established, enforcement staff begins its investigation by requesting permission to review the patient's medical file (if pertinent to the complaint) and notifies the optometrist that a complaint has been made.

Enforcement staff determines if a violation of the [Optometry Practice Act](#) or other applicable statutes and regulations has occurred by verifying facts to validate a complaint allegation. This is generally accomplished by gathering statements, patient records, billings, and insurance claims, etc. The Board may also submit the case to the Division of Investigation (DOI) for further investigation as DOI investigators are given authority of peace officers by the Business and Professions Code while engaged in their duties. Therefore, these investigators are authorized more investigative privileges than Board staff.

The Board may also seek the aid of an expert witness when the enforcement team needs an expert opinion to determine if the licensee in question breached the standard of care.

If it is determined that the subject's acts constitute a violation of law, the completed investigative report is submitted to the California Office of the Attorney General. The assigned Deputy Attorney General will review the case to determine if the evidence supports filing of an accusation against the subject for a violation of the law. If it is determined appropriate, an accusation is prepared and served upon the subject and he or she is given the opportunity to request a hearing to contest the charges.

The following is a list of allegations for which the Board may take action:

- Unprofessional conduct;
- Gross negligence;
- Sexual misconduct;
- Conviction of a substantially related crime;
- Substance abuse; and
- Insurance fraud.

After the Board files an accusation, the case may be resolved by a stipulated settlement: which is a written agreement between parties to which the person is charged admits to certain violations and agrees that a particular disciplinary order may be imposed.

Stipulations are subject to adoption by the Board. If a stipulated settlement cannot be negotiated, or if a settlement is rejected, the case proceeds to a hearing before an Administrative Law Judge (ALJ) of the Office of Administrative Hearings. The hearing may last anywhere from one day to several months, depending on the complexity of the case and the defense. During the hearing, both sides may call expert witnesses to support their views. After both sides have argued their case, the judge issues a proposed decision, which is then submitted to the Board for consideration.

If the Board rejects the proposed decision, Board Members obtain a transcript of the hearing, review the decision and decide the matter based upon the administrative record. If dissatisfied with the Board's decision, the respondent may petition for reconsideration or he or she may contest it by filing a writ of mandate in the appropriate superior court.

Deciding to Adopt or Reject a Proposed Decision

Upon being presented with a proposed disciplinary or licensing decision from an ALJ, each Board Member is asked to either adopt or Reject the action. Accordingly, the following should be considered when making a decision:

- Factors for consideration when deciding to adopt an ALJ's proposed decision
 - The summary of the evidence supports the findings of fact, and the findings support the conclusions of law.
 - The law and standards of practice are interpreted correctly.
 - In those cases in which witness credibility is crucial to the decision, the findings of fact include a determination based substantially on a witness' credibility, and the determination identifies specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
 - The penalty fits within the disciplinary guidelines or any deviation from those guidelines has been adequately explained.
 - If probation is granted, the terms and conditions of probation provide the necessary public protection.
- Factors for consideration when deciding to Reject an ALJ's proposed decision
 - The proposed decision reflects the ALJ clearly abused his/her discretion.
 - The ALJ made an error in applying the relevant standard of practice or burden of proof for the issues in controversy at the hearing.
 - The witness's credibility is crucial to the decision and the findings of fact include a determination based substantially on a witness' credibility; but the determination does not identify specific evidence of the observed demeanor, manner, or attitude, of the witness that supports the credibility determination.
 - The ALJ made an error in interpreting the licensing law and/or regulations.

- The ALJ made correct conclusions of law and properly applied the standards of practice but the level of discipline proposed is substantially less than is appropriate to protect the public.

Note: The Board may not increase a cost recovery reward.

Reviewing the Record and Preparing to Discuss and Render a Decision after Rejection

Should the Board reject a proposed decision by the ALJ must review the factual and legal findings to render a determination. The following guidance is provided to Board Members when reviewing the case record:

- Reviewing the Administrative Record
 - The Accusation
 - Make note of the code §§ charged and brief description of the §§ (e.g. B&P 3110(b) – gross negligence; B&P 3110 (d) – incompetence).
 - Read the facts that are alleged as they stand to prove or disprove the code violations. The burden to prove the violations by “clear and convincing evidence to a reasonable certainty” rests on the Board.
 - The Proposed Decision
 - Factual Findings. Review the factual findings and determine if they and/or testimony prove violations. Note that expert testimony may be necessary to prove the violations.
 - Legal conclusions (determination of issues). Determine if any proven facts constitute a violation of the code §.
 - Order. Review the order and determine if the penalty is appropriate per the violations found and if it is consistent with the Disciplinary Guidelines. If not, determine if there is a basis for which the record deviated from the guidelines.
 - The Transcript
 - Sufficiency of the Evidence. Determine if the evidence introduced is clear and convincing to a reasonable certainty to prove *each* factual allegation.
 - Lay Witnesses. Determine if the testimony provided by witnesses prove factual allegations. Refer back to the ALJ’s credibility findings.
 - Expert Witnesses. Which expert’s testimony was given the most weight by the ALJ? If a Board Member does not agree with the ALJ’s findings, the Board Member must determine which evidence in the record supports their conclusion.
 - Written Arguments received from parties after rejection of a proposed decision.
 - Is the written argument from each party persuasive?

- Do the parties cite to the administrative record/transcript? This is not required, but may bear on the persuasiveness of a party's argument.

Additional Resources

1. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines:
http://www.optometry.ca.gov/formspubs/uniform_standards.pdf

8. California's Legislative Process

The California State Legislature consists of two houses: the Senate and the Assembly. The Senate has 40 members and the Assembly has 80 members.

All legislation begins as an idea or concept. Should the Board take an idea to legislation, it will act as its sponsor.

In order to move an idea or concept toward legislation the Board must attain a Senator or Assembly Member to author it as a bill. Once a legislator has been identified as an author, the legislation will proceed to the Legislative Counsel where a bill is drafted. The legislator will introduce the bill in a house (if a Senator authors a bill, it will be introduced to the Senate; if an Assembly Member authors a bill, it will be introduced to the Assembly). This house is called the House of Origin.

Once a bill is introduced on the floor of its house, it is sent to the Office of State Printing. At this time, it may not be acted upon until 30 days after the date that it was introduced. After the allotted time has lapsed, the bill moves to the Rules Committee of its house to be assigned to a corresponding Policy Committee for hearing.

During committee hearing, the author presents the bill to the committee and witnesses provide testimony in support or opposition of the bill. At this time, amendments may be proposed and/or taken. Bills can be amended multiple times. Additionally, during these hearings, a Board representative (Board Chair, Executive Officer, and/or staffer) may be called upon to testify in favor of (or in opposition to) the bill.

Following these proceedings, the committee votes to pass the bill, pass it as amended, or defeat it. The bill may also be held in the committee without a vote, if it appears likely that it will not pass. In the case of the Appropriations (or "Fiscal") Committee, the bill may be held in the "Suspense File" if the committee members determine that the bill's fiscal impact is too great, as weighed against the priorities of other bills that also impact the state's finances. A bill is passed in committee by a majority vote.

If the bill is passed by committee, it returns to the floor of its House of Origin and is read a second time. Next, the bill is placed on third reading and is eligible for consideration by the full house in a floor vote. Bill analyses are prepared prior to this reading. During the third reading, the author explains the bill and members discuss and cast their vote. Bills that raise taxes, take effect immediately or place a proposition on the ballot require a 2/3 vote, which would require 27 votes in the Senate and 54 votes (two-thirds vote) in the Assembly to be passed. Other bills require majority vote. If a bill is defeated, its author may seek reconsiderations and another vote.

Once a bill has been approved by the House of Origin, it is submitted to the second house where the aforementioned process is repeated. Here, if an agreement is not reached, the bill dies or is sent to a two-house committee where members can come to a compromise. However, if an agreement is made, the bill is returned to both houses as a conference report to be voted upon.

Should both houses approve a bill, it proceeds to the Governor who can either sign the bill to law, allow it to become law without signature, or veto it. If the legislation is passed during the course of the regular session, the Governor must act within 12 days. However, the Governor has 30 days to sign bills that are passed during the final days of the legislative year, usually in August or early September. A two-thirds vote from both houses can override the Governor's decision to veto a bill.

Bills that are passed by the legislature and approved by the Governor are assigned a chapter number by the Secretary of State. Chaptered bills typically become part of the California Codes and the Board may enforce it as statute once it becomes effective. Most bills are effective on the first day of January the following year; however, matters of urgency take effect immediately.

For a graphic overview of California's legislative process, see the attached diagram at the end of this section.

Positions on Legislation

As a regulatory body, the Board can propose its own legislative proposals or take a position on a current piece of legislation.

At Board Meetings, staff may present current legislation that is of potential interest to the Board and/or which may directly impact the Board and the practice of optometry. When the Board attains research on legislation, it can take a position on the matter.

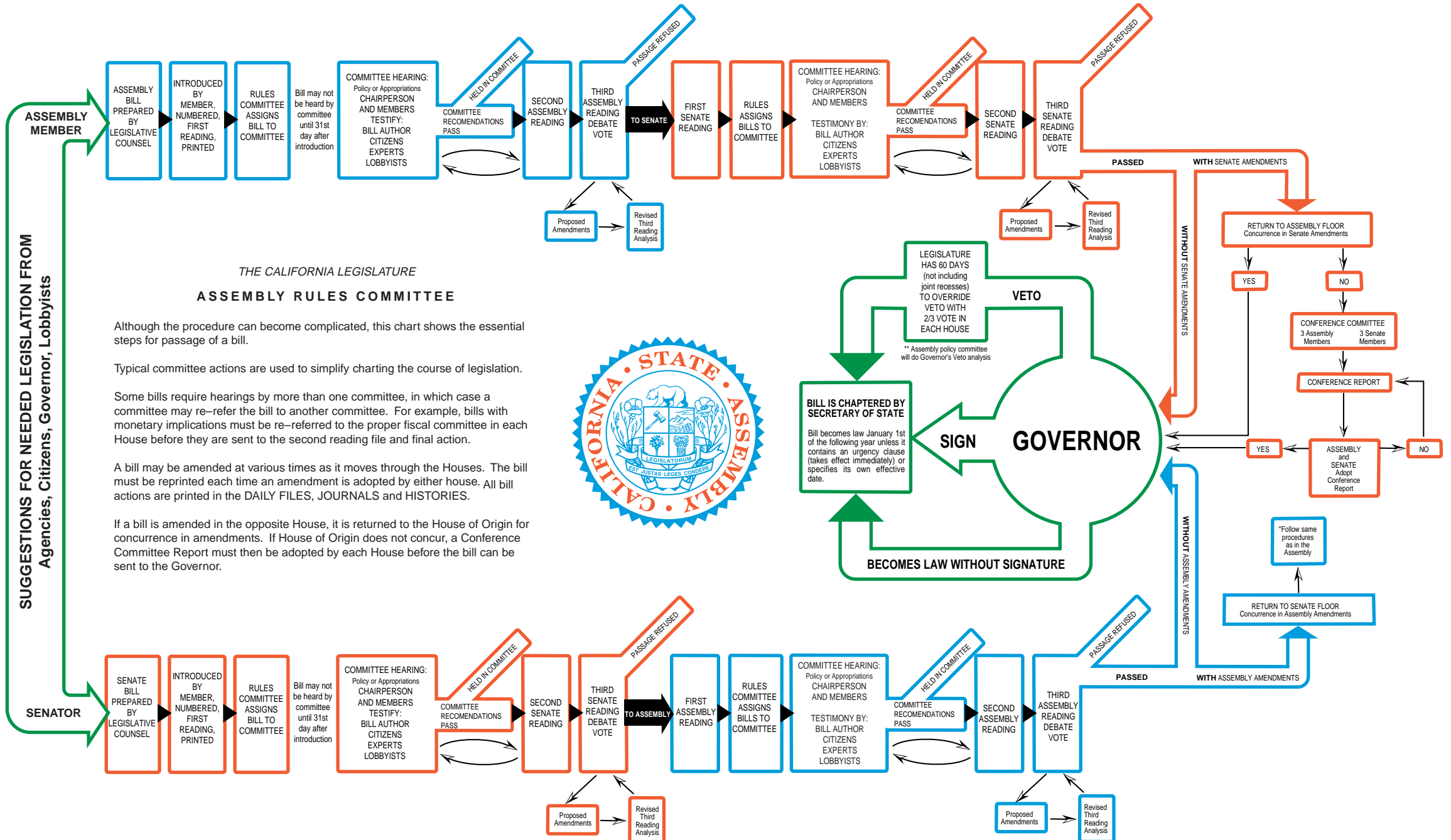
Possible positions include:

- **No Position:** The Board may decide that the bill is outside the Board's jurisdiction or that it has other reasons to not have any position on the bill. The Board would not generally testify on such a bill.
- **Neutral:** If a bill poses no problems or concerns to the Board, the Board may choose to adopt a neutral position.
- **Neutral if Amended:** The Board may take this position if there are minor problems with the bill but, providing they are amended, the intent of the legislation does not impede with Board processes.
- **Support:** This position may be taken if the Board supports the legislation and has no recommended changes.
- **Support if Amended:** This position may be taken if the Board has amendments and if accepted, the Board will support the legislation.
- **Oppose:** The Board may opt to oppose a bill if it negatively impacts consumers or is against the Board's own objectives.
- **Oppose Unless Amended:** The Board may take this position unless the objectionable language is removed. This is a more common and substantive stance than Neutral if Amended.

Board Members can access bill language, analyses, and vote history at <http://leginfo.legislature.ca.gov/> and watch all legislative hearings online at www.calchannel.com.

THE LIFE CYCLE OF LEGISLATION

From Idea into Law



THE CALIFORNIA LEGISLATURE

ASSEMBLY RULES COMMITTEE

Although the procedure can become complicated, this chart shows the essential steps for passage of a bill.

Typical committee actions are used to simplify charting the course of legislation.

Some bills require hearings by more than one committee, in which case a committee may re-refer the bill to another committee. For example, bills with monetary implications must be re-referred to the proper fiscal committee in each House before they are sent to the second reading file and final action.

A bill may be amended at various times as it moves through the Houses. The bill must be reprinted each time an amendment is adopted by either house. All bill actions are printed in the DAILY FILES, JOURNALS and HISTORIES.

If a bill is amended in the opposite House, it is returned to the House of Origin for concurrence in amendments. If House of Origin does not concur, a Conference Committee Report must then be adopted by each House before the bill can be sent to the Governor.



SUGGESTIONS FOR NEEDED LEGISLATION FROM Agencies, Citizens, Governor, Lobbyists

9. Regulations

Regulations and statutes govern the Board. Regulations interpret or make specific laws that are enforced or administered by the Board.

In order to prepare a rulemaking action, the Board is required to: (1) express terms of proposed regulation (the proposed text), (2) determine fiscal impact, (3) create a statement of reasons for that regulation, and (4) post notice of proposed rulemaking.

The issuance of a notice of proposed regulation initiates a rule making action. To do this, the Board creates a notice to be published in the California Regulatory Notice Register and mailed to interested parties. It must also post the notice, proposed text, and statement of reasons for the rulemaking action on its website.

Once the notice has been posted, the Administrative Procedure Act (APA) requires a 45-day comment period from interested parties before the Board may proceed further with the proposed regulation. During this time the Board can also decide if it wants to hold a public hearing to discuss the proposed rulemaking action. However, if it opts against this, but an interested person requests a hearing at least 15 days prior to the end of the written comment period, the Board must offer notice of and hold a public hearing to satisfy public request.

Following the initial comment period, the Board will often decide to revise its proposal. If it chooses to do so, APA procedures require that the agency assess each change and categorize them as (a) non-substantial, (b) substantial and sufficiently related, or (c) substantial and not sufficiently related. Any change that has been categorized as substantial and sufficiently related must be available for public comment for at least 15 days before the change is adopted in the proposal. All comments must then be considered by the Board.

Additionally, if the Board cites new material that has not been available to the public while revising the proposal, these new references must be presented to the public for 15 days.

The Board is also responsible for summarizing and responding on record to public comments submitted during each allotted period. These are to be included as part of the final statement of reasons. By doing so, the agency demonstrates that it has understood and considered all relevant material presented to it before adopting, amending, or repealing a regulation.

After the Board has fulfilled this process, it must adopt a final version of the proposed rulemaking decision. Once this has been accomplished, the rulemaking action must be submitted to the Office of Administrative Law (OAL) for review within a year from the date the notice was published. OAL has 30 days to review the action.

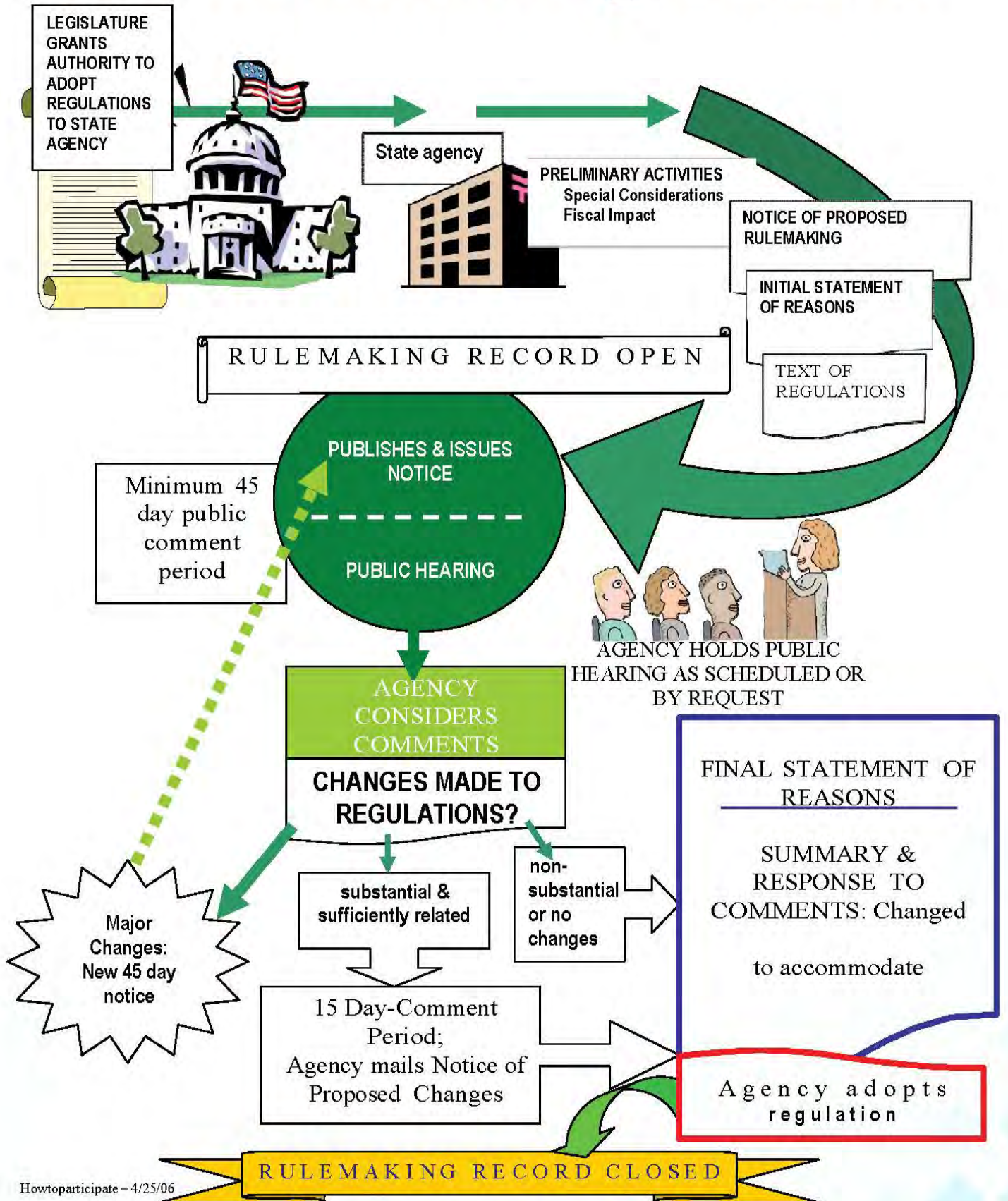
During its review, OAL must determine if the rulemaking action satisfies the standards set forth by APA. These standards are: necessity, authority, consistency, clarity, non-duplication, and reference. It must also have satisfied all procedural requirements governed by the APA.

If OAL deems that the rulemaking action satisfies the aforementioned standards, it files the regulation with the Secretary of State and it is generally effective within 30 days. The regulation is also printed in the California Code of Regulations.

If OAL, however, determines that the action does not satisfy these standards, it returns the regulation to the Board which can revise the text, post notice of change for another comment period, and, finally, resubmit the proposed regulation to OAL for review; or, the Board may appeal to the governor.

Diagrams on the next two pages provide a graphical overview of the rulemaking process.

The Rulemaking Process



Howtoparticipate - 4/25/06



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #5 – Department of Consumer Affairs Update |

A. Executive Office

The Board will hear from a representative of the Department of Consumer Affairs Executive Office.

B. Budget Office

i. Fund Condition

The Board will hear from a representative of the Department of Consumer Affairs Budget Office.

C. Presentation from DCA OPES re: Occupational Analysis of the Optometric Assistant Profession and Scope of Practice of Opticianry

The Board will hear from a representative of the Department of Consumer Affairs Office of Professional and Examination Services.

Attachment: Occupational Analysis of the Optometric Assistant Occupation and Opticianry Scope of Practice Study

0763 - State Optometry Fund Analysis of Fund Condition
(Dollars in Thousands)
2023 Budget Act

Agenda Item 5Bi
Prepared 8.9.23

w_2022-23 projections through FM 12

| | PY 2022-23 | CY 2023-24 | BY 2024-25 | BY +1 2025-26 | BY +2 2026-27 |
|--|---------------|---------------|---------------|------------------|------------------|
| BEGINNING BALANCE | \$ 2,015 | \$ 2,781 | \$ 1,398 | \$ -115 | \$ -1,715 |
| Prior Year Adjustment | \$ - | \$ - | \$ - | \$ - | \$ - |
| Adjusted Beginning Balance | \$ 2,015 | \$ 2,781 | \$ 1,398 | \$ -115 | \$ -1,715 |
| REVENUES, TRANSFERS AND OTHER ADJUSTMENTS | | | | | |
| Revenues | | | | | |
| 4121200 - Delinquent fees | \$ 31 | \$ 31 | \$ 31 | \$ 31 | \$ 31 |
| 4127400 - Renewal fees | \$ 2,064 | \$ 2,396 | \$ 2,396 | \$ 2,396 | \$ 2,396 |
| 4129200 - Other regulatory fees | \$ 62 | \$ 21 | \$ 21 | \$ 21 | \$ 21 |
| 4129400 - Other regulatory licenses and permits | \$ 344 | \$ 420 | \$ 420 | \$ 420 | \$ 420 |
| 4163000 - Income from surplus money investments | \$ 53 | \$ 9 | \$ - | \$ - | \$ - |
| 4172500 - Miscellaneous revenues | \$ 7 | \$ - | \$ - | \$ - | \$ - |
| Totals, Revenues | \$ 2,561 | \$ 2,877 | \$ 2,868 | \$ 2,868 | \$ 2,868 |
| Transfers to/from other funds | | | | | |
| Transfer from Fund 0175 - RDO Merge | \$ 1,145 | \$ - | \$ - | \$ - | \$ - |
| Totals, Transfers and Other Adjustments | \$ 1,145 | \$ - | \$ - | \$ - | \$ - |
| TOTALS, REVENUES, TRANSFERS AND OTHER ADJUSTMENTS | \$ 3,706 | \$ 2,877 | \$ 2,868 | \$ 2,868 | \$ 2,868 |
| TOTAL RESOURCES | \$ 5,721 | \$ 5,658 | \$ 4,266 | \$ 2,753 | \$ 1,153 |
| Expenditures: | | | | | |
| 1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations) | \$ 2,743 | \$ 4,029 | \$ 4,150 | \$ 4,274 | \$ 4,403 |
| 9892 Supplemental Pension Payments (State Operations) | \$ 38 | \$ 37 | \$ 37 | \$ - | \$ - |
| 9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations) | \$ 159 | \$ 194 | \$ 194 | \$ 194 | \$ 194 |
| TOTALS, EXPENDITURES AND EXPENDITURE ADJUSTMENTS | \$ 2,940 | \$ 4,260 | \$ 4,381 | \$ 4,468 | \$ 4,597 |
| FUND BALANCE | | | | | |
| Reserve for economic uncertainties | \$ 2,781 | \$ 1,398 | \$ -115 | \$ -1,715 | \$ -3,444 |
| Months in Reserve | 7.8 | 3.8 | -0.3 | -4.5 | -9.0 |

NOTES:

1. Assumes workload and revenue projections are realized in BY +1 and ongoing.
2. Expenditure growth projected at 3% beginning BY +1.

Department of Consumer Affairs

Expenditure Projection Report

State Board of Optometry

Reporting Structure(s): 11112510 Support, 11112520 Registered Dispensing Optician

Fiscal Month: 12

Fiscal Year: 2022 - 2023

PERSONAL SERVICES

| Fiscal Code | Line Item | PY FM13 | Budget | YTD + Encumbrance | Projections to Year End | Balance |
|-------------|--------------------------------|--------------------|--------------------|--------------------|-------------------------|------------------|
| 5100 | PERMANENT POSITIONS | \$739,656 | \$1,325,000 | \$777,439 | \$780,189 | \$544,811 |
| 5100 | TEMPORARY POSITIONS | \$87,584 | \$41,000 | \$192,358 | \$192,978 | -\$151,978 |
| 5105-5108 | PER DIEM, OVERTIME, & LUMP SUM | \$32,982 | \$7,000 | \$36,074 | \$36,074 | -\$29,074 |
| 5150 | STAFF BENEFITS | \$481,721 | \$870,000 | \$612,391 | \$612,681 | \$257,319 |
| | PERSONAL SERVICES | \$1,341,943 | \$2,243,000 | \$1,618,262 | \$1,621,922 | \$621,078 |

OPERATING EXPENSES & EQUIPMENT

| Fiscal Code | Line Item | PY FM13 | Budget | YTD + Encumbrance | Projections to Year End | Balance |
|-------------|---|--------------------|--------------------|--------------------|-------------------------|--------------------|
| 5301 | GENERAL EXPENSE | \$9,202 | \$105,000 | \$10,424 | \$9,508 | \$95,492 |
| 5302 | PRINTING | \$19,353 | \$23,000 | \$38,704 | \$25,397 | -\$2,397 |
| 5304 | COMMUNICATIONS | \$4,631 | \$16,000 | \$2,477 | \$2,705 | \$13,295 |
| 5306 | POSTAGE | \$2,374 | \$18,000 | \$2,563 | \$2,696 | \$15,304 |
| 5308 | INSURANCE | \$25 | \$0 | \$27 | \$27 | -\$27 |
| 53202-204 | IN STATE TRAVEL | \$396 | \$32,000 | \$3,332 | \$3,332 | \$28,668 |
| 5322 | TRAINING | \$920 | \$9,000 | \$0 | \$1,500 | \$7,500 |
| 5324 | FACILITIES | \$92,334 | \$137,000 | \$95,686 | \$95,970 | \$41,030 |
| 53402-53403 | C/P SERVICES (INTERNAL) | \$136,402 | \$617,000 | \$219,423 | \$230,196 | \$386,804 |
| 5340310000 | Legal - Attorney General | \$92,523 | \$374,000 | \$163,131 | \$173,512 | \$200,488 |
| 5340320000 | Office of Adminis Hearings | \$43,785 | \$43,000 | \$56,161 | \$56,552 | -\$13,552 |
| 53404-53405 | C/P SERVICES (EXTERNAL) | \$122,248 | \$134,000 | \$101,388 | \$102,388 | \$31,612 |
| 5342 | DEPARTMENT PRORATA | \$481,949 | \$634,000 | \$615,967 | \$615,967 | \$18,033 |
| 5342 | DEPARTMENTAL SERVICES | \$29,942 | \$0 | \$55,349 | \$55,349 | -\$55,349 |
| 5344 | CONSOLIDATED DATA CENTERS | \$0 | \$35,000 | \$8,836 | \$8,836 | \$26,164 |
| 5346 | INFORMATION TECHNOLOGY | \$3,403 | \$2,000 | \$0 | \$0 | \$2,000 |
| 5362-5368 | EQUIPMENT | \$42,198 | \$48,000 | \$1,473 | \$1,473 | \$46,527 |
| 54 | SPECIAL ITEMS OF EXPENSE | \$612 | \$0 | \$89 | \$89 | -\$89 |
| | OPERATING EXPENSES & EQUIPMENT | \$945,988 | \$1,810,000 | \$1,155,737 | \$1,155,434 | \$654,566 |
| | REIMBURSEMENTS | | | | \$33,630 | |
| | OVERALL TOTALS | \$2,287,930 | \$4,053,000 | \$2,774,000 | \$2,743,726 | \$1,275,644 |

31.47%



OCCUPATIONAL ANALYSIS OF THE
OPTOMETRIC ASSISTANT OCCUPATION
AND
OPTICIANRY SCOPE OF PRACTICE STUDY



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CALIFORNIA STATE BOARD OF OPTOMETRY

OCCUPATIONAL ANALYSIS OF THE
OPTOMETRIC ASSISTANT OCCUPATION
AND
OPTICIANRY SCOPE OF PRACTICE STUDY



April 2023



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This occupational analysis report is mandated by California Business and Professions BPC § 139 and by DCA Licensure Examination Validation Policy OPES 22-01.

EXECUTIVE SUMMARY

As part of its 2021–2025 Strategic Plan, the California State Board of Optometry (Board) is evaluating the role of unlicensed individuals working as optometric assistants. The purpose of the evaluation is to identify overlap in the scope of practice of three opticianry occupations: optometric assistant, spectacle lens dispenser (SLD), and contact lens dispenser (CLD), and to determine whether any health and safety concerns necessitate a new licensing system.

The Board requested that the California Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an independent review and evaluation of the scope of practice of the optometric assistant, SLD, and CLD occupations. The first step of the review was separate occupational analyses (OAs) of the three occupations. The purpose of an OA is to define an occupation in terms of the critical tasks that workers must be able to perform safely and competently.

OPES completed OAs of the SLD and CLD occupations in 2019. The OA of the optometric assistant was completed in 2022, and the results are provided in this report. The results of the optometric assistant OA provide a description of practice for the optometric assistant occupation.

For the optometric assistant OA, OPES test specialists began by researching the occupation and conducting telephone interviews with optometric assistants working in California. The purpose of these interviews was to identify the tasks performed by optometric assistants and to specify the knowledge required to perform these tasks safely and competently. Using the information gathered from the research and the interviews, OPES test specialists developed a preliminary list of tasks performed by optometric assistants, along with statements of the knowledge needed to perform those tasks.

In February 2022, OPES test specialists facilitated a workshop with optometric assistants, or subject matter experts (SMEs), with diverse backgrounds in the occupation (e.g., location of work, years working). The SMEs reviewed, refined, and finalized the preliminary lists of tasks and knowledge statements. The SMEs also linked each task with the knowledge statements required to perform that task and reviewed the demographic questions to be used in a two-part OA questionnaire.

After the workshop, OPES test specialists developed the OA questionnaire to be completed by a sample of optometric assistants statewide. In the first part of the OA questionnaire, optometric assistants were asked to provide demographic information related to their work settings and job. In the second part, optometric assistants were asked to rate specific tasks by frequency (i.e., how often the optometric assistant

performs the task in their current work) and importance (i.e., how important the task is to effective performance in the optometric assistant's current work).

In September 2022, on behalf of the Board, OPES sent an email to 7,535 optometrists for whom the Board had an email address on file, asking them to forward the online OA questionnaire to optometric assistants working in their office. It is unknown how many optometric assistants were forwarded the questionnaire.

A total of 86 optometric assistants responded to the OA questionnaire. Because the total number of optometric assistants in the State of California is unknown, OPES could not determine what percentage of the total number of optometric assistants responded to the survey. OPES evaluated the demographic data from all 86 respondents. However, only 33 of 86 respondents indicated that they did not possess CLD or SLD certifications. To provide a more accurate picture of the optometric assistant duties, OPES used data from these 33 respondents in the data analysis, including data from questionnaires that contained incomplete responses.

OPES test specialists performed data analyses of the task ratings obtained from the OA questionnaire respondents. The task frequency and importance ratings were combined to derive an overall criticality index for each task.

Once the data were analyzed, OPES test specialists conducted a second workshop with SMEs in October 2022. The SMEs evaluated the criticality indices and determined whether any tasks and knowledge statements should be excluded from the optometric assistant description of practice. Due to a lack of consensus among the SMEs, the small number of SMEs who attended the workshops, and the low number of survey respondents, tasks and knowledge statements with low criticality indices were also presented to a group of optometrists in December 2022. OPES asked the optometrists which opticianry professional performed these tasks in their work setting. The optometrists indicated if each task was performed by an optometric assistant, an SLD, a CLD, or an optometrist. Based on the responses from the optometrists and on previously gathered information, no tasks and no knowledge statements were excluded from the description of practice.

The SMEs in the October 2022 workshop also established the final linkage between tasks and knowledge statements, organized the tasks and knowledge statements into content areas, and defined those content areas. The SMEs then determined the content area weights for the optometric assistant description of practice.

The optometric assistant description of practice is structured into four major content areas weighted relative to the other content areas. Two of the major content areas have subareas. The description of practice identifies the tasks and knowledge critical to safe and competent practice of the optometric assistant occupation in California.

OVERVIEW OF THE DESCRIPTION OF PRACTICE

| CONTENT AREA | PERCENT WEIGHT |
|---|----------------|
| 01 PATIENT ASSESSMENT – This area describes the optometric assistant's knowledge of performing tests to determine the patient's current eye health and vision needs; and of determining the patient's insurance coverage. | 40 |
| 02 SPECTACLE FITTING – This area describes the optometric assistant's knowledge of determining, adjusting, and providing education regarding the types of spectacle lenses best suited for the patient based on the optometrist's recommendation and the patient's needs. | 15 |
| 03 CONTACT LENS EVALUATION – This area describes the optometric assistant's knowledge of determining, fitting, and providing training regarding the types of contact lenses best suited for the patient based on the optometrist's recommendation and the patient's needs. | 15 |
| 04 OFFICE MANAGEMENT – This area describes the optometric assistant's knowledge of managing office supplies and patient documentation, including keeping and transmitting patient records while maintaining privacy requirements. | 30 |

In February 2023, OPES test specialists facilitated a workshop with SMEs consisting of two optometrists, two SLDs, and four SLDs/CLDs. The purpose of the workshop was to conduct an opticianry scope of practice study to evaluate the optometric assistant description of practice against the CLD and SLD descriptions of practice. For each task in the optometric assistant description of practice, the SMEs discussed if that task is and should continue to be performed by optometric assistants, if the task is performed by CLDs or SLDs, or if the task is performed by optometric assistants and CLDs or SLDs but should only be performed by CLDs or SLDs.

When determining whether a specific task should be performed by optometric assistants, CLDs or SLDs, the SMEs considered specific knowledge and training, and whether performing the task posed a safety concern to patients. Based on the discussion, 25 tasks on the optometric assistant description of practice were identified as tasks that are safety concerns and should only be performed by CLDs or SLDs. Also, four additional tasks were identified as missing from the optometric assistant description of practice. The SMEs recommended adding them.

After the review of the optometric description of practice was completed, the SMEs engaged in a discussion regarding what changes to the optometric assistant, CLD and

SLD professions, if any, would increase public safety. The SME consensus was that a clear definition of the role of optometric assistants should be established, and optometric assistants should be registered with the Board to ensure the role is adhered to. The definition of the role should detail the tasks optometric assistants can perform and the intent of the tasks. No changes to the SLD and CLD professions were recommended by the SMEs.

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CHAPTER 1 | INTRODUCTION

PURPOSE OF THE STUDY

As part of its 2021-2025 Strategic Plan, the California State Board of Optometry (Board) is evaluating the role of unlicensed individuals working as optometric assistants. The purpose of the evaluation is to identify overlap in the scope of practice of three opticianry occupations: optometric assistant, spectacle lens dispenser (SLD), and contact lens dispenser (CLD) and to determine whether any health and safety concerns necessitate a new licensing system.

The Board requested that the California Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an independent review and evaluation of the scope of practice of the optometric assistant, SLD, and CLD occupations. The first step of the review was separate occupational analyses (OAs) of the three occupations. OPES completed OAs of the SLD and CLD occupations in 2019. The results of this optometric assistant OA provide a description of practice for the optometric assistant occupation. The purpose of this OA is to define the optometric assistant occupation in terms of the critical tasks that workers must be able to perform safely and competently.

PARTICIPATION OF SUBJECT MATTER EXPERTS

California optometric assistants participated as subject matter experts (SMEs) during the OA to ensure that the description of practice directly reflects current optometric assistant work in California. These SMEs represented the occupation in terms of geographic location of work and years of experience. The SMEs provided technical expertise and information during interviews and workshops. During interviews, the SMEs provided information about their work tasks and the knowledge required to perform those tasks safely and competently. During workshops, the SMEs developed and reviewed the tasks and knowledge statements describing the optometric assistant occupation, organized the tasks and knowledge statements into content areas, evaluated the results of the OA, and developed the optometric assistant description of practice. Recruiting enough SMEs to participate was difficult because optometric assistants are unlicensed and unregistered.

ADHERENCE TO LEGAL STANDARDS AND GUIDELINES

OAs conducted in the State of California must follow professional guidelines and technical standards to be valid. The following laws and guidelines are authoritative:

- California BPC § 139.

- 29 Code of Federal Regulations Part 1607 – Uniform Guidelines on Employee Selection Procedures (1978).
- California Fair Employment and Housing Act, Government Code § 12944.
- Principles for the Validation and Use of Personnel Selection Procedures (2018), Society for Industrial and Organizational Psychology (SIOP).
- *Standards for Educational and Psychological Testing* (2014), American Educational Research Association, American Psychological Association, and National Council on Measurement in Education.

For an OA to meet these standards, it must identify the occupational activities required for safe and effective entry level practice.

DESCRIPTION OF OCCUPATION

The optometric assistant occupation is unlicensed and unregistered. BPC § 2550(g) defines “unregistered” individuals who work with contact lenses and spectacle lenses as follows:

(g) “Unregistered individual” means an individual who is not registered with the board pursuant to this chapter. The unregistered individual may perform any of the following:

(1) Fitting and adjusting of spectacle lenses under the direct responsibility and supervision of a duly registered spectacle lens dispenser pursuant to Section 2559.1.

(2) Fitting and adjusting of contact lenses under the direct responsibility and supervision of a duly registered contact lens dispenser pursuant to Section 2560.

Existing law authorizes an optometric assistant, under the direct responsibility and supervision of an optometrist or ophthalmologist, to perform preliminary subjective refraction procedures in connection with finalizing subjective refraction procedures performed by an ophthalmologist or optometrist, subject to prescribed conditions. Those conditions include a requirement that the optometric assistant have at least 45 hours of documented training in subjective refraction procedures acceptable to the supervising ophthalmologist or optometrist. Assembly Bill 2574 was passed in 2023 and it authorizes the training to include performing preliminary subjective refraction procedures consistent with existing law to accomplish that training.

CHAPTER 2 | OCCUPATIONAL ANALYSIS QUESTIONNAIRE

SUBJECT MATTER EXPERT INTERVIEWS

OPES conducted telephone interviews with three optometric assistants working in California. During the semi-structured interviews, these optometric assistants were asked to identify major content areas of work and the tasks performed in each area. The SMEs were also asked to identify the knowledge necessary to perform each task safely and competently.

TASKS AND KNOWLEDGE STATEMENTS

To develop preliminary lists of tasks and knowledge statements, OPES test specialists integrated information gathered from the SLD and CLD OA reports, laws and regulations, national-level OA program information, and the SME interviews. The statements were organized into major content areas of work.

In February 2022, OPES test specialists facilitated a workshop to review, refine, and finalize the preliminary lists of tasks and knowledge statements. Six SMEs from diverse backgrounds (e.g., years working and geographic location) participated in the workshop. During the workshop, the SMEs evaluated the tasks and knowledge statements for technical accuracy, level of specificity, and comprehensiveness of assessment of work. In addition, the SMEs evaluated the organization of tasks within content areas to ensure that the content areas were independent and non-overlapping.

During the workshop, the SMEs also performed a preliminary linkage of the tasks to the associated knowledge statements. The linkage was performed to identify the knowledge required for performance of each task and to verify that each identified knowledge statement was important for safe and effective performance as an optometric assistant. Additionally, the linkage ensured that all tasks were linked to at least one knowledge statement and that each knowledge statement was linked to at least one task. Finally, the SMEs reviewed and revised the proposed demographic questions for an online OA questionnaire and evaluated the scales that would be used for rating tasks and knowledge statements.

OPES test specialists used the final list of tasks, demographic questions, and rating scales to develop the questionnaire to be completed by a sample of optometric assistants statewide.

QUESTIONNAIRE DEVELOPMENT

OPES test specialists developed the questionnaire to solicit optometric assistants' ratings of the tasks and knowledge statements. The surveyed optometric assistants were instructed to rate how often they perform each task in their current work (Frequency) and how important each task is to effective performance of their current work (Importance). The OA questionnaire also included a demographic section designed to obtain relevant occupational background information. The OA questionnaire can be found in Appendix E.

CHAPTER 3 | RESPONSE RATE AND DEMOGRAPHICS

SAMPLING STRATEGY AND RESPONSE RATE

In September 2022, on behalf of the Board, OPES sent an email to 7,535 optometrists for whom the Board had an email address on file. The email asked the optometrists to forward the online OA questionnaire to optometric assistants working in their office. It is unknown how many optometric assistants were forwarded the questionnaire. The email invitation is provided in Appendix D.

A total of 86 optometric assistants responded to the OA questionnaire. Because the total number of optometric assistants in the State of California is unknown, it is unknown what percentage of the total number of optometric assistants responded to the survey. Data from all 86 respondents are presented in the demographics section below. However, only 33 of 86 respondents indicated that they did not possess CLD or SLD certifications. Data from these 33 respondents were used in the data analysis, including data from questionnaires that contained incomplete responses. The percentages in the data for each demographic question below are based on the number of respondents to that question. The number of respondents is shown in the table for each set of data.

DEMOGRAPHIC SUMMARY

As shown in Table 1 and Figure 1, the responding optometric assistants reported a range of years of experience. The largest portion of respondents (60.8%) reported working as an optometric assistant for 5 years or fewer, while 19.6% reported working for 6–10 years.

In terms of education achieved, Table 2 and Figure 2 show that 51.4% of the respondents reported receiving on-the-job-training, while 22.9% reported holding a Bachelor's degree, and 17.1% reported holding an Associate degree.

Table 3 and Figure 3 show that a large proportion of optometric assistants (33–42%) reported holding a contact lens dispenser (CLD) certification, a spectacle lens dispenser (SLD) certification, or a dispensing optician certification.

Of the respondents, 74.5% reported private practice as their primary work setting, while 11.8% reported retail as their primary work setting, as seen in Table 4 and Figure 4.

Table 5 and Figure 5 show that the majority of respondents (64.7%) reported 1–3 other optometric assistants in their primary work setting, and 21.6% reported 4–6 other optometric assistants in their primary work setting. Table 6 and Figure 6 show that 40.4% of the respondents reported 1–3 spectacle lens dispensers in their primary work

setting. Table 7 and Figure 7 show that 42.6% of the respondents reported 1–3 contact lens dispensers in their primary work setting.

Table 8 and Figure 8 show that 51% of respondents reported working 30–39 hours per week as an optometric assistant, while 25.5% of respondents reported working 40 or more hours per week, and 11.8% reported working 20–29 hours. Table 9 and Figure 9 show that 73.1% of the respondents reported working in an urban setting and 26.9% reported working in a rural setting.

A breakdown of the respondents by region can be found in Table 10.

TABLE 1 – YEARS WORKING AS AN OPTOMETRIC ASSISTANT

| YEARS | NUMBER (N) | PERCENT |
|--------------------|------------|---------|
| 0–5 years | 31 | 60.8 |
| 6–10 years | 10 | 19.6 |
| 11–20 years | 6 | 11.8 |
| More than 20 years | 4 | 7.8 |
| Total | 51 | 100.0 |

FIGURE 1 – YEARS WORKING AS AN OPTOMETRIC ASSISTANT

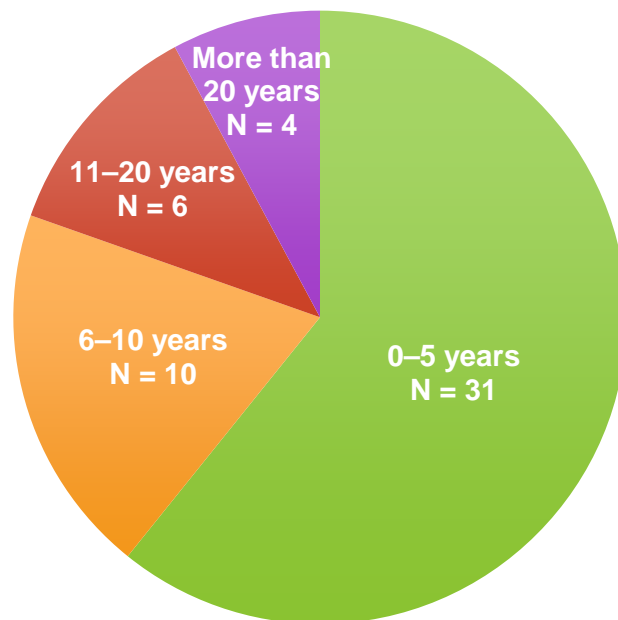


TABLE 2 – EDUCATION ACHIEVED

| EDUCATION | NUMBER (N) | PERCENT* |
|---------------------|------------|----------|
| On-the-job training | 36 | 51.4 |
| Vocational program | 6 | 8.6 |
| Associate degree | 12 | 17.1 |
| Bachelor's degree | 16 | 22.9 |
| Master's degree | 1 | 1.4 |
| Doctorate | 2 | 2.9 |
| Other | 3 | 4.3 |

*NOTE: Respondents were asked to select all that apply.

FIGURE 2 – EDUCATION ACHIEVED

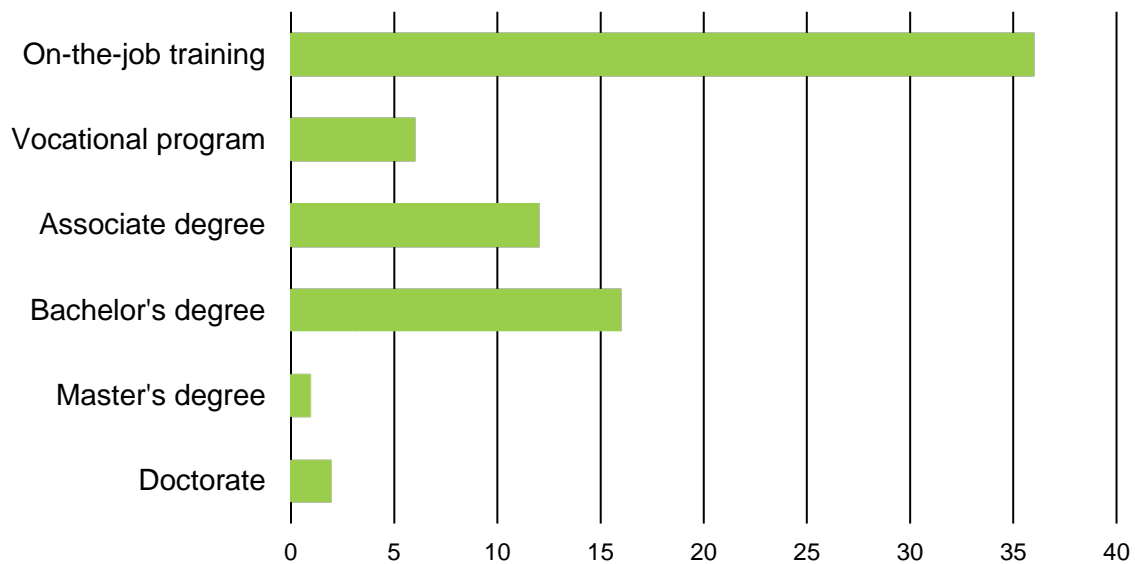


TABLE 3 – CERTIFICATIONS HELD

| CERTIFICATIONS | NUMBER (N) | PERCENT* |
|--|------------|----------|
| Contact Lens Dispenser (CLD) | 8 | 33.0 |
| Spectacle Lens Dispenser (SLD) | 10 | 42.0 |
| Dispensing Optician | 10 | 42.0 |
| Certified Paraoptometric (CPO) | 4 | 17.0 |
| Certified Ophthalmic Assistant (COA) | 3 | 13.0 |
| Certified Ophthalmic Medical Technician (COMT) | 1 | 4.0 |
| Ophthalmic Scribe Certification (OSC) | 1 | 4.0 |
| Other | 9 | 38.0 |

*NOTE: Respondents were asked to select all that apply.

FIGURE 3 – CERTIFICATIONS HELD

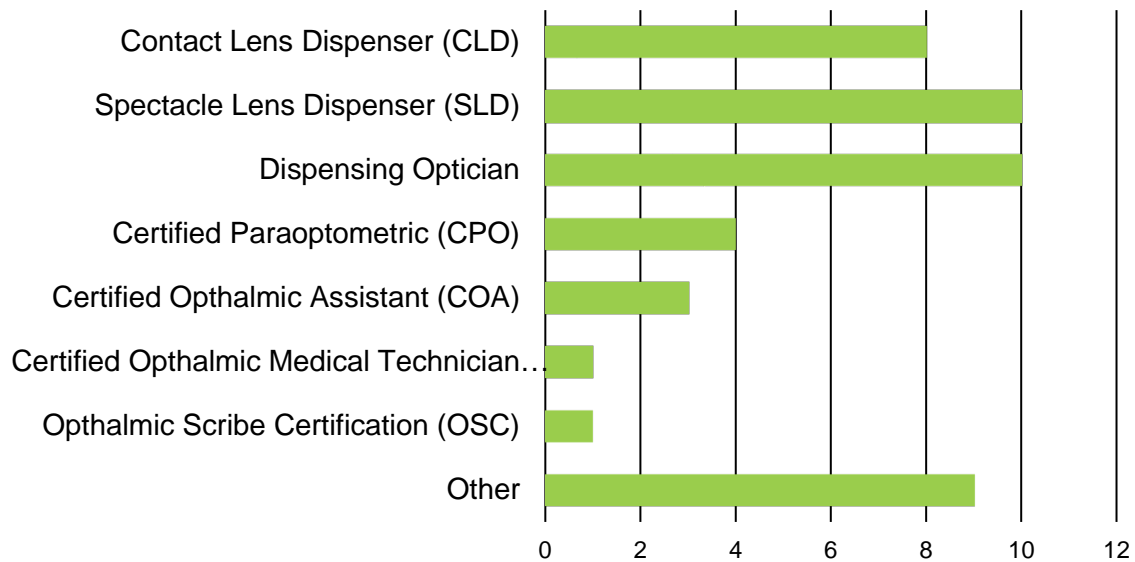


TABLE 4 – PRIMARY WORK SETTING

| WORK SETTING | NUMBER (N) | PERCENT |
|---------------------------------------|------------|---------|
| Private practice | 38 | 74.5 |
| Retail | 6 | 11.8 |
| Partnership | 1 | 2.0 |
| Group practice | 1 | 2.0 |
| Corporation | 1 | 2.0 |
| HMO facility | 1 | 2.0 |
| Military/veterans' hospital or clinic | 1 | 2.0 |
| Other | 2 | 3.9 |
| Total | 51 | 100* |

*NOTE: Percentages do not add to 100 due to rounding.

FIGURE 4 – PRIMARY WORK SETTING

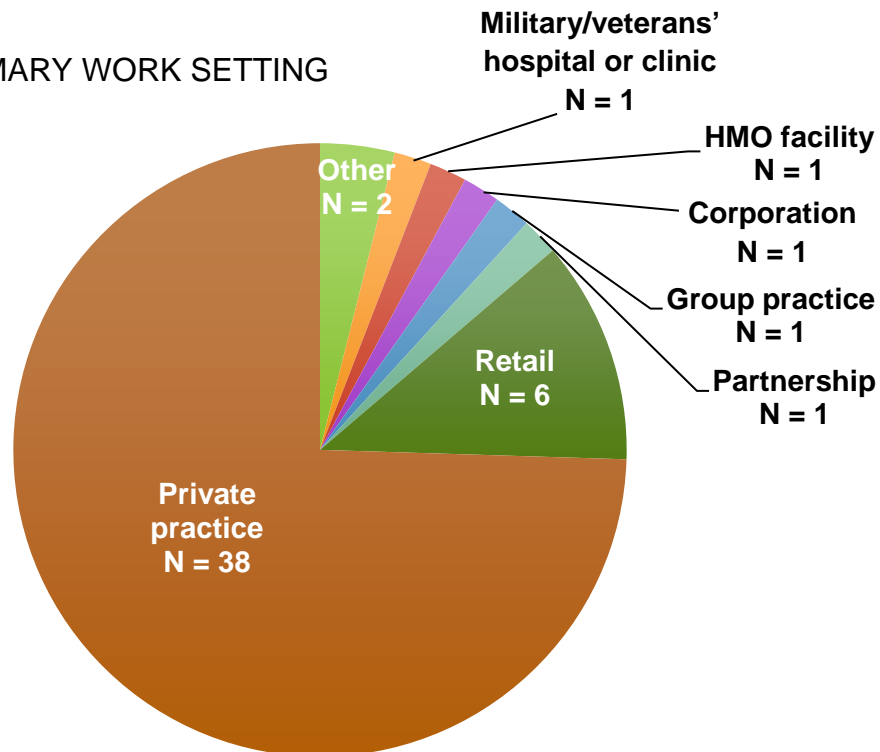


TABLE 5 – OTHER OPTOMETRIC ASSISTANTS IN WORK SETTING

| NO. OF OPTOMETRIC ASSISTANTS | NUMBER (N) | PERCENT |
|------------------------------|------------|---------|
| 0 | 4 | 7.8 |
| 1–3 | 33 | 64.7 |
| 4–6 | 11 | 21.6 |
| 7 or more | 3 | 5.9 |
| Total | 51 | 100.0 |

FIGURE 5 – OTHER OPTOMETRIC ASSISTANTS IN WORK SETTING

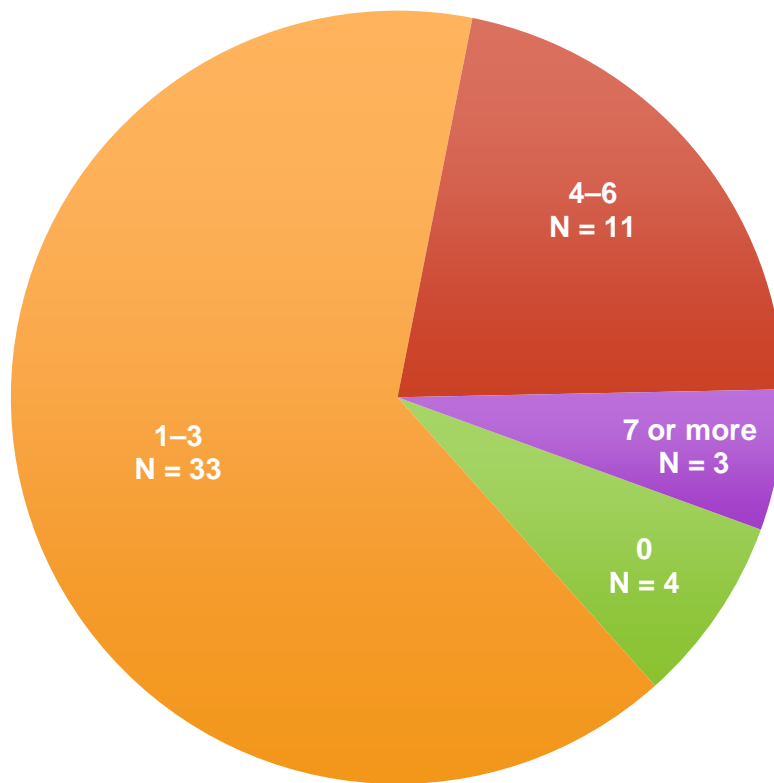


TABLE 6 – SLDs IN PRIMARY WORK SETTING

| NUMBER OF SLDs | NUMBER (N) | PERCENT |
|----------------|------------|---------|
| 0 | 25 | 53.2 |
| 1-3 | 19 | 40.4 |
| 4-6 | 3 | 6.4 |
| Total | 47 | 100.0 |

FIGURE 6 – SLDs IN PRIMARY WORK SETTING

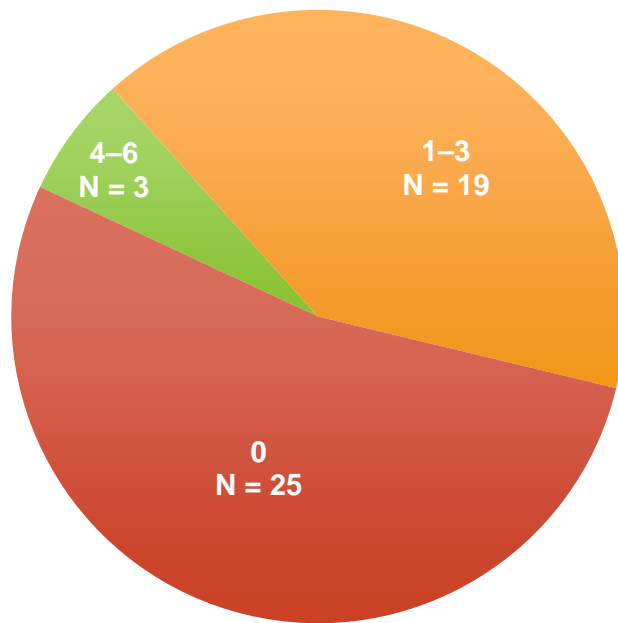


TABLE 7 – CLDs IN PRIMARY WORK SETTING

| NUMBER OF CLDs | NUMBER (N) | PERCENT |
|----------------|------------|---------|
| 0 | 26 | 55.3 |
| 1-3 | 20 | 42.6 |
| 4-6 | 1 | 2.1 |
| Total | 47 | 100.0 |

FIGURE 7 – CLDs IN PRIMARY WORK SETTING

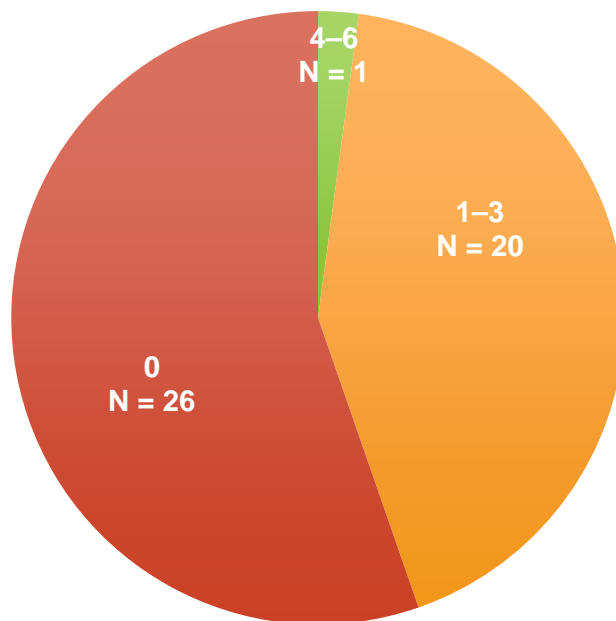


TABLE 8 – HOURS WORKED EACH WEEK AS AN OPTOMETRIC ASSISTANT

| HOURS WORKED | NUMBER (N) | PERCENT |
|------------------|------------|---------|
| 9 hours or fewer | 2 | 3.9 |
| 10–19 hours | 4 | 7.8 |
| 20–29 hours | 6 | 11.8 |
| 30–39 hours | 26 | 51.0 |
| 40–49 hours | 12 | 23.5 |
| 50 or more hours | 1 | 2.0 |
| Total | 51 | 100.0 |

FIGURE 8 – HOURS WORKED EACH WEEK AS AN OPTOMETRIC ASSISTANT

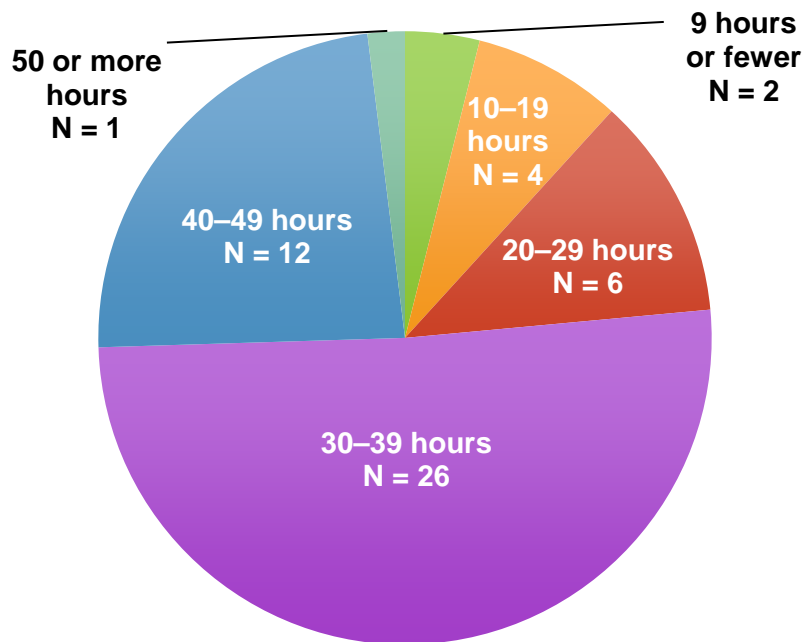


TABLE 9 – PRIMARY WORK SETTING LOCATION

| SETTING | NUMBER (N) | PERCENT |
|----------------------------------|------------|---------|
| Urban (more than 50,000 people) | 38 | 73.1 |
| Rural (fewer than 50,000 people) | 14 | 26.9 |
| Total | 52 | 100.0 |

FIGURE 9 – PRIMARY WORK SETTING LOCATION

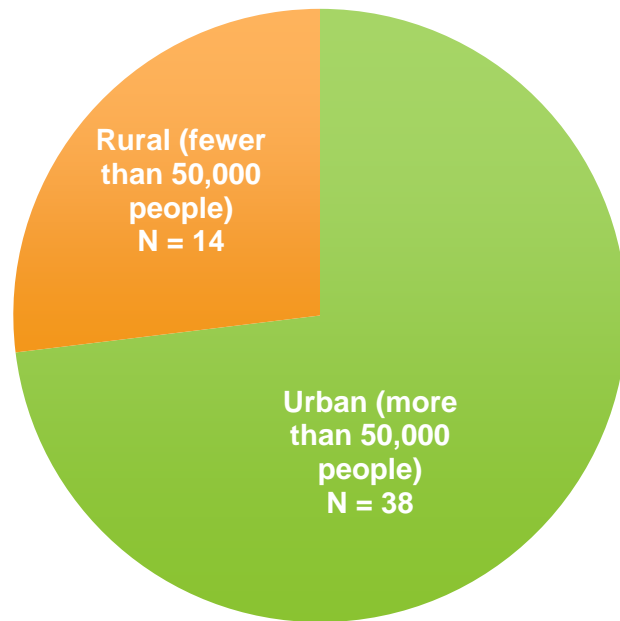


TABLE 10 – RESPONDENTS BY REGION

| REGION NAME | NUMBER (N) | PERCENT |
|---------------------------------|------------|---------|
| Los Angeles County and Vicinity | 18 | 36 |
| San Francisco Bay Area | 15 | 30 |
| San Joaquin Valley | 2 | 4 |
| Sacramento Valley | 2 | 4 |
| San Diego County and Vicinity | 7 | 14 |
| Shasta-Cascade | 2 | 4 |
| Riverside and Vicinity | 2 | 4 |
| Sierra Mountain Valley | 2 | 4 |
| Total | 50 | 100 |

CHAPTER 4 | DATA ANALYSIS AND RESULTS

RELIABILITY OF RATINGS

OPES evaluated the task ratings obtained by the questionnaire with a standard index of reliability, coefficient alpha (α), that ranges from 0 to 1. Coefficient alpha is an estimate of the internal consistency of the respondents' ratings of the tasks. A higher coefficient value indicates more consistency between respondent ratings. Coefficients were calculated for all respondent ratings.

