MEMBERS OF THE BOARD
Alejandro Arredondo, OD, President
Madhu Chawla, OD, Vice President
Donna Burke, Secretary
Cyd Brandvein
Frank Giardina, OD
Bruce Givner, Esq.
Glenn Kawaguchi, OD
Alexander Kim, MBA
William H. Kysella, Jr.
Kenneth Lawenda, OD
David Turetsky, OD

CALIFORNIA STATE BOARD OF OPTOMETRY

QUARTERLY BOARD MEETING AGENDA

Friday, August 8, 2014
9:30 a.m. – 5:00 p.m.
(or until conclusion of business)

Department of Consumer Affairs
1625 North Market Boulevard
First Floor Hearing Room
Sacramento, CA 95834

And via teleconference at

140 C Tower Street
Beaconsfield, Quebec H9W6B2, Canada

ORDER OF ITEMS SUBJECT TO CHANGE

FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

2. Welcome – President's Report

3. 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)]

4. Approval of Board Meeting Minutes
   A. August 16, 2013
   B. November 1, 2013
   C. April 11, 2014
   D. June 23, 2014

5. Department of Consumer Affairs Report
   Presentation by Awet Kidane, Director Department of Consumer Affairs
   Christine Lally, Deputy Director of Board/Bureau Relations

6. Petition for Reduction of Penalty or Early Termination of Probation
   A. Larrance Larson, OD, OPT 6725

FULL BOARD CLOSED SESSION

7. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

8. Pursuant to Government Code Section 11126(e), the Board will Meet in Closed Session to discuss pending litigation – Anthony Rudick, O.D.; Ridge Eye Care, Inc. v. State Board of Optometry, Superior Court of the State of California for the County of Sacramento, CA., Case Number KG13708526

FULL BOARD OPEN SESSION

9. Presentation on Running Effective Meetings
   Rick Sydor, Registered Parliamentarian; Past International Director, Toastmasters International

10. Review and Possible Approval of Amendments to the Board Member Handbook
    Cyd Brandvein, Public Member

11. Discussion and Possible Action on Legislation Affecting the Board of Optometry
    A. Senate Bill 492 (Hernandez) Optometrist: practice: licensure
       Kristine Schultz, California Optometric Association
    B. Senate Bill 870 (Committee on Budget and Fiscal Review) Health Trailer Bill
    C. Senate Bill 1172 (Steinberg) Pupil health: vision examination: binocular function

12. Legislation and Regulations Update

13. Executive Officer's Report
    A. BreEZe Database
    B. Budget
    C. Personnel
    D. Examination and Licensing Programs
    E. Enforcement Program and CURES

14. Suggestions for Future Agenda Items

15. Adjournment

PUBLIC COMMENTS: Public comments will be taken on agenda items at the time the specific item is raised. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Krista Eklund at (916) 575-7170 or sending a written request to that person at the California State Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Alejandro Arredondo O.D.
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 1 – Call to Order and Establishment of Quorum**

Dr. Alejandro Arredondo, O.D., Board President, will call the meeting to order and call roll to establish a quorum of the Board.

Alejandro Arredondo, O.D., Board President, Professional Member

Madhu Chawla, O.D., Vice President, Professional Member

Donna Burke, Board Secretary, Public Member

Cyd Brandvein, Public Member

Frank Giardina, O.D., Professional Member

Bruce Givner, Esq., Public Member

Glenn Kawaguchi, O.D., Professional Member

Alexander Kim, MBA, Public Member

William H. Kysella, Jr., Public Member

Kenneth Lawenda, O.D., Professional Member

David Turetsky, O.D., Professional Member

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
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www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Alejandro Arredondo, O.D.
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 2 – Welcome – President's Report**

Welcome by President Alejandro Arredondo, O.D.

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Alejandro Arredondo O.D.
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 3 – Public Comment for Items Not on the Agenda**

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)].

Memo

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Sacramento, CA 95834
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To: Board Members **Date:** August 8, 2014

From: Donna Burke
Board Secretary **Telephone:** (916) 575-7170

Subject: Agenda Item 4 – Approval of Board Meeting Minutes

The Board is asked to review and approve the attached meeting minutes.

A. August 16, 2013
Page 11. Dr. Kawaguchi asked staff to confirm whether or not he voted on Agenda Item 7. A review of staff notes and the meeting webcast showed that Dr. Kawaguchi participated in the early discussion of Agenda Item 7 but left the Board Meeting prior to the vote.

B. November 1, 2013
Page 4. Dr. Kawaguchi asked staff to confirm his "Aye" vote on Agenda Item 4. A review of staff notes and the meeting webcast confirmed the meeting minutes are correct.

C. April 11, 2014

D. June 23, 2014

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov

Friday, August 16, 2013 **DRAFT**

Department of Consumer Affairs
1625 North Market Boulevard, First Floor Hearing Room
Sacramento, CA 95834

Members Present		**Staff Present**
Alejandro Arredondo, O.D, Board President		Mona Maggio, Executive Officer
Alexander Kim, MBA, Board Secretary, Public Member		Andrea Leiva, Policy Analyst
Donna Burke, Public Member		Jessica Sieferman, Enforcement Lead
Madhu Chawla, O.D, Professional Member		Cheree Kimball, Enforcement Analyst
Fred Dubick, O.D, MBA, FAAO, Professional Member		Brad Garding, Enforcement Technician
Glenn Kawaguchi, O.D, Professional Member		Lydia Bracco, Enforcement Analyst
William Kysella, Jr., Public Member		Rob Stephanopoulos, Enforcement Analyst
Kenneth Lawenda, O.D., Professional Member		Jeff Robinson, Licensing Analyst
		Michael Santiago, Senior Legal Counsel
Excused Absence		Guest List
Monica Johnson, JD, Vice President, Public Member		On File

9:00 a.m.

FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum
Board President, Alejandro (Alex) Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:06 a.m.

2. Welcome – President's Report
Dr. Arredondo reported on the following:

A. Association of Regulatory Board of Optometry (ARBO) Annual Meeting June 23-25, 2013

Executive Officer, Mona Maggio attended the ARBO Annual Meeting, which she explained, was the first time she was able to attend one of ARBOs meetings. Ms. Maggio stated that she found the meeting to be inspirational, educational, and a great opportunity to network with other administrators of boards of optometry, and meet with optometrists throughout the United States. Educational sessions included continuing education, laws and regulations, scope of practice expansions, and state reports from each state and provinces in Canada, belonging to ARBO.

B. Full Accreditation of Western University of Health Sciences, College of Optometry

Dr. Arredondo congratulated the Western University of Health Sciences, College of Optometry for receiving their full accreditation.

C. *Department of Consumer Affairs (DCA)*

Dr. Arredondo introduced and welcomed Deputy Director of Board and Bureau Relations, Christine J. Lally. Ms. Lally was appointed as Deputy Director of Board and Bureau Relations in June 2013. She has served as Assistant Secretary of Communications and Legislation for the California Technology Agencies since 2011. Additionally, Ms. Lally served as Deputy Secretary of Legislative Affairs at the California State and Consumer Services Agency in 2011.

Ms. Lally expressed appreciation for the opportunity to attend the meeting, and the opportunity to become a resource for the various DCA boards and bureaus. She explained her function as liaison between the DCA board/bureau Executive Officers and Members. Additionally, she works closely with the Governor's Office on appointments and policies pertaining to boards and bureaus.

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3. Continuing Education (CE)

A. Presentation from the Association of Regulatory Boards of Optometry (ARBO), Optometric Education (OE) Tracker Program, Benefits for Licensees and Member Boards

ARBO Program Coordinator, Sierra Rice, and OE TRACKER Committee Chair from Tennessee, Dr. Richard Orgain provided a presentation on the OE Tracker and the benefits it provides to licensing boards and licensees. Dr. Orgain is a practicing optometrist in Hendersonville, Tennessee as well as a member of multiple optometric societies. Ms. Rice has been serving as the Program Coordinator for ARBO for two years. She is responsible for the implementation of the OE tracker by state boards of optometry, CE providers, licensed optometrists, and for uploading CE attendance data submitted by CE providers.

Ms. Rice reported that the OE Tracker system electronically captures, verifies, and stores CE attendance data to benefit licensing boards, optometrists, and CE providers. As of August 2013, the OE Tracker has 46,421 registered, active optometrists, for which 45,457 have some CE data in their accounts. In California, 6,237 licensees are registered with OE Tracker, for which 5,389 have some CE data in their accounts. The value of the OE Tracker system for licensing boards is provision of an easy and quick method of auditing 100% of licensees. The value for optometrists is the ability to check CE in their account 24/7 and keep track of hours accumulated in each state, as well as the requirements for each state. The OE Tracker provides general and detailed types of reports/transcripts.

Dr. Orgain demonstrated how his CE would be managed by the OE Tracker according to optometry laws and regulations of Tennessee.

Professional Member, Dr. Kenneth (Ken) Lawenda asked and Dr. Orgain and Ms. Rice responded that currently 15 states utilize the OE Tracker in some aspect. Also, the OE Tracker provides access to uploaded CE data from state to state where an optometrist is licensed.

Dr. Arredondo inquired and Ms. Rice clarified that CE courses which are 'Counsel of Optometric Practitioner Education' (COPE) approved are already categorized. For non-COPE approved courses, the CE provider is contacted to determine which category the course falls under.

Licensing Analyst, Jeff Robinson stated that if he and OE Tracker were unable to categorize a course, he would forward the course to the CE Committee for acceptance or denial.

Public Member, Donna Burke questioned and it was explained that usually, a licensee knows which category a CE course belongs in prior to taking a course. Dr. Orgain added that for COPE-approved courses, an outline of the course is provided prior to registration.

Enforcement Lead, Jessica Sieferman asked and Dr. Orgain responded that optometrists with a revoked or suspended license may utilize the OE Tracker system as well. The OE Tracker is a database that keeps track of education regardless of status of practice (i.e. retired, some form of suspension).

Professional Member, Dr. Fred Dubick inquired and Dr. Orgain explained how non-COPE approved courses are accepted or rejected. Non-COPE approved courses must fit into a category that COPE already has. If it does not fit into one of COPE's categories, it falls upon the state board to determine whether or not the course meets that board's criteria.

Ms. Rice concluded the presentation with an explanation that OE Tracker reports are customizable. Custom reports can be created, from the general reports. Also a website handbook is available with "how to" assistance on using the application. Whatever makes auditing and verification easier for each board is what ARBO aims to provide through the OE Tracker database.

B. Discussion and Possible Action to Amend California Code of Regulations Section 1536 to Include Medical Coursework as Acceptable CE for Optometrists

Mr. Robinson reported on this action item. Board staff is requesting that Board Members allow the CE Committee to re-examine California Code of Regulations (CCR) section 1536(e) and grant them the opportunity to discuss possible amendments to the regulation before a full Board at a later time.

Over the years staff has received numerous inquiries from its licensed optometrists seeking answers as to why the American Medical Association's (AMA) Continuing Medical Education (CME) courses are not given the same recognition by the Board as are the American Optometric Association (AOA), the American Academy of Optometry (AAO), the Optometric Extension Program (OEP), or the Association of Regulatory Boards of Optometry's (ARBO) Council on Optometric Practitioner Education (COPE).

They contend that many of the AMAs courses are greatly beneficial to optometrists. They seek these courses out primarily, because many of the courses the Board approves, or COPE approves, tend to be a repeat of something previously taken, and they desire to take something new.

California-licensed optometrists often attend these and other courses that could contribute to the advancement of professional skill and knowledge in the practice of optometry but are unable to receive CE credit for completing them because the provider has not been approved as meeting the required standards of the Board which may change in the future if California Senate Bill (SB) 492 (Hernandez), the act to amend Business and Professions Code sections 3041, 3041.1, and 3110, is passed and becomes law.

The AMA accredits their own courses and is not interested in submitting their courses for COPE approval. Consequently, although the Board might wish to approve and give credit for many of these CME courses, it cannot do so because of the limitations in section 1536(e).

Because the AMA is not interested in forwarding individual course information to the Board, for Board approval, staff is proposing that the CE Committee examine this further and decide if the Board should give blanket approval for AMA ophthalmological courses, as is done with COPE approved courses.

Dr. Arredondo inquired and Policy Analyst, Andrea Leiva clarified, that the Board has authority to make the changes through regulation, and it does not need to go through the Legislature.

Dr. Arredondo opened the floor for questions.

Ms. Burke inquired of Mr. Robinson about the reference of SB 492 which the DCA is in opposition of. Mr. Robinson responded that staff has received word that SB 492 will probably be “put on a shelf” for a year, but that it is not over yet.

Dr. Dubick does not see any reason why the CE Committee cannot take a look at this and bring some full recommendations back to the Board in the future. Dr. Arredondo agreed.

Public Member, William (Bill) Kysella expressed his one concern that the Committee focus on AMA courses that relate specifically to optometry practice. Dr. Arredondo responded that this is where the CE Committee would sort out what courses are relevant and which are not.

Ms. Leiva announced that Dr. Pam Miller, O.D. requested this item be placed on the agenda and that she is present to comment on the issue.

Dr. Miller introduced herself. She has a solo practice in Southern California, and she was a member of this Board for nine years when the issue of mandatory education first came about. Dr. Miller believes the issue of expansion of practice needs to be addressed before laws become effective. She stated that as optometry expands its scope of practice, and as this Board looks at extending the licensure and educational requirements, it is incumbent upon this Board to address these issues prior to laws being changed. Optometrists are becoming much more responsible for the overall care of their patients. She urges this Board to use this opportunity proactively and take a much more aggressive stance in terms of continuing education before SB 492 becomes law. Dr. Miller is happy to assist the Board on this issue.

Dr. Lawenda stated that he does not see any problems with education being offered to ophthalmologists or physicians with regards to areas of treatment, and he inquired what the concern might be and why the Board would be resistant in approving CME courses.

Mr. Kysella reiterated his one concern that there exist AMA certified courses not relevant to the practice of optometry, therefore having blanket approval of AMA certified courses may not be appropriate.

Public Member, Alexander Kim expressed his belief that this is a great issue for the CE Committee to consider. Anything which expands the role of optometrists and increases partnership with other healthcare providers assists in making health care more affordable.

Donna Burke moved to send the Discussion and Possible Action to Amend California Code of Regulations Section 1536 to Include Medical Coursework as Acceptable CE for Optometrists to the Continuing Education Committee. Madhu Chawla seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		

C. Discussion and Possible Action to Approve Request for CE Extension/Exemption Form

Mr. Robinson provided an overview of this discussion.

When an optometrist licensee has had difficulty in meeting their CE requirement due to an unforeseen circumstance, it has been Board staff's practice to allow the licensee to submit a letter requesting an extension or exemption from the requirement as is allowed in CCR section 1536(i)(1-3). Board staff has come to the conclusion that the completion and submission of a form might best serve, and help streamline the process, as well as enable staff to keep a better record of those who are granted extensions or exemptions. Board staff relied upon examples of other board's forms for creation ideas for two forms (one for the licensee requesting extension or exemption and one for the health practitioner). Mr. Robinson provided copies of the two forms for Board member review.

Dr. Arredondo opened the floor for comments regarding the forms.

Ms. Burke, Mr. Robinson, and Ms. Maggio discussed the purpose of the forms, the criteria for determination and the method of obtaining determining information. Ms. Burke would like to see criteria established for consistency in the event the Board is ever challenged.

Fred Dubick moved to approve the use of the forms staff development and allow staff to move forward with making the process more efficient. Glenn Kawaguchi seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		

FULL BOARD CLOSED SESSION

4. Pursuant to Government Code Section 11126(e) the Board Will Meet in Closed Session for Discussion and Possible Action on – Nat'l Ass'n of Optometrists & Opticians v. Harris, 133 S. Ct. 1241 (2013) Pending Litigation.

The Board met in closed session for discussion and possible action on Nat'l Ass'n of Optometrists & Opticians v. Harris, 133 S. Ct. 1241 (2013).

FULL BOARD OPEN SESSION

The Board reconvened into open session. Dr. Arredondo called roll and a quorum was established.

5. Approval of Board Meeting Minutes

A. May 10, 2013

There were only two edits made to the minutes. Alexander Kim requested that his full name be used in the minutes. Dr. Arredondo clarified that he was also at the Southern California College of Optometry's graduation.

Ken Lawenda moved to approve as amended the May 10, 2013 minutes. Bill Kysella seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		

6. Executive Officer's Report

A. ***Budget Report*** – Wilbert Rumbaoa, Department of Consumer Affairs (DCA) Budget Office

Budget Analyst, Wilbert Rumbaoa, and Budget Manager, Cynthia Dines presented an overview of the 2013/2014 Budget Report.

The Board's budget for fiscal year (FY) 2012-2013 was $1,693,603. The year-end report reveals expenditures as of June 30, 2012 as $1,433,044, or 85% of the budget. The fiscal year end surplus is $213,803 or 12.6%. The analysis of the Board's fund condition reveals 7.8 months reserve in FY 2012-13 and 7.3 months in FY 2013-14.

The Board's budget for fiscal year 2013-2014 is $1,841,000. Estimated revenue is 1.8 million dollars as well. This amount will change slightly based on directive from the Governor, budget letters and adjustments to the budget.

Ms. Dines reported on the Board's Analysis of Fund Condition. The fund appears to be balanced. Revenues are slightly less than expenditures which may change in the future (i.e., budget change proposals, etc.).

Dr. Lawenda requested Ms. Dines update the Board on the $1 million dollar General Fund repayment which is still outstanding. Ms. Dines responded that when loans are given to the General Fund, a "scheduled" repayment plan does not occur. However, if a board's funds begin to decrease, and/or the board is not able to fund its mandated activities, the department requests repayment of the loan. She stated that there has not been a problem with receiving repayment when needed.

Dr. Arredondo inquired and Ms. Dines explained that the Department of Finance (which is the Governor's financial advisor) implements the policies. The money is actually held in the General Fund with interest. When the loan is repaid, the interest is paid as well.

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

B. ***Examination Development Overview*** – Bob Holmgren, Office of Professional Examination Services

Supervising Personnel Selection Consultant of the Office of Professional Examination Services (OPES), Bob Holmgren, Ph.D. reported on the OPES examination development process. OPES is the "in-house" DCA licensure examination group. They develop the optometry California Laws and Regulations Examination (CLRE) as well as a number of other exams for various boards and bureaus in DCA.

Mr. Holmgren provided the Members with packets of background material summarizing what they do. OPES performs all aspects of the examination validation process, including occupational analyses, examination development, test scoring and statistical analyses, and audits. OPES follows the highest technical and professional standards in the industry and is committed to ensuring that examinations for licensure are psychometrically sound, job-related, and legally defensible.

OPES provides oversight for DCA's master contract for computer-based testing administration, and a Quality Assurance Program to ensure that the computer-based testing vendor is providing the level of examination security to meet contract requirements.

Dr. Lawenda asked and Mr. Holmgren explained that the CLRE specifically focuses on applicants and OPES is not involved in continuing education. Therefore, if someone already has a license and the laws and regulations change, the licensure exam would not address that issue.

Ms. Maggio added that new laws and regulations are posted on the Board's website, included in the newsletter and emailed via Mail Serve to everyone on the interested parties list.

Dr. Dubick questioned the rational for the 180 day wait period for re-examination. Mr. Holmgren responded that although he's not completely certain of the answer, the primary concern of OPES is preventing overexposure of test questions. Multiple forms are created and each form contains a different sampling of test questions. The 180 day wait period is a common decision OPES makes to avoid applicants returning to take the same form with the same sampling. The 180 days period is also consistent with other boards and bureaus.

Mr. Kysella asked and Mr. Holmgren explained that although he does not have a breakdown (in figures) of graduates taking the exam for the first time versus repeat candidates, typically new grads study hard and do quite well on the exam. Another finding is that the more times an applicant retakes the exam, the more likely it is he or she fails the exam. However, they are fewer in number than those who pass.

BreEZe Overview and Status – Amy Cox O'Farrell, Deputy Director, DCA, Office of Information Services

Ms. Maggio introduced Deputy Director, Office of Information Services, Amy Cox-O'Farrell, and Chief Deputy Director, Awet Kidane.

Ms. O'Farrell became the Department's Chief Information Officer in February 2012. She oversees all of DCA's information technology (IT) and telecommunications services. She has been serving the state for more than 30 years and held numerous positions within DCA.

Mr. Kidane was appointed as Chief Deputy Director in January 2012. He oversees the internal operations of the Department. Prior to his appointment with DCA, Mr. Kidane served in various positions in the state Legislature, where he was a chief of staff, a senior advisor, and a consultant.

Ms. O'Farrell and Mr. Kidane presented an overview (and status) of the BreEZe program.

Mr. Kidane reported that BreEZe is one of the most important and successful IT projects DCA has seen thus far. In addition to Chief Deputy Director, Mr. Kidane is also Executive Sponsor of this project.

BreEZe is an enterprise licensing and enforcement tracking system. The goal is for BreEZe to provide all DCA organizations with an enterprise system that supports all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. The project was attempted in

years past and was unsuccessful for various reasons. DCA is working with Accenture to design, configure, and implement BreEZe which will replace the Department's current Consumer Affairs System (CAS). Mr. Kidane believes that BreEZe will cut down on backlogs and streamline all processes. He spoke about the project going live and estimated implementation date, cost of the system, designing and testing the system, the boards involvement in the process with subject matter experts (SMEs) and full disclosure, transparent communication.

Mr. Kidane opened the floor to questions and concerns from the Board.

Mr. Kysella asked and Mr. Kidane responded that a CE tracker will be included in the BreEZe system if a board communicates need of it.

Dr. Arredondo questioned the cost. Mr. Kidane explained that DCA's boards too variable in size and demands for a figure to be estimated. He assured the Board that the exact cost will be provided, as it becomes known, and it will not be an overwhelming, unexpectedly huge figure.

Ms. Burke inquired and Mr. Kidane stated that although pulling staff away to work on BreEZe has impacted board's other goals and objectives, staff has delivered. He believes staff recognized that not investing the time right now, would drastically increase the cost down the road, as someone who Is not knowledgeable of their board would be making design decisions on their behalf.

Ms. Maggio announced for the Board that optometry staff is very involved in the BreEZe process. Most everyone in the office participates at some level. Some staff are SMEs who assist with Release 1 projects. All staff is performing various data clean-up projects in preparation to ensure that only the most current and accurate data is transferred over to the new system.

Ms. O'Farrell added some comments about the fiscal impact of BreEZe on the Analysis of Fund Condition. She explained that the augmentation of Program Expenditures for state operations in the current FY and in FY 2015-16 includes money necessary to fund the BreEZe project. These figures represent the project based on first approval of the project (2011 Special Project Report). A current report should be approved in the next few months. This first report assumes that BreEZe has been up and running and that by now expenditures are being recovered (paid back). Therefore the figures in the upcoming report will probably be lower than those in this initial report. The report funding will be adjusted as soon as the control agencies approve the new project report.

C. ***Enforcement Program and Consumer Protection Initiative*** – Michael Gomez, DCA, Deputy Director, Division of Investigation and Enforcement Programs

Ms. Maggio introduced Deputy Director of DCA Division of Investigation and Enforcement Programs, Michael Gomez.

Mr. Gomez was appointed in October 2012 to oversee DCA's enforcement activities. Formerly, Mr. Gomez worked as Bureau Chief with the Commission on Peace Officer Standards and Training and has more than 30 years' worth of law enforcement experience. He also served as Vice Mayor of Dixon, California and was Chief of DCA's Division of Investigation from 1995 to 2004.

Mr. Gomez provided an overview of the Enforcement Program and Consumer Protection Enforcement Initiative (CPEI).

Mr. Gomez reported that prior to 2010, DCA received media attention regarding the backlog and delays of complaints and investigations. Additionally, there was criticism regarding the fact that certain practitioners were still treating patients. Although, the complaints had not been completely investigated, it was public perception that the complaints were of such an egregious nature that the

department should have taken actions to suspend these practitioners from seeing patients during the course of the investigations.

DCA responded by exploring strategies for resolving these issues which resulted in the CPEI. This initiative created the Best Practices policy measures for healing arts boards, and quarterly performance measures. A budget change proposal (BCP) established positions throughout the healing arts boards.

At the time CPEI was developed, the Division of Investigation (DOI) had open cases well beyond two years. CPEI identified case complexity models for determining which cases should be investigated at the board level and which should be referred to DOI for formal investigation. Additionally, CPEI monitors intake, investigation, and judication cycle times for each board and bureau throughout DCA.

Dr. Lawenda questioned and Mr. Gomez explained that SB 304 which in an effort of enforcement reform moves all enforcement staff investigating Medical Board practitioners to the DOI, creates a separate unit with the division. Therefore, staff currently providing services to the Board of Optometry will not be impacted by these changes.

D. ***Enforcement Program – Statistics and Update***

Enforcement Lead, Jessica Sieferman reported on the enforcement unit statistics.

The enforcement unit has long been aware of optometry students', applicants', and optometrists' reluctance to communicate with enforcement staff. So staff has been working on efforts to build communication with the licensees and applicants, and help them understand that enforcement is not here to go after licensees. The Enforcement Unit's primary mission is consumer protection and seeks to obtain compliance at the lowest level possible. The majority of cases received by the Board are closed without action after obtaining compliance and educating optometrists, referred to another agency, or closed because no violation is found.

On average, complaints that result in Disciplinary Action taken against a licensee consist of less than 3% of the total volume of complaints received each fiscal year. Further Disciplinary Actions resulting from allegations of Incompetence and/or Gross Negligence consist of less than 1% of the total volume of complaints received each fiscal year.

The Enforcement Unit encourages applicants and optometrists to contact staff to discuss their concerns, and is striving to correct the perception that the Board is "out to get optometrists".

Dr. Arredondo agreed with Ms. Sieferman regarding public perception and shared his own perception of enforcement prior to becoming a Board member.

Mr. Kysella inquired about the "Enforcement Statistical Overview" handout that was provided to the Members. His original interpretation was that during FY 2012/2013 there were no cases of sexual misconduct and just for unprofessional conduct. Ms. Sieferman clarified that this report is based upon how violations are coded. For example if an optometrist was convicted of sexual misconduct, it may have been coded as a conviction case rather than sexual misconduct.

Mr. Kysella requested that staff report on how cases are coded at the next meeting. Ms. Sieferman explained that it can be done but will take some time because there are 20 years of turnover of people coding things differently. Mr. Kysella clarified that he is interested 2009 to current.

Ms. Maggio added that three cases of sexual misconduct coded as conviction have been identified which staff will correct. Mr. Kysella and Ms. Sieferman discussed violation types.

E. ***Examination and Licensing Program – Statistics and Update***

Ms. Sieferman reported that in the past, Board staff reported licensing statistics based on data obtained from reports created by the Board's Applicant Tracking System (ATS). After a concern was raised regarding the accuracy of the licensing statistics during the previous Board meeting, Board staff began researching probable causes for inconsistent data.

Board staff discovered multiple flaws in the ATS reports and the data from which it pulls. These flaws involve multiple people from different units entering inconsistent data since ATS' creation. In addition, the Fictitious Name Permits (FNPs) and Branch Office Licenses (BOLs) are issued only in the Consumer Affairs System (CAS), whereas the Optometric Licenses (OPTs) and Statement of Licensures (SOLs) are issued through ATS and transferred to CAS. Neither ATS nor CAS was designed to track cycle times for issuing a license.

In an attempt to present the most accurate statistics for the Members, Board staff has spent numerous weeks creating AdHoc Reports based on the date application and fees were received and when licenses were issued. Ms. Sieferman put parameters on reports to pull accurate data. The problem is that putting parameters on a report places reliance on the data being correct, which is not always the case.

Therefore, in order to ensure complete accuracy, as of July 1, 2013 Board staff is manually tracking all license applications. This is a very time consuming process but does ensure accuracy. Since July 1, the situation is resolved but it is 100% manually done. Hopefully this process will be alleviated with the implementation of BreEZe.

Dr. Lawenda observed that the pending complaints have increased according to the Performance Measures. Ms. Sieferman clarified that not all of the pending complaints are from the same FY. Some have rolled over from previous fiscal years.

F. ***Strategic Planning Update***

Ms. Maggio reported that on March 13, 2013, she and Ms. Leiva met with Shelly Menzel and Terrie Meduri with the DCA, SOLID Training Solutions to discuss the development of the Board Strategic Plan. It was agreed to create a strategic plan for the period of 2014 – 2018. A preliminary schedule of the Optometry Strategic Plan Schedule has been drafted and is attached. The Board session is scheduled for October 25, 2013.

7. Discussion and Possible Action on Regulations Affecting the Board of Optometry

A. SB 1111 Provisions are as follows:

(1) Board delegation to the Executive Officer regarding stipulated settlements to revoke or surrender a license.
(2) Revocation for sexual misconduct.
(3) Denial of application for registered sex offender.
(4) Confidentiality agreements regarding settlements (Gag Clauses).
(5) Failure to provide documents and failure to comply with court order.
(6) Psychological or medical evaluation of applicant.
(7) Sexual misconduct
(8) Failure to provide information or cooperate in an investigation.
(9) Failure to report an arrest, conviction, etc.

Ms. Leiva provided an overview of the SB 1111 Provisions. At its May 10, 2013 meeting, the Board adopted provisions 5, 6, and 8, and rejected provision 1 as recommended by the SB 1111 Regulations Committee. The Board requested additional information on the nine provisions. Ms. Leiva requested that the Board consider provisions 2, 3, 7, and 9 to determine which regulations to adopt. She informed the Board that they must then direct staff to begin the regulatory process for all approved provisions.

Mr. Kidane provided a brief background of SB 1111. He then urged the Board, on behalf of the Department, to approve all of these standards/provisions. He stated that although they are not in law, consumer protection is the Department's and the Board's mission. The Department strongly urges the Board to fully implement all of the requirements because it furthers transparency and consumer protection and is in the best interest of the consumer.

Mr. Gomez added that during his tenure in law enforcement, and protection of the public, he also served as an advisor to the executive officers and staff regarding enforcement tools they could and should provide to their board for decision making. Additionally, he explained there was a time when the Legislature was looking to create a Uniform Enforcement Act. The provisions of SB 1111 begin to create a small portion of best practices called uniform standards.

Dr. Arredondo reported that SB 1111 caused a lot of controversy at the Board's last meeting, and asked why SB 1111 did not pass during the legislative process. Mr. Gomez stated his belief that at the time SB 1111 was introduced to the Legislature the Uniform Enforcement Proposal was just too much to digest. However, a pattern of uniform standards exists now throughout the boards.

Mr. Kidane agreed. He stated that the fact of the Legislative proposal not making it into law, should not preclude the Board from adopting all of the standards. It is the right thing to do.

Dr. Arredondo questioned and Mr. Kidane explained that pursuant to guidelines set forth, this Board, uses certain guidelines and definitions to provide guidance to the Administrative Law Judge (ALJ) and the Deputy Attorney General (DAG) on how they prosecute.

Dr. Lawenda asked if by adopting provision 2 of the standards the Members would be unable to ever question the ALJ's judgment and be able to respond to the complainant. Mr. Kysella clarified that currently, a DAG goes before the ALJ and makes a recommendation that the Board members can either accept or reject. Adoption of proposal 2 requires the ALJ to revoke the license of someone convicted of sexual misconduct which may not be stayed. It removes discretion from both the ALJ and the Board.

Mr. Kysella made the argument that if some 18 year old (for example) became a registered sex offender for having relations with his/her high school sweetheart, and six years later he/she is married and decides he/she wants to become a professional health care provider, provision number 3 requires automatic denial of an application. There can be no discussion and no discretion. He made the point that this may be constitutionally inappropriate. Additionally, the system currently in place protects consumers without such extreme steps.

Mr. Kysella closed his argument by reading an excerpt from Frontiers Magazine, June 11, 2013 issue. The article states that an 18 year old Florida High School student (Catlin Hunt) was expelled and charged with a felony over her consensual relationship with a 15 year old classmate which began when Catlin was 17 years. The parents of the 15 year old, demanded Catlin be arrested and charged stating she made their daughter gay. In eight to ten years, if these proposals pass, the ALJ will have no right to give Catlin a license to practice optometry in California even if she becomes an exemplary student.

8. The Board delayed further discussion and voting on Agenda 7 to allow for Agenda Item 13, Petitions for Early Termination of Probation, an Administrative Hearing process and Agenda Item 14, Closed Session Pursuant to Government Code Section 11126(c)(3), for Discussion and Possible Action on Disciplinary Matters**.** Dr. Glenn Kawaguchi, O.D. was present for part of the discussion of Agenda Item 7 but left the meeting prior to voting.

William Kysella moved to reject the SB 1111 proposed regulation changes to CCR 1575. Fred Dubick seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla	X		
Mrs. Burke	X		
Mr. Kysella	X		
Dr. Dubick	X		

William Kysella moved to accept the committee's recommendation to not implement provision 3 of the SB 1111 provisions. Kenneth Lawenda seconded. The Board voted 6-Yes; 0-No; 1 Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla	X		
Mrs. Burke			X
Mr. Kysella	X		
Dr. Dubick	X		

William Kysella moved to accept the committee recommendation to reject provision 7 by striking through the proposed 1575.2 language. Alexander Kim seconded. The Board voted 5 – Aye; 1 – No; and 1 – Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla			X
Mrs. Burke		X	
Mr. Kysella	X		
Dr. Dubick	X		

Donna Burke moved to accept the committee recommendation to delete the language pertaining to arrests, add clarifying language that any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government of the United States military should be related to the practice of optometry, and discuss with the Board if the language pertaining to misdemeanors should be kept in the regulation. Fred Dubick seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Dr. Lawenda	X		
Dr. Chawla	X		
Mrs. Burke	X		
Mr. Kysella	X		

Dr. Dubick	**X**		

B. Fees for Retired License Statuses

Ms. Leiva provided an update on the fees for retired license statuses. At its December 14, 2012 meeting, the Board voted to initiate a rulemaking to establish the retired license status fees. The rulemaking action was printed in the California Regulatory Notice Register on March 1, 2013, and the 45-day comment period for the public started on March 1, 2013 and ended on April 15, 2013. The hearing was on the same date. No comments were received from the public. On May 10, 2013, the Board voted to continue with the rulemaking package. The package is currently being reviewed by the Department of Consumer Affairs. The Board has until May 1, 2014 to complete this rulemaking package.

9. Discussion and Possible Action to Approve Guidelines for Closing an Optometric Practice

Ms. Sieferman provided an update on this agenda item.

Over the past year, the Board of Optometry's Enforcement Program has seen an increase in consumer complaints regarding optometrists closing their practice without any form of patient notification. Additionally, Board staff have received an increased number of phone calls from families of optometrist who have passed away and requested guidance on who can help facilitate patient care and record transfer.

While the Board has attempted to educate optometrist about this in the past, further outreach is needed. The law requires that medical records be accessible to patients, but it does not specifically address how that should be handled by an optometrist when a practice is closed.

To help address this issue, the Practice and Education Committee assisted staff in drafting language to be posted on our website, published in our newsletter and used in future outreach events. The Committee Members did not believe new legislation was required, as the Enforcement Program has successfully taken action against optometrists who have abandoned their practice.

Kenneth Lawenda moved to accept the Committee recommendations. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

10. Discussion and Possible Action to Approve the Board's Probation Monitoring Plan

Ms. Sieferman provided an update on this agenda item.

Part of the "Worksite Monitor" condition in the Board's new Disciplinary Guidelines (for non-substance abusing licensees) requires the Board to propose a worksite monitoring plan. The worksite monitor can either agree with the proposed plan or submit a revised worksite monitoring plan for Board approval.

On March 8, 2013 and July 12, 2013, the Practice and Education Committee Members provided assistance in drafting the Plan. The Plan was drafted using the previous Probation Monitoring Guidelines, comments from the Committee and documents from the Medical Board.

