MEMBERS OF THE BOARD
Madhu Chawla, OD, President
Cyd Brandvein, Vice President
Rachel Michelin, Secretary
Alejandro Arredondo, OD
Donna Burke
Frank Giardina, OD
Glenn Kawaguchi, OD
William H. Kysella, Jr.
Mark Morodomi
David Turetsky, OD
Lillian Wang, OD

CALIFORNIA STATE BOARD OF OPTOMETRY

QUARTERLY BOARD MEETING AGENDA

Friday, October 16, 2015
12:00 p.m. – 5:00 p.m.
(or until conclusion of business)

Department of Consumer Affairs, HQ2
1747 North Market Boulevard
First Floor Hearing Room
Sacramento, CA 95834

ORDER OF ITEMS SUBJECT TO CHANGE

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations of resources.

FULL BOARD OPEN SESSION

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

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

3. Vision Healthcare Plans and Regulatory Oversight Thereof – Presentation by the Department of Managed Health Care

4. Update and Discussion on AB 684 Implementation
   A. Implementation Plan and Timeline
   B. Breeze Considerations
   C. Resource Allocations
   D. Budgetary Concerns

5. Discussion and Consideration of Potential Legislative and Regulatory Revisions Related to the Implementation of AB 684
   A. Conceptual Proposal to Revise Statutory Fee Limits
   B. Conceptual Proposal to Regulate Optical Companies; Reporting Requirements
   C. Proposed Revision to Section 655 of the Business and Professions Code Relating to the Lease Information to be Provided by Licensees
   D. Conceptual Regulatory Proposal to Implement Co-Location Reporting Requirements, Inspection Program, and Fee Increases

6. Future Agenda Items

7. Adjournment

Meetings of the California State Board of Optometry are open to the public except when specifically noticed otherwise in accordance with the open meeting act. 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 Lydia Bracco 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.

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:** October 16, 2015

From: Madhu Chawla, OD
Board President **Telephone:** (916) 575-7170

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

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

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

Cyd Brandvein, Vice President, Public Member

Rachel Michelin, Secretary, Public Member

Alejandro Arredondo, O.D., Professional Member

Donna Burke, Public Member

Frank Giardina, O.D., Professional Member

Glenn Kawaguchi, O.D., Professional Member

William H. Kysella, Jr., Public Member

Mark Morodomi, Public Member

David Turetsky, O.D., Professional Member

Lillian Wang, O.D., Professional Member

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Memo

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www.optometry.ca.gov

To: Board Members

Date: October 16, 2015

From: Madhu Chawla, O.D.
Board President

Telephone: (916) 575-7170

Subject: **Agenda Item 2 – Public Comment**

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)].

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To: Board Members **Date:** October 16, 2015

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

Subject: **Agenda Item 3 – Vision Healthcare Plans and Regulatory Oversight Thereof – Presentation by the Department of Managed Health Care**

A presentation will be given by the Department of Managed Healthcare (DMHC). DMHC regulates all health plans throughout California. Their mission is to protect consumers' health care rights and ensure a stable health care delivery system.

Additional information regarding DMHC regulated vision plans can be found on their website: http://wpso.dmhc.ca.gov/hpsearch/viewLicensedHealthPlan.aspx.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** October 16, 2015

From: Jessica Sieferman
Executive Officer **Telephone:** (916) 575-7184

Subject: Agenda Item 4 – Update and Discussion on AB 684 Implementation

Background:

AB 684 was signed by the Governor on October 1, 2015 and is effective on January 1, 2016 (Attachment 1). As previously reported, AB 684 made the following amendments to existing law:

- Defined who is authorized to own a health plan;
- Defined who is authorized to enter into a landlord-tenant relationship;
- Moved the Registered Dispensing Optician (RDO) Program (RDOs, spectacle and contact lens dispensers, and nonresident contact lens sellers) from the Medical Board of California (MBC) to the California State Board of Optometry (Board);
- Required RDOs to post a consumer notice;
- Added Inspection Authority for co-locations;
- Replaced an optometrist Board Member with an RDO;
- Created a Dispensing Optician Committee; and,
- Provide an Enforcement Moratorium for a Transition Period.