Table 11 displays the reliability coefficients for the task rating scale in each content area. The overall ratings of task frequency and task importance across content areas were highly reliable (Frequency $\alpha = .972$; Importance $\alpha = .972$). These results indicate that the responding optometric assistants rated the task statements consistently throughout the questionnaire.

TABLE 11 – TASK SCALE RELIABILITY

| CONTENT AREA | NUMBER OF TASKS | α FREQUENCY | α IMPORTANCE |
|----------------------------|-----------------|--------------------|---------------------|
| 01 PATIENT ASSESSMENT | 16 | .914 | .919 |
| 02 SPECTACLE FITTING | 24 | .979 | .978 |
| 03 CONTACT LENS EVALUATION | 16 | .856 | .838 |
| 04 OFFICE MANAGEMENT | 14 | .862 | .846 |
| Overall | 70 | .972 | .972 |

TASK CRITICALITY INDICES

To calculate the criticality indices of the tasks, OPES test specialists used the following formula. For each respondent, OPES first multiplied the frequency rating (F_i) and the importance rating (I_i) for each task. Next, OPES averaged the multiplication products across respondents as shown below.

$$\text{Task criticality index} = \text{mean} [(F_i) \times (I_i)]$$

The tasks were sorted in descending order by their criticality index and by content area. The tasks, their mean frequency and importance ratings, and their associated criticality indices are presented in Appendix B.

OPES test specialists facilitated a workshop with four SMEs in October 2022. The purpose of this workshop was to finalize the essential tasks and knowledge required for safe and competent practice of the optometric assistant occupation. The SMEs reviewed the mean frequency and importance ratings for each task as well as the criticality index for each. The SMEs identified several tasks with low criticality indices (09, 11, 13, 14, 41, 45, 52, 54, and 55) as not being performed by them. These 9 tasks are presented in Table 12. Although these tasks were not reported as performed by the SMEs who attended the October 2022 workshop, one SME in the February 2022 workshop indicated they performed all the tasks. In addition, some SMEs who completed the survey reported performing the tasks.

Due to the lack of consensus among the SMEs, the small number of SMEs who attended the workshops, and the low number of survey respondents, the 9 previously mentioned tasks were also presented to a group of 7 optometrists in December 2022. The optometrists were asked which opticianry professional performed these tasks in their work setting. The optometrists indicated if each task was performed by an optometric assistant, an SLD, a CLD, or an optometrist. The majority of the optometrists indicated that tasks 09, 13, 45, and 52 are performed by an optometric assistant, and that tasks 11, 14, 41, 54, and 55 are performed by an optometrist. Based on the responses from the optometrists and on previously gathered information, no cutoff value was established, and no tasks were excluded from the description of practice.

KNOWLEDGE IMPORTANCE RATINGS

To determine the importance of each knowledge statement, the mean importance rating for each knowledge statement was calculated. The knowledge statements and their mean importance ratings, sorted by descending order of mean importance and grouped by content area, are presented in Appendix C.

The SMEs who participated in the October 2022 workshop and evaluated the task criticality indices also reviewed the knowledge statement mean importance ratings. The SMEs indicated that several knowledge statements with low criticality indices (17, 24, 25, 32, 49, 54, 69, 74, 75, 89, 91, 92, 93, and 104) were not required to perform their job duties. These 14 knowledge statements are presented in Table 12. Although these knowledge statements were not reported as required by the SMEs who attended the October 2022 workshop, one SME in the February 2022 workshop indicated that all of the knowledge statements are required to perform their job duties. Due to the lack of consensus among the SMEs, the small number of SMEs who attended the workshops, and the low number of survey respondents, the 14 previously mentioned knowledge statements were also presented to the group of 7 optometrists in December 2022.

The optometrists were asked about the knowledge required to perform job duties in their work setting. The optometrists indicated if each knowledge statement was required for an optometric assistant, an SLD, a CLD, or an optometrist. The optometrists indicated that all knowledge statements were required for an optometrist. Several optometrists indicated that knowledge statements 17, 54, 89, and 104 were required for an optometric assistant, while only two optometrists indicated that knowledge statements 24, 32, 75, and 91 were required. According to the group of optometrists, knowledge statements 25, 49, 69, 74, 92, and 93 were not required for an optometric assistant. In addition, the majority said that knowledge statements 32 and 49 were required for an SLD. Based on the responses from the optometrists and on previously gathered information, no cutoff value was established, and no knowledge statements were excluded from the description of practice.

TABLE 12 TASKS AND KNOWLEDGE STATEMENTS LACKING SME CONSENSUS*

01 PATIENT ASSESSMENT

This area describes the optometric assistant's knowledge of performing tests to determine the patient's current eye health and vision needs; and of determining the patient's insurance coverage.

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|---|
| T09 | Perform depth perception tests. | K017 | Knowledge of methods and procedures for evaluating depth perception. |
| T11 | Perform Ishihara test to screen patient for color vision deficiencies. | K024 | Knowledge of types of eyedrops used for cycloplegic refraction. |
| T13 | Apply mydriatics to dilate patient pupils. | K025 | Knowledge of methods for determining prescriptions for pediatric patients. |
| T14 | Perform cycloplegic refraction to determine patient prescription. | K032 | Knowledge of ANSI standards for safety eyewear. |
| | | K049 | Knowledge of methods for identifying and calculating induced prism. |
| | | K054 | Knowledge of methods of assessing visual acuity (for example, Snellen chart, Jaeger card) during the fitting process. |

NOTE: Task statements shaded in blue were identified by optometrists in the December 2022 workshop as the only tasks performed by optometric assistants and the knowledge statements shaded in blue were identified as the only knowledge required by optometric assistants.

03 CONTACT LENS EVALUATION

This area describes the optometric assistant's knowledge of determining, fitting, and providing training regarding the types of contact lenses best suited for the patient based on the optometrist's recommendation and the patient's needs.

0301 Initial Evaluation

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|---|
| T41 | Convert spectacle lens prescription to contact lens prescription. | K069 | Knowledge of methods for modifying contact lens prescriptions to accommodate for astigmatism. |
| T45 | Test patient visual acuity while wearing trial contact lenses. | K074 | Knowledge of methods to adjust base curve measurements. |
| | | K075 | Knowledge of methods for evaluating visual acuity during the trial period. |

0302 Follow-up Evaluation

| | | | |
|-----|--|------|--|
| T52 | Test patient visual acuity after trial period to determine need for adjustments to prescription. | K089 | Knowledge of methods for evaluating visual acuity after the trial period. |
| T54 | Perform over-refraction to evaluate need for adjustments to prescription after trial period. | K091 | Knowledge of methods for performing over-refraction after the trial period. |
| T55 | Verify contact lens fit and eye health using slit-lamp. | K092 | Knowledge of procedures for using a slit-lamp to assess fit of contact lenses. |
| | | K093 | Knowledge of methods for verifying contact lens fit. |

NOTE: Task statements shaded in blue were identified by optometrists in the December 2022 workshop as the only tasks performed by optometric assistants and the knowledge statements shaded in blue were identified as the only knowledge required by optometric assistants.

04 OFFICE MANAGEMENT

This area describes the optometric assistant's knowledge of managing office supplies and patient documentation, including keeping and transmitting patient records while maintaining privacy requirements.

0401 Inventory

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|-----------------|-------|---|
| | | K104 | Knowledge of ANSI standards for contact lenses. |

NOTE: Task statements shaded in blue were identified by optometrists in the December 2022 workshop as the only tasks performed by optometric assistants and the knowledge statements shaded in blue were identified as the only knowledge required by optometric assistants.

CHAPTER 5 | DESCRIPTION OF PRACTICE

TASK-KNOWLEDGE LINKAGE

The SMEs who participated in the October workshop confirmed the final linkage of tasks with associated knowledge statements. The SMEs worked collaboratively to verify that the knowledge statements that were linked to each task were critical to effective performance of that task.

CONTENT AREAS AND WEIGHTS

The SMEs in the October 2022 workshop were asked to finalize the weights for content areas that would complete the description of practice. OPES test specialists presented the SMEs with preliminary weights of the content areas. The preliminary weights had been calculated by dividing the sum of the criticality indices for the tasks in each content area by the overall sum of the criticality indices for all tasks, as shown below.

$$\frac{\text{Sum of Criticality Indices for Tasks in Content Area}}{\text{Sum of Criticality Indices for All Tasks}} = \text{Percent Weight of Content Area}$$

The SMEs evaluated the preliminary content area weights in terms of how well they reflected the relative importance of each content area to entry level practice of the optometric assistant occupation in California. Through discussion, the SMEs determined that adjustments to content area weights were necessary to more accurately reflect the relative importance of each area. A summary of the preliminary and final content area weights for the description of practice is presented in Table 13.

TABLE 13 – CONTENT AREA WEIGHTS

| CONTENT AREA | PRELIMINARY PERCENT WEIGHTS | FINAL PERCENT WEIGHTS |
|----------------------------|-----------------------------|-----------------------|
| 01 PATIENT ASSESSMENT | 20 | 40 |
| 02 SPECTACLE FITTING | 31 | 15 |
| 03 CONTACT LENS EVALUATION | 22 | 15 |
| 04 OFFICE MANAGEMENT | 27 | 30 |
| Total | 100 | 100 |

During the October 2022 workshop, the content areas, subareas, and associated weights were finalized by the SMEs and form the basis of the California optometric assistant description of practice that is presented in Table 14.

TABLE 14 CALIFORNIA OPTOMETRIC ASSISTANT DESCRIPTION OF PRACTICE*

01 PATIENT ASSESSMENT

This area describes the optometric assistant's knowledge of performing tests to determine the patient's current eye health and vision needs; and of determining the patient's insurance coverage.

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|--|
| T01 | Verify patient insurance to determine coverage for services. | K001 | Knowledge of patient insurance types to determine coverage for services. |
| | | K002 | Knowledge of different insurance plans (for example, HMO, PPO). |
| T02 | Obtain patient medical and vision history to determine reason for current visit. | K003 | Knowledge of methods for eliciting patient medical and vision history. |
| | | K004 | Knowledge of available resources for obtaining a translator to assist in obtaining patient medical and vision history. |
| | | K005 | Knowledge of medical terminology related to optometry. |
| | | K006 | Knowledge of anatomy and physiology of the eye. |
| T03 | Determine prescription of current eyewear using a lensometer. | K007 | Knowledge of methods for using a lensometer to determine prescription. |
| T04 | Perform visual field tests. | K008 | Knowledge of methods for performing visual field tests. |
| | | K009 | Knowledge of different tests used to evaluate visual field. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|--|
| T05 | Perform autorefraction to determine patient refractive error. | K010 | Knowledge of methods and procedures for performing autorefraction. |
| | | K011 | Knowledge of tools used to perform autorefraction. |
| T06 | Perform tonometry to determine patient intraocular pressure. | K012 | Knowledge of methods and procedures for determining intraocular pressure. |
| | | K013 | Knowledge of tools used for determining intraocular pressure (for example, pressure gun, Tono-Pen®, auto tonometer). |
| T07 | Perform optical coherence tomography (OCT) to screen for abnormalities in layers of retina. | K014 | Knowledge of methods and procedures for performing optical coherence tomography. |
| | | K015 | Knowledge of signs of retinal disease. |
| T08 | Perform fundus test to screen for retinal disease. | K016 | Knowledge of methods and procedures for performing fundus test. |
| | | K015 | Knowledge of signs of retinal disease. |
| T09 | Perform depth perception tests. | K017 | Knowledge of methods and procedures for evaluating depth perception. |
| T10 | Perform visual acuity test. | K018 | Knowledge of methods and procedures for evaluating visual acuity. |
| T11 | Perform Ishihara test to screen patient for color vision deficiencies. | K019 | Knowledge of methods and procedures for evaluating color vision. |
| T12 | Determine pupillary distance using pupillometer. | K020 | Knowledge of methods and procedures for determining pupillary distance. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|--|
| T13 | Apply mydriatics to dilate patient pupils. | K021 | Knowledge of methods for administering eyedrops. |
| | | K022 | Knowledge of types of eyedrops used for dilating pupils. |
| | | K023 | Knowledge of procedures for dilating pupils. |
| T14 | Perform cycloplegic refraction to determine patient prescription. | K021 | Knowledge of methods for administering eyedrops. |
| | | K024 | Knowledge of types of eyedrops used for cycloplegic refraction. |
| | | K025 | Knowledge of methods for determining prescriptions for pediatric patients. |
| T15 | Evaluate contact lens wear schedule preferences, needs, and goals when patients are considering or requesting contact lenses. | K026 | Knowledge of manufacturer recommended contact lens wear schedules. |
| | | K027 | Knowledge of methods for encouraging patient compliance. |
| T16 | Provide information regarding different types of contact lenses (for example, soft vs. RGP, spherical vs. toric) and wear schedules. | K026 | Knowledge of manufacturer recommended contact lens wear schedules. |
| | | K028 | Knowledge of available contact lens types and materials. |

02 SPECTACLE FITTING

This area describes the optometric assistant's knowledge of determining, adjusting, and providing education regarding the types of spectacle lenses best suited for the patient based on the optometrist's recommendation and the patient's needs.

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|---|
| T17 | Determine spectacle frame design by evaluating patient prescription and needs. | K029 | Knowledge of lifestyle factors and hobbies that affect eyewear selection. |
| | | K030 | Knowledge of advantages and disadvantages of different types of spectacle frame design and materials. |
| | | K031 | Knowledge of methods for educating patients about eyewear designs and features. |
| | | K032 | Knowledge of ANSI standards for safety eyewear. |
| T18 | Determine types of spectacle lens materials (for example, glass, CR-39, polycarbonate, trivex, high-index) by evaluating patient prescription and needs. | K029 | Knowledge of lifestyle factors and hobbies that affect eyewear selection. |
| | | K033 | Knowledge of different types of lens features and their functions (for example, polarization, photochromic, anti-reflective). |
| | | K034 | Knowledge of the advantages and disadvantages of different lens materials. |
| | | K032 | Knowledge of ANSI standards for safety eyewear. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|---|
| T19 | Determine spectacle lens type and design (for example, single vision, multifocal) by evaluating patient prescription and needs. | K029 | Knowledge of lifestyle factors and hobbies that affect eyewear selection. |
| | | K033 | Knowledge of different types of lens features and their functions (for example, polarization, photochromic, anti-reflective). |
| | | K035 | Knowledge of methods for educating patients about eyewear designs and features. |
| | | K036 | Knowledge of different designs of multifocal lenses (for example, progressive, bifocal, trifocal). |
| | | K032 | Knowledge of ANSI standards for safety eyewear. |
| T20 | Determine secondary lens options (for example, occupational, low vision, sports vision, blue light protection) and sun protection by evaluating patient prescription and needs. | K029 | Knowledge of lifestyle factors and hobbies that affect eyewear selection. |
| | | K033 | Knowledge of different types of lens features and their functions (for example, polarization, photochromic, anti-reflective). |
| | | K035 | Knowledge of methods for educating patients about eyewear designs and features. |
| | | K037 | Knowledge of the need for secondary lenses and sun protection. |
| T21 | Convert spectacle lens prescriptions to intermediate or reading lenses. | K038 | Knowledge of methods for modifying spectacle lens prescriptions for intermediate or reading powers. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|---|
| T22 | Determine out-of-pocket costs to assist patients with spectacle selection. | K039 | Knowledge of methods for calculating out-of-pocket eyewear costs. |
| T23 | Pre-adjust spectacle frame on patients to ensure optimal fit. | K040 | Knowledge of tools used to adjust spectacle frames during pre-fitting. |
| | | K041 | Knowledge of methods for pre-adjusting spectacle frames. |
| T24 | Fit and adjust frame on patient to ensure accurate measurement. | K041 | Knowledge of methods for pre-adjusting spectacle frames. |
| | | K042 | Knowledge of the effect of frame tilt on fit. |
| | | K043 | Knowledge of tools used to adjust spectacle frames to fit patients. |
| T25 | Measure horizontal pupillary distance to determine optical center. | K044 | Knowledge of methods for using a pupillary distance ruler. |
| | | K045 | Knowledge of methods for using a pupillometer. |
| T26 | Interpret spectacle lens prescriptions to understand vision corrections. | K046 | Knowledge of how to interpret spectacle lens prescriptions. |
| | | K047 | Knowledge of methods for converting plus cylinder to minus cylinder. |
| T27 | Identify optical center of spectacle lens using a lensometer. | K048 | Knowledge of methods for interpreting lensometer findings to identify optical center of spectacle lens. |
| | | K049 | Knowledge of methods for identifying and calculating induced prism. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|--|
| T28 | Verify that spectacles received from laboratory match doctors' prescriptions. | K046 | Knowledge of how to interpret spectacle lens prescriptions. |
| | | K050 | Knowledge of procedures for comparing spectacles received to doctors' prescriptions. |
| | | K051 | Knowledge of methods for interpreting lensometer findings to verify that lenses received from the laboratory match current prescription. |
| T29 | Verify that spectacles received from laboratory match order specifications (frame, lens materials). | K052 | Knowledge of procedures for comparing spectacles received to order specifications. |
| T30 | Adjust spectacle frame on patient to ensure optimal fit. | K042 | Knowledge of the effect of frame tilt on fit. |
| | | K043 | Knowledge of tools used to adjust spectacle frames to fit patients. |
| | | K053 | Knowledge of facial features and anatomy that affect spectacle fit. |
| T31 | Assess patient comfort and vision clarity with new spectacles. | K054 | Knowledge of methods of assessing visual acuity (for example, Snellen chart, Jaeger card) during the fitting process. |
| T32 | Address patient concerns with spectacles. | K055 | Knowledge of methods for troubleshooting common patient concerns. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|---|
| T33 | Identify defects (for example, crazing, distortion) in spectacle lenses. | K056 | Knowledge of methods for interpreting lensometer findings to identify defects during the manufacturing process. |
| | | K057 | Knowledge of procedures for identifying lens defects. |
| T34 | Provide patients with eyewear warranty information. | K058 | Knowledge of after-sale services available to patients. |
| | | K059 | Knowledge of eyewear manufacturer warranty policies. |
| T35 | Educate patients on the adaptation period for spectacle lenses. | K060 | Knowledge of side effects during adaptation period. |
| T36 | Educate patients on use of multifocal lenses. | K061 | Knowledge of side effects of multifocal lenses during adaptation period. |
| T37 | Train patients on methods for cleaning and maintaining spectacle lenses. | K062 | Knowledge of methods and materials for cleaning and maintaining spectacle lenses. |
| T38 | Perform common eyewear repairs to extend life of spectacles. | K063 | Knowledge of parts used in eyewear repairs. |
| | | K064 | Knowledge of methods for repairing eyewear. |
| T39 | Refer patients to prescribing doctor to address prescription problems. | K065 | Knowledge of patient prescription problems that require referral to a medical professional. |
| T40 | Refer patients to physician or ophthalmologist to address ocular health issues. | K066 | Knowledge of patient issues that require referral to a physician or ophthalmologist. |

03 CONTACT LENS EVALUATION

This area describes the optometric assistant's knowledge of determining, fitting, and providing training regarding the types of contact lenses best suited for the patient based on the optometrist's recommendation and the patient's needs.

0301 Initial Evaluation

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|---|
| T41 | Convert spectacle lens prescription to contact lens prescription. | K067 | Knowledge of how to interpret contact lens prescriptions. |
| | | K068 | Knowledge of base curves, diameters, and thicknesses of contact lenses. |
| | | K069 | Knowledge of methods for modifying contact lens prescriptions to accommodate for astigmatism. |
| T42 | Wash hands before handling contact lenses. | K070 | Knowledge of methods for maintaining hygiene when handling contact lenses. |
| T43 | Handle different contact lens types based on manufacturer's recommendations. | K071 | Knowledge of methods for handling soft contact lenses. |
| | | K072 | Knowledge of methods for handling hard contact lenses. |
| | | K073 | Knowledge of methods for handling rigid gas permeable contact lenses. |
| T44 | Dispense trial lenses for patients based on base curve and vision correction requirements. | K074 | Knowledge of methods to adjust base curve measurements. |
| | | K068 | Knowledge of base curves, diameters, and thicknesses of contact lenses. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|--|
| T45 | Test patient visual acuity while wearing trial contact lenses. | K075 | Knowledge of methods for evaluating visual acuity during the trial period. |
| T46 | Train patients on techniques for inserting and removing contact lenses. | K076 | Knowledge of methods for training patients to insert and remove contact lenses. |
| | | K077 | Knowledge of techniques for inserting and removing soft contact lenses. |
| | | K078 | Knowledge of techniques for inserting and removing hard contact lenses. |
| | | K079 | Knowledge of techniques for inserting and removing rigid gas permeable contact lenses. |
| T47 | Train patients on methods for cleaning contact lenses. | K080 | Knowledge of contact lens solutions for cleaning and lubrication. |
| | | K081 | Knowledge of methods for cleaning contact lenses. |
| T48 | Educate patients about contact lens wear schedules. | K082 | Knowledge of contact lens wear schedules based on lens type. |
| | | K083 | Knowledge of wear schedules for extended-wear contact lenses. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|--|
| T49 | Educate patients about the possible adverse effects of contact lenses. | K084 | Knowledge of adverse effects (e.g., eye infections) of contact lens wear. |
| | | K085 | Knowledge of adverse effects of wearing contact lenses for more hours than recommended. |
| | | K086 | Knowledge of adverse effects of not following manufacturer recommendations for extended-wear contact lenses. |
| T50 | Educate patients about the need for secondary lens options and sun protection. | K087 | Knowledge of the need for secondary lenses and sun protection when wearing contact lenses. |

0302 Follow-up Evaluation

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|---|
| T51 | Perform follow-up assessment to evaluate comfort and fit of contact lenses. | K088 | Knowledge of methods to evaluate fit of contact lens and patient comfort during follow-up consultation. |
| T52 | Test patient visual acuity after trial period to determine need for adjustments to prescription. | K089 | Knowledge of methods for evaluating visual acuity after the trial period. |
| T53 | Verify patient ability to insert and remove contact lenses. | K090 | Knowledge of methods for verifying patient ability to insert and remove contact lenses. |
| T54 | Perform over-refraction to evaluate need for adjustments to prescription after trial period. | K091 | Knowledge of methods for performing over-refraction after the trial period. |
| T55 | Verify contact lens fit and eye health using slit-lamp. | K092 | Knowledge of procedures for using a slit-lamp to assess fit of contact lenses. |
| | | K093 | Knowledge of methods for verifying contact lens fit. |
| | | K094 | Knowledge of indicators of proper contact lens fit. |
| T56 | Provide copies of contact lens prescriptions to patients. | K095 | Knowledge of laws and regulations related to providing contact lens prescriptions to patients. |

04 OFFICE MANAGEMENT

This area describes the optometric assistant's knowledge of managing office supplies and patient documentation, including keeping and transmitting patient records while maintaining privacy requirements.

0401 Inventory

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|--|
| T57 | Manage inventory of office supplies. | K096 | Knowledge of methods for tracking office supply use. |
| T58 | Manage inventory of optometric products (for example, tools, eyedrops, lens solution). | K097 | Knowledge of methods for determining rate of optometric product use. |
| | | K098 | Knowledge of available optometric supply vendors. |
| | | K099 | Knowledge of available optometric supplies. |
| T59 | Place order for lenses including trial lenses and custom orders based on prescription. | K100 | Knowledge of methods for determining when to reorder trial lenses. |
| | | K101 | Knowledge of contact lens brands most commonly used by patients. |
| | | K102 | Knowledge of methods for tracking contact lens inventory expiration dates. |
| | | K103 | Knowledge of methods for tracking contact lens product availability. |
| T60 | Verify that patient prescriptions match the packaged contact lenses. | K104 | Knowledge of ANSI standards for contact lenses. |
| | | K105 | Knowledge of methods for interpreting contact lens prescription labels. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|---|
| T61 | Identify defects (e.g., tears, warping) in contact lenses and notify manufacturer. | K106 | Knowledge of methods for identifying defects in contact lenses. |
| | | K107 | Knowledge of contact lens manufacturer return policies. |

0402 Record Keeping

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|---|
| T62 | Manage schedule of patient appointments. | K108 | Knowledge of electronic health records (EHR) scheduling software. |
| | | K109 | Knowledge of tools used to track and schedule patient appointments. |
| T63 | Contact insurance companies to determine patient coverage. | K110 | Knowledge of insurance eligibility criteria. |
| | | K111 | Knowledge of methods for identifying patient copay. |
| | | K112 | Knowledge of methods for determining patient coverage. |
| | | K113 | Knowledge of insurance coverage categories. |
| T64 | Keep patient records in accordance with laws and regulations. | K114 | Knowledge of insurance billing codes. |
| | | K115 | Knowledge of methods for maintaining electronic health records (EHR). |
| | | K116 | Knowledge of laws and regulations related to electronic health records (EHR). |
| | | K117 | Knowledge of laws and regulations related to maintaining patient records. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|--|-------|---|
| T65 | Obtain patient authorization to release records in accordance with laws and regulations. | K116 | Knowledge of laws and regulations related to electronic health records (EHR). |
| | | K117 | Knowledge of laws and regulations related to maintaining patient records. |
| | | K118 | Knowledge of HIPAA requirements for patient consent for release of medical records. |
| T66 | Transmit patient records in accordance with laws and regulations. | K116 | Knowledge of laws and regulations related to electronic health records (EHR). |
| | | K119 | Knowledge of laws and regulations related to transmitting patient records. |
| | | K118 | Knowledge of HIPAA requirements for patient consent for release of medical records. |
| T67 | Document prescription, assessment, and fitting information in patient records. | K120 | Knowledge of medical terminology used when transcribing patient information. |
| | | K121 | Knowledge of abbreviations used when transcribing patient information. |
| T68 | Provide billing information to patients and insurers. | K122 | Knowledge of diagnosis and procedure codes used by insurance companies. |
| | | K123 | Knowledge of billing software. |
| T69 | Provide referral information to other medical professionals. | K124 | Knowledge of laws and regulations related to patient referrals. |
| | | K125 | Knowledge of methods for interpreting doctors' notes when providing referral information. |

| TASK NO. | TASK STATEMENTS | K NO. | KNOWLEDGE STATEMENTS |
|----------|---|-------|--|
| T70 | Provide patient prescription information to pharmacies. | K126 | Knowledge of electronic prescribing software. |
| | | K127 | Knowledge of laws and regulations related to providing prescription information. |

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CHAPTER 6 | OPTICIANRY SCOPE OF PRACTICE STUDY

In February 2023, OPES test specialists facilitated a workshop with SMEs consisting of two optometrists, two SLDs, and four CLDs/SLDs. The purpose of the workshop was to evaluate the optometric assistant description of practice against the CLD and SLD descriptions of practice. For each task in the optometric assistant description of practice, the SMEs discussed if that task is and should continue to be performed by optometric assistants, if the task is performed by CLDs or SLDs, or if the task is performed by optometric assistants and CLDs or SLDs but should only be performed by CLDs or SLDs.

When determining if a specific task should be performed by optometric assistants, CLDs or SLDs, the SMEs considered specific knowledge and training, and whether performing the task posed a safety concern to patients. Based on the discussion, 25 tasks (13, 14, 17, 18, 19, 20, 21, 23, 24, 25, 28, 29, 30, 31, 32, 33, 35, 36, 38, 41, 43, 51, 52, 55, and 61) on the optometric assistant description of practice were identified as tasks that are safety concerns and should only be performed by CLDs or SLDs. The SMEs believed that optometric assistants do not possess the necessary level of knowledge and training to safely perform them. These 25 tasks are highlighted in Appendix D. In addition, four additional tasks were identified as missing from the optometric assistant description of practice (72, 73, 74, and 75). The SMEs recommended adding these tasks to the description of practice. The tasks were subsequently added. They are also highlighted in Appendix D.

After the review of the optometric description of practice was completed, the SMEs engaged in a discussion regarding what changes to the optometric assistant, CLD and SLD professions, if any, would increase public safety. The SME consensus was that a clear definition of the role of optometric assistants should be established, and optometric assistants should be registered with the Board to ensure the role is adhered to. The definition of the role should detail the tasks optometric assistants can perform and the intent of the tasks. Additional suggestions included:

- Developing an examination which candidates would have to pass to obtain state certification/licensure
- Using an existing national paraoptometric examination which candidates would have to pass to obtain state certification/licensure
- Creating an optometric assistant apprenticeship program as pathway to optometric assistant certification/licensure

No changes to the SLD and CLD professions were recommended by the SMEs.

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CHAPTER 7 | CONCLUSIONS AND RECOMMENDATIONS

The procedures employed to perform the OA of the optometric assistant occupation were based on a content validation strategy to establish a preliminary description of practice for the optometric assistant occupation. The description of practice identifies the tasks and knowledge critical to safe and competent practice of the optometric assistant occupation in California. Results of this OA provide information regarding current work that can be used by the Board to make regulatory decisions. However, the Board should take into consideration the relatively low number of SMEs who participated in the study.

This report provides all documentation necessary to verify that the occupational analysis has been completed in accordance with legal, occupational, and technical standards.

The conclusions and recommendations resulting from the opticianry scope of practice study were based on the expert opinions of optometrists, contact lens dispensers, and spectacle lens dispensers. The SMEs identified tasks that they believe do not belong on the optometric assistant description of practice because optometric assistants do not possess the necessary level of knowledge and training to safely perform them. The SMEs made recommendations regarding the optometric assistant profession based on regulations and training implemented by other states. The SMEs recommended that a clear definition of the role of optometric assistants should be established, and optometric assistants should be registered with the Board to ensure the role is adhered to. The definition of the role should detail the tasks optometric assistants can perform and the intent of the tasks.

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APPENDIX A | RESPONDENTS BY REGION

LOS ANGELES COUNTY AND VICINITY

| County of Practice | Frequency |
|--------------------|-----------|
| Los Angeles | 11 |
| Orange | 7 |
| Total | 18 |

RIVERSIDE AND VICINITY

| County of Practice | Frequency |
|--------------------|-----------|
| Riverside | 2 |
| Total | 2 |

SACRAMENTO VALLEY

| County of Practice | Frequency |
|--------------------|-----------|
| Butte | 1 |
| Yolo | 1 |
| Total | 2 |

SAN DIEGO COUNTY AND VICINITY

| County of Practice | Frequency |
|--------------------|-----------|
| San Diego | 7 |
| Total | 7 |

SAN FRANCISCO BAY AREA

| County of Practice | Frequency |
|--------------------|-----------|
| Alameda | 2 |
| Contra Costa | 6 |
| Napa | 2 |
| Santa Clara | 4 |
| Solano | 1 |
| Total | 15 |

SAN JOAQUIN VALLEY

| County of Practice | Frequency |
|--------------------|-----------|
| Fresno | 1 |
| Merced | 1 |
| Total | 2 |

SHASTA-CASCADE

| County of Practice | Frequency |
|--------------------|-----------|
| Shasta | 2 |
| Total | 2 |

SIERRA MOUNTAIN VALLEY

| County of Practice | Frequency |
|--------------------|-----------|
| El Dorado | 2 |
| Total | 2 |

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APPENDIX B | CRITICALITY INDICES FOR ALL TASKS BY CONTENT AREA

| 01 PATIENT ASSESSMENT | | | | |
|-----------------------|--|-----------------|----------------|-------------------|
| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
| T01 | Verify patient insurance to determine coverage for services. | 4.03 | 4.61 | 18.56 |
| T05 | Perform autorefractometry to determine patient refractive error. | 3.91 | 4.30 | 16.82 |
| T03 | Determine prescription of current eyewear using a lensometer. | 3.97 | 4.18 | 16.60 |
| T02 | Obtain patient medical and vision history to determine reason for current visit. | 4.00 | 4.06 | 16.24 |
| T04 | Perform visual field tests. | 3.33 | 3.67 | 12.22 |
| T06 | Perform tonometry to determine patient intraocular pressure. | 3.30 | 3.67 | 12.11 |
| T16 | Provide information regarding different types of contact lenses (for example, soft vs. RGP, spherical vs. toric) and wear schedules. | 3.12 | 3.67 | 11.44 |
| T15 | Evaluate contact lens wear schedule preferences, needs, and goals when patients are considering or requesting contact lenses. | 3.09 | 3.27 | 10.12 |
| T08 | Perform fundus test to screen for retinal disease. | 2.82 | 3.39 | 9.56 |
| T07 | Perform optical coherence tomography (OCT) to screen for abnormalities in layers of retina. | 2.76 | 3.28 | 9.05 |
| T10 | Perform visual acuity test. | 2.70 | 3.00 | 8.09 |

01 PATIENT ASSESSMENT

| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
|-----|--|-----------------|----------------|-------------------|
| T12 | Determine pupillary distance using pupillometer. | 2.55 | 2.94 | 7.48 |
| T13 | Apply mydriatics to dilate patient pupils. | 2.27 | 3.12 | 7.09 |
| T11 | Perform Ishihara test to screen patient for color vision deficiencies. | 1.97 | 2.27 | 4.48 |
| T09 | Perform depth perception tests. | 1.79 | 1.91 | 3.41 |
| T14 | Perform cycloplegic refraction to determine patient prescription. | 1.33 | 1.91 | 2.55 |

| 02 SPECTACLE FITTING | | | | |
|----------------------|---|-----------------|----------------|-------------------|
| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
| T35 | Educate patients on the adaptation period for spectacle lenses. | 2.89 | 3.89 | 11.26 |
| T32 | Address patient concerns with spectacles. | 2.97 | 3.79 | 11.25 |
| T36 | Educate patients on use of multifocal lenses. | 2.89 | 3.71 | 10.74 |
| T28 | Verify that spectacles received from laboratory match doctors' prescriptions. | 2.71 | 3.89 | 10.56 |
| T27 | Identify optical center of spectacle lens using a lensometer. | 2.69 | 3.66 | 9.83 |
| T19 | Determine spectacle lens type and design (for example, single vision, multifocal) by evaluating patient prescription and needs. | 2.50 | 3.72 | 9.31 |
| T39 | Refer patients to prescribing doctor to address prescription problems. | 2.57 | 3.61 | 9.28 |
| T37 | Train patients on methods for cleaning and maintaining spectacle lenses. | 2.54 | 3.59 | 9.11 |
| T40 | Refer patients to physician or ophthalmologist to address ocular health issues. | 2.57 | 3.54 | 9.09 |
| T26 | Interpret spectacle lens prescriptions to understand vision corrections. | 2.53 | 3.39 | 8.60 |
| T31 | Assess patient comfort and vision clarity with new spectacles. | 2.38 | 3.61 | 8.58 |
| T29 | Verify that spectacles received from laboratory match order specifications (frame, lens materials). | 2.41 | 3.54 | 8.53 |
| T33 | Identify defects (for example, crazing, distortion) in spectacle lenses. | 2.28 | 3.62 | 8.24 |
| T17 | Determine spectacle frame design by evaluating patient prescription and needs. | 2.37 | 3.45 | 8.16 |

| 02 SPECTACLE FITTING | | | | |
|----------------------|---|-----------------|----------------|-------------------|
| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
| T30 | Adjust spectacle frame on patient to ensure optimal fit. | 2.24 | 3.63 | 8.14 |
| T24 | Fit and adjust frame on patient to ensure accurate measurement. | 2.17 | 3.74 | 8.10 |
| T18 | Determine types of spectacle lens materials (for example, glass, CR-39, polycarbonate, trivex, high-index) by evaluating patient prescription and needs. | 2.30 | 3.41 | 7.85 |
| T34 | Provide patients with eyewear warranty information. | 2.37 | 3.28 | 7.77 |
| T38 | Perform common eyewear repairs to extend life of spectacles. | 2.25 | 3.19 | 7.18 |
| T22 | Determine out-of-pocket costs to assist patients with spectacle selection. | 2.20 | 3.25 | 7.15 |
| T23 | Pre-adjust spectacle frame on patients to ensure optimal fit. | 2.13 | 3.33 | 7.11 |
| T20 | Determine secondary lens options (for example, occupational, low vision, sports vision, blue light protection) and sun protection by evaluating patient prescription and needs. | 2.00 | 3.25 | 6.50 |
| T25 | Measure horizontal pupillary distance to determine optical center. | 1.83 | 3.07 | 5.63 |
| T21 | Convert spectacle lens prescriptions to intermediate or reading lenses. | 1.73 | 3.00 | 5.20 |

03 CONTACT LENS EVALUATION

0301 Initial Evaluation

| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
|-----|--|-----------------|----------------|-------------------|
| T42 | Wash hands before handling contact lenses. | 4.43 | 4.89 | 21.67 |
| T48 | Educate patients about contact lens wear schedules. | 3.68 | 4.46 | 16.42 |
| T46 | Train patients on techniques for inserting and removing contact lenses. | 3.50 | 4.54 | 15.88 |
| T47 | Train patients on methods for cleaning contact lenses. | 3.50 | 4.46 | 15.63 |
| T43 | Handle different contact lens types based on manufacturer's recommendations. | 3.57 | 4.11 | 14.67 |
| T49 | Educate patients about the possible adverse effects of contact lenses. | 3.21 | 4.39 | 14.12 |
| T44 | Dispense trial lenses for patients based on base curve and vision correction requirements. | 3.46 | 4.04 | 13.98 |
| T50 | Educate patients about the need for secondary lens options and sun protection. | 2.57 | 3.68 | 9.46 |
| T45 | Test patient visual acuity while wearing trial contact lenses. | 1.89 | 2.70 | 5.12 |
| T41 | Convert spectacle lens prescription to contact lens prescription. | 1.43 | 2.37 | 3.39 |

0302 Follow-up Evaluation

| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
|-----|--|--------------------|-------------------|----------------------|
| T56 | Provide copies of contact lens prescriptions to patients. | 3.85 | 4.07 | 15.69 |
| T53 | Verify patient ability to insert and remove contact lenses. | 3.07 | 3.74 | 11.50 |
| T51 | Perform follow-up assessment to evaluate comfort and fit of contact lenses. | 2.22 | 2.93 | 6.50 |
| T52 | Test patient visual acuity after trial period to determine need for adjustments to prescription. | 1.44 | 2.35 | 3.39 |
| T55 | Verify contact lens fit and eye health using slit-lamp. | 0.85 | 1.92 | 1.64 |
| T54 | Perform over-refraction to evaluate need for adjustments to prescription after trial period. | 0.93 | 1.65 | 1.53 |

| 04 OFFICE MANAGEMENT | | | | |
|----------------------|--|-----------------|----------------|-------------------|
| 0401 Inventory | | | | |
| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
| T60 | Verify that patient prescriptions match the packaged contact lenses. | 4.11 | 4.52 | 18.58 |
| T59 | Place order for lenses including trial lenses and custom orders based on prescription. | 3.59 | 4.19 | 15.04 |
| T57 | Manage inventory of office supplies. | 3.52 | 3.85 | 13.55 |
| T58 | Manage inventory of optometric products (for example, tools, eyedrops, lens solution). | 3.15 | 3.70 | 11.66 |
| T61 | Identify defects (e.g., tears, warping) in contact lenses and notify manufacturer. | 2.37 | 3.48 | 8.25 |
| 0402 Record Keeping | | | | |
| | TASK | MEAN IMPORTANCE | MEAN FREQUENCY | CRITICALITY INDEX |
| T64 | Keep patient records in accordance with laws and regulations. | 4.78 | 4.70 | 22.47 |
| T67 | Document prescription, assessment, and fitting information in patient records. | 4.41 | 4.56 | 20.08 |
| T62 | Manage schedule of patient appointments. | 4.41 | 4.52 | 19.91 |
| T65 | Obtain patient authorization to release records in accordance with laws and regulations. | 4.15 | 4.48 | 18.59 |
| T66 | Transmit patient records in accordance with laws and regulations. | 4.19 | 4.41 | 18.45 |
| T68 | Provide billing information to patients and insurers. | 3.96 | 4.26 | 16.88 |
| T63 | Contact insurance companies to determine patient coverage. | 3.78 | 4.37 | 16.51 |
| T69 | Provide referral information to other medical professionals. | 3.33 | 3.96 | 13.21 |
| T70 | Provide patient prescription information to pharmacies. | 2.67 | 3.48 | 9.28 |

APPENDIX C | IMPORTANCE RATINGS FOR ALL KNOWLEDGE STATEMENTS BY CONTENT AREA

01 PATIENT ASSESSMENT

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|--|-----------------|
| K028 | Knowledge of available contact lens types and materials. | 4.19 |
| K007 | Knowledge of methods for using a lensometer to determine prescription. | 4.15 |
| K026 | Knowledge of manufacturer recommended contact lens wear schedules. | 4.08 |
| K002 | Knowledge of different insurance plans (for example, HMO, PPO). | 4.04 |
| K027 | Knowledge of methods for encouraging patient compliance. | 4.00 |
| K005 | Knowledge of medical terminology related to optometry. | 3.88 |
| K011 | Knowledge of tools used to perform autorefraction. | 3.88 |
| K010 | Knowledge of methods and procedures for performing autorefraction. | 3.85 |
| K001 | Knowledge of insurance agreements between medical insurers and vision insurers. | 3.81 |
| K003 | Knowledge of methods for eliciting patient medical and vision history. | 3.77 |
| K013 | Knowledge of tools used for determining intraocular pressure (for example, pressure gun, Tono-Pen®, auto tonometer). | 3.77 |
| K021 | Knowledge of methods for administering eyedrops. | 3.65 |
| K012 | Knowledge of methods and procedures for determining intraocular pressure. | 3.54 |
| K006 | Knowledge of anatomy and physiology of the eye. | 3.50 |
| K023 | Knowledge of procedures for dilating pupils. | 3.50 |
| K008 | Knowledge of methods for performing visual field tests. | 3.46 |
| K022 | Knowledge of types of eyedrops used for dilating pupils. | 3.46 |

| 01 PATIENT ASSESSMENT | | |
|-----------------------|--|-----------------|
| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
| K009 | Knowledge of different tests used to evaluate visual field. | 3.35 |
| K020 | Knowledge of methods and procedures for determining pupillary distance. | 3.35 |
| K016 | Knowledge of methods and procedures for performing fundus test. | 3.23 |
| K004 | Knowledge of available resources for obtaining a translator to assist in obtaining patient medical and vision history. | 3.12 |
| K015 | Knowledge of signs of retinal disease. | 3.08 |
| K018 | Knowledge of methods and procedures for evaluating visual acuity. | 2.96 |
| K019 | Knowledge of methods and procedures for evaluating color vision. | 2.72 |
| K014 | Knowledge of methods and procedures for performing optical coherence tomography. | 2.65 |
| K025 | Knowledge of methods for determining prescriptions for pediatric patients. | 2.46 |
| K024 | Knowledge of types of eyedrops used for cycloplegic refraction. | 2.38 |
| K017 | Knowledge of methods and procedures for evaluating depth perception. | 2.31 |

02 SPECTACLE FITTING

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|--|-----------------|
| K036 | Knowledge of different designs of multifocal lenses (for example, progressive, bifocal, trifocal). | 4.08 |
| K029 | Knowledge of lifestyle factors and hobbies that affect eyewear selection. | 3.67 |
| K046 | Knowledge of how to interpret spectacle lens prescriptions. | 3.54 |
| K055 | Knowledge of methods for troubleshooting common patient concerns. | 3.52 |
| K037 | Knowledge of the need for secondary lenses and sun protection. | 3.50 |
| K030 | Knowledge of advantages and disadvantages of different types of spectacle frame design and materials. | 3.46 |
| K061 | Knowledge of side effects of multifocal lenses during adaptation period. | 3.43 |
| K051 | Knowledge of methods for interpreting lensometer findings to verify that lenses received from the laboratory match current prescription. | 3.42 |
| K050 | Knowledge of procedures for comparing spectacles received to doctors' prescriptions. | 3.38 |
| K060 | Knowledge of side effects during adaptation period. | 3.38 |
| K033 | Knowledge of different types of lens features and their functions (for example, polarization, photochromic, anti-reflective). | 3.33 |
| K052 | Knowledge of procedures for comparing spectacles received to order specifications. | 3.29 |
| K039 | Knowledge of methods for calculating out-of-pocket eyewear costs. | 3.17 |
| K062 | Knowledge of methods and materials for cleaning and maintaining spectacle lenses. | 3.17 |
| K034 | Knowledge of the advantages and disadvantages of different lens materials. | 3.00 |
| K045 | Knowledge of methods for using a pupillometer. | 2.96 |

02 SPECTACLE FITTING

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|---|-----------------|
| K048 | Knowledge of methods for interpreting lensometer findings to identify optical center of spectacle lens. | 2.96 |
| K056 | Knowledge of methods for interpreting lensometer findings to identify defects during the manufacturing process. | 2.96 |
| K031 | Knowledge of methods for educating patients about eyewear designs and features. | 2.88 |
| K035 | Knowledge of methods for educating patients about eyewear designs and features. | 2.88 |
| K059 | Knowledge of eyewear manufacturer warranty policies. | 2.83 |
| K043 | Knowledge of tools used to adjust spectacle frames to fit patients. | 2.79 |
| K040 | Knowledge of tools used to adjust spectacle frames during pre-fitting. | 2.75 |
| K041 | Knowledge of methods for pre-adjusting spectacle frames. | 2.75 |
| K063 | Knowledge of parts used in eyewear repairs. | 2.75 |
| K066 | Knowledge of patient issues that require referral to a physician or ophthalmologist. | 2.71 |
| K064 | Knowledge of methods for repairing eyewear. | 2.71 |
| K053 | Knowledge of facial features and anatomy that affect spectacle fit. | 2.71 |
| K058 | Knowledge of after-sale services available to patients. | 2.71 |
| K057 | Knowledge of procedures for identifying lens defects. | 2.71 |
| K038 | Knowledge of methods for modifying spectacle lens prescriptions for intermediate or reading powers. | 2.67 |
| K044 | Knowledge of methods for using a pupillary distance ruler. | 2.63 |

02 SPECTACLE FITTING

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|---|-----------------|
| K042 | Knowledge of the effect of frame tilt on fit. | 2.50 |
| K065 | Knowledge of patient prescription problems that require referral to a medical professional. | 2.38 |
| K054 | Knowledge of methods of assessing visual acuity (for example, Snellen chart, Jaeger card) during the fitting process. | 2.33 |
| K047 | Knowledge of methods for converting plus cylinder to minus cylinder. | 2.21 |
| K032 | Knowledge of ANSI standards for safety eyewear. | 1.92 |
| K049 | Knowledge of methods for identifying and calculating induced prism. | 1.83 |

03 CONTACT LENS EVALUATION

0301 Initial Evaluation

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|--|-----------------|
| K070 | Knowledge of methods for maintaining hygiene when handling contact lenses. | 4.39 |
| K076 | Knowledge of methods for training patients to insert and remove contact lenses. | 4.30 |
| K077 | Knowledge of techniques for inserting and removing soft contact lenses. | 4.30 |
| K085 | Knowledge of adverse effects of wearing contact lenses for more hours than recommended. | 4.26 |
| K086 | Knowledge of adverse effects of not following manufacturer recommendations for extended-wear contact lenses. | 4.22 |
| K080 | Knowledge of contact lens solutions for cleaning and lubrication. | 4.22 |
| K081 | Knowledge of methods for cleaning contact lenses. | 4.22 |
| K082 | Knowledge of contact lens wear schedules based on lens type. | 4.17 |
| K071 | Knowledge of methods for handling soft contact lenses. | 4.13 |
| K067 | Knowledge of how to interpret contact lens prescriptions. | 3.96 |
| K083 | Knowledge of wear schedules for extended-wear contact lenses. | 3.91 |
| K084 | Knowledge of adverse effects (e.g., eye infections) of contact lens wear. | 3.91 |
| K068 | Knowledge of base curves, diameters, and thicknesses of contact lenses. | 3.87 |
| K078 | Knowledge of techniques for inserting and removing hard contact lenses. | 3.70 |
| K072 | Knowledge of methods for handling hard contact lenses. | 3.65 |

0301 Initial Evaluation

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|---|-----------------|
| K073 | Knowledge of methods for handling rigid gas permeable contact lenses. | 3.65 |
| K087 | Knowledge of the need for secondary lenses and sun protection when wearing contact lenses. | 3.52 |
| K079 | Knowledge of techniques for inserting and removing rigid gas permeable contact lenses. | 3.52 |
| K069 | Knowledge of methods for modifying contact lens prescriptions to accommodate for astigmatism. | 2.13 |
| K075 | Knowledge of methods for evaluating visual acuity during the trial period. | 2.04 |
| K074 | Knowledge of methods to adjust base curve measurements. | 1.83 |

0302 Follow-up Evaluation

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|---|-----------------|
| K095 | Knowledge of laws and regulations related to providing contact lens prescriptions to patients. | 4.13 |
| K090 | Knowledge of methods for verifying patient ability to insert and remove contact lenses. | 3.70 |
| K088 | Knowledge of methods to evaluate fit of contact lens and patient comfort during follow-up consultation. | 2.61 |
| K089 | Knowledge of methods for evaluating visual acuity after the trial period. | 2.35 |
| K094 | Knowledge of indicators of proper contact lens fit. | 2.26 |
| K093 | Knowledge of methods for verifying contact lens fit. | 2.04 |
| K091 | Knowledge of methods for performing over-refraction after the trial period. | 1.87 |
| K092 | Knowledge of procedures for using a slit-lamp to assess fit of contact lenses. | 1.74 |

04 OFFICE MANAGEMENT

0401 Inventory

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|--|-----------------|
| K101 | Knowledge of contact lens brands most commonly used by patients. | 4.13 |
| K103 | Knowledge of methods for tracking contact lens product availability. | 3.87 |
| K102 | Knowledge of methods for tracking contact lens inventory expiration dates. | 3.83 |
| K100 | Knowledge of methods for determining when to reorder trial lenses. | 3.78 |
| K105 | Knowledge of methods for interpreting contact lens prescription labels. | 3.78 |
| K096 | Knowledge of methods for tracking office supply use. | 3.39 |
| K107 | Knowledge of contact lens manufacturer return policies. | 3.30 |
| K099 | Knowledge of available optometric supplies. | 3.30 |
| K097 | Knowledge of methods for determining rate of optometric product use. | 3.22 |
| K098 | Knowledge of available optometric supply vendors. | 3.09 |
| K106 | Knowledge of methods for identifying defects in contact lenses. | 3.09 |
| K104 | Knowledge of ANSI standards for contact lenses. | 2.74 |

0402 Record Keeping

| | KNOWLEDGE STATEMENT | MEAN IMPORTANCE |
|------|---|-----------------|
| K110 | Knowledge of insurance eligibility criteria. | 4.65 |
| K118 | Knowledge of HIPAA requirements for patient consent for release of medical records. | 4.61 |
| K112 | Knowledge of methods for determining patient coverage. | 4.57 |
| K113 | Knowledge of insurance coverage categories. | 4.57 |
| K119 | Knowledge of laws and regulations related to transmitting patient records. | 4.52 |
| K109 | Knowledge of tools used to track and schedule patient appointments. | 4.48 |
| K111 | Knowledge of methods for identifying patient copay. | 4.48 |
| K127 | Knowledge of laws and regulations related to providing prescription information. | 4.48 |
| K117 | Knowledge of laws and regulations related to maintaining patient records. | 4.48 |
| K108 | Knowledge of electronic health records (EHR) scheduling software. | 4.22 |
| K124 | Knowledge of laws and regulations related to patient referrals. | 4.13 |
| K120 | Knowledge of medical terminology used when transcribing patient information. | 4.09 |
| K115 | Knowledge of methods for maintaining electronic health records (EHR). | 4.04 |
| K116 | Knowledge of laws and regulations related to electronic health records (EHR). | 4.00 |
| K121 | Knowledge of abbreviations used when transcribing patient information. | 3.91 |
| K125 | Knowledge of methods for interpreting doctors' notes when providing referral information. | 3.91 |
| K114 | Knowledge of insurance billing codes. | 3.83 |
| K122 | Knowledge of diagnosis and procedure codes used by insurance companies. | 3.83 |
| K126 | Knowledge of electronic prescribing software. | 3.65 |
| K123 | Knowledge of billing software. | 3.52 |

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APPENDIX D | OPTICIANRY SCOPE OF PRACTICE STUDY*

01 PATIENT ASSESSMENT

TASK

| | |
|-----|---|
| T01 | Verify patient insurance to determine coverage for services. |
| T02 | Obtain patient medical and vision history to determine reason for current visit. |
| T03 | Determine prescription of current eyewear using a lensometer. |
| T04 | Perform visual field tests. |
| T05 | Perform autorefraction to determine patient refractive error. |
| T06 | Perform tonometry to determine patient intraocular pressure. |
| T07 | Perform optical coherence tomography (OCT) to screen for abnormalities in layers of retina. |
| T08 | Perform fundus test to screen for retinal disease. |
| T09 | Perform depth perception tests. |
| T10 | Perform visual acuity test. |
| T11 | Perform Ishihara test to screen patient for color vision deficiencies. |
| T12 | Determine pupillary distance using pupillometer. |
| T13 | Apply mydriatics to dilate patient pupils. |
| T14 | Perform cycloplegic refraction to determine patient prescription. |
| T15 | Evaluate contact lens wear schedule preferences, needs, and goals when patients are considering or requesting contact lenses. |
| T16 | Provide information regarding different types of contact lenses (for example, soft vs. RGP, spherical vs. toric) and wear schedules. |
| T71 | Perform simple, noninvasive testing of pupils and ocular motility. |
| T72 | Perform preliminary subjective refraction procedures in connection with finalizing subjective refraction procedures performed by an ophthalmologist or optometrist subject to set conditions. |
| T73 | Administer non-controlled substances for ophthalmic purposes (i.e., topical anesthetics). |

T74 Clean each instrument after each patient uses them.

NOTE: Tasks shaded in green were identified by SMEs in the February 2023 workshop as safety concerns that should not be performed by optometric assistants. Tasks shaded in orange were identified by SMEs in the February 2023 workshop as missing from the optometric assistant description of practice and were subsequently added.

02 SPECTACLE FITTING

TASK

| | |
|-----|---|
| T17 | Determine spectacle frame design by evaluating patient prescription and needs. |
| T18 | Determine types of spectacle lens materials (for example, glass, CR-39, polycarbonate, trivex, high-index) by evaluating patient prescription and needs. |
| T19 | Determine spectacle lens type and design (for example, single vision, multifocal) by evaluating patient prescription and needs. |
| T20 | Determine secondary lens options (for example, occupational, low vision, sports vision, blue light protection) and sun protection by evaluating patient prescription and needs. |
| T21 | Convert spectacle lens prescriptions to intermediate or reading lenses. |
| T22 | Determine out-of-pocket costs to assist patients with spectacle selection. |
| T23 | Pre-adjust spectacle frame on patients to ensure optimal fit. |
| T24 | Fit and adjust frame on patient to ensure accurate measurement. |
| T25 | Measure horizontal pupillary distance to determine optical center. |
| T26 | Interpret spectacle lens prescriptions to understand vision corrections. |
| T27 | Identify optical center of spectacle lens using a lensometer. |
| T28 | Verify that spectacles received from laboratory match doctors' prescriptions. |
| T29 | Verify that spectacles received from laboratory match order specifications (frame, lens materials). |
| T30 | Adjust spectacle frame on patient to ensure optimal fit. |
| T31 | Assess patient comfort and vision clarity with new spectacles. |
| T32 | Address patient concerns with spectacles. |
| T33 | Identify defects (for example, crazing, distortion) in spectacle lenses. |
| T34 | Provide patients with eyewear warranty information. |

NOTE: Tasks shaded in green were identified by SMEs in the February 2023 workshop as safety concerns that should not be performed by optometric assistants.