William Kysella moved to accept implementation of the monitor plan as directed by the Committee. Alexander Kim seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

11. Discussion and Possible Action on Legislation Affecting the Board of Optometry
Ms. Leiva reported on the following bills:

A. ***Assembly Bill 186 (Maienschein) Professions and vocations: military spouses: temporary licenses***
Status: Two-year bill.
Recommended Position: Watch

B. ***Assembly Bill 213 (Logue) Licensure and Certification requirements: military experience***
Status: Two-year bill.
Recommended Position: Watch

C. Assembly Bill 258 (Chavez) State agencies: veterans
Status: Third reading in Senate Appropriations Committee.
Staff Comments: Adding the question to the Board's forms will not be a significant workload or cost.
Recommended Position: Watch

D. Assembly Bill 480 (Calderon) Service contracts
Status: Third reading in Senate Appropriations Committee.
Staff Comments: Last year, a similar bill, AB 1926 (Solorio), was held in the Senate Appropriations Committee suspense file and died.
Recommended Position: Watch

E. Assembly Bill 512 (Rendon) Healing arts: Licensure exemption
Status: Passed Senate and ordered to Assembly for concurrence.
Staff Comments: The Board has implemented the regulations; effective April 15, 2013.
Recommended Position: Watch

F. Assembly Bill 1057 (Medina) Professions and vocations: licenses: military service
Status: Third reading in Senate Appropriations Committee.
Staff Comments: Costs would be minor and absorbable within existing resources to implement this bill. This bill accommodates for BreEZe, which is a huge consideration for the Board.

G. ***Senate Bill 305 (Price) Healing arts: boards: optometry board sunset bill***
Status: The Board has submitted its report and had its hearing.
Staff Comments: The next step is for the Board to make a motion to draft and send a letter to the Governor supporting the bill and requesting his signature.
Recommended Position: Continue support of this bill.

Madhu Chawla moved to direct staff to draft and send a letter to the Governor supporting SB 305 and requesting his signature. Donna Burke seconded. The Board voted unanimously

(7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

H. Senate Bill 430 (Wright) Pupil health: vision appraisal: binocular function

Status: Assembly Health Committee. Hearing date – August 13, 2013.
Staff Comments: With the Board's approval, a letter with a position of "oppose unless amended" was sent to the author. The Board recommended that the bill be amended to require comprehensive eye examinations, not just vision appraisals with an added binocular function test. The author made the amendments recommended by the Board and the Board's position was changed to "support."
Recommended Position: Continued support.

I. Senate Bill 492 (Hernandez) Optometrist: practice; licensure

Status: Two-year bill.
Staff Comments: With the Board's approval, a letter with a position of "support if amended" was Sent to the author on July 29, 2013, DCA opposed the May 8, 2013 version of this bill.
Recommended Position: Watch. Because this is a two-year bill and will not be heard again until this time next year, it is best to watch the bill. This bill will probably be amended again as the author works with stakeholders to determine how to best expand the scope of optometrists. The Board is one of those stakeholders and will continue to provide input and participate in the process.

J. Senate Bill 723 (Correa) Veterans

Status: Assembly Appropriations suspense file. The suspense file is a holding place for bills which carry appropriations over $50,000 or more.
Staff Comments: This bill will most likely be implemented by DCA and the Board will assist.
Recommended Position: Watch.

K. Senate Bill 724 (Emmerson) Liability: charitable vision screenings

This bill was approved by the Governor on July 11, 2013. It will become effective January 1, 2014.

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

L. Senate Bill 809 (DeSaulneir & Steinberg) Controlled substances: reporting

Status: Assembly Business, Professions, and Consumer Protection Committee. Hearing date - August 13, 2013.
Staff Comments: Optometrists that are Therapeutic Pharmaceutical Agents (TPA) certified are permitted to prescribe codeine and hydrocodone with compounds, a schedule III drug, for a maximum of three days for specified conditions. If a TPA certified optometrist chooses to prescribe codeine and hydrocodone, then they must obtain a Drug Enforcement Agency (DEA) registration. To gain access

to the Controlled Substance Utilization Review and Evaluation System (CURES) database, an

optometrist must have a DEA registration. At this time, the Board does not have a tracking mechanism to determine which TPA certified optometrists have DEA registrations. As a result, all TPA certified optometrists will be affected by the CURES fee attached to optometrist renewal fees. As of May 2013, that is a total of 6, 877 licensees. The bill does permit the health boards to determine if the proposed fee of $6 should be lowered if it is found that a lower fee will provide sufficient monies to fund CURES.
Recommended Position: Support.

M. Senate Bill 829 (Senate BP & CP Committee) Healing Arts: Omnibus
Status: Assembly Appropriations Committee.
Staff Comments: This proposal was submitted by the Board earlier this year and was deemed non-Controversial, one of the criteria to be included in the omnibus bill.
Recommended Position: Continue support and direct staff to draft and send a letter to the Governor requesting his signature.

Madhu Chawla moved to direct staff to draft and send a letter to the Governor supporting SB 829 and requesting his signature. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

12. 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)]

Dr. Arredondo opened the floor to public comment. There were no comments.

13. Suggestions for Future Agenda Items
Dr. Arredondo opened the floor to suggestions for future agenda items.

Dr. Arredondo restated his concern about the Los Angeles School District's eye exams. Not much is known about how the Los Angeles schools are performing their eye examinations which makes Dr. Arredondo uncomfortable. He suggested future discussion regarding this concern.

Dr. Chawla suggested a discussion regarding possibly extending the allowable hours of online CE for glaucoma certified optometrists.

Ms. Burke requested a future report from Ms. Sieferman on the National Practitioners Data Bank data merge.

Dr. Arredondo sought clarification and Ms. Leiva confirmed that the Practice and Education and the CE Committees have been merged. Dr. Arredondo announced Dr. Lawenda's interest in serving on this Committee and suggested placing this as an item on the next agenda.

14. Petitions for Reduction of Early Termination of Probation

A. Dr. Susanne Anderson, O.D., OPT 6613
B. Dr. Jeffery Hall, O.D., OPT 6242

FULL BOARD CLOSED SESSION

15. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

Pursuant to Government Code Section 11126(c)(3), the Board met in Closed Session for discussion and possible action on disciplinary matter.

Dr. Kawaguchi was present for Agenda Items 13 and 14 and left upon return to Full Board Open Session. The Board returned to Agenda Item 8 for continued discussion and voting.

FULL BOARD OPEN SESSION

16. Adjournment

Fred Dubick moved to adjourn the meeting. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Dr. Lawenda	**X**		
Dr. Chawla	**X**		
Mrs. Burke	**X**		
Mr. Kysella	**X**		
Dr. Dubick	**X**		

The meeting was adjourned at 6:20 p.m.

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
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Friday, November 1, 2013 **DRAFT**

UC Berkeley School of Optometry
Minor Hall, Room 491
Berkeley, CA 94720-2020

And Via Teleconference at:
140 C Tower Street
Beaconsfield, Quebec H9W682

Members Present		**Staff Present**
Alejandro Arredondo, O.D., Board President		Andrea Leiva, Policy Analyst
Alexander Kim, MBA, Board Secretary, Public Member		Jessica Sieferman, Enforcement Lead
Donna Burke, Public Member		Michael Santiago, Senior Legal Counsel
Madhu Chawla, O.D., Professional Member		Anahita Crawford, Deputy Attorney General Liaison
Fred Dubick, O.D., MBA, FAAO, Professional Member		
Glenn Kawaguchi, O.D., Professional Member		**Staff Absent**
William Kysella, Jr., Public Member		Mona Maggio, Executive Officer
Kenneth Lawenda, O.D., Professional Member		
Bruce Givner, Esq., Public Member		
Cyd Brandvein, Public Member		

9:30 a.m.
FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Dr. Alejandro Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:45 a.m.

2. Welcome – President's Report

Dr. Arredondo welcomed everyone in attendance. He thanked Dr. Dennis Levi, O.D., Ph.D, Dean of the Berkeley School of Optometry for hosting the meeting. He reported that after 13 years as Dean, Dr. Levi will be stepping down and continuing on as Professor of Optometry and Vision Science as well as continuing his work in the etiology of Amblyopia.

A. *Welcome by Dennis Levi, O.D., Ph.D, Dean, Berkeley School of Optometry*

Dr. Levi welcomed everyone in attendance. He continued by praising the Berkeley School of Optometry students as typically scoring 10 percent higher on the national exam scores. Dr. Levi reported that their students are provided incredible exposure to clinical training and by graduation, have experienced an average of 2500 patient encounters.

B. *Executive Officer Status and Staff Update*

Dr. Arredondo announced that Executive Officer, Mona Maggio is out on medical leave for a few months. Policy Analyst, Andrea Leiva is leaving the Board of Optometry as she has accepted a promotional position with the Bureau of Security and Investigation. Dr. Arredondo wished Ms. Leiva the best and he and Board and staff members provided congratulatory applause for Ms. Leiva.

Ms. Leiva introduced the staff members present.

Dr. Arredondo thanked the public for attending and announced that former Public Board Member, Monica Johnson's term ended and she was thanked for her service by the Governor. Dr. Arredondo stated that Ms. Johnson was a great asset to the Board with her legal mind, her advocacy for consumer protection and she will be missed. He thanked her for her service on the Board.

Next, Dr. Arredondo welcomed the Board's recently appointed Member, Public Member, Cyd Brandvein and invited her to introduce herself. Ms. Brandvein reported that she has started her 25th year as Senior Vice President for AECOM Technology, a Fortune 500 architectural engineering company, working in the Office of Americas. She serves by working on senior operations project initiatives to help drive performance, succession pipeline, and revenue.

C. *Sunset Date Extension*

Dr. Arredondo announced that Senate Bill 305 known as the "Sunset Bill" was signed by the Governor extending the review date from January 1, 2014 to January 1, 2018. Dr. Arredondo thanked Members and staff for their efforts in getting the bill passed.

D. *Resolution by Senator Ed Hernandez Commemorating Board's Centennial*

Dr. Arredondo announced a resolution by Senator Ed Hernandez. He thanked Senator Hernandez for recognizing the Board for 100 years of service (since 1903). Senator Hernandez is an optometrist, licensed in California and a former Board member as well as a former Board President. The framed resolution will be displayed in the lobby of the Board's office.

3. Discussion and Possible Action on Senate Bill 1111; Provision 720.10 Pertaining to revocation for Sexual Misconduct or Sexual Contact with a Patient, Which May Not be Stayed

Ms. Leiva provided an overview of Senate Bill 1111; Provision 720.10 and the discussion and possible action pertaining to sexual misconduct.

The Senate Business, Professions and Economic Development Committee is requesting that the Board consider adopting the remainder of Provision 2 as a regulation and to direct staff to begin the regulatory process.

After review of the nine provisions at its May 2013 and August 2013 Board meetings, the Board voted, unanimously, to not implement this provision. However, the Legislature is pushing towards stronger consumer protection, and therefore added some provisions to the Board's sunset bill which will become law. The provisions added are as follows:

- Provision 3 - Implemented by Senate Bill 305 (Lieu, Chapter 516, Statutes of 2013). This provision becomes effective January 1, 2014 and requires the Board to deny the application for licensure of a registered sex offender.
- Provision 7 – Implemented by Senate Bill 305 (Lieu, Chapter 516, Statutes of 2013). Defines sexual misconduct as unprofessional conduct.
- Provision 2 – Partial Implementation by Senate Bill 305 (Lieu, Chapter 516, Statutes of 2013). Strengthens the Board's authority to revoke a license for sexual misconduct. The non-adopted portion made revocation mandatory for such acts and removed all discretion from the Board and an Administrative Law Judge. That section was considered controversial and will be discussed by the Board today for possible adoption. The Committee continues to recommend that this provision be fully adopted. The California Optometric Association (COA) is opposed and the Board originally rejected adopting the entire provision at its August 2013 meeting.

Ms. Leiva explained that provision 2 was only partially implemented and discretion by the Board remains since this is a controversial bill. The Committee wanted to give the Board another opportunity to discuss and consider their requests to adopt the entire provision. Ms. Leiva provided Members with copies of a letter from Senator Ted Lieu, explaining their reasons for wanting the Board to adopt this as regulation. She also provided copies of a letter from the COA who continues to have concerns and remain opposed to adoption of the remainder of the provision. Additionally, Ms. Leiva announced that staff has received letters of opposition from optometrists.

Ms. Leiva opened the floor for discussion.

Ms. Leiva, Professional Members, Drs. Kenneth Lawenda and Fred Dubick, and Public Members, Bruce Givner and William Kysella discussed a most recent listing of boards who have adopted this provision, boards that have not, and boards whose regulations are pending adoption. For the benefit of the two new Board members, Dr. Arredondo explained that this discussion is simply about whether the Board has discretion in cases of sexual misconduct, or if they go directly to the Office of Administrative Hearings for scheduling of a hearing before an Administrative Law Judge (ALJ).

Mr. Givner inquired, and Members and staff discussed the fact that this provision removes the Board's discretion in making a decision on setting discipline against a licensee convicted of a crime that is defined as sexual misconduct. If passed, this provision would require revocation of the optometrist's license. Legal Counsel, Michael Santiago clarified that the Senate Business, Professions, and Economic Development Committee wishes to modify the language to make it mandatory for the Board to automatically revoke a license if a sexual misconduct crime is committed and the licensee may not petition for reinstatement until a year has passed since the revocation. The revocation cannot be stayed.

Dr. Lawenda inquired and Mr. Santiago clarified that sexual misconduct accusations would still go to hearing. The optometrist would still be able to practice until the order is final, as in all cases which go to hearing.

Mr. Kysella shared his belief that mandatory sentencing provisions are inefficient for the process. They tie the hands of the bench officer, and yield bad results including prisons full of individuals with various levels of drug charges because the judge has no other option but to send them there.

Ken Lawenda moved to not seek any legislative amendments or promulgate any regulatory rulemaking changes to adopt provision 2 of SB 1111. William Kysella seconded. The Board voted 8-Aye; 2- No; 0-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi		**X**	
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner		**X**	
Ms. Brandvein	**X**		

4. Approval of the August 16, 2013 Board Meeting Minutes

Ken Lawenda moved to approve the August 16, 2013 Board Meeting Minutes as amended. William Kysella seconded. The Board voted 9-Aye; 0-No; 1-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Mrs. Burke	X		
Dr. Chawla	X		
Dr. Dubick	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Mr. Givner	X		
Ms. Brandvein			X

5. Petition for Reduction of Penalty or Early Termination of Probation – Dr. James Herzman, O.D., OPT 10935

FULL BOARD CLOSED SESSION

6. Pursuant to Government Code Section 11126(c)(3), the Board will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

7. Pursuant to Government Code Section 11126(a)(1), the Board will meet in Closed Session to discuss the continued employment of the Executive Officer unless the Executive Officer exercises her right to have this agenda item heard in open session. If the matter is heard in open session, the Board may still meet in closed session to conduct its deliberations pursuant to Government Code Section 11126(a)(4)

8. If necessary, depending on the action of Agenda Item 7, the Board will meet in closed session pursuant to Government Code section 11126(a)(1) to discuss and take possible action regarding the appointment of an Acting or Interim Executive Officer.

FULL BOARD OPEN SESSION

9. Process for Selection of a New Executive Officer (if necessary, depending on the action of Agenda Item 7)

10. Executive Officer's Report

Ms. Leiva reported on behalf of Ms. Maggio.

A. Budget

Ms. Leiva reported that the Board's budget for fiscal year (FY) 2012-2013 was $1,433,044. The budget report reveals expenditures as of September 30, 2013 as $478,881 or 51% of the budget. As of September 30, 2013 the surplus is $157,208 or 8.5%. The analysis of the Board's fund condition reveals 7.9 months reserve in FY 2012-13 and 6.8 months in FY 2013-14.

B. Personnel

Staff will be working to recruit new staff for the following vacancies:

1) Associate Government Analyst (Policy),
2) Office Assistant (Receptionist),
3) Two Temporary employees to assist when current staff is out of the office working on BreEZe.

C. Examination and Licensing Programs

Ms. Leiva stated that the statistics were distributed and opened the floor to questions.
Dr. Lawenda inquired as to how much was budgeted for facilities operations. Ms. Leiva agreed to seek clarification from Ms. Maggio regarding this.

D. Enforcement Program

Enforcement Lead, Jessica Sieferman provided an update.

Ms. Sieferman announced, as previously reported in May 2013, that the National Practitioners Data Bank (NPDB) and the Healthcare Integrity & Protection Data Bank (HIPDB) merged.

The 2012 Sunset Legislative Committee recommended that the Board work with the Department of Consumer Affairs to ensure the Board is provided funds to apply to the NPDB and HIPDB.

While the funding may be unclear, Ms. Sieferman stated she has been working with NPDB staff to explore the feasibility of implementing a continuous query, given the Board's current staffing resources. She explained that initially staff was told they would have to manually input every license into the database. However, it has been discovered that there exists a way to perform a mass import into their database. Ms. Sieferman reports that although she and NPDB staff are currently working out incompatible formats, they are very close to completion.

Ms. Sieferman reported that in the beginning of October, the Enforcement Unit set a goal to meet the DCA's Performance Measures by the end of the fiscal year. Knowing the Board will soon be involved in Release 2 for BreEZe and resources will be pulled thin, the Unit has cracked down hard on our pending cases in order to still meet our goal. With the benefit of a fully staffed Unit, we were able to close a record 70 cases. The Enforcement Unit went from 138 cases pending in the beginning of October to 89.

Mr. Givner and Ms. Sieferman discussed what it means to close a case, and the various reasons they are closed.

E. Strategic Planning

Ms. Leiva announced that the strategic planning meeting for the full Board has been re-scheduled to December 2, 2013. This will be a public meeting in Sacramento at the Department of Consumer Affairs. Ms. Leiva explained that the Board's strategic planner, Dennis Zanchi has already completed a survey of stakeholders, one-on-one interviews with the Members and Executive Officer, and a strategic planning session with staff. At the December 2 meeting, the Board will have the chance to review the results of all the collected information in an environmental scan report, and review the mission, vision, and values. The Board will also review and possibly approve the staff's suggested objectives and/or develop new objectives for each of the Board's major functions of licensing, exams, outreach, enforcement, and legislation/regulation.

F. BreEZe

Ms. Sieferman provided an update on BreEZe.

She reported that Release 1, comprised of ten Department of Consumer Affairs Boards, went live on October 8, 2013. The Board of Optometry is currently in Release 2. The schedule for Release 2 and Release 3 Boards has not been released, but it is estimated to become available shortly.

Once Release 2 begins, Board staff will be heavily involved in BreEZe's design, testing, and implementation for several months to ensure the Board has a system that will meet its needs. The devotion of staff to BreEZe during this period, may have an impact on licensing and enforcement cycle times.

Dr. Arredondo asked Ms. Sieferman to explain BreEZe to the new Members. Ms. Sieferman explained that currently the Board has two databases: The Applicant Tracking System (ATS) which is primarily for licensing, and the Consumer Affairs Systems (CAS) which is used for both licensing and enforcement purposes. Both databases are over 20 years old. BreEZe will provide a more efficient database (in one form) for the entire Department of Consumer Affairs.

11. Discussion and Possible Action on Regulations Affecting the Board of Optometry

A. California Code of Regulations (CCR) Section 1570. Educational Equivalency – Addition of Newly Accredited Optometry Schools

Ms. Leiva reported on CCR Section 1570. It is requested that the Board consider this regulatory proposal for the addition of the newly accredited optometry schools. Business and Profession Code (BPC) Section 3023, states: "For the purpose of this chapter, the board shall accredit schools, colleges and universities in or out of this state providing optometric education, that it finds giving a sufficient program of study for the preparation of optometrists." The Board uses the audits and reporting by the Accreditation Council on Optometric Education (ACOE) for the purpose of determining approval for accreditation of the schools/colleges of optometry.

The ACOE has accredited or pre-accredited 21 schools and colleges of optometry, three of which are in California.

Ms. Leiva explained that regulation CCR Section 1570, which lists the accredited schools/colleges of optometry, needs to have the following added:

- Inter-American University of Puerto Rico, School of Optometry
  Bayamon, Puerto Rico (Full Accreditation),

- University of Montreal, Ecole d Optometrie
  Montreal, Quebec (Full Accreditation),

- MCPHS University, School of Optometry
  Worcester, Massachusetts (Preliminary Accreditation),

- Midwestern University Arizona, College of Optometry
  Glendale, Arizona (Preliminary Accreditation),

- University of the Incarnate Word Rosenberg, School of Optometry
  San Antonio, Texas (Preliminary Accreditation).

The above schools/colleges should be listed in the CCR Section 1570. This will ensure optometry students graduating from these schools can practice in California if they choose to and not have to re-take equivalent courses in California.

Donna Burke moved to approve the proposed language to begin a regulation for CCR 1570. Fred Dubick seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner	**X**		
Ms. Brandvein	**X**		

B. CCR Section 1506. Certificates Posting – Clarification of SOL Expiration Date

Ms. Leiva explained that prior to beginning the practice of optometry, an optometrist must obtain a Statement of Licensure (SOL) from the Board to be placed in all practice locations other than their principal place of practice. The SOL must be renewed biennially, on the same date as an optometrist (OPT) license. The SOL renewal date was tied to the OPT license renewal date to ensure renewals are completed timely.

It is not clear to licensees that their SOL must be renewed on the same day that their OPT license is renewed. Although sections of law (BPC Section 3152 and CCR Section 1524(j)(1)) state that SOLs must be renewed biennially, nothing in current law explicitly states that an SOL must be renewed on the same date as an OPT license. This has resulted in licensees purchasing new SOLs when they did not have to because they did not know a renewal form was on its way and licensees completely disregarding the SOL renewal form because they did not know renewal was mandatory. Also, not having this language explicitly in law creates enforcement difficulties due to the lack of clarity.

Ms. Leiva advised that to ensure clarity that a SOL is renewed on the same date as an OPT license, CCR Section 1506, the regulation that specifies the requirements of a SOL, should also include language stating the specific renewal time. Fictitious Name Permits, Branch Office, and OPT licenses all have language within the regulations that describe what is required to obtain such a license or permit, stating specifically when the permit or license must be renewed. For consistency with other optometrist licenses and permits, it is recommended that CCR Section 1506 be amended to include information that a SOL is renewed at the same time as an OPT license.

William Kysella moved to authorize staff to perform a CCR 1506 amendment to include recommended language. Madhu Chawla seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner	**X**		
Ms. Brandvein	**X**		

C. Update on rulemaking package pertaining to CCR Section 1524. Retired License Status Fees

Ms. Leiva reported that this package is currently being reviewed by the Department of Finance. Staff anticipates that it will be approved. Once the Department of Finance approves this package, it will be returned to the Board, and the Board can submit it to the Office of Administrative Law for final consideration.

D. Update on rulemaking package pertaining to CCR Sections 1516. Applicant Medical Evaluations and 1582. Unprofessional Conduct Defined

Ms. Leiva provided an update. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013. The hearing will be on December 2, 2013 in Sacramento at the Department of Consumer Affairs. A report on the hearing will take place at the Board's January 2014 meeting and next steps will be determined then. The Board has until October 18, 2014 to complete this rulemaking package.

12. Discussion About Senate Bill 492 Workgroup to Expand the Scope of Practice of Optometrists

Ms. Leiva provided an update on this agenda item. No action is requested.

Assembly member Susan A. Bonilla and Senator Ed Hernandez, O.D. have developed a working group, to collaborate with stakeholders for the purpose of creating a scope expansion bill.

The working group is chaired by Assembly member Bonilla and is comprised of the following stakeholders:

- Senator Ed Hernandez and staff;
- California Optometric Association;
- California Academy of Eye Physicians and Surgeons;
- California Medical Association;
- Representatives from a California accredited school or college of optometry;
- Representatives from a Department of Ophthalmology in California;
- An expert in educational curricula;
- Senate Business, Professions and Economic Development Committee;
- Board of Optometry;
- Department of Consumer Affairs; and
- Other participants, as needed, to provide additional expertise.

The working group began meeting on October 15, 2013 and will continue to meet every Tuesday until January 7, 2014. Board staff is providing advice and expertise in the areas of consumer protection, what will be required on the Board's end to implement the bill if signed by the Governor (i.e., regulations, costs, staffing needs, BreEZe, etc.), and best practices of healing arts regulatory entities. Board staff's main concerns are as follows:

1) If the bill will outline the number of pathways that may be needed for currently licensed optometrist to become certified to perform the new advanced procedures;
2) If the bill will address the appropriate number of training hours needed to ensure competency and consumer protection; and
3) If the Legislature will consider the Board's staffing needs to implement the bill in a timely manner.

So far, the first two meetings staff has attended have been very collaborative. The working group is very data based, and they are enforcing this to make certain everyone has the numbers needed.

Dr. Arredondo asked Ms. Leiva to explain the steps involved in a scope expansion bill for the new Members. Ms. Leiva explained that when a profession wishes to expand its scope of practice, the association working with the stakeholders brings it before the Legislature. There may be years of discussions and disagreements. Finally a bill is crafted, written, and introduced to the Legislature. If discussions on the backend (before the introduction of legislation) were successful, then the bill goes through the process. She explained that this is a very complicated and difficult process.

Dr. Arredondo asked Dr. Dubick to provide an overview of the scope of practice expansion bill and the states that are currently performing some of the procedures.

Dr. Dubick reported, for full disclosure, as well as being the President of the California Optometric Association (COA), that he is the lead negotiator for the association in this work group; therefore, he is more knowledgeable then most concerning this issue.

Dr. Dubick explained that Senator Hernandez is the author of SB 492. The sponsoring organization of the bill is the COA. Anytime there is a scope of practice expansion, in any profession; there is a give and take and a pull between the profession that wishes to expand their practice and organized medicine that wishes to resist the expansion. SB 492 has passed through the Senate and is currently sitting in Assembly Business and Professions Committee, where it will be heard at the beginning of the year.

What SB 492 accomplishes, as currently written, is as follows:

- The bill cleans up the language of current law which lists diseases optometrists can treat, drugs optometrists can prescribe, and procedures optometrists can perform (i.e., if a drug is government approved and relates to the eyes, optometrists may use that drug);
- Most of the random protocols for referral have been removed because they do not have scientific background, and in collaborative efforts of negotiations, ophthalmologists have agreed to revisit them;
- SB 492 creates an “advanced practice” optometrist. Currently, the Board has diagnostic certified optometrists, therapeutic certified optometrists, and glaucoma certified optometrists. Only glaucoma certified optometrists would be able to obtain an advanced practice certification. These optometrists would be able to perform immunizations and perform small superficial procedures around the eye and lid (i.e., remove benign skin tags, ext.). They would be able to perform limited laser procedures, and some anterior segment glaucoma procedures.

13. Discussion and Possible Action of Legislation Affecting the Board of Optometry

Ms. Leiva provided updates on legislation affecting the Board of Optometry as follows:

A. Legislation Signed by the Governor and Effective January 1, 2014

1. **Assembly Bill 258 (Chavez) State agencies: veterans**
   Staff will work to update its applications and forms to include the question of whether a person is a veteran by July 1, 2014.

2. **Assembly Bill 480 (Calderon) Service contracts**
   Staff will monitor this bill to see how it will affect licensed optometrists, if at all. If necessary, educational materials will be created to provide guidance to affected optometrists.

3. **Assembly Bill 512 (Rendon) Healing arts: licensure exemption**
   The Board has already completed its regulations for implementation, and has information and instructions on its website so out-of-state practitioners can apply.

4. **Assembly Bill 1057 (Medina) Professions & vocations: licenses: military service**
   Staff will work to update its applications and forms to include the question of whether the individual applying for licensure is serving in, or has previously served in the military by January 1, 2015.

5. **Senate Bill 305 (Lieu) Healing arts: boards – optometry sunset bill**
   No action is necessary. Staff will work to familiarize themselves with the new enforcement language so it can be utilized appropriately.

6. **Senate Bill 724 (Emmerson) Liability: charitable vision screenings**
   Staff will work to familiarize themselves with this new section of law and add it to its law book. Staff will also work to add educational materials on its website for consumers and licensees focusing on both parties' rights.

7. **Senate Bill 809 (DeSaulnier) Controlled substances: reporting**
   Staff will be working with the Department of Consumer Affairs (Department) to finalize implementation of this bill. The Department has already established a Controlled Substance Utilization Review and Evaluation System (CURES) fund in preparation for the collection of the $6 annual fee required by this bill. About 5,200 optometrists are affected at this time, but this number will change as new doctors become licensed and others cancel their license. This fee will be assessed regardless of whether a TPA certified optometrist exercises their authority to prescribe the scheduled drugs specified in the optometry practice act. The Department will be meeting with all health boards affected to obtain feedback and come to agreement on how the fee will be displayed on the renewal forms so the fee can begin to be assessed by April 1, 2014.

8. **Senate Bill 821 (Committee on Business, Professions & Economic Development) Healing Arts**
   In existing law, the Optometry Practice Act refers to the authorization to practice optometry issued by the Board as a certificate of registration. This bill would instead refer to that authorization by the Board as an optometrist license and would make other technical and conforming changes.

   There is no action required of the Board.

B. Legislation That Will Continue to be Monitored in 2014
Ms. Leiva reported that the following legislation will be revisited at the January 2014 meeting when the legislative session begins again, and can be discussed further at that time.

1. **Assembly Bill 186 (Maienschein) Professions & vocations: military spouses: temporary licenses**
2. **Assembly Bill 213 (Logue) Healing Arts: licensure/certification requirement: military experience**
3. **Senate Bill 430 (Wright) Pupil health: vision examination: binocular function**
4. **Senate Bill 492 (Hernandez) Optometrist: practice: licensure**
5. **Senate Bill 723 (Correa) Veterans (Vetoed)**

C. Legislative Proposals
Ms. Leiva announced that the following legislative proposals would not be discussed during this meeting because additional research is required before presenting to the full Board.

1. **Clarification of Licensure Requirement – Treatment and Management of Ocular Disease Component of the National Board of Examiners in Optometry Examination**
2. **Clarification of License Reinstatement Requirements – Fees**
3. **Clarification of Retired License Status Provisions**
4. **Define as Unprofessional Conduct, the Failure to Provide Services Purchased by a Patient**
5. **Other Non-Substantive Amendments**

14. Tour of UC Berkeley Optometry Clinic (4:00 p.m. approximately)
The Board was not able to tour the clinic due to the lateness of the meeting.

15. Public Comment for Items Not on the Agenda

(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)]

Dr. Arredondo opened the floor to public comment for items not on the agenda. There were no comments.

16. Suggestions for Future Agenda Items

Dr. Arredondo requested that the subject of school eye exams be discussed. He explained that in his practice he sees a lot of cases where children report that their eyes were examined at school and they were given glasses. Dr. Arredondo would personally like to know exactly what they are doing and by whose authority.

Public Member, Alexander Kim announced that he will be attending a vision fair hosted by Vision to Learn with a free mobile vision clinic for the children in the Westchester area of Los Angeles. Mr. Kim has been asked to speak on behalf of the Board and he considers this a great opportunity for outreach and promote what the Board is doing.

17. Adjournment

Donna Burke moved to adjourn the meeting. Madhu Chawla seconded. The Board voted unanimously (10-0) to pass the motion. The meeting adjourned at 2:10 p.m.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Mrs. Burke	**X**		
Dr. Chawla	**X**		
Dr. Dubick	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Mr. Givner	**X**		
Ms. Brandvein	**X**		

STATE BOARD OF OPTOMETRY
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Friday, April 11, 2014 **DRAFT**
Elihu Harris Building
1515 Clay Street, Room 15
Oakland, CA 94612

Members Present		**Staff Present**
Alejandro Arredondo, O.D., Board President		Mona Maggio, Executive Officer
Alexander Kim, MBA, Board Secretary, Public Member		Lydia Bracco, Administrative Assistant
Cyd Brandvein, Public Member		Jeff Robinson, Lead Licensing Analyst
Donna Burke, Public Member		Jessica Sieferman, Lead Enforcement Analyst
Madhu Chawla, O.D., Professional Member		Michael Santiago, Staff Counsel
Frank Giardina, O.D., Professional Member		
Bruce Givner, Esq., Public Member		
Glenn Kawaguchi, O.D., Professional Member		
William Kysella, Jr., Public Member		
Kenneth Lawenda, O.D., Professional Member		Guest List
David Turetsky, O.D., Professional Member		On File

9:30 a.m.
FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Alejandro Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:30 a.m.

2. Welcome – President's Report

Dr. Arredondo welcomed everyone in attendance. He announced that the Western University of Health Sciences School of Optometry invited the Board to attend their graduation on Thursday, May 15, 2014 at the Pasadena Civic Auditorium. Staff is working with members to schedule representation at the graduation ceremonies for the Southern California College of Optometry (SCCO) and the University of California, Berkeley, School of Optometry (UCB). Last year Dr. Arredondo attended the SCCO graduation ceremony and Public Member, Donna Burke attended the graduation ceremony at UCB.

Dr. Arredondo took a brief survey poll of each of the Members tenure of service for the Board. He explained the survey is relevant to a discussion that will occur later in the meeting.

3. Public Comments 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)]

There were no public comments.

4. **Approval of Board Meeting Minutes**

A. August 16, 2013

Public Member, William Kysella posed a question about a noted vote.

William Kysella moved to postpone approval of minutes for the purpose of staff review and to revisit approval of the August 16, 2013 minutes at the next Board meeting. Kenneth Lawenda seconded. The Board voted unanimously (11-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Ms. Burke	X		
Dr. Chawla	X		
Dr. Giardina	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky	X		

B. November 1, 2013

Professional Member, Glenn Kawaguchi, O.D. posed a question about a noted vote.

Glenn Kawaguchi moved to postpone approval of the minutes for the purpose of staff review and to revisit approval of the November 1, 2013 minutes at the next Board meeting. The Board voted unanimously (11-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Ms. Burke	X		
Dr. Chawla	X		
Dr. Giardina	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky	X		

C. January 24, 2014

Kenneth Lawenda moved to approve the January 24, 2014 minutes as amended. David Turetsky seconded. The Board voted (10-Ayes; 0-Nos; 1-Abstention) to pass the motion

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		
Ms. Burke			**X**
Dr. Chawla	**X**		
Dr. Giardina	**X**		
Mr. Givner	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Dr. Turetsky	**X**		

5. **Controlled Substance Utilization Review and Evaluation System (CURES)**
Jessica Sieferman introduced Mike Small, Administrator II with the Department of Justice (DOJ) CURES Program as the presenter for this agenda item.

Mr. Small has 30 years of experience in the criminal justice program and administration with the DOJ. He served as a manager in the Firearms Division, Western State Information Network and DOJ's Intelligence Operations Program. Mr. Small assumed CURES manager duties in December 2011. Ms. Sieferman reported that Mr. Small was invited to educate the Board on the importance of CURES Prescription Drug Monitoring Program (PDMP) in registering prescribers of scheduled drugs to monitor the over prescribing of drugs and work to control drug abuse.

Mr. Small provided a PowerPoint presentation of CURES for the Board. He reported that prior to 9/11, our intelligence apparatus of this county was not well equipped to deal with terrorist attack. The tendency was for the various agencies to hoard information out of a concern of leakage and informants. The attack on 9/11 made it clear the agencies could no longer function in that manner and the 9/11 Commission urged for a unity of effort amongst all of t. The mantra became "one fight – one team". Mr. Small provided an analogy. Contrasted to the nearly 3,000 deaths of 9/11, unintentional prescription painkiller overdose deaths in 2009 exceeded 15,500. This rate has risen slightly over ensuing years, and has not decreased. Prescription overdose deaths exceed illegal street drug death. Prescription overdose deaths have exceeded automobile accident deaths for the last couple years. The Centers for Disease Control (CDC) has declared this an epidemic. Just as in the case of 9/11 when not all of our parts were working together to deal with defending us against a terror crises, Mr. Small proposed that not all of our parts are working together to deal with this problem which is resulting in more deaths then highway accidents or illegal street drug use. He stated that very few governmental assets are aimed at this situation, and opioid deaths exceed those of street heroin.

Mr. Small explained that if the well-established protocols were followed, there would not be as much product released. California has had a Prescription Drug Monitoring Program (PDMP) in place since 1939.

CURES stores and reports Schedule II, III, and IV prescription dispensation data reported by dispensers to the Department of Justice (DOJ). In order to reflect exactly what dispensers report the DOJ does not touch or modify dispenser-reported data.

The use of CURES is not mandatory, however the Legislature decided via SB 809 to require CURES registration by all dispensers and prescribers who hold DEA controlled substance registration cards. Anyone subject to the aforementioned criteria will need to be registered with CURES by January 2016.