During the Board's September 9, 2015 Special Meeting, the Board discussed several problematic issues and key policy concerns that the bill left unresolved. Some of the issues raised were the following:

- Unregulated Entity – Optical Company
  Optical companies are not regulated under the auspices of DCA or DMHC. If an optical company breaks the law, it was unclear what, if anything can be done under this bill.

- Insufficient Funds
  At the time, it was unclear what the fiscal impact was, but concerns were raised that the current RDO fees were not adequate to sustain the program and fees should be increased.

- Redaction
  This bill allows personal information as defined in Civil Code Section 1798.3 to be redacted prior to an RDO or optometrist submitting a lease to the Board (Section (d)(15)). No other law section allows a subject to determine what can and cannot be redacted prior to submitting information to the Board. This provides an opportunity for a subject to erroneously redact pertinent information without Board knowledge.

- Unenforceable Transition Reporting Requirement

  During the moratorium, applicable health plans would be required to report to the Board. The Board discussed how the Board has no jurisdiction over health plans and does not capture the necessary information needed to know what health plans would be required to report. In addition, the bill provided no ramifications for failing to submit reports or if the deadlines are not met.

- Board Composition Change and Creation of Advisory Committee

  This bill replaced an optometrist Board Member with an RDO and created an advisory committee consisting of five members, including two registered dispensing opticians, two public members, and a Board Member. Some Board Members raised concerns that this catered to the retail industry and was not in the best interest of consumer protection.

In order to put consumer protection first, the Board voted to oppose the bill, stating that additional debate, meetings, and discussions with the Board and the Legislature were warranted.

A. Implementation Plan and Timeline:

The implementation plan and timeline is a rough estimate of the workload that needs to be done in order to address all concerns listed above and ensure as smooth of a transition as possible for the RDO program (Attachment 2).

This plan includes, but is not limited to Budget Change Proposal for staffing, legislative and regulatory solutions (including work by the Legislation and Regulation Committee), appointing the Advisory Committee, and general logistics involved in moving the RDO Program.

In order to appoint the Advisory Committee, staff is requesting the Board adopt the proposed Nomination Process (Attachment 3) and create an Appointment Committee to vet candidates and make recommendations to the full Board at the January 22, 2015 Board meeting.

B. Breeze Considerations:

Moving the RDO Program from MBC to the Board and adding the inspection portion will require significant configuration changes to BreEZe. It is estimated that the earliest these changes can take place is between July 2016 and July 2017. Until then, Board staff will be given permissions in BreEZe to access the RDO Program for licensing and enforcement. These configuration changes will be absorbed in the ongoing maintenance and operations contract with Accenture.

Until these configuration changes are completed, consumers will still have to file complaints and verify RDO registrations by going through MBC. Board staff is working closely with the MBC and DCA's IT Department to help mitigate this as much as possible.

C. Resource Allocations:

While AB 684 isn't effective until January 1, 2016, the Board will need to devote several of its resources to assist with the bill's implementation. Three optometry staff members have already started drafting outreach materials and assisting in the implementation plan. Administrative workload (mail, cashiering, phone calls, etc.) is also expected to increase. This implementation coupled with five staff members devoted to BreEZe implementation, licensing and enforcement cycle times are expected to be impacted.

The RDO program currently has a 0.9 Management Services Technician (MST), which serves as the program's licensing technician for all four license types. In addition, the MBC provides administrative support to the RDO program and the Health Quality Investigations Unit (HQIU) provides enforcement support. This additional support is then billed to the RDO program.

Since the Board does not have staff to absorb this support up front, the Board is pursuing a Legislative Budget Change Proposal (BCP) to translate the support funds into position authority. This would equate to a 0.5 Office Technician and a 0.6 Special Investigator.