02 SPECTACLE FITTING

TASK

T36 Educate patients on use of multifocal lenses.

T37 Train patients on methods for cleaning and maintaining spectacle lenses.

T38 Perform common eyewear repairs to extend life of spectacles.

T39 Refer patients to prescribing doctor to address prescription problems.

T40 Refer patients to physician or ophthalmologist to address ocular health issues.

03 CONTACT LENS EVALUATION

0301 Initial Evaluation

TASK

T41 Convert spectacle lens prescription to contact lens prescription.

T42 Wash hands before handling contact lenses.

T43 Handle different contact lens types based on manufacturer's recommendations.

T44 Dispense trial lenses for patients based on base curve and vision correction requirements.

T45 Test patient visual acuity while wearing trial contact lenses.

T46 Train patients on techniques for inserting and removing contact lenses.

T47 Train patients on methods for cleaning contact lenses.

T48 Educate patients about contact lens wear schedules.

T49 Educate patients about the possible adverse effects of contact lenses.

T50 Educate patients about the need for secondary lens options and sun protection.

NOTE: Tasks shaded in green were identified by SMEs in the February 2023 workshop as safety concerns that should not be performed by optometric assistants.

0302 Follow-up Evaluation

TASK

- | | |
|-----|--|
| T51 | Perform follow-up assessment to evaluate comfort and fit of contact lenses. |
| T52 | Test patient visual acuity after trial period to determine need for adjustments to prescription. |
| T53 | Verify patient ability to insert and remove contact lenses. |
| T54 | Perform over-refraction to evaluate need for adjustments to prescription after trial period. |
| T55 | Verify contact lens fit and eye health using slit-lamp. |
| T56 | Provide copies of contact lens prescriptions to patients. |
-

04 OFFICE MANAGEMENT

0401 Inventory

TASK

- | | |
|-----|--|
| T57 | Manage inventory of office supplies. |
| T58 | Manage inventory of optometric products (for example, tools, eyedrops, lens solution). |
| T59 | Place order for lenses including trial lenses and custom orders based on prescription. |
| T60 | Verify that patient prescriptions match the packaged contact lenses. |
| T61 | Identify defects (e.g., tears, warping) in contact lenses and notify manufacturer. |
-

0402 Record Keeping

TASK

- | | |
|-----|--|
| T62 | Manage schedule of patient appointments. |
| T63 | Contact insurance companies to determine patient coverage. |
-

NOTE: Tasks shaded in green were identified by SMEs in the February 2023 workshop as safety concerns that should not be performed by optometric assistants.

0402 Record Keeping

TASK

T64 Keep patient records in accordance with laws and regulations.

T65 Obtain patient authorization to release records in accordance with laws and regulations.

T66 Transmit patient records in accordance with laws and regulations.

T67 Document prescription, assessment, and fitting information in patient records.

T68 Provide billing information to patients and insurers.

T69 Provide referral information to other medical professionals.

T70 Provide patient prescription information to pharmacies.

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APPENDIX E | QUESTIONNAIRE

Optometric Assistant Occupational Analysis Questionnaire

Cover Letter

Dear Optometric Assistants,

The California State Board of Optometry (Board) is conducting an occupational analysis (OA) of the Optometric Assistant profession. The purpose of the OA is to identify the important tasks performed by currently working Optometric Assistants and the knowledge required to perform those tasks. We urgently need your input to ensure an accurate evaluation of the Optometric Assistant profession.

As part of the OA, we have developed a questionnaire to identify the important tasks that Optometric Assistants perform in the profession. The questionnaire will be available online until **October 19, 2022**, 24 hours a day, 7 days a week.

In addition to the questionnaire, the Board would like to invite you to participate in a 1-day workshop. The workshop will be held remotely (through Microsoft Teams) and is tentatively scheduled for October 28th. You will be compensated \$300 for your participation. If you are interested in attending the workshop, please provide your contact information at the end of the questionnaire. Providing your contact information does not obligate you to attend. We will send you additional information about the workshop.

Please take the time to complete the questionnaire as it relates to your current work. Your responses will be kept confidential and will not be tied to any of your personal information. Individual responses will be combined with the responses of other Optometric Assistants and only group data will be analyzed.

For your convenience, you do not have to complete the questionnaire in a single session. Before you exit, complete the page that you are on. You can resume where you stopped as long as you reopen the questionnaire from the same computer and use the same web browser. The web link is available 24 hours a day, 7 days a week. The bottom of each page has a progress bar showing you what percentage of the questionnaire you have completed.

To begin the survey, please click Next. Any question marked with an asterisk must be answered before you can progress through the questionnaire. If you have any questions about the survey, please contact Ruxandra Nunn at Ruxandra.Nunn@dca.ca.gov

The Board welcomes your feedback and appreciates your time!



Sincerely,

Randy Love

Assistant Executive Officer California State Board of Optometry

Optometric Assistant Occupational Analysis Questionnaire

Part I - Personal Data

Complete this questionnaire only if you are currently working as an Optometric Assistant in California.

This questionnaire contains a broad range of tasks performed by individuals who work in optical settings. Every Optometric Assistant may not perform all of the tasks or use all of the knowledge contained in this questionnaire. However, your participation is essential, and your contribution will help establish standards for safe and effective optometric assistant practice in the State of California.

Optometric Assistant Occupational Analysis Questionnaire

Part I - Personal Data

The information you provide here is voluntary and confidential. It will be treated as personal information subject to the Information Practices Act (Civil Code section 1798 et seq.) and will be used only for the purpose of aiding in interpreting the task and knowledge ratings that are requested in Parts II and III. Please choose only one answer unless more than one is requested.

* 1. Do you currently work as an Optometric Assistant in California?

Yes

No

Optometric Assistant Occupational Analysis Questionnaire

Part I - Personal Data

2. How many years have you worked as an Optometric Assistant in California?

0-5 years

6-10 years

11-20 years

More than 20 years

3. How many hours per week do you work as an Optometric Assistant?

- 9 hours or fewer
- 10-19 hours
- 20-29 hours
- 30-39 hours
- 40-49 hours
- 50 or more hours.

4. Which title below most nearly matches your job title?

- Manager / Supervisor
- Optometric Assistant
- Technician
- Para-optometric
- Other (please specify)

5. Which of the following levels of education have you achieved? (check all that apply)

- On-the-job training
- Vocational program
- Associate Degree
- Bachelor's Degree
- Master's Degree
- Doctorate
- Other (please specify)

6. Which of the following certifications do you hold related to your work as an Optometric Assistant? (Select all that apply)

- CPO
- CPOA
- CPOT
- COA
- COT
- COMT
- Ophthalmic Scribe Certification (OSC)
- Contact Lens Dispenser
- Spectacle Lens Dispenser
- Dispensing Optician
- Other (please specify)

7. Which choice below better describes the location of your primary work setting?

- Urban (50,000 people or more)
- Rural (fewer than 50,000 people)

Optometric Assistant Occupational Analysis Questionnaire

Part I - Personal Data

8. How would you describe your primary work setting?

- Retail
- Private practice
- Partnership
- Group practice
- Corporation
- Private hospital
- HMO facility
- Military/veterans' hospital or clinic
- Federal facility (nonmilitary)
- State facility
- Other (please specify)

9. How many other **Optometric Assistants** work within your primary work setting?

- 0
- 1-3
- 4-6
- 7 or more

10. How many SLDs work within your primary work setting?

- 0
- 1-3
- 4-6
- 7 or more

11. How many CLDs work within your primary work setting?

- 0
- 1-3
- 4-6
- 7 or more

Optometric Assistant Occupational Analysis Questionnaire

Part I - Personal Data

12. In what California county do you perform the majority of your work?

- | | | |
|------------------------------------|---------------------------------------|-------------------------------------|
| <input type="radio"/> Alameda | <input type="radio"/> Marin | <input type="radio"/> San Mateo |
| <input type="radio"/> Alpine | <input type="radio"/> Mariposa | <input type="radio"/> Santa Barbara |
| <input type="radio"/> Amador | <input type="radio"/> Mendocino | <input type="radio"/> Santa Clara |
| <input type="radio"/> Butte | <input type="radio"/> Merced | <input type="radio"/> Santa Cruz |
| <input type="radio"/> Calaveras | <input type="radio"/> Modoc | <input type="radio"/> Shasta |
| <input type="radio"/> Colusa | <input type="radio"/> Mono | <input type="radio"/> Sierra |
| <input type="radio"/> Contra Costa | <input type="radio"/> Monterey | <input type="radio"/> Siskiyou |
| <input type="radio"/> Del Norte | <input type="radio"/> Napa | <input type="radio"/> Solano |
| <input type="radio"/> El Dorado | <input type="radio"/> Nevada | <input type="radio"/> Sonoma |
| <input type="radio"/> Fresno | <input type="radio"/> Orange | <input type="radio"/> Stanislaus |
| <input type="radio"/> Glenn | <input type="radio"/> Placer | <input type="radio"/> Sutter |
| <input type="radio"/> Humboldt | <input type="radio"/> Plumas | <input type="radio"/> Tehama |
| <input type="radio"/> Imperial | <input type="radio"/> Riverside | <input type="radio"/> Trinity |
| <input type="radio"/> Inyo | <input type="radio"/> Sacramento | <input type="radio"/> Tulare |
| <input type="radio"/> Kern | <input type="radio"/> San Benito | <input type="radio"/> Tuolumne |
| <input type="radio"/> Kings | <input type="radio"/> San Bernardino | <input type="radio"/> Ventura |
| <input type="radio"/> Lake | <input type="radio"/> San Diego | <input type="radio"/> Yolo |
| <input type="radio"/> Lassen | <input type="radio"/> San Francisco | <input type="radio"/> Yuba |
| <input type="radio"/> Los Angeles | <input type="radio"/> San Joaquin | |
| <input type="radio"/> Madera | <input type="radio"/> San Luis Obispo | |

Optometric Assistant Occupational Analysis Questionnaire

Part II - Task Ratings

INSTRUCTIONS FOR RATING TASK STATEMENTS

This part of the questionnaire contains 71 task statements. Please rate each task as it relates to effective performance of your current work as an Optometric Assistant using the Frequency and Importance scales displayed below.

FREQUENCY RATING SCALE

HOW FREQUENTLY do you perform this task in your current work?

0 - DOES NOT APPLY. I do not perform this task in my current work.

1 - RARELY. I perform this task the least often in my current work relative to other tasks I perform.

2 - SELDOM. I perform this task less often than most other tasks I perform in my current work.

3 - SOMETIMES. I perform this task as often as other tasks I perform in my current work.

work.

4 - OFTEN. I perform this task more often than most other tasks I perform in my current work.

5 - VERY OFTEN. This task is one of the tasks I perform most often in my current work relative to other tasks I perform.

IMPORTANCE RATING SCALE

HOW IMPORTANT is this task for effective performance in your current work?

0 - DOES NOT APPLY. This task is not required for effective performance in my current work.

1 - NOT IMPORTANT. This task is not important for effective performance in my current work.

2 - FAIRLY IMPORTANT. This task is somewhat important for effective performance in my current work.

3 - IMPORTANT. This task is important for effective performance in my current work.

4 - VERY IMPORTANT. This task is very important for effective performance in my current work.

5 - CRITICALLY IMPORTANT. This task is extremely important for effective performance in my current work.

Optometric Assistant Occupational Analysis Questionnaire

Part II - Task Ratings

Your Frequency and Importance ratings should be separate and independent ratings. Therefore, the ratings that you assign using one rating scale should not influence the ratings that you assign using the other rating scale.

If the task is NOT part of your current work, rate the task "0" (zero) Frequency and "0" (zero) Importance.

The boxes for rating the Frequency and Importance of each task have drop-down lists. Click on the "down" arrow in each box to see the rating, and then select the value based on your current work.

Optometric Assistant Occupational Analysis Questionnaire

Part II - Task Ratings

13. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance in your current work (Importance).

Patient Assessment

| | Frequency | Importance |
|--|----------------------|----------------------|
| T01 Verify patient insurance to determine coverage for services. | <input type="text"/> | <input type="text"/> |
| T02 Obtain patient medical and vision history to determine reason for current visit. | <input type="text"/> | <input type="text"/> |
| T03 Determine prescription of current eyewear using a lensometer. | <input type="text"/> | <input type="text"/> |
| T04 Perform visual field tests. | <input type="text"/> | <input type="text"/> |
| T05 Perform autorefraktion to determine patient refractive error. | <input type="text"/> | <input type="text"/> |
| T06 Perform tonometry to determine patient intraocular pressure. | <input type="text"/> | <input type="text"/> |
| T07 Perform optical coherence tomography (OCT) to screen for abnormalities in the layers of retina. | <input type="text"/> | <input type="text"/> |
| T08 Perform fundus test to screen for retinal disease. | <input type="text"/> | <input type="text"/> |
| T09 Perform depth perception tests. | <input type="text"/> | <input type="text"/> |
| T10 Perform visual acuity test. | <input type="text"/> | <input type="text"/> |
| T11 Perform Ishihara test to screen patient for color vision deficiencies. | <input type="text"/> | <input type="text"/> |
| T12 Determine pupillary distance using pupillometer. | <input type="text"/> | <input type="text"/> |
| T13 Apply mydriatics to dilate patient pupils. | <input type="text"/> | <input type="text"/> |
| T14 Perform cycloplegic refraction to determine patient prescription. | <input type="text"/> | <input type="text"/> |
| T15 Evaluate contact lens wear schedule preferences, needs, and goals when patients are considering or requesting contact lenses. | <input type="text"/> | <input type="text"/> |
| T16 Provide information regarding different types of contact lenses (for example, soft vs. RGP, spherical vs. toric) and wear schedules. | <input type="text"/> | <input type="text"/> |

Optometric Assistant Occupational Analysis Questionnaire

Part II - Task Ratings

14. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance in your current work (Importance).

Spectacle Fitting

| | Frequency | Importance |
|--|----------------------|----------------------|
| T17 Determine spectacle frame design by evaluating patient prescription and needs. | <input type="text"/> | <input type="text"/> |

| | | |
|---|----------------------|----------------------|
| T19 Determine types of spectacle lens materials (for example, glass, CR-39, polycarbonate, trivex, high-index) by evaluating patient prescription and needs. | <input type="text"/> | <input type="text"/> |
| T20 Determine spectacle lens type and design (for example, single vision, multifocal) by evaluating patient prescription and needs. | <input type="text"/> | <input type="text"/> |
| T21 Determine secondary lens options (for example, occupational, low vision, sports vision, blue light protection) and sun protection by evaluating patient prescription and needs. | <input type="text"/> | <input type="text"/> |
| T22 Convert spectacle lens prescriptions to intermediate or reading lenses. | <input type="text"/> | <input type="text"/> |
| T23 Determine out-of-pocket costs to assist patients with spectacle selection. | <input type="text"/> | <input type="text"/> |
| T24 Pre-adjust spectacle frame on patients to ensure optimal fit. | <input type="text"/> | <input type="text"/> |
| T25 Fit and adjust frame on patient to ensure accurate measurement. | <input type="text"/> | <input type="text"/> |
| T26 Measure horizontal pupillary distance to determine optical center. | <input type="text"/> | <input type="text"/> |
| T27 Interpret spectacle lens prescriptions to understand vision corrections. | <input type="text"/> | <input type="text"/> |
| T28 Identify optical center of spectacle lens using a lensometer. | <input type="text"/> | <input type="text"/> |
| T29 Verify that spectacles received from laboratory match doctor's prescriptions. | <input type="text"/> | <input type="text"/> |
| T30 Verify that spectacles received from laboratory match order specifications (frame, lens materials). | <input type="text"/> | <input type="text"/> |
| T31 Adjust spectacle frame on patient to ensure optimal fit. | <input type="text"/> | <input type="text"/> |
| T32 Assess patient comfort and vision clarity with new spectacles. | <input type="text"/> | <input type="text"/> |
| T33 Address patient concerns with spectacles. | <input type="text"/> | <input type="text"/> |
| T34 Identify defects (for example, crazing, distortion) in spectacle lenses. | <input type="text"/> | <input type="text"/> |
| T35 Provide patients with eyewear warranty information. | <input type="text"/> | <input type="text"/> |
| T36 Educate patients on the adaptation period for spectacle lenses. | <input type="text"/> | <input type="text"/> |
| T37 Educate patients on use of multifocal lenses. | <input type="text"/> | <input type="text"/> |
| T38 Train patients on methods for cleaning and maintaining spectacle lenses. | <input type="text"/> | <input type="text"/> |
| T39 Perform common eyewear repairs to extend life of spectacles. | <input type="text"/> | <input type="text"/> |
| T40 Refer patients to prescribing doctor to address prescription problems. | <input type="text"/> | <input type="text"/> |
| T41 Refer patients to physician or ophthalmologist to address ocular health issues. | <input type="text"/> | <input type="text"/> |

Part II - Task Ratings

15. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance in your current work (Importance).

Contact Lens Evaluation

Initial Evaluation

| | Frequency | Importance |
|--|----------------------|----------------------|
| 141 Convert spectacle lens prescription to contact lens prescription. | <input type="text"/> | <input type="text"/> |
| 142 Wash hands before handling contact lenses. | <input type="text"/> | <input type="text"/> |
| 143 Handle different contact lens types based on manufacturer's recommendations. | <input type="text"/> | <input type="text"/> |
| 144 Dispense trial lenses for patients based on base curve and vision correction requirements. | <input type="text"/> | <input type="text"/> |
| 145 Test patient visual acuity while wearing trial contact lenses. | <input type="text"/> | <input type="text"/> |
| 146 Train patients on techniques for inserting and removing contact lenses. | <input type="text"/> | <input type="text"/> |
| 147 Train patients on methods for cleaning contact lenses. | <input type="text"/> | <input type="text"/> |
| 148 Educate patients about contact lens wear schedules. | <input type="text"/> | <input type="text"/> |
| 149 Educate patients about the possible adverse effects of contact lenses. | <input type="text"/> | <input type="text"/> |
| 150 Educate patients about the need for secondary lens options and sun protection. | <input type="text"/> | <input type="text"/> |

Optometric Assistant Occupational Analysis Questionnaire

Part II - Task Ratings

16. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance in your current work (Importance).

Follow-up Evaluation

| | Frequency | Importance |
|--|----------------------|----------------------|
| 151 Perform follow-up assessment to evaluate comfort and fit of contact lenses. | <input type="text"/> | <input type="text"/> |
| 152 Test patient visual acuity after trial period to determine need for adjustments to prescription. | <input type="text"/> | <input type="text"/> |
| 153 Verify patient ability to insert and remove contact lenses. | <input type="text"/> | <input type="text"/> |
| 154 Perform over-refraction to evaluate need for adjustments to prescription after trial period. | <input type="text"/> | <input type="text"/> |
| 155 Verify contact lens fit and eye health using slit-lamp. | <input type="text"/> | <input type="text"/> |
| 156 Provide copies of contact lens prescriptions to patients. | <input type="text"/> | <input type="text"/> |

Optometric Assistant Occupational Analysis Questionnaire

Part II - Task Ratings

17. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance in your current work (Importance).

Office Management

Inventory

| | Frequency | Importance |
|--|----------------------|----------------------|
| 157 Manage inventory of office supplies. | <input type="text"/> | <input type="text"/> |
| 158 Manage inventory of optometric products (for example, tools, eyedrops, lens solution). | <input type="text"/> | <input type="text"/> |
| 159 Place order for lenses including trial lenses and custom orders based on prescription. | <input type="text"/> | <input type="text"/> |
| 160 Verify that patient prescriptions match the packaged contact lenses. | <input type="text"/> | <input type="text"/> |
| 161 Identify defects (e.g., tears, warping) in contact lenses and notify manufacturer. | <input type="text"/> | <input type="text"/> |

Optometric Assistant Occupational Analysis Questionnaire

Copy of page: Part II - Task Ratings

18. Please rate the following tasks based on how often you perform the task (Frequency) and how important the task is for effective performance in your current work (Importance).

Record Keeping

| | Frequency | Importance |
|--|----------------------|----------------------|
| 162 Manage schedule of patient appointments. | <input type="text"/> | <input type="text"/> |
| 163 Contact insurance companies to determine patient coverage. | <input type="text"/> | <input type="text"/> |
| 165 Keep patient records in accordance with laws and regulations. | <input type="text"/> | <input type="text"/> |
| 166 Obtain patient authorization to release records in accordance with laws and regulations. | <input type="text"/> | <input type="text"/> |
| 167 Transmit patient records in accordance with laws and regulations. | <input type="text"/> | <input type="text"/> |
| 168 Document prescription, assessment, and fitting information in patient records. | <input type="text"/> | <input type="text"/> |
| 169 Provide billing information to patients and insurers. | <input type="text"/> | <input type="text"/> |
| 170 Provide referral information to other medical professionals. | <input type="text"/> | <input type="text"/> |
| 171 Provide patient prescription information to pharmacists. | <input type="text"/> | <input type="text"/> |

Optometric Assistant Occupational Analysis Questionnaire

Copy of page: Part II - Task Ratings

Optometric Assistant Occupational Analysis Questionnaire

Part III - Knowledge Ratings

INSTRUCTIONS FOR RATING KNOWLEDGE STATEMENTS

This part of the questionnaire contains 127 knowledge statements. Please rate each knowledge statement based on how important you believe the knowledge is for effective performance of your current work as an Optometric Assistant.

If the knowledge is NOT required for effective performance of your current work, rate the statement as "DOES NOT APPLY."

Please use the following scale to make your ratings:

IMPORTANCE RATING SCALE

HOW IMPORTANT is this knowledge for effective performance of tasks in your current work?

- 0 - DOES NOT APPLY.** This knowledge is not required for effective performance of tasks in my current work.
- 1- NOT IMPORTANT.** This knowledge is not important for effective performance of tasks in my current work.
- 2 - FAIRLY IMPORTANT.** This knowledge is somewhat important for effective performance of tasks in my current work.
- 3 - IMPORTANT.** This knowledge is important for effective performance of tasks in my current work.
- 4 - VERY IMPORTANT.** This knowledge is very important for effective performance of tasks in my current work.
- 5 - CRITICALLY IMPORTANT.** This knowledge is extremely important for effective performance of tasks in my current work.

Optometric Assistant Occupational Analysis Questionnaire

Part III - Knowledge Ratings

19. How important is this knowledge for effective performance of tasks in your current work?

Patient Assessment

| | 0 Does Not Apply | 1 Not Important | 2 Fairly Important | 3 Important | 4 Very Important | 5 Critically Important |
|---|------------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| K001 Knowledge of insurance agreements between medical insurers and vision insurers. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K002 Knowledge of different insurance plans (for example, HMO, PPO). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K003 Knowledge of methods for eliciting patient medical and vision history. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K004 Knowledge of available resources for obtaining a translator to assist in obtaining patient medical and vision history. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K005 Knowledge of medical terminology related to optometry. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K006 Knowledge of anatomy and physiology of the eye. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K007 Knowledge of methods for using a lensometer to determine prescription. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K008 Knowledge of methods for performing visual field tests. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K009 Knowledge of different tests used to evaluate visual field. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | | | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| K010 Knowledge of methods and procedures for performing autorefracton. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K011 Knowledge of tools used to perform autorefracton. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K012 Knowledge of methods and procedures for determining intraocular pressure. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K013 Knowledge of tools used for determining intraocular pressure (for example, pressure gun, Tono-Pen®, auto tonometer). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K014 Knowledge of methods and procedures for performing optical coherence tomography. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K015 Knowledge of signs of retinal disease. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K016 Knowledge of methods and procedures for performing fundus test. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K017 Knowledge of methods and procedures for evaluating depth perception. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K018 Knowledge of methods and procedures for evaluating visual acuity. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K019 Knowledge of methods and procedures for evaluating color vision. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K020 Knowledge of methods and procedures for determining pupillary distance. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K021 Knowledge of methods for administering eyedrops. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K022 Knowledge of types of eyedrops used for dilating pupils. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K023 Knowledge of procedures for dilating pupils. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K024 Knowledge of types of eyedrops used for cycloplegic refraction. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K025 Knowledge of methods for determining prescriptions for pediatric patients. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K026 Knowledge of manufacturer recommended contact lens wear schedules. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K027 Knowledge of methods for encouraging patient compliance. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K028 Knowledge of available contact lens types and materials. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Optometric Assistant Occupational Analysis Questionnaire

Part III - Knowledge Ratings

20. How important is this knowledge for effective performance of tasks in your current work?

Spectacle Fitting

| | 0 | | | | | 5 |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | Does | 1 | 2 | 3 | 4 | |
| | Not | Not | Fairly | Important | Very | Critically |
| | Apply | Important | Important | Important | Important | Important |
| K029 Knowledge of lifestyle factors and hobbies that affect eyewear selection. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K030 Knowledge of advantages and disadvantages of different types of spectacle frame design and materials. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K031 Knowledge of methods for educating patients about eyewear designs and features. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K032 Knowledge of ANSI standards for safety eyewear. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K033 Knowledge of different types of lens features and their functions (for example, polarization, photochromic, anti-reflective). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K034 Knowledge of the advantages and disadvantages of different lens materials. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K035 Knowledge of methods for educating patients about eyewear designs and features. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K036 Knowledge of different designs of multifocal lenses (for example, progressive, bifocal, trifocal). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K037 Knowledge of the need for secondary lenses and sun protection. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K038 Knowledge of methods for modifying spectacle lens prescriptions for intermediate or reading powers. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K039 Knowledge of methods for calculating out-of-pocket eyewear costs. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K040 Knowledge of tools used to adjust spectacle frames during pre-fitting. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K041 Knowledge of methods for pre-adjusting spectacle frames. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K042 Knowledge of the effect of frame tilt on fit. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K043 Knowledge of tools used to adjust spectacle frames to fit patients. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K044 Knowledge of methods for using a pupillary distance ruler. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K045 Knowledge of methods for using a pupillometer. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K046 Knowledge of how to interpret spectacle lens prescriptions. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K047 Knowledge of methods for converting plus cylinder to minus cylinder. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K048 Knowledge of methods for interpreting lensometer findings to identify optical center of spectacle lens. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K049 Knowledge of methods for identifying and calculating induced prism. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K050 Knowledge of procedures for comparing | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | | | | | | |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| spectacles received to doctors' prescriptions. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K051 Knowledge of methods for interpreting lensometer findings to verify that lenses received from the laboratory match current prescription. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K052 Knowledge of procedures for comparing spectacles received to order specifications. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K053 Knowledge of facial features and anatomy that affect spectacle fit. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K054 Knowledge of methods of assessing visual acuity (for example, Snellen chart, Jaeger card) during the fitting process. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K055 Knowledge of methods for troubleshooting common patient concerns. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K056 Knowledge of methods for interpreting lensometer findings to identify defects during the manufacturing process. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K057 Knowledge of procedures for identifying lens defects. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K058 Knowledge of after-sale services available to patients. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K059 Knowledge of eyewear manufacturer warranty policies. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K060 Knowledge of side effects during adaptation period. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K061 Knowledge of side effects of multifocal lenses during adaptation period. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K062 Knowledge of methods and materials for cleaning and maintaining spectacle lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K063 Knowledge of parts used in eyewear repairs. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K064 Knowledge of methods for repairing eyewear. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K065 Knowledge of patient prescription problems that require referral to a medical professional. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K066 Knowledge of patient issues that require referral to a physician or ophthalmologist. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Optometric Assistant Occupational Analysis Questionnaire

Part III - Knowledge Ratings

21. How important is this knowledge for effective performance of tasks in your current work?

Contact Lens Evaluation

Initial Evaluation

| | 0 | 1 | 2 | 3 | 4 | 5 |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | Does Not Apply | Not Important | Fairly Important | Important | Very Important | Critically Important |
| K067 Knowledge of how to interpret contact lens prescriptions. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K068 Knowledge of base curves, diameters, and thicknesses of contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K069 Knowledge of methods for modifying contact lens prescriptions to accommodate for astigmatism. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K070 Knowledge of methods for maintaining hygiene when handling contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K071 Knowledge of methods for handling soft contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K072 Knowledge of methods for handling hard contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K073 Knowledge of methods for handling rigid gas permeable contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K074 Knowledge of methods to adjust base curve measurements. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K075 Knowledge of methods for evaluating visual acuity during the trial period. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K076 Knowledge of methods for training patients to insert and remove contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K077 Knowledge of techniques for inserting and removing soft contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K078 Knowledge of techniques for inserting and removing hard contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K079 Knowledge of techniques for inserting and removing rigid gas permeable contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K080 Knowledge of contact lens solutions for cleaning and lubrication. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K081 Knowledge of methods for cleaning contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K082 Knowledge of contact lens wear schedules based on lens type. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K083 Knowledge of wear schedules for extended-wear contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K084 Knowledge of adverse effects (e.g., eye infections) of contact lens wear. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K085 Knowledge of adverse effects of wearing contact lenses for more hours than recommended. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K086 Knowledge of adverse effects of not following manufacturer recommendations for extended-wear contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Optometric Assistant Occupational Analysis Questionnaire

Part III - Knowledge Ratings

22. How important is this knowledge for effective performance of tasks in your current work?

Follow-up Evaluation

| | 0 Does Not Apply | 1 Not Important | 2 Fairly Important | 3 Important | 4 Very Important | 5 Critically Important |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|------------------------|
| K087 Knowledge of the need for secondary lenses and sun protection when wearing contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K088 Knowledge of methods to evaluate fit of contact lens and patient comfort during follow-up consultation. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K089 Knowledge of methods for evaluating visual acuity after the trial period. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K090 Knowledge of methods for verifying patient ability to insert and remove contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K091 Knowledge of methods for performing over-refraction after the trial period. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K092 Knowledge of procedures for using a slit lamp to assess fit of contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K093 Knowledge of methods for verifying contact lens fit. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K094 Knowledge of indicators of proper contact lens fit. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K095 Knowledge of laws and regulations related to providing contact lens prescriptions to patients. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Optometric Assistant Occupational Analysis Questionnaire

Part III - Knowledge Ratings

23. How important is this knowledge for effective performance of tasks in your current work?

Office Management

Inventory

| | 0 Does Not Apply | 1 Not Important | 2 Fairly Important | 3 Important | 4 Very Important | 5 Critically Important |
|---|---------------------------|-----------------------|--------------------------|-----------------------|------------------------|------------------------------|
| K096 Knowledge of methods for tracking office supply use. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K097 Knowledge of methods for determining rate of optometric product use. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K098 Knowledge of available optometric supply vendors. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K099 Knowledge of available optometric supplies. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K100 Knowledge of methods for determining when to reorder trial lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K101 Knowledge of contact lens brands most commonly used by patients. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K102 Knowledge of methods for tracking contact lens inventory expiration dates. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K103 Knowledge of methods for tracking contact lens product availability. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K104 Knowledge of ANSI standards for contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K105 Knowledge of methods for interpreting contact lens prescription labels. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K106 Knowledge of methods for identifying defects in contact lenses. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K107 Knowledge of contact lens manufacturer return policies. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Optometric Assistant Occupational Analysis Questionnaire

Copy of page: Part III - Knowledge Ratings

24. How important is this knowledge for effective performance of tasks in your current work?

Record Keeping

0

| | Does Not Apply | 1 Not Important | 2 Fairly Important | 3 Important | 4 Very Important | 5 Critically Important |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| K108 Knowledge of electronic health records (EHR) scheduling software. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K109 Knowledge of tools used to track and schedule patient appointments. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K110 Knowledge of insurance eligibility criteria. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K111 Knowledge of methods for identifying patient copay. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K112 Knowledge of methods for determining patient coverage. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K113 Knowledge of insurance coverage categories. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K114 Knowledge of insurance billing codes. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K115 Knowledge of methods for maintaining electronic health records (EHR). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K116 Knowledge of laws and regulations related to electronic health records (EHR). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K117 Knowledge of laws and regulations related to maintaining patient records. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K118 Knowledge of HIPAA requirements for patient consent for release of medical records. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K119 Knowledge of laws and regulations related to transmitting patient records. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K120 Knowledge of medical terminology used when transcribing patient information. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K121 Knowledge of abbreviations used when transcribing patient information. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K122 Knowledge of diagnosis and procedure codes used by insurance companies. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K123 Knowledge of billing software. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K124 Knowledge of laws and regulations related to patient referrals. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K125 Knowledge of methods for interpreting doctors' notes when providing referral information. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| K126 Knowledge of electronic prescribing software. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

QUESTIONNAIRE

K127 Knowledge of laws and regulations related to providing prescription information.



25. If you are interested in attending the workshop that is tentatively scheduled for October 28th, please provide your name and email address below. In the workshop, we will be reviewing questionnaire results and finalizing the tasks and knowledge statements based on their compiled ratings.

Optometric Assistant Occupational Analysis Questionnaire

Thank you!

Thank you for taking the time to complete this questionnaire. The California State Board of Optometry values your contribution.



Opticianry Scope of Practice Study

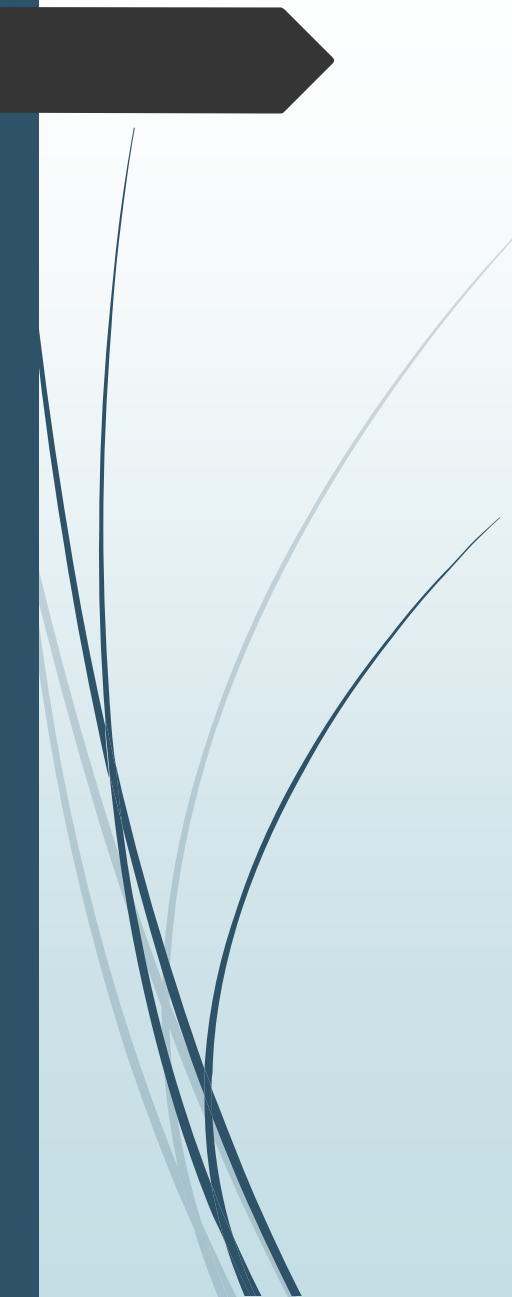
August 25, 2023

- ▶ Heidi Lincer, Ph.D., OPES Chief
- ▶ Amy Welch Gandy, M.A., Research Data Supervisor



Presentation Topics

- About OPES
- Implementing B&P Code §139
- Scope of Practice Study
- Purpose of Occupational Analysis (OA)
- Contact Lens Dispenser (CLD), Spectacle Lens Dispenser (SLD), and Optometric Assistant OAs
- Evaluation of the Optometric Assistant description of practice against the CLD and SLD descriptions of practice
- Conclusions and Recommendations

A decorative graphic on the left side of the slide. It features a dark blue vertical bar on the far left. A black arrow points to the right from the top of this bar. Several thin, light blue lines curve downwards and to the right from the arrow's tip, creating a sense of flow and movement.

The Office of Professional Examination Services provides:

- Professional consulting services in examination validation and development to DCA's boards, bureaus, and committees
- Recommendations based on laws, professional guidelines, and technical standards related to licensure examinations



Implementing Business and Professions Code §139

DCA Policy OPES 22-01 *Licensure Examination Validation*

DCA Policy OPES 20-01 *Participation in Examination Development Workshops*

DCA DPM OPES 22-01 *Examination Security*

Standards for Educational and Psychological Testing (2014)



Scope of Practice Study

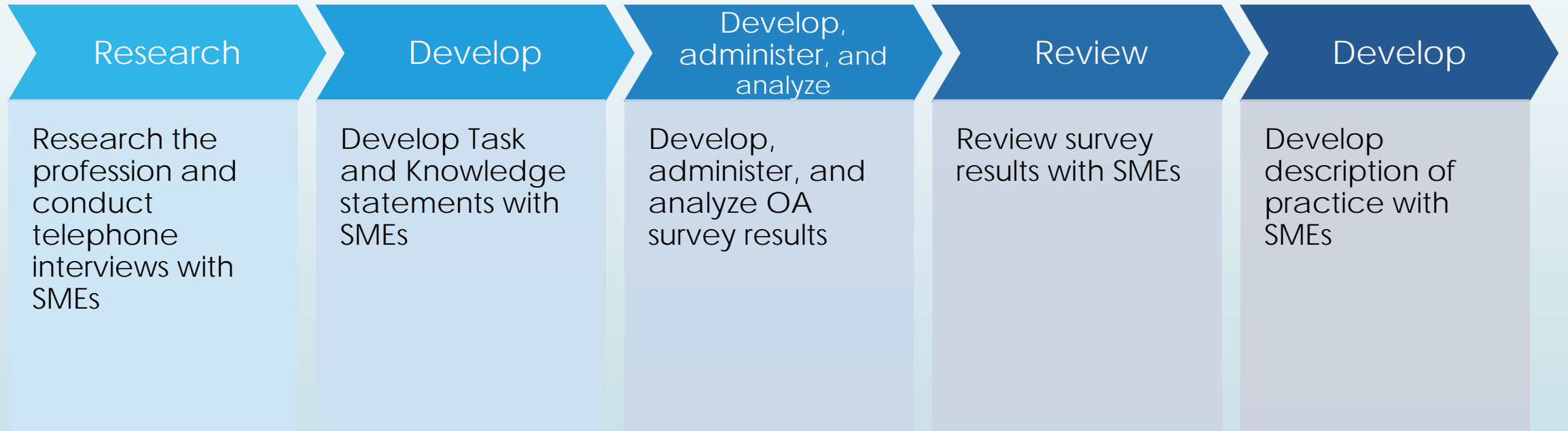
- Identify overlap in the scope of practice of three opticianry occupations: CLD, SLD, and Optometric Assistant
- Determine whether any health and safety concerns necessitate a change to the licensing classifications
- The first step of the review was separate occupational analyses (OAs) of the three occupations



Purpose of Occupational Analysis

- ▶ Comprehensive, systematic study of the profession that provides a description of current practice
 - ▶ Identifies entry-level tasks
 - ▶ Identifies essential knowledge required for safe and competent performance of critical, entry-level tasks
- ▶ Provides the basis of job-related, fair, and legally defensible examinations
- ▶ Provides basis for legislation and policies

Occupational Analysis Process



2019 CLD Occupational Analysis Results



Survey invitation to access web-based survey was mailed to 1,354 licensees

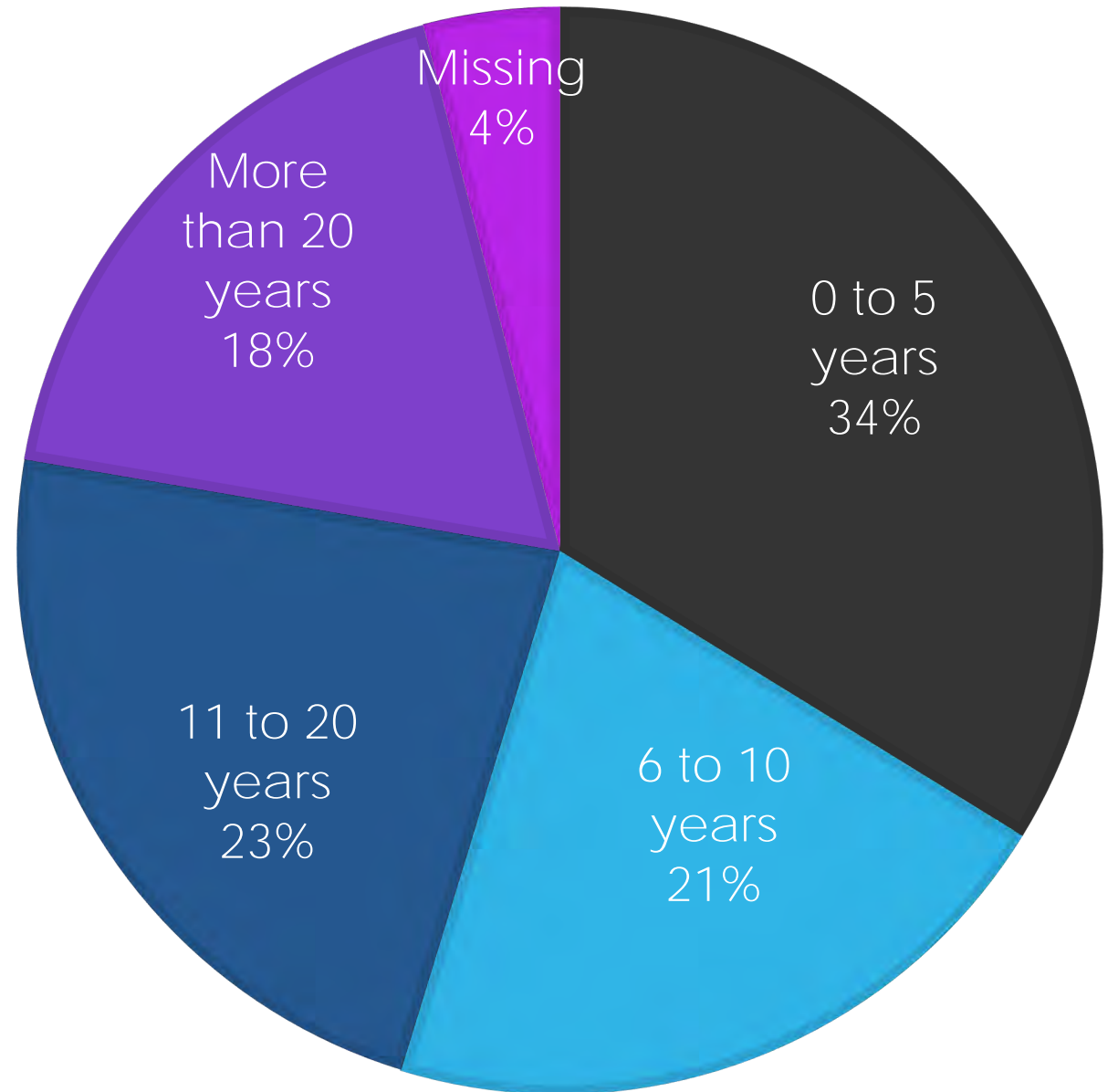


Overall response rate was 151 or 11%

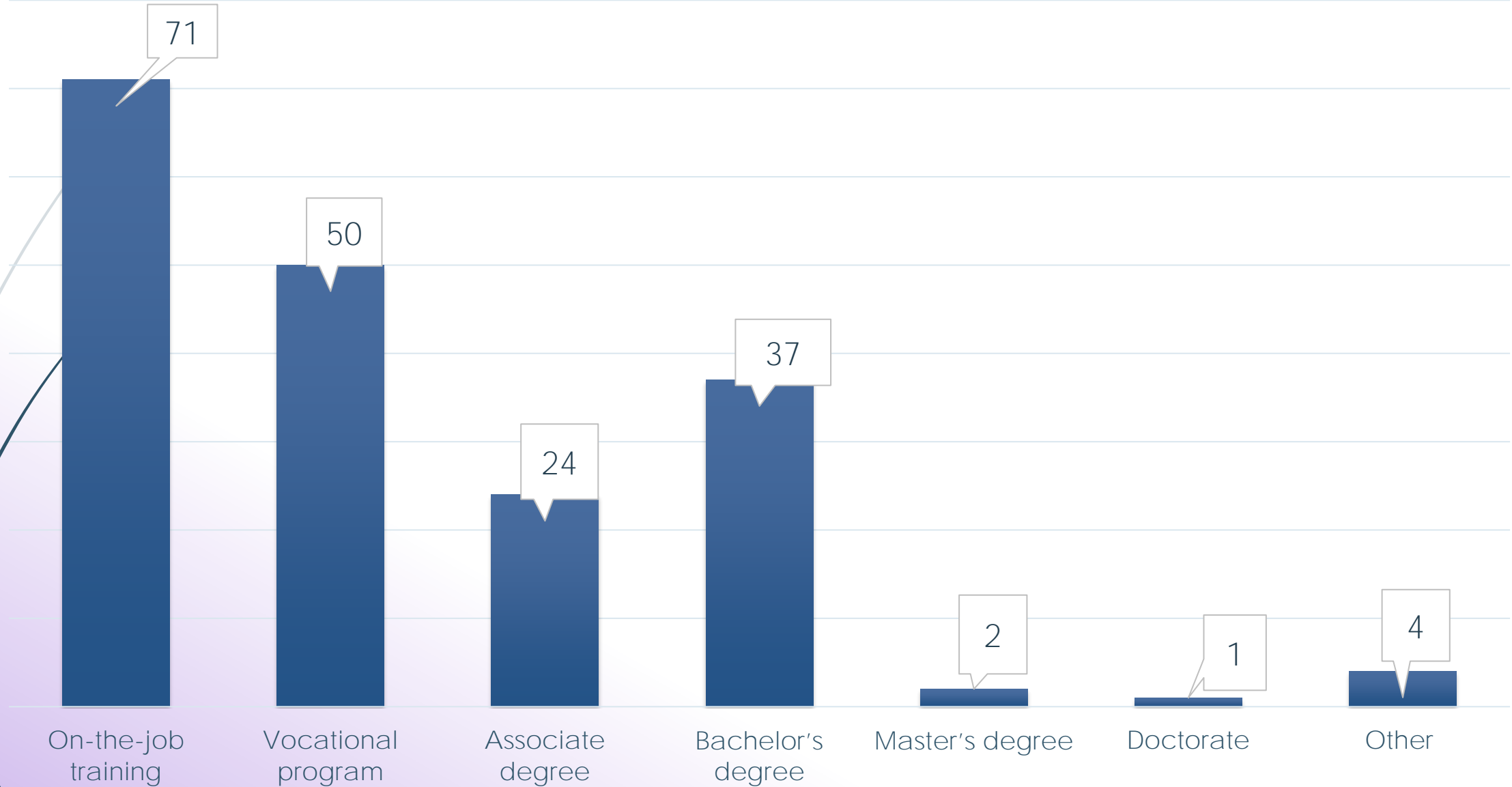


Final sample size for data analysis was 148 or 10.9%

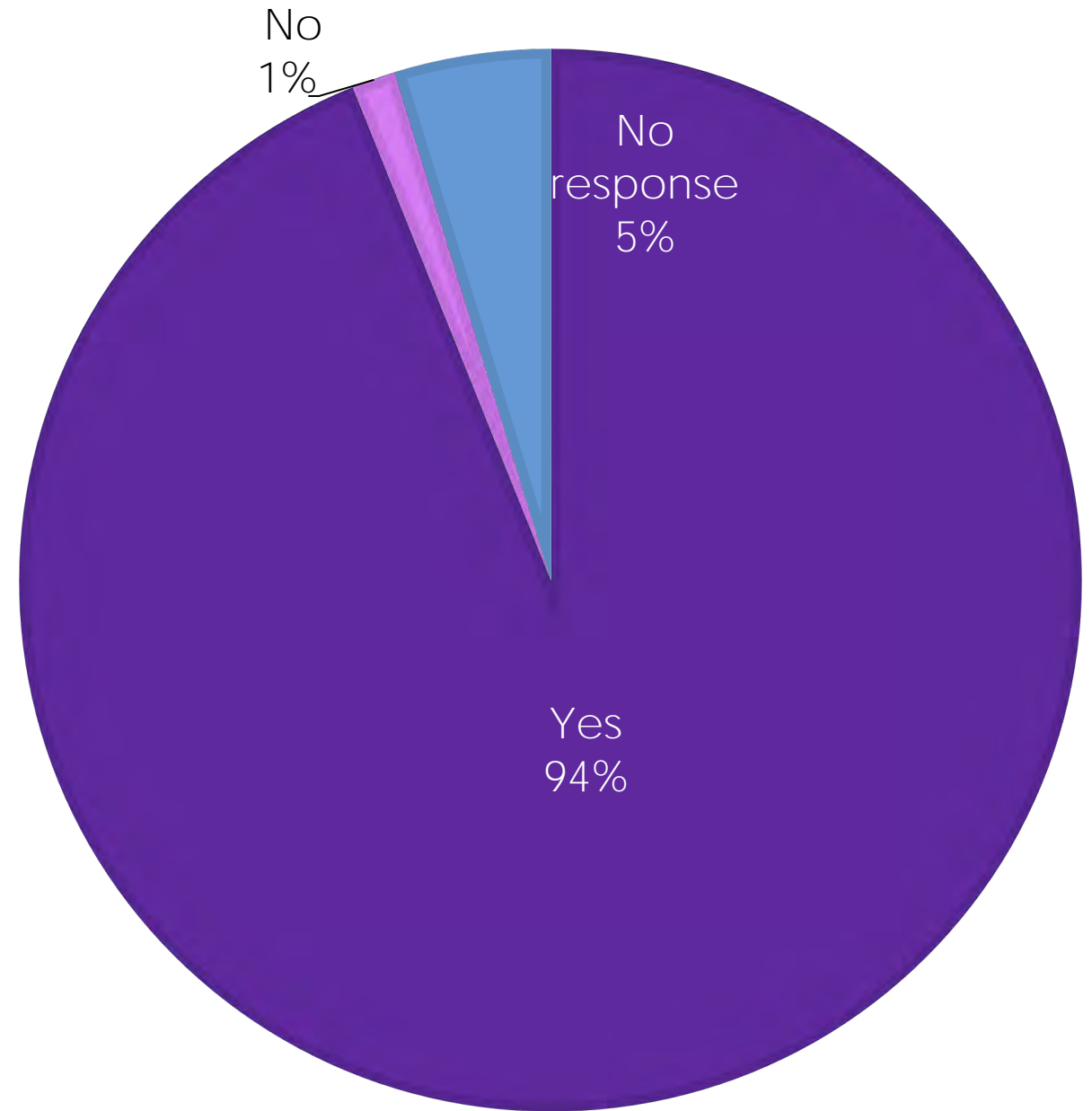
Years Registered as a CLD



Education and Training of CLDs



Also
registered as
an SLD



2020 SLD Occupational Analysis Results



Survey invitation to access web-based survey was mailed to 2,728 licensees

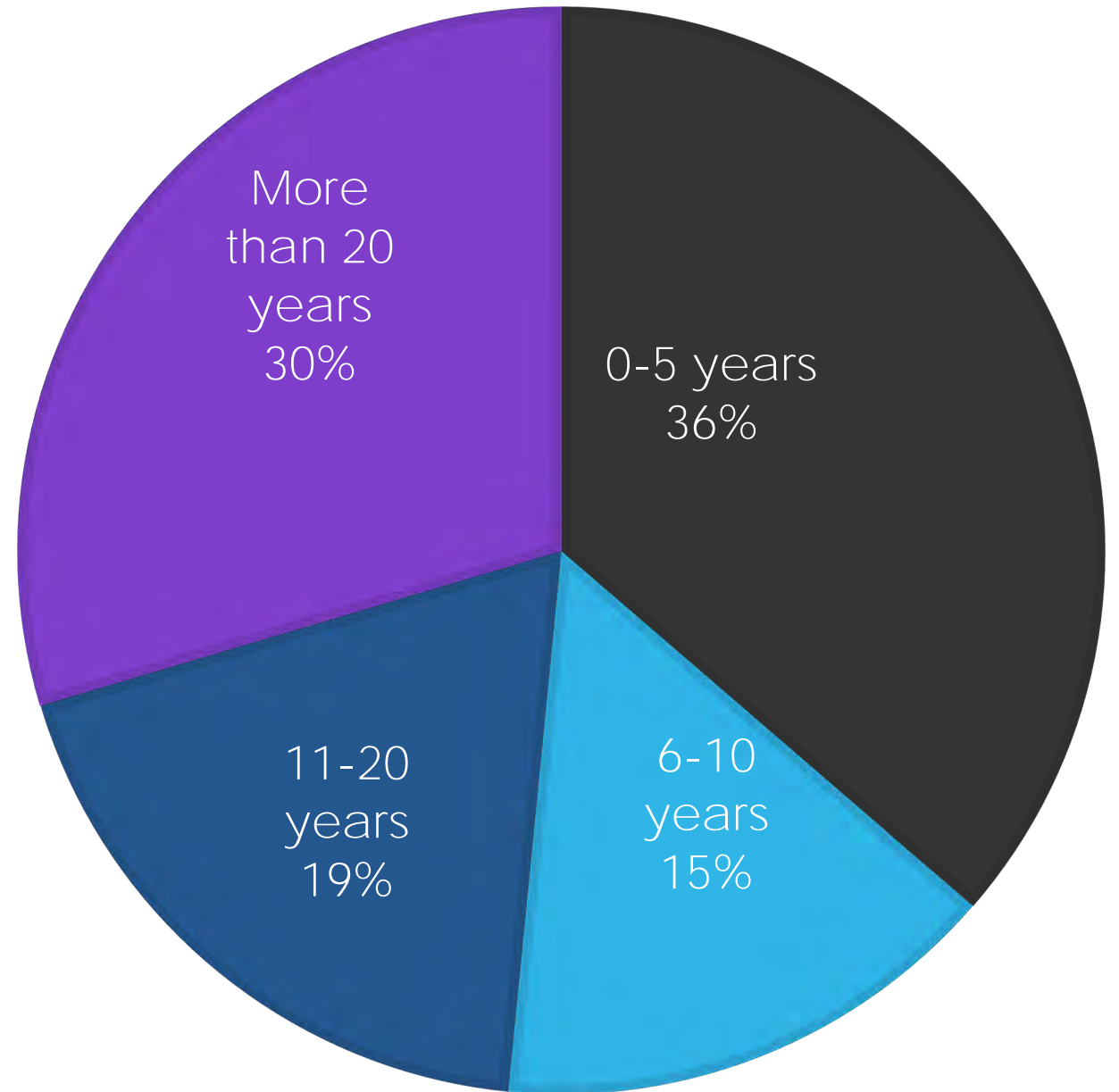


Overall response rate was 284 or 10.4%

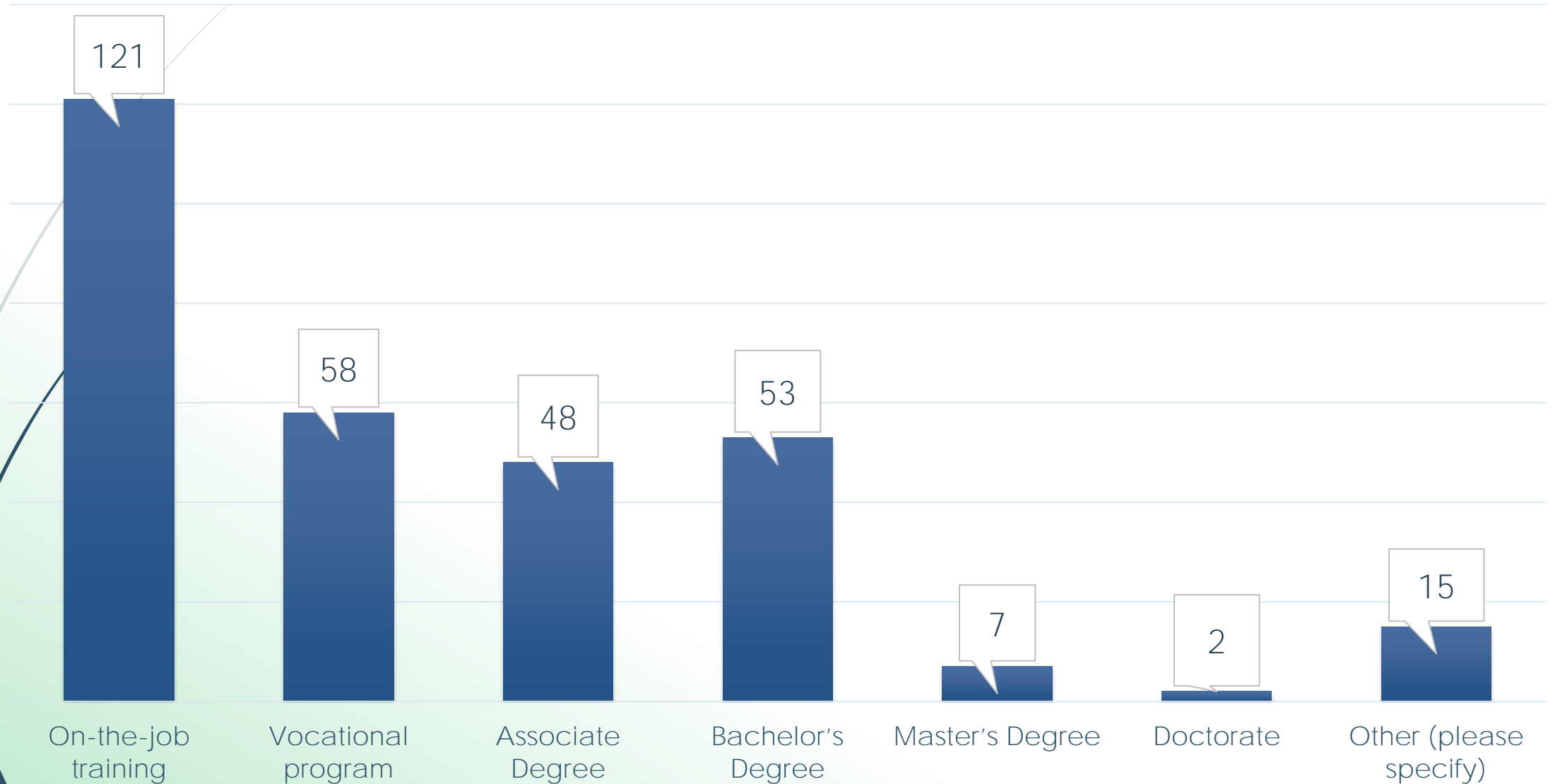


Final sample size for data analysis was 223 or 8.2%

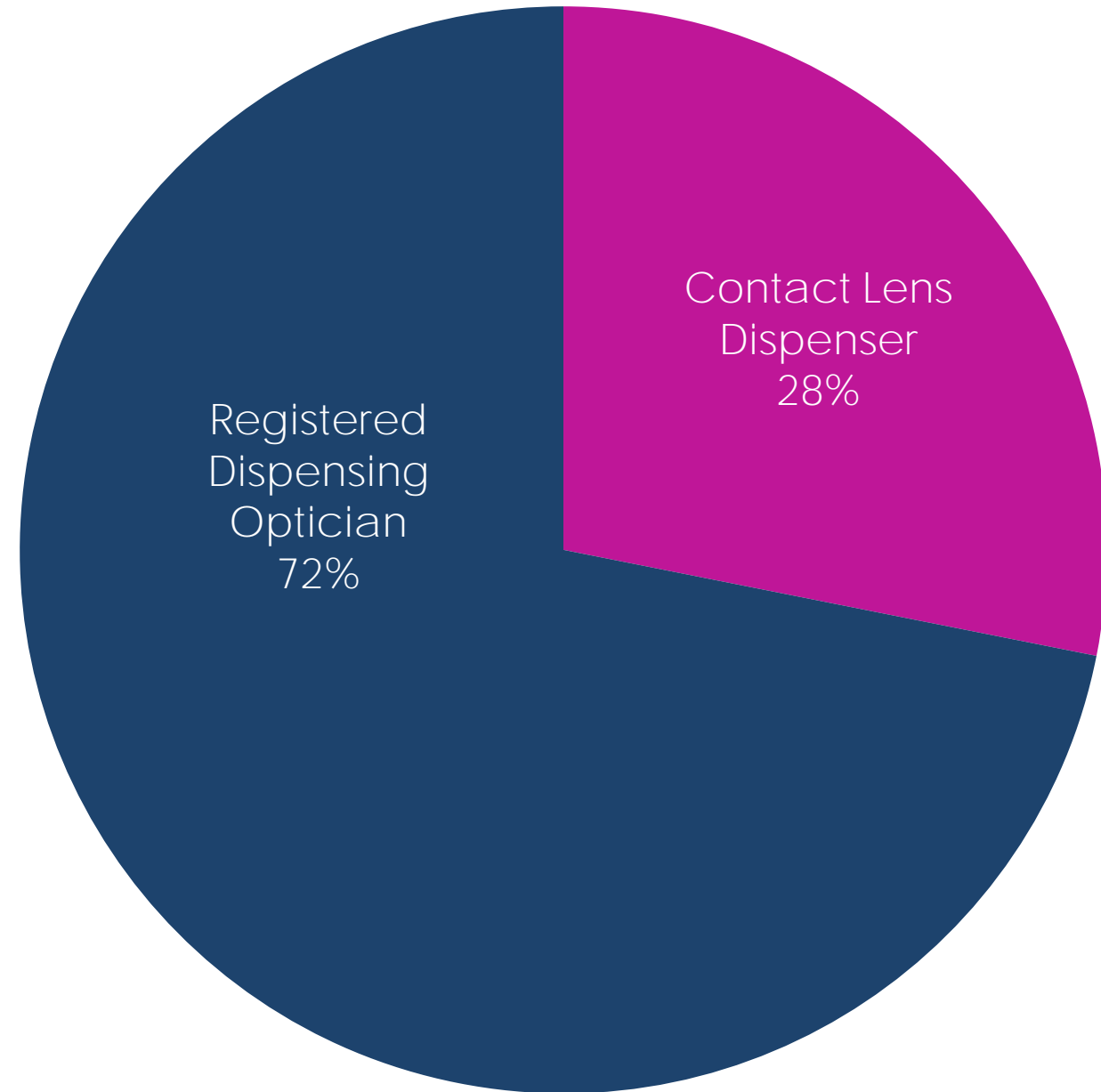
Years registered as an SLD



Education and Training of SLDs



Other registrations held by SLDs



■ Contact Lens Dispenser (CLD)

■ Registered Dispensing Optician (RDO)

Legal Description of the Optometric Assistant Occupation

► The optometric assistant occupation is unlicensed and unregistered. BPC § 2550(g) defines “unregistered” individuals who work with contact lenses and spectacle lenses as follows:

- (g) “Unregistered individual” means an individual who is not registered with the board pursuant to this chapter. The unregistered individual may perform any of the following:
 - (1) Fitting and adjusting of spectacle lenses under the direct responsibility and supervision of a duly registered spectacle lens dispenser pursuant to Section 2559.1.
 - (2) Fitting and adjusting of contact lenses under the direct responsibility and supervision of a duly registered contact lens dispenser pursuant to Section 2560.