In an effort to facilitate the global use of CURES by the healthcare community, the DOJ hopes to build a new system that will interoperate with all major healthcare systems in the states. This would enable the CURES data to be along-side of patient's health records or directly inside of patient's electronic health record (EHR), when the practitioner enters the room to see the patient. The objective is to make it so the practitioner would have to choose to ignore the data rather than make an effort to find it. Hopefully, this will become a standard of care matter for practitioners.

The Integration/Interoperation will afford other features such as ensuring a patient can only obtain schedule II, III, or IV prescriptions from the same doctor (prevent doctor shopping), and other watch flags. It will accommodate peer-to-peer collaborative communication across disparate email systems.

DOJ hopes to streamline the registration process with the new system.

Members expressed disbelief and frustration that practitioners are required to register but not required to use CURES. Mr. Small provided a brief legislative background as to how this came about.

Public Member, William Kysella asked if the Board can make using CURES a standard of care regulation for optometrists. Legal Counsel, Michael Santiago explained that to make this a standard of care issue the Board would have to get the expert opinion to say standard of care means this must be included. Mr. Santiago is not certain the Board would be able to get an expert to state that.

Public Member, Cyd Brandvein questioned, although the public will become knowledgeable that CURES exists, how will this be helping the public since practitioners are not required to use the system.

Since the original form of SB 809 was a requirement to both register and use CURES, Professional Member, Madhu Chawla inquired if Mr. Small is aware of any legislative movement to revisit the requirement to use the system. Mr. Small replied that he is not aware of any movement and that the requirement was resoundedly opposed.

Citing as an example the instance when the Legislature emphatically opposed the provisions of Senate Bill (SB) 1111 regarding registered sex offenders, but the Department of Consumer Affairs (Department) considered those provisions of such importance that it requested every board to individually implement regulations, Mr. Kysella expressed disbelief that the Department would not consider the requirement to use CURES of equal importance and take the same action it did as in the case of SB 1111.

Professional Member, David Turetsky noted as a matter of interest that DEA licensed optometrists are only allowed to prescribe a maximum of 3 days-worth of hydrocodone compounds. Optometrists are not large providers of this narcotic anyway and it would not be a bad idea if this Board could do something, for optometrists to be used as a model of how to utilize this system.

Dr. Arredondo asked Ms. Maggio to report on how staff will be handling CURES. Ms. Maggio reported that staff has been attending all of the CURES meeting with Mr. Small and representatives from the Department. Staff member, Rob Stephanopoulos will be assigned to become the CURES expert within the Board and he has begun attending the meetings as well. Licensees with April 2014 expiration dates have already seen the increase on their renewal invoices. Ms. Maggio and Mr. Santiago will work together on the health & safety code which requires optometrists to register and create a system for notifying optometrists of this requirement. This may require that Therapeutic Pharmaceutical Agent (TPA) and higher certified optometrists obtain a DEA number.

6. Department of Consumer Affairs, Report

Presentation by Christine Lally, Deputy Director of Board/Bureau Relations

Ms. Lally announced that the April 2014 Board Member Orientation Training was very successful. She thanked Mr. Santiago who was a key presenter at the training. Mr. Santiago reported on the Open Meeting Act and conflict of interest at the training. Ms. Lally thanked Dr. Turetsky who was also present at the Board Member Orientation.

Ms. Lally reminded the newest Members that the Board Member Orientation Training is mandatory and Members are required to take this training within one year of appointment. She provided upcoming training dates for any Members who have yet to take the training.

7. BreEZe Overview and Update

Presentation by Sean O'Connor, BreEZe Business Project Manager and Awet Kidane, DCA Chief Deputy Director

Ms. Sieferman introduced Sean O'Connor and Awet Kidane.

Mr. O'Connor is the BreEZe Business Project Manager. He is the liaison between Boards and Bureaus and the BreEZe Project Team to ensure the BreEZe system meets the business needs of is users. Prior to his position on the BreEZe Project Team, Mr. O'Connor was a policy analyst and outreach coordinator for the California Department of Consumer Affairs. Mr. O'Connor earned his undergraduate degree in English and his graduate degree in Public Policy and Administration from CSU, Sacramento.

Mr. Kidane serves as the BreEZe Project's Executive Project Sponsor. Mr. Kidane was appointed Chief Deputy Director in January 2012. As Chief Deputy Director, Mr. Kidane oversees the internal operations of the Department. Before being appointed to DCA, he served in various positions in the state Legislature, where he was a chief of staff, a senior advisor, and a consultant.

Mr. Kidane provided a background explanation of why BreEZe came about. BreEZe was the IT part of the Consumer Protection and Enforcement Imitative (CPEI) in 2009. The CPEI was a three-prong approach (budget, Legislative, and BreEZe). In 2011 the contract was awarded to Accenture (the current vendor).

Mr. Kidane explained that BreEZe is currently in the middle of the design phase of Release II. This Board is in Release II. The BreEZe Project team is employing serious lessons learned. He explained (using the Board of Registered Nursing as example) that more time should have been spent in the design phase of Release I. Fortunately, the processes in place to deal with breaks in the system, worked, and fixes were made. Mr. Kidane stressed that his wish is for this Board to invest as much time as needed in the design so he can contractually lock in the best product for the Board's needs.

Mr. O'Connor reported on the benefits of BreEZe compared to the Department's legacy systems. Some of the notable features of BreEZe include:

- Applicants may apply for licenses online
- Consumers may submit complaints online
- Subscriber may subscribe to be notified of any change in the license status of a specific licensee
- Board Members may vote on enforcement issues electronically

- Cross-board communication and automatic database checks to notify staff of any disciplinary history with other boards and in other states before licensing individual. Especially important since the Board's mission is consumer protection.

Mr. Kidane submitted two encouragements to the Board regarding the need for staff assistance during the design phase and for staff to really reflect about how this Board does business while understanding that what has worked in the past may not necessarily work with this system.
Mr. O'Conner submitted for the Board's consideration one of key lessons learned in Release I (the importance of establishing a presence for online applications) as soon as possible. This is beneficial to the Board's applicant population as well as to staff in the back office. Mr. O'Conner explained that the BreEZe Project Team have models from Release I that are very effective and they will be working with Board staff to ensure those business processes are in place. Mr. O'Conner urged the Board to announce the establishment of online applications to its schools as the Board gets closer to its rollout date.

Dr. Arredondo opened the floor to comment.

Public Member, Cyd Brandvein inquired about the user acceptance team and if it consists of only staff. Mr. Kidane responded that initially, during Release I, the user acceptance team was just Board staff; the experts who tested the design and discovered defects. Now during Release II Mr. Kidane is studying the contract to see if they have the ability to bring in end users ("fresh eyes") - consumers who can offer a different context.

Mr. O'Connor suggested that prior to the application being made available online the Board might consider taking a poll from one or two of its schools to get a few students in on the evaluation. He stated that in a collaborative effort like this, the perspective of the end user is tremendously valuable.

Dr. Arredondo asked and Mr. Kidane explained that the current contract provides for a release in December, however, Mr. Kidane and his BreEZe team believe this is a dangerously aggressive schedule that does not allow the team to build in safeguards from lessons learned. Mr. Kidane is in negotiations with the vendor. He is 90% there with regards to obtaining the time and methodology, and more importantly for Release I, a dedicated maintenance team that will not be pulled from any other release to "stabilize the trailblazers in Release I."

Dr. Kawaguchi inquired if a plan will be in place, during the second rollout, for Board staff to be able to quickly acquire additional staff if needed. Mr. Kidane assured the Board that in the event there is an unforeseen issue on the back end which causes a spike in phone calls, the calls will be directed to his call center. He stressed that the most important thing the Board can do to prevent calls is to get the design right during this phase.

Public Member, Donna Burke inquired and Mr. Kidane explained that he does not want to offer the Board any guarantee that there will not be any additional negative media attention. What Mr. Kidane is concerned about is that the media does not grab onto something substantive.

Ms. Maggio announced that she and Ms. Sieferman attended the Town Hall meeting held by the assembly member so they could hear from the students about various issues they experienced. This was for the purpose of this Board being proactive.

8. **California Optometric Association**
Presentation by Kristine Shultz

Dr. Arredondo welcomed Kristine Shultz who reported on Senate Bill (SB) 492.

Ms. Shultz reported that Senator Hernandez introduced this bill as part of a package of three other bills, all of which would expand the scope of practice for the respective practitioners (optometrists, nurse practitioners and pharmacists) and expand the services they could provide. The bills were introduced in an effort to help address the provider gap. With health care reform it was anticipated that there would be 3-5 million new individuals with health coverage which would result in a severe physician shortage. These three bills were introduced proactively to address this issue.

SB 492 eliminates the list of medications that optometrists can prescribe and instead allows them to prescribe all FDA approved medications. It changes the language to allow optometrists to perform appropriate laboratory and imaging tests. This bill also creates a new certification called Advanced Procedures. Optometrists would receive additional training for these procedures. This certification would allow optometrists to treat glaucoma with laser treatment. It would allow for removal of lesions from the eyelid, injection treatments of the eye, and it would allow Advanced Procedures certified doctors to administer certain immunizations. The bill is still a work in progress.

Ms. Shutlz thanked Ms. Maggio, and her staff, for attending all of the workgroup meetings and providing indispensable input for SB 492.

Ms. Shultz addressed the three concerns that were identified in the Board's November 1, 2013 minutes as follows:

- The bill will specify the number of pathways needed to become certified to use these advanced procedures. Everyone involved in discussions of SB 492 desire specificity.
- Assembly Member Bonilla of the Business and Professions Committee was the chair and she specifically asked that everyone move away from the number of hours and talk instead about competencies. The thought is that the language will specifically list the necessary competencies (i.e. course title, course content etc.) and there will probably be a minimum number of hours.
- The Board's staffing needs (costs) to implement the bill in a timely manner is and will be noticed by the Legislature.

9. Executive Officer's Report
Ms. Maggio reported on the following:

Future Board Meetings
The next Board meeting will be in August and held in Sacramento. The November meeting will be in San Diego. Ms. Maggio believes another meeting will be necessary in late May or June to discuss any legislation the Board wishes to take action on.

A. Budget
Ms. Maggio recently met with the Board's budget analyst and at this time the Board is doing well. The Board has spent about 62% of its total budget. It is projected that the Board will have a surplus of 6.5%. Andy surplus funds are reverted to the Board's reserve fund. The Boards fund condition has 7.4 months in reserve.

Out of State Travel
Staff is currently working on out-of-state travel requests. In the last few years all such travel has been denied; however, there is hope that some travel may be approved if the justification meets the criteria for mission critical travel.

Budget Change Proposals
Staff will begin working on concept papers for Budget Change Proposals (BCPs) that will be due in July 2014. This is the process for the Board to request staff and augmentation to its budget.

B. Personnel
Ms. Maggio held Interviews and a job offer has been made to fill the vacant Associate Government Analyst (Policy Analyst) position. The Department of Consumer Affairs is completing the necessary paper-work.

The DCA Office of Human Resources is reviewing Ms. Maggio's justification to upgrade the receptionist position from an Office Assistant (entry level clerical) to the Office Technician (journey level clerical) classification.

Nancy Day, Management Services Technician currently works half time in the licensing unit. Nancy will begin working full time no May 1, 2014.

C. Examination and Licensing Programs
Presentations to third year students have been scheduled, and staff requests Board member participation for April 14th and April 29th presentations:

April 14the University of California, Berkeley School of Optometry
April 29th Western University, College of Health Sciences, College of Optometry
April 30th Marshall B. Ketchum University, Southern California College of Optometry

Jeff Robinson and Ms. Sieferman will present at all school presentations. Cyd Brandvein will join staff at the SCCO presentation. Staff is requesting other board members join staff at Berkley's and Western U's presentation.

Western University, College of Health Sciences, College of Optometry has requested that staff present to the fourth-year optometry students.

Mr. Robinson provided current licensing statistics for the Board.

D. Enforcement Program
Ms. Sieferman reported on Enforcement Program updates.

During DCA's Sunset Hearing in March, the legislature identified this Board was identified as one of the boards not meeting Performance Measure 3: Intake and Investigation (90 day target cycle time) in the last two fiscal years. Citing various reasons for the missed target (i.e., staffing, technology issues, potentially unrealistic target, etc.), the Board worked with DCA's Budget Office to respond to concerns raised.

As previously reported, however, the Board's Enforcement Program is diligently working to meet its performance measures. In October 2013, the Enforcement Program made a goal to meet is performance measures by the end of the fiscal year. Armed with a fully staffed program, increased Deputy Attorney General and Division of Investigation communication, and streamlined processes, the Board's Enforcement Program closed March (end of Quarter 3) with an average

cycle time of 88 days. In addition, the Board's Enforcement Program has the lowest pending caseload it has had in years, with only 68 complaints pending.

E. Strategic Planning

During the January 2014 Board meeting, the Board voted to adopt the Strategic Plan as amended. March 19, 2014, Board staff met with SOLID Training Solutions to draft an extensive action plan to assist staff in meeting each objective identified in the Board's Strategic Plan. The action plan included timelines for each task and deadlines for each objective. Staff will continue

10. Election of Officers

Ms. Maggio reported that Business and Professions Code, section 3041 states that the Board shall elect from its membership a President, a Vice President, and the policy for the election of officers found in the Board Member Handbook states that the Board elects officers at the last meeting of the fiscal year. Officers serve a term of one year, beginning July 1st 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 more than one term.

Ms. Maggio explained that both professional and public members can serve as president/chair for a board. She provided the Members with a brief description of duties for each of the three offices.

Ms. Maggio opened nominations for President.

Professional Member, Kenneth Lawenda nominated Donna Burke for the office of President. Public Member, Bruce Givner nominated Dr. Arredondo for the office of President. Both candidates provided a statement to the Board.

The Board voted 7-4 for Alex Arredondo as President.

Ms. Maggio announced that both Dr. Arredondo and Board Secretary, Alex Kim have both served two years in their current offices. Former Public Member, Monica Johnson was the Board's Vice President. When Ms. Johnson was thanked for her service by the Governor, the Board did not fill that vacancy because the elections were forthcoming at the next Board Meeting.

Ms. Maggio opened nominations for Vice President.

Dr. Arredondo nominated Dr. Chawla for Vice President. Professional Member, Frank Giardina seconded the nomination. Dr. Lawenda nominated Ms. Burke for Vice President. Both candidates provided a qualifications statement to the Board.

The Board voted 8-2 for Madhu Chawla as Vice President. Bruce Givner did not vote.

Ms. Maggio opened nominations for Secretary.

Dr. Arredondo nominated Mr. Kim for Secretary. Dr. Chawla nominated Ms. Burke for Secretary. Both candidates provided a statement to the Board.

The Board voted 6-4 for Donna Burke as Secretary. Bruce Givner did not vote.

11. Committee Appointments

Ms. Maggio reported that the Board's policy on Committee Appointments is found in the Board Member Handbook, Chapter 4. "Selection of Officers and Committees."

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, Secretary and the Executive Officer. Appointment of non-Board members to a committee is subject to the approval of the Board.

The Board currently has four committees all composed of professional and public members:

1) *Legislation and Regulation*
   Committee is comprised of three public members and one professional member. It is responsible for recommending legislative and regulatory priorities to the Board and assisting staff with drafting language for Board-sponsored legislation and recommending official positions on current legislation. The committee also recommends regulatory additions and amendments.
2) *Practice and Education*
   Committee is comprised of three professional members and one public member. The committee advised Board staff on matters relating to optometric practice, including standards of practice and scope of practice issues. It reviews staff responses to proposed regulatory changes that may affect optometric practice, reviews requests for approval of continuing education courses, and offers guidance to Board staff regarding continuing education issues.
3) *Consumer Protection*
   Committee is comprised of two public members and one professional member. This committee oversees the development and administration of legally defensible licensing examinations and consulting on improvements/enhancements to licensing and enforcement policies and procedures.
4) *Public Relations – Outreach*
   Committee is comprised of two public members and one professional member.

Members interested in serving on committees are as follows:

- Legislation and Regulation – All Members
- Practice and Education – Drs. Lawenda and Chawla and Ms. Brandvein
- Consumer Protection – Ms. Burke, Ms. Brandvein and Dr. Turetsky
- Public Relations – Outreach – Drs. Chawla and Kawaguchi, Ms. Burke and Mr. Kim

12. Review and Possible Approval of Amendments to Records Retention Schedule

Administrative Assistant, Lydia Bracco reported on the Records Retention Schedule which regulates by policy the professional management and control of the Board's records from the time they are created or received up to their eventual destruction/disposal.

The Records Retention Schedule (RRS), Amendment 2 was approved by the Board at the December 14, 2012 meeting. Since that meeting, staff found the RRS needed to be amended to include the following:

- Add a new Item number to include Statement of Licensure as it was not included in the original RRS.
- Breakout the License Renewal Receipts from the Licensed Optometrist File and make it a separate item number.
- Change retention years for Fictitious Name Permits, Branch Office Licenses and Corporation Licenses.

The policy recommends all records reflect a description of files in certain categories making them more organized and identifiable when it is time to purge documents and/or in the instance of an audit.

Ms. Bracco described, for the Board, the amendments made for each of the amended items in the RRS.

Board members and staff discussed the benefit and cost of having the Board's files scanned into electronic documents and purge the paper files.

Dr. Arredondo opened the floor to public comment. There was none.

Ken Lawenda moved to explore the feasibility of scanning all Board documents to digital files. Bruce Givner seconded. The Board voted unanimously to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		
Ms. Burke	**X**		
Dr. Chawla	**X**		
Dr. Giardina	**X**		
Mr. Givner	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Dr. Turetsky	**X**		

William Kysella moved to approve the Records Retention Schedule amendments as presented during this meeting. Madhu Chawla seconded. The Board voted 9-Aye; 0-No; 2-abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		
Ms. Burke	**X**		
Dr. Chawla	**X**		
Dr. Giardina	**X**		
Mr. Givner	**X**		
Dr. Kawaguchi			**X**
Mr. Kysella	**X**		
Dr. Lawenda			**X**
Dr. Turetsky	**X**		

13. Review and Possible Approval of the Board's Proposed Auditing Plan for Probation

Ms. Sieferman reported on the proposed auditing plan for probation.

In the Board's 2012 Disciplinary Guidelines, Condition 32 Audit Required is an optional condition placed on licensees who are disciplined for inappropriate billing and/or insurance fraud. According to this condition, the Board is required to provide the approved billing auditor with copies of the decision(s), accusation(s), and a proposed auditing plan.

Ms. Sieferman explained that staff does not have an auditing plan in place to present to the probationers. She worked with one of the Board's experts in developing an auditing plan and requests that the Board review, discuss, and possibly approve the proposed auditing plan.

Dr. Turetsky requested a change to the Proposed Auditing Plan to state "Minimum of five records with claim for comprehensive eye examinations (CPT code 92004 and 92014) **and/or** Minimum of five records with claim for Evaluation and Management and Management code (CPT code 99201-99215)", with the insertion of and/or being the change. He noted that the word Gonioscopy was misspelled and requested the edit. Dr. Turetsky requested that the Patient Verification of Services Rendered paragraph be revised to ask the patient to verify general easily remembered questions (i.e. did you receive an examination? where you fit for contact lenses? Did you purchase contact lenses?, etc.). Additionally Dr. Turetsky informed staff that International Classification of Diseases, Clinical Modification (ICD-9-CM) codes will be replaced with ICD-10-CM). Therefore, he requested the language be amended to read "including applicable ICD-CM".

Drs. Kawaguchi and Chawla suggested that the language under Selection of Health Records read: "Auditor will randomly select, **without the influence of the probationer**, the following sample of health records to review per month. It was also requested that the words "where applicable" be added to read: "Where applicable, a minimum of five records where eyeglasses or contact lenses were supplied to patient".

Dr. Turetsky and Mr. Santiago discussed HIPA privacy and whether there would need to be a beneficiary consent for someone to review the patient records. Mr. Santiago will research the issue.

Dr. Lawenda requested clarification and Ms. Sieferman explained that although Dr. Cory Vu has not done any auditing for the Board he does have extensive experience in auditing. Ms. Maggio stated that no probationer's have requested Dr. Vu as their auditor. It's up to the probationer to nominate the auditor. Dr. Vu obtained his experience in auditing via auditing Medi-Cal records.

Dr. Turetsky noted that under Evaluation and Management of the Preliminary Billing Audit Checklist, #4. "For comprehensive ophthalmological services" should be changed to "optometric services". He also noted that in the sentence which reads "initiation of diagnostic and treatment programs, and as indicated, biomicroscopy, examination with cycloplegia, and tonometry", cycloplegia should be replaced with dilation.

Board members agreed that no action is needed on this agenda item and Ms. Sieferman will make the amendments as requested.

14. Discussion and Possible Action on Business and Professions Code Section 3057.5 Eligibility of Graduates from Foreign Universities and California Code of Regulations Section 1530.1 Qualifications of Foreign Graduates

Mr. Robinson provided an overview of international graduates.

The provisions of Business and Professions Code (BPC) 3057.5 authorizes the Board to allow graduates of foreign universities who meet the Board's requirements to take the examinations required for California optometrist licensure which include the California Laws and Regulations Examination (CLRE), and Parts 1 (Applied Basic Science), II (Patient Assessment and Management/Treatment and Management of Ocular Disease), and III (Clinical Skills) by the National Board of Examiners in Optometry (NBEO).

Applicants that meet the provisions of BPC 3057.5 and California Code of Regulations (CCR) 1530.1 are allowed to apply for, register, and schedule themselves for the CLRE, but must also be "sponsored" by a state licensure board of optometry or an Accreditation Council on Optometric Education (ACOE) – accredited school/college of optometry to meet the qualifications required to apply for and take Part I and/or Part II of the NBEO examinations. Those sponsored may apply for and take Part II of the examinations after they have successfully passed Parts I and II.

Since 1972, the Board has received several hundred requests for sponsorship. A total of 133 of those applicants were able to provide the Board with satisfactory evidence of the age, moral character, and education as was/is required by law. Of the number of applicants sponsored, eight (8) of them have received California licenses. These eight licenses were issued between August 1, 2007 and January 30, 2013.

The problem staff has encountered is that our current laws do not specifically address the areas of sponsorship, licensure, or certifications (e.g. TPA) for foreign graduates, but Board staff has granted sponsorship to those foreign graduates who have met the provisions of BPC 3057.5 and CCR 1530.1 and, assuming that the course of instruction received by the foreign graduate was reasonably equivalent to the course of instruction given by an accredited school/college of optometry, issued optometrist licenses to those who appeared to have met all of the requirements for licensure. However, Board staff was recently directed to CCR 1523 (Licensure Examination Requirements) which states that, *"Satisfactory evidence of graduation from an accredited school or college of optometry approved by the Board."* It does not mention anything about education equivalency which has staff concerned about the issuance of licenses to the aforementioned 8 licenses.

TPA didactic courses are no longer being offered by accredited schools/colleges of optometry which makes it difficult, if not impossible, for foreign graduates to obtain TPA certification in California. Without TPA certification, those foreign graduates who are able to obtain California optometrist licensure will also be unable to apply for and receive lacrimal irrigation and dilation or glaucoma certification.

Because the Board no longer provides its own optometrist license examination, BPC sections 3041.3, 3057.5 and CCR sections 1530.1, 1567 (Therapeutic Pharmaceutical Agents), and 1568 (Therapeutic Pharmaceutical Agents Usage – Purpose and Requirements) may require some revision and/or amending.

The NBEO has informed Board staff that the California and New York Boards of Optometry are the two states that currently sponsor foreign graduates. Because the California Board appears to be the number one choice for foreign graduates seeking sponsorship, staff will continue to accept and review applications for and grant sponsorship to those who meet the provisions of BPC 3057.5 and CCR 1530.1. We have been advised to, and will cease the issuance of optometrist licenses for foreign graduates until this matter has been resolved.

With the possibility of the need for new legislation concerning this matter, staff requests that these items be reviewed by the Practice and Education Committee before being brought back to a full Board at later date for future discussion.

Madhu Chawla moved to accept the recommendation and have the material reviewed by the Practice and Education Committee. Donna Burke seconded. The Board voted unanimously (10-0) to pass the motion. Dr. Giardina left the meeting at 3:20 pm and was not present for this vote.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		
Ms. Burke	**X**		
Dr. Chawla	**X**		

Mr. Givner	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Dr. Turetsky	**X**		

15. Regulations Affecting the Board of Optometry
Ms. Maggio provided the update.

A. Update on rulemaking package pertaining to CCR Section 1524. Retired License Status Fees
This regulation became effective on April 1, 2014, and Board staff is working to implement these regulations. The situation staff is encountering is that due to implementation of the BreEZe database system, changes cannot be made to the legacy database system which staff would need to process these applications.

Staff is meeting with the BreEZe Change Control Board on April 21, 2014 to request the Board be allowed to process retired license applications through the legacy system until such time that the Board transitions to BreEZe. Otherwise, the implementation of issuing the retired licenses would be delayed until the implementation of BreEZe.

B. Update on rulemaking package pertaining to CCR Sections 1516. Applicant Medical Evaluations and 1582 Unprofessional Conduct Defined
At its August 16, 2013 meeting, the Board voted to initiate a rulemaking to give the Board authority to compel an applicant to submit to a psychological or physical examination, and further define unprofessional conduct.

The rulemaking is placed on hold until the new policy analyst begins which will be May 1, 2014.

16. Discussion and Possible Action on Legislation Affecting the Board of Optometry
Ms. Maggio reported on legislation affecting the Board.

A. Assembly Bill 186 (Maienschein) Professions & vocations: military spouses: temporary licenses
B. Assembly Bill 213 (Logue) Healing arts: licensure/certification requirement: military experience
C. Assembly Bill 2165 (Patterson) Department of Consumer Affairs, Licensing
D. Assembly Bill 2598 (Hagman) Department of Consumer Affairs, Pro-Rata
E. Senate Bill 492 (Hernandez) Optometrist: practice: licensure
F. Senate Bill 1172 (Steinberg) Pupil health: vision examination: binocular function

The only bill that has changed is Assembly Bill 213 which is now a dead bill. All of the other bills are in a watch position. Ms. Maggio suggested having a meeting in late May or early June as these bills will begin moving at that time, and the Board will be watching and attending some of the committee hearings. Letters of support or opposition or amendments made be needed.

Maggio explained that Dr. Kawaguchi specifically requested the Board review proposed language on Senate Bill (SB) 1172, and consider writing a letter of support as written or with amendments. There was a similar bill, SB 430. This bill died but much of the language and intent was moved into SB 1172. Ms. Maggio reported that after discussion with Dr. Kawaguchi, staff sent the same support if amended letter to the author's office for SB 1172 and requested the same amendments.

Dr. Kawaguchi reported, for the benefit of the newer Members, that the Board had voted in support of (with amendments) a similar bill, SB 430, which is no longer active and has been replaced by SB 1172. He stated that in his practice he is routinely confronted with children who have conditions that were missed in the current school (Wright) Pupil health: vision screenings.

Dr. Arredondo shared his support and explained that his practice is predominately a Hispanic community. He sees many cases of hyperopia and astigmatism where school vision screenings missed these conditions.

Board Members discussed what a comprehensive eye exam should entail. They agreed that a comprehensive examination should be performed by an eye care professional.

Ms. Shultz, representing the California Optometric Association (COA) announced that there are currently two bills that are focused on revising vision screenings. The other bill Ms. Shultz referenced was Assembly Bill (AB) 265. The COA's position on this is one of great concern. She explained that COA worked very hard to ensure that comprehensive exams are covered at the state and federal level, that they are covered by Medi-Cal and that payment is not an issue. The COA will advocate that the bills be amended to require that children receive a comprehensive eye exam prior to entering elementary school.

Glenn Kawaguchi moved that the position of the Board be in support of SB 1172 and AB 265 if amended to include a statement saying that upon first year enrollment of a student entering a public, a private, or charter elementary school, and at least every third year thereafter until the student's eighth year, the student receive a comprehensive eye examination by an ophthalmologist and require that screening to include a test for binocular function, refraction and eye health. Donna Burke seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	**X**		
Mr. Kim	**X**		
Ms. Brandvein	**X**		
Ms. Burke	**X**		
Dr. Chawla	**X**		
Mr. Givner	**X**		
Dr. Kawaguchi	**X**		
Mr. Kysella	**X**		
Dr. Lawenda	**X**		
Dr. Turetsky	**X**		

Upon drafting the amended language, the amended bill will come back to the Board for review and approval of the wording.

Ms. Maggio commented on AB 2165. This bill would require each board to complete within 45 days the application review process with respect to each person who has filed with the board an application for issuance of a license, and to issue within those 45 days, a license to an applicant who successfully satisfied all licensure requirements. The bill also requires each board to offer each examination the board provides for the applicant's passage of which is required for licensure, a minimum of 6 times per year.

Ms. Maggio stated that a number of boards have already contacted the author's office. This requirement is impossible. This Board does not have the funding, the number of subject matter

experts, nor does it have the number of applicants to want to take the exam this number of times per year. Ms. Maggio would like the Board to oppose this bill.

William Kysella moved to oppose AB 2165 and authorize the Executive Officer to draft a letter of opposition. Bruce Givner seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Ms. Burke	X		
Dr. Chawla	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky	X		

17. Suggestions for Future Agenda Items

Ms. Brandvein commented that mental health is an issue that appears to be addressed frequently and requested that an overview be provided regarding how this issue is evolving in the health care field.

FULL BOARD CLOSED SESSION

18. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

FULL BOARD OPEN SESSION

19. Adjournment

Cyd Brandvein motioned to adjourn the meeting, Madhu Chawla seconded. The Board voted unanimously to adjourn.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Ms. Burke	X		
Dr. Chawla	X		
Dr. Giardina	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky	X		

The meeting adjourned at 4:25 p.m.

STATE BOARD OF OPTOMETRY
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P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov

DRAFT

Meeting Minutes
SPECIAL BOARD MEETING
(Pursuant to Government Code Section 11125.4)
Monday, June 23, 2014
Department of Consumer Affairs
Hearing Room
1747 N. Market Blvd.
Sacramento, CA 95834
And by telephone at the following locations

140 C Tower Street
Beaconsfield, Quebec H9W6B2
Canada

555 W. 5th St., 21st Floor
Los Angeles, CA 90013
To clear security, please
call: (714) 329-0648

4349 E. Slauson Ave., Suite A
Maywood, CA 90270

12100 Wilshire Blvd., Suite 445
Los Angeles, CA 90025

150 Tejas Place
Nipomo, CA 93444

5601 De Soto
Woodland Hills, CA 91367

518 North Moorpark Road
Thousand Oaks, CA 91360

Members Present
Alejandro Arredondo, O.D, Board President
Alexander Kim, MBA, Board Secretary
Madhu Chawla, O.D.
Frank Giradina, O.D.
Bruce Givner
Glenn Kawaguchi, O.D.
Kenneth Lawenda, O.D.
David Turetsky, O.D.

Excused Absence
Cyd Brandvein
Donna Burke
William Kysella

Staff Present
Mona Maggio, Executive Officer
Jessica Sieferman, Lead Enforcement Analyst
Robert Stephanopoulos, Enforcement Analyst
Michael Santiago, Senior Legal Counsel

8:00 a.m.
FULL BOARD OPEN SESSION

1. **Call to Order and Establishment of a Quorum**
Board President, Alejandro (Alex) Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 8:00 a.m.

2. **Determination of Need for Special Meeting**
Senior Legal Counsel, Michael Santiago explained Government Code Section 11125.4 (a) that provides for a special meeting to be called for specific reasons, with a 48 hour notice when compliance for the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state or

when immediate action is required to protect the public interest. Consideration of pending legislation falls under the reasons allowed for a special meeting.

Amendments to Senate Bill 492 were posted to the Legislative website on June 16, 2014. The last amendments were in May 2013. Staff requested the Board meet to discuss the amendments as the bill is scheduled to be heard on June 24, 2014, by the Assembly Business, Professions, and Consumer Protection Committee. This may be the last opportunity for the Board to vote on a position and request amendments, if any to the Committee. Amendments were requested to be presented to the author, sponsor and committee members by Monday, June 23, 2014 for consideration.

Dr. Frank Giardina, O.D. joined the meeting at 8.35 a.m.

3. Senate Bill 492 (Hernandez) Optometrist: practice: licensure

Mona Maggio reported that at the May 10, 2013 meeting, the Board voted to send a letter in *Support if Amended* pertaining to the May 8, 2013 version of this bill. Staff sent the letter with the requested amendments to the author, sponsor, and member of the Senate Business, Professions and Economic Development Committee.

On June 16, 2014 amendments were made to the bill that required the Board's review and possible action.

Dr. Madhu Chawla left the meeting at 9:15 a.m.

Requested Amendments:

Section 1.

BPC §3041(i)(1)

> For licensees who graduated from an accredited school of optometry <u>on or after May 1, 2016</u> that includes satisfactory curriculum on immunizations, as determined by the board, ~~on or after May 1, 2016~~, submission of proof of graduation from that institution.

BPC §3041(i)(2)(B)

> Be certified in basic life support <u>for health care providers.</u>

BPC §3041(o)

> For the purposes of this chapter, "immunization" means administration of immunizations for influenza, Herpes Zoster Virus, and additional immunizations that may be necessary to protect public health during a declared disaster or public health emergency in compliance with individual Advisory Committee on Immunization Practices (ACIP) vaccine recommendations published by the federal Centers for Disease Control and Prevention (CDC) for persons eight years of age or older <u>with proper parental, guardian, or authorized representative consent.</u>

Section 3.

BPC §3110(m)

> <u>(1)</u> Committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist.

(2) Committing any act of sexual abuse, misconduct, or relations with a patient. The commission of an conviction for any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee. This paragraph shall not apply to sexual contact between any person licensed under this chapter and his or her spouse or person in an equivalent domestic relationship when that licensee provides optometry treatment to his or her spouse or person in an equivalent domestic relationship.

(3) Conviction of a crime that currently requires the person to register as a sex offender pursuant to Section 290 of the Penal Code. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. A conviction described in this paragraph shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee.

Dr. Kenneth Lawenda, O.D. moved to support Senate Bill 492 if amended and directed staff to send the Board's amendments to the author, sponsor and Assembly Business, Professions and Consumer Protection Committee. Bruce Givner seconded. The Board voted unanimously (8-0) to pass the motion. Dr. Madhu Chawla, O.D. left the meeting at 9:15 a.m. prior to the Board taking a vote.

Member	Aye	No	Abstention
Alejandro Arredondo, O.D.	**X**		
Alexander Kim	**X**		
Kenneth Lawenda, O.D.	**X**		
Frank Giradina, O.D.	**X**		
Bruce Givner, O.D.	**X**		
Glenn Kawaguchi, O.D.	**X**		
Kenneth Lawenda, O.D.	**X**		
David Turetsky, O.D.	**X**		

4. Public Comment on Matters Not on the Agenda (No action may be taken except to determine if the item should be put on a future agenda.)

No public comments were received.

5. Adjournment

The meeting adjourned at 10:05 a.m.

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: August 8, 2014

From: Awet Kidane, Director
Department of Consumer Affairs
Christine Lally, Deputy Director
Board/Bureau Relations

Telephone: (916) 575-7170

Subject: **Agenda Item 5 – Department of Consumer Affairs Report**

Awet Kidane, Director, will provide an update on the status of the BreEZe database.

Christine Lally, Deputy Director of Board and Bureau Relations, will provide a report for the Department.

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Jessica Sieferman
Enforcement Lead **Telephone:** (916) 575-7184

Subject: **Agenda Item 6 - In the Matter of the Petition for Reduction of Penalty or Early Termination of Probation**

Dr. Larrance Edwin Larson, O.D. (Petitioner) was issued Optometrist License Number 6725 by the Board on September 15, 1979. On January 17, 2012, the Board filed an Accusation against Petitioner charging him with violations of laws and regulations based on gross negligence and unprofessional conduct in treating a patient. On January 17, 2013, Petitioner's license was revoked, the revocation was stayed, and his license was placed on three (3) years' probation, subject to certain terms and conditions.

The Petitioner is requesting the Board grant his Petition for Reduction of Penalty or Early Termination of Probation.