2023 Optometric Assistant Occupational Analysis Results



Survey invitation to access web-based survey was mailed to 7,535 Optometrists

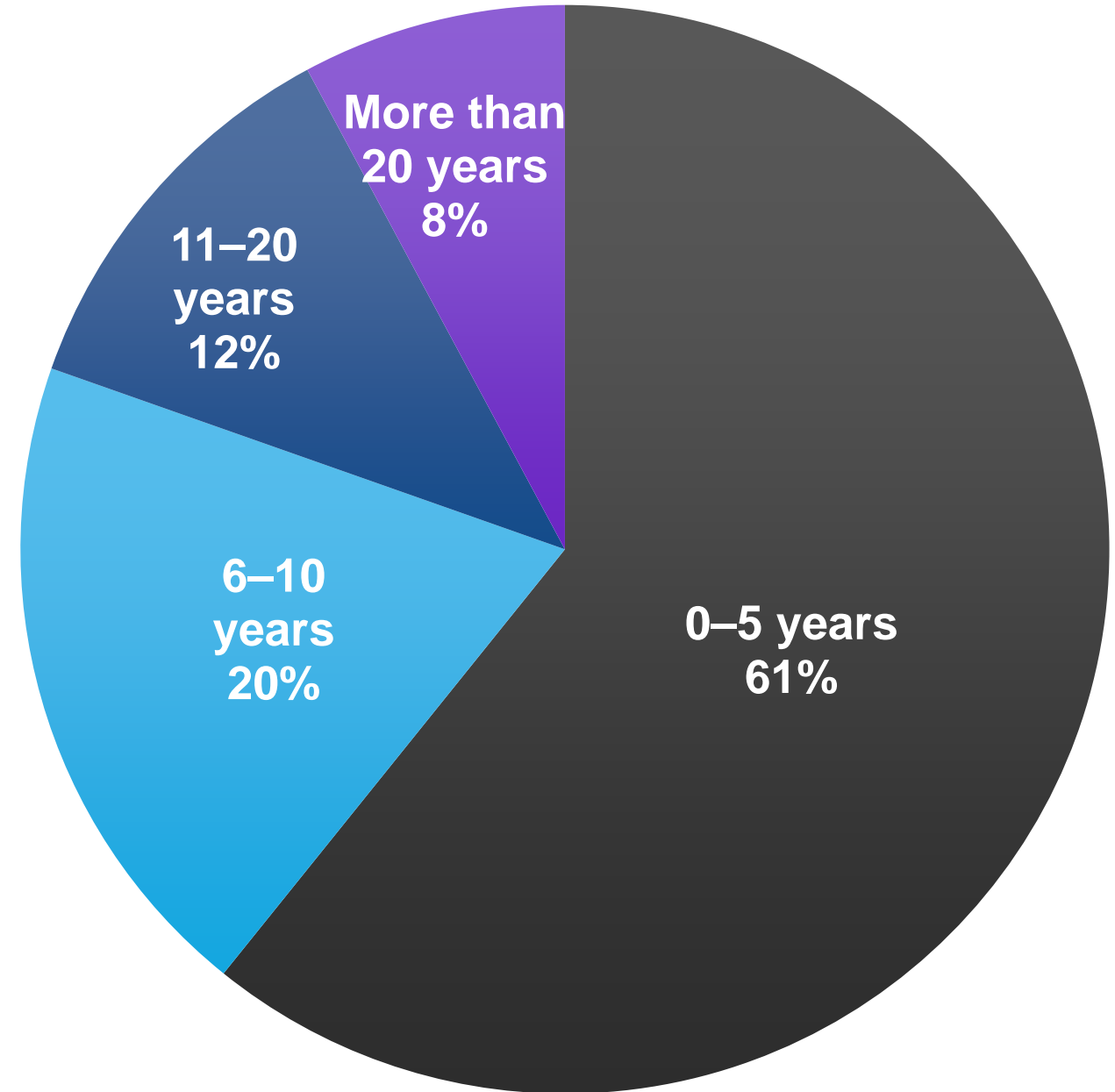


Overall response rate was 86 Optometric Assistants

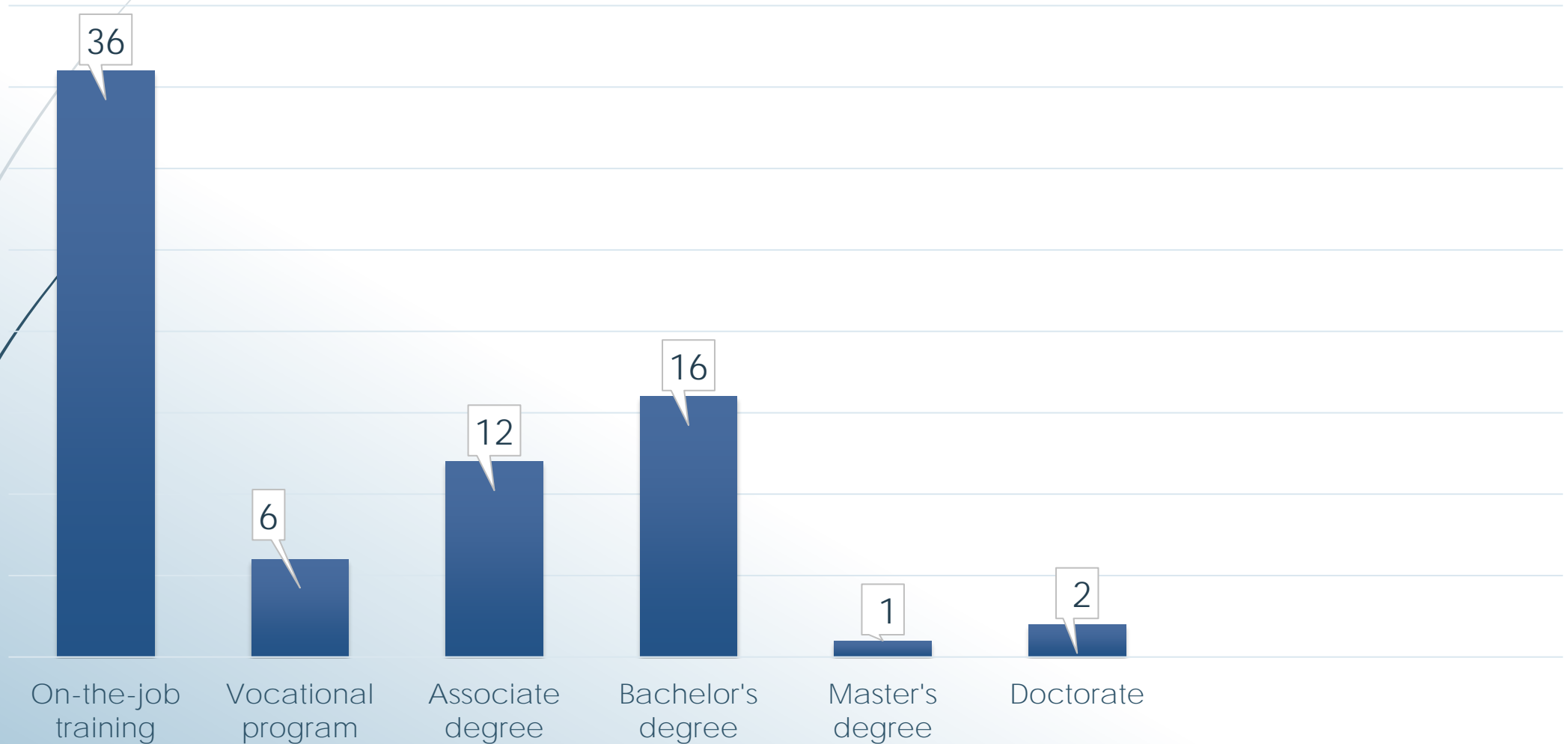


Final sample size for task and knowledge ratings was 33

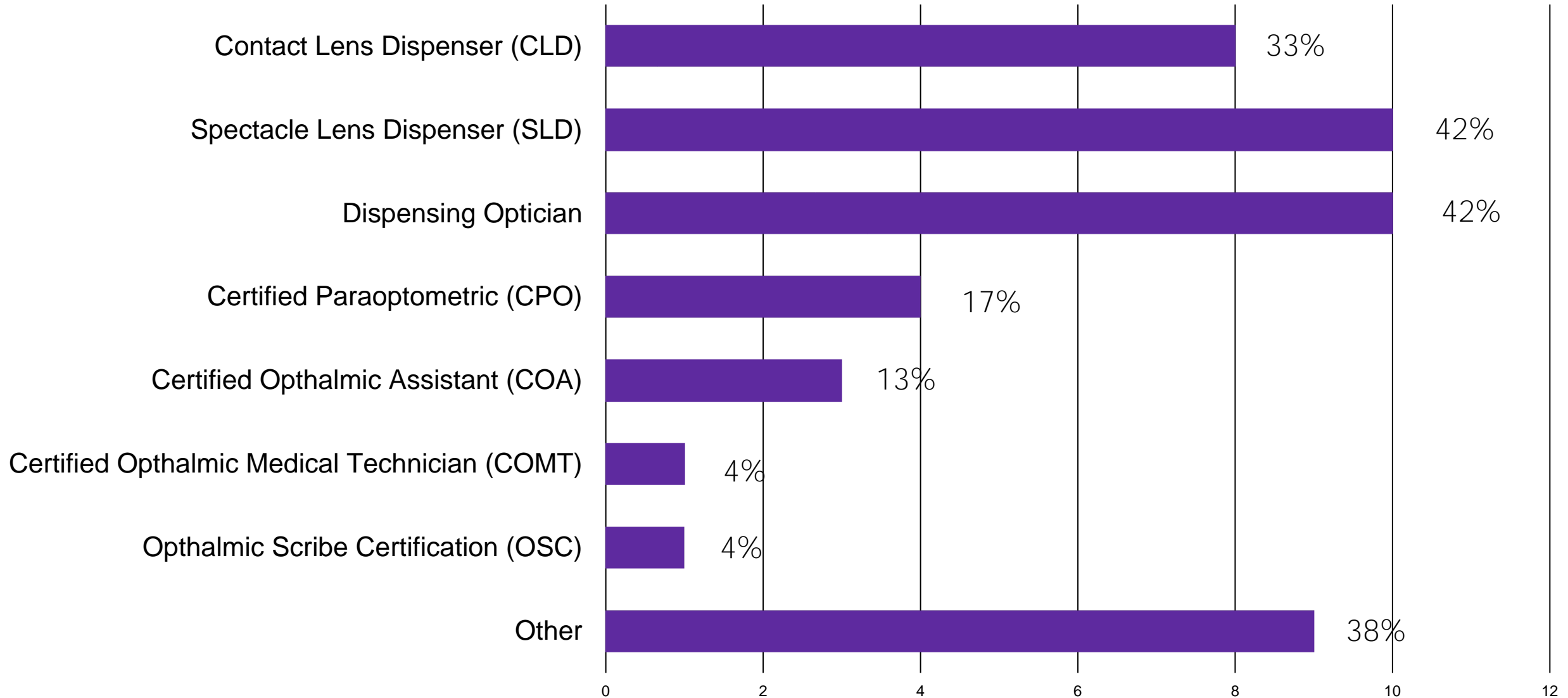
Years Working as an Optometric Assistant



Education and Training of Optometric Assistants



Certifications/Registrations Held by Optometric Assistants



Certifications/Registrations Held Summary

- ▶ The majority of CLDs who responded (94%) were also registered as SLDs
- ▶ Only 28% of SLDs who responded were also registered as CLDs
- ▶ 33% of Optometric Assistants who responded are registered as CLDs and 42% are registered as SLDs
- ▶ Important consideration for Optometric Assistant OA:
 - ▶ Low number of survey respondents



Task Ratings

FREQUENCY SCALE: How often do you perform this task in your current work?

0 – DOES NOT APPLY. “I do not perform this task in my current work.”

5 – VERY OFTEN. “This task is one of the tasks I perform most often in my current work relative to other tasks I perform.”

IMPORTANCE SCALE: How important is this task for effective performance in your current work?

0 – DOES NOT APPLY. “This task is not required for effective performance in my current work.”

5 – CRITICALLY IMPORTANT. “This task is extremely important for effective performance in my current work.”



Knowledge Ratings

IMPORTANCE SCALE: How important is this knowledge for effective performance of tasks in your current work?

0 – DOES NOT APPLY TO MY WORK / NOT REQUIRED. “This knowledge is not required for effective performance of tasks in my current work.”

5 – CRITICALLY IMPORTANT. “This knowledge is extremely important for effective performance of tasks in my current work.”



Description of Practice

- Decisions made based on evaluation of data and SME consensus
 - Identify critical tasks and knowledge
 - Confirm task-knowledge linkage
 - Determine final content areas



Optometric Assistant Description of Practice Content Areas

CONTENT AREAS

1. Patient Assessment (40%) – 20 tasks

2. Spectacle Fitting (15%) – 24 tasks

3. Contact Lens Evaluation (15%) – 16 tasks

0301. Initial Evaluation – 10 tasks

0302. Follow-up Evaluation – 6 tasks

4. Office Management (30%) – 14 tasks

0401. Inventory – 5 tasks

0402. Record Keeping – 9 tasks

Scope of Practice Study

- ▶ In 2023, OPES test specialists facilitated a workshop with SMEs consisting of two optometrists, two SLDs, and four SLDs/CLDs.
- ▶ Discussion of the tasks on the Optometric Assistant description of practice
 - ▶ 25 tasks on the Optometric Assistant description of practice were identified as tasks that should only be performed by CLDs or SLDs
 - ▶ The SMEs believed that Optometric Assistants do not possess the necessary level of knowledge and training to safely perform them
 - ▶ Four additional tasks were identified as missing from the optometric assistant description of practice
 - ▶ The SMEs recommended adding these tasks to the description of practice.

Scope of Practice Study

Tasks recommended for removal from the Optometric Assistant description of practice:

1. Patient Assessment

- 13. Apply mydriatics to dilate patient pupils.
- 14. Perform cycloplegic refraction to determine patient prescription.

2. Spectacle Fitting

- 17. Determine spectacle frame design by evaluating patient prescription and needs.
- 18. Determine types of spectacle lens materials (for example, glass, CR-39, polycarbonate, trivex, high-index) by evaluating patient prescription and needs.
- 19. Determine spectacle lens type and design (for example, single vision, multifocal) by evaluating patient prescription and needs.
- 20. Determine secondary lens options (for example, occupational, low vision, sports vision, blue light protection) and sun protection by evaluating patient prescription and needs.

Scope of Practice Study

Tasks recommended for removal from the Optometric Assistant description of practice (continued)

2. Spectacle Fitting (continued)

- 21. Convert spectacle lens prescriptions to intermediate or reading lenses.
- 23. Pre-adjust spectacle frame on patients to ensure optimal fit.
- 24. Fit and adjust frame on patient to ensure accurate measurement.
- 25. Measure horizontal pupillary distance to determine optical center.
- 28. Verify that spectacles received from laboratory match doctors' prescriptions.
- 29. Verify that spectacles received from laboratory match order specifications (frame lens materials).
- 30. Adjust spectacle frame on patient to ensure optimal fit.
- 31. Assess patient comfort and vision clarity with new spectacles.
- 32. Address patient concerns with spectacles.
- 33. Identify defects (for example, crazing, distortion) in spectacle lenses.

Scope of Practice Study

Tasks recommended for removal from the Optometric Assistant description of practice (continued)

- ▶ 35. Educate patients on the adaptation period for spectacle lenses
- ▶ 36. Educate patients on use of multifocal lenses.
- ▶ 38. Perform common eyewear repairs to extend life of spectacles.

3. Contact Lens Evaluation

- ▶ 41. Convert spectacle lens prescription to contact lens prescription.
- ▶ 43. Handle different contact lens types based on manufacturer's recommendations.
- ▶ 51. Perform follow-up assessment to evaluate comfort and fit of contact lenses.
- ▶ 52. Test patient visual acuity after trial period to determine need for adjustments to prescription.
- ▶ 55. Verify contact lens fit and eye health using slit-lamp.

4. Office Management

- ▶ 61. Identify defects (e.g., tears, warping) in contact lenses and notify manufacturer.



Scope of Practice Study

- Discussion regarding what changes to the Optometric Assistant, CLD and SLD professions, if any, would increase public safety. The SMEs recommended:
 - Establish a clear definition of the role of Optometric Assistants
 - Detail the tasks Optometric Assistants can perform and the intent of the tasks
 - Require Optometric Assistants to register with the Board
 - No changes to the SLD and CLD professions were recommended by the SMEs



Scope of Practice Study

- ▶ Additional Suggestions
 - ▶ Develop an examination for optometric assistants to obtain certification/licensure
 - ▶ Use an existing national paraoptometric examination to obtain certification/licensure
 - ▶ Create an optometric assistant apprenticeship program as pathway to optometric assistant certification/licensure



OPES Conclusions and Recommendations

- Confusion about Optometric Assistant scope of work
- Health and Safety Concerns
- Create a task force to further evaluate the Optometric Assistant occupation
 - Further evaluate health and safety concerns for tasks performed by Optometric Assistants
 - Decide if an additional license/registration needs to be added
 - Establish clear scope of work for Optometric Assistants



Questions?



ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #6A– Executive Officer’s Report – Program Update |

1. Staffing Update:

- The Board’s receptionist recently promoted to position at another state agency. The Board is recruiting to fill this position.
- The Board’s Lead Enforcement Analyst retired, and the Board is recruiting to fill this position.
- The Board’s assigned legal counsel accepted a position at another state agency and new legal counsel, Anthony Pane, was assigned in mid-July.
- A copy of the current organizational chart is included at the end of this memo.

2. Board Items:

Optometrist Graduation Season Update:

The Board has not had great success in quickly processing optometrist initial licensure applications, with new graduates often experiencing wait times of three (3) months.

Beginning in early May, students began graduating from schools of optometry across the country and applying for Part 2 Initial Optometrist Applications on BreEze. Measured from 5/12/2023 through July 1, the Board issued 140 new optometrist licenses. Measured from the same starting date, last year the 100th license was not issued until 8/30/2022. The current processing time is one (1) week. The processing time last year was 12 weeks. We achieved success in drastically reducing our processing time for initial licensure by focusing on organizing at the intake level, siphoning the hundreds of documents we receive necessary to process applications into a methodical system that allowed for an efficient and seamless review of the materials and legal requirements necessary to approve an application for initial licensure. Board staff have made great strides in improving the customer service experience for applicants for initial licensure.

Bagley-Keene Changes:

The Bagley-Keene Opening Meeting Act (the “Open Meeting Act”) was amended substantially during the COVID-19 pandemic to relax traditional teleconference meeting requirements and permit state boards, commissions, and committees to hold entirely virtual meetings, without any in-person interactions with the public.

Those amendments, codified at Government Code section 11133, repealed July 1, 2023, meaning that the ability to meet in a virtual format is allowable, but under current provisions of law more logistically difficult to accomplish.

To meet virtually under current provisions of law, the following requirements must be met:

1. The teleconference site must be identified in the notice and agenda and be locatable.
2. Board members must be present at specific noticed teleconference locations.
3. The meeting agenda must be posted at all teleconference locations.
4. The teleconference sites must be publicly accessible.
5. The teleconference sites must be ADA accessible.
6. The meeting must be audible (speakerphone or equivalent) to the public at all teleconference locations.
7. The teleconference site must be set up so the public can address the board, and
8. Meeting materials have to be provided at all teleconference locations.

Under the law in effect prior to July 1, CSBO was meeting in a hybrid format, with a physical meeting location and teleconference option, to preserve robust public access and participation in our public business. At this meeting, given the changes to the law effective July 1, the Board is entirely physically present and conducting the meeting with a Webex option for public participation.

3. Outreach and Committees:

- On October 24 the Executive Officer will speak to students at Western University of Health Sciences School of Optometry. The talk will focus on statutory and legal requirements of the practice of optometry in California and how to successfully obtain state licensure.
- On October 2 the Executive Officer will speak virtually with students from the Southern California School of Optometry at Marshall B. Ketchum University. The talk will focus on how to successfully obtain state licensure.
- On September 10 the Executive Officer will speak virtually at the Chabot College and Los Angeles City College optician program graduation.
- On June 27, 2023, former Board Member David Turetsky, OD, gave a presentation to board staff on common eye conditions and examination procedures.
- On June 1, 2023, the Executive Officer gave an application and licensing presentation to the California Optometric Association New OD Bootcamp.

- The Summer edition of The Spectacle is scheduled for release in September. This edition introduces new board members, features helpful information on advertising and telehealth, and celebrates the Centennial of the Herbert Wertheim School of Optometry and Vision Science at UC Berkeley.

Attachment: CSBO Org Chart, Dated August 1, 2023.



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | August 25, 2023 |
| TO | Members, California State Board of Optometry (CSBO) |
| FROM | Joely Walker, Enforcement Manager |
| SUBJECT | Agenda Item #6B– Executive Officer’s Report - Enforcement Program |

At the end of May the Board’s Lead Enforcement Analyst retired. We are in the process of filling this position, with the recruitment posting closing on August 7th. We look forward to introducing the Board’s newest enforcement analyst at the next public meeting.

The refill position does have some change in duties. Probation monitoring, previously a function under the Lead Enforcement Analyst, has been moved from the vacated position and reassigned to Kristen (Cricket) Borges. Cricket has many years of probation monitor experience, and she now balances being the Board’s probation monitor along with processing continuing education audits. The incoming AGPA will have an increased workload of the more complex consumer complaints to make up for the lack of probation monitor duties.

Statistics:

- A. We are providing the priority/category of complaints, ranging from urgent to routine. That information is on attachment “6Bi” for Optometry and Opticianry. An attachment at the end of this document includes the DCA case referral guidelines.
- B. Probation monitoring statistics are available on the quarterly complaint statistics logs. There are currently a total of 8 licensees (OPT/OPN) on probation. Of these, 1 probationer is tolled and not receiving credit toward the completion of probation. There were 2 licensees placed on probation last quarter and 2 licensees were revoked (Fausset (eff 4/26/23) and Soss (eff 5/22/23)).
- C. 2022/2023 Continuing Education statistics are provided as attachment “6Bii”. 171 licensees were selected for audit, representing 5 percent of the renewing population. A grand total of 72 audits have been completed. Of the 72 completed, the statistics show 86 percent of auditees are passing.

Below are the most recent enforcement actions taken by the Board:

Citations Issued

Cavanna, Cheryl/SC Eye-Lab San Clemente, CA

On April 13, 2023, a \$5,000 citation was issued to Cheryl Cavanna for operating a spectacle dispensary without a current and valid Registered Dispensing Ophthalmic Business registration and falsely advertised for services she was not lawfully registered to provide. (BPC §§ 2564.91(a), 2556.5, 651(a), 17500, 2555.5(g), 2555.5(p). [Click here to obtain a copy of the action or to view the registrant's profile.](#)

Cheng, Simon S. (OPT 12032) Los Angeles, CA

On June 29, 2023, a \$900 citation was issued to Jenny Choi (OPT 12032) for failing to meet the continuing optometric education (CE) requirements within the 2020-2022 renewal cycle and certifying under penalty of perjury on his license renewal that the CE requirements were met (BPC §§ 3059(e), 3110(a)(j) and CCR §1536(b)(l). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Choi, Jenny (OPT 11301) Santa Ana, CA

On June 6, 2023, a \$1,700 citation was issued to Jenny Choi (OPT 11301) for failing to meet the continuing optometric education (CE) requirements within the 2020-2022 renewal cycle and certifying under penalty of perjury on her license renewal that the CE requirements were met (BPC §§ 3059(e), 3110(a), (j) and CCR §1536(b)(l). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Chung, Sarah Wonkyung (OPT 13845) Westminster, CA

On June 20, 2023, a \$900 citation was issued to Sarah Wonkyung Chung (OPT 13845) for failing to meet the continuing optometric education (CE) requirements within the 2020-2022 renewal cycle and certifying under penalty of perjury on his license renewal that the CE requirements were met (BPC §§ 3110(a)(j) and CCR §1536(l). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Devlyn Optical, LLC (Unregistered) Walnut Park, CA

On April 27, 2023, a \$5,000 a citation was issued to Devlyn Optical, LLC (Unregistered) for operating a spectacle lens dispensary without a current and valid Registered Dispensing Ophthalmic Business registration and falsely advertising services not lawfully registered to provide. (BPC §§ 651(a), 17500, 2555.5(g), (p), 2556.5, and 2564.91(a)).

Douangchak, Mark Songphol (OPT 14138) Chino Hills, CA

On June 20, 2023, a \$1,300 citation was issued to Mark Songphol Douangchak (OPT 14138) for failing to meet the continuing optometric education (CE) requirements within

the 2020-2022 renewal cycle and certifying under penalty of perjury on his license renewal that the CE requirements were met (BPC§§ 3059(e), 3110(a)(j) and CCR §1536(b)(l)). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Kamenev, Mila (OPT 14810)

Irvine, CA

On May 2, 2023, a \$1,300 citation was issued to Mila Kamenev (OPT 14810) for failing to meet the continuing optometric education (CE) requirements within the 2020-2022 renewal cycle and certifying under penalty of perjury on her license renewal that the CE requirements were met (BPC§§ 3059(e), 3110(a), (j) and CCR §1536(b),(l)). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Kauser, Sharieff V (OPT 10527)

Yorba Linda, CA

On June 20, 2023, a \$2,000 modified citation was issued to Sharieff V Kauser (OPT 10527) for practicing optometry under a false or assumed name without first obtaining a Fictitious Name Permit from the Board, failure to notify the Board of change of address, and advertising or holding oneself to be a specialist having special knowledge of optometry (BPC§§ 3070(a), 3078(a), 3099, 3100, and 3110(a)). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Shulkin, Michael Charles (OPT 7703)

Santa Rosa, CA

On May 18, 2023, a \$500 citation was issued to Michael Charles Shulkin (OPT 7703) for failing to provide a copy of a patient's prescription immediately after an eye examination, failing to orally inform the patient of the expiration date of a spectacle lens prescription at the time the prescription was issued, and violating a provision of the Optometry Practice Act (BPC §§2541.1 (d), and 3110(a)). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Soares, Trajan Joaquin (OPT 9569)

Los Banos, CA

On June 20, 2023, a \$2,000 citation was issued to Trajan Joaquin Soares (OPT 9569) for having a sexual relationship with a patient, ranging from about August 2013 to about August 2021. During this time, he provided optometry services to this patient in his office. (BPC§§ 3110(a), (m)(2), and 726(a)). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

Wong, Gordon Miles (OPT 8140)

Petaluma, CA

On June 22, 2023, a \$2,100 citation was issued to Gordon Miles Wong (OPT 8140) for failing to meet the continuing optometric education (CE) requirements within the 2020-2022 renewal cycle and certifying under penalty of perjury on his license renewal that the CE requirements were met (BPC§§ 3059(e), 3110(a)(j) and CCR §1536(b)). [Click here to obtain a copy of the action or to view the doctor's profile.](#)

LICENSE/REGISTRATION DENIED

Sharpe, Andre (SLD Applicant)

Effective May 25, 2023, the Registered Spectacle Lens Dispenser application of Andre Sharpe (SLD Applicant), was denied based on prior Criminal Convictions of Assault with a Firearm, Lewd and Lascivious Acts with a Child under 14, and False Statement of Material Fact in Connection with an Application (BPC §§475(a)(1), 480(a)(1)(a), and 2559.2). [Click here to obtain a copy of the action.](#)

PENDING ACCUSATIONS**Daghlawi, May (SLD 42336 / CLD 8662)
Eastvale, CA 91752**

On June 5, 2023, an Accusation was filed against the registrations of May Daghlawi (SLD 42336 / CLD 8662), with an address of record in Eastvale, CA, for Conviction of a Substantially Related Crime and Dangerous Use of Alcohol (BPC §§490, 2555.1, 2555.5(a), (k), (l), and 2557 in conjunction with CCR Title 16 §1399.270). [Click here to obtain a copy of the action or view the registrant's SLD profile.](#)

PROBATION**Nantes, Florentino (SLD 43113 and CLD 8963)**

Effective May 25, 2023, upon satisfaction of all the other prerequisites for licensure, are completed, a Registered Spectacle Lens Dispenser and Contact Lens Dispenser registrations shall be issued to Florentino Nantes. On June 2, 2023, Florentino Nantes was issued SLD 43113 and CLD 8963, the registrations were immediately, revoked, the revocations stayed, and placed on probation for one (1) year for a Substantially Related Serious Felony Conviction (BPC §§ 2559.2(b), 2561, and 480(a)(1) by reference to PC code section 1192.7). [Click here to obtain a copy of the action or view the registrants SLD profile.](#) [Click here to view the registrants CLD profile.](#)

**Tien, Peter (OPT 33489)
Baldwin Park, CA**

Effective May 25, 2023, the license of Peter Tien (OPT 33489), with an address of record in Baldwin Park, CA, was revoked, the revocation stayed, and the license was placed on probation for three (3) years. [Click here to obtain a copy of the action or to view the doctor's profile.](#)

REVOKED**Fausset, Thomas Mark (OPT 8223)
Los Angeles, CA**

On April 22, 2023, the license of Thomas Mark Fausset (OPT 8223), with an address of record in Los Angeles, CA, was revoked for multiple probation violations. [Click here to obtain a copy of the action or view the doctor's profile.](#)

**Soss, Edward H. (OPT 4847)
San Francisco, CA**

On April 28, 2023, the license of Edward H. Soss (OPT 4847) with an address of record in San Francisco, CA, was revoked for multiple probation violations. [Click here to obtain a copy of the action or view the doctor's profile.](#)

Trevino, Rogelio (SLD 40960)

Temecula, CA

Effective June 17, 2023, the Spectacle Lens Dispenser registration of Rogelio Trevino (SLD 40930), with an address of record in Temecula, CA was revoked for a Criminal Conviction of Child Abuse (BPC§§ 490, 2555.1, 2555.5(k)). [Click here to obtain a copy of the action or view the registrant's profile.](#)

Attachment: DCA Case Referral Guidelines

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

COMPLAINT PRIORITIZATION & REFERRAL GUIDELINES*

COMPLAINTS IN CATEGORIES 1 & 2 ARE REFERRED TO DIVISION OF INVESTIGATION

CATEGORY 1 • URGENT

- Acts of serious patient/consumer harm, great bodily injury, or death
- Mental or physical impairment of licensee with potential for public harm
- Practicing while under the influence of drugs/alcohol
- Repeated allegations of drug/alcohol abuse
- Narcotic/prescription drug theft; drug diversion; other unlawful possession
- Sexual misconduct with a patient
- Physical/mental abuse of a patient
- Over-prescribing
- Gross negligence/incompetence resulting in serious harm/injury
- Media/politically sensitive cases

CATEGORY 2 • HIGH

- Prescribing/dispensing without authority
- Unlicensed practice/unlicensed activity
- Aiding and abetting unlicensed activity
- Criminal violations including but not limited to prescription forgery, selling or using fraudulent documents and/or transcripts, possession of narcotics, major financial fraud, financial elder abuse, insurance fraud, etc.
- Exam subversion where exam is compromised
- Mandatory peer review reporting (B&P 805)
- Law enforcement standby/security (subject to staff availability)

COMPLAINTS IN CATEGORIES 3 & 4 ARE INVESTIGATED BY BOARD/BUREAU STAFF

CATEGORY 3 • ROUTINE

- General unprofessional conduct and/or general negligence/incompetence resulting in no injury or minor harm/injury (non-intentional act, non-life threatening)
- Subsequent arrest notifications (no immediate public threat)
- Exam subversion (individual cheating where exam is not compromised)
- Medical malpractice reporting (B&P 801) cases unless evaluated as category 1 or 2
- Serving subpoenas for hearings and for records (non DOI investigations)
- Patient abandonment
- False/misleading advertising (not related to unlicensed activity or criminal activity)
- Applicant misconduct

CATEGORY 4 • ROUTINE

- Unsanitary conditions
- Project abandonment
- Failure to release medical records
- Recordkeeping violations
- Continuing education violations
- Declaration and record collection (e.g., licensee statements, medical records, arrest and conviction records, employment records)
- Complaints of offensive behavior or language (e.g., poor bedside manner, rude, abrupt, etc.)
- Quality-of-service complaints
- Complaints against licensee on probation that do not meet category 1 or 2
- Anonymous complaints unless Board is able to corroborate that it meets category 1 or 2
- Non-jurisdictional issues

*Complaint prioritization is statutory for some clients and supersedes these Guidelines. See Business and Professions Code sections 2220.05 (Medical Board/Board of Podiatric Medicine) and 4875.1 (Veterinary Medical Board).

(Rev 12/2017)

Statistics Report - Optometry Program

Case Complexity

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|---------|------------|---------------------|-----------|-----------|-----------|-----|--------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| Urgent | 0 | 1 | 0 | 0 | 0 | 1 | |
| High | 0 | 1 | 1 | 1 | 6 | 9 | |
| Routine | 0 | 58 | 33 | 53 | 59 | 203 | |
| Total | 0 | 60 | 34 | 54 | 65 | 213 | |

Case Category

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|-----------------------------------|------------|---------------------|-----------|-----------|-----------|-----|--------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| Mental/Physical Impairment | 0 | 0 | 0 | 0 | 0 | 0 | |
| Discipline by Another CA Agency | 0 | 0 | 0 | 0 | 0 | 0 | |
| Contractual | 0 | 0 | 0 | 0 | 0 | 0 | |
| Fraud | 0 | 1 | 0 | 1 | 0 | 2 | |
| Health & Safety | 0 | 0 | 0 | 0 | 2 | 2 | |
| App Investigation | 0 | 0 | 0 | 0 | 1 | 1 | |
| Non-Jurisdictional | 0 | 21 | 10 | 12 | 11 | 54 | |
| Incompetence/Negligence | 0 | 2 | 2 | 2 | 5 | 11 | |
| Personal Conduct | 0 | 0 | 0 | 0 | 0 | 0 | |
| Product/Service Quality | 0 | 1 | 0 | 0 | 0 | 1 | |
| Unprofessional Conduct | 0 | 26 | 20 | 32 | 40 | 118 | |
| Sexual Misconduct | 0 | 1 | 1 | 1 | 1 | 4 | |
| Discipline by Non-CA State/Agency | 0 | 0 | 1 | 1 | 1 | 3 | |
| Unlicensed/Unregistered | 0 | 4 | 0 | 1 | 1 | 6 | |
| Criminal Charges/Convictions | 0 | 4 | 0 | 4 | 3 | 11 | |
| Unsafe/Unsanitary Conditions | 0 | 0 | 0 | 0 | 0 | 0 | |

Performance Measures (PM) 1 Volume - Complaints/Convictions/Arrests received

Complaint Intake

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|--|------------|---------------------|-----------|-----------|-----------|-----|--------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| PM1: Total Complaints Received | 209 | 57 | 34 | 50 | 65 | 206 | ↓ -1% |
| PM1: Total Convictions/Arrest Received | 14 | 4 | 0 | 3 | 3 | 10 | ↓ -29% |
| PM1: Total Received | 223 | 61 | 34 | 54 | 65 | 216 | ↓ -3% |

*Of the Convictions/Arrests, 1 was received on an Applicant and 2 were received on Licensees

PM2 Cycle Time Intake - Average number of complaints intake during the specified time period.

Intake

| Target: 7 Days | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|-----------------------|------------|---------------------|-----------|-----------|-----------|-----|--------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| PM2: Intake/Avg. Days | 7 | 6 | 5 | 4 | 3 | 5 | ↓ -31% |

PM3 Cycle Time - Average Number of Days to complete the entire enforcement process for complaints investigated and not transmitted to the AG for formal discipline. (Includes intake, investigation, and case outcome or non-AG formal

| | | | | | | | | |
|----------------------------------|---|---|---|---|---|---|---|----|
| Public Reprimand | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |
| Closed w/out Disciplinary Action | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |

The percent represents how many cases already assigned for discipline were closed in the specified range.

| Total Orders Aging/Final Decision | | | | | | | | |
|-----------------------------------|------------|---------------------|-----------|-----------|-----------|-----|--------------------|------|
| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change | |
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | | |
| Up to 90 Days | 0% | 0 | 0 | 0 | 0 | 0% | ⇒ | 0% |
| 91 - 180 Days | 0% | 0 | 0 | 0 | 0 | 0% | ⇒ | 0% |
| 181 Days - 1 Year (364) | 0% | 0 | 1 | 0 | 0 | 25% | ↑ | 25% |
| 1 to 2 Years (365-730) | 33% | 0 | 0 | 0 | 1 | 25% | ↓ | -8% |
| 2 to 3 Years (731- 1092) | 0% | 0 | 0 | 0 | 0 | 0% | ⇒ | 0% |
| Over 3 Years (1093 +) | 67% | 0 | 1 | 1 | 0 | 50% | ↓ | -17% |

| Other Legal Actions | | | | | | | | |
|---------------------|------------|---------------------|-----------|-----------|-----------|-----|--------------------|----|
| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change | |
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | | |
| PC 23 Ordered | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |
| Interim Suspension | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |

Probation Statistics Report

| Probation | | | | | | | | |
|--|------------|---------------------|-----------|-----------|-----------|-----|--------------------|------|
| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change | |
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | | |
| Entered Probationer | 0 | 0 | 0 | 1 | 1 | 2 | ↑ | 100% |
| Completed Probation | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |
| Probation Terminated | 0 | 0 | 0 | 2 | 0 | 2 | ↑ | 100% |
| Non-Compliant w/Probation (violations) | 0 | 0 | 0 | 2 | 1 | 3 | ↑ | 100% |
| Tolling (Out of State) | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |
| Surrenders/Revocation | 0 | 0 | 0 | 1 | 2 | 3 | ↑ | 100% |
| Total Probationers | 0 | 0 | 0 | 6 | 5 | 5 | ↑ | 100% |

| Vault Health | | | | | | | | |
|-----------------------------------|------------|---------------------|-----------|-----------|-----------|-----|--------------------|------|
| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change | |
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | | |
| Entered Vault Health | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |
| Terminated Vault Health | 0 | 0 | 0 | 0 | 0 | 0 | ⇒ | 0% |
| Total Vault's Health Participants | 0 | 0 | 0 | 2 | 1 | 1 | ↑ | 100% |
| Withdrawn (Tolled) | 0 | 0 | 0 | 0 | 1 | 1 | ↑ | 100% |

Statistics Report - Opticianry Program

Case Complexity

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|---------|------------|---------------------|-----------|-----------|-----------|-----|--------------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| Urgent | 0 | 0 | 0 | 0 | 0 | 0 | |
| High | 0 | 1 | 0 | 0 | 0 | 1 | |
| Routine | 0 | 24 | 22 | 27 | 16 | 89 | |
| Total | 0 | 25 | 22 | 27 | 16 | 90 | |

Case Category

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|-----------------------------------|------------|---------------------|-----------|-----------|-----------|-----|--------------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| Mental/Physical Impairment | 0 | 0 | 0 | 0 | 0 | 0 | |
| Discipline by Another CA Agency | 0 | 0 | 0 | 0 | 0 | 0 | |
| Contractual | 0 | 0 | 0 | 0 | 0 | 0 | |
| Fraud | 0 | 0 | 0 | 0 | 0 | 0 | |
| Health & Safety | 0 | 0 | 0 | 0 | 0 | 0 | |
| App Investigation | 0 | 0 | 0 | 0 | 0 | 0 | |
| Non-Jurisdictional | 0 | 2 | 1 | 4 | 1 | 8 | |
| Incompetence/Negligence | 0 | 0 | 0 | 1 | 0 | 1 | |
| Personal Conduct | 0 | 0 | 0 | 0 | 0 | 0 | |
| Product/Service Quality | 0 | 0 | 0 | 0 | 0 | 0 | |
| Unprofessional Conduct | 0 | 5 | 8 | 8 | 3 | 24 | |
| Sexual Misconduct | 0 | 0 | 0 | 0 | 0 | 0 | |
| Discipline by Non-CA State/Agency | 0 | 0 | 0 | 1 | 0 | 1 | |
| Unlicensed/Unregistered | 0 | 2 | 3 | 4 | 2 | 11 | |
| Criminal Charges/Convictions | 0 | 16 | 10 | 9 | 10 | 45 | |
| Unsafe/Unsanitary Conditions | 0 | 0 | 0 | 0 | 0 | 0 | |

Performance Measures (PM) 1 Volume Compliant and Convictions/Arrests received

Complaint Intake

| | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|--|------------|---------------------|-----------|-----------|-----------|-----|--------------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| PM1: Total Complaints Received | 61 | 7 | 11 | 18 | 13 | 49 | ↓ -20% |
| PM1: Total Convictions/Arrest Received | 57 | 21 | 9 | 7 | 10 | 47 | ↓ -18% |
| PM1: Total Received | 118 | 28 | 22 | 27 | 23 | 96 | ↓ -19% |

*Of the Convictions/Arrests, 8 were received on Applicants and 2 was received on Licensees.

PM2 Cycle Time Intake - Average number of days for complaints intake during the specified time period.

Intake

| Target: 7 Days | FY 2021/22 | Fiscal Year 2022/23 | | | | | Year → Year Change |
|-----------------------|------------|---------------------|-----------|-----------|-----------|-----|--------------------------|
| | YTD | Q1 | Q2 | Q3 | Q4 | YTD | |
| | | Jul - Sep | Oct - Dec | Jan - Mar | Apr - Jun | | |
| PM2: Intake/Avg. Days | 6 | 3 | 2 | 9 | 2 | 4.0 | ↓ -33% |

PM3 Cycle Time - Average Number of Days to complete the entire enforcement process for complaints investigated and not transmitted to the AG for formal discipline. (Includes intake, investigation, and case outcome or non-AG

| Investigations | | | | | | | |
|--|------------|---------------------|-----------------|-----------------|-----------------|--------------------------|-------|
| Target: 90 Days | FY 2021/22 | Fiscal Year 2022/23 | | | | Year → Year Change | |
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | | YTD |
| PM3: All Investigations Closed | 120 | 29 | 46 | 28 | 54 | 157 | ↑ 31% |
| PM3: Average Cycle Time Investigations | 313 | 632 | 688 | 331 | 541 | 548 | ↑ 75% |

The percent reflects how many investigation cases were closed in the respective time frames.

| | FY 2021/22 | Fiscal Year 2022/23 | | | | Year → Year Change | |
|--------------------------|------------|---------------------|-----------------|-----------------|-----------------|--------------------------|--------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | | YTD |
| Up to 90 Days | 58% | 11 | 13 | 15 | 21 | 39% | ↓ -19% |
| 91 - 180 Days | 7% | 3 | 2 | 2 | 9 | 10% | ↑ 4% |
| 181 Days - 1 Year (364) | 9% | 1 | 7 | 2 | 8 | 12% | ↑ 2% |
| 1 to 2 Years (365-730) | 8% | 1 | 6 | 3 | 6 | 10% | ↑ 3% |
| 2 to 3 Years (731- 1092) | 9% | 4 | 3 | 4 | 7 | 12% | ↑ 2% |
| Over 3 Years (1093 +) | 10% | 9 | 15 | 2 | 1 | 17% | ↑ 7% |



The average time frame reflects the length of time it took to process the citations that were closed within the respective quarter.

| Citations | | | | | | | |
|-----------------------|------------|---------------------|-----------------|-----------------|-----------------|--------------------------|--------|
| | FY 2021/22 | Fiscal Year 2022/23 | | | | Year → Year Change | |
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | | YTD |
| Final Citations | 7 | 4 | 3 | 3 | 6 | 16 | ↑ 129% |
| Average Days to Close | 717 | 980 | 680 | 819 | 929 | 852 | ↑ 19% |

PM4 Cycle Time-Discipline Average number of days to close cases transmitted to the AG for formal disciplinary action. This includes formal discipline, and closures without formal discipline. (e.g. withdrawals, dismissals, etc.)

| Transmittals to Attorney General (AG) | | | | | | | |
|---------------------------------------|------------|---------------------|-----------------|-----------------|-----------------|--------------------------|--------|
| Target: 540 Days | FY 2021/22 | Fiscal Year 2022/23 | | | | Year → Year Change | |
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | | YTD |
| PM4:Volume AG Cases | 3 | 0 | 1 | 2 | 3 | 6 | ↑ 100% |
| PM4: Total Cycle Time | 860 | 0 | 570 | 690 | 475 | 434 | ↓ -50% |

| | FY 2021/22 | Fiscal Year 2022/23 | | | | Year → Year Change | |
|---------------------------------|------------|---------------------|-----------------|-----------------|-----------------|--------------------------|--------|
| | YTD | Q1 Jul - Sep | Q2 Oct - Dec | Q3 Jan - Mar | Q4 Apr - Jun | | YTD |
| AG Cases Initiated | 6 | 2 | 2 | 3 | 5 | 12 | ↑ 100% |
| AG Cases Pending | 7 | 7 | 8 | 9 | 10 | 10 | ↑ 43% |
| SOIs Filed | 0 | 2 | 0 | 1 | 0 | 3 | ↑ 100% |
| Accusations Filed | 0 | 1 | 0 | 2 | 1 | 4 | ↑ 100% |
| Total Closed after Transmission | 4 | 1 | 1 | 2 | 3 | 7 | ↑ 75% |

| | | | | | | | |
|---------------------------------|---|---|---|---|---|---|--|
| Total Vault Health Participants | 0 | 0 | 0 | 1 | 1 | 1 |  100% |
| Withdrawn (Tolled) | 0 | 0 | 0 | 1 | 0 | 1 |  100% |

Agenda Item 6Bii

Continuing Education Audit Report

Optometrists

| | FY 2021-2022 | Fiscal Year 2022/23 | | | | |
|------------------------|----------------|---------------------|-----------|-----------|-----------|----------------|
| | YTD through Q4 | Q1 | Q2 | Q3 | Q4 | YTD through Q4 |
| | | Jul - Sep | Oct - Dec | Jan -Mar | Apr - Jun | |
| Pass | 0 | 6 | 5 | 27 | 20 | 58 |
| Fail | 0 | 1 | 0 | 7 | 6 | 14 |
| Pending | 0 | 171 | 164 | 159 | 125 | 99 |
| Total Completed | 0 | 7 | 5 | 34 | 26 | 72 |
| Pass Rate | 0 | 86% | 100% | 79% | 77% | 86% |

Goal Target: 10%

Data Format: The format of the report displays year-to-date comparisons of the current fiscal year and the previous fiscal year as well as data for each quarter of the current fiscal year. Continuing Education audit previous year data is absent, so the data displayed is FY 2022/23 Q1, Q2, Q3, and Q4 YTD totals.



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Randy Love, Administration & Licensing Manager |
| SUBJECT | Agenda Item 6C: Executive Officer’s Report – Examination and Licensing Programs |

1. BreEZe Updates

Board staff work continually with staff from the Department of Consumer Affairs to improve the functionality of BreEZe and make updates required by changes to the law and to improve the user and staff experience. Updates to BreEZe are put into production once a month, and each BreEZe update can only include a limited number of changes.

The updates for quarter four of fiscal year 2022/23 included:

- Updating the names of Opticianry registrations, such as Registered Dispensing Optician to Registered Dispensing Ophthalmic Business.
- Updating the FNP application process to require all documents be submitted at time of application.
- Bringing the Immunization Application on to BreEZe.
- Streamlining the process for renewing a delinquent Optometry license by removing the continuing education hold.
- Creating new temporary military license types and their various transactions (AB107).

Future updates will include:

- The ability to apply for a Letter of Verification from the BreEZe dashboard
- Revising publicly viewable disciplinary information to ensure status is correctly displayed.
- BreEZe applications for Retired Optometrist and Retired Volunteer status
- Enable BreEZe duplicate certificate functionality for optician registrations.

2. Statistical Review, Quarter 4, Fiscal Year 2022-2023

A statistical review of the previous fiscal year (2022-2023) is provided as Attachment 6Ci.

Attachment A shows the number of applications received and approved by type. Also included are the totals for the prior fiscal year (2021-2022). Of note, the volume of approved applications in fiscal year 2022-23 is higher than the volume of approved applications in 2021-22, while the number of applications received remained consistent. This illustrates our reduced processing timelines. In the first half of the 2022-2023 fiscal year, we were working through a backlog of applications received in the prior fiscal year, 2021-2022. Currently, we are processing initial applications for optometrist licensure within 1 week and brought fewer pending applications into the new fiscal year.

Attachment B shows the total number of licenses by license type and by license status. This data is as of June 30, 2023.