Attached are the following documents submitted for the Board's consideration in the above referenced matter:

1. Petition for Reduction of Penalty or Early Termination of Probation
2. Copies of Stipulated Settlement and Disciplinary Order, and Accusation
3. Certification of Licensure

CALIFORNIA STATE BOARD OF OPTOMETRY

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov

PETITION FOR REDUCTION OF PENALTY OR EARLY TERMINATION OF PROBATION

No petition for reduction of penalty or early termination of probation will be entertained until one year after the effective date of the Board's disciplinary action. The decision of the petition will be made by the full Board and in accordance with the attached standards for reinstatement or reduction of penalty. Early release from probation or a modification of the terms of probation will be provided only in exceptional circumstances, such as when the Board determines that the penalty or probationary terms imposed have been excessive, considering both the violation of law charged and the supporting evidence, or when there is substantive evidence that there is no more need for the degree of probationary supervision as set forth in the original terms and conditions. As a rule, no reduction of penalty or early termination of probation will be granted unless the probationer has at all times been in compliance with the terms of probation.

PLEASE TYPE OR PRINT LEGIBLY

1. NAME (FIRST) LARRANCE	(MIDDLE) EDWIN	(LAST) LARSON	CERTIFICATE OF REGISTRATION NO. CC 2008-189
2. ADDRESS (NUMBER) (STREET) 622 BUCHANAN WAY			DATE OF BIRTH 10/15/49
(CITY) FOLSOM (STATE) CA	(ZIP CODE) 95630		TELEPHONE (916) 608-9865
3. PHYSICAL DESCRIPTION	(HEIGHT) 5'11"	(WEIGHT) 195	(EYE COLOR) HAZEL (HAIR COLOR) BLACK/GRAY

4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGE(S) OF OPTOMETRY ATTENDED

NAME OF SCHOOL: SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

ADDRESS (NUMBER) (STREET): 2575 YORBA LINDA BLVD

(CITY) FULLERTON (STATE) CA (ZIP CODE) 92831

5. ARE YOU CURRENTLY LICENSED IN ANY OTHER STATE? ☐ YES ☒ NO

STATE	LICENSE NO.	ISSUE DATE	EXPIRATION DATE	LICENSE STATUS

6. List locations, dates, and types of practice for 5 years prior to discipline of your California license.

LOCATION	DATE FROM	DATE TO	TYPE OF PRACTICE
FOLSOM	8/6/99	PRESENT	PRIVATE PRACTICE

7. Are you or have you ever been addicted to the use of narcotics or alcohol? ☐ YES ☒ NO

8. Are you or have you ever suffered from a contagious disease? ☐ YES ☒ NO

9. Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction? ☐ YES ☒ NO

10. Have you ever been arrested, convicted or pled no contest to a violation of any law of a foreign country, the United States, any state, or a local ordinance? you must include all convictions, including those that have been set aside under Penal Code Section 1203.4 (which includes diversion programs) ☐ YES ☒ NO

11. Are you now on probation or parole for any criminal or administrative violations in this state or any other state? (Attach certified copies of all disciplinary or court documents) ☐ YES ☒ NO

12. Have you ever had disciplinary action taken against your optometric license in this state or any other state? ☒ YES ☐ NO

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, YOU MUST ATTACHMENT A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

ON A SEPARATE SHEET OF PAPER PROVIDE THE FOLLOWING INFORMATION

13. List the date of disciplinary action taken against your license and explain fully the cause of the disciplinary action.

14. Explain fully why you feel your license should be restored, or the disciplinary penalty reduced.

15. Describe in detail your activities and occupation since the date of the disciplinary action; include dates, employers and locations.

16. Describe any rehabilitative or corrective measures you have taken since your license was disciplined to support your petition.

17. List all post-graduate or refresher courses, with dates, location and type of course, you have taken since your license was disciplined.

18. List all optometric literature you have studied during the last year.

19. List all continuing education courses you have completed since your license was disciplined.

20. List names, addresses and telephone numbers of persons submitting letters of recommendation accompanying this petition.

I declare under penalty of perjury under the laws of the State of California that the answers and information given by me in completing this petition, and any attachments, are true and I understand and agree that any misstatements of material facts will be cause for the rejection of this petition.

Date JAN 13, 2014 Signature Lorraine Larson OD

All items of information requested in this petition are mandatory. Failure to provide any of the requested information will result in the petition being rejected as incomplete. The information will be used to determine qualifications for reinstatement, reduction of penalty or early termination of probation. The person responsible for information maintenance is the Executive Officer of the Board of Optometry at 2420 Del Paso Road, Suite 255, Sacramento, California, 95834. This information may be transferred to another governmental agency such as a law enforcement agency, if necessary to perform its duties. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified confidential information and exempted by Section 1798.3 of the Civil Code.

13. The disciplinary action was January 17, 2013. I failed to perform a dilated retinal examination after the visual complaint of flashes and floaters. I used an Optos optomap image for the evaluation of the retinal. I failed to refer the patient to an Ophthalmologist for a further retinal evaluation for a retinal detachment. One month after my examination, the patient was seen by an Ophthalmologist for a retinal detachment. I also changed retinal cameras, I was unable to produce the optomap image for evaluation.
14. I have done everything asked of me;

I took and passed the California Optometry Laws and Regulations Examination.

I met with Dr Ed Revelli O.D., the Dean of Student Clinical Affairs, U.C. Berekley School of Optometry. I passed the test on Retinal Detachments given by Dr Revelli OD.

I took a course given by U.C.San Diego School of Medicine called "Medical Record Keeping". This was a 17 AMA category 1 credited course which was quite extensive.

I am active in the Sacramento Valley Optometric Society and attend their monthly meetings. I attended the Tahoe Seminar and the Annual Ocular Symposium.

My license is active and I am current on my CME.

I have always tried to do the best for my patients. I try to keep current on all the latest information and knowledge. I have never had any problems before this incident for 33 years of practice. Going through this process has really made me aware of details. I am much more careful with each and every patient.

I respectfully request my license to be restored.

15. I own Folsom Optometry Center in Folsom, Ca. I work full time in the practice and I have a part-time Doctor, Margaret Tomita OD, who works with me on Thursdays and Fridays. It is a very busy practice and it is full scope Optometry.

I also worked 4 hours a week at California State Prison at Sacramento seeing inmates. I am an independent contractor and I have done this for the 12 years. In August 2013 my contract expired and I am not working at the prison any more.

16. I have done a lot of reading and studying about the retina and record keeping. To prepare for the examinations that I passed from Dr Revelli and the Medical School course, I have put a lot of time and effort in study.

I have also met with Dr Shawn Palmer MD and Dr. Richard Grutzmacher MD further establishing the ability to refer to them when I find a patient that they need to see.

17. I have participated in;

The John McGreal OD seminar 1/26/2013 at the Hyatt Hotel on Medicare Billing and Coding.

The Ocular Symposium 3/02/2013 at the Marriott Hotel in Rancho Cordova, Ca. This was a full day of education about contact lenses, diabetes, pharmacy and anterior segment examination.

San Diego Medical School PACE program Medical Record Keeping Course, 4/25-26/2013 held at the Island Palms Hotel in San Diego, Ca It was an extensive course on record keeping with an examination for completion. I passed with a high score.

The Tahoe Seminar 6/26-28/2013 held at the Hyatt Regency at Lake Tahoe, Incline Village, NV. We had lectures on topics of Glaucoma, cataract surgery, Wave Front Technology, Ocular Allergies, retinal disease, collagen cross linking, diabetes, and glaucoma surgery.

18. I read and studied the book that Dr Revelli uses in his course at U C Berekley on the retina. It is "Retinal Detachments, Principles and Practices" by Daniel Brinton

I read every month's "Review of Optometry" magazine but I really concentrated on the June 15,2012 edition entitled " 3rd Annual Retinal Report"

19. I have taken;

1/15/2013 "Keratoconus and Corneal Collagen Cross-linking" by Richard Grutzmacher MD, 2 hrs CME

1/26/2013 "Medicare Billing and Coding" by John McGreal OD 4 hrs CME

2/19/2013 "White Dots Syndrome and Cell-based Therapy" by J. Brian Reed MD and David Telander MD Retinal Specialists, 2 hrs CME

3/03/2013 Ocular Symposium

Anterior Segment by Blair Lonsberry OD 2 hrs CME
Contact Lens – hybrid lenses by James Kirchner OD 1 hr CME
Ocular Pharmacy by Bruce Onofrey OD 2 hrs CME
Diabetes up-date and Diabetic Retinopathy by Paul Chous OD 3 hrs

4/19/2013 Cataract Surgery and new Ocular Meds by H. Doug Cooper MD 2 hrs CME

5/21/2013 Glaucoma, Keratitis and Limbal Cell Failure by Richard Grutzmacher MD, Richard Lewis MD and Patricia Sierra MD 3 hrs CME

6/19/2013 IOL Technology and Fermtolaser by Richard Meister MD 2 hrs

7/26-28/2013 Tahoe Seminar

Wave front Technology by George Goodman OD 1 hr CME
Glaucoma by Shannon Steinhauser OD 2 hrs CME
Cataract Surgery by Shachar Taucher MD 2 hrs CME
Ocular Allergy by Arthur Epstein OD 1 hr CME
Retina by Joel Pearlman MD 2 hrs CME
Collagen Cross-linking by Patricia Sierra MD I hr CME
Diabetes by William Townsend 2 hrs CME
Glaucoma surgery by Jacob Brubaker MD 1 hr CME

9/15/2013 Retina Up-date by Retinal Consultants Medical Group 4 hrs

10/15/2013 MSI Technology – Retinal Health Evaluation by Dorothy Hitchmoth OD 2 hrs CME

10/29/2013 New Technology of Eye Surgery by Richard Meister MD, Tom Tooma MD and Mitra Ayazifar MD 2 hrs CME

11/19/2013 Glaucoma up-date by Matthew Earhart OD and Adam Shupe OD 2 hrs CME

20. The letters of Character Reference included are;

Eric King, Mayor of the City of Folsom, 843 Fieldstone Ct, Folsom, Ca 95630 916-847-9609

Chris Porter, Bishop of the Church of Jesus Christ of Latter-day Saints, 351 Barn Owl CT, Folsom, Ca 95630 916-952-0808

Nick Gutierrez OD, President of Sacramento Valley Optometric Society, 2615 Capitol Ave Sacramento, Ca 95816 916-447-2020

Richard Grutzmacher MD, Ophthalmologist, 1515 River Park Dr Suite 100 Sacramento, Ca 95815 916-649-1515

Richard Meister MD, Ophthalmologist, 5959 Greenback Lane suite 310, Citrus Heights, Ca 95621 916-723-7400

Robert Schultz, President and CEO of Vision One Credit Union, 3279 Ramos Circle, Sacramento, Ca 95827 916-363-4293

MEISTER
Eye & Laser Center
A Medical Group, Inc.

5959 Greenback Lane
Suite 310
Citrus Heights, CA 95621

tel: (916) 723.7400
fax: (916) 723.4449
www.lasermeister.com

March 15, 2012

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

Re: Dr. Larrance Larson, O.D.
California State Licensing Issues

Dear Board:

I would like to express my support and knowledge of Dr. Larson as an optometrist and a person. I have known Dr. Larson personally since 1999, when he purchased the practice of his predecessor. I had been working with the previous doctor for a few years, seeing consult patients in his office on a regular basis. When Dr. Larson took over the practice, I was impressed with his experience and professionalism, as well as his clinical knowledge and care for the patients. I have worked closely with Dr. Larson since, although I no longer see patients in the office. I have managed many patients with him over the years. I have always been impressed with his clinical expertise and attention to detail. He has always referred patients when appropriate and kept detailed medical records which I have also found appropriate. He has been on electronic medical records for the last several years.

In discussing patient care with him, I feel he has always done what was in the patients' best interests and gone above and beyond what most doctors do in caring for their patients. He has always been up to date and knowledgeable.

I would highly recommend Dr. Larson as an optometrist to anyone, as I feel he is of excellent clinical expertise and of high moral character. Please feel free to contact me if I can be of further assistance.

Best regards,

Richard B. Meister, M.D.
RBM/rd DS330112b

Grutzmacher

Lewis
Sierra
SURGICAL EYE SPECIALISTS

Richard D. Grutzmacher, M.D.
Cornea, Cataract and Laser Vision Correction
Richard A. Lewis, M.D.
Glaucoma and Cataract
Patricia B. Sierra, M.D.
Cornea, Cataract and Laser Vision Correction
Monica C. Robinson, O.D.
Primary Eye Care

March 15, 2012

California State Board of Optometry

RE: Larrance Larson, OD

To whom it may concern,

It is my pleasure to write a character reference letter for Dr. Larry Larson. I've had the good fortune of knowing Dr. Larson for over fifteen years while in Sacramento. Our interactions have been numerous involving many patients referred back and forth for a variety of medical and optometric issues.

Dr. Larson is an extremely well qualified and knowledgeable optometrist. I've always known him to properly care for his patients and make appropriate, timely referrals when needed. The patient's interests are always paramount ; in fact, he seems to view many of his patients as friends.

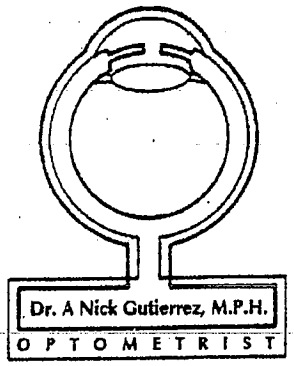
Throughout the years I've referred many of my patients to Dr. Larson for contact lens and other optometric issues. Patients will commonly be followed together regarding medical issues to lessen traveling. Twice yearly we give optometric seminars and Dr. Larson is a frequent attendee and active participant. He is well liked and respected by his colleagues.

In summary, I believe Dr. Larson is one of the finest optometrists in the Sacramento region. I would be delighted to speak with anyone on the Board of Optometry, if you desire.

Sincerely yours,

Richard Grutzmacher, MD

1515 River Park Drive, Suite 100 • Sacramento, CA 95815 • 916 649-1515 • Fax 649-1516 • www.eyelasik.com



March 16, 2012

State Board of Optometry
2420 Dell Paso Road Suite 255
Sacramento, California 95834

To Whom it may Concern:

Re: Larrance Larson, O.D.

Dr. Larson has been a private practice optometrist in Folsom since 1999. He has demonstrated outstanding talents in both clinical practice spheres and as a community patron and supporter. He has a reputation as a superb clinician. I have known Dr. Larson for the past ten years both with the local professional optometric society were I am past President and through the Board at the optometric Credit Union were I am President.

Dr. Larson has distinguished himself locally as a role model clinician, working in his profession over three decades: thirteen years in private practice and over 20 years in the military in multi-health professional settings. His competence, compassion and ethics as an optometrist are exemplary. In providing a broad spectrum of optometric examinations, assessment and treatment, he has more than proven his ability to lead a large, successful and complex private practice.

His commitment to education is outstanding. I have personally sat with Dr. Larson at many continuing education classes. He always pays attention and keeps up to date with the most

Dr. A. Nick Gutierrez | Doctor of Optometry
2615 Capitol Avenue, Sacramento, California 95816 | 916 447-2020 Main | 916 447-2910 Fax
www.gutierrezodandassociates.com | Member American Optometric Association

complex classes. I have had discussions with Dr. Larson regarding many complex medical/optometric cases and he always follows the norm for treatment options and referrals. He is a kind and gentle doctor with the patient's best interests at heart.

I am deeply impressed by Dr. Larson and recommend him to continue as an optometric clinician unhesitatingly.

Sincerely,

Anacleto Gutierrez, O.D., MPH
Private Practice Optometrist
Board President Vision One Credit Union
Statewide Optometric Consultant Department of Rehabilitation
Two Term past President Sacramento Optometric Society
Former University of California Assistant Clinical Professor

VisionOne
CREDIT UNION

March 20, 2012

Board of Optometry
To Whom it May Concern:

I have known Dr. Larrance Larson OD for approximately six years through his capacity as Board member and formerly the Chair of the Supervisory Committee of Vision One Credit Union. I have worked closely with Dr. Larson in each of his capacities with Vision One and also as a valued customer.

My experience with Dr. Larson suggests he is very conscientious and attentive when executing his duties. When he joined Vision One he had much to learn. He eagerly sought and gained the knowledge he needed to become highly functional. He has always taken his duties seriously. He has always displayed good judgment in the execution of his duties which have been performed in a thoughtful, appropriate and sound manner. Accordingly, he has earned the respect of the staff at Vision One as well as the other Board members, all of whom are licensed optometrists.

I have enjoyed my relationship with Dr. Larson and consider him to be morally upstanding and of good character. I would not hesitate to vouch for him if asked to do so.

Sincerely,

Bob Schultz
President and CEO
Vision One Credit Union

3279 Ramos Circle • Sacramento, CA 95827 • (800) 327-2628 • www.visionone.org

April 3, 2012

Character Reference for Dr. Larry Larson

Dear Sir or Madam,

I am writing this letter in reference to Dr. Larry Larson, who is appearing before your court.

Dr. Larson asked me to write a character reference letter, which I am more than happy to provide. I feel strongly about the high quality of Dr. Larson's character, and about his desire to do what is best for his patients and the community.

I have known Dr. Larson for about fifteen years. Eight of those years I served on the Folsom City Council and as Mayor in 2008. I have known him both as a friend and as my Optometrist.

Dr. Larson is a person of excellent moral character. I know that he and his family have been willing to sacrifice personally to help others and are known for their honesty and integrity.

Professionally, I have found his office very well run and have been extremely happy with the quality of care and use of the latest technology related to proper eye care and health.

I provide this character reference for Dr. Larry Larson without any reservation. Feel free to contact me if you would like to discuss this in further detail.

Sincerely,

Eric King
843 Fieldstone Ct.
Folsom, CA 95630
916-984-8002

March 24, 2012

To: California Board of Optometry
Re: Larrance Larson O.D.

Dear Board of Optometry,

I am pleased to have this opportunity to write a letter of reference on behalf of Larrance Larson. I have known Larry for over twelve years, and during that time have known him in a variety of settings.

First of all, my wife is a patient of his. Shortly after we moved to this area more than twelve years ago, she needed to find a good optometrist. In our first few years here, she saw a few different optometrists and had unsatisfactory experience with them. After again asking around to find a referred optometrist, Larry was recommended by multiple people who were patients of his. My wife became a patient of his about 5 years ago, and has had a consistently excellent experience with him ever since. She continues to be a very happy patient of his.

I have personally had a number of opportunities to work side-by-side with Larry in various volunteer service settings over the course of many years. I have always, and without exception, found him to be a hard working, reliable, honest person. He consistently went above and beyond the call of duty to help individuals who needed help, and he always performed his duties precisely as requested.

In 2005, Larry was asked by our church to fill the role of Bishop of our congregation (similar to the role of a Pastor). For the next almost six years, from 2005 to 2011, he dutifully led our congregation, donating his time and various talents without any pay. I worked closely with him during this entire time. He earned the respect and love of the entire congregation for his service. Also, in this role he was responsible for leading a volunteer staff organization of over 100 people within the congregation, and making sure that both he and the entire staff adhered to strict church policy. He was remarkably successful in making sure that he and the staff strictly followed all policies and procedures, and that at the same time the focus on the individual person was never lost.

I have personally worked closely with Larry for years. He has consistently been trustworthy and hardworking. He cares about individuals in all settings – whether patients, co-volunteers, parishioners, or members of the community. He is impeccably honest.

In my professional life I am an executive Vice-President in an educational technology company. We provide learning technologies to help students and teachers, and in that process our staff deals with confidential, private student data. As such, high-quality, trustworthy, conscientious, policy- and procedure-following employees are necessary and highly valued and I recognize those traits in others when I see them. I see those traits in Larry Larson, and have witnessed them consistently put in practice by him over the course of more than a decade. Please feel free to contact me at any time for further information, reference, or endorsement.

Sincerely,

Christopher W. Porter
916-952-0808

BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LARRANCE EDWIN LARSON** **1115 East Bidwell, Suite 124** **Folsom, CA 95630** **Optometry License No. 6725** Respondent.	Case No. CC-2008-189 OAH No. 2012050820

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 17, 2013.

It is so ORDERED December 18, 2012.

Alejandro Anedondo, OD

FOR THE STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS

KAMALA D. HARRIS
Attorney General of California
JANICE LACHMAN
Supervising Deputy Attorney General
ELENA L. ALMANZO
Deputy Attorney General
State Bar No. 131058
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-5524
Facsimile: (916) 327-8643
Attorneys for Complainant

BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LARRANCE EDWIN LARSON** **421 Blue Ravine Road, Suite 300** **Folsom, CA 95630** **Optometry License No. 6725** Respondent.	Case No. CC-2008-189 OAH No. 2012050820 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Mona Maggio (Complainant) is the Executive Officer of the State Board of Optometry. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.

2. Respondent Larrance Edwin Larson (Respondent) is represented in this proceeding by attorney Dominique A. Pollara, whose address is: 400 University Avenue, Sacramento, CA 95825-6502

3. On or about September 15, 1979, the State Board of Optometry issued Optometry License No. 6725 to Larrance Edwin Larson (Respondent). The Optometry License was in full

force and effect at all times relevant to the charges brought in Accusation No. CC-2008-189 and will expire on October 31, 2013, unless renewed.

JURISDICTION

4. Accusation No. CC-2008-189 was filed before the State Board of Optometry (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 24, 2012 Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. CC-2008-189 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. CC-2008-189. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. CC-2008-189, if proven at a hearing, constitutes cause for imposing discipline upon his Optometry License.

//

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Optometry License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the State Board of Optometry. Respondent understands and agrees that counsel for Complainant and the staff of the State Board of Optometry may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

//

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Optometry License No. 6725 issued to Respondent Larrance Edwin Larson (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order and all other applicants thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey all Laws.** Respondent shall obey all federal, state, and local laws, governing the practice of optometry in California. Respondent shall notify the Board in writing within 72 hours of any incident resulting in his arrest, or charges filed against, or citation issued against Respondent.

CRIMINAL COURT ORDERS: If Respondent is under criminal court orders by any governmental agency, including probation or parole, and the orders are violated, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

OTHER BOARD OR REGULATORY AGENCY ORDERS: If Respondent is subject to any other disciplinary order from any other health-care related board or any professional licensing or certification regulatory agency in California or elsewhere, and violates any of the orders or conditions imposed by other agencies, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

2. **Quarterly Reports.** Respondent shall file quarterly reports of compliance under penalty of perjury to the probation monitor assigned by the Board. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/ or petition to revoke probation against Respondent's optometrist license. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation throughout the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

Failure to submit complete and timely reports shall constitute a violation of probation.

3. **Cooperate with Probation Monitoring Program.** Respondent shall comply with the board's probation monitoring program, and shall upon reasonable request, report, or personally appear as directed.

Respondent shall claim all certified mail issued by the Board, respond to all notices of reasonable requests timely, and submit Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its representative.

Respondent is encouraged to contact the Board's Probation Program at any time he has a question or concern regarding his terms and conditions of probation.

Failure to appear for any scheduled meeting or examination, or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation and may result in the filing of an accusation and/or a petition to revoke probation against Respondent's Optometrist license.

4. **Probation Monitoring Costs**. All costs incurred for probation monitoring during the entire probation shall be paid by the Respondent. The monthly costs may be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and conditions may also cause this amount to be increased. The fee for probation monitoring shall start at a minimum of $100 per month.

All payments for costs are to be sent directly to the Board of Optometry and must be received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs incurred.)

If Respondent is unable to submit costs for any month, he shall be required, instead, to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able to submit the costs, including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that by providing evidence and supporting documentation of financial hardship it may delay further disciplinary action.

In addition to any other disciplinary action taken by the Board, an unrestricted license will not be issued at the end of the probationary period and the optometrist license will not be renewed, until such time as all probation monitoring costs have been paid. The filing of

bankruptcy by the Respondent shall not relieve the Respondent of his responsibility to reimburse the Board for costs incurred.

5. **Function as an Optometrist.** Respondent shall function as an optometrist for a minimum of 60 hours per month for the entire term of his probation period.

6. **Notice to Employer.** Respondent shall provide to the Board with the names, physical addresses, mailing addresses, and telephone number of all employers and supervisors and shall give specific, written consent that the licensee authorizes the Board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring. Monitoring includes, but is not limited to, any violation of any probationary term and condition.

Respondent shall be required to inform his employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing his supervisor and director and all subsequent supervisors and directors with a copy of the decision and order, and the Accusation in this matter prior to the beginning of or returning to employment or within 14 days from each change in a supervisor or director.

The Respondent must ensure that the Board receives written confirmation from the employer that he is aware of the Discipline, on forms to be provided to the Respondent. The Respondent must ensure that all reports completed by the employer are submitted from the employer directly to the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed.

7. **Changes of Employment or Residence.** Respondent shall notify the Board, and appointed probation monitor in writing of any changes of employment, location, and address within 14 days of such change. This includes but is not limited to applying for employment, termination, or resignation from employment, change in employment status, and change in

supervisors, administrators or directors.

Respondent shall also notify his probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing purposes; however the Respondent must also provide his physical residence address as well

8. **Cost Recovery.** Respondent shall pay to the Board a sum not to exceed the costs of investigation and prosecution of this case. The sum shall be $3,000 and shall be paid in full directly to the Board, in a Board approved payment plan, within 6 months prior to the end of the Probation term. Cost recovery shall not be tolled.

If Respondent is unable to submit costs timely, he shall be required instead to submit an explanation of why he is unable to submit these costs in part or in entirety, and the date(s) he will be able to submit the costs, including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that by providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

Consideration to financial hardship will not be given should Respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due. The filing of bankruptcy by the Respondent shall not relieve the Respondent of his responsibility to reimburse the Board for these costs.

9. **Take and Pass the California Laws and Regulations Re Examination.** Within 60 days of the effective date of this Decision, or within some other time as prescribed in writing by

the Board, Respondent shall take and pass the California Laws and Regulations Examination (CLRE). If Respondent fails this examination, Respondent must take and pass a re-examination as approved by the Board. The waiting period between repeat examinations shall be at six month intervals until success is achieved. Respondent shall pay the established examination fees. If Respondent has not taken and passed the examination within twelve months from the effective date of this decision, Respondent shall be considered to be in violation of probation and shall immediately cease practice until directed by the Board.

10. **Remedial Education.** Within 90 days of the effective date of this decision, Respondent shall submit to the Board for its prior approval an educational program or course to be designated by the board, in the areas of Record Keeping and shall take and pass an oral and written examination on the subject matter of retinal detachment given by a School of Optometry. All costs of the course work and examination shall be paid by the Respondent. Any units obtained for an approved course shall not be used for continuing education units required for renewal of licensure. Respondent shall provide written proof of attendance of the course approved by the Board. Failure to pass an examination within one year of probation shall constitute a violation of probation.

11. **Valid License Status.** Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet CE requirements prior to his license expiration date shall constitute a violation of probation.

12. **Tolling for Out of State Residence or Practice.** Periods of residency or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period but will not toll the cost recovery requirement, nor the probation monitoring costs incurred. Travel out of California for more than 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the Board, in writing, within 14 days, upon his return to California and prior to the commencement of any employment where representation as an optometrist is/was provided.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However,

Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state

13. **License Surrender.** During Respondent's term of probation if he ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the condition of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation. All costs incurred (i.e., Cost Recovery and Probation Monitoring) are due upon reinstatement.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board.

14. **Violation of Probation.** If Respondent violates any term of the probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. No petition for modification of penalty shall be considered while there is an accusation or petition to revoke probation or other penalty pending against Respondent.

15. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

16. **Sale or Closure of Office and/or Practice.** If Respondent sells or closes his office after the imposition of administrative discipline, Respondent shall ensure the continuity of patient care and the transfer of patient records. Respondent shall also ensure that patients are refunded money for work/services not completed or provided, and shall not misrepresent to any one the reason for the sale or closure of the office or practice. The provisions of this condition in no way

authorize the practice of optometry by Respondent during any period of license suspension.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Dominique A. Pollara. I understand the stipulation and the effect it will have on my Optometry License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the State Board of Optometry.

DATED: Nov 7, 2012

LARRANCE EDWIN LARSON
Respondent

I have read and fully discussed with Respondent Larrance Edwin Larson the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 11/7/12

Dominique A. Pollara
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the State Board of Optometry of the Department of Consumer Affairs.

Dated: 11/8/2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE LACHMAN
Supervising Deputy Attorney General

ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. CC-2008-189

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Attorneys for Complainant

BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LARRANCE EDWIN LARSON** **1115 East Bidwell, Suite 124** **Folsom, CA 95630** **Optometry License No. 6725** Respondent.	Case No. CC-2008-189 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

2. On or about September 15, 1979, the State Board of Optometry issued Optometry License Number 6725 to Larrance Edwin Larson (Respondent). The Optometry License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2013 unless renewed.

JURISDICTION

3. This Accusation is brought before the State Board of Optometry (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3041.1 of the Code states: "With respect to the practices set forth in subdivisions (b), (d), and (e) of Section 3041, optometrists diagnosing or treating eye disease shall be held to the same standard of care to which physicians and surgeons and osteopathic physicians and surgeons are held."

5. Section 3110 of the Code states:

"The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(b) Gross negligence.

"(e) The commission of fraud, misrepresentation, or any act involving dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.

"(q) The failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

"(y) Failure to refer a patient to an appropriate physician in either of the following circumstances:

"(1) Where an examination of the eyes indicates a substantial likelihood of any pathology that requires the attention of that physician.

"(2) As required by subdivision (c) of Section 3041."

6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7. Title 16, California Code of Regulations section 1510 provides:

"Inefficiency in the profession is indicated by the failure to use, or the lack of proficiency in the use of the ophthalmoscope, the retinoscope, the ophthalmometer (or keratometer), tonometer, biomicroscope, any one of the modern refracting instruments such as the phoroptor, refractor, etc., or the phorometer-trial frame containing phoria and duction measuring elements or a

multicelled trial frame, trial lenses, and prisms, in the conduct of an ocular examination; the failure to make and keep an accurate record of findings; lack of familiarity with, or neglect to use, a tangent screen or perimeter or campimeter; and the failure to make a careful record of the findings when the need of the information these instruments afford is definitely indicated."

FIRST CAUSE FOR DISCIPLINE

8. Respondent has subjected his license to discipline under section 3110 and Title 16, California Code of Regulations, section 1510 in that when respondent treated patient D.S., he was guilty of gross negligence and unprofessional conduct in treating said patient as follows:

A. On March 13, 2007, Respondent treated patient D.S. for an emergency examination. Patient D. S. reported seeing floaters and flashers, "first noticed this morning upon awakening." She further reported that, "These symptoms are annoying and distracting." Additionally, she noticed "curtain--like in her left eye." Respondent utilized an Optomap[1] in his examination of D.S..

B. On May 14, 2007. Respondent saw patient D.S. for an office visit in which she complained that she noticed a blur and curtain or drape on her left eye along with "a lot of black floaters." Respondent utilized an Optos or Optomap in his examination of D.S.

C. Respondent failed to perform a dilated fundus examination utilizing binocular indirect ophthalmoscopy when D.S. described a persistent symptom of not being able to see out of the top portion of her left eye. Said failure to perform a dilated fundus examination by binocular indirect ophthalmoscopy constitutes gross negligence and/or incompetence in the practice of optometry.

D. Respondent failed to maintain adequate and accurate records in that he failed to retain a copy of the Optos or Optomap images taken on May 14, 2007. Said failure constitutes gross negligence and unprofessional conduct.

[1] Optos or Optomap is a camera device that noninvasively generates an instantaneous, ultra-wide field digital image of the retina. The Optos Optomap device affords a view of approximately 200 degrees of the posterior segment of the eye. As such, it does not afford a view of the entire peripheral retina or the vitreous base where retinal tears often occur.

SECOND CAUSE FOR DISCIPLINE

9. Respondent is subject to disciplinary action under section 3110 (y) (1) for unprofessional conduct in that respondent failed to refer patient D.S. to a physician. The circumstances follow:

A. During the period when respondent treated D.S. from March 13, 2007 to May 14, 2007, respondent failed to perform an adequate examination of the peripheral retina or to refer D.S. to a physician who could perform such an examination.

THIRD CAUSE FOR DISCIPLINE

10. Respondent is subject to disciplinary action under section 3110 (e) and (q) for unprofessional conduct in that respondent created his notes of treatment for May 14, 2007, only after the records were requested by patient D.S.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the State Board of Optometry issue a decision:

1. Revoking or suspending Optometry License Number 6725, issued to Larrance Edwin Larson;

2. Ordering Larrance Edwin Larson to pay the State Board of Optometry the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: January 17, 2012

Mona C Maggio

MONA MAGGIO
Executive Officer
State Board of Optometry
Department of Consumer Affairs
State of California
Complainant

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CALIFORNIA STATE BOARD OF OPTOMETRY

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry .ca.gov

CERTIFICATION

The undersigned, Mona Maggio, hereby certifies as follows:

> *That she is the duly appointed, acting and qualified Executive Officer of the California State Board of Optometry (Board), and that in such capacity she has custody of the official records of the Board.*

On this 9th day of July 2014, the Executive Officer examined said official records of the Board and found that **Larrance Edwin Larson** graduated from the University of Southern California College of Optometry in 1979, and is the holder of Optometry License No. 6725 which was granted to him effective September 15, 1979. Said License is currently in full force and effect and will expire October 31, 2015, unless renewed. The current address of record for said License is 421 Blue Ravine Rd Suite 300, Folsom, CA 95630.

Said records further reveal that on or about November 25, 1996, **Larrance Edwin Larson** became certified to utilize Therapeutic Pharmaceutical Agents and is authorized to diagnose and treat the conditions listed in subdivision (b), (d), and (e) of Section 3041.

Said further records further reveal that on or about April 24, 2012, Fictitious Name Permit No. 3930 was issued to **Larrance Edwin Larson** authorizing the use of the fictitious name "Folsom Optometry Center" in conjunction with optometric practice located at 421 Blue Ravine Road Suite 300, Folsom, CA 95630. Said Fictitious Name Permit will expire January 31, 2015, unless renewed.

Said records further reveal that on January 17, 2012, the Board filed an Accusation in Case Number CC 2008-189. As a result of that action, the Board revoked Optometry License No. 6725, effective January 17, 2013. However, the revocation was stayed and said License was placed on probation for a period of three (3) years, with terms and conditions.

Given under my hand and the seal of the California State Board of Optometry, at Sacramento, California, this 9th day of July 2014.

Mona C Maggio

Mona Maggio, Executive Officer

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Board Staff **Telephone:** (916) 575-7170

Subject: **Agenda Item 7 – Full Board Closed Session**

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

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Mona Maggio
Executive Officer **Telephone:** (916) 575-7170

Subject: **Agenda Item 8 – Full Board Closed Session Public Cover Page**

Pursuant to Government Code Section 11126(e), the Board will meet in Closed Session to discuss pending litigation – Anthony Rudick, O.D.; Ridge Eye Care, Inc., v. State Board of Optometry, Superior Court of the State of California for the County of Sacramento, Case KG13708526

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Mona Maggio
Executive Officer **Telephone:** (916) 575-7170

Subject: Agenda Item 9 – Running an Effective Meeting

Rick Sydor has been a member of the National Association of Parliamentarians since 2001. He earned his Registered Parliamentarian certification in January 2009. Rick has served in several different positions on the Board of Directors for the California State Association of Parliamentarians.

Rick joined Toastmasters International in February 1973. He served on the International Board of Toastmasters in 1996-1998. He has served the local Toastmaster District [northern California and northern Nevada] as their Parliamentarian for the past 10+ years.

His presentation today is to assist this Board in making their meetings more effective, using some of the "common sense" tips from Robert's Rules of Order Newly Revised.

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** August 8, 2014

From: Cyd Brandvein
Public Member **Telephone:** (916) 575-7170

Subject: **Agenda Item 10 – Review and Possible Approval of Amendments to the Board Member Handbook**

The Board is asked to review, and approve the amendments to the Board Member Handbook. The amendments include the revisions of the Board's mission, vision, and values statements from its Strategic Plan and creation of Roles and Responsibilities of the Officers of the California State Board of Optometry.

CALIFORNIA STATE BOARD OF

OPTOMETRY

BOARD MEMBER HANDBOOK

Introduction:

The purpose of this handbook is to provide guidance to future and incumbent Board Members regarding the general processes involved with their position on the Board of Optometry (Board). As a Board Member, you are typically asked to create and review policy and administrative changes, make disciplinary decisions, and preside over regular and special meetings.