Attachment C contain graphs that illustrate the number of applications processed along with the average processing time. These are shown by month and then by quarter.

| License Applications by Type | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
|---|----------|-----------------------|-----------------------|-----------------------|-----------------------|-------------------------|-------------------------|
| Optometrist Exam | Received | 54 | 53 | 146 | 63 | 316 | 338 |
| | Approved | 48 | 20 | 168 | 57 | 293 | 323 |
| Optometrist License | Received | 56 | 24 | 38 | 141 | 259 | 287 |
| | Approved | 183 | 50 | 25 | 159 | 417 | 314 |
| Optometrist Renewal | Received | 1232 | 1229 | 1455 | 1639 | 5555 | 4055 |
| | Approved | 941 | 903 | 944 | 1062 | 3850 | 3638 |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| Statement of Licensure License | Received | 114 | 85 | 108 | 104 | 411 | 435 |
| | Approved | 109 | 76 | 103 | 94 | 382 | 387 |
| Statement of Licensure Renewal | Received | 282 | 226 | 275 | 364 | 1147 | 812 |
| | Approved | 148 | 105 | 144 | 149 | 546 | 526 |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| Fictitious Name Permit License | Received | 23 | 28 | 60 | 40 | 151 | 163 |
| | Approved | 6 | 66 | 89 | 46 | 207 | 80 |
| Fictitious Name Permit Renewal | Received | 11 | 1079 | 275 | 26 | 1391 | 1540 |
| | Approved | 10 | 773 | 144 | 31 | 958 | 1402 |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| Registered Dispensing Optician License | Received | 14 | 26 | 18 | 24 | 82 | 85 |
| | Approved | 15 | 11 | 11 | 14 | 51 | 83 |
| Registered Dispensing Optician Renewal | Received | 165 | 141 | 210 | 221 | 737 | 663 |
| | Approved | 120 | 88 | 154 | 104 | 466 | 606 |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| License Applications by Type | | | | | | | |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| Registered Spectacle Lens Dispenser License | Received | 114 | 100 | 107 | 108 | 429 | 398 |
| | Approved | 105 | 94 | 83 | 116 | 398 | 380 |
| Registered Spectacle Lens Dispenser Renewal | Received | 500 | 79 | 531 | 560 | 1670 | 1691 |
| | Approved | 292 | 79 | 290 | 323 | 984 | 1385 |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| Registered Contact Lens Dispenser License | Received | 57 | 42 | 36 | 57 | 192 | 151 |
| | Approved | 44 | 40 | 35 | 53 | 172 | 142 |
| Registered Contact Lens Dispenser Renewal | Received | 181 | 221 | 232 | 203 | 837 | 624 |
| | Approved | 117 | 133 | 150 | 124 | 524 | 497 |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| Nonresident Contact Lens Seller License | Received | 2 | 0 | 1 | 0 | 3 | 1 |
| | Approved | 3 | 3 | 0 | 1 | 7 | 1 |
| Nonresident Contact Lens Seller Renewal | Received | 1 | 7 | 2 | 2 | 12 | 9 |
| | Approved | 1 | 4 | 2 | 0 | 7 | 9 |
| | | Q1, FY 2022/23 | Q2, FY 2022/23 | Q3, FY 2022/23 | Q4, FY 2022/23 | Total FY 2022/23 | Total FY 2021/22 |
| Total Initial Applications | Received | 380 | 305 | 368 | 474 | 1527 | 1520 |
| | Approved | 465 | 340 | 346 | 483 | 1634 | 1387 |
| Total Renewals | Received | 2372 | 2982 | 2980 | 3015 | 11349 | 9394 |
| | Approved | 1629 | 2085 | 1828 | 1793 | 7335 | 8063 |

| License Type | License Status | | | | | | | | | | Total |
|---|----------------------|-------------------------------|-----------------|-------------------------|------------------------|------------|----------------------------------|------------------------|----------------------|------------|---------------|
| | Current ¹ | Current Inactive ² | Military Active | Delinquent ³ | Cancelled ⁴ | Retired | Voluntary Surrender ⁵ | Surrender ⁵ | Revoked ⁵ | Deceased | |
| Optometrist (OPT) | 7,757 | 348 | 5 | 724 | 5,642 | 105 | 30 | 5 | 45 | 663 | 15,324 |
| Statement of Licensure (SOL) | 1,575 | - | - | 732 | 7,070 | - | 1 | 0 | 1 | 6 | 9,385 |
| Fictitious Name Permit (FNP) | 1,504 | - | - | 243 | 2,747 | - | 0 | 0 | 1 | 0 | 4,495 |
| Registered Dispensing Optician (RDO) | 1,156 | - | - | 165 | 3,643 | - | 0 | 1 | 3 | 2 | 4,970 |
| Registered Spectacle Lens Dispenser (SLD) | 3,230 | - | 0 | 790 | 5,843 | - | 1 | 8 | 35 | 31 | 9,938 |
| Registered Contact Lens Dispenser (CLD) | 1,291 | - | 0 | 276 | 1,723 | - | 1 | 2 | 11 | 10 | 3,314 |
| Nonresident Contact Lens Seller (NCLS) | 22 | - | - | 3 | 19 | - | 0 | 0 | 0 | 0 | 44 |
| Total | 16,535 | 348 | 5 | 2,933 | 26,687 | 105 | 33 | 16 | 96 | 712 | 47,470 |

Data as of June 30, 2023

¹Current & Active - Can Practice

²Current & Inactive - Not Practicing

³Delinquent - Expired 3 years or less

⁴Cancelled - Expired more than 3 years (OPT, SLD, CLD)

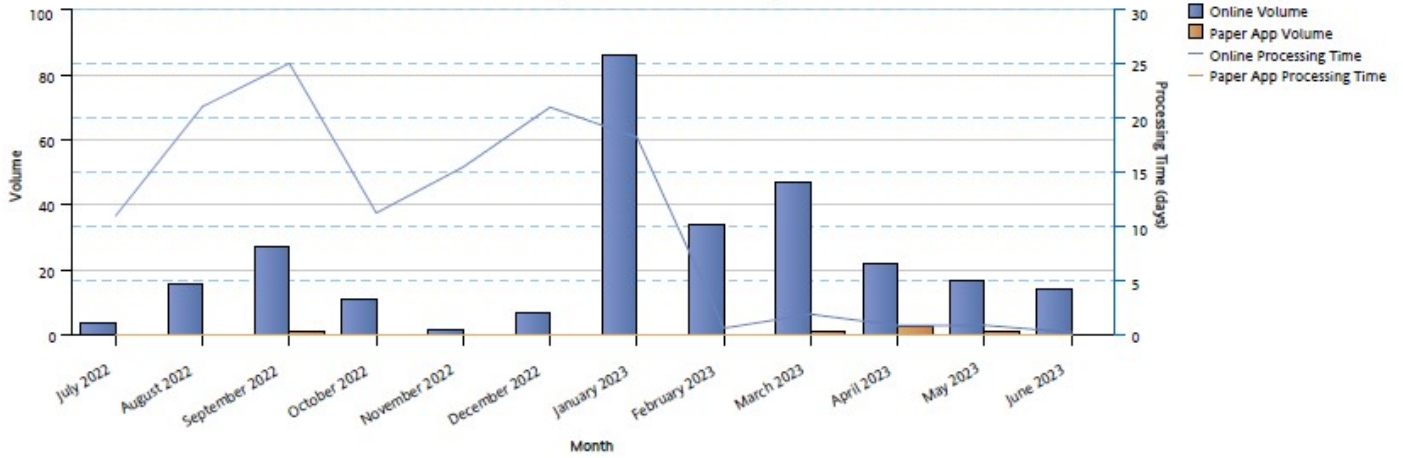
⁵Voluntary Surrender, Surrender, and Revoked are Disciplinary Actions



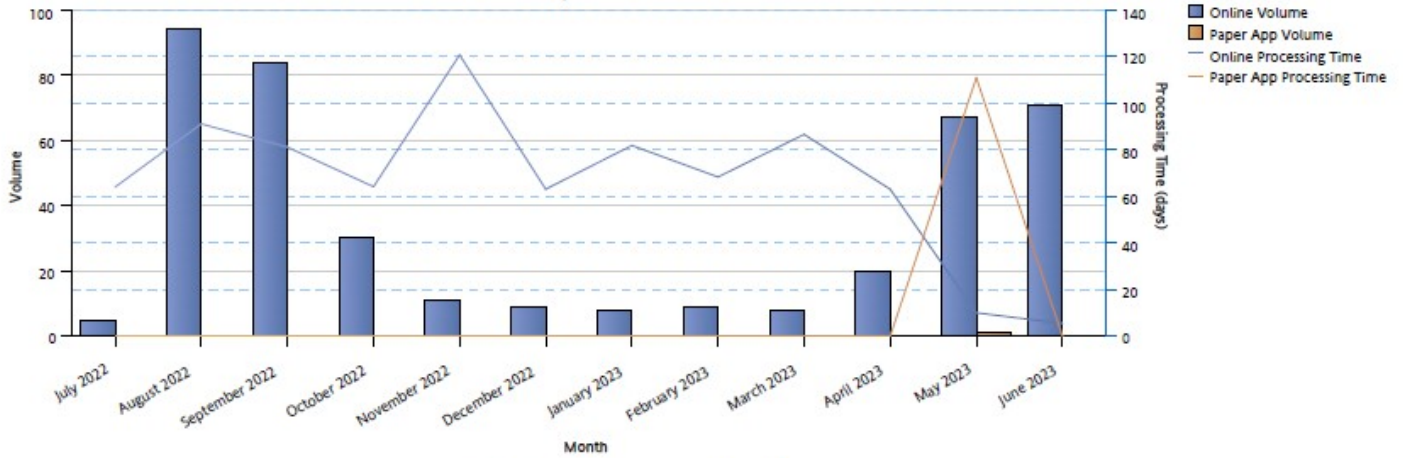
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2023



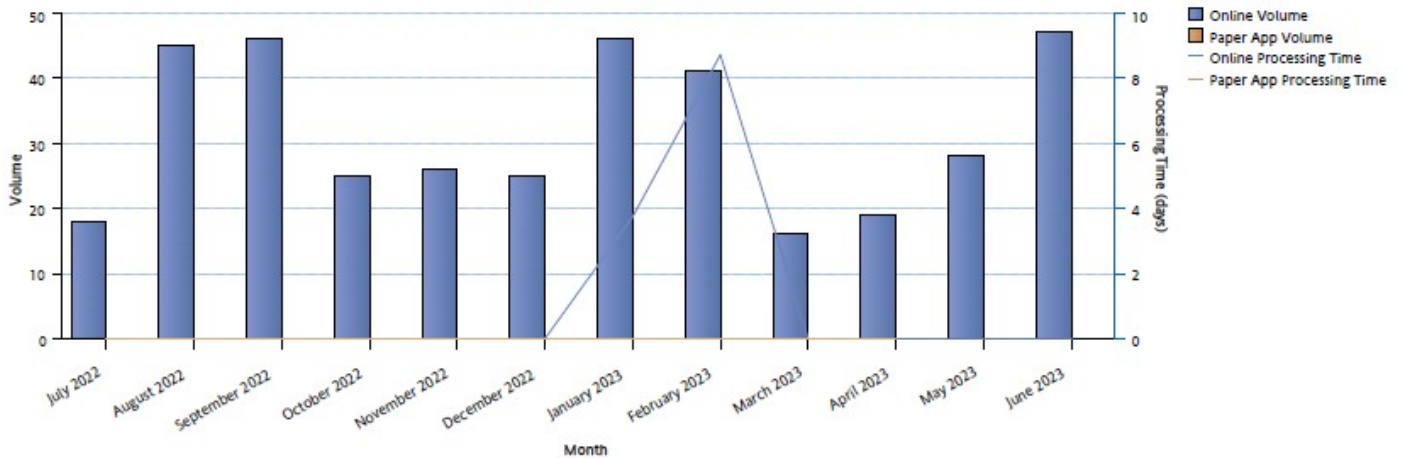
Optometrist - Exam Request



Optometrist - Initial License



Statement of Licensure - Issue License

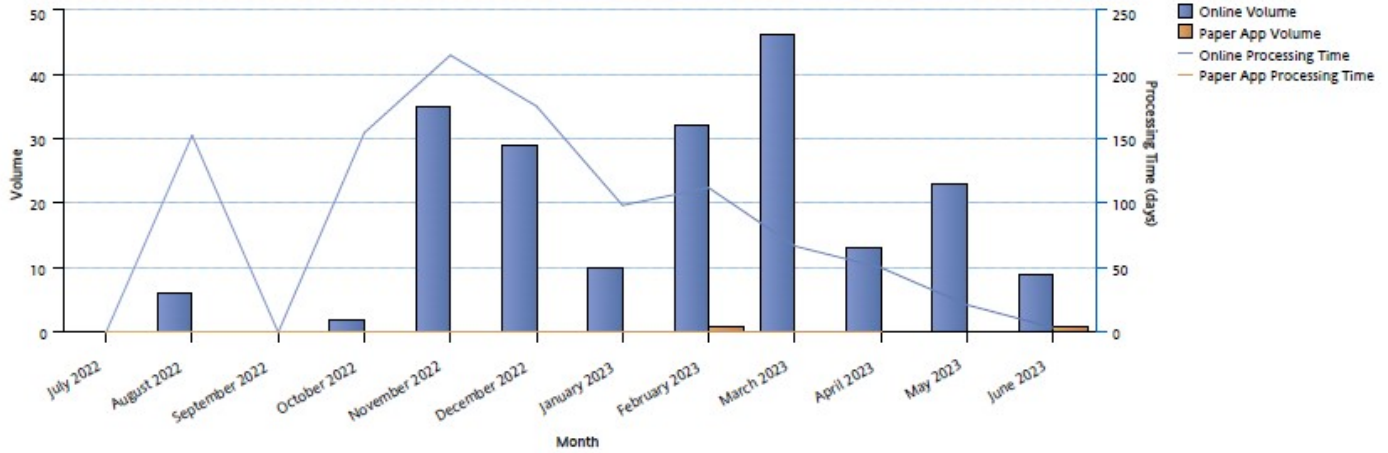




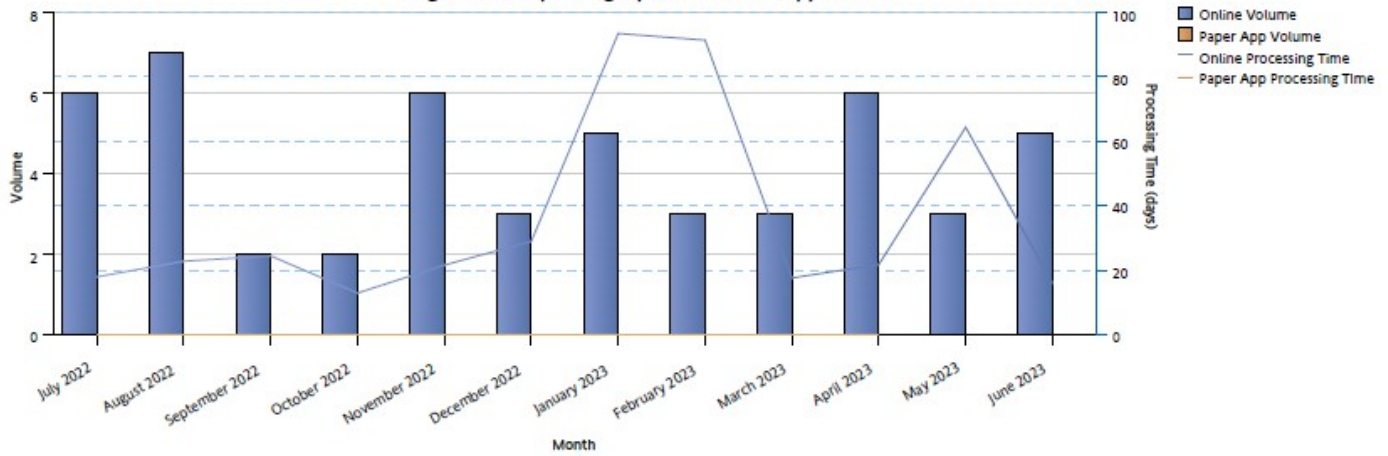
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2023



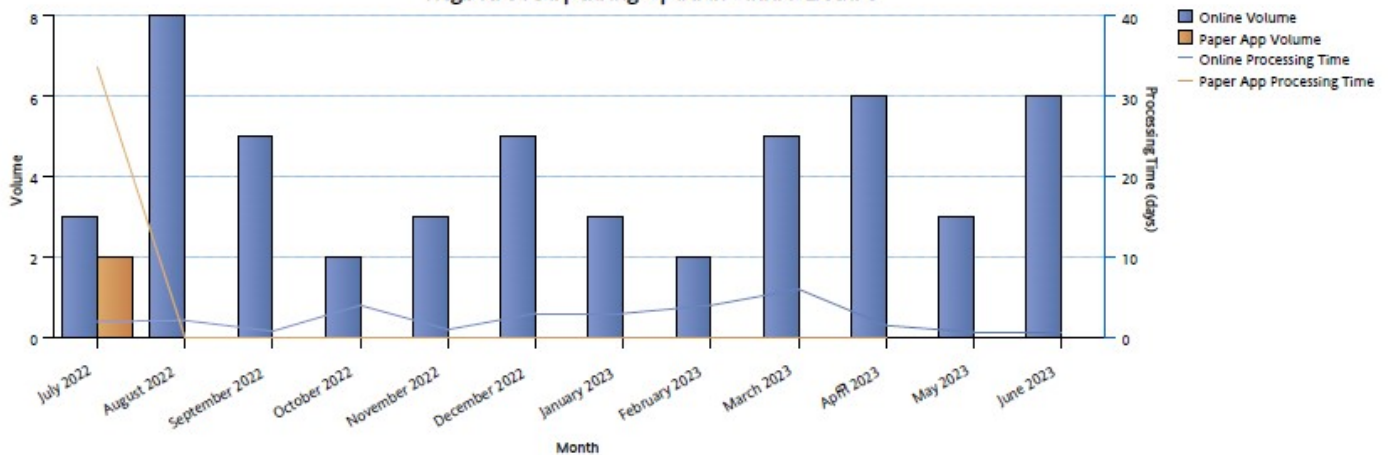
Fictitious Name Permit - Issue License



Registered Dispensing Optician - Initial Application



Registered Dispensing Optician - Initial License





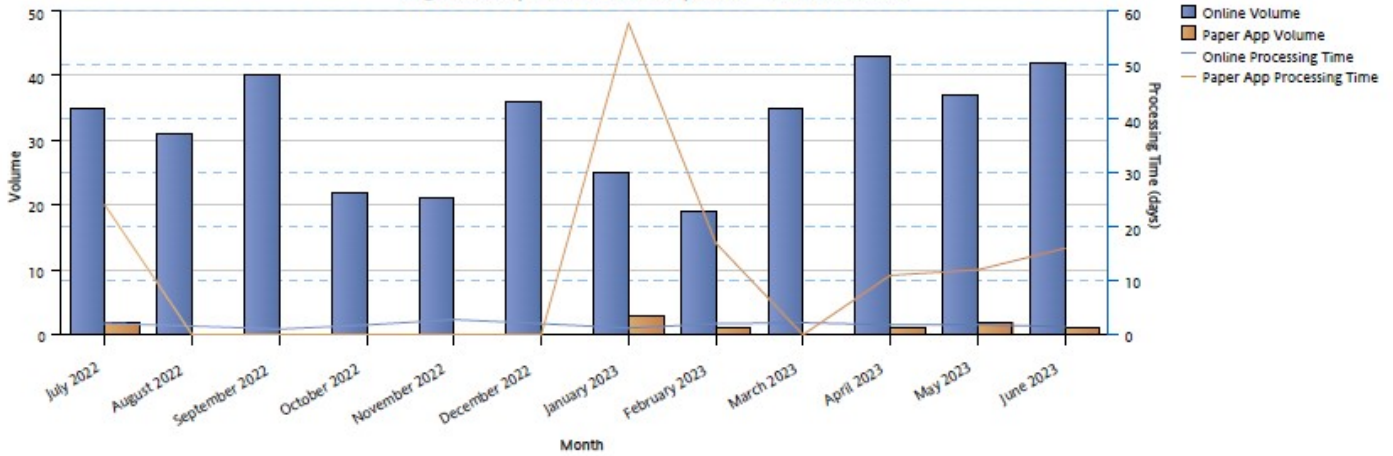
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2023



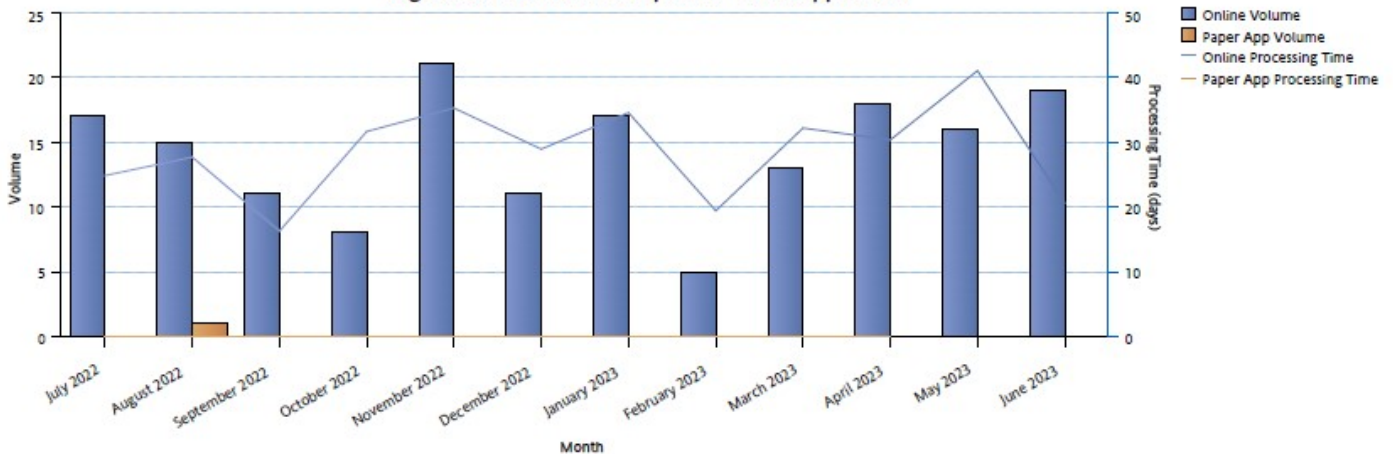
Registered Spectacle Lens Dispenser - Initial Application



Registered Spectacle Lens Dispenser - Initial License



Registered Contact Lens Dispenser - Initial Application

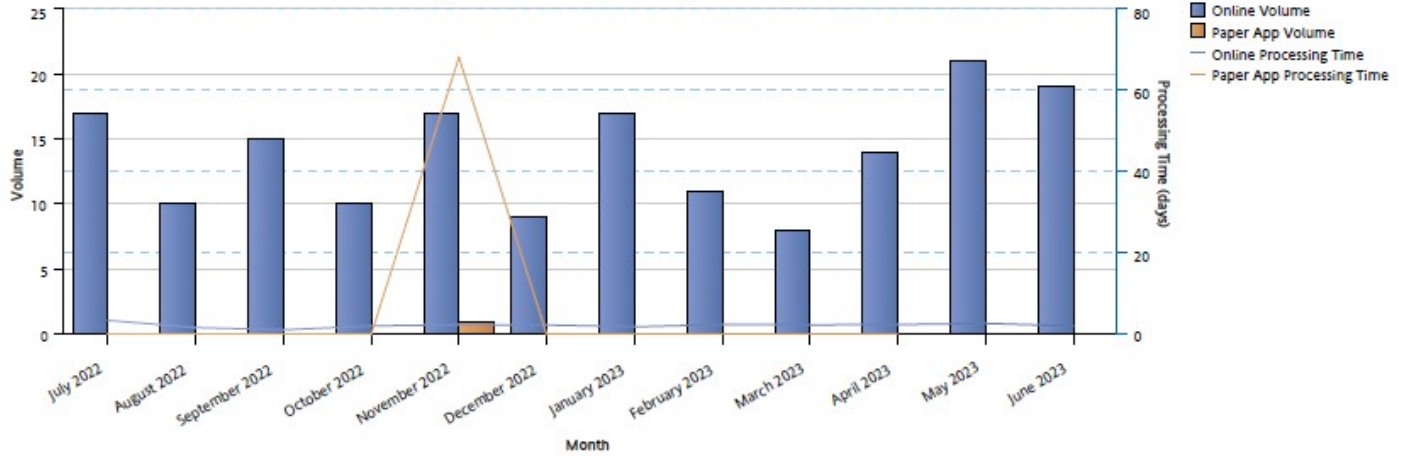




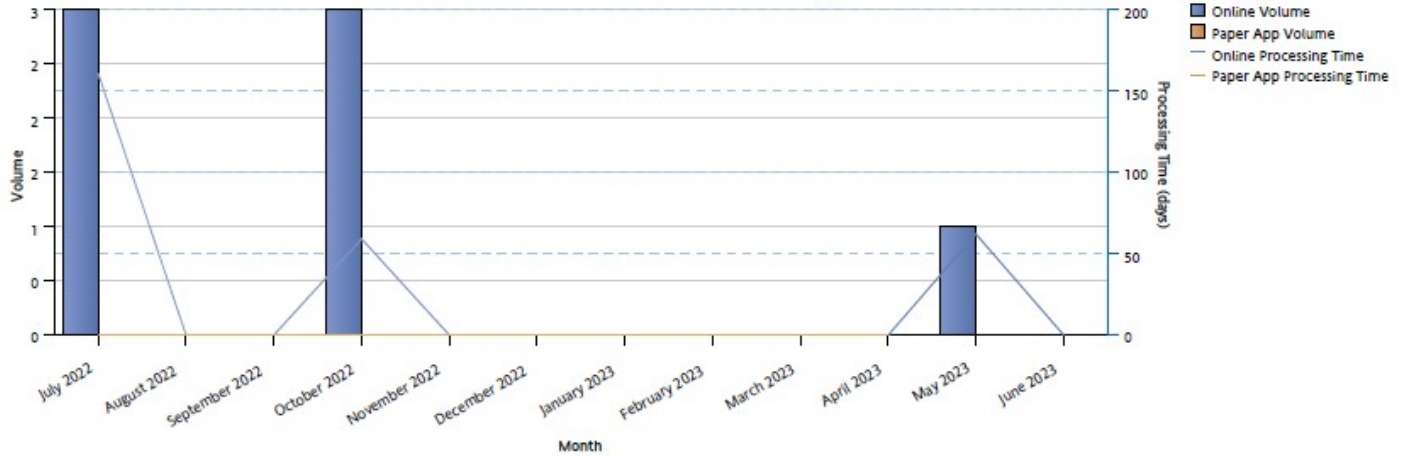
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2023



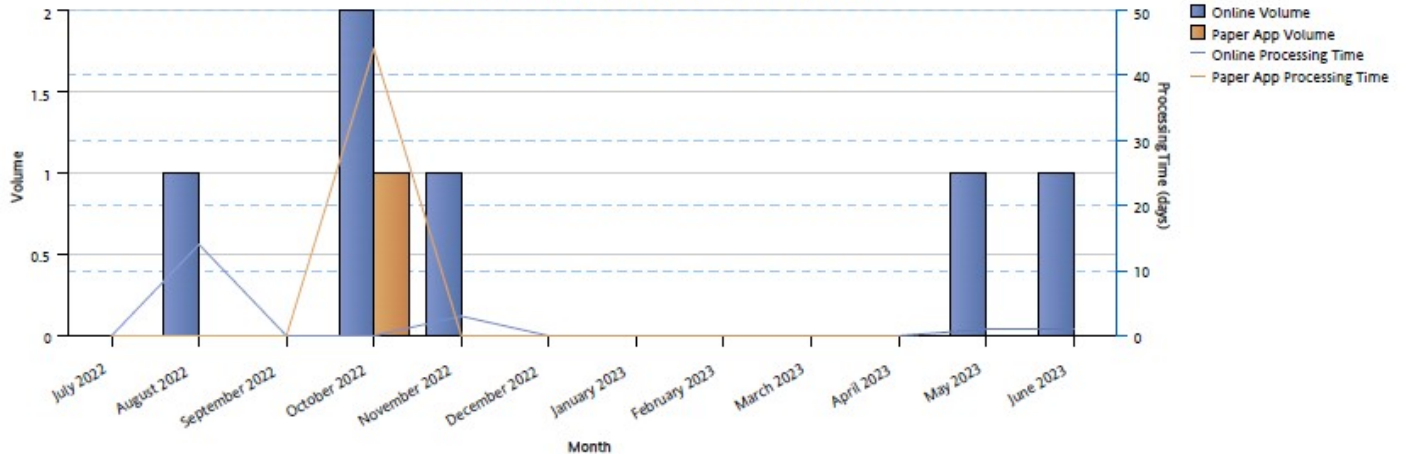
Registered Contact Lens Dispenser - Initial License



Nonresident Contact Lens Seller - Initial Application



Nonresident Contact Lens Seller - Initial License

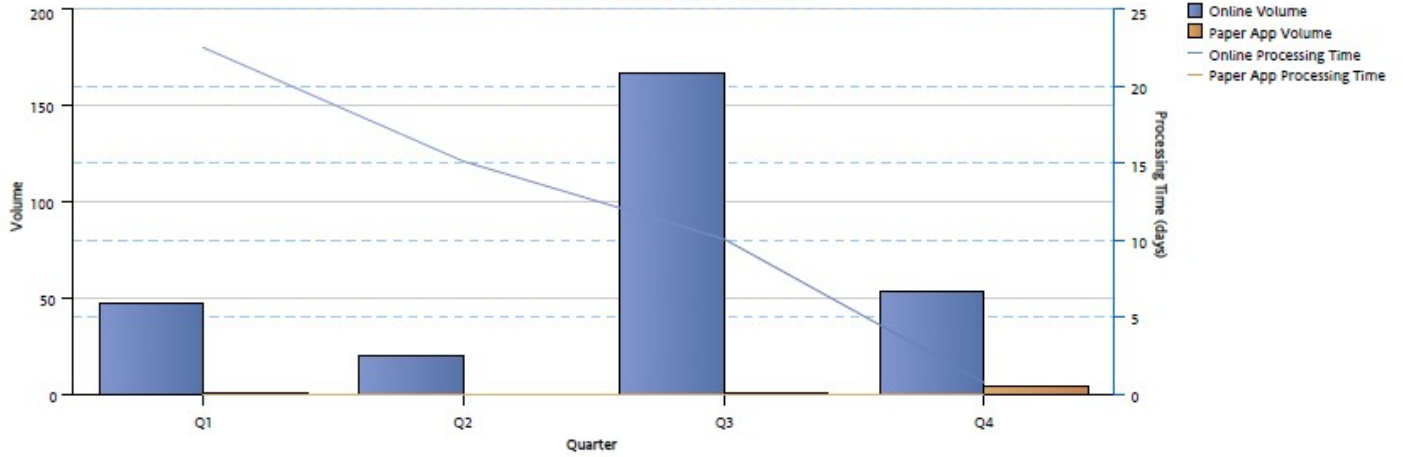




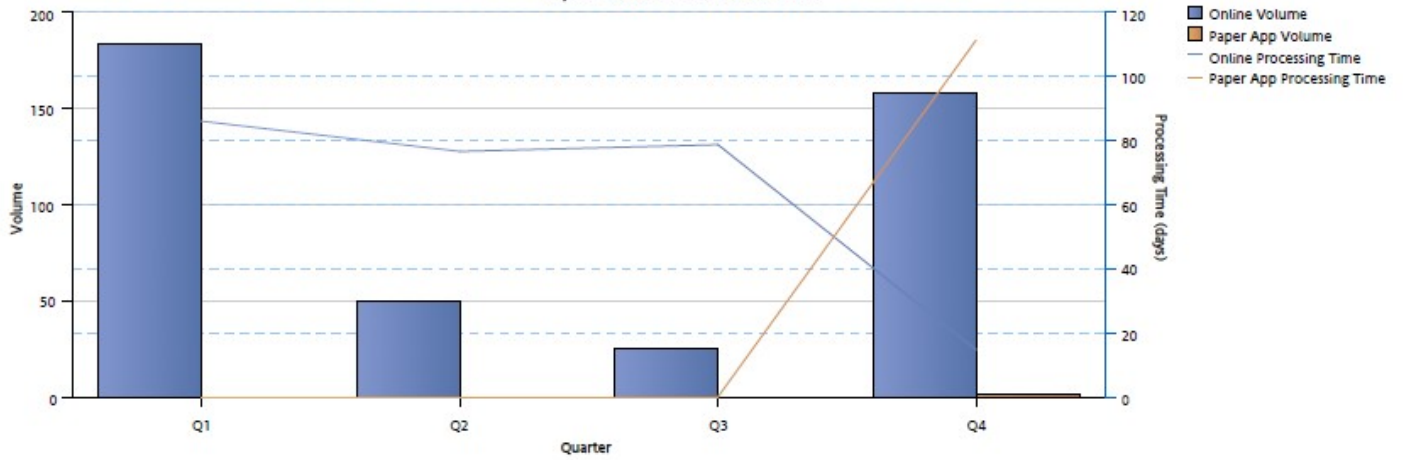
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2023



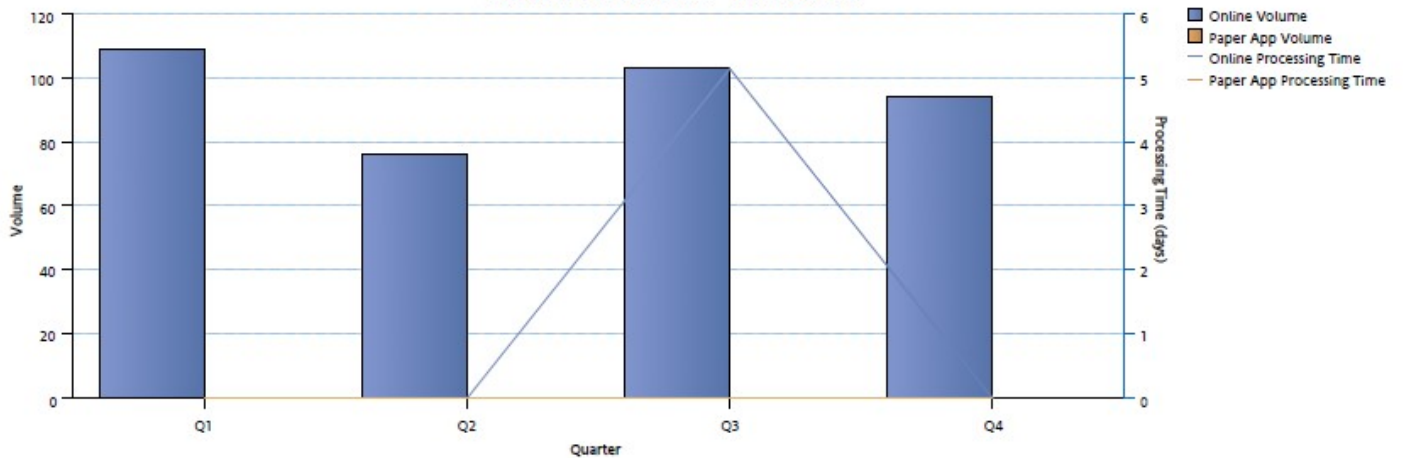
Optometrist - Exam Request



Optometrist - Initial License



Statement of Licensure - Issue License

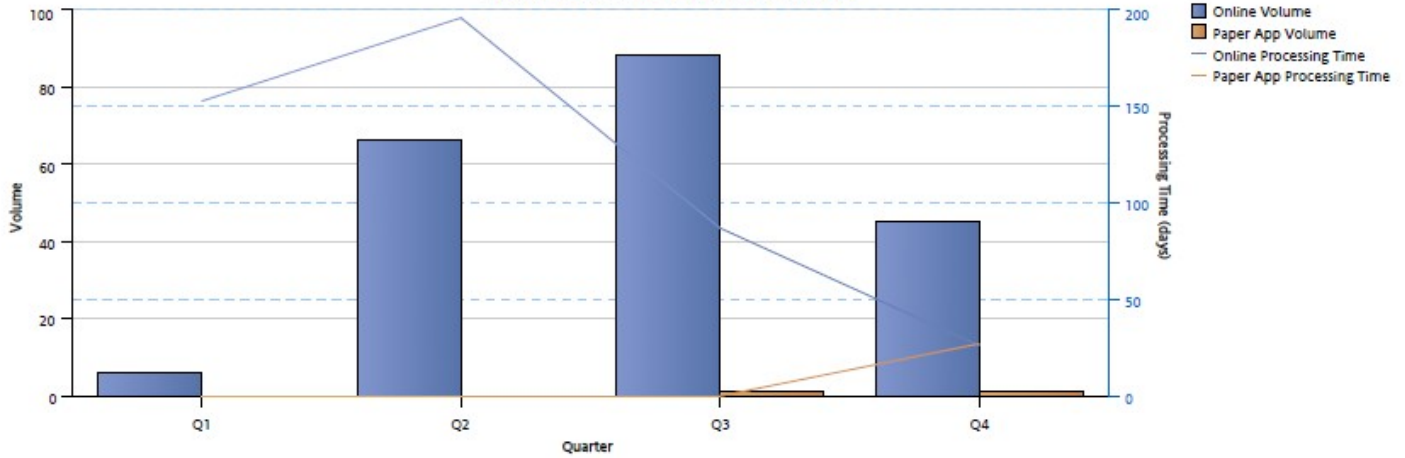




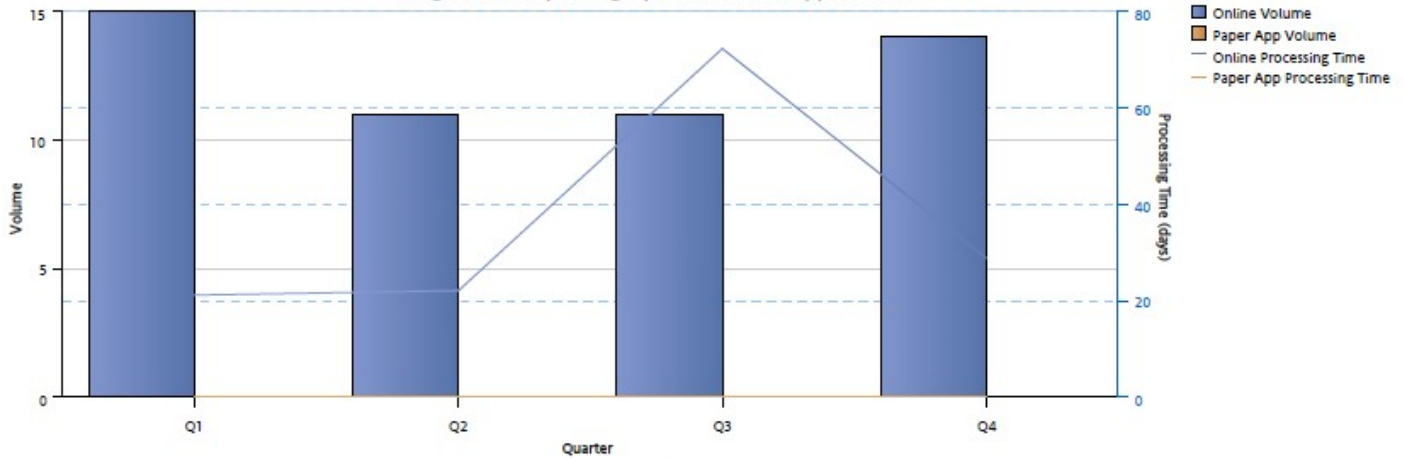
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2023



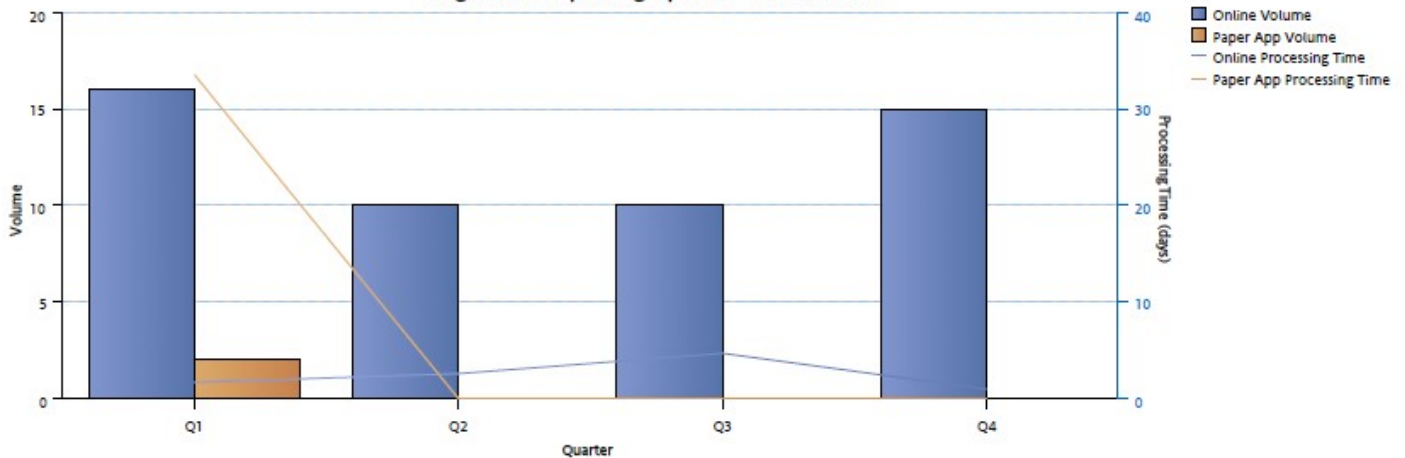
Fictitious Name Permit - Issue License



Registered Dispensing Optician - Initial Application



Registered Dispensing Optician - Initial License

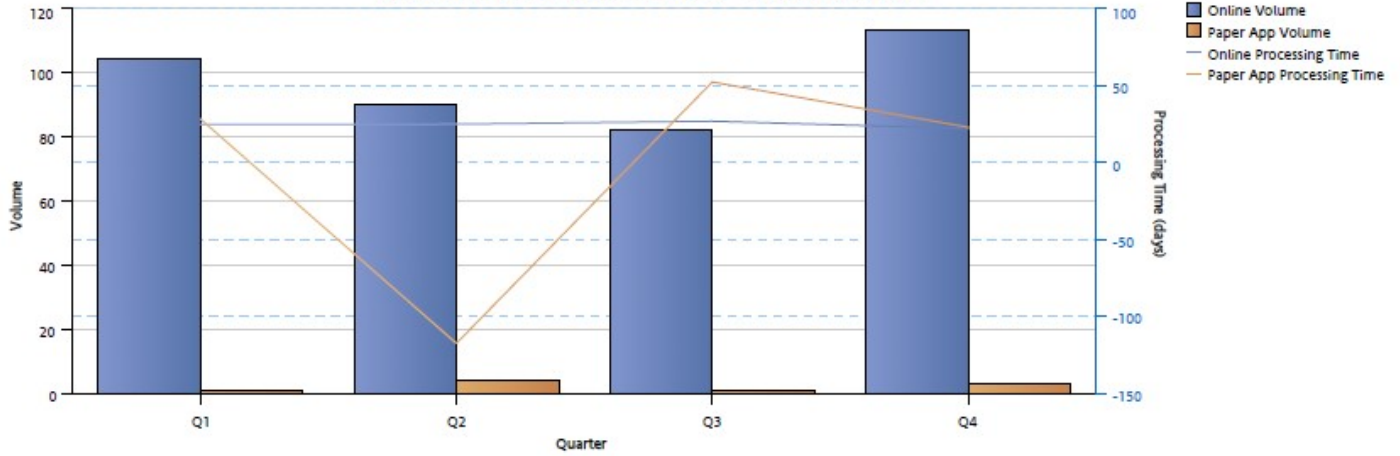




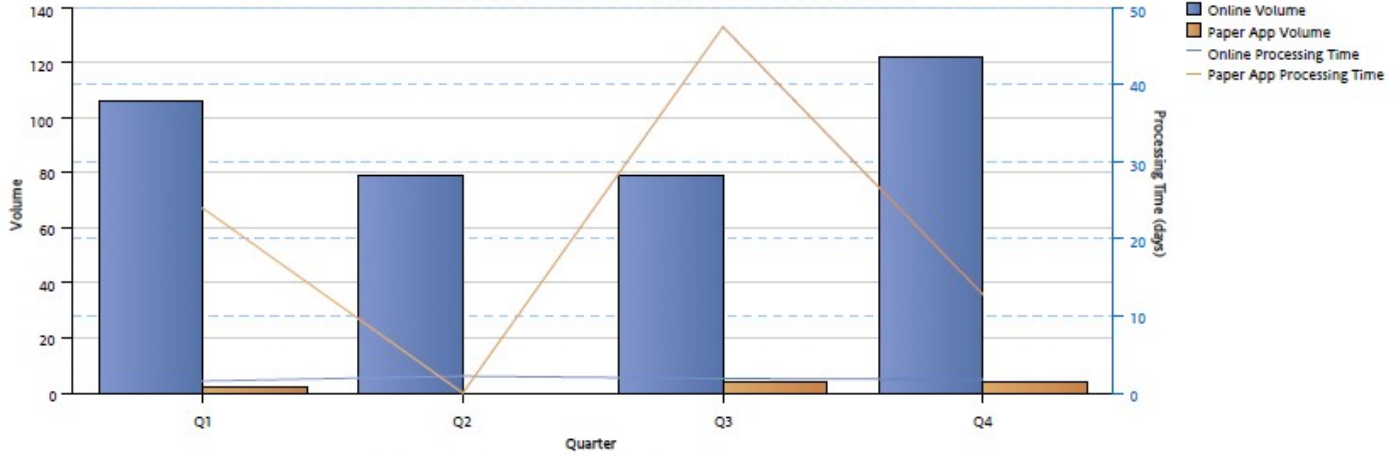
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2023



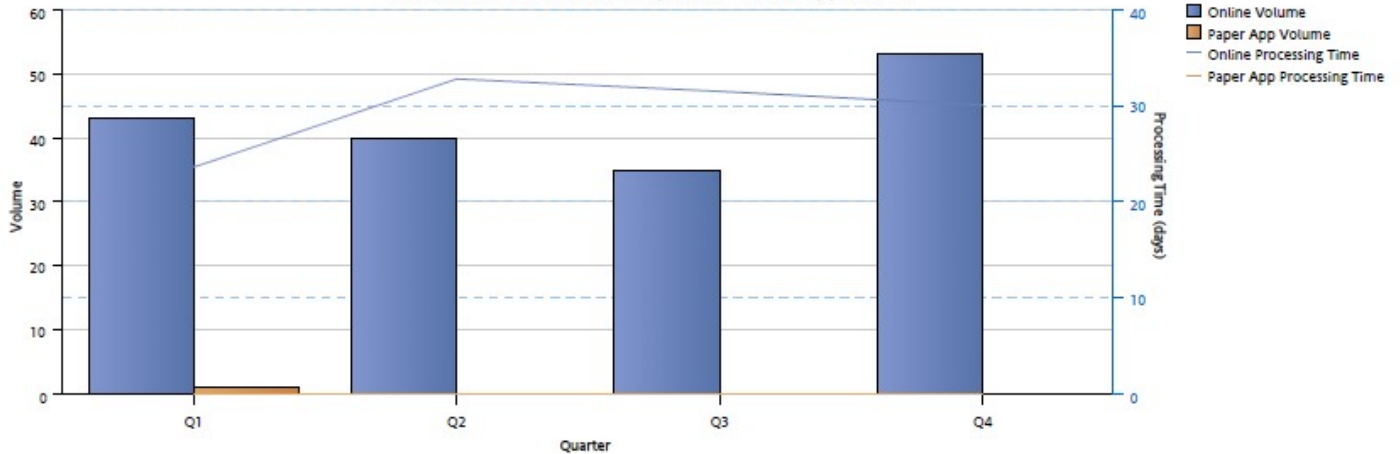
Registered Spectacle Lens Dispenser - Initial Application



Registered Spectacle Lens Dispenser - Initial License



Registered Contact Lens Dispenser - Initial Application

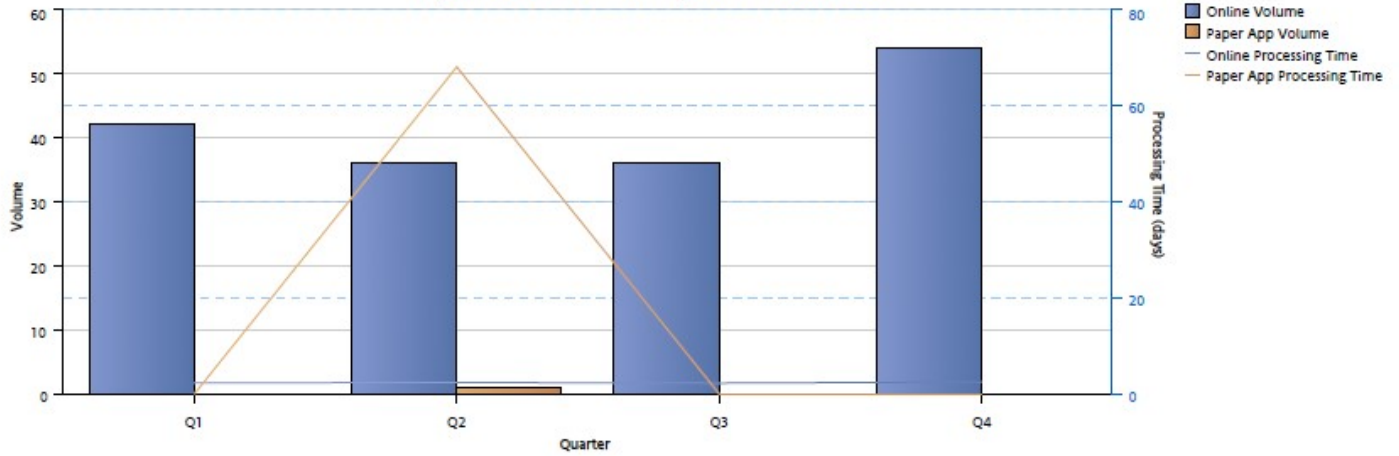




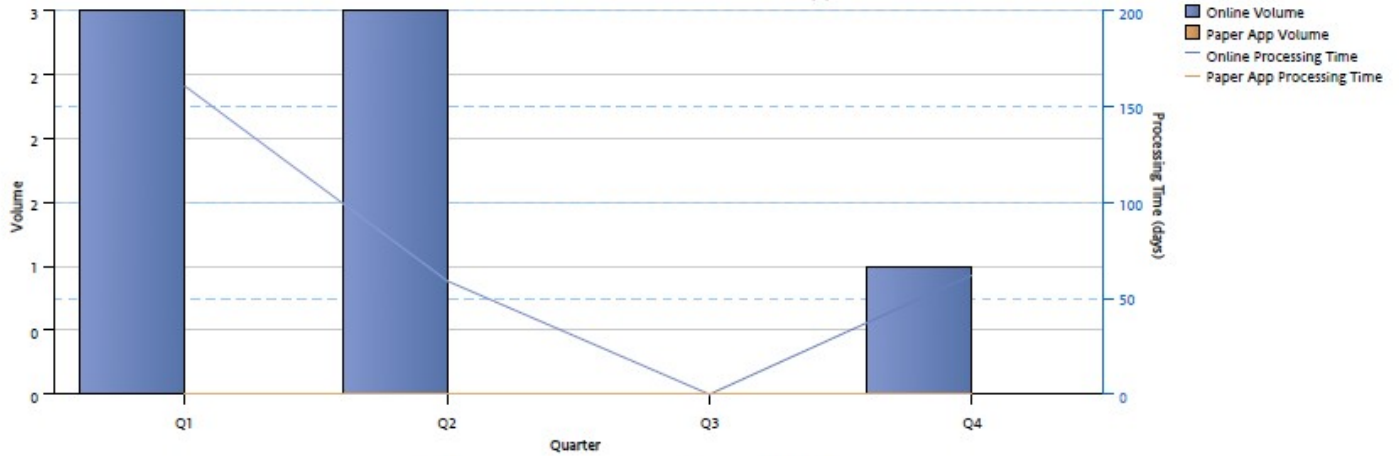
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2023



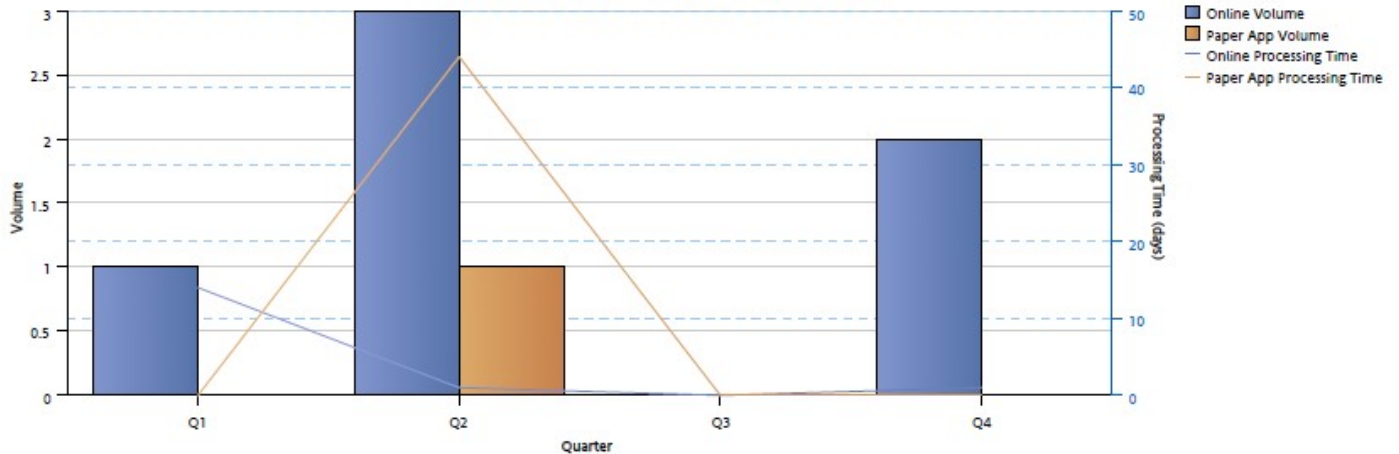
Registered Contact Lens Dispenser - Initial License



Nonresident Contact Lens Seller - Initial Application



Nonresident Contact Lens Seller - Initial License





ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #6D – Regulatory Update |

Purpose: To provide an update on Board-approved regulatory packages

Previously Approved Regulatory Packages:

1. Mobile Optometric Office Regulations (Adopt §§1583 – 1586)

Approved by the Board at the May 20, 2022 public meeting.

Subject: This proposal will implement AB 896 (Low, Chapter 121, Statutes of 2020), which would allow nonprofit charitable organizations to provide mobile optometry services to patients and receive reimbursement by Medi-Cal. It requires the Board to develop a registry for mobile optometry offices and a consumer notice to be provided to patients. Assembly Bill 1534 (Assembly Committee on Business and Professions) – approved by the Governor on October 7, 2021 and effective January 1, 2022, extends the regulatory implementation date to January 1, 2023 and adds authority for the Board to require registration of individual mobile optometric units by each non-profit.

Comments: This package was submitted to the Department of Consumer Affairs Legal Affairs office in August.

2. Optometry Continuing Education Regulations (Amend §1536)

Approved by the Board at the August 14, 2020 public meeting, and minor updates to the text were made at the August 31, 2021 public meeting. Additional changes were made at the November 21, 2021 public meeting, and the Board approved updated text at the August 26, 2022 meeting.

Subject: This proposal would make a series of changes to §1536, including allowing all 50 continuing education units to be taken online provided the courses meet certain conditions, an increase in self-study hours to 25, a better definition of self-study hours, and additional requirements for CE providers. Changes were also made to forms incorporated by reference into the section.

Comment: The rulemaking package was noticed on April 14, 2023, by OAL and the 45-

day public comment period ended on May 31, 2023. The Board received no substantive comments on the package and is moving toward finalizing the regulations. The package is with OAL, and a decision is expected by August 25, 2023.

3. Implementation of AB 458 (Adopt §1507.5 and Amend §1524)

Approved by the Board at the May 21, 2021 public meeting.

Subject: This proposal will implement AB 458 (Nazarian, Chapter 425, Statutes of 2019), which allows an optometrist to engage in the practice of optometry at a home residence, provided they meet specific requirements and submit an application to the Board and pay specified fees. The optometrist would also be required to provide a consumer notice to a patient.

Comment: The rulemaking package is currently under staff preparation for submission to DCA and Agency for pre-file approval with OAL.

4. Optometry Disciplinary Guidelines (Amend §1575)

The full Board approved the regulatory text and Guidelines incorporated by reference at the October 25, 2019, public meeting.

Subject: 2019 update of existing Optometry Board Disciplinary Guidelines. The changes include updates to enforcement processes, terminology used, and implementation of changes made by the Substance Abuse Coordination Committee in Fall 2019.

Comment: The rulemaking package is currently under staff preparation for submission to DCA and Agency for pre-file approval with OAL.

5. Optician Program Omnibus Regulatory Changes (Amend §§ 1399.200 – 1399.285)

Approved by the Board at the August 14, 2020, public meeting.

Subject: This proposal makes minor changes to the existing optician program regulations, limited to placing current initial registration and renewal forms (used with the BreZE system), aligning current fees with the statute, and making other non-substantive changes. These changes would not affect any existing operations or modify any current processes.

Comment: The rulemaking package is currently under staff preparation for submission to DCA and Agency for pre-file approval with OAL.

6. Dispensing Optician Disciplinary Guidelines (Amend §1399.273)

Approved by the Board at the August 14, 2020, public meeting.

Subject: The Optician Guidelines are used to impose discipline including conditions of probation for licensees that address the violations charged and are modeled after the Optometry Disciplinary Guidelines, but are modified to meet the needs of the Optician Program.

Comment: Staff expects to submit this package to the Department of Consumer Affairs Legal Affairs office in the fall of 2023.

7. Requirements for Glaucoma Certification (Amend §1571)

Approved by the Board at the February 26, 2021, public meeting.

Subject: CCR Section 1571 sets out the requirements for Glaucoma certification. Due to COVID-19, optometry schools have been offering the Grand Rounds certification program, authorized by subsection (B), online as a live course. This proposal would remove the in-person patient evaluation requirement from CCR Section 1571 (B).

Comment: The rulemaking package has not been started.

8. Fees (Amend § 1399.260, 1399.261, 1399.263 and 1524)

Approved by the Board at the May 12, 2023, public meeting.

Subject: CCR Section 1524 sets out fees for optometrist renewal and associated fees. CCR Sections 1399.260, 1399.261, and 1399.263 set out fees for registered dispensing ophthalmic businesses, contact lens dispensers, and spectacle lens dispensers.

Comment: The rulemaking package was submitted to the Business, Consumer Services, and Housing Agency on August 1, 2023.



ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #7 – Discussion and Possible Action on Legislation |

Background and Update:

At the May 12, 2023, board meeting, positions were taken on several bills before the board. For discussion and possible action the items are presented below.

- A. [AB 1028 \(McKinnor\) Reporting of crimes: mandated reporters](#)

Status: Amended 6-28-2023 / Senate Appropriations Committee.

AUTHOR REASON FOR THE BILL:

According to the Author: "AB 1028 will ensure survivors can access healthcare services by creating a survivor-centered, trauma-informed approach and limit non-consensual and potentially dangerous referrals to law enforcement. In addition, if a health provider knows or suspects a patient is experiencing any kind of domestic and sexual violence, not just physical, they will be required to offer a referral to a local domestic violence and sexual violence advocacy program or the National Domestic Violence hotline. This change will increase access to healthcare and ensure that survivors are provided the agency and information they need to be safe and healthy."

DESCRIPTION OF CURRENT LEGISLATION:

This bill would, on and after January 1, 2025, limit a health practitioner's duty to make a report of injuries to law enforcement to instances where: the injury is by a firearm, either self-inflicted; where the wound or physical injury was the result of child abuse; or where the wound or physical injury was the result of elder abuse. This bill also requires a health care practitioner, who in their professional capacity or within the scope of their employment, knows or reasonably suspects that their patient is experiencing any form of domestic violence or sexual violence, to provide brief counseling and offer a referral to domestic violence or sexual violence advocacy services before the end of the patient visit, to the extent that it is medically possible.

BACKGROUND:

This bill is a reintroduction of AB 2790 (Wicks), which was held in the Senate Appropriations Suspense File. Supporters argue existing mandating reporting law

dissuades many victims from seeking medical care or sharing information with health practitioners to avoid law enforcement involvement. Opponents argue the bill would lead to more domestic violence and have serious consequences.

ANALYSIS:

Under existing law, health practitioners employed by health facilities and other settings are required to report certain information to law enforcement officers. These reports are mandatory if the practitioner suspects that a patient has suffered a physical injury that is either self-inflicted, caused by a firearm, or caused by assaultive or abusive conduct. This bill would maintain mandatory reporting requirements for self-inflicted or firearm injuries, child abuse, and elder abuse, but beginning January 1, 2025, it would eliminate the reporting requirements for suspected domestic violence or sexual violence. In its place, health practitioners who know or reasonably suspect that a patient is the victim of domestic or sexual violence would instead be required to provide brief counseling, education, or other support to the degree that is medically possible for the patient. They must also offer a warm handoff or referral to domestic or sexual violence advocacy services. Practitioners could satisfy this requirement by connecting the patient with a survivor advocate, either in-person or via a call, or sharing information with the patient about how to get in touch with such organizations and letting patients know how they can help.

Practitioners would not need to personally provide a handoff or referral, as the requirements would be met if such services are offered by a member of the health care team at the facility. Although this bill would eliminate mandatory reporting in many instances, it would still allow health practitioners to make a report to law enforcement if they believe it is necessary to prevent or lessen a serious and imminent threat to the health or safety of the patient or the public. They could also make a report if they have the patient's consent.

UPDATE:

While the June 27 and June 28 amendments may not fully address the Board's concerns, the inclusion of mandatory reporting for cases of child abuse or elder abuse is an important consumer protection addition, and practitioners or the health facility would be required to report cases of suspected domestic or sexual violence to social service organizations. A practitioner could still report cases of domestic or sexual violence to law enforcement to limit a serious or imminent threat to the public.

FISCAL:

None

BOARD POSITION:

Oppose unless amended to mandate reporting to either law enforcement or other social services that are available.

Action Requested:

Discuss and possibly revise the position after considering whether the recent amendments to the bill address the board's concerns.

Attachment 1: Senate Public Safety Committee Analysis
Attachment 2: Bill text

SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 1028 **Hearing Date:** July 11, 2023
Author: McKinnor
Version: June 28, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Reporting of crimes: mandated reporters*

HISTORY

Source: Futures Without Violence
California Partnership to End Domestic Violence
Alliance for Boys and Men of Color
UC Irvine Domestic Violence Law Clinic

Prior Legislation: AB 2790 (Wicks) Held in Sen Approps. 2022

Support: A Safe Place; ACLU California Action; California Academy of Family Physicians; California Consortium for Urban Indian Health; California Faculty Association; California Health+ Advocates; California Nurse Midwives Association; California State Council of Service Employees International Union (SEIU California); Center for Community Solutions; Coalition to Abolish Slavery & Trafficking (CAST); Communities United for Restorative Youth Justice (CURYJ); Community Resource Center; Community Solutions for Children, Families, and Individuals; Culturally Responsive Domestic Violence Network (CRDVN); Deafhope; Dignity and Power Now; Ella Baker Center for Human Rights; Empower Yolo; Family Violence Appellate Project; Family Violence Law Center; FreeFrom; Immigrant Legal Resource Center (UNREG); Initiate Justice (UNREG); Jenesee Center; Korean American Family Services, INC (KFAM); LA Defensa; Los Angeles LGBT Center; MILPA; National Association of Social Workers, California Chapter; Prevention Institute; Psychiatric Physicians Alliance of California; Safe Alternatives to Violent Environments; Strong Hearted Native Women's Coalition, INC.; The Collective Healing and Transformation Project; Woman INC; Youth Leadership Institute

Opposition: Arcadia Police Officers' Association; Board of Registered Nursing; Burbank Police Officer's Association; California District Attorneys Association; California Reserve Peace Officers Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Deputy Sheriffs' Association of Monterey County; Fullerton Police Officers' Association; Grossmont Healthcare District; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Novato Police Officers Association; Palos Verdes Police Officers Association; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriffs' Association; San Diegans Against Crime; San Diego County District Attorney's Office; San Diego Deputy District Attorneys Association; Santa Ana Police

Officers Association; Upland Police Officers Association; Ventura County Office of the District Attorney; California Sexual Assault Forensic Examiner Association (unless amended); Multiple individuals

Assembly Floor Vote:

45 - 17

PURPOSE

The purpose of this bill is to eliminate the duty of a health care practitioner to report assaultive or abusive conduct to law enforcement and instead requires the provider to refer the patient to supportive services.

Existing law requires a health practitioner, as defined, to make a report to law enforcement when they suspect a patient has suffered physical injury that is either self-inflicted, caused by a firearm, or caused by assaultive or abusive conduct, as specified. (Penal Code § 11160.)

Existing law punishes the failure of a health care practitioner to submit a mandated report by imprisonment in a county jail not exceeding six months, or by a fine not exceeding \$1,000, or by both. (Penal Code § 11162)

Existing law provides that a health practitioner who makes a report in accordance with these duties shall not incur civil or criminal liability as a result of any report. (Penal Code § 11161.9 (a))

Existing law states that neither the physician-patient privilege nor the psychotherapist patient privilege apply in any court or administrative proceeding with regards to the information required to be reported. (Penal Code § 11163.2)

This bill limits a health practitioner's duty to make a report of injuries to law enforcement to instances where: the injury is by a firearm, either self-inflicted; where the wound or physical injury was the result of child abuse; or where the wound or physical injury was the result of elder abuse.

This bill requires a health care practitioner, who in their professional capacity or within the scope of their employment, knows or reasonably suspects that their patient is experiencing any form of domestic violence or sexual violence, to provide brief counseling and offer a referral to domestic violence or sexual violence advocacy services before the end of treatment, to the extent that it is medically possible.

This bill provides that the health practitioner shall have met the requirement when the brief counseling, education, or other support is provided and warm hand off or referral is offered by a member of the health care team.

This bill provides that if the health practitioner is providing medical services to the patient in the emergency department of a hospital, they shall also offer assistance to the patient in accessing a forensic evidentiary exam or reporting to law enforcement, if the patient wants to pursue these options.

This bill provides that a health practitioner may offer a warm hand off and referral to other available services including legal aid and community based services.

This bill provided that to the extent possible, health practitioners shall document all nonaccidental violent injuries and incidents of abuse in the medical record.

This bill provides that nothing limits or overrides the ability of a health care practitioner to alert law enforcement to an imminent or serious threat to health or safety of an individual or the public, pursuant to the privacy rules of HIPAA.

This bill defines “warm handoff” may include but is not limited to, the health practitioner establishing direct and live connection through a call with survivor advocate, in-person on site survivor advocate, in-person on-call survivor advocate, or some other form of tele-advocacy.

This bill provides the patient may decline the “warm hand-off”.

This bill provides that “referral” may include, but is not limited to, the health practitioner sharing information about how a patient can get in touch with a local or national survivor advocacy organization, information about how the survivor advocacy organization information about how the survivor organization could be helpful for the patient, what the patient could expect when contacting the survivor organization, the survivor advocacy organizations contact information.

This bill contains findings and declarations.

This bill provides that a health practitioner shall not be civilly or criminally liable for acting in compliance with this section for any report that is made in good faith compliance with state law.

This bill makes conforming cross-references.

COMMENTS

1. Need for This Bill

According to the author:

AB 1028 will ensure survivors can access healthcare services by creating a survivor-centered, trauma-informed approach and limit non-consensual and potentially dangerous referrals to law enforcement. In addition, if a health provider knows or suspects a patient is experiencing any kind of domestic and sexual violence, not just physical, they will be required to offer a referral to a local domestic violence and sexual violence advocacy program or the National Domestic Violence hotline. This change will increase access to healthcare and ensure that survivors are provided the agency and information they need to be safe and healthy.

2. Health Care worker: mandate reporters

Penal Code section 11160 requires a health care practitioner who treats a person brought in to a health care facility or clinic who is suffering from specified injuries to report that fact immediately, by telephone and in writing, to the local law enforcement authorities. The duty to report extends to physicians and surgeons, psychiatrists, psychologists, dentists, medical residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, marriage and family therapists, clinical social workers, professional clinical counselors,

emergency medical technicians, paramedics, and others. The duty to report is triggered when a health practitioner knows or reasonably suspects that the patient is suffering from a wound or other physical injury that is the result of assaultive or abusive conduct caused by another person, or when there is a gunshot wound or injury regardless of whether it self-inflicted or one cause by another person. Health practitioners are required to report if these triggering conditions are met, regardless of patient consent. Failure to make the required report is a misdemeanor.

This bill would eliminate the duty of a health care practitioner to report known or suspected assaultive or abusive conduct and instead provide that they should, whenever medically possible, refer the person to provide the person with counseling, a warm handoff, or a referral to local domestic violence services.

According to the background provided by the author, “[i]n a 2020 survey done by the National Domestic Violence Hotline of survivors who had experienced mandated reporting, 83.3% of survivors stated mandatory reporting made the situation much worse, somewhat worse, or did nothing to improve the DV situation. 27% of callers reported that they did not seek healthcare because of mandatory reporting requirements”. A report by Futures Without Violence, a co-sponsor of this bill, notes with regards to mandated reporting laws:

Most U.S. states have enacted mandatory reporting laws, which require the reporting of specified injuries and wounds, and very few have mandated reporting laws specific to suspected abuse or domestic violence for individuals being treated by a health care professional. Mandatory reporting laws are distinct from elder abuse or vulnerable adult abuse and child abuse reporting laws, in that the individuals to be protected are not limited to a specific group, but pertain to all individuals to whom specific health care professionals provide treatment or medical care, or those who come before the health care facility. The laws vary from state-to-state, but generally fall into four categories: states that require reporting of injuries caused by weapons; states that mandate reporting for injuries caused in violation of criminal laws, as a result of violence, or through non-accidental means; states that specifically address reporting in domestic violence cases; and states that have no general mandatory reporting laws.

(Compendium of State and U.S. Territory Statutes and Policies on Domestic Violence and Health Care, Fourth Ed. 2019 at pp.2-3, available <https://www.futureswithoutviolence.org/wp-content/uploads/Compendium-4th-Edition-2019-Final.pdf>.)

It should be noted that the duty to report known or suspected child abuse and neglect under the Child Abuse and Neglect Reporting Act, is separate from a health care practitioner’s duty to report injuries generally. (See Penal Code § 11164 et. seq.) This bill does not eliminate the duty of health care practitioners under that Act. Similarly, the duty to report known or suspected abuse of an elder or a dependent adult is also separate from a health care provider’s general duty to report injury. (See Welfare & Inst. Code, § 15360.) This bill also does not eliminate the duty of health care practitioners under those provisions of law.

3. Prior Legislation

This bill is almost identical to AB 2790 (Wicks) which passed this Committee 4-1 in June 2022. The bill was subsequently held in Senate Appropriations Committee.

4. Argument in Support

A number of organizations that support this bill state:

On behalf of Futures Without Violence, the Alliance for Boys and Men of Color, UC Irvine Law, the Culturally Responsive Domestic Violence Network, the California Partnership to End Domestic Violence and the Los Angeles LGBT Center, I write today as co-sponsors in support of Assembly Bill 1028 (McKinnor). This important legislation will modernize California's medical mandated reporting law for adult violent injuries to better ensure safety and healthcare access for survivors of domestic, sexual, and interpersonal violence. *This bill is a priority policy for our organizations this year.*

Because domestic and sexual violence often remove one's ability to exercise control over their life, advocates help survivors achieve safety and healing by supporting their self-determination and empowerment. Not only does medical mandated reporting replicate harmful coercive patterns over survivors' lives, it puts them in greater danger: according to a study of callers to National Domestic Violence Hotline, **51% of survivors who had experienced mandatory reporting stated that it made their situations *much worse***, and another 32% stated that it either made things worse or did not help them at all.

Domestic and sexual violence have been shown to be associated with increased risk of many health issues. Unfortunately, we have seen the ways in which medical mandated reporting requirements have kept survivors from seeking necessary healthcare in the first place, made survivors feel like they could never return to healthcare after they learned of the requirement, or made them feel like they could not share the reason for or extent of certain injuries or health issues with their provider.

Not only does mandated reporting to law enforcement of adult domestic and sexual violence injuries create a barrier to healthcare, but medical mandated reporting to law enforcement can result in the escalation of abuse, survivors themselves being criminalized, exposure to immigration detention or deportation, undue child welfare involvement that separates children from abused parents, and more. Although a well-intentioned attempt to ensure domestic and sexual violence is taken seriously as a health issue, there is no research that suggests that medical mandated reporting requirements result in positive safety outcomes for survivors. Survivors in California deserve to be able to access trauma-informed healthcare separately from law enforcement. Domestic and sexual violence advocates are specifically trained to help survivors more safely access the criminal and civil legal systems should they want to. Because AB 1028 will require health providers to offer a warm hand off and referral to an advocacy organization, advocates will be able to respond before violence escalates. A warm and informed connection to confidential advocacy services will allow survivors to address their many different

safety needs - from crisis intervention to emergency housing to legal support - in an on-going and trauma-informed way.

5. Argument in Opposition

The San Diego County District Attorney's Office opposes this bill stating:

The current mandated reporting law is a safety net for victims of domestic violence when their abuser is so controlling that they do not want to call for help themselves. The current laws establish a minimum standard of care for health care providers and recognize that without intervention, violence often escalates in both frequency and severity result in repeat visits to healthcare systems or death.

Health care providers serve as gatekeepers to identify and report abuse where the family members and the abused themselves may not. These reporting laws ensure that a victim is protected, even if the abuser stands in the lobby of the hospital, demanding the victim lie about the abuse. A physician is duty bound to report suspicious injuries under the current law if they reasonably suspect the injuries were as a result of "abusive or assaultive conduct." This current language is broad enough, yet specific enough, and encompasses enough of the dangerous conduct that we as a society want "checked" on by a larger community response including law enforcement, advocacy services, and social services.

California has long protected its most vulnerable by legislating mandated reporting for domestic violence and child abuse, and more recently elder abuse. This bill *eliminates* physician-mandated reporting for any physical injury due to domestic violence other than the small percentage of domestic violence cases that result in injuries from firearms. This means that domestic violence victims who are bruised, attacked, stabbed, strangled, tortured, or maimed or are injured with weapons other than firearms, would not receive the current protection the law affords.

Additionally, the bill doesn't follow California's trend of *broadening* the duty to report and protect our most vulnerable victims. We have mandated reporting for child abuse, mandated reporting for domestic violence, and mandated reporting for elder abuse. The elder abuse mandated reporting laws previously only required reports of report physical abuse, but they have expanded to financial and mental abuse, neglect, and isolation. This progression shows California is *more* protective of its vulnerable, not less. Why would we go backwards?

An example of how this bill would drastically diminish the victim voice includes the following: imagine an attempted murder case where a domestic violence abuser strangled the victim to the point of unconsciousness and stabbed the victim repeatedly and brings the victim to the hospital, hovers over the victim, directs the victim what to do and say, not to report that it was abuse, either impliedly or expressly, and silences the victim even in the lobby of the emergency room. This bill would leave this victim with no protection by the health care provider who stands at the ready to help and report the suspicious injuries to law enforcement when that victim says, "I don't know who did this to me."

My county is the second largest in the state, and the 4th largest District Attorney's office in the nation. We see roughly 17,000 domestic violence incidents per year, and a subset of those only come to our attention because of the good work of health care providers doing their duty to report suspicious injuries. Domestic violence is already one of the most under reported crimes because of the dynamics of power and control within an intimate partner relationship. Why would we remove the very protection that helps give these victims a voice?

-- END --

AMENDED IN SENATE JUNE 28, 2023

AMENDED IN SENATE JUNE 27, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1028

Introduced by Assembly Member McKinnor
(Coauthor: Assembly Member Wicks)
(Coauthor: Senator Wiener)

February 15, 2023

An act to amend, repeal, and add Sections 11160, 11161, 11163.2, and 11163.3 of the Penal Code, relating to reporting of crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1028, as amended, McKinnor. Reporting of crimes: mandated reporters.

Existing law requires a health practitioner, as defined, to make a report to law enforcement when they suspect a patient has suffered physical injury that is inflicted by the person's own act or inflicted by another where the injury is by means of a firearm, or caused by assaultive or abusive conduct, including elder abuse, sexual assault, or torture. A violation of these provisions is punishable as a misdemeanor.

This bill would, on and after January 1, 2025, remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct, and instead only require that report if the health practitioner suspects a patient has suffered a wound or physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm, a wound or physical injury resulting from child abuse, or a wound or physical injury resulting from elder abuse.

The bill would, on and after January 1, 2025, instead require a health practitioner who suspects that a patient has suffered physical injury that is caused by domestic violence, as defined, to, among other things, provide brief counseling, education, or other support, and a warm handoff, as defined, or referral to local and national domestic violence or sexual violence advocacy services, as specified. The bill would, on and after January 1, 2025, specify that a health practitioner is not civilly or criminally liable for any report that is made in good faith and in compliance with these provisions.

This bill would make other conforming changes.

Because a violation of these requirements would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Recognizing that abuse survivors often need to access health
- 4 care and medical treatment apart from police reporting and criminal
- 5 legal involvement, this bill replaces mandated police reporting by
- 6 medical professionals with offering connection to survivor services.
- 7 (b) Health care providers play a critical role in prevention,
- 8 identification, and response to violence. However, current law
- 9 requiring health professionals in California to file reports to law
- 10 enforcement when treating patients for all suspected
- 11 violence-related injuries can have a chilling effect of preventing
- 12 domestic and sexual violence survivors from seeking medical care,
- 13 decreasing patient autonomy and trust, and resulting in health
- 14 providers being reluctant to address domestic and sexual violence
- 15 with their patients.
- 16 (c) Studies have shown that medical mandatory reporting of
- 17 adult domestic and sexual violence may increase patient danger
- 18 and insecurity, whereas being able to openly discuss abuse without

1 fear of police reporting can produce greater health and safety
2 outcomes.

3 (d) Because of the complexity of interpersonal violence and
4 impact of social inequities on safety, people who have experienced
5 violence should be provided survivor-centered support and health
6 care that results in better outcomes for patient safety. Doing so
7 can improve the health and safety of patients already in care,
8 decrease potential barriers to care, and promote trust between
9 survivors and health providers.

10 (e) ~~Nothing in this act limits or overrides~~ *This act does not limit*
11 *or override* the ability of a health practitioner to make reports
12 permitted by subdivisions (c) or (j) of Section 164.512 of Title 45
13 of the Code of Federal Regulations, or at the patient's request.
14 Providers must still follow reporting requirements for child abuse,
15 pursuant to Section 11165 of the Penal Code, and elder and
16 vulnerable adult abuse, pursuant to Section 15600 of the Welfare
17 and Institutions Code. It is the intent of the Legislature to promote
18 partnership between health facilities and domestic and sexual
19 violence advocacy organizations, legal aid, county forensic
20 response teams, family justice centers, and other community-based
21 organizations that address social determinants of health in order
22 to better ensure the safety and wellness of their patients and provide
23 training for health practitioners. California has made strides to
24 enhance health practitioners' capacity to address and prevent
25 violence and trauma, including education for practitioners on how
26 to assess for and document abuse as referenced in subdivision (h)
27 of Section 2191 of, Section 2196.5 of, and Section 2091.2 of, the
28 Business and Professions Code, Section 13823.93 of the Penal
29 Code, and Section 1259.5 of the Health and Safety Code.

30 SEC. 2. Section 11160 of the Penal Code is amended to read:

31 11160. (a) A health practitioner, as defined in subdivision (a)
32 of Section 11162.5, employed by a health facility, clinic,
33 physician's office, local or state public health department, local
34 government agency, or a clinic or other type of facility operated
35 by a local or state public health department who, in the health
36 practitioner's professional capacity or within the scope of the health
37 practitioner's employment, provides medical services for a physical
38 condition to a patient whom the health practitioner knows or
39 reasonably suspects is a person described as follows, shall
40 immediately make a report in accordance with subdivision (b):

1 (1) A person suffering from a wound or other physical injury
2 inflicted by the person’s own act or inflicted by another where the
3 injury is by means of a firearm.

4 (2) A person suffering from a wound or other physical injury
5 inflicted upon the person where the injury is the result of assaultive
6 or abusive conduct.

7 (b) A health practitioner, as defined in subdivision (a) of Section
8 11162.5, employed by a health facility, clinic, physician’s office,
9 local or state public health department, local government agency,
10 or a clinic or other type of facility operated by a local or state
11 public health department shall make a report regarding persons
12 described in subdivision (a) to a local law enforcement agency as
13 follows:

14 (1) A report by telephone shall be made immediately or as soon
15 as practically possible.

16 (2) A written report shall be prepared on the standard form
17 developed in compliance with paragraph (4), and adopted by the
18 Office of Emergency Services, or on a form developed and adopted
19 by another state agency that otherwise fulfills the requirements of
20 the standard form. The completed form shall be sent to a local law
21 enforcement agency within two working days of receiving the
22 information regarding the person.

23 (3) A local law enforcement agency shall be notified and a
24 written report shall be prepared and sent pursuant to paragraphs
25 (1) and (2) even if the person who suffered the wound, other injury,
26 or assaultive or abusive conduct has expired, regardless of whether
27 or not the wound, other injury, or assaultive or abusive conduct
28 was a factor contributing to the death, and even if the evidence of
29 the conduct of the perpetrator of the wound, other injury, or
30 assaultive or abusive conduct was discovered during an autopsy.

31 (4) The report shall include, but shall not be limited to, the
32 following:

- 33 (A) The name of the injured person, if known.
- 34 (B) The injured person’s whereabouts.
- 35 (C) The character and extent of the person’s injuries.
- 36 (D) The identity of any person the injured person alleges
37 inflicted the wound, other injury, or assaultive or abusive conduct
38 upon the injured person.

39 (c) For the purposes of this section, “injury” does not include
40 any psychological or physical condition brought about solely

1 through the voluntary administration of a narcotic or restricted
2 dangerous drug.

3 (d) For the purposes of this section, “assaultive or abusive
4 conduct” includes any of the following offenses:

5 (1) Murder, in violation of Section 187.

6 (2) Manslaughter, in violation of Section 192 or 192.5.

7 (3) Mayhem, in violation of Section 203.

8 (4) Aggravated mayhem, in violation of Section 205.

9 (5) Torture, in violation of Section 206.

10 (6) Assault with intent to commit mayhem, rape, sodomy, or
11 oral copulation, in violation of Section 220.

12 (7) Administering controlled substances or anesthetic to aid in
13 commission of a felony, in violation of Section 222.

14 (8) Battery, in violation of Section 242.

15 (9) Sexual battery, in violation of Section 243.4.

16 (10) Incest, in violation of Section 285.

17 (11) Throwing any vitriol, corrosive acid, or caustic chemical
18 with intent to injure or disfigure, in violation of Section 244.

19 (12) Assault with a stun gun or taser, in violation of Section
20 244.5.

21 (13) Assault with a deadly weapon, firearm, assault weapon, or
22 machinegun, or by means likely to produce great bodily injury, in
23 violation of Section 245.

24 (14) Rape, in violation of Section 261 or former Section 262.

25 (15) Procuring a person to have sex with another person, in
26 violation of Section 266, 266a, 266b, or 266c.

27 (16) Child abuse or endangerment, in violation of Section 273a
28 or 273d.

29 (17) Abuse of spouse or cohabitant, in violation of Section
30 273.5.

31 (18) Sodomy, in violation of Section 286.

32 (19) Lewd and lascivious acts with a child, in violation of
33 Section 288.

34 (20) Oral copulation, in violation of Section 287 or former
35 Section 288a.

36 (21) Sexual penetration, in violation of Section 289.

37 (22) Elder abuse, in violation of Section 368.

38 (23) An attempt to commit any crime specified in paragraphs
39 (1) to (22), inclusive.

1 (e) When two or more persons who are required to report are
2 present and jointly have knowledge of a known or suspected
3 instance of violence that is required to be reported pursuant to this
4 section, and when there is an agreement among these persons to
5 report as a team, the team may select by mutual agreement a
6 member of the team to make a report by telephone and a single
7 written report, as required by subdivision (b). The written report
8 shall be signed by the selected member of the reporting team. Any
9 member who has knowledge that the member designated to report
10 has failed to do so shall thereafter make the report.

11 (f) The reporting duties under this section are individual, except
12 as provided in subdivision (e).

13 (g) A supervisor or administrator shall not impede or inhibit the
14 reporting duties required under this section and a person making
15 a report pursuant to this section shall not be subject to any sanction
16 for making the report. However, internal procedures to facilitate
17 reporting and apprise supervisors and administrators of reports
18 may be established, except that these procedures shall not be
19 inconsistent with this article. The internal procedures shall not
20 require an employee required to make a report under this article
21 to disclose the employee’s identity to the employer.

22 (h) For the purposes of this section, it is the Legislature’s intent
23 to avoid duplication of information.

24 (i) For purposes of this section only, “employed by a local
25 government agency” includes an employee of an entity under
26 contract with a local government agency to provide medical
27 services.

28 (j) This section shall remain in effect only until January 1, 2025,
29 and as of that date is repealed.

30 SEC. 3. Section 11160 is added to the Penal Code, to read:

31 11160. (a) A health practitioner, as defined in subdivision (a)
32 of Section 11162.5, employed by a health facility, clinic,
33 physician’s office, local or state public health department, local
34 government agency, or a clinic or other type of facility operated
35 by a local or state public health department who, in the health
36 practitioner’s professional capacity or within the scope of the health
37 practitioner’s employment, provides medical services for a physical
38 condition to a patient whom the health practitioner knows or
39 reasonably suspects is a person suffering from any of the following

1 shall immediately make a report in accordance with subdivision
2 (b):

3 (1) A wound or other physical injury inflicted by the person's
4 own act or inflicted by another where the injury is by means of a
5 firearm.

6 (2) A wound or other physical injury resulting from child abuse,
7 pursuant to Section 11165.6.

8 (3) A wound or other physical injury resulting from abuse of
9 an elder or dependent adult, pursuant to Section 15610.07 of the
10 Welfare and Institutions Code.

11 (b) A health practitioner, as defined in subdivision (a) of Section
12 11162.5, employed by a health facility, clinic, physician's office,
13 local or state public health department, local government agency,
14 or a clinic or other type of facility operated by a local or state
15 public health department shall make a report regarding persons
16 described in subdivision (a) to a local law enforcement agency as
17 follows:

18 (1) A report by telephone shall be made immediately or as soon
19 as practically possible.

20 (2) A written report shall be prepared on the standard form
21 developed in compliance with paragraph (4), and adopted by the
22 Office of Emergency Services, or on a form developed and adopted
23 by another state agency that otherwise fulfills the requirements of
24 the standard form. The completed form shall be maintained in the
25 medical record and sent to a local law enforcement agency within
26 two working days of the patient receiving treatment.

27 (3) A local law enforcement agency shall be notified and a
28 written report shall be prepared and sent pursuant to paragraphs
29 (1) and (2) even if the person who suffered the wound or other
30 injury has expired, regardless of whether or not the wound or other
31 injury was a factor contributing to the death, and even if the
32 evidence of the conduct of the perpetrator of the wound or other
33 injury was discovered during an autopsy.

34 (4) The report shall include, but shall not be limited to, the
35 following:

36 (A) The name of the injured person, if known.

37 (B) The injured person's whereabouts.

38 (C) The character and extent of the person's injuries.

39 (D) The identity of any person the injured person alleges
40 inflicted the wound or other injury upon the injured person.

1 (c) If an adult seeking care for injuries related to domestic,
2 sexual, or any nonaccidental violent injury, requests a report be
3 sent to law enforcement, health practitioners shall adhere to the
4 reporting process outlined in paragraph (3) of subdivision (b). The
5 medical documentation of injuries related to domestic, sexual, or
6 any nonaccidental violent injury shall be conducted and made
7 available to the patient for use as outlined in the Health Insurance
8 Portability and Accountability Act.

9 (d) For the purposes of this section, “injury” does not include
10 any psychological or physical condition brought about solely
11 through the voluntary administration of a narcotic or restricted
12 dangerous drug.

13 (e) When two or more persons who are required to report are
14 present and jointly have knowledge of a known or suspected
15 instance of violence that is required to be reported pursuant to this
16 section, and when there is an agreement among these persons to
17 report as a team, the team may select by mutual agreement a
18 member of the team to make a report by telephone and a single
19 written report, as required by subdivision (b). The written report
20 shall be signed by the selected member of the reporting team. Any
21 member who has knowledge that the member designated to report
22 has failed to do so shall thereafter make the report.

23 (f) The reporting duties under this section are individual, except
24 as provided in subdivision (e).

25 (g) A supervisor or administrator shall not impede or inhibit the
26 reporting duties required under this section and a person making
27 a report pursuant to this section shall not be subject to any sanction
28 for making the report. However, internal procedures to facilitate
29 reporting and apprise supervisors and administrators of reports
30 may be established, except that these procedures shall not be
31 inconsistent with this article. The internal procedures shall not
32 require an employee required to make a report under this article
33 to disclose the employee’s identity to the employer.

34 (h) (1) A health practitioner, as defined in subdivision (a) of
35 Section 11162.5, employed by a health facility, clinic, physician’s
36 office, local or state public health department, local government
37 agency, or a clinic or other type of facility operated by a local or
38 state public health department who, in the health practitioner’s
39 professional capacity or within the scope of the health practitioner’s
40 employment, provides medical services to a patient whom the

1 health practitioner knows or reasonably suspects is experiencing
2 any form of domestic violence, as set forth in Section 124250 of
3 the Health and Safety Code, or sexual violence, as set forth in
4 Sections 243.4 and 261, shall, to the degree that it is medically
5 possible for the individual patient, provide brief counseling,
6 education, or other support, and offer a warm handoff or referral
7 to local and national domestic violence or sexual violence advocacy
8 services, as described in Sections 1035.2 and 1037.1 of the
9 Evidence Code, before the end of the patient visit. The health
10 practitioner shall have met the requirements of this subdivision
11 when the brief counseling, education, or other support is provided
12 and warm handoff or referral is offered by a member of the health
13 care team at the health facility.

14 (2) If the health practitioner is providing medical services to
15 the patient in the emergency department of a general acute care
16 hospital, they shall also offer assistance to the patient in accessing
17 a forensic evidentiary exam or reporting to law enforcement, if
18 the patient wants to pursue these options.

19 (i) A health practitioner may offer a warm handoff and referral
20 to other available victim services, including, but not limited to,
21 legal aid, community-based organizations, behavioral health, crime
22 victim compensation, forensic evidentiary exams, trauma recovery
23 centers, family justice centers, and law enforcement to patients
24 who are suspected to have suffered any nonaccidental injury.

25 (j) To the extent possible, health practitioners shall document
26 all nonaccidental violent injuries and incidents of abuse in the
27 medical record. Health practitioners shall follow privacy and
28 confidentiality protocols when documenting violence and abuse
29 to promote the safety of the patient. If documenting abuse in the
30 medical record increases danger for the patient, it may be marked
31 confidential.

32 (k) This section does not limit or override the ability of a health
33 care practitioner to make reports to law enforcement at the patient's
34 request, or as permitted by the federal Health Insurance Portability
35 and Accountability Act of 1996 in Section 164.512(c) of Title 45
36 of the Code of Federal Regulations, which permits disclosures
37 about victims of abuse, neglect, or domestic violence, if the
38 individual agrees, or pursuant to Section 164.512(j) of Title 45 of
39 the Code of Federal Regulations, which permits disclosures to

1 prevent or limit a serious and imminent threat to a person or the
2 public.

3 (l) For the purposes of this section, it is the Legislature’s intent
4 to avoid duplication of information.

5 (m) For purposes of this section only, “employed by a local
6 government agency” includes an employee of an entity under
7 contract with a local government agency to provide medical
8 services.

9 (n) For purposes of this section, the following terms have the
10 following meanings:

11 (1) “Warm handoff” may include, but is not limited to, the health
12 practitioner establishing direct and live connection through a call
13 with a survivor advocate, in-person onsite survivor advocate,
14 in-person on-call survivor advocate, or some other form of
15 teleadvocacy. When a telephone call is not possible, the warm
16 handoff may be completed through an email. The patient may
17 decline the warm handoff.

18 (2) “Referral” may include, but is not limited to, the health
19 practitioner sharing information about how a patient can get in
20 touch with a local or national survivor advocacy organization,
21 information about how the survivor advocacy organization could
22 be helpful for the patient, what the patient could expect when
23 contacting the survivor advocacy organization, or the survivor
24 advocacy organization’s contact information.

25 (o) A health practitioner shall not be civilly or criminally liable
26 for acting in compliance with this section and for any report that
27 is made in good faith and in compliance with this section and all
28 other applicable state and federal laws.

29 (p) This section shall become operative on January 1, 2025.

30 SEC. 4. Section 11161 of the Penal Code is amended to read:

31 11161. Notwithstanding Section 11160, the following shall
32 apply to every physician and surgeon who has under their charge
33 or care any person described in subdivision (a) of Section 11160:

34 (a) The physician and surgeon shall make a report in accordance
35 with subdivision (b) of Section 11160 to a local law enforcement
36 agency.

37 (b) It is recommended that any medical records of a person
38 about whom the physician and surgeon is required to report
39 pursuant to subdivision (a) include the following:

1 (1) Any comments by the injured person regarding past domestic
2 violence, as defined in Section 13700, or regarding the name of
3 any person suspected of inflicting the wound, other physical injury,
4 or assaultive or abusive conduct upon the person.

5 (2) A map of the injured person’s body showing and identifying
6 injuries and bruises at the time of the health care.

7 (3) A copy of the law enforcement reporting form.

8 (c) It is recommended that the physician and surgeon refer the
9 person to local domestic violence services if the person is suffering
10 or suspected of suffering from domestic violence, as defined in
11 Section 13700.

12 (d) This section shall remain in effect only until January 1, 2025,
13 and as of that date is repealed.

14 SEC. 5. Section 11161 is added to the Penal Code, to read:

15 11161. Notwithstanding Section 11160, the following shall
16 apply to every health practitioner who has under their charge or
17 care any person described in subdivision (a) of Section 11160:

18 (a) The health practitioner or member of the care team shall
19 make a report in accordance with subdivision (b) of Section 11160
20 to a local law enforcement agency.

21 (b) It is recommended that any medical records of a person
22 about whom the health practitioner or member of the care team is
23 required to report pursuant to subdivision (a) include the following:

24 (1) Any comments by the injured person regarding past domestic
25 violence, as defined in Section 13700, or regarding the name of
26 any person suspected of inflicting the wound or other physical
27 injury upon the person.

28 (2) A map of the injured person’s body showing and identifying
29 injuries and bruises at the time of the health care.

30 (3) A copy of the law enforcement reporting form.

31 (c) The health practitioner or member of the care team shall
32 offer a referral to local domestic violence services if the person is
33 suffering or suspected of suffering from domestic violence, as
34 defined in Section 13700.

35 (d) This section shall become operative on January 1, 2025.

36 SEC. 6. Section 11163.2 of the Penal Code is amended to read:

37 11163.2. (a) In any court proceeding or administrative hearing,
38 neither the physician-patient privilege nor the psychotherapist
39 privilege applies to the information required to be reported pursuant
40 to this article.

1 (b) The reports required by this article shall be kept confidential
 2 by the health facility, clinic, or physician’s office that submitted
 3 the report, and by local law enforcement agencies, and shall only
 4 be disclosed by local law enforcement agencies to those involved
 5 in the investigation of the report or the enforcement of a criminal
 6 law implicated by a report. In no case shall the person suspected
 7 or accused of inflicting the wound, other injury, or assaultive or
 8 abusive conduct upon the injured person or their attorney be
 9 allowed access to the injured person’s whereabouts. Nothing in
 10 this subdivision is intended to conflict with Section 1054.1 or
 11 1054.2.

12 (c) For the purposes of this article, reports of suspected child
 13 abuse and information contained therein may be disclosed only to
 14 persons or agencies with whom investigations of child abuse are
 15 coordinated under the regulations promulgated under Section
 16 11174.

17 (d) The Board of Prison Terms may subpoena reports that are
 18 not unfounded and reports that concern only the current incidents
 19 upon which parole revocation proceedings are pending against a
 20 parolee.

21 (e) This section shall remain in effect only until January 1, 2025,
 22 and as of that date is repealed.

23 SEC. 7. Section 11163.2 is added to the Penal Code, to read:
 24 11163.2. (a) In any court proceeding or administrative hearing,
 25 neither the physician-patient privilege nor the
 26 psychotherapist-patient privilege applies to the information required
 27 to be reported pursuant to this article.

28 (b) The reports required by this article shall be kept confidential
 29 by the health facility, clinic, or physician’s office that submitted
 30 the report, and by local law enforcement agencies, and shall only
 31 be disclosed by local law enforcement agencies to those involved
 32 in the investigation of the report or the enforcement of a criminal
 33 law implicated by a report. In no case shall the person suspected
 34 or accused of inflicting the wound or other injury upon the injured
 35 person, or the attorney of the suspect or accused, be allowed access
 36 to the injured person’s whereabouts. Nothing in this subdivision
 37 is intended to conflict with Section 1054.1 or 1054.2.

38 (c) For the purposes of this article, reports of suspected child
 39 abuse and information contained therein may be disclosed only to
 40 persons or agencies with whom investigations of child abuse are

1 coordinated under the regulations promulgated under Section
2 11174.

3 (d) The Board of Prison Terms may subpoena reports that are
4 not unfounded and reports that concern only the current incidents
5 upon which parole revocation proceedings are pending against a
6 parolee.

7 (e) This section shall become operative on January 1, 2025.

8 SEC. 8. Section 11163.3 of the Penal Code is amended to read:

9 11163.3. (a) A county may establish an interagency domestic
10 violence death review team to assist local agencies in identifying
11 and reviewing domestic violence deaths and near deaths, including
12 homicides and suicides, and facilitating communication among
13 the various agencies involved in domestic violence cases.
14 Interagency domestic violence death review teams have been used
15 successfully to ensure that incidents of domestic violence and
16 abuse are recognized and that agency involvement is reviewed to
17 develop recommendations for policies and protocols for community
18 prevention and intervention initiatives to reduce and eradicate the
19 incidence of domestic violence.

20 (b) (1) For purposes of this section, “abuse” has the meaning
21 set forth in Section 6203 of the Family Code and “domestic
22 violence” has the meaning set forth in Section 6211 of the Family
23 Code.

24 (2) For purposes of this section, “near death” means the victim
25 suffered a life-threatening injury, as determined by a licensed
26 physician or licensed nurse, as a result of domestic violence.

27 (c) A county may develop a protocol that may be used as a
28 guideline to assist coroners and other persons who perform
29 autopsies on domestic violence victims in the identification of
30 domestic violence, in the determination of whether domestic
31 violence contributed to death or whether domestic violence had
32 occurred prior to death, but was not the actual cause of death, and
33 in the proper written reporting procedures for domestic violence,
34 including the designation of the cause and mode of death.

35 (d) County domestic violence death review teams shall be
36 comprised of, but not limited to, the following:

- 37 (1) Experts in the field of forensic pathology.
- 38 (2) Medical personnel with expertise in domestic violence abuse.
- 39 (3) Coroners and medical examiners.
- 40 (4) Criminologists.

1 (5) District attorneys and city attorneys.

2 (6) Representatives of domestic violence victim service
3 organizations, as defined in subdivision (b) of Section 1037.1 of
4 the Evidence Code.

5 (7) Law enforcement personnel.

6 (8) Representatives of local agencies that are involved with
7 domestic violence abuse reporting.

8 (9) County health department staff who deal with domestic
9 violence victims' health issues.

10 (10) Representatives of local child abuse agencies.

11 (11) Local professional associations of persons described in
12 paragraphs (1) to (10), inclusive.

13 (e) An oral or written communication or a document shared
14 within or produced by a domestic violence death review team
15 related to a domestic violence death review is confidential and not
16 subject to disclosure or discoverable by a third party. An oral or
17 written communication or a document provided by a third party
18 to a domestic violence death review team, or between a third party
19 and a domestic violence death review team, is confidential and not
20 subject to disclosure or discoverable by a third party. This includes
21 a statement provided by a survivor in a near-death case review.
22 Notwithstanding the foregoing, recommendations of a domestic
23 violence death review team upon the completion of a review may
24 be disclosed at the discretion of a majority of the members of the
25 domestic violence death review team.

26 (f) Each organization represented on a domestic violence death
27 review team may share with other members of the team information
28 in its possession concerning the victim who is the subject of the
29 review or any person who was in contact with the victim and any
30 other information deemed by the organization to be pertinent to
31 the review. Any information shared by an organization with other
32 members of a team is confidential. This provision shall permit the
33 disclosure to members of the team of any information deemed
34 confidential, privileged, or prohibited from disclosure by any other
35 statute.

36 (g) Written and oral information may be disclosed to a domestic
37 violence death review team established pursuant to this section.
38 The team may make a request in writing for the information sought
39 and any person with information of the kind described in paragraph

1 (2) may rely on the request in determining whether information
2 may be disclosed to the team.

3 (1) An individual or agency that has information governed by
4 this subdivision shall not be required to disclose information. The
5 intent of this subdivision is to allow the voluntary disclosure of
6 information by the individual or agency that has the information.

7 (2) The following information may be disclosed pursuant to this
8 subdivision:

9 (A) Notwithstanding Section 56.10 of the Civil Code, medical
10 information.

11 (B) Notwithstanding Section 5328 of the Welfare and
12 Institutions Code, mental health information.

13 (C) Notwithstanding Section 15633.5 of the Welfare and
14 Institutions Code, information from elder abuse reports and
15 investigations, except the identity of persons who have made
16 reports, which shall not be disclosed.

17 (D) Notwithstanding Section 11167.5 of the Penal Code,
18 information from child abuse reports and investigations, except
19 the identity of persons who have made reports, which shall not be
20 disclosed.

21 (E) State summary criminal history information, criminal
22 offender record information, and local summary criminal history
23 information, as defined in Sections 11075, 11105, and 13300 of
24 the Penal Code.

25 (F) Notwithstanding Section 11163.2 of the Penal Code,
26 information pertaining to reports by health practitioners of persons
27 suffering from physical injuries inflicted by means of a firearm or
28 of persons suffering physical injury where the injury is a result of
29 assaultive or abusive conduct, and information relating to whether
30 a physician referred the person to local domestic violence services
31 as recommended by Section 11161 of the Penal Code.

32 (G) Notwithstanding Section 827 of the Welfare and Institutions
33 Code, information in any juvenile court proceeding.

34 (H) Information maintained by the Family Court, including
35 information relating to the Family Conciliation Court Law pursuant
36 to Section 1818 of the Family Code, and Mediation of Custody
37 and Visitation Issues pursuant to Section 3177 of the Family Code.

38 (I) Information provided to probation officers in the course of
39 the performance of their duties, including, but not limited to, the

1 duty to prepare reports pursuant to Section 1203.10 of the Penal
2 Code, as well as the information on which these reports are based.

3 (J) Notwithstanding Section 10850 of the Welfare and
4 Institutions Code, records of in-home supportive services, unless
5 disclosure is prohibited by federal law.

6 (3) The disclosure of written and oral information authorized
7 under this subdivision shall apply notwithstanding Sections 2263,
8 2918, 4982, and 6068 of the Business and Professions Code, or
9 the lawyer-client privilege protected by Article 3 (commencing
10 with Section 950) of Chapter 4 of Division 8 of the Evidence Code,
11 the physician-patient privilege protected by Article 6 (commencing
12 with Section 990) of Chapter 4 of Division 8 of the Evidence Code,
13 the psychotherapist-patient privilege protected by Article 7
14 (commencing with Section 1010) of Chapter 4 of Division 8 of
15 the Evidence Code, the sexual assault counselor-victim privilege
16 protected by Article 8.5 (commencing with Section 1035) of
17 Chapter 4 of Division 8 of the Evidence Code, the domestic
18 violence counselor-victim privilege protected by Article 8.7
19 (commencing with Section 1037) of Chapter 4 of Division 8 of
20 the Evidence Code, and the human trafficking caseworker-victim
21 privilege protected by Article 8.8 (commencing with Section 1038)
22 of Chapter 4 of Division 8 of the Evidence Code.

23 (4) In near-death cases, representatives of domestic violence
24 victim service organizations, as defined in subdivision (b) of
25 Section 1037.1 of the Evidence Code, shall obtain an individual's
26 informed consent in accordance with all applicable state and federal
27 confidentiality laws, before disclosing confidential information
28 about that individual to another team member as specified in this
29 section. In death review cases, representatives of domestic violence
30 victim service organizations shall only provide client-specific
31 information in accordance with both state and federal
32 confidentiality requirements.

33 (5) Near-death case reviews shall only occur after any
34 prosecution has concluded.

35 (6) Near-death survivors shall not be compelled to participate
36 in death review team investigations; their participation is voluntary.
37 In cases of death, the victim's family members may be invited to
38 participate, however they shall not be compelled to do so; their
39 participation is voluntary. Members of the death review teams

1 shall be prepared to provide referrals for services to address the
2 unmet needs of survivors and their families when appropriate.

3 (h) This section shall remain in effect only until January 1, 2025,
4 and as of that date is repealed.

5 SEC. 9. Section 11163.3 is added to the Penal Code, to read:

6 11163.3. (a) A county may establish an interagency domestic
7 violence death review team to assist local agencies in identifying
8 and reviewing domestic violence deaths and near deaths, including
9 homicides and suicides, and facilitating communication among
10 the various agencies involved in domestic violence cases.
11 Interagency domestic violence death review teams have been used
12 successfully to ensure that incidents of domestic violence and
13 abuse are recognized and that agency involvement is reviewed to
14 develop recommendations for policies and protocols for community
15 prevention and intervention initiatives to reduce and eradicate the
16 incidence of domestic violence.

17 (b) (1) For purposes of this section, “abuse” has the meaning
18 set forth in Section 6203 of the Family Code and “domestic
19 violence” has the meaning set forth in Section 6211 of the Family
20 Code.

21 (2) For purposes of this section, “near death” means the victim
22 suffered a life-threatening injury, as determined by a licensed
23 physician or licensed nurse, as a result of domestic violence.

24 (c) A county may develop a protocol that may be used as a
25 guideline to assist coroners and other persons who perform
26 autopsies on domestic violence victims in the identification of
27 domestic violence, in the determination of whether domestic
28 violence contributed to death or whether domestic violence had
29 occurred prior to death, but was not the actual cause of death, and
30 in the proper written reporting procedures for domestic violence,
31 including the designation of the cause and mode of death.

32 (d) County domestic violence death review teams shall be
33 comprised of, but not limited to, the following:

- 34 (1) Experts in the field of forensic pathology.
- 35 (2) Medical personnel with expertise in domestic violence abuse.
- 36 (3) Coroners and medical examiners.
- 37 (4) Criminologists.
- 38 (5) District attorneys and city attorneys.

1 (6) Representatives of domestic violence victim service
2 organizations, as defined in subdivision (b) of Section 1037.1 of
3 the Evidence Code.

4 (7) Law enforcement personnel.

5 (8) Representatives of local agencies that are involved with
6 domestic violence abuse reporting.

7 (9) County health department staff who deal with domestic
8 violence victims' health issues.

9 (10) Representatives of local child abuse agencies.

10 (11) Local professional associations of persons described in
11 paragraphs (1) to (10), inclusive.

12 (e) An oral or written communication or a document shared
13 within or produced by a domestic violence death review team
14 related to a domestic violence death review is confidential and not
15 subject to disclosure or discoverable by a third party. An oral or
16 written communication or a document provided by a third party
17 to a domestic violence death review team, or between a third party
18 and a domestic violence death review team, is confidential and not
19 subject to disclosure or discoverable by a third party. This includes
20 a statement provided by a survivor in a near-death case review.
21 Notwithstanding the foregoing, recommendations of a domestic
22 violence death review team upon the completion of a review may
23 be disclosed at the discretion of a majority of the members of the
24 domestic violence death review team.

25 (f) Each organization represented on a domestic violence death
26 review team may share with other members of the team information
27 in its possession concerning the victim who is the subject of the
28 review or any person who was in contact with the victim and any
29 other information deemed by the organization to be pertinent to
30 the review. Any information shared by an organization with other
31 members of a team is confidential. This provision shall permit the
32 disclosure to members of the team of any information deemed
33 confidential, privileged, or prohibited from disclosure by any other
34 statute.

35 (g) Written and oral information may be disclosed to a domestic
36 violence death review team established pursuant to this section.
37 The team may make a request in writing for the information sought
38 and any person with information of the kind described in paragraph
39 (2) may rely on the request in determining whether information
40 may be disclosed to the team.

1 (1) An individual or agency that has information governed by
2 this subdivision shall not be required to disclose information. The
3 intent of this subdivision is to allow the voluntary disclosure of
4 information by the individual or agency that has the information.

5 (2) The following information may be disclosed pursuant to this
6 subdivision:

7 (A) Notwithstanding Section 56.10 of the Civil Code, medical
8 information.

9 (B) Notwithstanding Section 5328 of the Welfare and
10 Institutions Code, mental health information.

11 (C) Notwithstanding Section 15633.5 of the Welfare and
12 Institutions Code, information from elder abuse reports and
13 investigations, except the identity of persons who have made
14 reports, which shall not be disclosed.

15 (D) Notwithstanding Section 11167.5, information from child
16 abuse reports and investigations, except the identity of persons
17 who have made reports, which shall not be disclosed.

18 (E) State summary criminal history information, criminal
19 offender record information, and local summary criminal history
20 information, as defined in Sections 11075, 11105, and 13300.

21 (F) Notwithstanding Section 11163.2, information pertaining
22 to reports by health practitioners of persons suffering from physical
23 injuries inflicted by means of a firearm or abuse, if reported, and
24 information relating to whether a physician referred the person to
25 local domestic violence services, as recommended by Section
26 11161.

27 (G) Notwithstanding Section 827 of the Welfare and Institutions
28 Code, information in any juvenile court proceeding.

29 (H) Information maintained by the Family Court, including
30 information relating to the Family Conciliation Court Law pursuant
31 to Section 1818 of the Family Code, and Mediation of Custody
32 and Visitation Issues pursuant to Section 3177 of the Family Code.

33 (I) Information provided to probation officers in the course of
34 the performance of their duties, including, but not limited to, the
35 duty to prepare reports pursuant to Section 1203.10, as well as the
36 information on which these reports are based.

37 (J) Notwithstanding Section 10850 of the Welfare and
38 Institutions Code, records of in-home supportive services, unless
39 disclosure is prohibited by federal law.

1 (3) The disclosure of written and oral information authorized
 2 under this subdivision shall apply notwithstanding Sections 2263,
 3 2918, 4982, and 6068 of the Business and Professions Code, or
 4 the lawyer-client privilege protected by Article 3 (commencing
 5 with Section 950) of Chapter 4 of Division 8 of the Evidence Code,
 6 the physician-patient privilege protected by Article 6 (commencing
 7 with Section 990) of Chapter 4 of Division 8 of the Evidence Code,
 8 the psychotherapist-patient privilege protected by Article 7
 9 (commencing with Section 1010) of Chapter 4 of Division 8 of
 10 the Evidence Code, the sexual assault counselor-victim privilege
 11 protected by Article 8.5 (commencing with Section 1035) of
 12 Chapter 4 of Division 8 of the Evidence Code, the domestic
 13 violence counselor-victim privilege protected by Article 8.7
 14 (commencing with Section 1037) of Chapter 4 of Division 8 of
 15 the Evidence Code, and the human trafficking caseworker-victim
 16 privilege protected by Article 8.8 (commencing with Section 1038)
 17 of Chapter 4 of Division 8 of the Evidence Code.

18 (4) In near-death cases, representatives of domestic violence
 19 victim service organizations, as defined in subdivision (b) of
 20 Section 1037.1 of the Evidence Code, shall obtain an individual’s
 21 informed consent in accordance with all applicable state and federal
 22 confidentiality laws, before disclosing confidential information
 23 about that individual to another team member as specified in this
 24 section. In death review cases, representatives of domestic violence
 25 victim service organizations shall only provide client-specific
 26 information in accordance with both state and federal
 27 confidentiality requirements.

28 (5) Near-death case reviews shall only occur after any
 29 prosecution has concluded.

30 (6) Near-death survivors shall not be compelled to participate
 31 in death review team investigations; their participation is voluntary.
 32 In cases of death, the victim’s family members may be invited to
 33 participate, however they shall not be compelled to do so; their
 34 participation is voluntary. Members of the death review teams
 35 shall be prepared to provide referrals for services to address the
 36 unmet needs of survivors and their families when appropriate.

37 (h) This section shall become operative on January 1, 2025.

38 SEC. 10. No reimbursement is required by this act pursuant to
 39 Section 6 of Article XIII B of the California Constitution because
 40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

O

B. [AB 1570 \(Low\) Optometry: certification to perform advanced procedures](#)

Status: Introduced 2-17-2023 / 2-year bill.

AUTHOR REASON FOR THE BILL:

According to the author's statement on AB 2236 (2022), which is substantially similar: "Today's optometrists are trained to do much more than they are permitted in California. Optometrists in other states are performing minor surgical procedures, including the use of lasers to treat glaucoma with no adverse events and little to no requirements on training. This bill provides additional training that will be more rigorous than any other state and will ensure that patients will have access to the care they need. In some counties, Medi-Cal patients must wait months to get in with an ophthalmologist. Optometrists already provide 81 percent of the eye care under Medi-Cal. Optometrists are located in almost every county in California. Optometrists are well situated to bridge the provider gap for these eye conditions that are becoming more common as our population ages."

DESCRIPTION OF CURRENT LEGISLATION:

This bill is a reintroduction of AB 2236 (Low, 2022). It would create a new certificate type to allow optometrists to perform advanced laser surgical procedures, excision or drainage of nonrecurrent lesions of the adnexa, injections for treatment of chalazia and to administer anesthesia, and corneal crosslinking procedures. Prior to certification, optometrists would be required to meet specified training, pass an examination, and complete education requirements to be developed by the Board. It would also require optometrists to report any adverse treatment outcomes to the Board and require the Board to review these reports in a timely manner.

BACKGROUND:

Existing law provides that the practice of optometry includes the prevention, diagnosis, treatment, and management of disorders and dysfunctions of the visual system, as well as the provision of habilitative or rehabilitative optometric services, and specifically authorizes an optometrist who is certified to use therapeutic pharmaceutical agents to diagnose and treat the human eye for various enumerated conditions. (BPC § 3041) Existing law also requires an optometrist seeking certification to use therapeutic pharmaceutical agents and diagnose and treat specified conditions to apply for a certificate from the CBO and meet additional education and training requirements. (BPC § 3041.3)

ANALYSIS:

This bill would expand the scope of optometry and enable most licensed optometrists to provide optometric services in California consistent with their education and training. Specifically, the bill would:

- Authorize an optometrist certified to treat glaucoma to obtain certification to perform specified advanced procedures if the optometrist meets certain education, training, examination, and other requirements.

- Require the board to set a fee for the issuance and renewal of the certificate authorizing the use of advanced procedures, which would be deposited in the Optometry Fund.
- Require an optometrist who performs advanced procedures pursuant to these provisions to report certain information to the board, including any adverse treatment outcomes that required a referral to or consultation with another health care provider.
- Require the board to compile a report summarizing the data collected and make the report available on the Board's internet website.

To qualify for the certification proposed by the bill, the Board is required to designate Board-approved courses designed to provide education on the advanced procedures required of an optometrist who wishes to qualify for the certification. An additional requirement under the bill is the completion of a Board-approved training program conducted in California.

The bill also requires optometrists to report to the Board, within three weeks, any adverse treatment outcome that required a referral to or consultation with another health care provider. The bill authorizes this to be reported on a form or via a portal. The bill requires the Board to review these adverse treatment outcome reports in a timely manner, and request additional information, if necessary, impose additional training, or to restrict or revoke a certification.

This bill would have the following impact to the Board:

- A process for reviewing and approving Board-approved courses of at least 32 hours. These courses must include a written examination requirement. It is unclear who must design and administer the exam. The Board would need to amend or create new regulations to approve these courses.
- The bill provides discretion to the Board to waive the requirement that an applicant for certification pass both sections of the Laser and Surgical Procedures Examination of the National Board of Examiners in Optometry. The Board would likely need to develop criteria in regulation for this process.
- Applicants must complete a Board-approved training program conducted in California. The bill specifies that the Board is responsible for determining the percentage of required procedures that must be performed. The Board will need to implement this requirement in regulation.
- The bill requires the performance of procedures completed by an applicant for certification be certified on a form approved by the Board. The Board will have to implement this requirement in regulation.
- The bill requires a second form also be submitted to the Board certifying the optometrist is competent to perform advanced procedure and requires the Board to develop the form. The Board will have to implement this requirement in regulation.

- The bill requires optometrists to monitor and report to the Board, on either a form or an internet-based portal, at the time of license renewal or upon Board request, the number of and types of procedures performed and the diagnosis of the patient at the time the procedure was performed.
 - It is unclear whether the Board must review or audit the information submitted at time of license renewal. The bill further requires within three (3) weeks of the event, any adverse treatment outcomes that required referral or consultation to another provider.
 - The bill requires the Board to timely review these reports and make enforcement decisions to impose additional training or restrict or revoke the certification.
 - Regulations and resources would be required to develop a process to receive and review these reports.
- The bill requires the Board to compile a report on adverse outcomes and publicly post the information on the website. It is unclear if this is a one-time report or an annual requirement.
- The bill requires the Board to develop in regulation the fees for the issuance and renewal of an advanced procedures certificate.

Significant resources and regulatory work would be required to implement the bill as written. It is likely that additional positions would be required to perform the work required by the bill, and a fee would be pursued that could be in the hundreds of dollars to support the workload requirements. The regulatory requirements would likely take at least two (2) years to complete, and it could be beyond 2026 when the first certificates are issued.

These costs and implementation items can likely be mitigated if less requirements are placed on the Board. For example, creating the application form and other forms in statute or including statutory language exempting the forms from the rulemaking process would help with implementation costs and resource requirements. Specifying or designating in law existing training programs that meet the requirements for advanced certification and any examination requirements, instead of requiring the Board to approve training courses, training programs, and determining the percentage of required procedures would reduce resource requirements and implementation timelines. Setting the fee in statute with a floor and including language that permissively allows it to be increased via regulation down the line, would implement the fee upon enactment and allow it to be adjusted in regulation.

UPDATE:

Board staff has met with the California Optometric Association (COA) and exchanged productive ideas on ways to reduce the implementation impact to the Board. Further conversations with COA and others are expected to occur in advance of the bill coming back up for consideration in 2024.

FISCAL:

Significant resources would be needed to implement.

BOARD POSITION:

Support if amended to address implementation concerns.

Action Requested:

This item is for informational purposes only. There is no action required at this time. Staff will continue to monitor the bill and engage with stakeholders.

Attachment 1: Bill text

ASSEMBLY BILL

No. 1570

Introduced by Assembly Member Low

February 17, 2023

An act to amend Section 3041 of, and to add Section 3041.4 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1570, as introduced, Low. Optometry: certification to perform advanced procedures.

Existing law, the Optometry Practice Act, establishes the State Board of Optometry in the Department of Consumer Affairs for the licensure and regulation of the practice of optometry. Existing law makes a violation of the act a misdemeanor. Existing law excludes certain classes of agents from the practice of optometry unless they have an explicit United States Food and Drug Administration-approved indication, as specified.

This bill would add neuromuscular blockers to the list of excluded classes of agents. By expanding the scope of a crime, the bill would impose a state-mandated local program.

Existing law requires an optometrist who holds a therapeutic pharmaceutical agents certification and meets specified requirements to be certified to medically treat authorized glaucomas.

This bill would authorize an optometrist certified to treat glaucoma to obtain certification to perform specified advanced procedures if the optometrist meets certain education, training, examination, and other requirements, as specified. By requiring optometrists, qualified educators, and course administrators to certify or attest specified information relating to advanced procedure competency, thus expanding

the crime of perjury, the bill would impose a state-mandated local program. The bill would require the board to set a fee for the issuance and renewal of the certificate authorizing the use of advanced procedures, which would be deposited in the Optometry Fund. The bill would require an optometrist who performs advanced procedures pursuant to these provisions to report certain information to the board, including any adverse treatment outcomes that required a referral to or consultation with another health care provider. The bill would require the board to compile a report summarizing the data collected and make the report available on the board’s internet website.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3041 of the Business and Professions
2 Code is amended to read:

3 3041. (a) The practice of optometry includes the diagnosis,
4 prevention, treatment, and management of disorders and
5 dysfunctions of the visual system, as authorized by this chapter,
6 as well as the provision of habilitative or rehabilitative optometric
7 services, and is the doing of any or all of the following:

8 (1) The examination of the human eyes and their adnexa,
9 including through the use of all topical and oral diagnostic
10 pharmaceutical agents that are not controlled substances, and the
11 analysis of the human vision system, either subjectively or
12 objectively.

13 (2) The determination of the powers or range of human vision
14 and the accommodative and refractive states of the human eyes,
15 including the scope of their functions and general condition.

16 (3) The prescribing, using, or directing the use of any optical
17 device in connection with ocular exercises, visual training, vision
18 training, or orthoptics.

19 (4) The prescribing, fitting, or adaptation of contact and
20 spectacle lenses to, the human eyes, including lenses that may be

1 classified as drugs or devices by any law of the United States or
2 of this state, and diagnostic or therapeutic contact lenses that
3 incorporate a medication or therapy the optometrist is certified to
4 prescribe or provide.

5 (5) For an optometrist certified pursuant to Section 3041.3,
6 diagnosing and preventing conditions and diseases of the human
7 eyes and their adnexa, and treating nonmalignant conditions and
8 diseases of the anterior segment of the human eyes and their
9 adnexa, including ametropia and presbyopia:

10 (A) Using or prescribing, including for rational off-label
11 purposes, topical and oral prescription and nonprescription
12 therapeutic pharmaceutical agents that are not controlled substances
13 and are not antiglaucoma agents or limited or excluded by
14 subdivision (b). For purposes of this section, “controlled substance”
15 has the same meaning as used in the California Uniform Controlled
16 Substances Act (Division 10 (commencing with Section 11000)
17 of the Health and Safety Code) and the United States Uniform
18 Controlled Substances Act (21 U.S.C. Sec. 801 et seq.).

19 (B) Prescribing the oral analgesic controlled substance codeine
20 with compounds, hydrocodone with compounds, and tramadol as
21 listed in the California Uniform Controlled Substances Act
22 (Division 10 (commencing with Section 11000) of the Health and
23 Safety Code) and the United States Uniform Controlled Substances
24 Act (21 U.S.C. Sec. 801 et seq.), limited to three days, with referral
25 to an ophthalmologist if the pain persists.

26 (C) If also certified under subdivision (c), using or prescribing
27 topical and oral antiglaucoma agents for the medical treatment of
28 all primary open-angle, exfoliation, pigmentary, and
29 steroid-induced glaucomas in persons 18 years of age or over. In
30 the case of steroid-induced glaucoma, the prescriber of the steroid
31 medication shall be promptly notified if the prescriber did not refer
32 the patient to the optometrist for treatment.

33 (D) If also certified under subdivision (d), independent initiation
34 and administration of immunizations for influenza, herpes zoster
35 virus, pneumococcus, and SARS-CoV-2 in compliance with
36 individual Advisory Committee on Immunization Practices (ACIP)
37 vaccine recommendations published by the federal Centers for
38 Disease Control and Prevention (CDC) in persons 18 years of age
39 or over.

- 1 (E) Utilizing the following techniques and instrumentation
2 necessary for the diagnosis of conditions and diseases of the eye
3 and adnexa:
- 4 (i) Laboratory tests or examinations ordered from an outside
5 facility.
- 6 (ii) Laboratory tests or examinations performed in a laboratory
7 with a certificate of waiver under the federal Clinical Laboratory
8 Improvement Amendments of 1988 (CLIA) (*Public Law 100-578*)
9 (42 U.S.C. Sec. ~~263a~~; ~~Public Law 100-578~~, *263a*), which shall
10 also be allowed for:
- 11 (I) Detecting indicators of possible systemic disease that
12 manifests in the eye for the purpose of facilitating appropriate
13 referral to or consultation with a physician and surgeon.
- 14 (II) Detecting the presence of SARS-CoV-2 virus.
- 15 (iii) Skin testing performed in an office to diagnose ocular
16 allergies, limited to the superficial layer of the skin.
- 17 (iv) X-rays ordered from an outside facility.
- 18 (v) Other imaging studies ordered from an outside facility
19 subject to prior consultation with an appropriate physician and
20 surgeon.
- 21 (vi) Other imaging studies performed in an office, including
22 those that utilize laser or ultrasound technology, but excluding
23 those that utilize radiation.
- 24 (F) Performing the following procedures, which are excluded
25 from restrictions imposed on the performance of surgery by
26 paragraph (6) of subdivision (b), unless explicitly indicated:
- 27 (i) Corneal scraping with cultures.
- 28 (ii) Debridement of corneal epithelium not associated with band
29 keratopathy.
- 30 (iii) Mechanical epilation.
- 31 (iv) Collection of blood by skin puncture or venipuncture for
32 laboratory testing authorized by this subdivision.
- 33 (v) Suture removal subject to comanagement requirements in
34 paragraph (7) of subdivision (b).
- 35 (vi) Treatment or removal of sebaceous cysts by expression.
- 36 (vii) Lacrimal punctal occlusion using plugs, or placement of
37 a stent or similar device in a lacrimal canaliculus intended to
38 deliver a medication the optometrist is certified to prescribe or
39 provide.

1 (viii) Foreign body and staining removal from the cornea, eyelid,
2 and conjunctiva with any appropriate instrument. Removal of
3 corneal foreign bodies and any related stain shall, as relevant, be
4 limited to that which is nonperforating, no deeper than the
5 midstroma, and not reasonably anticipated to require surgical
6 repair.

7 (ix) Lacrimal irrigation and dilation in patients 12 years of age
8 or over, excluding probing of the nasolacrimal tract. The board
9 shall certify any optometrist who graduated from an accredited
10 school of optometry before May 1, 2000, to perform this procedure
11 after submitting proof of satisfactory completion of 10 procedures
12 under the supervision of an ophthalmologist as confirmed by the
13 ophthalmologist. Any optometrist who graduated from an
14 accredited school of optometry on or after May 1, 2000, shall be
15 exempt from the certification requirement contained in this
16 paragraph.

17 (x) Administration of oral fluorescein for the purpose of ocular
18 angiography.

19 (xi) Intravenous injection for the purpose of performing ocular
20 angiography at the direction of an ophthalmologist as part of an
21 active treatment plan in a setting where a physician and surgeon
22 is immediately available.

23 (xii) Use of noninvasive devices delivering intense pulsed light
24 therapy or low-level light therapy that do not rely on laser
25 technology, limited to treatment of conditions and diseases of the
26 adnexa.

27 (xiii) Use of an intranasal stimulator in conjunction with
28 treatment of dry eye syndrome.

29 (G) Using additional noninvasive medical devices or technology
30 that:

31 (i) Have received a United States Food and Drug Administration
32 ~~approved~~ *Administration-approved* indication for the diagnosis or
33 treatment of a condition or disease authorized by this chapter. A
34 licensee shall successfully complete any clinical training imposed
35 by a related manufacturer prior to using any of those noninvasive
36 medical devices or technologies.

37 (ii) Have been approved by the board through regulation for the
38 rational treatment of a condition or disease authorized by this
39 chapter. Any regulation under this paragraph shall require a
40 licensee to successfully complete an appropriate amount of clinical

1 training to qualify to use each noninvasive medical device or
2 technology approved by the board pursuant to this paragraph.

3 (b) Exceptions or limitations to the provisions of subdivision
4 (a) are as follows:

5 (1) Treatment of the following is excluded from the practice of
6 optometry in a patient under 18 years of age, unless explicitly
7 allowed otherwise:

8 (A) Anterior segment inflammation, which shall not exclude
9 treatment of:

10 (i) The conjunctiva.

11 (ii) Nonmalignant ocular surface disease, including dry eye
12 syndrome.

13 (iii) Contact lens-related inflammation of the cornea.

14 (iv) An infection of the cornea.

15 (B) Conditions or diseases of the sclera.

16 (2) Use of any oral prescription steroid anti-inflammatory
17 medication for a patient under 18 years of age shall be done
18 pursuant to a documented, timely consultation with an appropriate
19 physician and surgeon.