In addition to the Bagley-Keene Open Meeting Act and the attached Administrative Procedures Manual, which provide public meeting laws, this handbook serves as a referential guide to help you understand further meeting requirements and Board procedures.

Mission Statement:

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

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 provides 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.

TABLE OF CONTENTS

GETTING STARTED AS A BOARD MEMBER 1

TRAINING REQUIREMENTS 1

BOARD OF OPTOMETRY'S ESSENTIAL FUNCTIONS 1

INTERACTIONS WITH BOARD STAFF 1

THE EXECUTIVE OFFICER 2

MEETINGS 2

ATTENDANCE AT BOARD MEETINGS 2

QUORUM 2

GENERAL RULES OF CONDUCT 2

MEETING REQUIREMENTS 3

MAKING A MOTION 4

REVIEWING DISCIPLINARY DECISIONS 5

DECIDING TO ADOPT OR NONADOPT A PROPOSED DECISION 5

REVIEWING THE RECORD AND PREPARING TO DISCUSS AND RENDER A DECISION AFTER NONADOPTION 6

VARIOUS BOARD PROCESSES 7

OVERVIEW OF CALIFORNIA'S LEGISLATIVE PROCESS 7

POSITIONS ON LEGISLATION 8

LEGISLATIVE DIAGRAM 10

OVERVIEW OF REGULATIONS 11

"THE RULEMAKING PROCESS" DIAGRAM 13

"OAL REVIEW" DIAGRAM 14

COMPLAINT AND DISCIPLINARY PROCESS 15

LICENSES AND CERTIFICATIONS TABLE 17

Getting Started as a Board Member

The following information serves to inform Board Members of mandatory training requirements as well as the Board of Optometry's (Board) essential functions. Newly appointed members are also advised in this section on how to engage with Board staff and of their relationship with the Executive Officer.

Training Requirements

Within one year of assuming office, newly appointed members shall complete the following training:

1. Board Member Orientation, which is provided by the Department of Consumer Affairs
2. Ethics Training Course, which shall be completed within the first 6 months of office
3. Sexual harassment prevention, within the first six months of office

Additional training:

1. Members shall attend an ethics training course every two 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 ~~2011~~ 2014 version of this Act can also be found at the following:

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

Board of Optometry's Essential Functions

The Board's essential functions are comprised of licensing, examinations, legal and regulatory, and enforcement. As such, the following provide a brief understanding of staff procedures to uphold each function.

1. Licensing: Staff is responsible for such tasks as evaluating applications for initial licensure, license renewals, providing certifications (see page 16 this list), issuing Fictitious Name Permits, monitoring continuing education, and providing license verifications to consumers and customer service to licensees accordingly.
2. Examinations: Staff regulates the law and licensing exams, which are necessary to ensure proficiency to practice. Staff also develops examination procedures.
3. Legal and Regulatory: Administrative staff is responsible for implementing administrative changes, primarily by revising or introducing regulations and statutes.
4. 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.

Interactions with Board Staff

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.

The Executive Officer

The Executive Officer serves at the pleasure of the Board Members as a whole. As such, your role as a Board Member is to direct the Executive Officer to implement program administration, budget, strategic planning, and coordination of meetings.

Meetings

All Healing Arts Boards under the Department of Consumer Affairs, including the Board of Optometry, must meet in accordance with the provisions set forth by the Bagley-Keene Open Meeting Act and the Brown Act. A copy of the Bagley-Keene Open Meeting Act should be provided to each newly appointed Board Member (see web address on page 1).

For more information on Administrative Procedures, you may reference the attached Administrative Procedure Manual.

Attendance at Board Meetings

The Board's policy is such that Members attend each meeting of the Board. If a Member is unable to attend, he or she must contact the Executive Officer and ask to be excused from the meeting for a specific reason.

Quorum

In order to conduct a full Board Meeting, there needs to be a quorum of six board members. Either having members in attendance or attending the meeting via teleconference can accomplish this.

General Rules of Conduct

The following rules of conduct are taken from the attached Administrative Procedures Manual to detail expectations of your conduct as a Member. Be mindful that the Board is comprised of both public and professional members with the intention that, together, you can protect the public and regulate the profession of Optometry.

- 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 adequately prepare for Board responsibilities.
- Board members shall recognize the equal role and responsibilities of all Board members.
- 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' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board members shall not use their positions on the Board for personal, familial or financial gain.

Meeting Requirements

Pursuant to Government Code Section, 11121.9, the following are requirements for the various meetings that you, as a Board Member, may attend.

Open Meeting Requirements:

Regularly scheduled meetings 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.

The Board is required to give at least 10 calendar days for written notice of each Board Meeting to be held.

The meeting notice must include the agenda, which may have a brief description of the item. Note that no changes can be made to the agenda unless the notice is amended accordingly. If this occurs, it must be posted for 10 calendar days prior to the meeting. More information about notice requirements can be found in the Administrative Procedures Manual.

Committee Meeting Requirements:

Notice requirements are mandatory for committee meetings if the committee consists of three or more persons. Those committees with fewer members do not need to submit meeting notices.

Should the committee post notice for a meeting, it must match the requirements for open meetings wherein the notice must be posted on the Internet at least 10 calendar days prior to the meeting and be provided to interested parties upon request.

Special Meeting Requirements:

Though the purposes and instructions for special meetings are found in Government Code Section 11125.4, one such reason is in the instance that a 10-day notice period to the public would impose a hardship to the Board. However, should this occur, the Board must provide notice of the meeting to each member and those persons who have requested notice of board meetings. This notice needs to specify the time, place and purpose of this special meeting.

At the commencement of this meeting, the Board must make a finding (in the open session) that providing a 10-day notice of the meeting poses a substantial hardship or that immediate action is required to protect public interest. This finding must then be adopted by two-thirds vote of members present or by a unanimous vote if less than the two-thirds of members are present. Failure to do so terminates the meeting.

Closed Session Requirements:

Closed Sessions may take place in the following instances:

1. Personnel matters (i.e. appointments, employment, performance evaluations, etc.)
2. To conduct administrative disciplinary proceedings
3. Examination matters, such as when the Board administers or approves an exam
4. Pending litigation
5. In response to confidential audit reports
6. When matters discussed would be an invasion of privacy if conducted in open session
7. As a response to a threat of criminal or terrorist activity against personnel, property, buildings, facilities, or equipment.

Should a closed session take place, 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 in a regularly scheduled or special meeting.

All material discussed in closed sessions must remain confidential. When such a session takes place, a staff person will be present to record and make available to members the discussion topics and decisions made.

Making a Motion

A Board Member should make a motion to introduce a new piece of business or to propose a decision or action. All motions must reflect the content of the meeting's agenda – the Board cannot act on business that is not listed on the agenda.

Upon making a motion, it is important to remember to speak slowly and clearly; bear in mind that the motion is being recorded. Members who opt to second the motion must remember to repeat the motion in question. Additionally, it is important to remember that once a motion has been made, it is inappropriate to make a second motion until the initial one has been resolved.

The basic process of a motion is as follows:

1. An agenda item has been thoroughly discussed and reviewed. If it is a new piece of business, see step 2.
2. The Board President opens a forum for a Member to make a motion to adopt or reject the discussed item.
3. A Member makes a motion before the Board.
4. Another Member seconds this motion.
5. The Board President puts forth the motion to a vote.
6. If it is a voice vote, those in favor of the motion say "aye" and those opposed say "no".
7. If it is a rising vote, those in favor of the motion will rise from their seats. ROLL CALL?

8. 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").

The adjournment of each meeting is done via motion, seconded motion, and majority vote.

Reviewing Disciplinary Decisions

As previously mentioned under the purposes for a closed-session meeting, you will be asked to make a disciplinary decision based on a hearing that has taken place with an Administrative Law Judge. To learn more about the complaint and disciplinary process, you may consult with the overview provided on page 14 of this handbook.

Deciding to Adopt or Non-adopt a Proposed Decision

Upon being presented with a proposed disciplinary decision from an Administrative Law Judge (ALJ), you, as a Board Member, are asked to either adopt or non-adopt the action. Accordingly, consider the following when making your decision:

A. Factors for adopting an ALJ's proposed decision:

1. The summary of the evidence supports the findings of fact, and the findings support the conclusions of law.
2. The law and standards of practice are interpreted correctly.
3. 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.
4. The penalty fits within the disciplinary guidelines or any deviation from those guidelines has been adequately explained.
5. If probation is granted, the terms and conditions of probation provide the necessary public protection.
6. The costs of proceeding with non-adoption far exceed the severity of the offense and the probability is high that respondent will be successful.

B. Factors for non-adopting an ALJ's proposed decision:

1. The proposed decision reflects the ALJ clearly abused his/her discretion.
2. The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
3. 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 <u>does not</u> identify specific evidence of the observed demeanor, manner, or attitude, of the witness that supports the credibility determination.
4. The ALJ made an error in interpreting the licensing law and/or regulations.
5. The ALJ made correct conclusions of law and properly applied the standards of practice but the penalty is substantially less than is appropriate to protect the public.

Reviewing the Record and Preparing to Discuss and Render a Decision after Non-adoption

Should you, as a Member, choose to non-adopt a proposed decision by the administrative law judge (ALJ), he or she must review the factual and legal findings to render a determination. The following suggestions are intended to assist in reviewing the case record:

A. Reviewing the Administrative Record

1. The Accusation:

   - Make note of the code sections charged and brief description of the sections (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.

2. 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 section.
   - 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.

3. The Transcript

   - Sufficiency of the Evidence. You must determine if the evidence introduced is clear and convincing to a reasonable certainty to prove *each* factual allegation.
   - Lay Witnesses. You must determine if the testimony provided by witnesses prove factual allegations. In doing so, bear in mind the ALJ's credibility findings.
   - Expert Witnesses. Which expert's testimony was given the most weight by the ALJ? If you do not agree with the ALJ's findings, you must determine which evidence in the record supports your own conclusion.

B. Preparing for an Oral Argument Hearing

1. Review written arguments and determine if the burden of proof has been met.

   - The Deputy Attorney General's (DAG) argument will contend the facts are clearly proven and constitute a violation of the law.
   - The Respondent's argument will likely focus on the weaknesses of the Board's case and strength of the Respondent's case. It will force you to

answer if (a) facts are proven, (b) the law was violated, and (c) the penalty is appropriate.

2. Review the proposed decision
   - Note in the proposed decision where you agree and disagree with the ALJ in regards to factual findings, the legal conclusion, and proposed penalty. Also note the specific evidential findings which support your own conclusions.
3. Summary and Conclusion
   - Remember, that if you maintain your focus on the code sections alleged to have been violated and the facts that were alleged to have occurred, your decision should be made more easily and this will help your decision withstand judicial scrutiny.

Background Information of Various Board Processes

As a member, you may be asked to review material which you are not closely acquainted with. Therefore, you may wish to reference the following guides to attain a comprehensive understanding of items brought forth in Board Meetings.

This section provides a guide to the Legislative Process, Regulatory Process, Complaint and Disciplinary Process, and the various licenses and certifications provided by the Board.

Overview of California's Legislative Process

For a graphic overview of California's legislative process, see the attached diagram on page 10.

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.

Next, in order to move the idea toward legislation the Board must attain a Senator or Assembly Member to author it as a bill. Once a legislator has established himself or herself as an author, he or she will proceed to the Legislative Council where a bill is drafted; it is then returned to the legislator for introduction 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 which 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 his or her 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 the bill.

Following these proceedings, the committee votes to pass the bill, pass it as amended, or defeat it. 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 require appropriation or, that take effect immediately, generally require 27 votes in the Senate and 41 votes 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 in session, the governor must act within 12 days; otherwise, he has 30 days to do so. 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.

Positions on Legislation

As a regulatory body, the Board can issue 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:

Neutral: If a bill poses no problems or concerns to the Board, or its provisions fall outside of the Board's jurisdiction, the Board may opt to remain neutral. Should the Board take this stance, it cannot testify against the bill.

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.

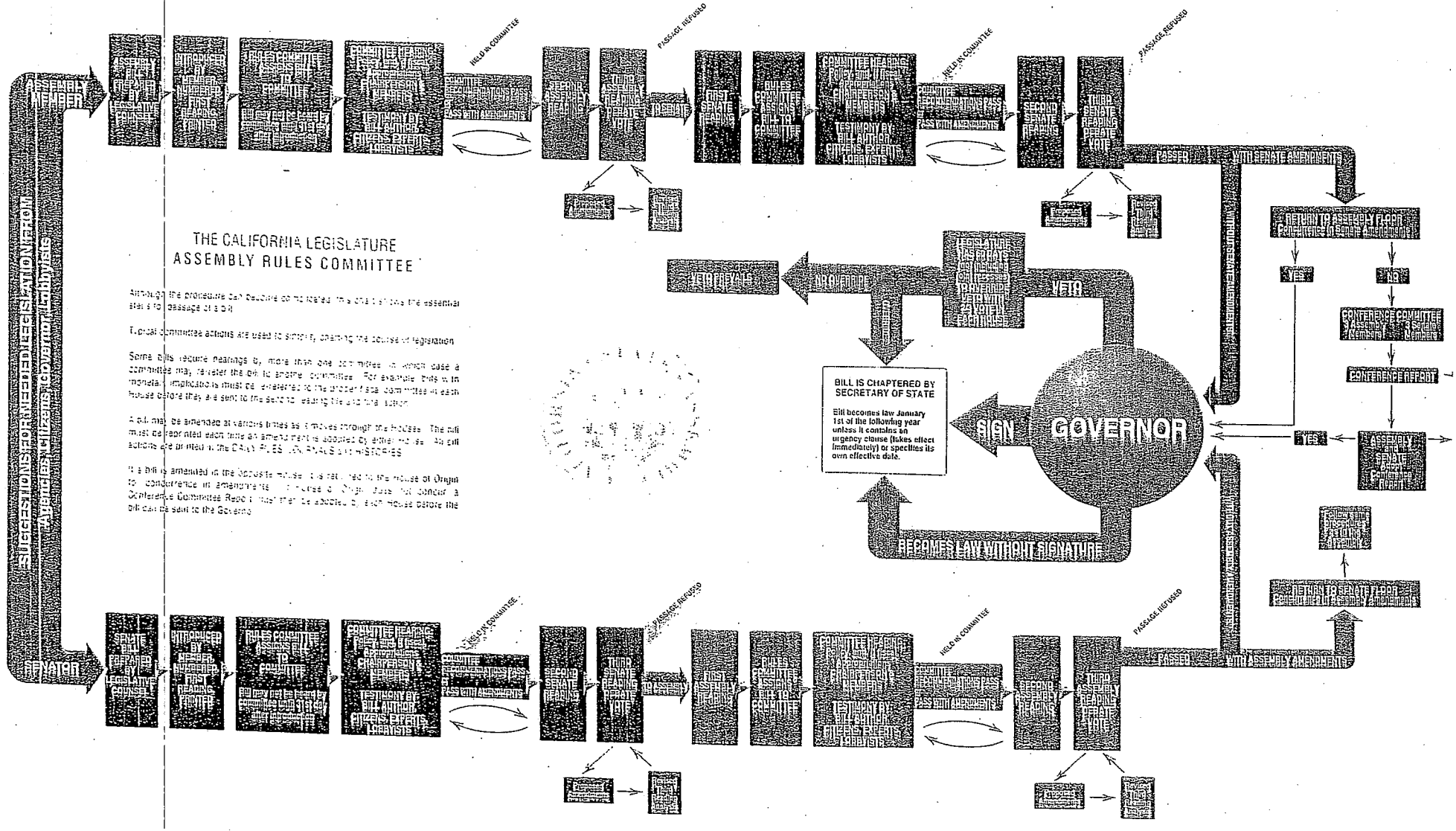
Support: This position may be taken if the Board supports the legislation and has no recommended changes.

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.

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 to 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, rereferer the bill to another committee. For example, bills with immediate implications must be referred to the appropriate committee in each house before they are sent to the senate for reading the 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 Senate house, it is returned to the house of origin for concurrence in amendments. If the 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.

Overview of Regulations

Regulations are administratively enforceable. They, along with statutes, govern the Board and comprise the Board's Practice Act. Succinctly, regulations interpret or make specific laws that are enforced or administered by the Board.

Should the Board wish to implement an administrative change, it may do so via statute or regulation. There are pros and cons to each of these routes. However, should the Board decide to implement a regulatory (also referred to as rulemaking) change or introduce a new regulation, it must follow direct procedures.

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 Procedures 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) nonsubstantial, (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 which the notice was published. OAL has 30 days to review the action.

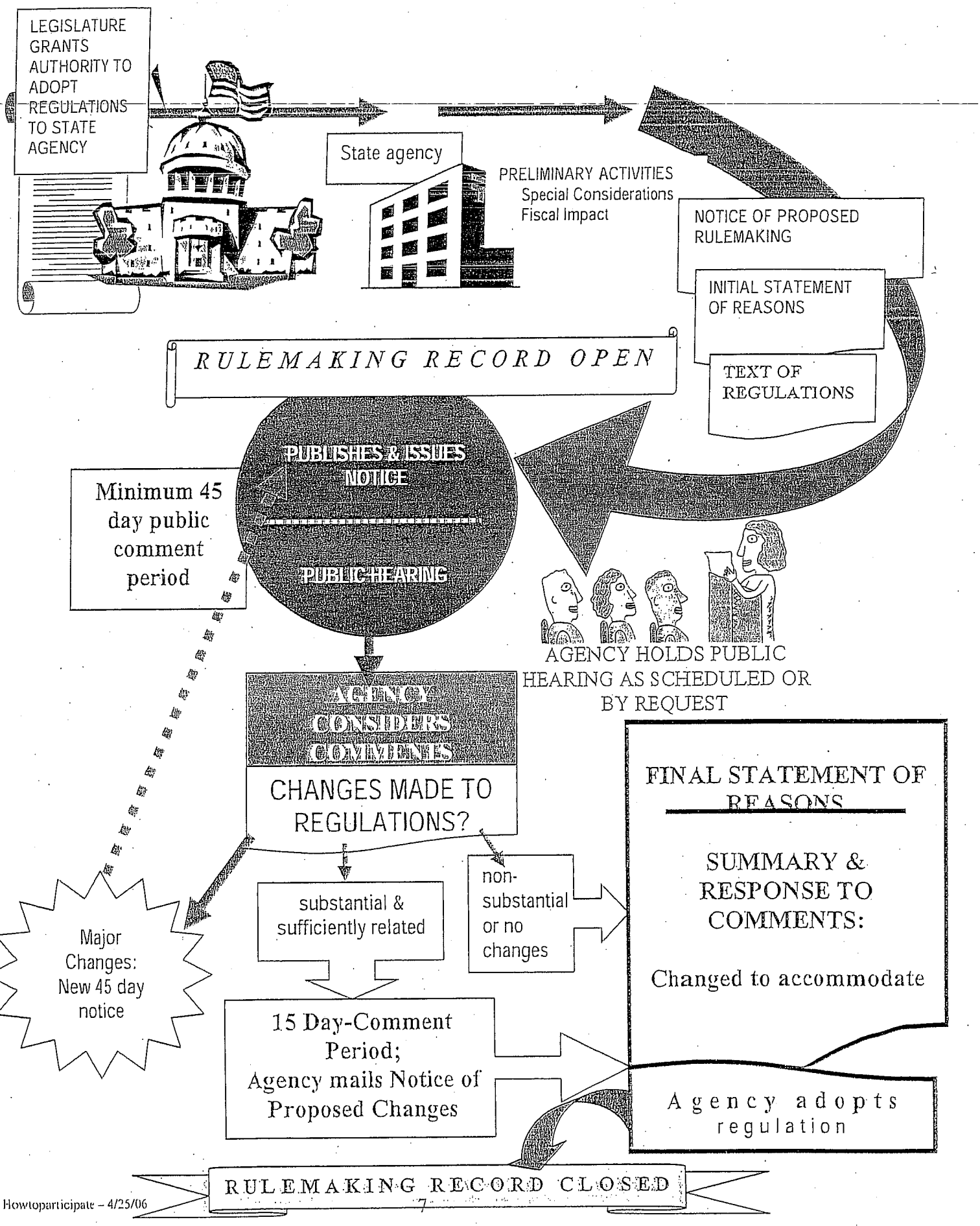
During its review, OAL must determine if the rulemaking action satisfies the standards set forth by APA. These standards are: necessity, authority, consistency, clarity, nonduplication, and reference. It must also have satisfied all procedural requirements governed by the APA.

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 pages 13 and 14 provide graphical overview of the rulemaking process.

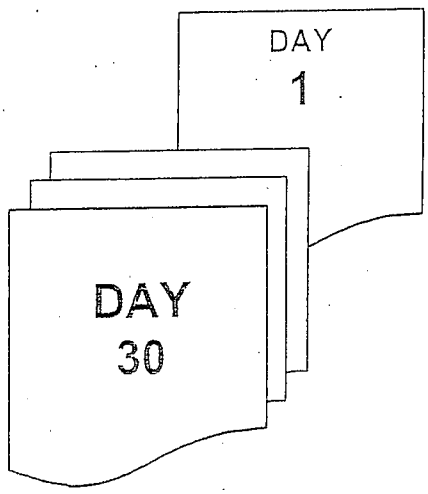
The Rulemaking Process



OAL REVIEW

State agency must submit rulemaking record within 1 year of notice publication

OAL has 30 WORKING days to review a regulation

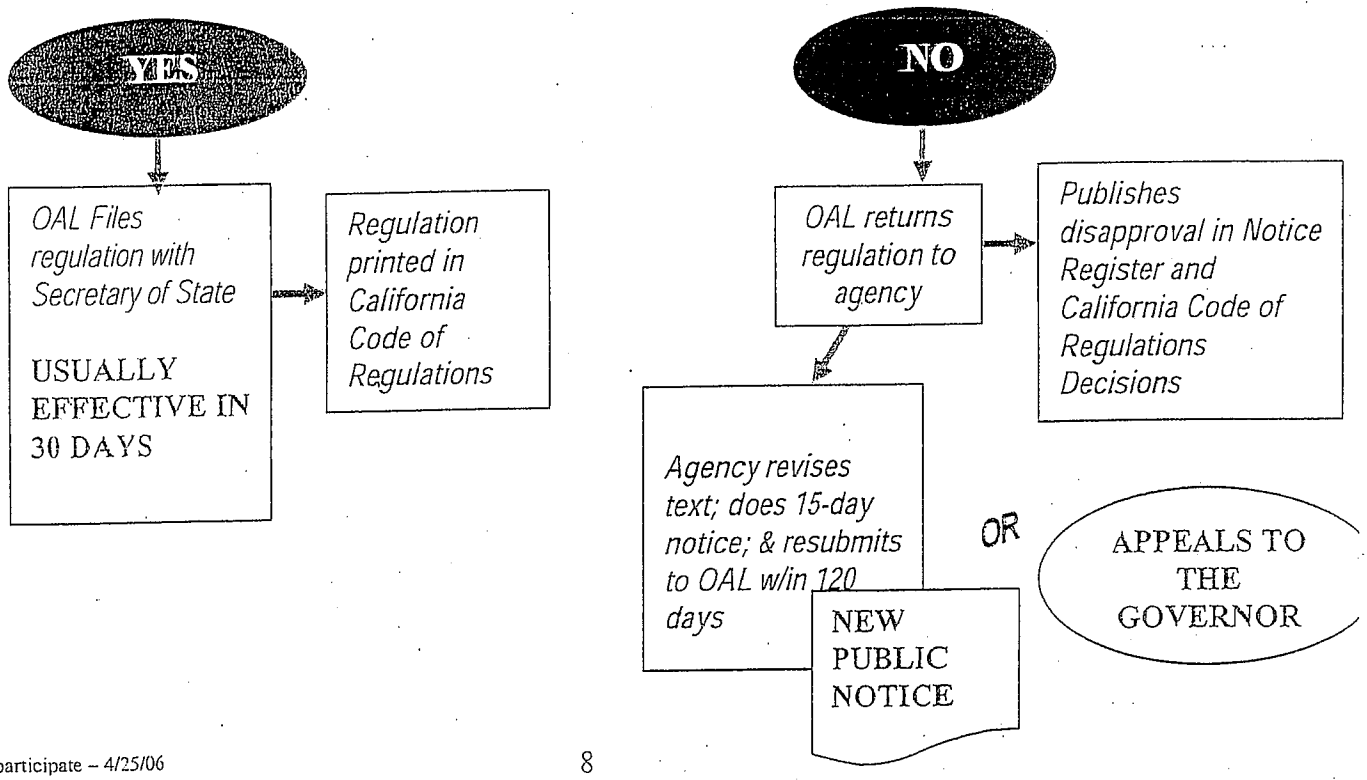


APA STANDARDS:

AUTHORITY
REFERENCE
CONSISTENCY
CLARITY
NON-DUPLICATION
NECESSITY

& PROCEDURAL REQUIREMENTS

DOES THE RULEMAKING SATISFY THE APA?



Complaint and Disciplinary Process

Under the Department of Consumer Affairs, the California Sate Board of Optometry (Board) conducts disciplinary proceedings in accordance with the Administrative Procedure Act, Government Code Section 11370, and those sections that follow. The Board conducts investigations and hearings pursuant to Government Code Sections 11180 through 11191.

Typically, the disciplinary process begins with a complaint case. 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 this is 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 has occurred by verifying facts to validate a complaint allegation. This is generally done by gathering statements, patient records, billings, 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 by enforcement staff, expert opinion, DOI, etc. 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.

Acts subject to disciplinary action – such as revocation, suspension, or probationary status of a license – include but are not limited to:

- 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: 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, the Board holds a hearing before an Administrative Law Judge 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. This written proposal is submitted to the Board for adoption as its decision in the matter.

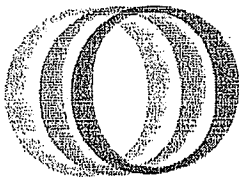
If the Board does not adopt the proposed decision, Board members obtain a transcript of the hearing, review the decision and decide the matter based upon the administrative record. If dissatisfied with the Board's decision, the respondent may petition for reconsideration or he or she may contest it by filing a writ of mandate in the appropriate superior court.

Licenses and Certification

The following chart provides an overview of the various licenses and certifications that the Board issues to its licensees.

TYPE	DESCRIPTION	Authority
Optometric License (OPT)	License to practice optometry in California at designated "principal place of practice." May be owner or an employee/independent contractor at the location.	B&P 3040
Statement of Licensure (SOL)	Required for every location where a licensee is employed or works as an independent contractor in addition to principal place of practice as designated by OPT license.	CCR 1506(d).
Branch Office License (BOL)	Required for each optometric practice owned by a licensed optometrist that is in addition to principal place of practice as designated by OPT license.	B&P 3077
Fictitious Name Permit (FNP)	Required if a fictitious name is used in conjunction with the practice of optometry.	B&P 3078 and CCR 1518
Therapeutic Pharmaceutical Agents (TPA) Certification	Required for optometrists who wish to treat patients with pharmaceutical agents as authorized by this category. To become TPA certified, an optometrist must meet one of seven category requirements.	B&P 3041.3 and CCR 1568
.aucoma Certification	Effective January 8, 2011. In order to be certified to diagnose and treat Glaucoma, an optometrist must already be TPA certified.	B&P 3041(f)(5) and CCR 1571
Lacrimal Irrigation and Dilation Certification	Effective January 1, 2011. To be certified to perform these tasks, an optometrist must already be TPA certified.	B&P 3041(e)(6) and B&P 3041.3

State of California
State and Consumer Services Agency



CALIFORNIA STATE BOARD OF
OPTOMETRY

Administrative Procedure Manual

California State Board of Optometry
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Sacramento, CA 95834
www.optometry.ca.gov

~~2011~~ 2014 Edition

TABLE OF CONTENTS

CHAPTER 1. INTRODUCTION 1

- OVERVIEW 1
- BOARD RESPONSIBILITIES 1
- DEFINITIONS 2
- GENERAL RULES OF CONDUCT 3

CHAPTER 2. BOARD MEETING PROCEDURES 3

- FREQUENCY OF MEETINGS 3
- BOARD MEMBER ATTENDANCE AT BOARD MEETINGS 4
- PUBLIC ATTENDANCE AT BOARD MEETINGS 4
- CLOSED SESSIONS AT BOARD MEETINGS 4
- CLOSED SESSIONS PROCEDURAL REQUIREMENTS 5
- QUORUM 5
- AGENDA ITEMS 5
- NOTICE OF MEETINGS 5
- NOTICE OF MEETINGS TO BE POSTED ON INTERNET 6
- SPECIAL MEETINGS 6
- RECORD OF MEETINGS 6
- TAPE RECORDING 6
- MEETING BY TELECONFERENCING 6
- USE OF ELECTRONIC DEVICES DURING MEETINGS 7
- MEETING RULES 7

CHAPTER 3. TRAVEL & SALARY POLICIES & PROCEDURES 7

- TRAVEL APPROVAL 7
- TRAVEL ARRANGEMENTS 7
- OUT-OF-STATE TRAVEL 7
- TRAVEL CLAIMS 8
- SALARY PER DIEM 8

CHAPTER 4. SELECTION OF OFFICERS & COMMITTEES 9

- OFFICERS OF THE BOARD 9
- ELECTION OF OFFICERS 9
- OFFICER VACANCIES 9
- ROLES AND RESPONSIBILITES OF BOARD OFFICERS 10
- COMMITTEE APPOINTMENTS 11
- ATTENDANCE OF COMMITTEEE MEETINGS 11

CHAPTER 5. BOARD ADMINISTRATION & STAFF 12

- APPOINTMENT OF EXECUTIVE OFFICER 12
- BOARD ADMINISTRATION 12
- LEGAL COUNSEL 12
- BOARD BUDGET 13
- PRESS RELEASES 13
- STRATEGIC PLANNING 13
- LEGISLATION 13
- COMMUNICATIONS WITH OTHER ORGANIZATIONS & INDIVIDUALS 13
- EXECUTIVE OFFICER EVALUATION 14

Board Staff 14
Business Cards 14

CHAPTER 6. OTHER POLICIES & PROCEDURES 14

Board Member Orientation 14
Materials Provided to Incoming Board Members 14
Board Member Ethics Training 15
Board Member Disciplinary Actions 15
Removal of Board Members 15
Resignation of Board Members 15
Conflict of Interest 15
Contact with Candidates, Applicants, and Licensees 16
Gifts from Candidates 16
Request for Records Access 16
Ex Parte Communication 16

Chapter 1. Introduction

Overview

The California State Board of Optometry (hereafter Board) was created by the California Legislature in 1973 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.

Today, the Board is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the State and Consumer Services 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) Section 3010.1).

The Board is presently comprised of 7 members of 11 possible positions. By law, five must be public members and six must be optometry professionals (licensed optometrists of the State of California 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 member of the Board shall have a financial interest in any purchase or contract under Board purview nor shall he/she have financial interest in the sale of any property or optical supplies to any prospective candidate for examination before the Board. The public members shall not be licensees of the Board or of any other Healing Arts Board. 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. Board members are paid $100 for each day actually spent in the discharge of official duties and are reimbursed travel expenses.

Board Responsibilities

With approximately 7,500 practicing optometrists and 500 optometric corporations, the largest population of optometrists in the United States, 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 certificates of registration as California licensed optometrists.
- 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 certification to diagnose and treat glaucoma for patients over the age of 18.
- Licensing branch offices and issuing fictitious name permits.
    - Effective January 1, 2007, the Board of Optometry 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
- Providing for redress of grievances against licensees by 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 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

ALJ	Administrative Law Judge.
AOA	American Optometric Association
APA	Administrative Procedure Act
BPC	Business and Professions Code
CLEAR	Council on Licensure Enforcement and Regulations
COA	California Optometric Association

DCA	Department of Consumer Affairs
EO	Executive Officer
OAH	Office of Administrative Hearings. This state agency provides neutral judges to preside over administrative cases.
OAL	Office of Administrative Law. This state agency 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 a state agency. It is enforceable the same way as a statute.
SAM	State Administrative Manual
Statute	A law passed by the legislature.
Stipulation	A form of plea bargaining in which a disciplinary case is settled by negotiated agreement prior to hearing.
President	Where the term "President" is used in this manual, it will be assumed to include "his or her designee"

General Rules of Conduct

- 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 adequately prepare for Board responsibilities.
- Board members shall recognize the equal role and responsibilities of all Board members.
- 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 an impartial manner.
- Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board members shall not use their positions on the Board for personal, familial or financial gain.

Chapter 2. Board Meeting Procedures

Frequency of Meetings

(BPC Section 3017)

The Board shall hold regular meetings every calendar quarter.

Special meetings of the Board may be held upon request of a majority of the members of the Board or upon the call of the President.

Six members constitute a quorum at a Board meeting.

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 Meeting Attendance at Board Meetings

(Board Policy)

Board members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Executive Officer and ask to be excused from the meeting for a specific reason.

Public Attendance at Board Meetings

(Government Code Section 11120 et seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of the state regulatory boards and meeting of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.

The Bagley-Keene act stipulates 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.

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.

Closed Sessions at Board Meetings

(Government Code Section 11126 et seq.)

A Board may meet in a closed session to discuss: personnel matters (appointments, employment, evaluation of performances, etc.); examination matters wherein the Board prepares, approves, grades, or administers examinations; matters which would constitute an invasion of privacy if discussed in an open session; administrative disciplinary matters; pending

litigation; as a response to confidential final draft audit report; and, as a response to threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment.

Closed Session Procedural Requirements

(Government Code Section 11126 et seq.)

The Board shall disclose in the open meeting a generalization of the items to be discussed in a closed session. This can be accomplished by those items on the agenda as a closed session item.

All closed sessions must be held during a regular or special meeting (section 11128). A staff person shall be designated to attend the closed session and record the discussion topics and decisions made, which will be available only to members.

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

Quorum

(BPC Section 3010.1)

Six of the members of the Board constitute a quorum of the Board for the transaction of business. 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 Government Code Section 11125 et seq.)

Any Board member may submit items for a Board meeting agenda to the Executive Officer 15 days prior to the meeting.

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.

Items not included on the agenda may not be discussed.

Notice of Meetings

(Government Code Section 11120 et seq.)

According to the Opening Meeting Act, meeting notices (including agenda for Board meetings) shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The

notice shall include a staff person's name, work address, and work telephone number so that he or she can provide information prior to the meeting.

Notice of Meetings to be Posted on the Internet

(Government Code Section 11125 et seq.)

Notice shall be given and also made available on the Internet at least 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.

Special Meetings

(Government Code Section 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 which necessitate special meeting as a finding. This finding must be adopted by a two-thirds vote; failure to adopt the finding terminates the meeting.

Record of Meetings

(Board Policy)

The minutes are a summary, not a transcript, of each Board meeting. They 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 may be disposed of upon Board approval of the minutes.

Meeting by Teleconferencing

(Government Code Section 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 notice and agenda.

All votes taken during this meeting shall be by roll-call.

Use of Electronic Devices During Meetings

(Bagley-Keen Act)

Members should not text or email each other during an open meeting on any matter within the Board's jurisdiction.

Use of laptops during the meetings are solely to access the Board meeting materials that are in electronic format.

Meeting Rules

(Board Policy)

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.

Chapter 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 members should attempt to make their own travel arrangements and are encouraged to coordinate with the Executive Officer's Assistant on lodging accommodations.

Out-of-State Travel

(State Administrative Manual Section 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 Section 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. 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 Director and are provided to Board members.

Salary Per Diem

(BPC Section 103)

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

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

(Board Policy)

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

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or committee meetings, 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.

2. 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.

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 AOA or CLEAR committee work. That work does not include preparation time for Board or committee meetings. Board members cannot claim salary per diem for time spent traveling to and from a Board or committee meeting.

Chapter 4. Selection of Officers & Committees

Officers of the Board

(BPC Section 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.

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.

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. Applies Roberts Rules of Order and Bagley Keene Act during all Board Meetings.
- **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. Presides at Board meetings.
- **Executive Officer:** Working with the State of California Department of Consumer Affairs, may establish search and selection committee (usually acts as chair) for hiring an Executive Officer. Convenes board discussions on evaluating the 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.
- **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 Board President responsibilities when the President cannot be available.
- **Board Member On-Boarding:** Welcomes new members to the Board. Is available to answer questions, and understand role and responsibilities. May participate in ong-boarding meeting with staff and new members.