20 (3) Use of any nonantibiotic oral prescription medication for a
21 patient under five years of age shall be done pursuant to a
22 documented, prior consultation with an appropriate physician and
23 surgeon.

24 (4) The following classes of agents are excluded from the
25 practice of optometry unless they have an explicit United States
26 Food and Drug Administration-approved indication for treatment
27 of a condition or disease authorized under this section:

28 (A) Antiamoebics.

29 (B) Antineoplastics.

30 (C) Coagulation modulators.

31 (D) Hormone modulators.

32 (E) Immunomodulators.

33 (F) *Neuromuscular blockers*.

34 (5) The following are excluded from authorization under
35 subparagraph (G) of paragraph (5) of subdivision (a):

36 (A) A laboratory test or imaging study.

37 (B) Any noninvasive device or technology that constitutes
38 surgery under paragraph (6).

39 (6) Performing surgery is excluded from the practice of
40 optometry. "Surgery" means any act in which human tissue is cut,

1 altered, or otherwise infiltrated by any means. It does not mean an
2 act that solely involves the administration or prescribing of a topical
3 or oral therapeutic pharmaceutical.

4 (7) (A) Treatment with topical and oral medications authorized
5 in subdivision (a) related to an ocular surgery shall be comanaged
6 with the ophthalmologist that performed the surgery, or another
7 ophthalmologist designated by that surgeon, during the customary
8 preoperative and postoperative period for the procedure. For
9 purposes of this subparagraph, this may involve treatment of ocular
10 inflammation in a patient under 18 years of age.

11 (B) Where published, the postoperative period shall be the
12 “global” period established by the federal Centers for Medicare
13 and Medicaid Services, or, if not published, a reasonable period
14 not to exceed 90 days.

15 (C) Such comanaged treatment may include addressing
16 agreed-upon complications of the surgical procedure occurring in
17 any ocular or adnexal structure with topical and oral medications
18 authorized in subdivision (a). For patients under 18 years of age,
19 this subparagraph shall not apply unless the patient’s primary care
20 provider agrees to allowing comanagement of complications.

21 (c) An optometrist certified pursuant to Section 3041.3 shall be
22 certified to medically treat authorized glaucomas under this chapter
23 after meeting the following requirements:

24 (1) For licensees who graduated from an accredited school of
25 optometry on or after May 1, 2008, submission of proof of
26 graduation from that institution.

27 (2) For licensees who were certified to treat glaucoma under
28 this section before January 1, 2009, submission of proof of
29 completion of that certification program.

30 (3) For licensees who completed a didactic course of not less
31 than 24 hours in the diagnosis, pharmacological, and other
32 treatment and management of glaucoma, submission of proof of
33 satisfactory completion of the case management requirements for
34 certification established by the board.

35 (4) For licensees who graduated from an accredited school of
36 optometry on or before May 1, 2008, and who are not described
37 in paragraph (2) or (3), submission of proof of satisfactory
38 completion of the requirements for certification established by the
39 board under Chapter 352 of the Statutes of 2008.

1 (d) An optometrist certified pursuant to Section 3041.3 shall be
2 certified to administer authorized immunizations, as described in
3 subparagraph (D) of paragraph (5) of subdivision (a), after the
4 optometrist meets all of the following requirements:

5 (1) Completes an immunization training program endorsed by
6 the federal Centers for Disease Control and Prevention (CDC) or
7 the Accreditation Council for Pharmacy Education that, at a
8 minimum, includes hands-on injection technique, clinical
9 evaluation of indications and contraindications of vaccines, and
10 the recognition and treatment of emergency reactions to vaccines,
11 and maintains that training.

12 (2) Is certified in basic life support.

13 (3) Complies with all state and federal recordkeeping and
14 reporting requirements, including providing documentation to the
15 patient's primary care provider and entering information in the
16 appropriate immunization registry designated by the immunization
17 branch of the State Department of Public Health.

18 (4) Applies for an immunization certificate in accordance with
19 Section 3041.5.

20 (e) Other than for prescription ophthalmic devices described in
21 subdivision (b) of Section 2541, any dispensing of a therapeutic
22 pharmaceutical agent by an optometrist shall be without charge.

23 (f) An optometrist licensed under this chapter is subject to the
24 provisions of Section 2290.5 for purposes of practicing telehealth.

25 (g) For the purposes of this chapter, all of the following
26 definitions shall apply:

27 (1) "Adnexa" means the eyelids and muscles within the eyelids,
28 the lacrimal system, and the skin extending from the eyebrows
29 inferiorly, bounded by the medial, lateral, and inferior orbital rims,
30 excluding the intraorbital extraocular muscles and orbital contents.

31 (2) "Anterior segment" means the portion of the eye anterior to
32 the vitreous humor, including its overlying soft tissue coats.

33 (3) "Ophthalmologist" means a physician and surgeon, licensed
34 under Chapter 5 (commencing with Section 2000) of Division 2
35 of the Business and Professions Code, specializing in treating eye
36 disease.

37 (4) "Physician and surgeon" means a physician and surgeon
38 licensed under Chapter 5 (commencing with Section 2000) of
39 Division 2 of the Business and Professions Code.

1 (5) "Prevention" means use or prescription of an agent or
2 noninvasive device or technology for the purpose of inhibiting the
3 development of an authorized condition or disease.

4 (6) "Treatment" means use of or prescription of an agent or
5 noninvasive device or technology to alter the course of an
6 authorized condition or disease once it is present.

7 (h) In an emergency, an optometrist shall stabilize, if possible,
8 and immediately refer any patient who has an acute attack of angle
9 closure to an ophthalmologist.

10 SEC. 2. Section 3041.4 is added to the Business and Professions
11 Code, to read:

12 3041.4. (a) An optometrist certified to treat glaucoma pursuant
13 to subdivision (c) of Section 3041 shall be certified to perform the
14 following set of advanced procedures after meeting the
15 requirements in subdivision (b) after graduating from an accredited
16 school of optometry:

17 (1) Laser trabeculoplasty.

18 (2) Laser peripheral iridotomy for the prophylactic treatment
19 of a clinically significant narrow drainage angle of the anterior
20 chamber of the eye.

21 (3) Laser posterior capsulotomy after cataract surgery.

22 (4) Excision or drainage of nonrecurrent lesions of the adnexa
23 evaluated consistent with the standard of care by the optometrist
24 to be noncancerous, not involving the eyelid margin, lacrimal
25 supply, or drainage systems, no deeper than the orbicularis muscle,
26 excepting chalazia, and smaller than five millimeters in diameter.
27 Tissue excised that is not fully necrotic shall be submitted for
28 surgical pathological analysis.

29 (5) Closure of a wound resulting from a procedure described in
30 paragraph (4).

31 (6) Injections for the treatment of chalazia and to administer
32 local anesthesia required to perform procedures delineated in
33 paragraph (4).

34 (7) Corneal crosslinking procedure, or the use of medication
35 and ultraviolet light to make the tissues of the cornea stronger.

36 (b) An optometrist shall satisfy the requirements specified in
37 paragraphs (1) and (2) to perform the advanced procedures
38 specified in subdivision (a).

39 (1) Within two years prior to beginning the requirements in
40 paragraph (2), an optometrist shall satisfy both of the following:

1 (A) Complete a California State Board of Optometry-approved
2 course of at least 32 hours that is designed to provide education
3 on the advanced procedures delineated in subdivision (a), including,
4 but not limited to, medical decisionmaking that includes cases that
5 would be poor surgical candidates, an overview and case
6 presentations of known complications, practical experience
7 performing the procedures, including a detailed assessment of the
8 optometrist's technique, and a written examination for which the
9 optometrist achieves a passing score.

10 (B) Pass both sections of the Laser and Surgical Procedures
11 Examination of the National Board of Examiners in Optometry,
12 or, in the event this examination is no longer offered, its equivalent,
13 as determined by the California State Board of Optometry. At the
14 California State Board of Optometry's discretion, the requirement
15 to pass the Laser and Surgical Procedures Examination may be
16 waived if an optometrist has successfully passed both sections of
17 the examination previously.

18 (2) Within three years, complete a California State Board of
19 Optometry-approved training program conducted in California,
20 including the performance of all required procedures that shall
21 involve sufficient direct experience with live human patients to
22 permit certification of competency, by an accredited California
23 school of optometry that shall contain the following:

24 (A) Hands-on instruction on no less than the following number
25 of simulated eyes before performing the related procedure on live
26 human patients:

27 (i) Five for each laser procedure set forth in clauses (i), (ii), and
28 (iii) of subparagraph (B).

29 (ii) Five to learn the skills to perform excision and drainage
30 procedures and injections authorized by this section.

31 (iii) Five to learn the skills related to corneal crosslinking.

32 (B) The performance of at least 43 complete surgical procedures
33 on live human patients, as follows:

34 (i) Eight laser trabeculoplasties.

35 (ii) Eight laser posterior capsulotomies.

36 (iii) Five laser peripheral iridotomies.

37 (iv) Five chalazion excisions.

38 (v) Four chalazion intralesional injections.

39 (vi) Seven excisions of an authorized lesion of greater than or
40 equal to two millimeters in size.

1 (vii) Five excisions or drainages of other authorized lesions.
2 (viii) One surgical corneal crosslinking involving removal of
3 epithelium.

4 (C) (i) If necessary to certify the competence of the optometrist,
5 the program shall require sufficient additional experience to that
6 specified in subparagraph (B) performing complete procedures on
7 live human patients.

8 (ii) One time per optometrist seeking initial certification under
9 this section, a procedure required by clause (i) to (vii), inclusive,
10 of subparagraph (B) may be substituted for a different procedure
11 required by clause (i) to (vii), inclusive, of subparagraph (B) to
12 achieve the total number of complete surgical procedures required
13 by subparagraph (B) if the procedures impart similar skills. The
14 course administrator shall determine if the procedures impart
15 similar skills.

16 (D) The training required by this section shall include at least
17 a certain percent of the required procedures in subparagraph (B)
18 performed in a cohort model where, for each patient and under the
19 direct in-person supervision of a qualified educator, each member
20 of the cohort independently assesses the patient, develops a
21 treatment plan, evaluates the clinical outcome posttreatment,
22 develops a plan to address any adverse or unintended clinical
23 outcomes, and discusses and defends medical decisionmaking.
24 The California State Board of Optometry-approved training
25 program shall be responsible for determining the percentage of
26 the required procedures in subparagraph (B).

27 (E) Any procedures not completed under the terms of
28 subparagraph (D) may be completed under a preceptorship model
29 where, for each patient and under the direct in-person supervision
30 of a qualified educator, the optometrist independently assesses the
31 patient, develops a treatment plan, evaluates the clinical outcome
32 posttreatment, develops a plan to address any adverse or unintended
33 clinical outcomes, and discusses and defends medical
34 decisionmaking.

35 (F) The qualified educator shall certify the competent
36 performance of procedures completed pursuant to subparagraphs
37 (D) and (E) on a form approved by the California State Board of
38 Optometry.

39 (G) Upon the optometrist's completion of all certification
40 requirements, the course administrator, who shall be a qualified

1 educator for all the procedures authorized by subdivision (a), on
2 behalf of the program and relying on the certifications of
3 procedures by qualified educators during the program, shall certify
4 that the optometrist is competent to perform advanced procedures
5 using a form approved by the California State Board of Optometry.

6 (c) The optometrist shall make a timely referral of a patient and
7 all related records to an ophthalmologist or, in an urgent or
8 emergent situation and an ophthalmologist is unavailable, a
9 qualified center to provide urgent or emergent care, after stabilizing
10 the patient to the degree possible if either of the following occur:

11 (1) The optometrist makes an intraoperative determination that
12 a procedure being performed does not meet a specified criterion
13 required by this section.

14 (2) The optometrist receives a pathology report for a lesion
15 indicating the possibility of malignancy.

16 (d) This section does not authorize performing blepharoplasty
17 or any cosmetic surgery procedure, including injections, with the
18 exception of removing acrochordons that meet other qualifying
19 criteria.

20 (e) An optometrist shall monitor and report the following
21 information to the California State Board of Optometry on a form
22 provided by the California State Board of Optometry or using an
23 internet-based portal:

24 (1) At the time of license renewal or in response to a request of
25 the California State Board of Optometry, the number and types of
26 procedures authorized by this section that the optometrist
27 performed and the diagnosis of the patient at the time the procedure
28 was performed.

29 (2) Within three weeks of the event, any adverse treatment
30 outcomes that required a referral to or consultation with another
31 health care provider.

32 (f) (1) With each subsequent license renewal after being
33 certified to perform the advanced procedures delineated in
34 subdivision (a), the optometrist shall attest that they have performed
35 each of the delineated procedures in subparagraph (B) of paragraph
36 (2) of subdivision (b) during the period of licensure preceding the
37 renewal.

38 (2) If the optometrist fails to attest to performance of any of the
39 advanced procedures specified in paragraph (1), the optometrist's
40 advanced procedure certification shall no longer authorize the

1 optometrist to perform that procedure until, with regard to that
2 procedure, the optometrist performs at least the number of the
3 specific advanced procedures required to be performed in
4 subparagraph (B) of paragraph (2) of subdivision (b), as applicable,
5 under the supervision of a qualified educator through either the
6 cohort or preceptorship model outlined in subparagraphs (D) and
7 (E) of paragraph (2) of subdivision (b), subject to subparagraph
8 (F) of paragraph (2) of subdivision (b), and the qualified educator
9 certifies that the optometrist is competent to perform the specific
10 advanced procedures. The qualified educator may require the
11 optometrist to perform additional procedures if necessary to certify
12 the competence of the optometrist. The optometrist shall provide
13 the certification to the California State Board of Optometry.

14 (g) The California State Board of Optometry shall review
15 adverse treatment outcome reports required under subdivision (e)
16 in a timely manner, requesting additional information as necessary
17 to make decisions regarding the need to impose additional training,
18 or to restrict or revoke certifications based on its patient safety
19 authority. The California State Board of Optometry shall compile
20 a report summarizing the data collected pursuant to subdivision
21 (e), including, but not limited to, percentage of adverse outcome
22 distributions by unidentified licensee and California State Board
23 of Optometry interventions, and shall make the report available
24 on its internet website.

25 (h) The California State Board of Optometry may adopt
26 regulations to implement this section.

27 (i) The California State Board of Optometry, by regulation, shall
28 set the fee for issuance and renewal of a certificate authorizing the
29 use of advanced procedures at an amount no higher than the
30 reasonable cost of regulating optometrists certified to perform
31 advanced procedures pursuant to this section.

32 (j) For the purposes of this section, the following definitions
33 apply:

34 (1) "Complete procedure" means all reasonably included steps
35 to perform a surgical procedure, including, but not limited to,
36 preoperative care, informed consent, all steps of the actual
37 procedure, required reporting and review of any specimen
38 submitted for pathologic review, and postoperative care. Multiple
39 surgical procedures performed on a patient during a surgical session
40 shall be considered a single surgical procedure.

1 (2) “Qualified educator” means a person nominated by an
2 accredited California school of optometry as a person who is
3 believed to be a suitable instructor, is subject to the regulatory
4 authority of that person’s licensing board in carrying out required
5 responsibilities under this section, and is either of the following:

6 (A) A California-licensed optometrist in good standing certified
7 to perform advanced procedures approved by the California State
8 Board of Optometry who has been continuously certified for three
9 years and has performed at least 10 of the specific advanced
10 procedures for which they will serve as a qualified educator during
11 the preceding two years.

12 (B) A California-licensed physician and surgeon who is
13 board-certified in ophthalmology, in good standing with the
14 Medical Board of California, and in active surgical practice an
15 average of at least 10 hours per week.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

C. [AB 1707 \(Pachecho\) Health professionals and facilities: adverse actions based on another state's law](#)

Status: Amended 7-10-2023 / Senate Committee on Appropriations

DESCRIPTION OF CURRENT LEGISLATION:

This bill would prohibit CSBO and all healing arts boards under the Department of Consumer Affairs from denying an application for a license or imposing discipline upon a licensee solely on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that is based on the application of another state's law that interferes with a person's right to receive care that would be lawful in California. The bill would similarly prohibit a health facility from denying staff privileges to, removing from medical staff, or restricting the staff privileges of a licensed health professional solely on the basis of such a civil judgment, criminal conviction, or disciplinary action imposed by another state. The bill would exempt a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state.

BACKGROUND:

Existing law requires all applicants for licensure as an optometrist or optician to be fingerprinted and successfully pass a criminal background check. General speaking, a criminal conviction or disciplinary action is not automatically disqualifying depending on the conviction or discipline and other factors. But past criminal history or disciplinary action could be prohibitive to receiving a license or may lead to conditions of licensure being imposed, depending on the circumstances. State actions around issues such as reproductive rights and gender affirming care have raised new threats for licensed healing arts practitioners and this bill would aim to protect those professionals from having their professional license, or application for professional license, at risk for performing actions that would be lawful if performed in California.

ANALYSIS:

Practicing healing arts professionals in some states have their professional licenses at risk due to changes in state law around issues of reproductive rights and gender affirming care. This bill could impact applicants for California licensure who held a license in another state that was subject to a disciplinary action based on activities in that state that would be legal if performed in California. This bill would prohibit those matters from being used for purposes of denying licensure or imposing discipline upon a licensee in California. However, the bill provides that this exemption does not apply to civil judgments, criminal convictions, or disciplinary actions imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of California.

The impact of this bill is largely minimal to the practice of optometry given its distance from most of these issues. As part of the licensing process, any applicant for which a background check came back with criminal convictions would be subject to an enforcement review and determination as to whether licensure was suitable. The same would be true for licensees for whom the board receives DOJ subsequent arrest notifications for.

UPDATE:

The 7-10-2023 amendments add coauthors and make nonsubstantive changes.

FISCAL:

None

BOARD POSITION:

Support.

Action Requested:

This item is for informational purposes only. There is no action required at this time. Staff will continue to monitor the bill.

Attachment 1: Senate Judiciary Committee Analysis

Attachment 2: Bill text

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1707 (Pacheco)
Version: April 12, 2023
Hearing Date: July 6, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Health professionals and facilities: adverse actions based on another state's law

DIGEST

This bill prohibits a healing arts board from disciplining, or a health care facility from denying staff privileges to, a licensed health care professional as a result of an action in another state that is based on the application of a law in that state that interferes with a person's right to receive sensitive services lawful in California. The bill exempts from these provisions a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar action exists under the laws of this state.

EXECUTIVE SUMMARY

Since the 1973 holding in *Roe v. Wade*, the U.S. Supreme Court has continuously held that it is a constitutional right to access abortion before fetal viability. However, on June 24, 2022 the Court voted 6-3 to overturn the holding in *Roe* and found that there is no federal constitutional right to an abortion. As a result of the *Dobbs* decision, people in roughly half the country may lose access to abortion services or have them severely restricted. In addition, a growing number of states have been passing laws putting residents who seek essential gender-affirming care at risk of being prosecuted. States are attempting to classify the provision and seeking of gender-affirming health care as a crime warranting prison time and are threatening parents with criminal penalties if they attempt to travel to another state in order to secure life-saving gender-affirming care for their child. This bill seeks to address this issue by ensuring that no adverse licensing actions can be taken against a California health care professional as a result of an adverse action taken by another state based on that state's law prohibiting care that is legal to receive in this state.

This measure is sponsored by Planned Parenthood Affiliates of California and is supported by organizations representing medical providers, reproductive rights, the Lieutenant Governor Eleni Kounalakis, and the City Attorney of San Francisco David

Chiu. There is no known opposition. The bill passed the Senate Business, Professions and Economic Development Committee on a vote of 9 to 1.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Provides that full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state, and that the United States Congress may by general laws prescribe the manner in which such acts, records, and proceedings must be proved, and the effect thereof. (U.S. Const. art. IV, sec. 1.)

Provides that records and judicial proceedings of any court of any such state, territory, or possession, or copies thereof, must be proved or admitted in other courts within the United States and its territories and possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form, and that such acts, records, and judicial proceedings or copies thereof, so authenticated, have the same full faith and credit in every court within the United States and its territories and possessions as they have by law or usage in the courts of such state, territory or possession from which they are taken. (28 U.S.C. § 1738.)

Existing state law:

- 1) Prohibits the state from denying or interfering with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. Specifies that this provision is intended to further the constitutional right to privacy guaranteed by Section 1 of Article I of the California Constitution, and the constitutional right to not be denied equal protection guaranteed by Section 7 of Article I of the California Constitution, and that nothing herein narrows or limits the right to privacy or equal protection. (Cal. Const., art. I, § 1.1.)
- 2) Provides that all people are by nature free and independent and have inalienable rights including, among others, the right to privacy. (Cal. Const., art. I, § 1.)
- 3) Provides that a person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws. (Cal. Const., art. I, § 7.)
- 4) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.)

- 5) Establishes the Reproductive Privacy Act and provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions and, therefore, it is the public policy of the State of California that:
 - a) every individual has the fundamental right to choose or refuse birth control;
 - b) every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified limited exceptions; and
 - c) the state shall not deny or interfere with a person's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted (Health & Saf. Code § 123460 et. seq., § 123462.)
- 6) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Safe. Code § 123466.)
- 7) Provides that a law of another state that authorizes a person to bring a civil action against a person or entity who does any of the following is contrary to the public policy of this state:
 - a) receives or seeks an abortion;
 - b) performs or induces an abortion;
 - c) knowingly engages in conduct that aids or abets the performance or inducement of an abortion; or
 - d) attempts or intends to engage in the conduct described in a) through c). (Health & Safe. Code § 123467.5(a).)
- 8) Provides various safeguards against the enforcement of other states' laws that purport to penalize individuals from obtaining gender-affirming care that is legal in California. (Civ. Code § 56.109, Code of Civ. Proc. § 2029.300 & 2029.350, Fam. Code § 3421, 3424, 3427, 3428, and 3453.5.)
- 9) Requires specified health arts boards within the Department of Consumer Affairs, including the Medical Board of California, to create a central file individual historical record for each licensee under a given board's jurisdiction with respect to certain information, including disciplinary information reported, as specified. (Bus. & Prof. Code § 800(a).)
- 10) Requires the Medical Board of California, the Osteopathic Medical Board to disclose to an inquiring member of the public information regarding any enforcement actions taken against a licensee, including a former licensee, by the board or by another state or jurisdiction, including all of the following:
 - a) temporary restraining orders issued;
 - b) interim suspension orders issued;

- c) revocations, suspensions, probations, or limitations on practice ordered by the board, including those made part of a probationary order or stipulated agreement;
 - d) public letters of reprimand issued; and
 - e) infractions, citations, or fines imposed. (Bus. & Prof. Code § 803.1(a).)
- 11) Requires a physician and surgeon, osteopathic physician and surgeon, a doctor of podiatric medicine, and a physician assistant to report either of the following to the entity that issued their license:
- a) the bringing of an indictment or information charging a felony against the licensee; or
 - b) the conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor. (Bus. & Prof. Code § 802.1.)
- 12) Defines “sensitive services” to mean all health care services related to mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence, and includes services described in specified provisions of the Family Code and Health and Safety Code, obtained by a patient at or above the minimum age specified for consenting to the service. (Civ. Code § 56.06(p).)

This bill:

- 1) Prohibits a health facility licensed in California from denying staff privileges to, removing from medical staff, or restricting the staff privileges of, a person licensed by a healing arts board in this state on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state if that judgment, conviction, or disciplinary action is based on the application of another state’s law that interferes with a person’s right to receive sensitive services that would be lawful if provided in California.
- 2) Provides that an application for licensure as a health professional or facility, as specified, is not to be denied, and no license is to be suspended, revoked, or otherwise limited, solely on the basis of a civil judgment, criminal conviction, or disciplinary action imposed by another state if that judgment, conviction, or disciplinary action is based solely on the application of another state’s law that interferes with a person’s right to receive care that would be lawful if provided in this state.
- 3) Provides that the protections in 1) and 2) do not apply to a civil judgment, criminal conviction, or disciplinary action imposed in another state for which a similar claim, charge, or action would exist against the licensee under the laws of this state.

- 4) Defines sensitive services to have the same meaning as the existing definition found in Section 56.06 of the Civil Code.

COMMENTS

1. Stated need for the bill

The author writes:

AB 1707 aims to protect California's reproductive health care providers by ensuring their ability to provide care is not at risk if they faced disciplinary action in another state related to reproductive health care services. California's health care providers are becoming increasingly essential for providing care to residents in other states and it is critical to ensure that providers in California, abiding by California laws, are protected from adverse actions based on another state's hostile law. To ensure that providers in California are protected from hostile laws in these other states – we must do everything we can to strengthen California law to protect provider licensure, facility licensure, and providers' ability to practice. The intent of this bill is to shore up protections so that care in California can remain consistent and ensure that California lives up to its declaration as a reproductive freedom state.

2. Reproductive rights

Roe v. Wade was the landmark U.S. Supreme Court decision that held the implied constitutional right to privacy extended to a person's decision whether to terminate a pregnancy, while allowing that some state regulation of abortion access could be permissible. ((1973) 410 U.S. 113; overruled by *Dobbs v. Jackson Women's Health* (2022) 142 S. Ct. 2228.) *Roe* has been one of the most debated U.S. Supreme Court decisions and its application and validity have been challenged numerous times, but its fundamental holding had continuously been upheld by the Court until June 2022. On June 24, 2022 the Court published its official opinion in *Dobbs* and voted 6-3 to overturn the holding in *Roe*.¹ The case involved a Mississippi law enacted in 2018 that banned most abortions after the first 15 weeks of pregnancy, which is before what is generally accepted as the period of viability. (see Miss. Code Ann. §41-41-191.) The majority opinion upholds the Mississippi law finding that, contrary to almost 50 years of precedent, there is no fundamental constitutional right to have an abortion. The opinion further provides that states should be allowed to decide how to regulate abortion and that a strong presumption of validity should be afforded to those state laws.²

¹ *Dobbs v. Jackson Women's Health* (2022) 597 U.S. _ (142 S. Ct. 2228) at p. 5, available at https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf.

² *Id.* at 77.

a. *Out-of-state statutes denying or chilling access to reproductive health care*

Texas perniciously enacted a law with an enforcement scheme that was designed to avoid judicial scrutiny of the law's clearly unconstitutional, at the time of enactment, provisions under the holding of *Roe* and *Casey*.³ Texas abortion providers filed a case in an attempt to stop the law before it took effect seeking pre-enforcement review of the law and an injunction barring its enforcement. On certiorari from the Fifth Circuit, the U.S. Supreme Court held that a pre-enforcement challenge to the law under the U.S. Constitution may only proceed against certain defendants but not others.⁴ The court did not address whether the law was constitutionally sound. However, the court's ruling essentially insulated the private enforcement of the law from challenge, allowing the law to remain in effect. The inability to challenge the law pre-enforcement allows it to stand as an ominous threat to all persons seeking or performing an abortion. This Texas law may very well be found to be constitutional under the holding of *Dobbs*.

The Texas law prohibits a physician from knowingly performing or inducing an abortion on a pregnant woman if the physician detected a fetal heartbeat for the unborn child, as specified, or failed to perform a test to detect a fetal heartbeat. (Tex. Health & Safety Code § 171.201 et seq. (enacted through Texas Senate Bill 8).) This law essentially places a near-categorical ban on abortions beginning six weeks after a person's last menstrual period, which is before many people even realize they are pregnant and occurs months before fetal viability.⁵ The Texas law has far reaching implications, not only for the person receiving an abortion or performing abortion services. This is evidenced in the provisions that prohibit anyone from "aiding and abetting" a person in obtaining an abortion, which could implicate and impose significant civil liability upon a person providing transportation to or from an abortion clinic, a person donating to a fund to assist individuals receiving an abortion, or even a person who simply discusses getting an abortion with someone. (Tex. Health & Safety Code § 171.208.) The Texas law provides that any person, other than an officer or employee of a state or local governmental entity in Texas, may bring a civil action to enforce its provisions, which includes liability of \$10,000 plus costs and fees if a plaintiff prevails while a defendant is prohibited from recovering their own costs and fees if they prevail. (*Id.* at § 171.201(b) & (i).) Other states have already followed suit.

Additionally, many abortion bans target providers of abortions through criminal and administrative penalties, in addition to civil liability. For example, in Texas it is a felony

³ See *Whole Woman's Health v. Jackson* (2021) 142 S. Ct. 522, at 543 (conc. opn. Roberts, C.J., Breyer, Sotomayor, & Kagan) that states Texas has passed a law that is contrary to *Roe* and *Casey* because it has "the effect of denying the exercise of what we have held is a right protected under the Federal Constitution" and was "designed to shield its unconstitutional law from judicial review." (footnote omitted).

⁴ *Whole Woman's Health v. Jackson* (2021) 142 S. Ct. 522, 530.

⁵ See *Whole Woman's Health v. Jackson* (2021) 141 S. Ct. 2494, at 2498 (dis. opn. Sotomayor, Breyer, & Kagan).

to perform an abortion, unless it is needed to save the life of the patient, and provides for civil liability and licensure revocation. (Tex. Health & Safety Code § 171.201 et. seq.) In six states with abortion bans – Arkansas, Georgia, Idaho, Missouri, North Dakota, and Tennessee – prosecutors can criminally prosecute health care professionals for performing abortions and providers are only allowed to offer evidence that the procedure was necessary to save the patient until after they are charged.⁶ Oklahoma made performing an abortion a felony, with a punishment of up to 10 years in prison and a fine of up to \$100,000 in August of 2022.⁷ This year, the Governor of Idaho signed a bill into law that makes it illegal for an adult to help a minor get an abortion without parental consent. The law essentially bans adults from obtaining abortion pills for a minor or “recruiting, harboring or transporting the pregnant minor” without parental consent.⁸ If convicted, a person could face two to five years in prison and may be sued by the minor’s parent. These laws put providers in extremely difficult positions where they have to make legal and ethical judgments about treating a patient whose health or life may be in jeopardy while facing the very real potential of being held criminally or civilly liable or having their medical license threatened.

b. California is a Reproductive Freedom State

The California Supreme Court held in 1969 that the state constitution’s implied right to privacy extends to an individual’s decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.) This was the first time an individual’s right to abortion was upheld in a court. In 1972 the California voters passed a constitutional amendment that explicitly provided for the right to privacy in the state constitution. (Prop. 11, Nov. 7, 1972 gen. elec.) California statutory law provides, under the Reproductive Privacy Act, that the Legislature finds and declares every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy; therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control, and every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion. (Health & Saf. Code § 123462.) In 2019 Governor Newsom issued a proclamation reaffirming California’s commitment to making reproductive freedom a fundamental right in response to the numerous attacks on reproductive rights across

⁶ Christine Vestal, *Some Abortion Bans Put Patients, Doctors at Risk in Emergencies*, Pew Trusts (Sept. 1, 2022), available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/09/01/some-abortion-bans-put-patients-doctors-at-risk-in-emergencies>.

⁷ Associated Press, *Oklahoma governor signs bill making it felony to perform an abortion*, NBC News (Apr. 12, 2022), available at <https://www.nbcnews.com/news/us-news/oklahoma-governor-signs-bill-making-felony-perform-abortion-rcna24071>.

⁸ Associated Press, *Idaho governor signs law banning adults from helping minors get abortions*, The Guardian (April 6, 2023), available at <https://www.theguardian.com/us-news/2023/apr/06/idaho-abortion-trafficking-law-governor>.

the nation.⁹ In September 2021, more than 40 organizations came together to form the California Future Abortion Council (CA FAB) to identify barriers to accessing abortion services and to recommend policy proposals to support equitable and affordable access for not only Californians but all who seek care in the state.

In response to the *Dobbs* decision, California enacted a comprehensive package of legislation expanding, protecting, and strengthening access to reproductive health care, including abortions, for all Californians and people seeking such care in our state.¹⁰ One such law, AB 1666 (Bauer-Kahan, Ch. 42, Stats. 2022) provided that a law of another state that authorizes a person to bring a civil action against a person or entity who receives, seeks, performs, or induces an abortion, or knowingly engages in conduct that aids or abets the performance or inducement of an abortion, or attempts or intends to engage in such conduct, is contrary to the public policy of this state (Gov. Code § 123467.5.) Additionally, the voters overwhelmingly approved Proposition 1 (Nov. 8, 2022 gen. elec.), and enacted an express constitutional right in the state constitution that prohibits the state from interfering with an individual's reproductive freedom in their most intimate decisions.

3. Out of state bans on gender-affirming care and California policies to protect patients receiving such care

As California and other states have implemented policies to ensure that transgender individuals are not discriminated against and can obtain gender-affirming care, other states have targeted transgender individuals and providers of gender affirming care. According to Human Rights Watch, as of March 2022, legislatures nationwide had introduced over 300 anti-LGBTQ+ bills, over 130 of which specifically targeted transgender people.¹¹ Many states have been enacting statutes that potentially impose civil and criminal liability for providing to a minor, or helping a minor obtain, gender-affirming care. For example, Alabama recently enacted a bill that makes it a felony to provide, or help to provide, certain types of gender-affirming care.¹² Arkansas prohibits a physician or other healthcare provider from providing or referring certain types of gender-affirming care for a minor; a violation or "threatened violation" can be punished through a professional board or a civil action.¹³ SB 107 (Wiener, 2022; Ch. 810, Stats. 2022), among other things, prohibits the sharing of medical records regarding the receipt of gender-affirming care, the enforcement of out-of-state subpoenas seeking

⁹ California Proclamation on Reproductive Freedom (May 31, 2019) available at

<https://www.gov.ca.gov/wp-content/uploads/2019/05/Proclamation-on-Reproductive-Freedom.pdf>.

¹⁰ Kristen Hwang, *Newsom signs abortion protections into law*, CalMatters (Sept. 27, 2022), available at

<https://calmatters.org/health/2022/09/california-abortion-bills/>.

¹¹ Human Rights Watch, Press Release, ICYMI: As Lawmakers Escalate Attacks on Transgender Youth Across the Country, Some GOP Leaders Stand Up for Transgender Youth (Mar. 24, 2022),

<https://www.hrc.org/press-releases/icymi-as-lawmakers-escalate-attacks-on-transgender-youth-across-the-country-some-gop-leaders-stand-up-for-transgender-youth> (all links current as of August 29, 2022).

¹² See Al. Code, § 26-26-4.

¹³ Ark. Stats. §§ 20-9-1502 & 20-9-1504.

information regarding the receipt of gender-affirming medical care in California, and the enforcement of laws of another state that authorize the removal of a child from their parent or guardian and enforcement of out-of-state criminal laws related to gender-affirming health care. On September 29, 2022, Governor Newsom issued a signing statement for SB 107 that said “[i]n California we believe in equality and acceptance. We believe that no one should be prosecuted or persecuted for getting care they need – including gender-affirming care.”¹⁴

4. This bill seeks to provide additional protections for health care providers of sensitive services

In response to the assault on reproductive rights and legislation targeting transgender people, this bill seeks to provide additional protections for health care providers of sensitive services, as defined. The author and sponsors of the bill note that some health care providers and entities are at risk of being unable to obtain a license in California, to have their existing California license suspended or revoked, or being unable to obtain hospital privileges as the result of another state taking action against them based on that state’s law banning the provision of care that is lawful to provide in this state. California’s health care providers are increasingly providing care to residents in other states, and they argue it is critical to ensure that these providers, abiding by California laws, are protected from adverse actions based on another state’s hostile law. The author states that the intent of this bill is to shore up protections so that care in California can remain consistent, and to ensure that California lives up to its declaration as a reproductive freedom state. Under the bill, these provisions do not apply to a civil judgment, criminal conviction, or another disciplinary action in another state for which a similar claim, charge, or action would exist against the licensee under the laws of this state. This provision is to ensure that consumers are protected against acts that occur in another state that would also constitute a violation of California state laws, such as medical malpractice, negligence, or other criminal conduct.

5. This bill does not seem to implicate the Full Faith and Credit Clause of the United States Constitution

Article IV, Section 1 of the U. S. Constitution, known as the Full Faith and Credit Clause, requires every state to give full faith and credit to the public acts (statutes), records, and judicial proceedings of every other state. However, this bill does not deal with the direct enforcement of out of state acts, records, and judicial proceedings, it merely addresses what actions California regulatory bodies are authorized to take against a licensee when the regulatory body receives notice of another state’s complaint or action. The Supreme Court has held that the Full Faith and Credit Clause does not compel “a state to substitute the statutes of another state for its own statutes dealing

¹⁴ Governor’s signing statement on Sen. Bill 107 (2021-22 Reg. Sess.), available at <https://www.gov.ca.gov/wp-content/uploads/2022/09/SB-107-SIGNING.pdf?emrc=1a80c5>.

with a subject matter concerning which it is competent to legislate” (*Baker v. General Motors Corp.* (1998) 522 U.S. 222, 232-33.). As such, this bill does not seem to implicate the Full Faith and Credit Clause.

6. Proposed author amendments¹⁵

The author notes there is a drafting error in Section 2 of the bill. The bill currently refers to a person’s right to receive “care” that would be lawful in this state, but it should read “sensitive services” that would be lawful in this state. The specific amendment would remove the word “care” in subdivision (a) of Section 850.1 of the Business and Professions Code and replace it with “sensitive services”.

7. Statements in support

Planned Parenthood Affiliates of California, sponsor of the bill, writes in support stating:

In June of 2022, the U.S. Supreme Court overturned the protections of *Roe v. Wade* in their decision in *Dobbs v. Jackson Whole Women’s Health*, allowing states to ban or severely restrict abortion. Since then, 20 states have enacted total or restrictive bans on abortion. According to the Guttmacher Institute, 58% of women aged 13-44 live in a state hostile or extremely hostile to abortion. People in those states are being forced to seek care outside of their home state and California is continuing to see patients seeking abortion and other sensitive services here in California.[...]

AB 1707 builds on existing protections for health care providers who face disciplinary or legal actions in another state based on another state’s law restricting services within comprehensive sexual and reproductive health care. Specifically, this bill ensures healing arts licensees, as well as clinics and hospitals are not faced with denial, suspension, or revocation of their license in California as the result of disciplinary action in another state related to providing care that is lawful here, and that health care providers are not faced with denial, suspension, or revocation of their hospital privileges as the result of disciplinary action in another state related to providing care that is lawful in California. This bill is critical to ensuring that states with hostile laws cannot attack providers for what is legal and permissible in California.

SUPPORT

Planned Parenthood Affiliates of California (sponsor)
American College of Obstetricians and Gynecologists District IX

¹⁵ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel as well as the addition of co-authors.

California Chapter of The American College of Emergency Physicians
California Legislative Women's Caucus
California Medical Association
California Nurse Midwives Association
Citizens for Choice
City Attorney of San Francisco David Chiu
Lieutenant Governor Eleni Kounalakis
Medical Board of California
NARAL Pro-Choice California
National Health Law Program
Osteopathic Medical Board of California
Physician Assistant Board
University of California
Women's Foundation California

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

AB 254 (Bauer-Kahan, 2023) includes “reproductive or sexual health application information” in the definition of “medical information” and the businesses that offer reproductive or sexual health digital services to consumers in the definition of a provider of health care for purposes of the Confidentiality of Medical Information Act (CMIA). This bill is currently pending in the Senate Appropriations Committee.

AB 352 (Bauer-Kahan, 2023) seeks to enact protections for certain sensitive medical information by requiring businesses that store or maintain that information to develop specified capabilities, policies, and procedures to enable safeguards regarding accessing the information by July 1, 2024. This bill is currently pending in the Senate Appropriations Committee.

AB 793 (Bonta, 2023) prohibits a government entity from seeking or obtaining information from a reverse-location demand or a reverse-keyword demand, and prohibits any person or government entity from complying with a reverse-location demand or a reverse-keyword demand. That bill is currently pending in this Committee.

AB 1194 (Carrillo, 2023) provides stronger privacy protections pursuant to the California Consumer Privacy Act where the consumer information relates to specified

reproductive health services. This bill is currently pending in the Senate Appropriations Committee.

Prior Legislation:

SR 9 (Skinner, 2023) urged the President of the U.S. and the U.S. Congress to enact federal legislation that guarantees the right to reproductive freedom, including abortion and contraception.

SB 107 (Wiener, Ch. 810, Stats. 2022) enacted various safeguards against the enforcement of other states' laws that purport to penalize individuals from obtaining gender-affirming care that is legal in California.

AB 1666 (Bauer-Kahan, Ch. 42, Stats. 2022) prohibited the enforcement in this state of out-of-state laws authorizing a civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions and declares those out-of-state laws to be contrary to the public policy of this state.

AB 2091 (Mia Bonta, Ch. 628, Stats. 2022), among other things, prohibited compelling a person to identify or provide information that would identify an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding if the information is being requested based on another state's laws that interfere with a person's right to choose or obtain an abortion or a foreign penal civil action.

AB 2223 (Wicks, Ch. 629, Stats. 2022), among other things, provides that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

PRIOR VOTES

Senate Business, Professions and Economic Development Committee (Ayes 9, Noes 1)

Assembly Floor (Ayes 62, Noes 12)

Assembly Appropriations Committee (Ayes 12, Noes 2)

Assembly Judiciary Committee (Ayes 8, Noes 2)

Assembly Business and Professions Committee (Ayes 14, Noes 2)

AMENDED IN SENATE JULY 10, 2023

AMENDED IN ASSEMBLY APRIL 12, 2023

AMENDED IN ASSEMBLY MARCH 16, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1707

Introduced by Assembly Member Pacheco
(Coauthors: Assembly Members Aguiar-Curry, Bryan, and Quirk-Silva)

February 17, 2023

An act to add Sections 805.9 and 850.1 to the Business and Professions Code, and to add Sections 1220.1 and 1265.11 to the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1707, as amended, Pacheco. Health professionals and facilities: adverse actions based on another state's law.

Existing law establishes various boards within the Department of Consumer Affairs to license and regulate various health professionals. Existing law prohibits the Medical Board of California, the Osteopathic Medical Board of California, the Board of Registered Nursing, and the Physician Assistant Board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline upon a licensee because the person was disciplined in another state in which they are licensed solely for performing an abortion in that state or because the person was convicted in another state for an offense related solely to performing an abortion in that state.

Existing law provides for the licensure of clinics and health facilities by the Licensing and Certification Division of the State Department of

Public Health. Existing law makes a violation of these provisions punishable as a misdemeanor, except as specified.

This bill would prohibit a healing arts board under the Department of Consumer Affairs from denying an application for a license or imposing discipline upon a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that is based on the application of another state’s law that interferes with a person’s right to receive sensitive services, as defined, that would be lawful in this state. The bill would similarly prohibit a health facility from denying staff privileges to, removing from medical staff, or restricting the staff privileges of a licensed health professional on the basis of such a civil judgment, criminal conviction, or disciplinary action imposed by another state. The bill also would also prohibit the denial, suspension, revocation, or limitation of a clinic or health facility license on the basis of those types of civil judgments, criminal convictions, or disciplinary actions imposed by another state. The bill would exempt from the above-specified provisions a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state. By imposing new prohibitions under the provisions related to clinics and health facilities, the violation of which is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 805.9 is added to the Business and
- 2 Professions Code, to read:
- 3 805.9. (a) A health facility licensed pursuant to Chapter 2
- 4 (commencing with Section 1250) of Division 2 of the Health and
- 5 Safety Code shall not deny staff privileges to, remove from medical
- 6 staff, or restrict the staff privileges of a person licensed by a healing
- 7 arts board in this state on the basis of a civil judgment, criminal
- 8 conviction, or disciplinary action imposed by another state if that

1 judgment, conviction, or disciplinary action is based solely on the
2 application of another state’s law that interferes with a person’s
3 right to receive sensitive services that would be lawful if provided
4 in this state.

5 (b) This section does not apply to a civil judgment, criminal
6 conviction, or disciplinary action imposed in another state for
7 which a similar claim, charge, or action would exist against the
8 licensee under the laws of this state.

9 (c) For purposes of this section:

10 (1) “Healing arts board” means any board, division, or
11 examining committee in the Department of Consumer Affairs that
12 licenses or certifies health professionals.

13 (2) “Sensitive services” has the same meaning as in Section
14 56.05 of the Civil Code.

15 SEC. 2. Section 850.1 is added to the Business and Professions
16 Code, to read:

17 850.1. (a) A healing arts board shall not deny an application
18 for licensure or suspend, revoke, or otherwise impose discipline
19 upon a licensee on the basis of a civil judgment, criminal
20 conviction, or disciplinary action in another state if that judgment,
21 conviction, or disciplinary action is based solely on the application
22 of another state’s law that interferes with a person’s right to receive
23 ~~care~~ *sensitive services* that would be lawful if provided in this
24 state.

25 (b) This section does not apply to a civil judgment, criminal
26 conviction, or disciplinary action imposed in another state for
27 which a similar claim, charge, or action would exist against the
28 applicant or licensee under the laws of this state.

29 (c) For purposes of this section:

30 (1) “Healing arts board” means any board, division, or
31 examining committee in the Department of Consumer Affairs that
32 licenses or certifies health professionals.

33 (2) “Sensitive services” has the same meaning as in Section
34 56.05 of the Civil Code.

35 SEC. 3. Section 1220.1 is added to the Health and Safety Code,
36 to read:

37 1220.1. (a) An application for licensure made pursuant to this
38 chapter shall not be denied, nor shall any license issued pursuant
39 to this chapter be suspended, revoked, or otherwise limited, on the
40 basis of a civil judgment, criminal conviction, or disciplinary action

1 imposed by another state if that judgment, conviction, or
2 disciplinary action is based solely on the application of another
3 state’s law that interferes with a person’s right to receive sensitive
4 services that would be lawful if provided in this state.

5 (b) This section does not apply to a civil judgment, criminal
6 conviction, or disciplinary action imposed by another state for
7 which a similar claim, charge, or action would exist against the
8 applicant or licensee under the laws of this state.

9 (c) For purposes of this section, “sensitive services” has the
10 same meaning as in Section 56.05 of the Civil Code.

11 SEC. 4. Section 1265.11 is added to the Health and Safety
12 Code, to read:

13 1265.11. (a) An application for licensure made pursuant to
14 this chapter shall not be denied, nor shall any license issued
15 pursuant to this chapter be suspended, revoked, or otherwise
16 limited, on the basis of a civil judgment, criminal conviction, or
17 disciplinary action imposed by another state if that judgment,
18 conviction, or disciplinary action is based solely on the application
19 of another state’s law that interferes with a person’s right to receive
20 sensitive services that would be lawful if provided in this state.

21 (b) This section does not apply to a civil judgment, criminal
22 conviction, or disciplinary action imposed by another state for
23 which a similar claim, charge, or action would exist against the
24 applicant or licensee under the laws of this state.

25 (c) For purposes of this section, “sensitive services” has the
26 same meaning as in Section 56.05 of the Civil Code.

27 SEC. 5. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

O

D. [SB 340 \(Eggman\) Medi-Cal: eyeglasses: Prison Industry Authority](#)

Status: Introduced 2-07-2023 / Two-year bill

AUTHOR REASON FOR THE BILL:

According to the author: “current DHCS policy requires that eyeglasses for the Medi-Cal program be obtained through CalPIA. Unfortunately, the delivery system is fraught with long delays and quality control issues. Medi-Cal beneficiaries often wait one to two months to receive their eyeglasses and thousands are suffering because they cannot see well enough to perform necessary life functions. School-age children experiencing lengthy delays for their glasses are visually handicapped in their classroom causing them to struggle academically. Recreational and other extra-curricular activities are also negatively impacted. Over 13 million Californians rely on the Medi-Cal program for health coverage including over 40% of the state’s children, nearly 5.2 million kids. Because two thirds of Medi-Cal patients are people of color, the lack of timely access to eyeglasses in Medi-Cal is an equity concern. This bill, the Better Access to Better Vision Act, addresses the ongoing concerns with delays and quality of products by optometrists participating in the Medi-Cal program by authorizing the option of using a private entity when ordering eyeglasses. Expanding the source options for eyewear allows providers to better meet their patients’ needs.”

DESCRIPTION OF CURRENT LEGISLATION:

This bill, for purposes of Medi-Cal reimbursement for covered optometric services, would authorize a provider to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from the Prison Industry Authority (PIA). The bill would condition implementation of this provision on the availability of federal financial participation.

BACKGROUND:

This bill is substantially similar to SB 1089 (Wilk,2022) which was sponsored by the California Optometric Association. The Board considered that bill in 2022 and took a support position on it. That bill was ultimately gut and amended into an entirely different topic and the language the Board had considered was not enacted.

ANALYSIS:

Optometry and eyeglasses for children are a mandatory benefit of the Medicaid program that states must provide if they participate in Medicaid. Optometry and eyeglasses for adults are an optional state benefit. The adult benefit has been cut in the past during times of budget distress. This last occurred during 2009-2020, with the adult benefit resuming in 2020, subject to an annual appropriation. For both adults and children, routine eye exam and eyeglasses are covered every 24 months. For more than 30 years, California has required that glasses for Medi-Cal beneficiaries be exclusively made by incarcerated persons within the state’s prisons. According to an August 18, 2022, article “[California Prison Optometry Labs Under Pressure to Do Better](#),” there were “295 prisoners in optical programs in three prisons, and the number will rise to 420 when the newest women’s optometric program is fully underway in late summer 2022.”

A July 8, 2022, article "[Medi-Cal's Reliance on Prisoners to Make Cheaper Eyeglasses Proves Shortsighted](#)" noted that between 2019 and 2021, orders for glasses from MediCal to the Prison Industry Authority nearly doubled, from 490,000 to 880,000; presumably most of this increase is due to the adult benefit resuming in 2020. According to the article, PIA contracts with nine private labs to help fulfill orders, five of these are not located in California, and in 2021, 54% of the 880,000 orders were sent to these contracted private labs.

The COVID-19 pandemic caused PIA service delivery issues leading to average wait times approaching 1.5 months. This compared to historical averages of approximately 1 week. According to recent PIA data, current wait times are averaging 5.5 days; however the March 27, 2023 Senate Health Committee analysis stated "according to a recent public records request shared with the Committee, in the last six months of 2022, nearly 40% of the glasses with a five-day turnaround were late and nearly 50% of the glasses with a ten-day turnaround were late."

According to the PIA, Medi-Cal pays \$19.60 for every pair of glasses made. It is likely that glasses made by private parties will cost more; last year the Department of Health Care Services (DHCS) estimated that "based on fee-for-service rates, cost increase for reimbursement is estimated at a 141 percent increase per claim."

UPDATE:

This bill is a two-year bill. According to the author's office, they will attempt a narrower approach in 2024 owing to concerns expressed by the Department of Health Care Services that the data provided by PIA showed compliance with that department's standards.

FISCAL:

None.

Board Position:

Support.

Action Requested:

This item is for informational purposes only. There is no action required at this time. Staff will continue to monitor the bill and engage with stakeholders.

Attachment 1: Assembly Health Committee Analysis

Attachment 2: Bill text

Date of Hearing: June 27, 2023

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
SB 340 (Eggman) – As Introduced February 7, 2023

SENATE VOTE: 40-0

SUBJECT: Medi-Cal: eyeglasses: Prison Industry Authority.

SUMMARY: Establishes the “Better Access to Better Vision Act,” which permits a Medi-Cal provider to obtain eyeglasses from a private entity, as an alternative to eyeglasses purchased from the California Prison Industry Authority (CalPIA). Specifically, **this bill:**

- 1) Permits a provider participating in the Medi-Cal program to obtain eyeglasses from the CalPIA or private entities based on the provider’s needs and assessment of quality and value, notwithstanding a provision of current law that requires state agencies to make maximum utilization of CalPIA-produced products.
- 2) Permits a provider, for purposes of Medi-Cal reimbursement for covered optometric services to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from the CalPIA.
- 3) Implements this bill only to the extent that federal financial participation is available.
- 4) Names the act, and specifies it may be cited as, the “Better Access to Better Vision Act.”

EXISTING LAW:

- 1) Establishes a schedule of benefits in the Medi-Cal program, which includes optometric services and eyeglasses as covered benefits, subject to utilization controls. [Welfare and Institutions Codes § 14132]
- 2) Requires the utilization controls for eyeglasses to allow replacement necessary because of loss or destruction due to circumstances beyond the beneficiary’s control, but prohibits frame styles for eyeglasses replaced from changing more than once every two years, unless the Department of Health Care Services (DHCS) so directs. [*ibid.*]
- 3) States that every able-bodied person committed to the custody of the California Department of Corrections and Rehabilitation (CDCR) is obligated to work as assigned by CDCR staff and by personnel of other agencies to whom the inmate's custody and supervision may be delegated. Permits assignment to be up to a full day of work, or other programs including rehabilitative programs, as defined, or a combination of work or other programs. [California Code of Regulations (CCR), Title 15, § 3040 (a)]
- 4) Specifies that inmates of CDCR are expected to work or participate in rehabilitative programs and activities to prepare for their eventual return to society. Requires inmates who comply with the regulations and rules of CDCR and perform the duties assigned to them to earn Good Conduct Credit, as specified. (CCR Title 15, § 3043 (a))

- 5) Authorizes and empowers the CalPIA to operate industrial, agricultural, and service enterprises, which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. [Penal Code (PEN) § 2807(a)]
- 6) Permits products to be purchased by state agencies to be offered for sale to inmates of CDCR and to any other person under the care of the state who resides in state-operated institutional facilities. Requires state agencies to make maximum utilization of these products, and consult with the staff of the CalPIA to develop new products and adapt existing products to meet their needs. [PEN § 2807 (b)]

FISCAL EFFECT: According to Senate Appropriations Committee:

- 1) DHCS estimates costs for the Medi-Cal program of \$6.5 million (\$2.5 million General Fund (GF)) for six months in 2023-24, \$28.3 million (\$10.9 million General Fund) in 2024-25, and \$29.1 million (\$11.1 million GF) in 2025-26 and ongoing thereafter. DHCS estimates that while the current average CalPIA payment rate is \$19.82 per pair of lenses, the non-PIA rate is estimated to be \$47.76. DHCS also estimates costs of \$148,000 (\$74,000 GF) in 2023-24 and \$139,000 (\$69,000 GF) in 2024-25 and ongoing thereafter for state operations.
- 2) CalPIA indicates that incarcerated individuals who work in the optical enterprise can earn up to 12 weeks of sentence reduction for each year worked. If the program closed, 420 individual work assignments for incarcerated individual work assignments in the optical program would be eliminated. CalPIA estimates that by not having the opportunity to earn the 12 weeks of sentence reduction, the state could incur costs up to \$12.3 million a year by keeping the individuals in prison.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, current DHCS policy requires that eyeglasses for the Medi-Cal program be obtained through CalPIA. Unfortunately, the author asserts, the delivery system is fraught with long delays and quality control issues. The author points out Medi-Cal beneficiaries often wait one to two months to receive their eyeglasses and thousands are suffering because they cannot see well enough to perform necessary life functions. The author notes it is particularly unacceptable that school-age children experience lengthy delays for their glasses, remaining visually handicapped in their classroom and struggling academically as a result. The author also notes that two-thirds of Medi-Cal patients are people of color, making the lack of timely access to eyeglasses in Medi-Cal is an equity concern. The author concludes this bill is intended to address these concerns by authorizing the option of using a private entity when ordering eyeglasses.
- 2) **BACKGROUND.**
 - a) **Medi-Cal Vision Benefit.** Vision benefits, including routine eye exam, eyeglass prescriptions, and eyeglasses (frame and lenses) are Medi-Cal benefits available in Medi-Cal managed care plans and fee-for-service Medi-Cal. The adult eyeglasses benefit (optometric and optician services, including services provided by a fabricating optical laboratory) was eliminated by AB 5 (Evans), Chapter 5, Statutes of 2009 and subsequently restored by SB 97 (Committee on Budget and Fiscal Review), Chapter 52, Statutes of 2017, effective no sooner than January 1, 2020, contingent upon budget act

funding.

- b) CalPIA Optical Program.** Since 1988, DHCS has had an Interagency Agreement (IA) with CalPIA under which CalPIA furnishes prescription lenses for Medi-Cal beneficiaries. CalPIA is a self-funded state entity that provides training, certification, and work opportunities in a variety of different fields to approximately 7,000 incarcerated individuals at 34 CDCR prisons. Goods and services produced by CalPIA are sold to the state and other government entities. According to an evaluation conducted by University of California, Irvine, using statistically matched individuals not enrolled in CalPIA, participation in CalPIA is associated with reduced recidivism.

Under the IA, CalPIA does not provide eyeglass frames but makes the lenses and fits them into the frames. Optometrists participating in the Medi-Cal program must order the lenses from CalPIA unless the lens required cannot be accommodated by CalPIA. The Medi-Cal Provider Manual details certain specialized lenses that CalPIA does not manufacture, which are furnished by other optical labs.

Currently, CalPIA operates three optical laboratories located at California State Prison, Solano; Valley State Prison; and Central California Women's Facility (CCWF). CalPIA indicates it has made a substantial capital investment of \$24.4 million to expand its optical enterprises at all three laboratories in preparation for the increased workload associated with the restoration of the Medi-Cal optical benefit for adults. This total includes a \$7.6 million investment to open the laboratory at the CCWF in 2022, as well as investment in automation equipment at all three laboratories.

In the 2020 calendar year, CalPIA processed 642,252 jobs (1.2 million lenses) at a total funds cost of \$12 million. In 2021, CalPIA processed 860,481 jobs (1.7 million lenses) at a total funds cost of \$16.8 million. According to CalPIA, from 2008 to June 19, 2023, there have been 2,452 incarcerated individuals who have worked in a CalPIA optical position and 1,390 incarcerated individuals who have earned an Accredited Certification certificate in the optical program.

Currently, DHCS reimburses CalPIA an average of \$19.82 per pair of Medi-Cal lenses.

- c) Normal Timelines.** The DHCS-CalPIA IA requires CalPIA to manufacture lenses within five business days, or ten business days for more complex orders, once an optical order is received. CalPIA states their current average turnaround time is approximately four business days.

Delivery time to and from the optical laboratory is not included in the average turnaround times. According to CalPIA, its contracts with courier services require these services to pick up frames from an optometrist and deliver them to CalPIA's laboratory within two business days. These contracts also require shipping of finished orders from CalPIA's laboratories back to the ordering provider within two business days.

- d) COVID-19 Delays.** For the nine-year period of January 2011 through February 2020, CalPIA data indicates the monthly average turnaround time was consistently at, or below the five-day target, with the exception of February 2012 and February 2013, when the average turnaround time was six days (one day over the target). CalPIA indicates the

COVID-19 pandemic increased turnaround times dramatically. According to data provided by CalPIA, turnaround time exceeded the five-day contractual maximum turnaround time for the period from August 2020 to February 2023. Turnaround time fluctuated throughout this period, but peaked three distinct times: in February 2021 at 20 days, in September 2021 at 15.6 days, and in February 2022 at 13.4 days. During this time, CalPIA indicates that it used back-up labs and other operational measures to address long turnaround times. These COVID-19 related delays have since been resolved.

- e) **Perceived Quality and Service Issues.** According to the bill's sponsor, the California Optometric Association, their member optometrists report not only long delays, but also poor workmanship and poor customer service at CalPIA.

The only quality metric available is the "re-do rate," which includes any quality issue identified throughout the process that necessitates the order to be re-manufactured for any reason. CalPIA indicates the re-do rate includes processes under CalPIA's control as well as issues originating with the provider, such as misspecification of the order. Data provided by CalPIA indicates the re-do rate, as defined, has ranged from 0.69% to 1.49% over the last three years. The re-do rate has averaged at 0.92% over the last 12 months, and the most recent rate reported, for May 2023, is 0.75%. CalPIA indicates this rate is better than the industry standard.

There is no reliable data available to demonstrate the level of satisfaction with CalPIA's customer service. The IA describes a four-level complaint process for resolving provider complaints. DHCS indicates in recent years it has received complaints from only one individual Medi-Cal provider.