Secretary

- **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. Staff drafts minutes using recording, webcast and staff notes, will submit draft minutes to Secretary for his/her review. Submits various reports to the Board as required.

- **Yearly Elections:** Prepares template for nominee statements and oversees the compilation of statements for inclusion in Board Meeting Materials.
- **Board Documents:** References documents e.g. Board Member Handbook, Law Book, Bagley Keene.

Committee Appointments

(Board Policy)

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. Appointment of non-Board members to a committee is subject to the approval of the Board.

Attendance of Committee Meetings

(Government Code Section 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 Section 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 Section

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.

Chapter 5. Board Administration and Staff

Appointment of Executive Officer

(BPC Section 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 shall perform the duties delegated by the Board and shall be responsible to it for the accomplishment of those duties. The executive officer shall not be a member of the Board. With the approval of the Director of Finance, the Board shall fix the salary of the Executive Officer. The Executive Officer shall be entitled to traveling and other necessary expenses in the performance of his duties.

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 should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

Legal Counsel

The Board's legal counsel acts represents the Board for litigation and accordingly for services rendered by the Office of the Attorney General. The Board's legal counsel provides "in-house" counsel.

Board Budget

(Board Policy)

The Secretary 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 Secretary.

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

Press Releases

(Board Policy)

The Executive Officer may issue press releases with the approval of the Board President.

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 conduct an annual strategic planning session and may utilize a facilitator to conduct the strategic planning process.

Legislation

(Board Policy)

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

Communication with Other Organizations & Individuals

(Board Policy)

Any and all representations 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's Office.

Executive Officer Evaluation

(Board Policy)

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

Board Staff

(DCA Reference Manual)

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-today personnel transactions.

Business Cards

(Board Policy)

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.

Chapter 6. Other Policies & Procedures

Board Member Orientation

(BPC section 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.

Materials Provided to Incoming Board Members

(Government Code section 11121.9)

A copy of the Bagley-Keene Act must be provided to each new member upon his or her appointment.

Board Member Ethics Training

(Government Code section 12950.1)

Newly appointed board members shall attend an ethics training course within six months of assuming office and every two years thereafter.

Pursuant to Government Code section 12950.1, each member shall attend at least two hours of interactive training covering sexual harassment prevention within six months of his or her appointment.

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 Public Meetings Act, the censure hearing shall be conducted in open session.

Removal of Board Members

(BPC Sections 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

(Government Code Section 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

(Government Code Section 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.

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

(Government Code Section 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 section 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.

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 form 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.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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To: Board Members **Date:** August 8, 2014

From: Robert Stephanopoulos, Policy Analyst **Telephone:** (916) 575-7182

Subject: **Agenda Item 11 – Discussion and Possible Action on Legislation Affecting the Board of Optometry**

Action Requested

Please review and discuss the following bills which are specifically related to the Board and direct staff to take any action if warranted.

A. Senate Bill 492 (Hernandez) Optometrist Scope of Practice

Last Amended: July 1, 2014

Location: Assembly Appropriations Committee

Summary: This bill would revise various scope of practice provisions in the optometry practice act, including the creation of an advanced practice certificate authorizing optometrists to perform certain laser and lesion removal procedures.

Staff Comments: With the Board's approval, a letter with a position of "support if amended" was sent to the author on June 23, 2014. It appears the amendments requested of the Board have been made.

In addition, the following amendments to the bill have been made:

3041(g)(1): The requirement of the passage of test for competency and performance of the procedures in subparagraph (F) of paragraph (2).

3041(g)(2): A TPA certified optometrist may perform the training procedures in their own practice under the supervision of a physician and surgeon or an optometrist with an advanced procedure certification.

3041(g)(2)(A): The advanced procedure course must be provided by a school of optometry and developed in consultation with an ophthalmologist who has experience teaching optometric students.

3041(g)(2)(D): The inclusion of passage of a test for competency.

3041(g)(2)(F)(ii): Clinical or laboratory experience consisting of between 20 and 35 clinical eyelid or adnexa surgery training procedures, between 18 and 25 laser training procedures, and between 6 and 12 injection training procedures. The Board shall convene an advisory committee to establish the exact

number of training procedures required consisting of the Director of Consumer Affairs or his or her appointee, who shall also serve as chair, two practicing optometrists, two practicing ophthalmologists, one faculty member a school of optometry, and one ophthalmologist that teaches at a school of optometry. The members of the committee shall be appointed by the respective licensing boards. Recommendations from the committee shall be reported to the board within six months of being convened.

3041(h)(3): Removal, destruction, or drainage of lesions of the eyelid and adnexa clinically evaluated *by the optometrist* to be noncancerous.

3041(o): Pertusis has been added to the listed immunizations, for persons 18 years of age or older.

B. Senate Bill 870 (Committee on Budget and Fiscal Review) Health Trailer Bill

Last Amended: June 13, 2014

Status: Chaptered June 20, 2014 – Chap. 40, Statutes of 2014

Summary: This bill, among other things, included provisions sought by the Department of Health Care Services creating a mobile vision services pilot program in Los Angeles County, to be covered by Medi-Cal. This pilot program enables school districts to allow students enrolled in Medi-Cal managed care plans to receive vision care services at the school site through the use of a mobile vision service provider. The vision care services available under this pilot program are limited to vision examinations and providing eyeglasses. The program shall last three years, starting no sooner than January 1, 2015, and concluding December 31, 2017, or three years from the start date of the pilot if later.

C. Senate Bill 1172 (Steinberg) Pupil Health: Vision Examinations

Last Amended: April 23, 2014

Location: Assembly Appropriations Committee

Summary: This bill would revise the vision appraisal procedures for elementary school (through 8th grade) students in California school districts. Existing law requires, upon first enrollment in a California school district of a child at an elementary school, and at least every 3rd year thereafter until the child has completed the 8th grade, the child's vision to be appraised by the school nurse or other authorized person, as specified. This bill would instead require a pupil's vision to be appraised by the school nurse or other authorized person during kindergarten or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, except as provided. The bill would revise the functions to be performed by the school nurse and the classroom teacher in observing a pupil's eyes, appearance, and other factors that may indicate vision difficulties.

Staff Comments: With the Board's approval, on June 20, 2013, a letter with a position of "oppose unless amended" was sent to the author.

Attachments

1) SB 492 Proposed Language
2) SB 870 Text
3) SB 1172 Proposed Language

AMENDED IN ASSEMBLY JULY 1, 2014

AMENDED IN ASSEMBLY JUNE 16, 2014

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 16, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL No. 492

Introduced by Senator Hernandez

February 21, 2013

An act to amend Sections 3041, 3041.1, and 3110 of the Business and Professions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

SB 492, as amended, Hernandez. Optometrist: practice: licensure.

The Optometry Practice Act creates the State Board of Optometry, which licenses optometrists and regulates their practice. Existing law defines the practice of optometry to include, among other things, the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services, and doing certain things, including, but not limited to, the examination of the human eyes, the determination of the powers or range of human vision, and the prescribing of contact and spectacle lenses. Existing law authorizes an optometrist certified to use therapeutic pharmaceutical agents to diagnose and treat specified

conditions, use specified pharmaceutical agents, and order specified diagnostic tests. Any violation of the act is a crime.

This bill would include the provision of habilitative optometric services within the scope of practice of optometry. The bill would expand the scope of practice of optometrists who are certified to use therapeutic pharmaceutical agents by, among other things, authorizing those optometrists to use all therapeutic pharmaceutical agents approved by the United States Food and Drug Administration and indicated for use in diagnosing and treating the eye conditions covered by these provisions. The bill would also modify the ability of an optometrist certified to use therapeutic pharmaceutical agents to diagnose and treat certain diseases. The bill would require the board to grant a certificate to an optometrist for the use of advanced procedures, as defined, if the optometrist meets certain educational and certification requirements. The board would also be required to grant a certificate to an optometrist for immunizations if the optometrist meets certain educational and certification requirements. The bill would authorize the board to allow optometrists to use any noninvasive technology to treat specified conditions.

Existing law requires optometrists in diagnosing or treating eye disease to be held to the same standard of care as physicians and surgeons and osteopathic physicians and surgeons.

This bill would expand this requirement to include diagnosing other diseases, and would require an optometrist to consult with and, if necessary, refer to a physician and surgeon or other appropriate health care provider if a situation or condition was beyond the optometrist's scope of practice.

This bill would delete obsolete provisions and make conforming changes.

Because this bill would change the definition of a crime, it would create 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:

SECTION 1. Section 3041 of the Business and Professions Code is amended to read:

3041. (a) The practice of optometry includes the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of habilitative or rehabilitative optometric services, and is the doing of any or all of the following:

(1) The examination of the human eye or eyes, or its or their appendages, and the analysis of the human vision system, either subjectively or objectively.

(2) The determination of the powers or range of human vision and the accommodative and refractive states of the human eye or eyes, including the scope of its or their functions and general condition.

(3) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

(4) The prescribing of contact and spectacle lenses for, or the fitting or adaptation of contact and spectacle lenses to, the human eye, including lenses that may be classified as drugs or devices by any law of the United States or of this state.

(5) The use of topical pharmaceutical agents for the purpose of the examination of the human eye or eyes for any disease or pathological condition.

(b) (1) An optometrist who is certified to use therapeutic pharmaceutical agents, pursuant to Section 3041.3, may also diagnose and treat the human eye or eyes, or any of its or their appendages, for all of the following conditions:

(A) Through medical treatment, infections of the anterior segment and adnexa.

(B) Ocular allergies of the anterior segment and adnexa.

(C) Ocular inflammation of the anterior segment and adnexa nonsurgical in cause, except when comanaged with the treating physician and surgeon.

(D) Traumatic or recurrent conjunctival or corneal abrasions and erosions.

(E) Corneal surface disease and dry eyes. Treatment for purposes of this subparagraph includes, but is not limited to, the use of mechanical lipid extraction of meibomian glands using nonsurgical techniques.

(F) Ocular pain nonsurgical in cause, except when comanaged with the treating physician and surgeon.

(G) Pursuant to subdivision (f), glaucoma in patients over 18 years of age, as described in subdivision (m).

(H) Eyelid disorders, including hypotrichosis and blepharitis.

(2) For purposes of this section, "treat" means the use of therapeutic pharmaceutical agents, as described in subdivision (c), and the procedures described in subdivision (e).

(c) In diagnosing and treating the conditions listed in subdivision (b), an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 may use all therapeutic pharmaceutical agents approved by the United States Food and Drug Administration and indicated for use in diagnosing and treating eye conditions set forth in this chapter, including codeine with compounds and hydrocodone with compounds as listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and the federal Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use of controlled substances shall be limited to five days.

(d) In any case that an optometrist consults with a physician and surgeon, the optometrist and the physician and surgeon shall both maintain a written record in the patient's file of the information provided to the physician and surgeon, the physician and surgeon's response, and any other relevant information. Upon the request of the optometrist or physician and surgeon and with the patient's consent, a copy of the record shall be furnished to the requesting party.

(e) An optometrist who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 may also perform all of the following:

(1) Corneal scraping with cultures.

(2) Debridement of corneal epithelia.

(3) Mechanical epilation.

(4) Venipuncture for testing patients suspected of having diabetes.

(5) Suture removal, upon notification of the treating physician and surgeon or optometrist.

(6) Treatment or removal of sebaceous cysts by expression.

(7) Use of an auto-injector to counter anaphylaxis.

(8) Ordering of appropriate laboratory and diagnostic imaging tests necessary to diagnose conditions of the eye or adnexa.

(9) A clinical laboratory test or examination necessary to diagnose conditions of the eye or adnexa and classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Sec. 263a) (CLIA). These laboratory tests are required to be performed in compliance with both CLIA and all clinical laboratory licensing requirements in Chapter 3 (commencing with Section 1200), and any ancillary personnel utilized shall be in compliance with those same requirements.

(10) Punctal occlusion by plugs, excluding laser, diathermy, cryotherapy, or other means constituting surgery as defined in this chapter.

(11) The prescription of therapeutic contact lenses, including lenses or devices that incorporate a medication or therapy the optometrist is certified to prescribe or provide.

(12) Removal of foreign bodies from the cornea, eyelid, and conjunctiva with any appropriate instrument other than a scalpel. Corneal foreign bodies shall be nonperforating, be no deeper than the midstroma, and require no surgical repair upon removal.

(13) For patients over 12 years of age, lacrimal irrigation and dilation, excluding probing of the nasal lacrimal tract. The board shall certify any optometrist who graduated from an accredited school of optometry before May 1, 2000, to perform this procedure after submitting proof of satisfactory completion of 10 procedures under the supervision of an ophthalmologist or lacrimal irrigation and dilation certified optometrist as confirmed by the ophthalmologist or lacrimal irrigation and dilation certified optometrist. Any optometrist who graduated from an accredited school of optometry on or after May 1, 2000, is exempt from the certification requirement contained in this paragraph.

(f) The board shall grant a certificate to an optometrist certified pursuant to Section 3041.3 for the treatment of glaucoma, as described in subdivision (m), in patients over 18 years of age after the optometrist meets the following applicable requirements:

(1) For licensees who graduated from an accredited school of optometry on or after May 1, 2008, submission of proof of graduation from that institution.

(2) For licensees who were certified to treat glaucoma under this section prior to January 1, 2009, submission of proof of completion of that certification program.

(3) For licensees who completed a didactic course of not less than 24 hours in the diagnosis, pharmacological, and other treatment and management of glaucoma, submission of proof of satisfactory completion of the case management requirements for certification established by the board pursuant to Section 3041.10.

(4) For licensees who graduated from an accredited school of optometry on or before May 1, 2008, and not described in paragraph (2) or (3), submission of proof of satisfactory completion of the requirements for certification established by the board pursuant to Section 3041.10.

(g) The board shall grant to an optometrist, certified pursuant to subdivision (f), a certificate for the use of advanced procedures, as described in subdivision (h), after the optometrist meets the following applicable requirement:

~~(1) For licensees who graduated from an accredited school of optometry that includes satisfactory curriculum on advanced procedures, as determined by the board, on or after May 1, 2016, submission of proof of graduation from that institution.~~

(1) Licensees who graduated from an accredited school of optometry, on or after May 1, 2016, shall submit proof of completion at that school of a satisfactory curriculum on advanced procedures, as determined by the board, including passage of a test for competency and performance of the procedures contained in subparagraph (F) of paragraph (2).

(2) Licensees who graduated from an accredited school before May 1, 2016, are required to submit proof of completion of a board-approved course that meets all of the ~~following requirements:~~ *requirements in subparagraphs (A) to (G), inclusive. An optometrist certified pursuant to Section 3041.3 may perform the training procedures in their own practices under the supervision of a physician and surgeon or an optometrist with an advanced procedure certification.*

(A) Provided by an accredited school of ~~optometry.~~ *optometry and developed in consultation with an ophthalmologist who has experience teaching optometric students.*

(B) Taught by full-time or adjunct faculty members of an accredited school of optometry.

(C) Sponsored by an organization that meets the standards of Section 1536 of Title 16 of the California Code of Regulations.

(D) Included passage of a test for competency.

~~(D)~~

(E) Included all of the following didactic instruction:

(i) Laser physics, hazards, and safety.

(ii) Biophysics of laser.

(iii) Laser application in clinical optometry.

(iv) Laser tissue interactions.

(v) Laser indications, contraindications, and potential complications.

(vi) Gonioscopy.

(vii) Laser therapy for open angle glaucoma.

(viii) Laser therapy for angle closure glaucoma.

(ix) Posterior capsulotomy.

(x) Common complications: lids, lashes, and lacrimal.

(xi) Medicolegal aspects of anterior segment procedures.

(xii) Peripheral iridotomy.

(xiii) Laser Trabeculoplasty.

(xiv) Minor surgical procedures.

(xv) Overview of surgical instruments, asepsis, and the federal Occupational Safety and Health Administration.

(xvi) Surgical anatomy of the eyelids.

(xvii) Emergency surgical procedures.

(xviii) Chalazion management.

(xix) Epilumeninesence microscopy.

(xx) Suture techniques.

(xxi) Local anesthesia: techniques and complications.

(xxii) Anaphylaxsis and other office emergencies.

(xxiii) Radiofrequency surgery.

(xxiv) Postoperative wound care.

~~(E)~~

(F) Included all of the following clinical or laboratory experience:

(i) Video demonstration.

~~(ii) A minimum of six procedures involving the removal, destruction, or drainage of eye lesions and 14 laser eye procedures, as described in paragraph (3) of subdivision (h).~~

(ii) Between 20 and 35 clinical eyelid or adnexa surgical training procedures, between 18 and 25 laser training procedures, and between six and 12 injection training procedures. The board shall convene an advisory committee to establish the exact number of training procedures required, including a minimum number of training procedures for each procedure listed in subdivision (h). The advisory committee shall be composed of the Director of Consumer Affairs or his or her appointee, who shall also serve as the chair, two practicing optometrists, two practicing ophthalmologists, one faculty member of a school of optometry, and one ophthalmologist that teaches at a school of optometry. The members of the advisory committee shall be appointed by the respective licensing boards. Recommendations from the advisory committee shall be reported to the board within six months of being convened.

(iii) A formal clinical or laboratory practical examination.

~~(F)~~

(G) Required passage of a written test utilizing the National Board of Examiners in Optometry format.

(h) For the purposes of this chapter, "advanced procedures" means any of the following:

(1) Therapeutic lasers used for posterior capsulotomy secondary to cataract surgery.

(2) Therapeutic lasers appropriate for treatment of glaucoma and peripheral iridotomy for the prophylactic treatment of angle closure glaucoma.

(3) Removal, destruction, or drainage of lesions of the eyelid and adnexa clinically evaluated *by the optometrist* to be noncancerous.

(4) Closure of a wound resulting from a procedure described in paragraph (3).

(5) Injections for the treatment of conditions of the eye and adnexa described in paragraph (1) of subdivision (b), excluding intraorbital injections and injections administered for cosmetic effect.

(i) The board shall grant to an optometrist, certified pursuant to subdivision (f), a certificate for immunizations, as described in

subdivision (o), after the optometrist meets all of the following applicable requirements:

(1) For licensees who graduated, *on or after May 1, 2016,* from an accredited school of optometry that includes satisfactory curriculum on immunizations, as determined by the board, ~~on or after May 1, 2016,~~ submission of proof of graduation from that institution.

(2) Licensees who graduated from an accredited school before May 1, 2016, shall do all of the following:

(A) Submit proof of completion of a board-approved immunization training program that, at a minimum, includes hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines, and shall maintain that training.

(B) Be certified in basic life ~~support.~~ *support for health care professionals.*

(C) Comply with all state and federal recordkeeping and reporting requirements, including providing documentation to the patient's primary care provider and entering information in the appropriate immunization registry designated by the immunization branch of the State Department of Public Health.

(j) Other than for prescription ophthalmic devices described in subdivision (b) of Section 2541, any dispensing of a therapeutic pharmaceutical agent by an optometrist shall be without charge.

(k) Except as authorized by this section, the practice of optometry does not include performing surgery. "Surgery" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or laser means. Nothing in this section shall limit an optometrist's authority to utilize diagnostic laser and ultrasound technology within his or her scope of practice.

(*l*) An optometrist licensed under this chapter is subject to the provisions of Section 2290.5 for purposes of practicing telehealth.

(m) For purposes of this chapter, "glaucoma" means either of the following:

(1) All primary open-angle glaucoma.

(2) Exfoliation and pigmentary glaucoma.

(n) For purposes of this chapter, "adnexa" means ocular adnexa.

(o) For the purposes of this chapter, "immunization" means administration of immunizations for influenza, *Pertussis,* herpes

zoster virus, and additional immunizations that may be necessary to protect public health during a declared disaster or public health emergency in compliance with individual Advisory Committee on Immunization Practices (ACIP) vaccine recommendations published by the federal Centers for Disease Control and Prevention (CDC) for persons ~~eight~~ *18* years of age or older.

(p) In an emergency, an optometrist shall stabilize, if possible, and immediately refer any patient who has an acute attack of angle closure to an ophthalmologist.

(q) The board may authorize optometrists to use any noninvasive technology to treat a condition listed in paragraph (1) of subdivision (b).

SEC. 2. Section 3041.1 of the Business and Professions Code is amended to read:

3041.1. With respect to the practices set forth in Section 3041, optometrists diagnosing or treating eye disease or diagnosing other diseases shall be held to the same standard of care to which physicians and surgeons and osteopathic physicians and surgeons are held. An optometrist shall consult with and, if necessary, refer to a physician and surgeon or other appropriate health care provider if a situation or condition occurs that is beyond the optometrist's scope of practice.

SEC. 3. Section 3110 of the Business and Professions Code is amended to read:

3110. The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions.

(d) Incompetence.

(e) The commission of fraud, misrepresentation, or any act involving dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of an optometrist.

(f) Any action or conduct that would have warranted the denial of a license.

(g) The use of advertising relating to optometry that violates Section 651 or 17500.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license by another state or territory of the United States, by any other governmental agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(i) Procuring his or her license by fraud, misrepresentation, or mistake.

(j) Making or giving any false statement or information in connection with the application for issuance of a license.

(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.

(*l*) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof.

(m) *(1)* Committing or soliciting an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an optometrist.

(2) Committing any act of sexual abuse, misconduct, or relations with a patient. The commission of and conviction for any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee. This paragraph shall not apply to sexual contact between any person licensed under this chapter and his or her spouse or person in an equivalent domestic relationship when that

licensee provides optometry treatment to his or her spouse or person in an equivalent domestic relationship.

(3) Conviction of a crime that requires the person to register as a sex offender pursuant to Section 290 of the Penal Code. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. A conviction described in this paragraph shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee.

(n) Repeated acts of excessive prescribing, furnishing or administering of controlled substances or dangerous drugs specified in Section 4022, or repeated acts of excessive treatment.

(o) Repeated acts of excessive use of diagnostic or therapeutic procedures, or repeated acts of excessive use of diagnostic or treatment facilities.

(p) The prescribing, furnishing, or administering of controlled substances or drugs specified in Section 4022, or treatment without a good faith prior examination of the patient and optometric reason.

(q) The failure to maintain adequate and accurate records relating to the provision of services to his or her patients.

(r) Performing, or holding oneself out as being able to perform, or offering to perform, any professional services beyond the scope of the license authorized by this chapter.

(s) The practice of optometry without a valid, unrevoked, unexpired license.

(t) The employing, directly or indirectly, of any suspended or unlicensed optometrist to perform any work for which an optometry license is required.

(u) Permitting another person to use the licensee's optometry license for any purpose.

(v) Altering with fraudulent intent a license issued by the board, or using a fraudulently altered license, permit certification, or any registration issued by the board.

(w) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood borne infectious diseases from optometrist to patient, from patient to patient, or from patient to optometrist. In administering this subdivision, the board shall consider the standards, regulations, and guidelines of the State Department of Health Care Services developed pursuant

to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood borne pathogens in health care settings. As necessary, the board may consult with the Medical Board of California, the Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

(x) Failure or refusal to comply with a request for the clinical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, unless the licensee is unable to provide the documents within this time period for good cause.

(y) Failure to refer a patient to an appropriate physician if an examination of the eyes indicates a substantial likelihood of any pathology that requires the attention of that physician.

SEC. 4. It is the intent of the Legislature that the Office of Statewide Health Planning and Development, under the Health Workforce Pilot Projects Program, designate a pilot project intended to test, demonstrate, and evaluate expanded roles for optometrists in the performance of management and treatment of diabetes mellitus, hypertension, and hypercholesterolemia.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

Senate Bill No. 870

CHAPTER 40

An act to amend Section 1374.34 of, to add Chapter 13.6 (commencing with Section 121287) to Part 4 of Division 105 of, and to add and repeal Section 128225.5 of, the Health and Safety Code, to amend Sections 14105.33, 14105.436, and 14105.86 of, to amend, repeal, and add Section 14593 of, and to add Sections 14087.9730 and 14132.56 to, the Welfare and Institutions Code, relating to health, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 20, 2014. Filed with
Secretary of State June 20, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 870, Committee on Budget and Fiscal Review. Health.

(1) Existing law makes provisions for programs relating to treatment of persons with human immunodeficiency virus (HIV) and the acquired immunodeficiency syndrome (AIDS). Under existing law, the Office of AIDS, in the State Department of Public Health, is the lead agency within the state responsible for coordinating state programs, services, and activities relating to HIV and AIDS and AIDS-related conditions.

This bill would authorize the department to implement up to 4 demonstration projects that may operate for a period of up to 2 years to allow for innovative, evidence-based approaches to provide outreach, HIV and Hepatitis C screenings, and linkage to, and retention in, quality health care for the most vulnerable and underserved individuals with a high risk for HIV infection. The bill would require, upon appropriation in the annual Budget Act, the department to award funding, on a competitive basis, to a community-based organization or local health jurisdiction to operate a demonstration project, as specified. The bill would require the department, at the conclusion of the demonstration projects, to review the effectiveness of each demonstration project and determine whether the demonstration project model can be implemented on a statewide basis.

(2) Existing law, the Song-Brown Health Care Workforce Training Act, establishes a state medical contract program with accredited medical schools, programs that train primary care physician's assistants, programs that train primary care nurse practitioners and registered nurses, hospitals, and other health care delivery systems.

Existing law establishes the California Healthcare Workforce Policy Commission to, among other things, identify specific areas of the state where unmet priority needs for primary care family physicians and registered nurses exist and to make recommendations to the Director of Statewide Health Planning and Development with regard to the funding of specific

programs. Existing law requires the director to select and contract on behalf of the state with accredited medical schools and the other above-described entities for the purpose of, among other things, training medical students and residents in the specialty of family practice, subject to criteria established by the commission.

This bill would require, only until January 1, 2018, the director to select and contract on behalf of the state with accredited primary care or family medicine residency programs for the purpose of providing grants to support newly created residency positions, and would require the commission to review and make recommendations to the director concerning the provision of those grants. These provisions would be operative only if funds are appropriated for these purposes in the Budget Act of 2014.

(3) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans.

This bill would require the department to establish a 3-year pilot program in the County of Los Angeles that enables school districts to allow students enrolled in Medi-Cal managed care plans the ability to receive vision care services at the school site through the use of a mobile vision service provider. The bill would generally require the Medi-Cal managed care plans in the County of Los Angeles to, in consultation with the department, jointly identify and develop standards and participation criteria that the participating mobile vision service provider would be required to meet in order to be deemed qualified to participate in the pilot program. The bill would authorize the Director of Health Care Services to extend the pilot program to Medi-Cal managed care plans in other counties and applicable local jurisdictions, as specified.

Existing law provides for a schedule of benefits under the Medi-Cal program, which includes Early and Periodic Screening, Diagnosis, and Treatment for any individual under 21 years of age, consistent with the requirements of federal law.

This bill would provide, only to the extent required by the federal government and effective no sooner than required by the federal government, that behavioral health treatment (BHT), as defined, is a covered service for individuals under 21 years of age, as specified. The bill would require that the department only implement these provisions, or continue to implement these provisions, if the department receives all necessary federal approvals to obtain federal funds for the service, the department seeks an appropriation that would provide the necessary state funding estimated to be required for the applicable fiscal year, and the department consults with stakeholders. The bill would state that it is the intent of the Legislature, to the extent the federal government requires BHT to be a covered Medi-Cal service, that the department seek statutory authority to implement this new benefit.

Existing law also includes in the schedule of benefits for Medi-Cal prescribed drugs subject to the Medi-Cal list of contract drugs. Existing law authorizes the department to enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category. Existing law requires these contracts to provide for a state rebate to be remitted to the department quarterly. Existing law also requires pharmaceutical manufacturers to provide to the department a state rebate for any drug products that have been added to the Medi-Cal list of contract drugs related to drugs used to treat AIDS and cancer. Existing law requires that the utilization data to determine these rebates exclude data from specified entities and capitated plans. Existing law also requires the department to collect a state rebate for blood factors reimbursed by specified programs.

This bill would make those data exclusions inoperative when the department takes specified actions, and would, commencing July 1, 2014, specify that utilization data used to determine the rebates include data from all health plans with specified exceptions. The bill would require the department to develop coverage policies, in consultation with clinical experts, Medi-Cal managed care plans, and other stakeholders, for prescription drugs that the department reimburses managed care plans through separate capitated rate payments or other supplemental payments.

Existing federal law establishes the Program of All-Inclusive Care for the Elderly (PACE), which provides specified services for older individuals so that they may continue living in the community. Federal law authorizes states to implement the PACE program as a Medicaid state option. Existing law authorizes the department to enter into contracts with up to 15 PACE organizations, as defined, to implement the PACE program, as specified. Existing law requires the department to establish capitation rates paid to each PACE organization at no less than 90% of the fee-for-service equivalent cost, including the department's cost of administration, that the department estimates would be payable for all services covered under the PACE organization contract if all those services were to be furnished to Medi-Cal beneficiaries under the fee-for-service program.

This bill would instead require, on and after April 1, 2015, that the department establish capitation rates paid to each PACE organization at no less than 95% of that amount.

(4) Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the Knox-Keene Act a crime. Existing law establishes the Independent Medical Review System to make determinations when a health care service that is eligible for coverage has been denied, modified, or delayed by a decision of the plan, or by one of its contracting providers, in whole or in part due to a finding that the service is not medically necessary. Existing law requires the Director of the Department of Managed Health Care to review individual cases submitted for independent medical

review to determine whether any enforcement actions, including penalties, may be appropriate.

This bill would prohibit the director from taking an enforcement action against a plan if the plan provides prescription drugs to a Medi-Cal beneficiary pursuant to State Department of Health Care Services guidelines.

(5) This bill would state the intent of the Legislature that the State Department of Health Care Services continue to monitor access to and utilization of Medi-Cal services in the fee-for-service and managed care settings during the 2014-15 fiscal year, as specified and would require the department to use this information to evaluate current reimbursement levels for Medi-Cal providers and to make recommendations for targeted changes to the extent the department finds those changes appropriate.

(6) Item 4300-101-0001 of the Budget Act of 2009, as added by Chapter 1 of the 3rd Extraordinary Session, appropriated $24,553,000 to the State Department of Developmental Services for the support of the department, payable from the General Fund. Item 4300-101-0001 of the Budget Act of 2010, as added by Chapter 712 of the Statutes of 2010, appropriated $24,391,000 to the department for its support, payable from the General Fund.

This bill would reappropriate the balances of those amounts to the department, subject to specified purposes, and would provide that those funds would be available for liquidation until June 30, 2015.

The bill also would, for the 2014–15 fiscal year, appropriate $3,200,000 from the Major Risk Medical Insurance Fund to the State Department of Health Care Services for allocation to health benefit plans that meet specified requirements.

This bill would, for the 2014–15 fiscal year, appropriate $3,750,000 from the Major Risk Medical Insurance Fund to the State Department of Health Care Services for purposes of electronic health records technical assistance in accordance with the State Medicaid Health Information Technology Plan, as specified.

(7) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1374.34 of the Health and Safety Code is amended to read:

1374.34. (a) Upon receiving the decision adopted by the director pursuant to Section 1374.33 that a disputed health care service is medically necessary, the plan shall promptly implement the decision. In the case of reimbursement for services already rendered, the plan shall reimburse the provider or enrollee, whichever applies, within five working days. In the case of services not yet rendered, the plan shall authorize the services within five working days of receipt of the written decision from the director, or

sooner if appropriate for the nature of the enrollee's medical condition, and shall inform the enrollee and provider of the authorization in accordance with the requirements of paragraph (3) of subdivision (h) of Section 1367.01.

(b) A plan shall not engage in any conduct that has the effect of prolonging the independent review process. The engaging in that conduct or the failure of the plan to promptly implement the decision is a violation of this chapter and, in addition to any other fines, penalties, and other remedies available to the director under this chapter, the plan shall be subject to an administrative penalty of not less than five thousand dollars ($5,000) for each day that the decision is not implemented. The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(c) The director shall require the plan to promptly reimburse the enrollee for any reasonable costs associated with those services when the director finds that the disputed health care services were a covered benefit under the terms and conditions of the health care service plan contract, and the services are found by the independent medical review organization to have been medically necessary pursuant to Section 1374.33, and either the enrollee's decision to secure the services outside of the plan provider network was reasonable under the emergency or urgent medical circumstances, or the health care service plan contract does not require or provide prior authorization before the health care services are provided to the enrollee.

(d) In addition to requiring plan compliance regarding subdivisions (a), (b), and (c) the director shall review individual cases submitted for independent medical review to determine whether any enforcement actions, including penalties, may be appropriate. In particular, where substantial harm, as defined in Section 3428 of the Civil Code, to an enrollee has already occurred because of the decision of a plan, or one of its contracting providers, to delay, deny, or modify covered health care services that an independent medical review determines to be medically necessary pursuant to Section 1374.33, the director shall impose penalties.

(e) Pursuant to Section 1368.04, the director shall perform an annual audit of independent medical review cases for the dual purposes of education and the opportunity to determine if any investigative or enforcement actions should be undertaken by the department, particularly if a plan repeatedly fails to act promptly and reasonably to resolve grievances associated with a delay, denial, or modification of medically necessary health care services when the obligation of the plan to provide those health care services to enrollees or subscribers is reasonably clear.

(f) A plan's provision of prescription drugs to a Medi-Cal beneficiary pursuant to paragraph (5) of subdivision (b) of Section 14105.33 of the Welfare and Institutions Code and in accordance with the State Department of Health Care Services coverage policies shall not be a ground for an enforcement action. Nothing in this article is intended to limit a plan's responsibility to provide medically necessary health care services pursuant to this chapter.

SEC. 2. Chapter 13.6 (commencing with Section 121287) is added to Part 4 of Division 105 of the Health and Safety Code, to read:

Chapter 13.6. Public Health Demonstration Projects

121287. (a) There are hereby established public health demonstration projects to allow for innovative, evidence-based approaches to provide outreach, HIV and hepatitis C screenings, and linkage to, and retention in, quality health care for the most vulnerable and underserved individuals with a high risk for HIV infection.

(b) The demonstration projects may operate for a period of up to two years. The department shall implement up to four demonstration projects. The demonstration projects shall be designed to be capable of replication and expansion on a statewide basis.

(c) After conclusion of the demonstration projects, the department shall review the effectiveness of each demonstration project and make a determination of whether the demonstration project model can be implemented on a statewide basis.

121288. Upon an appropriation for this purpose in the annual Budget Act, the department shall award funding, on a competitive basis, to a community-based organization or local health jurisdiction to operate a demonstration project pursuant to this chapter. The department shall determine the funding levels of each demonstration project based on scope and geographic area. An applicant shall demonstrate each of the following qualifications:

(a) Leadership on access to HIV care and testing issues and experience addressing the needs of highly marginalized populations in accessing medical and HIV care and support.

(b) Experience with the target population or relationships with community-based organizations or nongovernmental organizations, or both, that demonstrate expertise, history, and credibility working successfully in engaging the target population.

(c) Experience working with nontraditional collaborators who work within and beyond the field of HIV/AIDS education and outreach, including areas of reproductive health, housing, immigration, and mental health.

(d) Strong relationships with community-based HIV health care providers that have the trust of the targeted populations.

(e) Strong relationships with the state and local health departments.

(f) Capacity to coordinate a communitywide planning phase involving multiple community collaborators.

(g) Experience implementing evidence-based programs or generating innovative strategies, or both, with at least preliminary evidence of program effectiveness.

(h) Administrative systems and accountability mechanisms for grant management.

(i) Capacity to participate in evaluation activities.

(j) Strong communication systems that are in place to participate in public relations activities.

121289. Each demonstration project shall prepare and disseminate information regarding best practices for, and the lessons learned regarding, providing outreach and education to the most vulnerable and underserved individuals with a high risk for HIV infection for use by providers, the Office of AIDS, State Department of Public Health, federal departments and agencies, including the Department of Health and Human Services, and other national HIV/AIDS groups.

SEC. 3. Section 128225.5 is added to the Health and Safety Code, to read:

128225.5. (a) The commission shall review and make recommendations to the Director of the Office of Statewide Health Planning and Development concerning the provision of grants pursuant to this section. In making recommendations, the commission shall give priority to residency programs that demonstrate all of the following:

(1) That the grant will be used to support new primary care physician slots.

(2) That priority in filling the position shall be given to physicians who have graduated from a California-based medical school.

(3) That the new primary care physician residency positions have been, or will be, approved by the Accreditation Council for Graduate Medical Education prior to the first distribution of grant funds.

(b) The director shall do both of the following:

(1) Determine whether the residency programs recommended by the commission meet the standards established by this section.

(2) Select and contract on behalf of the state with accredited primary care or family medicine residency programs for the purpose of providing grants for the support of newly created residency positions.

(c) This section does not apply to funding appropriated in the annual Budget Act for the Song-Brown Health Care Workforce Training Act (Article 1 (commencing with Section 128200)).

(d) This section shall be operative only if funds are appropriated in the Budget Act of 2014 for the purposes described in this section.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 4. Section 14087.9730 is added to the Welfare and Institutions Code, immediately following Section 14087.9725, to read:

14087.9730. (a) In an effort to determine whether children's access to, and utilization of, vision care services can be increased by providing vision care services at schools, the department shall establish a pilot program in the County of Los Angeles that enables school districts to allow students enrolled in Medi-Cal managed care plans to receive vision care services at the schoolsite through the use of a mobile vision service provider. The vision care services available under this pilot program are limited to vision examinations and providing eyeglasses.

(b) The Medi-Cal managed care plans in the County of Los Angeles shall jointly identify and develop standards and participation criteria that the participating mobile vision service provider shall meet in order to be deemed qualified to participate in the pilot program, in consultation with the department and consistent with any applicable federal requirements governing Medicaid managed care contracts. In the event the Medi-Cal managed care plans have not developed standards and participation criteria by January 1, 2015, or by the scheduled start date of the pilot program if later, the department shall determine the standards and participating criteria for purposes of this pilot program.

(c) This section shall not be construed to preclude Los Angeles County school district students not enrolled in Medi-Cal managed care from accessing vision care services from a mobile vision service provider participating in this pilot program.

(d) Under the pilot program, if a school district in the County of Los Angeles enters into a written memorandum of understanding with a mobile vision care service provider allowing the provider to offer the vision care services described in this section to students, all of the following shall apply:

(1) The two Medi-Cal managed care plans in the County of Los Angeles shall contract with one or more mobile vision care service providers that meets the standards and participation criteria developed pursuant to subdivision (b) for the delivery of those vision care services to any student enrolled in the Medi-Cal managed care plan who chooses to receive his or her vision care services from the provider at that schoolsite. This contracting requirement is contingent upon agreement between each of the two Medi-Cal managed care plans in the County of Los Angeles and a mobile vision care service provider with respect to reimbursement rates applicable to the services under this pilot.

(2) Neither this pilot program nor the Medi-Cal managed care plan shall require that a Medi-Cal beneficiary receive the vision care services described in this section through a mobile vision care provider onsite at the school.

(3) Prior to a Medi-Cal beneficiary receiving mobile vision care services at the schoolsite, the parents, guardians, or legal representative of the student shall consent in writing to the Medi-Cal beneficiary receiving the services through a mobile vision care provider onsite at the school.

(e) An optometrist or ophthalmologist prescribing glasses to a Medi-Cal managed care beneficiary as part of services provided at a schoolsite by a mobile vision care service provider pursuant to this pilot program shall be enrolled in the Medi-Cal program as an Ordering/Referring/Prescribing provider. For any other purposes under the pilot program, the licensed health professional shall satisfy all requirements for enrollment as a provider in the Medi-Cal program.

(f) (1) The Medi-Cal managed care plan shall compensate the mobile vision services provider for the cost of the vision examination, dispensing of the lenses, and eyeglass frames.

(2) Ophthalmic eyeglasses lenses prescribed by optometrists or ophthalmologists for a Medi-Cal managed care plan enrollee as part of the

services provided at a schoolsite by a mobile vision services provider shall be fabricated through optical laboratories the department contracts with pursuant to subdivision (b) of Section 14105.3.

(g) (1) The department shall annually adjust capitation rates for the Medi-Cal managed care plans operating in the County of Los Angeles as necessary to account for projected changes in the costs and utilization of the services provided pursuant to this section by mobile vision service providers.

(2) Capitation rate adjustments pursuant to this section shall be actuarially based and developed using projections of contingent events including targeted populations who will receive these services, and shall otherwise be in accordance with requirements necessary to secure federal financial participation.

(3) Capitation rate adjustments pursuant to this section shall be limited to those related to vision examinations, dispensing of lenses, and eyeglass frames. The fabrication of optical lenses pursuant to this section shall be paid on a fee-for-service basis in accordance with the department's applicable contract under subdivision (b) of Section 14105.3.

(h) The pilot program shall last three years, starting no sooner than January 1, 2015, and concluding December 31, 2017, or three years from the start date of the pilot if later. The department shall evaluate the impact of the pilot program on access to, and utilization of, vision care services by children by monitoring the managed care plan utilization data for vision services, as well as the lens fabrication data.

(i) The department may terminate the pilot program at any time with 90 days advance notice to the Medi-Cal managed care plans for reasons that include, but are not limited to, any of the following:

(1) The department determines that the pilot program is resulting in a lower level of access to, or use of, vision care services for children under the participating health plans.

(2) The department determines that the pilot program is resulting in fraud, waste, or abuse of Medi-Cal funds.

(3) The department determines there is a lack of funding for the vision care services provided in the pilot program.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

(k) The department shall obtain any federal approvals necessary to implement this section and to obtain federal matching funds to the maximum extent permitted by federal law.

(*l*) This section shall be implemented only if and to the extent all federal approvals are obtained and federal financial participation is available.

(m) This section shall be implemented only to the extent an annual appropriation is made available to the department each fiscal year for the specific purpose of implementing this section.

(n) If the department determines, pursuant to subdivision (h), that the pilot program is having a positive impact on access and utilization and that additional funds are available, the director may extend the pilot program described in this section to Medi-Cal managed care plans in other counties and applicable local jurisdictions. Any extension shall be implemented only to the extent that any additional and necessary federal approvals are obtained, and if sufficient funds are made available to participating plans for this purpose. The department may accept funding from private foundations in order to implement an extension under this subdivision to the extent that federal financial participation is available.

(o) The department shall post on its Internet Web site a notice that has terminated or expanded the pilot program, including identification of the geographic locations, and shall notify appropriate fiscal and policy committees of both houses of the Legislature.

SEC. 5. Section 14105.33 of the Welfare and Institutions Code is amended to read:

14105.33. (a) The department may enter into contracts with manufacturers of single-source and multiple-source drugs, on a bid or nonbid basis, for drugs from each major therapeutic category, and shall maintain a list of those drugs for which contracts have been executed.

(b) (1) Contracts executed pursuant to this section shall be for the manufacturer's best price, as defined in Section 14105.31, which shall be specified in the contract, and subject to agreed-upon price escalators, as defined in that section. The contracts shall provide for a state rebate, as defined in Section 14105.31, to be remitted to the department quarterly. The department shall submit an invoice to each manufacturer for the state rebate, including supporting utilization data from the department's prescription drug paid claims tapes within 30 days of receipt of the federal Centers for Medicare and Medicaid Services' file of manufacturer rebate information. In lieu of paying the entire invoiced amount, a manufacturer may contest the invoiced amount pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations by mailing a notice, that shall set forth its grounds for contesting the invoiced amount, to the department within 38 days of the department's mailing of the state invoice and supporting utilization data. For purposes of state accounting practices only, the contested balance shall not be considered an accounts receivable amount until final resolution of the dispute pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations that results in a finding of an underpayment by the manufacturer. Manufacturers may request, and the department shall timely provide, at cost, Medi-Cal provider level drug utilization data, and other Medi-Cal utilization data necessary to resolve a contested department-invoiced rebate amount.

(2) The department shall provide for an annual audit of utilization data used to calculate the state rebate to verify the accuracy of that data. The findings of the audit shall be documented in a written audit report to be made available to manufacturers within 90 days of receipt of the report from the auditor. Any manufacturer may receive a copy of the audit report upon written request. Contracts between the department and manufacturers shall provide for any equalization payment adjustments determined necessary pursuant to an audit.

(3) (A) Utilization data used to determine the state rebate shall exclude data from both of the following:

(i) Health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract under Section 1396b(m) of Title 42 of the United States Code.

(ii) Capitated plans that include a prescription drug benefit in the capitated rate, and that have negotiated contracts for rebates or discounts with manufacturers.

(B) This paragraph shall become inoperative on July 1, 2014.

(4) Commencing July 1, 2014, utilization data used to determine the state rebate shall include data from all programs, including, but not limited to, fee-for-service Medi-Cal, and utilization data, as limited in paragraph (5), from health plans contracting with the department to provide services to beneficiaries pursuant to this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591), that qualify for federal drug rebates pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) or that otherwise qualify for federal funds under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) pursuant to the Medicaid state plan or waivers.

(5) Health plan utilization data shall be limited to those drugs for which a health plan is authorizing a prescription drug described in subparagraph (A), and pursuant to the coverage policies established in subparagraph (B):

(A) A prescription drug for which the department reimburses the health plan through a separate capitated payment or other supplemental payment. Payment shall not be withheld for decisions determined pursuant to Section 1374.34 of the Health and Safety Code.

(B) The department shall develop coverage policies, consistent with the criteria set forth in paragraph (1) of subdivision (c) of Section 14105.39 and in consultation with clinical experts, Medi-Cal managed care plans, and other stakeholders, for prescription drugs described in subparagraph (A). These coverage policies shall apply to the entire Medi-Cal program, including fee-for-service and Medi-Cal managed care, through the Medi-Cal List of Contract Drugs or through provider bulletins, all plan letters, or similar instructions. Coverage policies developed pursuant to this section shall be revised on a semiannual basis or upon approval by the Food and Drug Administration of a new drug subject to subparagraph (A). For the purposes of this section, “coverage policies” include, but are not limited to, clinical guidelines and treatment and utilization policies.

(6) For prescription drugs not subject to the requirements of paragraph (5), utilization data used to determine the state rebate shall include all data from health plans, except for health maintenance organizations, as defined in Section 300e(a) of Title 42 of the United States Code, including those organizations that contract pursuant to Section 1396b(m) of Title 42 of the United States Code.

(7) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific paragraph (5) by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, until the time regulations are adopted. The department shall adopt regulations by October 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding Section 10231.5 of the Government Code, beginning six months after the effective date of this section, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

(c) In order that Medi-Cal beneficiaries may have access to a comprehensive range of therapeutic agents, the department shall ensure that there is representation on the list of contract drugs in all major therapeutic categories. Except as provided in subdivision (a) of Section 14105.35, the department shall not be required to contract with all manufacturers who negotiate for a contract in a particular category. The department shall ensure that there is sufficient representation of single-source and multiple-source drugs, as appropriate, in each major therapeutic category.

(d) The department shall select the therapeutic categories to be included on the list of contract drugs, and the order in which it seeks contracts for those categories. The department may establish different contracting schedules for single-source and multiple-source drugs within a given therapeutic category.

(e) (1) In order to fully implement subdivision (d), the department shall, to the extent necessary, negotiate or renegotiate contracts to ensure there are as many single-source drugs within each therapeutic category or subcategory as the department determines necessary to meet the health needs of the Medi-Cal population. The department may determine in selected therapeutic categories or subcategories that no single-source drugs are necessary because there are currently sufficient multiple-source drugs in the therapeutic category or subcategory on the list of contract drugs to meet the health needs of the Medi-Cal population. However, in no event shall a beneficiary be denied continued use of a drug which is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(2) In the development of decisions by the department on the required number of single-source drugs in a therapeutic category or subcategory, and the relative therapeutic merits of each drug in a therapeutic category or subcategory, the department shall consult with the Medi-Cal Contract Drug

Advisory Committee. The committee members shall communicate their comments and recommendations to the department within 30 business days of a request for consultation, and shall disclose any associations with pharmaceutical manufacturers or any remuneration from pharmaceutical manufacturers.

(f) In order to achieve maximum cost savings, the Legislature declares that an expedited process for contracts under this section is necessary. Therefore, contracts entered into on a nonbid basis shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In no event shall a beneficiary be denied continued use of a drug that is part of a prescribed therapy in effect as of September 2, 1992, until the prescribed therapy is no longer prescribed.

(h) Contracts executed pursuant to this section shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(i) The department shall provide individual notice to Medi-Cal beneficiaries at least 60 calendar days prior to the effective date of the deletion or suspension of any drug from the list of contract drugs. The notice shall include a description of the beneficiary's right to a fair hearing and shall encourage the beneficiary to consult a physician to determine if an appropriate substitute medication is available from Medi-Cal.

(j) In carrying out the provisions of this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to initially accomplish the treatment authorization request reviews.

(k) (1) Manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments.

(2) For state rebate payments, manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(3) Following final resolution of any dispute pursuant to procedures established by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to subdivisions (m) and (n), and any overpayment, together with interest at the rate calculated pursuant to subdivisions (m) and (n), shall be credited by the department against future rebates due.

(*l*) Interest pursuant to subdivision (k) shall begin accruing 38 calendar days from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(m) Except as specified in subdivision (n), interest rates and calculations pursuant to subdivision (k) for Medicaid rebates and state rebates shall be

identical and shall be determined by the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(n) If the date of mailing of a state rebate payment is 69 days or more from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer, the interest rate and calculations pursuant to subdivision (k) shall be as specified in subdivision (m), however the interest rate shall be increased by 10 percentage points. This subdivision shall apply to payments for amounts invoiced for any quarters that begin on or after the effective date of the act that added this subdivision.

(o) If the rebate payment is not received, the department shall send overdue notices to the manufacturer at 38, 68, and 98 days after the date of mailing of the invoice, and supporting utilization data. If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, the manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. For all other manufacturers, if the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, all of the drug products of those manufacturers shall be made available only through prior authorization effective 270 days after the date of mailing of the invoice, including utilization data sent to manufacturers.

(p) If the manufacturer provides payment or evidence of payment to the department at least 40 days prior to the proposed date the drug is to be made available only through prior authorization pursuant to subdivision (o), the department shall terminate its actions to place the manufacturers' drug products on prior authorization.

(q) The department shall direct the state's fiscal intermediary to remove prior authorization requirements imposed pursuant to subdivision (o) and notify providers within 60 days after payment by the manufacturer of the rebate, including interest. If a contract was in place at the time the manufacturers' drugs were placed on prior authorization, removal of prior authorization requirements shall be contingent upon good faith negotiations and a signed contract with the department.

(r) A beneficiary may obtain drugs placed on prior authorization pursuant to subdivision (o) if the beneficiary qualifies for continuing care status. To be eligible for continuing care status, a beneficiary must be taking the drug when its manufacturer is placed on prior authorization status. Additionally, the department shall have received a claim for the drug with a date of service that is within 100 days prior to the date the manufacturer was placed on prior authorization.

(s) A beneficiary may remain eligible for continuing care status, provided that a claim is submitted for the drug in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same drug.

(t) Drugs covered pursuant to Sections 14105.43 and 14133.2 shall not be subject to prior authorization pursuant to subdivision (o), and any other

drug may be exempted from prior authorization by the department if the director determines that an essential need exists for that drug, and there are no other drugs currently available without prior authorization that meet that need.

(u) It is the intent of the Legislature in enacting subdivisions (k) to (t), inclusive, that the department and manufacturers shall cooperate and make every effort to resolve rebate payment disputes within 90 days of notification by the manufacturer to the department of a dispute in the calculation of rebate payments.

SEC. 6. Section 14105.436 of the Welfare and Institutions Code is amended to read:

14105.436. (a) Effective July 1, 2002, all pharmaceutical manufacturers shall provide to the department a state rebate, in addition to rebates pursuant to other provisions of state or federal law, for any drug products that have been added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2 and reimbursed through the Medi-Cal outpatient fee-for-service drug program. The state rebate shall be negotiated as necessary between the department and the pharmaceutical manufacturer. The negotiations shall take into account offers such as rebates, discounts, disease management programs, and other cost savings offerings and shall be retroactive to July 1, 2002.

(b) The department may use existing administrative mechanisms for any drug for which the department does not obtain a rebate pursuant to subdivision (a). The department may only use those mechanisms in the event that, by February 1, 2003, the manufacturer refuses to provide the additional rebate. This subdivision shall become inoperative on January 1, 2010.

(c) For purposes of this section, "Medi-Cal utilization data" means the data used by the department to reimburse providers under all programs that qualify for federal drug rebates pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) or that otherwise qualify for federal funds under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) pursuant to the Medicaid state plan or waivers. Medi-Cal utilization data excludes data from covered entities identified in Section 256b(a)(4) of Title 42 of the United States Code in accordance with Sections 256b(a)(5)(A) and 1396r-8(a)(5)(C) of Title 42 of the United States Code, and those capitated plans that include a prescription drug benefit in the capitated rate and that have negotiated contracts for rebates or discounts with manufacturers.

(d) Subdivision (c) shall become inoperative when the department implements paragraphs (4) and (5) of subdivision (b) of Section 14105.33. The department shall post on its Internet Web site a notice that it has implemented paragraphs (4) and (5) of subdivision (b) of Section 14105.33.

(e) Effective July 1, 2009, all pharmaceutical manufacturers shall provide to the department a state rebate, in addition to rebates pursuant to other provisions of state or federal law, equal to an amount not less than 10 percent of the average manufacturer price based on Medi-Cal utilization data for

any drug products that have been added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2.

(f) Pharmaceutical manufacturers shall, by January 1, 2010, enter into a supplemental rebate agreement for the rebate required in subdivision (d) for drug products added to the Medi-Cal list of contract drugs on or before December 31, 2009.

(g) Effective January 1, 2010, all pharmaceutical manufacturers who have not entered into a supplemental rebate agreement pursuant to subdivisions (d) and (e), shall provide to the department a state rebate, in addition to rebates pursuant to other provisions of state or federal law, equal to an amount not less than 20 percent of the average manufacturer price based on Medi-Cal utilization data for any drug products that have been added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2 prior to January 1, 2010. If the pharmaceutical manufacturer does not enter into a supplemental rebate agreement by March 1, 2010, the manufacturer's drug product shall be made available only through an approved treatment authorization request pursuant to subdivision (h).

(h) For a drug product added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2 on or after January 1, 2010, a pharmaceutical manufacturer shall provide to the department a state rebate pursuant to subdivision (d). If the pharmaceutical manufacturer does not enter into a supplemental rebate agreement within 60 days after the addition of the drug to the Medi-Cal list of contract drugs, the manufacturer shall provide to the department a state rebate equal to not less than 20 percent of the average manufacturers price based on Medi-Cal utilization data for any drug products that have been added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2. If the pharmaceutical manufacturer does not enter into a supplemental rebate agreement within 120 days after the addition of the drug to the Medi-Cal list of contract drugs, the pharmaceutical manufacturer's drug product shall be made available only through an approved treatment authorization request pursuant to subdivision (h). For supplemental rebate agreements executed more than 120 days after the addition of the drug product to the Medi-Cal list of contract drugs, the state rebate shall equal an amount not less than 20 percent of the average manufacturers price based on Medi-Cal utilization data for any drug products that have been added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2.

(i) Notwithstanding any other provision of law, drug products added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2 of manufacturers who do not execute an agreement to pay additional rebates pursuant to this section, shall be available only through an approved treatment authorization request.

(j) For drug products added on or before December 31, 2009, a beneficiary may obtain a drug product that requires a treatment authorization request pursuant to subdivision (h) if the beneficiary qualifies for continuing care status. To be eligible for continuing care status, a beneficiary must be taking the drug product and the department must have record of a reimbursed claim

for the drug product with a date of service that is within 100 days prior to the date the drug product was placed on treatment authorization request status. A beneficiary may remain eligible for continuing care status, provided that a claim is submitted for the drug product in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same drug product.

(k) Changes made to the Medi-Cal list of contract drugs under this section shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

SEC. 7. Section 14105.86 of the Welfare and Institutions Code is amended to read:

14105.86. (a) For the purposes of this section, the following definitions apply:

(1) (A) "Average sales price" means the price reported to the federal Centers for Medicare and Medicaid Services by the manufacturer pursuant to Section 1847A of the federal Social Security Act (42 U.S.C. Sec. 1395w-3a).

(B) "Average manufacturer price" means the price reported to the federal Centers for Medicare and Medicaid Services pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8).

(2) "Blood factors" means plasma protein therapies and their recombinant analogs. Blood factors include, but are not limited to, all of the following:

(A) Coagulation factors, including:

(i) Factor VIII, nonrecombinant.

(ii) Factor VIII, porcine.

(iii) Factor VIII, recombinant.

(iv) Factor IX, nonrecombinant.

(v) Factor IX, complex.

(vi) Factor IX, recombinant.

(vii) Antithrombin III.

(viii) Anti-inhibitor factor.

(ix) Von Willebrand factor.

(x) Factor VIIa, recombinant.

(B) Immune Globulin Intravenous.

(C) Alpha-1 Proteinase Inhibitor.

(b) The reimbursement for blood factors shall be by national drug code number and shall not exceed 120 percent of the average sales price of the last quarter reported.

(c) The average sales price for blood factors of manufacturers or distributors that do not report an average sales price pursuant to subdivision (a) shall be identical to the average manufacturer price. The average sales price for new products that do not have a calculable average sales price or average manufacturer price shall be equal to a projected sales price, as reported by the manufacturer to the department. Manufacturers reporting a

projected sales price for a new product shall report the first monthly average manufacturer price reported to the federal Centers for Medicare and Medicaid Services. The reporting of an average sales price that does not meet the requirement of this subdivision shall result in that blood factor no longer being considered a covered benefit.

(d) The average sales price shall be reported at the national drug code level to the department on a quarterly basis.

(e) (1) Effective July 1, 2008, the department shall collect a state rebate, in addition to rebates pursuant to other provisions of state or federal law, for blood factors reimbursed pursuant to this section by programs that qualify for federal drug rebates pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) or otherwise qualify for federal funds under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) pursuant to the Medicaid state plan or waivers and the programs authorized by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of, and Article 1 (commencing with Section 125125) of Chapter 2 of Part 5 of, Division 106 of the Health and Safety Code.

(2) Paragraph (1) shall become inoperative when the department implements paragraphs (4) and (5) of subdivision (b) of Section 14105.33. The department shall post on its Internet Web site a notice that it has implemented paragraphs (4) and (5) of subdivision (b) of Section 14105.33.

(3) The state rebate shall be negotiated as necessary between the department and the manufacturer. Manufacturers who do not execute an agreement to pay additional rebates pursuant to this section shall have their blood factors available only through an approved treatment or service authorization request. All blood factors that meet the definition of a covered outpatient drug pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) shall remain a benefit subject to the utilization controls provided for in this section.

(4) In reviewing authorization requests, the department shall approve the lowest net cost product that meets the beneficiary's medical need. The review of medical need shall take into account a beneficiary's clinical history or the use of the blood factor pursuant to payment by another third party, or both.

(f) A beneficiary may obtain blood factors that require a treatment or service authorization request pursuant to subdivision (e) if the beneficiary qualifies for continuing care status. To be eligible for continuing care status, a beneficiary must be taking the blood factor and the department has reimbursed a claim for the blood factor with a date of service that is within 100 days prior to the date the blood factor was placed on treatment authorization request status. A beneficiary may remain eligible for continuing care status, provided that a claim is submitted for the blood factor in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same blood factor.

(g) Changes made to the list of covered blood factors under this or any other section shall be exempt from the requirements of the Administrative

Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

SEC. 8. Section 14132.56 is added to the Welfare and Institutions Code, to read:

14132.56. (a) (1) Only to the extent required by the federal government and effective no sooner than required by the federal government, behavioral health treatment (BHT), as defined by Section 1374.73 of the Health and Safety Code, shall be a covered Medi-Cal service for individuals under 21 years of age.

(2) It is the intent of the Legislature that, to the extent the federal government requires BHT to be a covered Medi-Cal service, the department shall seek statutory authority to implement this new benefit in Medi-Cal.

(b) The department shall implement, or continue to implement, this section only after all of the following occurs or has occurred:

(1) The department receives all necessary federal approvals to obtain federal funds for the service.

(2) The department seeks an appropriation that would provide the necessary state funding estimated to be required for the applicable fiscal year.

(3) The department consults with stakeholders.

(c) The department shall develop and define eligibility criteria, provider participation criteria, utilization controls, and delivery system structure for services under this section, subject to limitations allowable under federal law, in consultation with stakeholders.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions until regulations are adopted. The department shall adopt regulations by July 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding Section 10231.5 of the Government Code, beginning six months after the effective date of this section, the department shall provide semiannual status reports to the Legislature, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

(e) For the purposes of implementing this section, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, including contracts for the purpose of obtaining subject matter expertise or other technical assistance. Contracts may be statewide or on a more limited geographic basis. Contracts entered into or amended under this subdivision shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code, and shall be

exempt from the review or approval of any division of the Department of General Services.

(f) The department may seek approval of any necessary state plan amendments or waivers to implement this section. The department shall make any state plan amendments or waiver requests public at least 30 days prior to submitting to the federal Centers for Medicare and Medicaid Services, and the department shall work with stakeholders to address the public comments in the state plan amendment or waiver request.

(g) This section shall be implemented only to the extent that federal financial participation is available and any necessary federal approvals have been obtained.

SEC. 9. Section 14593 of the Welfare and Institutions Code is amended to read:

14593. (a) (1) The department may enter into contracts with public or private nonprofit organizations for implementation of the PACE program, and also may enter into separate contracts with PACE organizations, to fully implement the single state agency responsibilities assumed by the department in those contracts, Section 14132.94, and any other state requirement found necessary by the department to provide comprehensive community-based, risk-based, and capitated long-term care services to California's frail elderly.

(2) The department may enter into separate contracts as specified in subdivision (a) with up to 15 PACE organizations.

(b) The requirements of the PACE model, as provided for pursuant to Section 1894 (42 U.S.C. Sec. 1395eee) and Section 1934 (42 U.S.C. Sec. 1396u-4) of the federal Social Security Act, shall not be waived or modified. The requirements that shall not be waived or modified include all of the following:

(1) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

(2) The delivery of comprehensive, integrated acute and long-term care services.

(3) The interdisciplinary team approach to care management and service delivery.

(4) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

(5) The assumption by the provider of full financial risk.

(6) The provision of a PACE benefit package for all participants, regardless of source of payment, that shall include all of the following:

(A) All Medicare-covered items and services.

(B) All Medicaid-covered items and services, as specified in the state's Medicaid plan.

(C) Other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.

(c) Sections 14002, 14005.12, 14005.17, and 14006 shall apply when determining the eligibility for Medi-Cal of a person receiving the services from an organization providing services under this chapter.

(d) Provisions governing the treatment of income and resources of a married couple, for the purposes of determining the eligibility of a nursing-facility certifiable or institutionalized spouse, shall be established so as to qualify for federal financial participation.

(e) (1) The department shall establish capitation rates paid to each PACE organization at no less than 90 percent of the fee-for-service equivalent cost, including the department's cost of administration, that the department estimates would be payable for all services covered under the PACE organization contract if all those services were to be furnished to Medi-Cal beneficiaries under the fee-for-service Medi-Cal program provided for pursuant to Chapter 7 (commencing with Section 14000).

(2) This subdivision shall be implemented only to the extent that federal financial participation is available.

(f) Contracts under this chapter may be on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) This section shall remain in effect only until April 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before April 1, 2015, deletes or extends that date.

SEC. 10. Section 14593 is added to the Welfare and Institutions Code, to read:

14593. (a) (1) The department may enter into contracts with public or private nonprofit organizations for implementation of the PACE program, and also may enter into separate contracts with PACE organizations, to fully implement the single state agency responsibilities assumed by the department in those contracts, Section 14132.94, and any other state requirement found necessary by the department to provide comprehensive community-based, risk-based, and capitated long-term care services to California's frail elderly.

(2) The department may enter into separate contracts as specified in subdivision (a) with up to 15 PACE organizations.

(b) The requirements of the PACE model, as provided for pursuant to Section 1894 (42 U.S.C. Sec. 1395eee) and Section 1934 (42 U.S.C. Sec. 1396u-4) of the federal Social Security Act, shall not be waived or modified. The requirements that shall not be waived or modified include all of the following:

(1) The focus on frail elderly qualifying individuals who require the level of care provided in a nursing facility.

(2) The delivery of comprehensive, integrated acute and long-term care services.

(3) The interdisciplinary team approach to care management and service delivery.

(4) Capitated, integrated financing that allows the provider to pool payments received from public and private programs and individuals.

(5) The assumption by the provider of full financial risk.

(6) The provision of a PACE benefit package for all participants, regardless of source of payment, that shall include all of the following:

(A) All Medicare-covered items and services.

(B) All Medicaid-covered items and services, as specified in the state's Medicaid plan.

(C) Other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.

(c) Sections 14002, 14005.12, 14005.17, and 14006 shall apply when determining the eligibility for Medi-Cal of a person receiving the services from an organization providing services under this chapter.

(d) Provisions governing the treatment of income and resources of a married couple, for the purposes of determining the eligibility of a nursing-facility certifiable or institutionalized spouse, shall be established so as to qualify for federal financial participation.

(e) (1) The department shall establish capitation rates paid to each PACE organization at no less than 95 percent of the fee-for-service equivalent cost, including the department's cost of administration, that the department estimates would be payable for all services covered under the PACE organization contract if all those services were to be furnished to Medi-Cal beneficiaries under the fee-for-service Medi-Cal program provided for pursuant to Chapter 7 (commencing with Section 14000).

(2) This subdivision shall be implemented only to the extent that federal financial participation is available.

(f) Contracts under this chapter may be on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) This section shall become operative on April 1, 2015.

SEC. 11. (a) With regard to Section 4 of this act, the Legislature finds and declares all of the following:

(1) The County of Los Angeles has the largest number of school districts in the state and a correspondingly large Medi-Cal population with a lower than statewide average on utilization of Medi-Cal vision services.

(2) The state contracts with two managed care health plans in the County of Los Angeles, which results in the delivery of Medi-Cal services to approximately 76 percent of the over 2.3 million Medi-Cal beneficiaries in that county.

(3) These 2.3 million beneficiaries are 24 percent of the state's total number of Medi-Cal beneficiaries. Approximately one-half are under 21 years of age.

(b) It is therefore the intent of the Legislature, in an effort to determine whether children's access to, and utilization of, vision care services can be increased by providing vision care services at schools, that the State Department of Health Care Services establish a pilot program in the County of Los Angeles that enables school districts to allow students enrolled in Medi-Cal managed care plans to receive vision care services at the schoolsite through the use of a mobile vision service provider. It is the intent of the Legislature that the vision care services available under this pilot be limited to vision examinations and providing eyeglasses.

SEC. 12. It is the intent of the Legislature that the State Department of Health Care Services shall continue to monitor access to and utilization of

Medi-Cal services in the fee-for-service and managed care settings during the 2014–15 fiscal year, in conjunction with the department's federally approved plan to monitor health care access for Medi-Cal beneficiaries and any other methods deemed appropriate by the director. The department shall use this information to evaluate current reimbursement levels for Medi-Cal providers and to make recommendations for targeted changes to the reductions in reimbursement levels made pursuant to Chapter 3 of the Statutes of 2011 to the extent the department finds those changes appropriate.

SEC. 13. The balances of the reappropriations provided by Item 4300-490 of Section 2.00 of the Budget Act of 2013, as added by Chapters 20 and 354 of the Statutes of 2013, payable from the General Fund (Item 4300-101-0001, Budget Act of 2009 (Ch. 1, 2009–10 3rd Ex. Sess., as revised by Ch. 1, 2009–10 4th Ex. Sess.) and Item 4300-101-0001, Budget Act of 2010 (Ch. 712, Stats. 2010)), are hereby reappropriated for the purposes of, and subject to that Item 4300-490, and, notwithstanding any other law, shall be available for liquidation until June 30, 2015.

SEC. 14. (a) For the 2014–15 fiscal year, the sum of three million two hundred thousand dollars ($3,200,000) is hereby appropriated from the Major Risk Medical Insurance Fund to the State Department of Health Care Services for allocation to health benefit plans that meet all of the following requirements:

(1) The health benefit plan has a valid exemption letter from the Internal Revenue Service pursuant to Section 501(c)(9) of the Internal Revenue Code.

(2) The health benefit plan is a multiemployer plan, as defined in Section 3(37) of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(37)(A)).

(3) The health benefit plan is funded by contributions made by agricultural employers, as defined in subdivision (c) of the Section 1140.4 of the Labor Code, where 85 percent or more of the plan's eligible participants are agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, for work performed and covered under a collective bargaining agreement.

(b) On or before September 1, 2014, the State Department of Health Care Services shall pay the funds allocated pursuant to this section to the health plan that meets the criteria set forth in this section. The funds shall be used to provide health care coverage for agricultural employees and dependents.

(c) The payment set forth in subdivision (b) shall not require the State Department of Health Care Services to contract with the recipient of the funds nor shall the payment of funds be subject to the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

SEC. 15. For the 2014–15 fiscal year, the sum of three million seven hundred fifty thousand dollars ($3,750,000) is hereby appropriated from the Major Risk Medical Insurance Fund to the State Department of Health Care Services for purposes of electronic health records technical assistance

in accordance with the State Medicaid Health Information Technology Plan as specified in Section 14046.1 of the Welfare and Institutions Code.

SEC. 16. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

O

AMENDED IN SENATE APRIL 23, 2014

AMENDED IN SENATE MARCH 27, 2014

SENATE BILL No. 1172

Introduced by Senator Steinberg
(Principal ~~coauthor:~~ *coauthors:* Assembly ~~Member~~ *Members Buchanan and* Gonzalez)
~~(Coauthor: Assembly Member Buchanan)~~

February 20, 2014

An act to amend Section 49455 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1172, as amended, Steinberg. Pupil health: vision appraisals.

Existing law requires, upon first enrollment in a California school district of a child at an elementary school, and at least every 3rd year thereafter until the child has completed the 8th grade, the child's vision to be appraised by the school nurse or other authorized person, as specified. Existing law requires this appraisal to include tests for visual acuity and color vision. Existing law requires gross external observation of the child's eyes, visual performance, and perception to be done by the school nurse and the classroom teacher.

This bill would instead require a pupil's vision to be appraised by the school nurse or other authorized person during ~~kindergarten, first grade,~~ *kindergarten* or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and ~~8.~~ *8, except as provided.* The bill would revise the functions to be performed by the school nurse and the classroom teacher in observing a pupil's eyes, appearance, and other factors that may indicate vision difficulties. The bill would require the State Department of Education to adopt

guidelines to implement those provisions, including training requirements and a method of testing for near vision. Because the bill would impose additional duties on public schools, the 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 49455 of the Education Code is amended to read:

49455. (a) *(1)* During the kindergarten ~~year, first grade,~~ *year* or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, the pupil's vision shall be appraised by the school nurse or other authorized person under Section 49452. ~~This~~

(2) A pupil whose first enrollment or entry occurs in grade 4 or 7 shall not be required to be appraised in the year immediately following the pupil's first enrollment or entry.

(b) The appraisal shall include tests for visual acuity, including near vision, and color vision; however, color vision shall be appraised once and only on male pupils, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade. ~~The~~

(c) The appraisal may be waived, if the pupil's parents so desire, by their presenting of a certificate from a physician and surgeon, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or an optometrist setting out the results of a determination of the pupil's vision, including visual acuity and color vision.

~~(b)~~

(d) Continual and regular observation of the pupil's eyes, appearance, behavior, visual performance, and perception that may indicate vision difficulties shall be done by the school nurse and the classroom teacher.

~~(c)~~

(e) This section shall not apply to a pupil whose parents or guardian file with the principal of the school in which the pupil is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

~~(d)~~

(f) The department shall adopt guidelines to implement this section, including training requirements and a method of testing for near vision.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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Sacramento, CA 95834
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To: Board Members **Date:** August 8, 2014

From: Robert Stephanopoulos
Policy Analyst **Telephone:** (916) 575-7182

Subject: Agenda Item 12 – Legislation and Regulations Update

Action Requested: Even though the Legislature has been on recess during July and returned on August 4th, there was still significant work being done during its absence with regards to legislation in order to deal with outstanding issues. With the exception of urgency measures, bills that have not passed through the appropriate policy committees in the second house (Assembly bills in the Senate and vice versa) will not be moving forward. The next major legislative deadline is August 15th when all legislation must have passed through fiscal committees. The Department suggests the Board review the following bills and determine if there would be any significant implementation issues or costs.