- f) **Prison Labor Generally.** Individuals incarcerated in CDCR facilities are required to work or participate in rehabilitative or educational programs. Participating in work while incarcerated can promote rehabilitation by providing incarcerated individuals life skills and technical knowledge that can facilitate their reintegration in society. In addition, by producing items for use by government agencies, prison industry programs can reduce the cost of state services or offset the cost of prison operations. Some assignments can earn incarcerated individuals credit towards time served. For instance, incarcerated individuals who work in the CalPIA optical laboratories can earn up to 12 weeks of sentence reduction for each year worked. However, the use of prison labor is controversial. Some have raised ethical concerns against prison labor on grounds that it is innately exploitative and a violation of fundamental human rights. Additionally, some argue prison labor holds down wages for other workers, given wages are extremely low for prison jobs.

Pay rates for most prison jobs in California range from \$0.11 to \$0.32 per hour with monthly maximum pay of \$12 to \$20. CalPIA jobs are slightly higher paying than the standard job, and incarcerated individuals can receive industry-accredited certifications, credits, and training for jobs such as meat cutting, coffee roasting, optical and dental services, and health care facilities maintenance. CalPIA currently has a five-level pay scale with the lowest paid scale ranging from \$0.35-\$0.45 per hour and the highest scale ranging from \$0.80 to \$1 per hour.

- g) **Medi-Cal Provider Billing for Prescription Lenses.**

- i) CalPIA Covered Lenses.** Because CalPIA manufactures the lenses needed for the glasses, providers do not bill for or receive reimbursement for lenses. Instead, providers bill DHCS or the applicable Medi-Cal managed care plan for related products and services, such as frames and the lens dispensing fees, and DHCS reimburses CalPIA for the lenses directly through the IA. CalPIA also maintains contracts with third-party providers as needed to produce the lenses; for instance, during the COVID-19 pandemic, CalPIA contracted with outside labs to produce a large portion of their total orders.
- ii) Non-CalPIA Covered Lenses.** DHCS currently allows providers to order from other labs outside the CalPIA, but only for medically necessary specialized lenses that the CalPIA does not manufacture. This is also a more administratively cumbersome process for the provider and for the state. DHCS specifies such lenses must be billed with Healthcare Common Procedure Coding System (HCPCS) code V2799 (vision item or service, miscellaneous), and this code requires pre-authorization from the DHCS Vision Services Branch prior to dispensing the lenses. In addition, providers must include a complete description of the lenses and justification for medical necessity. These unlisted eye appliances are priced “by report,” which is based on the documented wholesale cost of the appliance. Therefore, laboratory invoices or catalog pages must be attached to the claim to allow DHCS to price the appliance individually using a manual process.
- h) Potential Effect of this Bill.** This bill would allow providers to use private laboratories to fabricate all lenses for Medi-Cal patients, instead of using CalPIA. Because the effect of the bill depends on the decisions of individual providers to place orders with either CalPIA or private laboratories, the effect of the bill on CalPIA’s operations is not possible to identify with certainty. However, it seems plausible that optometrists would choose to use their preferred laboratories that currently fabricate lenses for their non-Medi-Cal clients, which would ultimately undermine CalPIA’s ability to maintain the optical program. CalPIA has recently invested millions of dollars to open a new laboratory, upgrade equipment, and train individuals. If CalPIA’s laboratories were reduced in size or closed, it would limit the usefulness of these recent investments and reduce opportunities for incarcerated individuals to participate in the program and receive optical training and reduce their sentences. On the other hand, over the long term, these impacts to incarcerated individuals could be mitigated if CalPIA developed other lines of business that created similar opportunities.

The use of private laboratories would also increase state costs by requiring higher Medi-Cal reimbursements than the rate paid to CalPIA. Costs are noted under “Fiscal Effect,” above. Allowing optometric providers to choose which private laboratories manufacture lenses on their behalf would also limit DHCS’s oversight and authority over the provision of lenses to Medi-Cal enrollees. For instance, DHCS would not be able to negotiate agreements on a statewide basis or provide direct oversight of the quality of the product.

- 3) SUPPORT.** This bill is sponsored by the California Optometric Association (COA) to authorize an optometrist participating in the Medi-Cal program to obtain eyeglasses from CalPIA or a private entity/lab. Current DHCS policy requires the eyeglasses to be obtained only through the CalPIA. COA states this bill addresses a very serious problem in the Medi-

Cal program that is leaving its most vulnerable patients, including children, without access to eyeglasses for months.

COA states the CalPIA has been plagued with problems for years as the eyeglasses are often late, incorrect, or of poor quality, and the pandemic has made a bad situation much worse as some patients have had to wait for more than four months for their eyeglasses. COA states DHCS claims that the backlog resulting from prison closures have been cleared up, but that is not what optometrists report to COA. Each day, COA states it hears tragic stories from its patients about how their lives are affected, including children who are falling behind and parents who cannot work to provide for their families. Each day, COA states optometrists are having to deal with understandably frustrated patients who get aggressive, verbally abusive, and make threats because they are desperate for their glasses. COA states most of its members' Medi-Cal patients cannot afford to purchase eyewear out of pocket and so they are forced to put their lives on hold for months until the CalPIA lab returns their glasses. COA states its members tell them that the requirement to fabricate glasses through the CalPIA has reduced the number of providers willing to accept Medi-Cal.

- 4) **OPPOSITION.** The Prison Industry Board (PIB), the governing board that oversees CalPIA, writes in opposition that this bill would eliminate hundreds of rehabilitative job training positions annually and cost the state tens of millions of dollars in additional costs per year. PIB asserts impacts to the Optical Program caused by COVID have been resolved and there is no basis or reason for this bill. PIB notes CalPIA's program is back to normal, with its average turnaround times at four days, and that CalPIA's quality is better than the industry standard with the average redo rate for eyeglasses below one percent. PIB argues this bill will cost the state millions of dollars in higher incarceration costs, as this bill could eliminate rehabilitative job training for at least 420 incarcerated individuals each year, as well as potentially eliminate jobs of those who oversee the program. PIB argues that CalPIA's Optical program reduces recidivism, increases public safety, and saves the GF millions per year while receiving no appropriation from the Legislature. PIB notes CalPIA's Optical program produces many success stories, with formerly incarcerated individuals working as opticians, lab managers, and in other positions in the optical industry, helping individuals to break the cycle of recidivism and have the opportunity to attain a career that provides a livable wage. PIB concludes this bill would have negative impacts affecting the lives of the formerly incarcerated individuals, their families, the public, and taxpayers, and respectfully requests that this bill be withdrawn or defeated.
- 5) **PREVIOUS LEGISLATION.** SB 1089 (Wilk) of 2022 was substantially similar to this bill. SB 1089 was amended to an unrelated subject matter and ultimately chaptered.
- 6) **DOUBLE REFERRAL.** This bill is double referred. Upon passage in this Committee, this bill will be referred to the Assembly Committee on Public Safety.
- 7) **POLICY COMMENTS.**
 - a) **Problem Definition.** According to the author and sponsor of this bill, optometry stakeholders "on the ground" have longstanding frustrations with perceived excessive delays, poor quality, and poor customer service. However, aside than acknowledged delays during the COVID-19 pandemic that have since been corrected, available data does not support these assertions. Therefore, the problem definition— in terms of time to

produce the order, quality, and customer service— is unclear. It is possible there truly are no problems, or that CalPIA and DHCS are not collecting the right data to identify the problems as articulated by individual optometrists interacting with CalPIA.

- b) Potential Alternative Approaches.** As noted, the problems this bill is intended to solve are based on anecdotal evidence of dissatisfaction of optometrists, including time delays, poor quality, and poor customer service. At least one of the potential issues— time delays and disruptions related to COVID-19, which were not unique to CalPIA— appear to have been resolved based on available data. To the extent further analysis revealed a more precise problem definition, there are a number of potential alternative approaches that could be considered to address narrower problems in a more targeted way, potentially at less state cost. As an alternative to authorizing the broad shift of lens fabrication to other entities as this bill proposes, CalPIA could instead be required to use outside labs if CalPIA’s average processing time exceeds existing interagency contract standards in the prior month until the turnaround time meets existing interagency contract standards. Other approaches could target other issues, as appropriate and necessary. For instance, customer service metrics could be put into place and corrective action plans could be imposed if metrics fall below acceptable service level agreements, quality improvement approaches could be employed, or an end-to-end business analysis of the entire process could be conducted to analyze potential opportunities to increase efficiency.

REGISTERED SUPPORT / OPPOSITION:

Support

California Optometric Association (sponsor)
California Children's Vision Now Coalition
California State Society for Opticians
Children Now
Hero Practice Services
National Vision INC.
Slolionseye.org
Vision Center of Sana Maria

Opposition

CalPIA

Analysis Prepared by: Lisa Murawski / HEALTH / (916) 319-2097

**Introduced by Senator Eggman
(Principal coauthor: Senator Wilk)**

February 7, 2023

An act to amend Section 2807 of the Penal Code, and to add Section 14131.08 to the Welfare and Institutions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

SB 340, as introduced, Eggman. Medi-Cal: eyeglasses: Prison Industry Authority.

Existing law establishes the Prison Industry Authority within the Department of Corrections and Rehabilitation and authorizes it to operate industrial, agricultural, and service enterprises that provide products and services needed by the state, or any political subdivision of the state, or by the federal government, or any department, agency, or corporation of the federal government, or for any other public use. Existing law requires state agencies to purchase these products and services at the prices fixed by the authority. Existing law also requires state agencies to make maximum utilization of these products and consult with the staff of the authority to develop new products and adapt existing products to meet their needs.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services, including certain optometric services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

This bill, for purposes of Medi-Cal reimbursement for covered optometric services, would authorize a provider to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from

the Prison Industry Authority. The bill would condition implementation of this provision on the availability of federal financial participation.

The bill, notwithstanding the above-described requirements, would authorize a provider participating in the Medi-Cal program to obtain eyeglasses from the authority or private entities, based on the optometrist's needs and assessment of quality and value.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Better Access to Better Vision Act.

3 SEC. 2. Section 2807 of the Penal Code is amended to read:

4 2807. (a) The authority is hereby authorized and empowered
5 to operate industrial, agricultural, and service enterprises ~~which~~
6 *that* will provide products and services needed by the state, or any
7 political subdivision thereof, or by the federal government, or any
8 department, agency, or corporation thereof, or for any other public
9 use. Products may be purchased by state agencies to be offered
10 for sale to inmates of the department and to any other person under
11 the care of the state who resides in state-operated institutional
12 facilities. Fresh meat may be purchased by food service operations
13 in state-owned facilities and sold for onsite consumption.

14 (b) All things authorized to be produced under subdivision (a)
15 shall be purchased by the state, or any agency thereof, and may
16 be purchased by any county, city, district, or political subdivision,
17 or any agency thereof, or by any state agency to offer for sale to
18 persons residing in state-operated institutions, at the prices fixed
19 by the authority. State agencies shall make maximum utilization
20 of these products, and shall consult with the staff of the authority
21 to develop new products and adapt existing products to meet their
22 needs.

23 (c) All products and services provided by the authority may be
24 offered for sale to a nonprofit organization, provided that all of
25 the following conditions are met:

26 (1) The nonprofit organization is located in California and is
27 exempt from taxation under Section 501(c)(3) of Title 26 of the
28 United States Code.

1 (2) The nonprofit organization has entered into a memorandum
2 of understanding with a local ~~educational~~ *education* agency. As
3 used in this section, “local ~~educational~~ *education* agency” means
4 a school district, county office of education, state special school,
5 or charter school.

6 (3) The products and services are provided to public school
7 students at no cost to the students or their families.

8 (d) Notwithstanding subdivision (b), the Department of Forestry
9 and Fire Protection may purchase personal protective equipment
10 from the authority or private entities, based on the Department of
11 Forestry and Fire Protection’s needs and assessment of quality and
12 value.

13 (e) *Notwithstanding subdivision (b), a provider participating*
14 *in the Medi-Cal program may obtain eyeglasses from the authority*
15 *or private entities, based on the provider’s needs and assessment*
16 *of quality and value.*

17 SEC. 3. Section 14131.08 is added to the Welfare and
18 Institutions Code, to read:

19 14131.08. For purposes of Medi-Cal reimbursement for covered
20 optometric services pursuant to Section 14132 or 14131.10 or any
21 other law, a provider may obtain eyeglasses from a private entity,
22 as an alternative to a purchase of eyeglasses from the Prison
23 Industry Authority pursuant to Section 2807 of the Penal Code.
24 This section shall be implemented only to the extent that federal
25 financial participation is available.

E. [SB 457 \(Menjivar\) Vision care: consent by a minor](#)

Status: Amended 3-20-2023 / On Assembly third reading file.

AUTHOR REASON FOR THE BILL:

According to the author: "For minors affected by homelessness, accessing vision care can be a challenge. Existing law clearly states when an unaccompanied minor can consent to certain medical, dental, reproductive, and sexual health treatments, but it is ambiguous on an unaccompanied minor's ability to consent to vision care. A child's ability to see and access to regular eye exams are foundational needs that are vital to a child's learning and reading comprehension. This bill will allow unaccompanied minors who are on their own to be able get their basic vision care needs met."

DESCRIPTION OF CURRENT LEGISLATION:

This bill would authorize minors not living with their parents or guardians to consent to their own vision care and would authorize an optometrist to advise the parent or guardian under the same conditions applicable to the provision of medical and dental care. The bill also defines "vision care."

BACKGROUND:

Under existing law, minors may consent to various medical services without the authorization of their parents or guardians. Minors 15 years or older, not living with their parent or guardian, and who manage their own financial affairs, are able to consent to medical and dental care. Because the law does not explicitly authorize these minors to consent to "vision care," some independent minors are denied care unless parental consent is provided.

ANALYSIS:

This bill would define "vision care" to mean the "diagnosis, prevention, treatment, and management of disorders, diseases, and dysfunctions of the visual system and the provision of habilitative or rehabilitative optometric services by an optometrist licensed" in California. This definition is consistent with the language in Business and Professions Code section 3041, which states "The practice of optometry includes the diagnosis, prevention, treatment, and management of disorders and dysfunctions of the visual system, as authorized by this chapter, as well as the provision of habilitative or rehabilitative optometric services..." There is no definition of medical care or dental care provided in or otherwise cited by the bill.

UPDATE:

The bill is awaiting a final vote on the Assembly floor and then will go to the Governor's desk.

FISCAL:

None.

BOARD POSITION:

Support.

Action Requested:

This item is for informational purposes only. There is no action required at this time.

Attachment 1: Assembly Floor Analysis

Attachment 2: Bill text

SENATE THIRD READING
SB 457 (Menjivar and Ashby)
As Amended March 20, 2023
Majority vote

SUMMARY

Permits certain minors to consent to vision care, as specified.

Major Provisions

- 1) Authorizes a minor 15 years of age or older to consent to vision care, as defined, if the minor is living separate and apart from the minor's parents or guardian and the minor is managing their own financial affairs, as specified.
- 2) Permits an optometrist, with or without the consent of the minor patient, to advise the minor's parent or guardian of the treatment given or needed if the optometrist has reason to know, on the basis of the information given by the minor, the whereabouts of the parent or guardian.
- 3) Defines "vision care" to mean the diagnosis, prevention, treatment, and management of disorders, diseases, and dysfunctions of the visual system and the provision of habilitative or rehabilitative optometric services by a licensed optometrist.

COMMENTS

As a general rule, under existing law, a person cannot consent to medical procedures until they reach the "age of majority," which in California and most other states is set at 18 years of age. However, the Legislature has made several common sense exemptions to this general rule, especially in those relatively rare circumstances where the parent's consent to, and knowledge of, the procedure poses a substantial risk of harm to the minor. For example, under appropriate circumstances, the law permits a minor to obtain treatment for abortion or sexually transmitted diseases if there is a substantial risk that parental knowledge could endanger the minor. For similar reasons, existing law permits minors to obtain mental health or drug counseling if the professional providing treatment determines that the minor is mature enough to consent and obtaining parental consent would endanger the minor. Most of these laws contain provisions requiring the treating professional to notify parents if it can be done without endangering the minor. Finally, and most relevant to this bill, existing law recognizes that some youth are homeless or otherwise estranged from parents or guardians, such that obtaining parental consent is nearly impossible. For example, existing law permits a minor who is 15 years of age or older to consent to medical and dental care, if the minor is living separate and apart from the minor's parents or guardian and the minor is managing their own financial affairs.

Unfortunately, despite the apparent need, the existing law that permits homeless or estranged youth who are at least 15 years of age to obtain medical or dental care without parental consent does not expressly allow such minors to consent to vision care, even though vision care is generally less intrusive and permanent than medical or dental care. This bill would correct that omission by simply adding "vision care" to the existing statute, thereby authorizing licensed optometrists to provide care in the same manner as physicians, surgeons, and dentists do. Consistent with existing law, this bill would permit the optometrist, with or without the minor's consent, to notify the minor's parents or guardian if the optometrist knows their whereabouts. In other words, this bill, like existing law, presumes that whenever possible parents and guardians

should be notified of, and grant consent for, any medical, dental, or vision treatments provided to their minor children. But also like existing law, the bill recognizes that there are situations where obtaining consent is not always possible or advisable.

While this bill makes a modest addition to existing law, it is nonetheless an important change. According to the American Optometric Association, and other studies cited by the author and supporters, vision care is essential for minors and young adults, as poor vision not only affects quality of life, but also adversely impacts reading, learning, and overall educational achievement. (See e.g. American Optometric Association, *Executive Summary Pediatric Eye Exam Guidelines*, 2018, available at optometryweb.com.) Another study estimated that vision problems are prevalent in 25% of all schoolchildren in the United States and are among the most handicapping conditions that minors face. (Joel Zoba, "Children's Vision Care in the 21st Century: It's Impact on Education, Literacy, Social Issues, and the Workplace," *Journal of Behavioral Optometry* 22 (2011).)

According to the Author

According to the author, for "minors affected by homelessness, accessing vision care can be a challenge. Existing law clearly states when an unaccompanied minor can consent to certain medical, dental, reproductive, and sexual health treatments, but it is ambiguous on an unaccompanied minor's ability to consent to vision care. A child's ability to see and access to regular eye exams are foundational needs that are vital to a child's learning and reading comprehension. This bill will allow unaccompanied minors who are on their own to be able to get their basic vision care needs met."

Arguments in Support

According to the California Coalition for Youth (CCY), existing law "allows minors to consent to medical and dental care but is silent on whether they can consent to their vision care. SB 457 will make it clear that an unaccompanied minor is able to consent to these services." CCY contends that proper vision development "is vital for a minor's growth, and if left untreated, can lead to vision challenges that impact their educational and social development." CCY adds that while schools and some other agencies provide vision screening, "current law does not allow an unaccompanied minor to correct the eye problem" that might be detected by this screening because of the inability to obtain parental consent. While in most cases it is reasonable to require such consent, CCY points out that not all youth have "the advantages of supportive and engaged families. Homeless youth are not homeless by choice; their family environments have been unhealthy and either they have been kicked out or feel forced out." This bill, CCY concludes, will "allow youth who are on their own to be able to receive an eye examination and receive corrective lenses as needed so they can safely see the world around them."

Arguments in Opposition

No opposition on file.

FISCAL COMMENTS

None

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ABS, ABST OR NV: Dahle

ASM JUDICIARY: 9-0-2

YES: Maienschein, Connolly, Dixon, Haney, Kalra, Pacheco, Papan, Reyes, Robert Rivas

ABS, ABST OR NV: Essayli, Sanchez

UPDATED

VERSION: March 20, 2023

CONSULTANT: Tom Clark / JUD. / (916) 319-2334

FN: 0001059

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 457

Introduced by Senators Menjivar and Ashby

February 13, 2023

An act to amend Section 6922 ~~of~~ *of*, and to add Section 6904 to, the Family Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as amended, Menjivar. Vision care: consent by a minor.

Existing law authorizes a minor 15 years of age or older to consent to the minor's medical care or dental care, if the minor is living separate and apart from the minor's parents or guardian and the minor is managing their own financial affairs, as specified. Existing law authorizes a physician and surgeon or dentist, with or without the minor's consent, to advise the minor's parent or guardian of the treatment given or needed if the physician and surgeon has reason to know the parent's or guardian's whereabouts, based on information given by the minor. Under existing law, a parent or guardian is not liable for care provided according to these provisions.

This bill additionally would authorize minors to consent to their own vision care, and would authorize an optometrist to advise a minor's parent or guardian of the care given or needed, under the same conditions applicable to the provision of medical care and dental care. *The bill would define "vision care" as the diagnosis, prevention, treatment, and management of disorders, diseases, and dysfunctions of the visual system and the provision of habilitative or rehabilitative optometric services by a licensed optometrist, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 6904 is added to the Family Code, to*
2 *read:*

3 6904. *“Vision care” means the diagnosis, prevention,*
4 *treatment, and management of disorders, diseases, and*
5 *dysfunctions of the visual system and the provision of habilitative*
6 *or rehabilitative optometric services by an optometrist licensed*
7 *pursuant to Article 1 (commencing with Section 3000) of Chapter*
8 *7 of Division 2 of the Business and Professions Code.*

9 **SECTION 1.**

10 **SEC. 2.** Section 6922 of the Family Code is amended to read:

11 6922. (a) A minor may consent to the minor’s medical care,
12 vision care, or dental care if all of the following conditions are
13 satisfied:

- 14 (1) The minor is 15 years of age or older.
- 15 (2) The minor is living separate and apart from the minor’s
16 parents or guardian, whether with or without the parent’s or
17 guardian’s consent and regardless of the duration of the separate
18 residence.

19 (3) The minor is managing the minor’s own financial affairs,
20 regardless of the source of the minor’s income.

21 (b) The parents or guardian are not liable for medical care, vision
22 care, or dental care provided pursuant to this section.

23 (c) A physician and surgeon, optometrist, or dentist may, with
24 or without the consent of the minor patient, advise the minor’s
25 parent or guardian of the treatment given or needed if the physician
26 and surgeon, optometrist, or dentist has reason to know, on the
27 basis of the information given by the minor, the whereabouts of
28 the parent or guardian.

F. [SB 544 \(Laird\) Bagley-Keene Open Meeting Act: teleconferencing](#)

Status: Amended 8-14-2023 / Assembly Appropriations Committee

AUTHOR REASON FOR THE BILL:

According to the author: "In response to the COVID-19 pandemic and the widespread shutdown, the Governor signed an executive order to provide flexibility so state boards and commissions could continue to serve Californians remotely and safely. Although meant to be temporary, we saw significant benefits of remote meetings such as increased participation and reduced operating costs to the state. Senate Bill 544 codifies the Governor's Executive Order allowing state boards and commissions the opportunity to continue holding virtual meetings without being required to list the private address of each remote member, or providing public access to private locations. The additional flexibility and safeguards may also help attract and retain appointees, who provide invaluable perspective. This bill will promote equity and public participation by removing barriers to Californians that experience challenges attending physical meetings, such as people with disabilities, caretakers, seniors, low-income individuals, and those living in rural or different areas of the state."

DESCRIPTION OF CURRENT LEGISLATION:

This bill would amend portions of the Bagley-Keene Open Meeting Act (Act) to remove the teleconference requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require a majority of the members of the state body to be physically present at the same location for at least 1/2 of the meetings of that state body. And, the provisions sunset on January 1, 2026.

ANALYSIS:

The Act regulates meetings held by state bodies and it guarantees the public the right to access these meetings subject to specific exceptions. To ensure this right, the public is entitled to attend, monitor, and participate in state agencies' meetings where actions and deliberations are being conducted unless there is a specific reason to exclude the public. Promoting public participation in the form of open meetings is in both the governments and the public's best interest and provides transparency in government functions. This bill incorporates the use of modern technology in the Act, making it easier for all Californians and people from all over the world to not only view but actively participate in public meetings.

NOTE:

There is no urgency clause in the bill, thus it would take effect on 1-1-2024.

FISCAL:

Significant costs due to planning and logistics for physical board and committee meetings. By meeting in a hybrid way, with an in-person meeting and a virtual option, the board saved approximately 90 percent of its travel costs in the recently concluded fiscal year.

Board Position:

Support.

UPDATE: Recent Amendments:

The bill was passed out of the Assembly Governmental Organization Committee on 7/12/2023 with the author agreeing to take several amendments. These amendments occurred on August 14, 2023.

1. Include a sunset date of January 1, 2026
2. Require a majority of the members (quorum) of the state body to be present at one physical location for a minimum of fifty percent of the meetings the state body holds each year.

The amendments to the bill still allow for greater flexibility to meet virtually than under current law but are more restrictive than the prior law that expired July 1, 2023. Requiring a quorum of the board to be physically present at fifty percent of the meetings each year will require board's who desire to meet virtually to design a system to determine who is in person and who will be virtual, to track, and likely report, this information. It could also present problematic situations for conducting unexpected meetings, if the prior meetings did not meet the fifty percent in-person requirement, the unplanned meeting may not be able to be held virtually.

Action Requested:

Discuss and possibly revise the position after considering the recent amendments.

Attachment 1: Assembly Governmental Organization Committee Analysis

Attachment 2: Bill text

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION
Miguel Santiago, Chair
SB 544 (Laird) – As Amended April 27, 2023

SENATE VOTE: 26-3

SUBJECT: Bagley-Keene Open Meeting Act: teleconferencing

SUMMARY: This bill removes from the Bagley-Keene Open Meeting Act (Bagley-Keene or Act), indefinitely, requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The state body shall provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely, as specified, and requires the agenda to provide an opportunity for the public to address the state body directly, as specified. The bill provides that one staff or member needs to be physically present at the physical location specified in the meeting, as opposed to existing law which requires a member to be present. Specifically, **this bill:**

- 1) Requires state bodies to offer remote audio access, remote observation, and in-person attendance for teleconferenced meetings by listing teleconference numbers, online platforms, and physical addresses on the agenda, ensuring equivalent access for remote members, as specified.
- 2) Requires the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person to be specified in any notice required by Bagley-Keene.
- 3) Deletes the requirement in Bagley-Keene that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location.
- 4) Provides that the requirement that at least one member of the state body be physically present at the location specified in the notice of the meeting may be satisfied by at least one staff of the state body.
- 5) Requires state bodies conducting teleconferenced meetings to establish and advertise a procedure for handling accessibility requests from individuals with disabilities, in compliance with the Americans with Disabilities Act of 1990.
- 6) Defines “participate remotely” to mean participation in a meeting at a location other than the physical location designated in the agenda of the meeting.
- 7) Defines “Remote location” means a location from which a member of a state body participates in a meeting other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

- 8) Provides that this bill does not affect the existing notice and agenda requirements and would require the state body to post an agenda on its internet website and, on the day of the meeting, at any physical meeting location designated in the notice of the meeting.
- 9) Specifies that members of the public are entitled to exercise their right to directly address the state body during the teleconference meeting without being required to submit public comments prior to the meeting or in writing.
- 10) Requires a state body, upon discovering that a means of remote participation has failed during a meeting and cannot be restored, to end or adjourn the meeting, as specified.
- 11) Requires a member of a state body that is participating remotely to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, as specified.
- 12) States findings and declarations of the Legislature regarding the imposition of a limitation on the public's right of access to the meetings of public bodies or the writings of public officials.
- 13) Makes technical and confirming changes.

EXISTING LAW:

- 1) Affirms that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (California Constitution Article I, § 3(b)(1).)
- 2) Establishes the Bagley-Keene Act, which requires state bodies to conduct their business in open public meetings, except as provided by the Act, and establishes requirements and procedures for such meetings. (California Government Code, tit. 2, div. 3, art. 9, §§ 11120 et seq.)
 - a) "State bodies" covered by the Act include every state board, commission or body created by statute or required by law to conduct official meetings, every commission created by executive order, a board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body, any advisory body created by formal action of a state body, anybody supported by public funds and which a member of a state body serves in their official capacity, and the State Bar of California. (California Government Code, § 11121.)
 - b) "State bodies" do not include specified legislative agencies (except the State Bar of California), agencies subject to the Brown Act, and certain educational and health-related agencies. (California Government Code, § 11121.1.)
- 3) Authorizes state bodies subject to the Bagley-Keene to provide a teleconferencing option—which may be via audio or audiovisual means—for its meetings for the benefit of the public, subject to the following relevant requirements:
 - a) The meeting must be audible to the public at the location specified in the notice of the meeting.

- b) The legislative body must post agendas at all teleconference locations.
 - c) Each teleconference location must be identified in the notice and agenda of the meeting or proceeding.
 - d) Each teleconference location must be accessible to the public.
 - e) The agenda must provide an opportunity for members of the public to address the legislative body at each teleconference location.
 - f) All votes must be taken via roll call.
 - g) At least one member of the state body must be physically present at the location specified in the notice of the meeting. (California Government Code, § 11123.)
- 4) Authorizes state advisory boards and similar advisory bodies to hold a meeting via teleconference when it complies with the following:
- a) A member participating remotely must be listed in the minutes of the meeting.
 - b) The state body must provide public notice at least 24 hours before the meeting that identifies the member(s) participating remotely and the primary physical meeting location; the body need not disclose the remote locations.
 - c) The state body must designate a primary physical location and a quorum of the members must be in attendance at the primary physical meeting location; the remote members do not count towards establishing a quorum.
 - d) The state body must provide a means by which the public may remotely hear audio of, or observe, the meeting, with access equal to the members of the state body participating remotely. Instructions for remote access must be included in the 24-hour meeting notice.
 - e) Upon discovering that a provided means of remote access has failed, the body must end or adjourn the meeting and provide notice regarding when the state body will reconvene. (California Government Code, § 11123.5.)
- 5) Authorizes the Governor to proclaim a state of emergency in an area affected or likely to be affected thereby when conditions of disaster or extreme peril to the safety of persons and property within the state, as specified, exist, and which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single local body. (California Government Code, §§ 8558, 8625.)
- 6) Authorizes the Governor, during a state of emergency, to suspend any regulatory statute, or statute prescribing the procedure for the conduct of state business, or the orders, rules, or regulations of any state agency, where the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency. (California Government Code, § 8571)

FISCAL EFFECT: This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

Purpose of the bill. According to the author, “In response to the COVID-19 pandemic and the widespread shutdown, the Governor signed an executive order to provide flexibility so state boards and commissions could continue to serve Californians remotely and safely. Although meant to be temporary, we saw significant benefits of remote meetings, such as increased participation and reduced operating costs to the state. SB 544 codifies the Governor’s Executive Order allowing state boards and commissions the opportunity to continue holding virtual meetings without being required to list the private addresses of each remote member or provide public access to private locations. This bill will promote equity and public participation by removing barriers to Californians that experience challenges attending physical meetings, such as people with disabilities, caretakers, seniors, low-income individuals, and those living in rural or different areas of the state.”

Background.

Bagley-Keene Act. The Bagley-Keene and the Brown Act are two laws that ensure the public can attend and participate in the meetings of state and local government bodies in California. These laws protect the public's right of access to the decision-making process of their government, subject to specific exceptions. Both permit a teleconferencing option for public meetings, subject to certain requirements for establishing a quorum, providing notice, posting agendas, and permitting members of the public to attend at any teleconferencing location.

The Bagley-Keene Act of 1967, which was passed by the Legislature, essentially stated that the public must have a seat at the table whenever a body gathers to reach a consensus. By doing this, the Legislature has provided the general public with the ability to monitor and be part of the decision-making process. The Bagley-Keene facilitates transparency of government activities and protects the rights of citizens to participate in state government deliberations. Therefore, absent a specific reason to keep the public out of meetings, the public should be allowed to monitor and participate in the decision-making process.

Under Bagley-Keene a “state body” refers to state boards, state commissions, and similar multi-member bodies of state government that are required to hold official meetings. The term “state body” also applies to committees, boards, and commissions who exercise authority delegated to it by a “state body,” and to advisory committees or groups if they are created by formal action of a state body and have more than three members. The term may also apply to a board, commission, or agency that appears to be private or non-governmental in nature, if it receives funds provided by a “state body” and includes a member of a state body serving in their official capacity. The law does not apply to individual officials, advisory committees with no decision-making authority, or the California State Legislature.

The Act sets forth specific notice and agenda requirements. Bodies subject to the Bagley-Keene must prepare and publish, at least 10 days in advance of the meeting, an agenda of all items to be discussed or acted upon at the meeting, with the time and place of the meeting. This applies to both open-and-closed meetings scheduled for the body. The physical location of the meeting must be identified. Except as otherwise provided, State bodies shall provide an opportunity for members of the public to directly address the body on each agenda item before or during the

state body's discussion or consideration of an item. State bodies must conduct their meetings openly, ensuring that members of the public can attend and participate without any restrictions based on race, gender, disability, or other discriminatory factors. The Act also requires state bodies to provide reasonable accommodations for individuals with disabilities, ensuring accessibility to meetings and materials. The public has the right to address state bodies on any agenda item before or during the meeting. State bodies must provide opportunities for public comment and cannot prohibit criticism of their policies, procedures, or actions. They may, however, impose reasonable time limits on public comments to maintain order and facilitate the conduct of business. The Bagley-Keene includes certain exceptions, such as closed sessions for discussing personnel issues or pending litigation, to protect the privacy and legal interests of individuals and the state. (§ 11126.)

The description of what constitutes a meeting under the Bagley-Keene is found in Cal. Gov. Code § 11122.5 (a). In essence, it is as a congregation of a majority of the members of the state body. This can even apply to informal gatherings, as well as meetings that are done via videoconference, or conducted over the telephone by conference call. Serial meetings also count towards the definition. In other words, state agency officials cannot get around the Act via a series of individual calls or meetings. Any written materials provided to a majority of the board are deemed a public record.

A meeting may take place by teleconference (either audio only or both audio and video), but the meeting must (1) comply with all the other requirements of the open meetings laws (e.g., notice requirements); (2) be audible to the public at the location specified in the notice of the open meeting; (3) have at least one member of the government body physically present at the location specified in the notice of the meeting.

Teleconferencing Executive Orders and Legislative Action in response to COVID-19. When the inception of the COVID-19 pandemic began, state agencies struggled to conduct their meetings in compliance with the public accessibility and transparency requirements of the Bagley-Keene while still abiding by stay-at-home orders. As a result, Governor Newsom issued several Executive Orders (Order N-25-20 (Mar. 12, 2020); Order N-29-20 (Mar. 17, 2020); Order N-08-21 (Jun. 11, 2021) to grant state and local agencies the flexibility to meet remotely due to the COVID-19 pandemic.

Executive Order N-29-20, stated that, "Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived. "All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures."

In between EO's, the Legislature passed and the Governor Newsom signed AB 361 (R. Rivas), Chapter 165, Statutes of 2021, which extended and waived specific Bagley-Keene requirements related to a previous EO through January 31, 2022. In January 2022, Governor Newsom signed a

new executive order (Order N-1-22) allowing state bodies to continue holding public meetings by teleconference instead of in-person through March 31, 2022. The EO stated, “In light of the present surge in cases due to the Omicron variant, and to protect the public health and safety, it is necessary to temporarily extend the flexibilities for state bodies to conduct teleconferences under AB 361 (R. Rivas of 2021) beyond January 31, 2022, to provide state bodies the option of conducting public meetings remotely to reduce the risk of in-person exposure to members of the staff body, staff, and members of the public.

SB 189 (Senate Committee on Budget, Ch. 48, Stats. 2022) extended the Bagley-Keene waiver to hold public meetings entirely remotely via teleconferencing, with no members of the body required to meet in person, through July 1, 2023. Without an exception, the Bagley-Keene requires at least one member of the state body to be physically present at the location noticed on the posted agenda and that all teleconferencing members must permit public access at their locations and post the agenda at the meeting locations. The author and sponsor of the bill argue that these existing requirements potentially put members of state bodies at risk by exposing their private addresses to the public and requiring public access the member’s private residence or hotel.

Report by Little Hoover Commission. In June 2021, The Little Hoover Commission issued a report #261 titled, “The Government of Tomorrow: Online Meetings.” In its report, the Commission found that California can make its public meetings more accessible and inclusive by requiring that boards and commissions give the public remote access to every meeting. This change would especially benefit those who traditionally face obstacles in interacting with state government, such as low-income people, rural Californians, or people with physical disabilities.

The report stated that, “Our survey of Bagley-Keene agencies affirms that such meetings offer substantial benefits to the public, including reduced travel costs, a broadening of potential board members and commissioners who are able to serve, and the ability to meet more often and in a timely way. The year of the pandemic has proven that state government can take advantage of modern technology to hold meetings that are more accessible, more affordable, and more efficient. Remote access to all public meetings unquestionably increases the public’s ability to monitor state government. The practical ability of board and commission members to participate remotely from their homes or private offices allows for this important segment of state government to increase efficiency, inclusion and flexibility.”

In support. In support of the bill, the California Commission on Aging writes that, “[i]n March 2020, the Governor issued an Executive Order, EO-N-29-20, authorizing the use of virtual meetings, thus ensuring state business continued during the COVID-19 pandemic. What started as a public safety stopgap has revealed that virtual meetings promote meeting attendance by the appointed members and increase public participation. SB 544 will increase transparency and promote public participation in State governments by expanding the pool of candidates interested in serving. Older adults and individuals with disabilities are no longer barred from attending meetings or participating in State government simply because they are limited from attending physically. SB 544 will also remove impediments for low-income, rural Californian residents, and caregivers who cannot or find it challenging to travel to one physical location.”

In opposition. The coalition of opposition writes that, “SB 544 would permit government officials doing consequential work on state boards and commissions to conduct public business virtually, without ever again being present at a physical location where the public and press can

directly engage them. While we understand that virtual meetings and temporary measures amid emergencies may be necessary to protect health and safety, public officials serving on public bodies without ever having to convene in person results in a reduction of public access. And while we enthusiastically support increased options for remote participation for members of the public, we oppose this bill because it would forever remove the longstanding requirement that public meetings be held in public places where the public can petition their leaders and other government officials face to face.”

The opposition is seeking an amendment to require a physical quorum of members in one location, which would be open to the public, with other members of the body being able to join remotely. They point to the provisions in AB 2449 (Rubio, Ch. 285, Stats. 2022) as an example of this being done in the context of open meetings requirements for legislative bodies of local governments. This is also the requirement under Bagley-Keene as it relates to advisory boards and similar advisory bodies under Section 11123.5. They also seek several other guardrails around transparency, public participation, and a requirement that the state body provide the public with both call-in and video access.

Policy considerations. When the COVID-19 pandemic required the public, including elected officials, to stay at home to avoid spreading the virus, state bodies recognized that the Bagley-Keene Act teleconferencing provisions did not provide the flexibility they felt necessary to continue conducting their business without risking further spread of the virus. The Governor’s executive order and legislative measures provided state bodies the flexibility they needed to continue their business, while still providing opportunities for the public to participate via teleconference providers. State bodies found the flexibility teleconferencing provides useful to offset the effects of the long-lasting pandemic.

However, to date, limited data and information has been collected to determine if, and how, the Bagley-Keene should be modified to provide more flexibility and effectiveness for state bodies and the general public.

Committee amendments. In order to address some of the concerns raised in the analysis, as well as other considerations, the Committee may wish to adopt the following amendments:

- 1) Amend the bill to include a sunset date of January 1, 2026. This will allow for further analysis of the implementation and overall impact of this and previous Bagley Keane waivers. This sunset date would also dovetail with the January 1, 2026 sunset date as provided for in AB 2449 (Blanca Rubio), Chapter 285, Statutes of 2022 that granted a Ralph M. Brown Act exemption to allow members of local legislative bodies to use teleconferencing, under specified conditions.
- 2) Amend the bill to provide that a majority of the members (quorum) of the state body would need to present at one physical location for a minimum of a fifty percent of the meetings of the state body each year. This will provide state bodies with the flexibility they need to continue conducting business in a teleconferencing environment, while providing the public with the opportunity to participate in person and interact directly with members at designated meetings.

Related legislation. SB 411 (Portantino) of 2023. Among other things, would authorize a legislative body of a local agency to use alternate teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency, as specified. (Assembly Local Government Committee)

SB 537 (Becker) of 2023. Would authorize an eligible legislative body, which is a board, commission, or advisory body of a multijurisdictional, cross county, local agency with appointed members that is subject to the Brown Act, to teleconference their meetings without having to make publicly accessible each teleconference location under certain conditions and limitations. (Assembly Local Government Committee)

AB 817 (Pacheco) of 2023. Among other things, would authorize a subsidiary state bodies to use alternative teleconferencing provisions similar to the emergency provisions indefinitely and without regard to a state of emergency, as specified. (Assembly Local Government Committee - Hearing postponed by committee)

AB 1275 (Arambula) of 2023. Would authorize the recognized statewide community college student organization and other student-run community college organizations, if specific conditions are met, to use teleconferencing for their meetings without having to post agendas at all teleconferencing locations, identify each teleconference location in the notice and agenda, and make each teleconference location accessible to the public. (Senate Committee on Governance and Finance)

Prior legislation. SB 189 (Committee on Budget and Fiscal Review), Chapter 48, Statutes of 2022. Among other things, provided a temporary statutory extension (July 1, 2023) for state bodies in California to hold public meetings through teleconferencing, such as phone or video calls, instead of in-person gatherings, as specified.

AB 2449 (Rubio), Chapter 285, Statutes of 2022. The bill allowed, until January 1, 2026, members of a legislative body of a local agency to use teleconferencing without noticing their teleconference locations and making them publicly accessible under certain conditions. Clarify the process for members of legislative bodies to participate via teleconference in cases of emergency circumstances, and refine provisions regarding compliance with applicable civil rights and nondiscrimination laws.

AB 1733 (Quirk) of 2022. This bill would have provided specified exemptions from the Bagley-Keene for state bodies that conduct meetings via teleconference. Revises the requirements of the Bagley-Keene to provide the public remote access to every meeting and allow members of state bodies to participate 100 percent remotely, while removing existing provisions of the Act that require each teleconference location to be identified in the notice and agenda and accessible to the public. (Never heard in Assembly Committee on Governmental Organization)

AB 1795 (Fong) of 2022. This bill would have required state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely. (Never heard in Assembly Committee on Governmental Organization)

AB 885 (Quirk) of 2021. This bill would have required a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all

multimember state bodies. (Never heard in Assembly Committee on Governmental Organization)

AB 361 (R. Rivas), Chapter 165, Statutes of 2021. Allowed, until January 1, 2024, local agencies to use teleconferencing without complying with specified Ralph. M Brown Act restrictions in certain state emergencies, and provides similar authorizations, until January 31, 2022, for state agencies subject to the Bagley-Keene and legislative bodies subject to the Gloria Romero Open Meetings Act of 2000.

AB 339 (Lee and Cristina Garcia) of 2021. The bill would have required, until December 31, 2023, that city councils and boards of supervisors in jurisdictions over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings. Vetoed by Governor Newsom.

AB 1291 (Frazier), Chapter 63, Statutes of 2021. This bill requires a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes translating technology.

AB 2028 (Aguiar-Curry) of 2020. This bill requires state bodies to post all writings or materials provided to a member of the state body on the state agency's internet website the first business day after they are provided to the state agency or at least 48 hours in advance of the meeting, as specified. The bill also removes an exemption in existing law by requiring that a state body make an agenda item that had already been discussed by a committee of the state body open to public comment. Died on Senate Inactive File.

SB 53 (Wilk) of 2019-20 Legislative Session. Would have modified the definition of "state body" to clarify that standing committees, even if composed of less than three members, are a "state body" for the purposes of the Bagley-Keene. Held on Assembly Appropriations Suspense File.

AB 2958 (Quirk), Chapter 881, Statutes of 2018. Provided specified exemptions from Bagley-Keene for advisory state bodies that conduct meetings via teleconference.

AB 1976 (Irwin), Chapter 451, Statutes of 2016. Created an exemption from the teleconference meeting requirements in Bagley-Keene for agricultural state bodies.

AB 2058 (Wilk) of the 2013- 2014 Legislative Session. Would have modified the definition of "state body," under Bagley-Keene, to exclude an advisory body with less than three individuals, except for certain standing committees. (Vetoed by Governor Brown)

AB 2720 (Ting), Chapter 510, Statutes of 2014. Required a state body to publicly report any action taken and the vote or abstention on that action of each member present for the action.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP
Advisory Council for Sourcewise
Agency on Aging \ Area 4

Alcoholic Beverage Control Appeals Board
Board of Behavioral Sciences
California Acupuncture Board
California Architects Board
California Board of Accountancy
California Commission on Aging
California State Board of Optometry
California State Board of Pharmacy
California State Council on Developmental Disabilities (SCDD)
California Structural Pest Control Board
Dental Board of California
Dental Hygiene Board of California
Department of Consumer Affairs, Board of Barbering and Cosmetology
Department of Consumer Affairs, Speech-language Pathology and Audiology and Hearing Aid
Dispensers Board
Disability Rights California
Health Officers Association of California
Medical Board of California
Osteopathic Medical Board of California
Physical Therapy Board of California
The Veterinary Medical Board

Oppose

American Chemistry Council
American Composites Manufacturers Association
California Association of Winegrape Growers
California Manufacturers & Technology Association
Glass Packaging Institute

Oppose Unless Amended

ACLU California Action
California Broadcasters Association
California Common CAUSE
California News Publishers Association
Californians Aware: the Center for Public Forum Rights
Cenma: Latino Journalists of California
First Amendment Coalition
Howard Jarvis Taxpayers Association (HJTA)
Institute of Governmental Advocates
Media Alliance
National Press Photographers Association
Nlgja: Association of Lgbtq+ Journalists
Northern California Society of Professional Journalists
Orange County Press Club
Pacific Media Workers Guild (the Newsguild-communications Workers of America Local 39521)
Radio Television Digital News Association

San Diego Pro Chapter of The Society of Professional Journalists
Society of Professional Journalists, Greater Los Angeles Chapter

Analysis Prepared by: Eric Johnson / G.O. / (916) 319-2531

AMENDED IN ASSEMBLY AUGUST 14, 2023

AMENDED IN SENATE APRIL 27, 2023

AMENDED IN SENATE MARCH 20, 2023

SENATE BILL

No. 544

Introduced by Senator Laird

February 15, 2023

An act to ~~amend~~ *amend, repeal, and add* Section 11123 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Laird. Bagley-Keene Open Meeting Act: teleconferencing.

Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act authorizes meetings through teleconference subject to specified requirements, including, among others, that the state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, that each teleconference location be accessible to the public, that the agenda provide an opportunity for members of the public to address the state body directly at each teleconference location, and that at least one member of the state body be physically present at the location specified in the notice of the meeting.

Existing law, until July 1, 2023, ~~authorizes~~ *authorized*, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and ~~suspends~~ *suspended*

certain requirements of the act, including the above-described teleconference requirements.

This bill would ~~amend existing law that will remain operative after July 1, 2023, to remove indefinitely~~ the teleconference requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public. The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require any notice required by the act to specify the applicable teleconference telephone number, internet website or other online platform, and physical address indicating how the public can access the meeting remotely and in person. The bill would revise existing law to no longer require that members of the public have the opportunity to address the state body directly at each teleconference location, but would continue to require that the agenda provide an opportunity for members of the public to address the state body directly. The bill would require a member or staff to be physically present at the location specified in the notice of the meeting. *The bill would require a majority of the members of the state body to be physically present at the same location for at least 1/2 of the meetings of that state body.*

This bill would provide that it does not affect prescribed existing notice and agenda requirements and would require the state body to post an agenda on its internet website and, on the day of the meeting, at any physical meeting location designated in the notice of the meeting. The bill would prohibit the notice and agenda from disclosing information regarding any remote location from which a member is participating and define “remote location” for this purpose. The bill would provide that members of the public shall be entitled to exercise their right to directly address the state body during the teleconferenced meeting without being required to submit public comments prior to the meeting or in writing.

This bill would require a state body, upon discovering that a means of remote participation required by the bill has failed during a meeting and cannot be restored, to end or adjourn the meeting in accordance

with prescribed adjournment and notice provisions, including information about reconvening.

This bill would require a state body that holds a meeting through teleconferencing pursuant to the bill and allows members of the public to observe and address the meeting telephonically or otherwise electronically to implement and advertise, as prescribed, a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990.

This bill would require a member of a state body who attends a meeting by teleconference from a remote location to disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member’s relationship with any such individuals.

This bill would repeal its provisions on January 1, 2026.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11123 of the Government Code is
- 2 amended to read:
- 3 11123. (a) All meetings of a state body shall be open and
- 4 public and all persons shall be permitted to attend any meeting of
- 5 a state body except as otherwise provided in this article.
- 6 (b) (1) This article does not prohibit a state body from holding
- 7 an open or closed meeting by teleconference for the benefit of the
- 8 public and state body. The meeting or proceeding held by
- 9 teleconference shall otherwise comply with all applicable
- 10 requirements or laws relating to a specific type of meeting or
- 11 proceeding, including the following:
- 12 (A) The teleconferencing meeting shall comply with all
- 13 requirements of this article applicable to other meetings.

1 (B) The portion of the teleconferenced meeting that is required
2 to be open to the public shall be audible to the public at the location
3 specified in the notice of the meeting.

4 (C) If the state body elects to conduct a meeting or proceeding
5 by teleconference, it shall conduct teleconference meetings in a
6 manner that protects the rights of any party or member of the public
7 appearing before the state body. The state body shall provide a
8 means by which the public may remotely hear audio of the meeting,
9 remotely observe the meeting, or attend the meeting by providing
10 on the posted agenda a teleconference telephone number, an
11 internet website or other online platform, and a physical address
12 for at least one site, including, if available, access equivalent to
13 the access for a member of the state body participating remotely.
14 The applicable teleconference telephone number, internet website
15 or other online platform, and physical address indicating how the
16 public can access the meeting remotely and in person shall be
17 specified in any notice required by this article.

18 (D) The agenda shall provide an opportunity for members of
19 the public to address the state body directly pursuant to Section
20 11125.7.

21 (E) All votes taken during a teleconferenced meeting shall be
22 by rollcall.

23 (F) The portion of the teleconferenced meeting that is closed to
24 the public may not include the consideration of any agenda item
25 being heard pursuant to Section 11125.5.

26 (G) At least one member or staff of the state body shall be
27 physically present at the location specified in the notice of the
28 meeting.

29 *(H) A majority of the members of the state body shall be present*
30 *at the same physical location for at least one-half of the meetings*
31 *of the state body each year.*

32 ~~(H)~~

33 (I) This section does not affect the requirement prescribed by
34 this article that the state body post an agenda of a meeting in
35 accordance with the applicable notice requirements of this article,
36 including Section 11125, requiring the state body to post an agenda
37 of a meeting at least 10 days in advance of the meeting, Section
38 11125.4, applicable to special meetings, and Sections 11125.5 and
39 11125.6, applicable to emergency meetings. The state body shall
40 post the agenda on its internet website and, on the day of the

1 meeting, at any physical meeting location designated in the notice
2 of the meeting. The notice and agenda shall not disclose
3 information regarding any remote location from which a member
4 is participating.

5 (I)

6 (J) Members of the public shall be entitled to exercise their right
7 to directly address the state body during the teleconferenced
8 meeting without being required to submit public comments prior
9 to the meeting or in writing.

10 (J)

11 (K) Upon discovering that a means of remote participation
12 required by this section has failed during a meeting and cannot be
13 restored, the state body shall end or adjourn the meeting in
14 accordance with Section 11128.5. In addition to any other
15 requirements that may apply, the state body shall provide notice
16 of the meeting's end or adjournment on the state body's internet
17 website and by email to any person who has requested notice of
18 meetings of the state body by email under this article. If the
19 meeting will be adjourned and reconvened on the same day, further
20 notice shall be provided by an automated message on a telephone
21 line posted on the state body's agenda, internet website, or by a
22 similar means, that will communicate when the state body intends
23 to reconvene the meeting and how a member of the public may
24 hear audio of the meeting or observe the meeting.

25 (2) For the purposes of this subdivision, both of the following
26 definitions shall apply:

27 (A) "Teleconference" means a meeting of a state body, the
28 members of which are at different locations, connected by
29 electronic means, through either audio or both audio and video.
30 This section does not prohibit a state body from providing members
31 of the public with additional locations in which the public may
32 observe or address the state body by electronic means, through
33 either audio or both audio and video.

34 (B) "Remote location" means a location from which a member
35 of a state body participates in a meeting other than any physical
36 meeting location designated in the notice of the meeting. Remote
37 locations need not be accessible to the public.

38 (c) If a state body holds a meeting through teleconferencing
39 pursuant to this section and allows members of the public to

1 observe and address the meeting telephonically or otherwise
2 electronically, the state body shall also do both of the following:

3 (1) Implement a procedure for receiving and swiftly resolving
4 requests for reasonable modification or accommodation from
5 individuals with disabilities, consistent with the federal Americans
6 with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and
7 resolving any doubt whatsoever in favor of accessibility.

8 (2) Advertise that procedure each time notice is given of the
9 means by which members of the public may observe the meeting
10 and offer public comment.

11 (d) The state body shall publicly report any action taken and
12 the vote or abstention on that action of each member present for
13 the action.

14 (e) If a member of a state body attends a meeting by
15 teleconference from a remote location, the member shall disclose
16 whether any other individuals 18 years of age or older are present
17 in the room at the remote location with the member, and the general
18 nature of the member’s relationship with any such individuals.

19 (f) For purposes of this section, “participate remotely” means
20 participation in a meeting at a location other than the physical
21 location designated in the agenda of the meeting.

22 (g) *This section shall remain in effect only until January 1, 2026,*
23 *and as of that date is repealed.*

24 *SEC. 2. Section 11123 is added to the Government Code, to*
25 *read:*

26 *11123. (a) All meetings of a state body shall be open and*
27 *public and all persons shall be permitted to attend any meeting of*
28 *a state body except as otherwise provided in this article.*

29 (b) (1) *This article does not prohibit a state body from holding*
30 *an open or closed meeting by teleconference for the benefit of the*
31 *public and state body. The meeting or proceeding held by*
32 *teleconference shall otherwise comply with all applicable*
33 *requirements or laws relating to a specific type of meeting or*
34 *proceeding, including the following:*

35 (A) *The teleconferencing meeting shall comply with all*
36 *requirements of this article applicable to other meetings.*

37 (B) *The portion of the teleconferenced meeting that is required*
38 *to be open to the public shall be audible to the public at the*
39 *location specified in the notice of the meeting.*

1 (C) If the state body elects to conduct a meeting or proceeding
2 by teleconference, it shall post agendas at all teleconference
3 locations and conduct teleconference meetings in a manner that
4 protects the rights of any party or member of the public appearing
5 before the state body. Each teleconference location shall be
6 identified in the notice and agenda of the meeting or proceeding,
7 and each teleconference location shall be accessible to the public.
8 The agenda shall provide an opportunity for members of the public
9 to address the state body directly pursuant to Section 11125.7 at
10 each teleconference location.

11 (D) All votes taken during a teleconferenced meeting shall be
12 by rollcall.

13 (E) The portion of the teleconferenced meeting that is closed to
14 the public may not include the consideration of any agenda item
15 being heard pursuant to Section 11125.5.

16 (F) At least one member of the state body shall be physically
17 present at the location specified in the notice of the meeting.

18 (2) For the purposes of this subdivision, “teleconference” means
19 a meeting of a state body, the members of which are at different
20 locations, connected by electronic means, through either audio or
21 both audio and video. This section does not prohibit a state body
22 from providing members of the public with additional locations
23 in which the public may observe or address the state body by
24 electronic means, through either audio or both audio and video.

25 (c) The state body shall publicly report any action taken and
26 the vote or abstention on that action of each member present for
27 the action.

28 (d) This section shall become operative on January 1, 2026.

29 ~~SEC. 2.~~

30 SEC. 3. The Legislature finds and declares that Section 1 of
31 this act, which amends Section 11123 of the Government Code,
32 imposes a limitation on the public’s right of access to the meetings
33 of public bodies or the writings of public officials and agencies
34 within the meaning of Section 3 of Article I of the California
35 Constitution. Pursuant to that constitutional provision, the
36 Legislature makes the following findings to demonstrate the interest
37 protected by this limitation and the need for protecting that interest:

38 (a) By removing the requirement for agendas to be placed at
39 the location of each public official participating in a public meeting
40 remotely, including from the member’s private home or hotel

1 room, this act protects the personal, private information of public
2 officials and their families while preserving the public’s right to
3 access information concerning the conduct of the people’s business.

4 (b) During the COVID-19 public health emergency, audio and
5 video teleconference were widely used to conduct public meetings
6 in lieu of physical location meetings, and those public meetings
7 have been productive, increased public participation by all
8 members of the public regardless of their location and ability to
9 travel to physical meeting locations, increased the pool of people
10 who are able to serve on these bodies, protected the health and
11 safety of civil servants and the public, and have reduced travel
12 costs incurred by members of state bodies and reduced work hours
13 spent traveling to and from meetings.

14 (c) Conducting audio and video teleconference meetings
15 enhances public participation and the public’s right of access to
16 meetings of the public bodies by improving access for individuals
17 that often face barriers to physical attendance.



ISSUE MEMORANDUM

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| DATE | August 25, 2023 |
| TO | Board Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #8 – Consideration and Possible Action on Legislative Proposal to Encourage Optometrist Licensees take Continuing Education in Diversity, Equity, Inclusion, and Belonging (DEIB). |

Background:

At the August 26, 2022, Board meeting a presentation was given on DEIB by Dr. Ruth Shoge, O.D., the Director of DEIB and Associate Clinical Professor, Herbert Wertheim School of Optometry & Vision Science at the University of California, Berkeley. It was noted at that presentation that the Board does not have a requirement that licensees take cultural competency training. As a possible parallel, it was noted that current law allows and encourages licensees to take courses in child and elder abuse as part of their continuing education requirements, although Board statistics reveal that most licensees gravitate toward taking courses in the statutorily mandated topics. Members expressed interest in this topic being mandated. At the January 27, 2023, Practice and Education Committee, members asked for the topic to be referred both to the Legislation and Regulation Committee (LRC) as well as included as a future agenda item for the next Practice and Education Committee meeting, which was held on March 24, 2023. During that meeting, Board staff provided the Committee with information regarding options for pursuing this topic as a mandated continuing education topic.

During the [April 21, 2023, LRC meeting](#) the committee discussed pursuing a legislative proposal that would encourage optometrists to take continuing education in DEIB. The LRC requested that staff bring to the full Board a legislative proposal for consideration in 2024 to pursue a statutory change which would encourage optometrists to take continuing education courses in DEIB. Today, staff presents that proposal.

Current Law **with Amendment:**

Business and Professions Code section 3059.

(a) It is the intent of the Legislature that the public health and safety would be served by requiring all holders of licenses to practice optometry granted under this chapter to continue their education after receiving their licenses. The board shall adopt regulations that require, as a condition to the renewal thereof, that all holders of licenses submit proof satisfactory to the board that they have informed themselves of the developments in the practice of optometry occurring since the original issuance of their licenses by

pursuing one or more courses of study satisfactory to the board or by other means deemed equivalent by the board.

(b) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for reasons of health, military service, or other good cause.

(c) If for good cause compliance cannot be met for the current year, the board may grant exemption of compliance for that year, provided that a plan of future compliance that includes current requirements as well as makeup of previous requirements is approved by the board.

(d) The board may require that proof of compliance with this section be submitted on an annual or biennial basis as determined by the board.

(e) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 shall complete a total of 50 hours of continuing education every two years in order to renew his or her certificate. Thirty-five of the required 50 hours of continuing education shall be on the diagnosis, treatment, and management of ocular disease in any combination of the following areas:

(1) Glaucoma.

(2) Ocular infection.

(3) Ocular inflammation.

(4) Topical steroids.

(5) Systemic medication.

(6) Pain medication, including the risks of addiction associated with the use of Schedule II drugs.

(f) The board shall encourage every optometrist to take a course or courses in pharmacology and pharmaceuticals as part of his or her continuing education.

(g) The board shall consider requiring courses in child abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(h) The board shall consider requiring courses in elder abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected elder persons.

(i) The board shall encourage every optometrist to take a course or courses in diversity, equity, inclusion, and belonging as part of their continuing education.

If a motion to approve is desired:

“I move to approve the proposed text for Business and Professions Code section 3059; encouraging optometrist licensees to take a course or courses in diversity, equity, inclusion, and belonging as part of their continuing education; and authorize the Executive Officer to seek a legislative author.”