A. Assembly Bill 186 (Maienschein) Professions and Vocations for Military Spouses

Last Amended: June 25, 2014

Location: Senate Floor

Summary: This legislation requires the majority of programs under the Department to issue a temporary license (valid for 12 months) to the spouse or domestic partner of a military member on active duty if the applicant is also licensed in a similar profession in another state and meets other specified conditions while the license application is being processed.

Staff Comments: With the Board's approval, on June 19, 2014, a letter with a position of "oppose unless amended" was sent to the author. The Board's request to be exempted from the requirements of this bill has not been met.

B. Assembly Bill 213 (Logue) Healing arts: licensure/certification requirement: military experience

Last Amended: April 18, 2013

Location: Assembly Appropriations. This bill is dead.

Summary: This bill proposed to require the State Department of Public Health, upon the presentation of evidence by an applicant for licensure or certification, to accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate for specified professions and vocations if that education, training, or experience is equivalent to the standards of the department. If a board within the Department of Consumer Affairs or the State Department of Public Health accredits or otherwise approves schools

offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than January 1, 2015, require those schools seeking accreditation or approval to have procedures in place to evaluate an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification, as specified.

C. Assembly Bill 2165 (Patterson) Department of Consumer Affairs, Licensing

Last Amended: April 10, 2014

Location: Hearing canceled at request of the author. This bill is dead.

Summary: This bill would require each board to complete within 45 days the application review process with respect to each person who has filed with the board an application for issuance of a license, and to issue, within those 45 days, a license to an applicant who successfully satisfied all licensure requirements. The bill also requires each board to offer each examination the board provides for the applicant's passage of which is required for licensure, a minimum of 6 times per year.

D. Assembly Bill 2598 (Hagman) Department of Consumer Affairs, Pro-Rata

First Introduced: February 21, 2014

Location: Assembly Business, Professions and Consumer Protection. Hearing cancelled at request of author. This bill is dead.

Summary: This bill would require the department to make a claim to the Controller each month against any of the funds of a board for that board's pro rata share of the department's estimated monthly administrative expenses, and would further require the department to base the claim on the amount of filled positions working for a board. This bill would prohibit the Controller from paying the department for a board's pro rata share of total administrative expenses for any fiscal year in an aggregate amount over 20% of a board's budget for any fiscal year.

Legislation Specifically Related to Optometry:

E. Assembly Bill 1877 (Cooley) California Vision Care Access Council

Last Amended: July 1, 2014

Location: Senate Appropriations Committee

Summary: This bill would establish the California Vision Care Access Council within state government and would require that the Council be governed by the executive board that governs the California Health Benefit Exchange.

Committee Hearing Date: August 4, 2014

Legislation Potentially Impacting All Healing Arts Programs:

F. Assembly Bill 809 (Logue) Telehealth Patient Consent

Last Amended: May 19, 2014

Location: Senate Health Committee

Summary: This legislation would require a health care provider who uses telehealth for the delivery of health care services to obtain verbal or written consent from the patient, and to document the patient's consent.

G. Assembly Bill 2102 (Ting) Licensees: Demographic Data Collection

Last Amended: June 2, 2014

Location: Senate Appropriations Committee

Summary: This legislation would require the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board, and the Board of Vocational Nursing and Psychiatric Technicians to annually collect and report licensee demographic data to the Office of Statewide Health Planning and Development.

Committee Hearing Date: August 4, 2014

H. Senate Bill 1256 (Mitchell) Medical Services: Credit

Last Amended: June 25, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would prohibit medical providers from arranging for a line of credit on behalf of a patient unless the patient signs a release acknowledging they are aware of their rights concerning these loans that are offered by third party providers. In addition, the bill would require the healthcare practitioner to provide the patient with a treatment plan prior to arranging for the line of credit, prohibit charges to the credit account before the procedure has been rendered, and prohibit a licensee from arranging for credit for a patient who is under the influence of anesthesia.

I. Senate Bill 1466 (B, P & ED Committee) Health Omnibus

Last Amended: July 1, 2014

Location: Assembly Appropriations Committee

Summary: This legislation, the omnibus bill for health-related professions, would make a number of technical or noncontroversial changes for health care professions.

Committee Hearing Date: August 6, 2014

The following bills have been identified as potentially impacting the department as a whole or most, if not all, boards and bureaus:

J. Assembly Bill 1702 (Patterson) Delay or Denial of Licensure Due to Incarceration

Last Amended: April 23, 2014

Location: Senate Appropriations Committee

Summary: This legislation would provide that an applicant shall not be subject to a delay in processing his or her application or a denial of the license due to the applicant completing some or all of the licensure requirements while incarcerated.

K. Assembly Bill 1711 (Cooley) Economic Impact Assessment

Last Amended: April 3, 2014

Location: Senate Appropriations Committee

Summary: This legislation would require the inclusion of an economic impact assessment in a rulemaking's initial statement of reasons and would direct the Department of Finance to prepare instructions for agencies to use in preparing the assessment.

Committee Hearing Date: August 11, 2014

L. Assembly Bill 1758 (Patterson) Prorating of Initial License Fees

Last Amended: June 30, 2014

Location: Senate Appropriations Committee

Summary: This legislation requires prorating of a licensee's initial license fee for the following programs: Architects Board, Dental Board, Dental Hygiene Committee, Acupuncture Board, Medical Board, Physical Therapy Board, Board of Psychology, Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, Board of Occupational Therapy and Veterinary Medical Board.

Committee Hearing Date: August 4, 2014

M. Assembly Bill 1921 (Holden) Access to Records for State Contracts

Last Amended: April 28, 2014

Location: Senate Appropriations Committee

Summary: This legislation would require contractors providing state contract service to allow state access to their records and files related to the contract if the contract is in excess of $25,000, and additionally would require the contractor to keep and maintain records as provided in the California Public Records Act.

N. Assembly Bill 2058 (Wilk) Open Meetings

Last Amended: June 19, 2014

Location: Senate Appropriations Committee

Summary: This legislation would modify the definition of "state body" within the Bagley-Keene Open Meeting Act, to include advisory committees with less than three individuals, when those committees have standing subject matter jurisdiction.

O. Assembly Bill 2396 (Bonta) Denial of Licensure for Prior Convictions

Last Amended: May 15, 2014

Location: Senate Appropriations Committee

Summary: This legislation would provide that a person may not be denied licensure solely based upon a conviction that has been dismissed through specified penal code procedures.

Committee Hearing Date: August 4, 2014

P. Assembly Bill 2720 (Ting) Requires State Agencies to Record Votes in Meeting Minutes

Last Amended: April 2, 2014

Location: Senate Floor

Summary: This legislation would require a state body to publicly report any action taken and the vote or abstention on that action of each member present for the action.

Q. Senate Bill 1159 (Lara) Professions and Vocations: License Applicants: Federal Tax Identification Number

Last Amended: June 30, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would allow licensees to use a federal taxpayer identification in lieu of a social security number when applying for licensure. In addition, this bill would prohibit any program within the Department of Consumer Affairs from processing an application that omits these numbers.

Committee Hearing Date: August 6, 2014

R. Senate Bill 1240 (Anderson) Changes to State Employment Applications

Introduced Date: February 20, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would require state employment forms to ask applicants to disclose any previous employment with the state, and whether that person has been prohibited from seeking or accepting any future employment with the state.

S. Senate Bill 1243 (Lieu) Professions and Vocations

Last Amended: June 30, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would, among other things, require the Department to provide the Enforcement Academy training annually for any employees in enforcement who wished to take it. The bill would also require the Department as well as the Attorney General's Office and the Office of Administrative Hearings to report annually on enforcement-related statistics.

Committee Hearing Date: August 6, 2014

T. Senate Bill 1337 (DeSaulnier) Reports

Last Amended: May 27, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would require the heads of all state departments and agencies to sign a statement attesting to the accuracy of information provided to the legislature or a member of the

legislature, with individual civil liability for an agency head that knows of false information in the report. This bill would likely apply to board executive officers.

Regulations:

Update on rulemaking package pertaining to CCR Section 1516. Applicant Medical Evaluations and 1582. Unprofessional Conduct Defined

At its August 16, 2013 meeting, the Board voted to initiate a rulemaking to give the Board authority to compel an applicant to submit to a psychological or physical examination, and further define unprofessional conduct. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013, and the 45-day comment period for the public started on October 18, 2013 and ended on December 2, 2013. The hearing was to be held December 2, 2013 in Sacramento at the Department of Consumer Affairs. However, due to the Executive Officer's absence for medical leave and the loss of the Board's Policy Analyst, the hearing was not held.

Due to time constraints, and at the recommendation of the Department of Consumer Affairs' Legal Division, the Board restarted the process concerning the rulemaking package pertaining to CCR Section 1516. On August 1, 2014, a Notice of Decision Not to Proceed was printed in the California Regulatory Notice Register in order to withdraw the Board's October 18, 2013 Notice. The unchanged rulemaking package was resubmitted to the Office of Administrative Law, which will be printed in the California Regulatory Notice Register on August 8, 2014. A 45-day public comment period will begin August 8, 2014 and conclude September 22, 2014.

Memo

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To: Board Members **Date:** August 8, 2014

From: Mona Maggio
Executive Officer **Telephone:** (916) 575-7170

Subject: **Agenda Item 13 – Executive Officer's Report**

BreEZe
Awet Kidane, Director, Department of Consumer Affairs will be present during the meeting to answer any questions members may have about the Breeze project. Staff will provide an oral update and a handout of staff concerns that was given to the Director and the vendor.

2013/2014 Budget
The 2013/2014 budget for the Board was $1,901,030. Planned receipts $1,731,000; as of June 30, 2014 Receipts received $1,914,795.31. As of June 30, 2014 the Board has encumbered $1,724,906 reflecting 90.74% of the total budget. The Board is projecting an unencumbered balance of $174,124. The unencumbered balance is reverted to the Board's Fund.

The Month 13 Final Fiscal Report that provides the final expenditures, revenue and adjustments for fiscal year FY 2013/2014 is expected soon.

2014/2015 Budget
The 2014/2015 budget released for the Board is $1,804,000

Out of State Travel
On April 22, 2014 a request to attend the Association of Regulatory Boards of Optometry's (ARBO) Annual Meeting June 22-24, 2014, at The Westin, Philadelphia, Pennsylvania was submitted for review and approval to the Agency Secretary. Though California State Board is a voting member of ARBO and the Executive Officer sits on the OE Tracker National Committee as the only board administrator, representing all other state administrators, the request was denied.

Budget Change Proposals
Staff submitted two budget change proposal (BCP) requesting position authority (additional staff) and funding for two enforcement analysts, a licensing technician and funding to conduct an occupational analysis of optometric assistants as directed by the California legislature. After submission to the Department of Consumer Affairs,

A. Personnel
Rob Stephanopoulos was hired as the policy analyst for the Board effective June 30, 2014. Rob is currently juggling his assigned enforcement cases and learning the rulemaking process. The request to fill the vacant enforcement analyst position is under review at The Department of Consumer Affairs, Office of Human Resources (OHR) and a job announcement will be posted soon.

The request to upgrade the receptionist position from an Office Assistant (entry level clerical) to an Office Technician (journey level clerical) classification was approved by OHR. Interviews were held and Pricilla Torres-Fuentes was hired as the Board's receptionist. Pricilla in addition to her receptionist responsibilities, Pricilla is training to assist with initial license application review.

Teri Hunley, was hired June 20, 2014 as a retired annuitant to handle the evaluation and issuance of initial optometry licenses and continuing education providers when the licensing staff is away for BreEZe. Teri retired from the Medical Board of California as the manager of the licensing program.

In addition, staff is working to recruit one temporary employee to assist when current staff is out of the office working on BreEZe. The Board was planning to recruit two temporary employees but blanket funding can be used to bring Nancy on full time which will alleviate the need to train a new person on licensing procedures.

B. Examination and Licensing Programs

Licensing statistics will be presented at the Board meeting.

Presentations to third year students were held:

April 14th University of California, Berkeley School of
Jeff Robinson, Jessica Sieferman
April 29th Western University, College of Health Sciences, College of Optometry
Jeff Robinson, Jessica Sieferman
April 30th Marshall B. Ketchum University, Southern California College of Optometry
Jeff Robinson, Jessica Sieferman and Cyd Brandvein.

C. Enforcement Program

Prepared by Jessica Sieferman, Lead Enforcement Analyst/Probation Monitor

The entire Enforcement Unit has and will continue to devote large portions of time to BreEZe development. This will negatively impact our Enforcement Performance Measures and other Enforcement tasks, particularly during Data Conversion/Validation and User Acceptance Testing. Given the limited time staff has to devote to casework, the Board's Enforcement Unit was still able to meet its performance measure target for intake and investigation for May and June (attached). With that said, the average time for Q3 was still over our target. In addition, staff has concerns that the intake and investigation target may not be realistic. Since this target includes the time it takes for staff investigation, Expert Witnesses to review and the Division of Investigation to conduct their investigation, 90 days is not sufficient in many of our cases. Staff needs to meet with the Department of Consumer Affairs to discuss more realistic performance measure targets.

Rob Stephanopoulos has participated in all Joint Application Design (JAD) sessions for the CURES database with the Department of Justice. During these sessions, detailed function and system requirements are discussed to ensure the requirements are clear and meets our needs. Jessica Sieferman attended a few meetings, but BreEZe meetings and deadlines has taken priority.

During DCA's Sunset Hearing in March, the legislature asked DCA about CPEI's Performance Measures. Specifically, our Board was identified as one of the Boards not meeting Performance Measure 3: Intake and Investigation (90 day target cycle time) in the last two fiscal years. Citing various reasons for the missed target (e.g., staffing, technology issues, potentially unrealistic target, etc.), the Board worked with DCA's Budget Office to respond to concerns raised.

As previously reported, however, the Board's Enforcement Program is diligently working to meet its performance measures. In October 2013, the Enforcement Program made a goal to meet its performance measures by the end of the fiscal year. Armed with a fully staffed program, increased DAG and DOI

communication, and streamlined processes, the Board's Enforcement Program closed March (end of Quarter 3) with an average cycle time of 88 days. In addition, the Board's Enforcement Program has the lowest pending caseload it has had in years, with only 68 complaints pending.

Enforcement Statistics

Complaints				
	2010/11	**2011/12**	**2012/13**	**2013/14***
Total Received	295	318	254	190
Total Closed	227	282	289	257
Total Pending	134	170	135	68
Citations				
	2010/11	**2011/12**	**2012/13**	**2013/14***
Issued	2	1	3	11
Discipline				
	2010/11	**2011/12**	**2012/13**	**2013/14***
Referred to AG	9	14	15	11
Accusations Filed	9	1	18	7
Statement of Issues Filed	0	0	1	0
Pending at AG	13	17	22	17
Disciplinary Decision Outcomes				
Revoked	4	1	2	1
Revoked, Stayed, Probation	4	2	4	7
Surrender	1	1	2	1
Other	0	0	0	1

*July 1, 2012 – March 31, 2014

Attachments

1. Expenditure Report
2. Fund Condition
3. Enforcement Annual Performance Report FY 2013/2014
4. Enforcement Performance Measures 4th Quarter

BOARD OF OPTOMETRY - FUND 0763
BUDGET REPORT
FY 2013-14 EXPENDITURE PROJECTION

FM 12

OBJECT DESCRIPTION	FY 2012-13 ACTUAL EXPENDITURES (MONTH 13)	FY 2012-13 PRIOR YEAR EXPENDITURES 6/30/2013	FY 2013-14 BUDGET STONE 2013-14	FY 2013-14 CURRENT YEAR EXPENDITURES 6/30/2014	FY 2013-14 PERCENT SPENT	FY 2013-14 PROJECTIONS TO YEAR END	FY 2013-14 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	351,486	349,268	**431,171**	349,953	81%	**364,352**	66,819
Statutory Exempt (EO)	77,956	77,956	**81,732**	84,180	103%	**84,180**	(2,448)
Temp Help Reg (907)	25,118	22,811	**41,000**	25,083	61%	**27,634**	13,366
Temp Help (Exam Proctors)			**0**				0
Board Member Per Diem	6,800	6,800	**7,353**	9,200	125%	**9,200**	(1,847)
Committee Members (DEC)			**0**				0
Overtime	841	841	**0**	2,948		**2,948**	(2,948)
Staff Benefits	194,426	192,365	**270,353**	186,044	69%	**193,699**	76,654
TOTALS, PERSONNEL SVC	656,627	650,041	**831,609**	**657,408**	**79%**	**682,013**	149,596
OPERATING EXPENSE AND EQUIPMENT							
General Expense	8,019	6,493	**15,519**	6,950	45%	**6,950**	8,569
Fingerprint Report	5,860	4,586	**5,306**	2,818	53%	**2,818**	2,488
Minor Equipment	10,408	10,408	**6,100**	3,992	65%	**3,992**	2,108
Printing	8,140	8,140	**7,523**	12,330	164%	**12,330**	(4,807)
Communications	5,425	4,825	**5,446**	4,233	78%	**4,233**	1,213
Postage	14,075	14,075	**11,056**	14,850	134%	**14,850**	(3,794)
Insurance			**0**				0
Travel In State	20,833	18,308	**7,651**	38,046	497%	**38,046**	(30,395)
Travel, Out-of-State			**0**	508		**508**	(508)
Training	737	287	**1,037**	85	8%	**85**	952
Facilities Operations	105,595	105,595	**58,676**	108,583	185%	**108,583**	(49,907)
Utilities			**0**				0
C & P Services - Interdept.	79	79	**2,943**	39,029	1326%	**39,029**	(36,086)
C & P Services - External	10,094	10,094	**76,000**		0%	**0**	76,000
DEPARTMENTAL SERVICES:							
OIS Pro Rata	119,375	128,852	**142,337**	142,337	100%	**142,337**	0
Admin Pro Rata	94,224	101,475	**106,494**	106,494	100%	**106,494**	0
Interagency Services	0	0	**146**	0	0%	**0**	146
IA w/ OPES	24,264	24,264	**0**	22,520		**22,520**	(22,520)
DOI-Pro Rata	4,111	4,111	**3,409**	3,409	100%	**3,409**	0
Public Affairs Pro Rata	5,097	5,810	**4,792**	4,792	100%	**4,792**	0
PCSD Pro Rata	6,748	7,146	**4,102**	4,102	100%	**4,102**	0
INTERAGENCY SERVICES:							0
Consolidated Data Centers	769	749	**14,509**	663	5%	**663**	13,846
DP Maintenance & Supply	4,435	4,435	**942**	1,036	110%	**1,036**	(94)
Central Admin Svc-Pro Rata	80,753	80,753	**65,849**	65,849	100%	**65,849**	0
EXAM EXPENSES:							0
Exam Supplies		0	**0**				0
Exam Freight	0		**484**	0	0%	**0**	484
Exam Site Rental							0
C/P Svcs-External Expert Administrative	8	8		98		**98**	(98)
C/P Svcs-External Expert Examiners	0	0	**20,703**	0	0%	**0**	20,703
C/P Svcs-External Subject Matter	12,323	11,971		19,712		**19,712**	(19,712)
ENFORCEMENT:							0
Attorney General	148,591	148,591	**229,055**	195,500	85%	**213,000**	16,055
Office Admin. Hearings	13,079	12,665	**37,930**	42,387	112%	**44,000**	(6,070)
Court Reporters	1,488	988		908		**908**	(908)
Evidence/Witness Fees	3,800	3,300	**15,017**	22,100	147%	**22,100**	(7,083)
DOI - Investigations	120,843	121,422	**217,895**	217,895	100%	**217,895**	0
Major Equipment			**8,500**	0		**0**	8,500
Special Items of Expense							0
Other (Vehicle Operations)							0
TOTALS, OE&E	829,173	839,430	**1,069,421**	1,081,226	101%	1,100,339	(30,918)
TOTAL EXPENSE	1,485,800	1,489,471	**1,901,030**	1,738,634	180%	**1,782,352**	118,678
Reimb. - State Optometry Fund	(5,488)	(5,488)		(100)			0
Sched. Reimb. - Fingerprints	(7,252)	(7,252)	**(6,000)**	(4,508)	75%	**(6,000)**	0
Sched. Reimb. - Other	(4,800)	(4,800)		(4,790)			0
Probation Monitoring Fee - Variable				(15,000)			0
Unsched. Reimb. - Investigative Cost Recover	(35,167)	(35,167)		(48,869)			0
Unsch - DOI ICR Administrative Case	(49)	(49)					0
Unsched. Reimb. - ICR - Prob Monitor				(100)			0
NET APPROPRIATION	1,433,044	1,436,715	**1,895,030**	1,665,266	88%	**1,776,352**	**118,678**
						SURPLUS/(DEFICIT):	**6.3%**

0763 - State Board of Optometry
Analysis of Fund Condition

Prepared 6/30/14

(Dollars in Thousands)

Budget Act FY 2014-15 NOTE: $1 Million Dollar General Fund Repayment Outstanding	Actual 2012-13	CY 2013-14	Budget Act BY 2014-15
BEGINNING BALANCE	$ 961	$ 1,270	$ 1,130
Prior Year Adjustment	$ 13	$ -	$ -
Adjusted Beginning Balance	$ 974	$ 1,270	$ 1,130
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	$ 27	$ 19	$ 21
125700 Other regulatory licenses and permits	$ 153	$ 137	$ 144
125800 Renewal fees	$ 1,538	$ 1,550	$ 1,569
125900 Delinquent fees	$ 10	$ 11	$ 11
141200 Sales of documents	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ 3	$ 3	$ 3
150300 Income from surplus money investments	$ 4	$ 3	$ 3
160400 Sale of fixed assets	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 1	$ 1	$ 1
161400 Miscellaneous revenues	$ 1	$ 1	$ 1
Totals, Revenues	$ 1,737	$ 1,725	$ 1,753
Transfers to Other Funds			
GF loan per item 1110-001-0763 BA of 2011	$ -	$ -	$ -
Totals, Revenues and Transfers	$ 1,737	$ 1,725	$ 1,753
Totals, Resources	$ 2,711	$ 2,995	$ 2,883
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	$ 1	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 8	$ 8	$ 2
1110 Program Expenditures (State Operations)	$ 1,432	$ 1,857	$ 1,842
Total Disbursements	$ 1,441	$ 1,865	$ 1,844
FUND BALANCE			
Reserve for economic uncertainties	$ 1,270	$ 1,130	$ 1,039
Months in Reserve	8.2	7.4	6.6

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.

C. ASSUMES INTEREST RATE AT 0.3%.

Department of Consumer Affairs

Board of Optometry

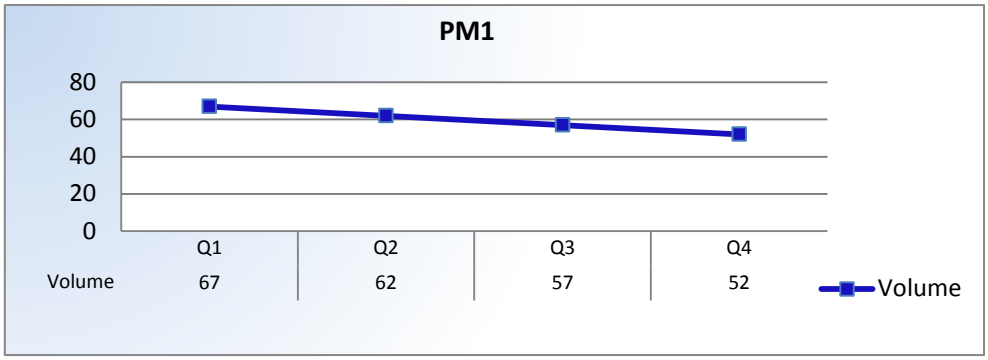
Performance Measures

Annual Report *(2013 – 2014 Fiscal Year)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly and annual basis.

PM1 | Volume

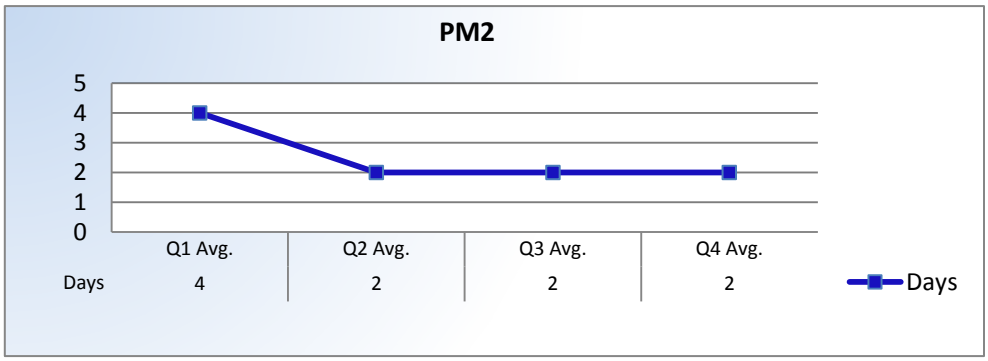
Number of complaints and convictions received.



Fiscal Year Total: 238

PM2 | Intake

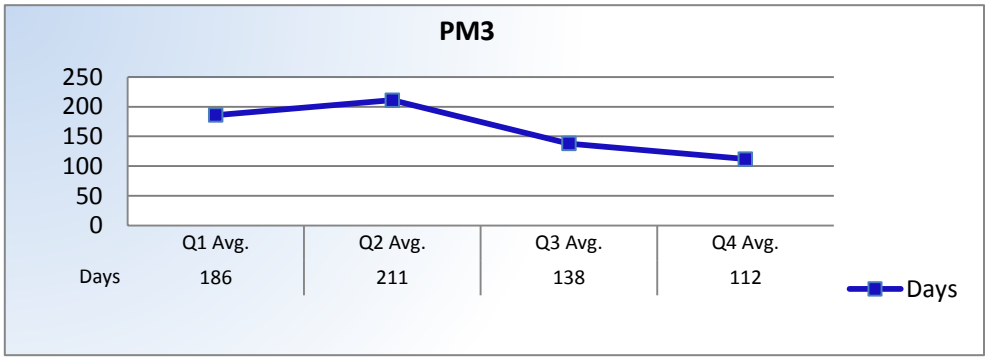
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days

PM3 | Intake & Investigation

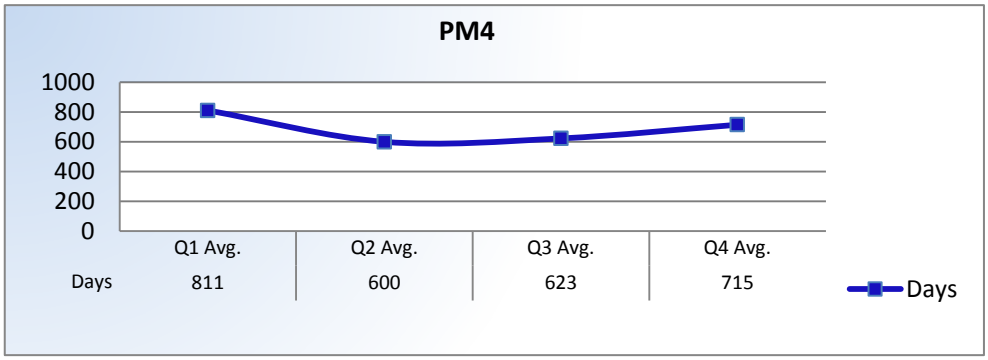
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 90 Days

PM4 | Formal Discipline

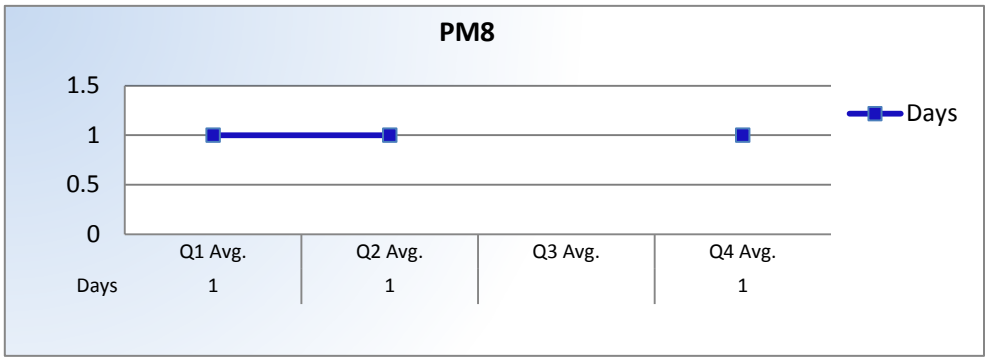
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days

PM7 |Probation Intake

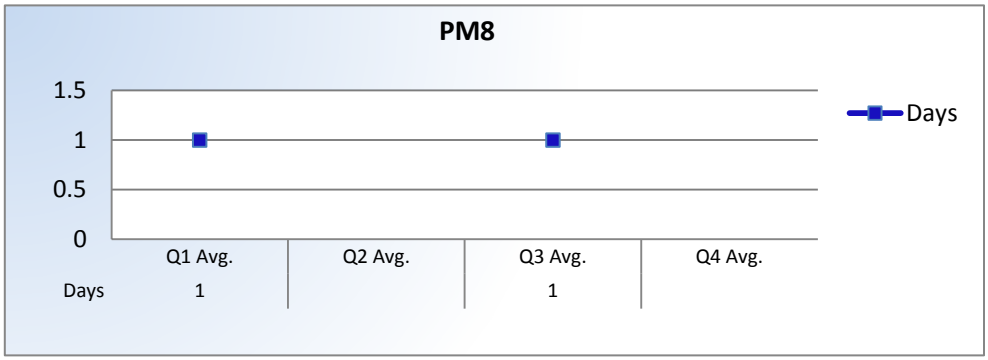
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 6 Days

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 8 Days

Department of Consumer Affairs

Board of Optometry

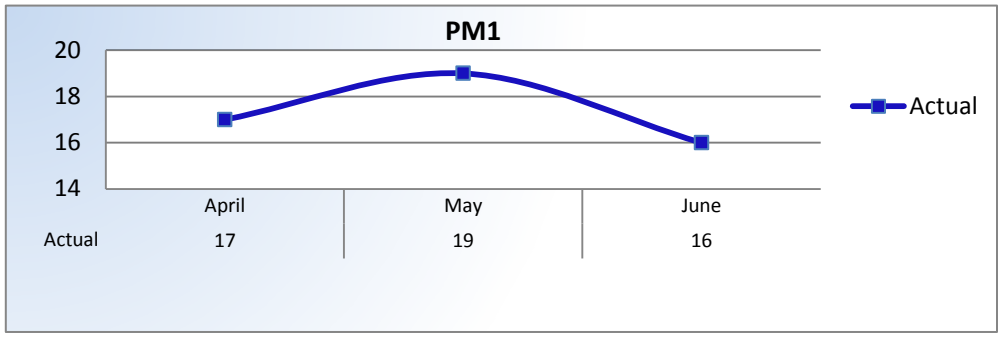
Performance Measures

Q4 Report *(April - June 2014)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

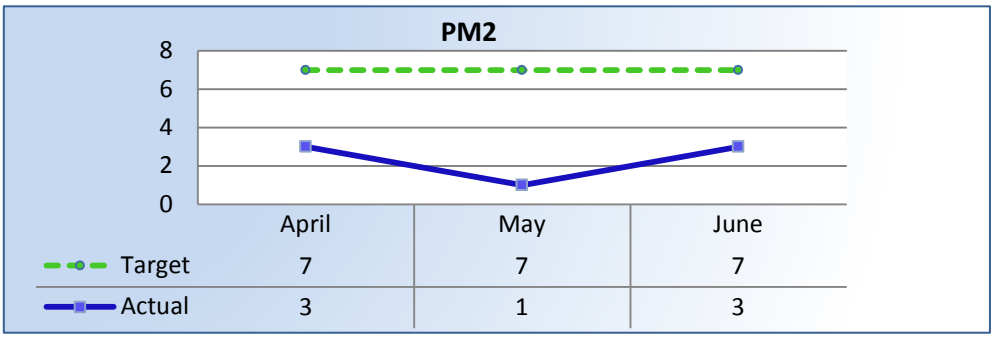


Total Received: 52 Monthly Average: 17

Complaints: 43 | **Convictions**: 9

PM2 | Intake

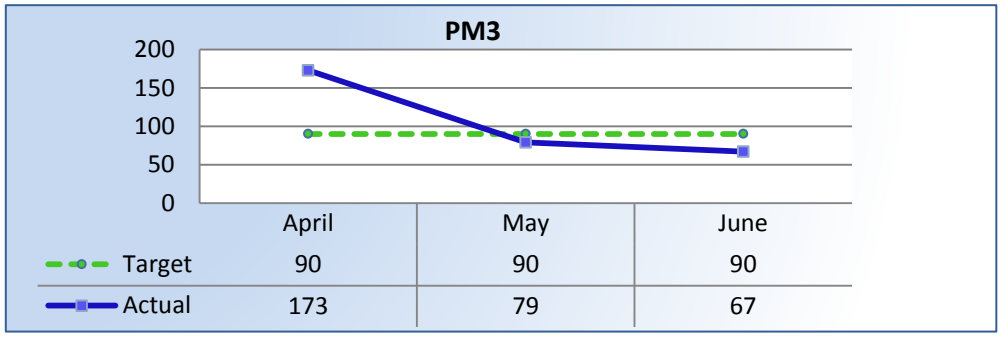
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | **Actual Average:** 2 Days

PM3 | Intake & Investigation

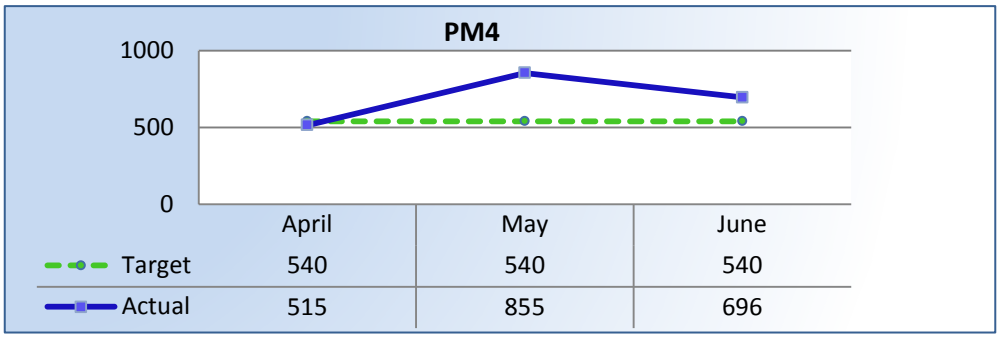
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 90 Days | **Actual Average:** 112 Days

PM4 | Formal Discipline

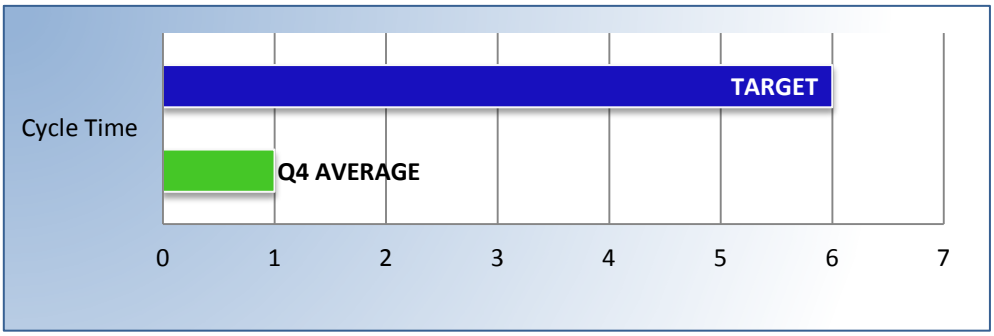
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | **Actual Average:** 715 Days

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 6 Days | **Actual Average:** 1 Day

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not report any probation violations this quarter.

Target Average: 8 Days | **Actual Average:** N/A

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: August 8, 2014

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: **Agenda Item 14 – Suggestions for Future Agenda Items**

Members of the Board and the public may suggest items for staff research and discussion at future meetings.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: August 8, 2014

From: Alejandro Arredondo O.D.
Board President

Telephone: (916) 575-7170

Subject: **Agenda Item 15 – Adjournment**