In addition, it is unknown how many resources will be needed to assist in creating the committee and organizing the meetings. While AB 684 mandates the committee meet "at least twice a year and as needed in order to conduct its business," it is anticipated that the committee will have to meet more frequently in the next couple of years in order to establish a baseline from which to move forward. For example, the committee is responsible for reviewing disciplinary guidelines relating to RDOs. However, the RDO Program does not currently have disciplinary guidelines. Therefore, several meetings will have to be held in order to establish them.

D. Budgetary Concerns:

Since the Board's September 9, 2015 Board meeting, it has been determined that the RDO Program, as it stands, cannot financially sustain itself. This was recently discovered by the MBC and DCA's Budget Office and preliminary steps had been taken to address the Program's fund condition (Attachment 4). While three of the four license types are not at their statutory caps, increasing the fees to the maximum amount would still not sustain the fund. Therefore, the MBC would have needed to significantly increase their fees through legislation in the next legislative cycle.

With the additional workload, including inspection authority and the creation of the advisory committee, fees will have to be increased even more in order to sustain the fund and implement all aspects of AB 684.

Although significant fee increases are anticipated, it is still too early to determine by how much exactly. In order to determine this, the following will need happen:

1. Fee Analysis:
   Fees have not been increased since 1999. A fee analysis will assess all aspects of the program, including its budget, to determine the appropriate fees. However, the fee analysis is estimated to cost $15-30,000 and requires a contract with a third party vendor. Fortunately, due to the small size of the program, the fee analysis should be able to be completed fairly quickly.

2. Define Inspection Program through Regulation:
   Inspection Programs vary substantially throughout DCA. The Board will have to define the program through regulation, including inspection frequency. Some programs inspect a location once every five years and some inspect each location twice per year. In addition, it will need to be determined, based on duties, what type of "inspector" is needed – there are three classes of Inspectors (Inspector I, II, III), Special Investigators, and Investigators.

3. Determine Co-Location Population:
   Currently, the Board does not know how many co-locations exist in California. Once optometrists begin reporting these locations, the Board will be able to accurately capture this data.

   With that said, there are roughly 1,300 RDOs[1] in California, and the population is expected in increase with AB 684. Based on how many "inspectors" there are and where they are located in relation to the co-locations, travel expenses will also need to be carefully considered.

[1] This includes current and delinquent statuses, because delinquent statuses can become current at any time by paying a fee.

4. Establish Advisory Committee

   As mentioned in Resource Allocations, it is unknown how many resources will be needed in creating and organizing the committee meetings. It is estimated that more meetings will be needed than the minimum required, but depending on where the committee members are located, travel costs may be high. Soon after a committee is established, it is recommended that a meeting calendar, including locations for 2016 is also created. This will help establish a baseline for the cost associated with the committee creation.

Attachments:

1. AB 684
2. Implementation Plan and Timeline
3. Proposed Nomination Process
4. RDO's Fund Condition – to be provided at the meeting

Assembly Bill No. 684

CHAPTER 405

An act to amend Sections 2546.2, 2546.9, 2550.1, 2554, 2556, 2567, 3010.5, 3011, 3013 of, to add Sections 2556.1, 2556.2, 3020, 3021, 3023.1 to, and to repeal and add Section 655 of, the Business and Professions Code, relating to healing arts.

Approved by Governor October 01, 2015.
Filed with Secretary of State October 01, 2015.

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.
Section 655 of the Business and Professions Code is repealed.
SEC. 2.
Section 655 is added to the Business and Professions Code, to read:
655.
(a) For the purposes of this section, the following terms have the following meanings:
(1) “Health plan” means a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
(2) “Optical company” means a person or entity that is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, health plans, or dispensing opticians of lenses, frames, optical supplies, or optometric appliances or devices or kindred products.
(3) “Optometrist” means a person licensed pursuant to Chapter 7 (commencing with Section 3000) or an optometric corporation, as described in Section 3160.
(4) “Registered dispensing optician” means a person licensed pursuant to Chapter 5.5 (commencing with Section 2550).
(5) “Therapeutic ophthalmic product” means lenses or other products that provide direct treatment of eye disease or visual rehabilitation for diseased eyes.
(b) No optometrist may have any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any optical company, except as otherwise permitted under this section.
(c) (1) A registered dispensing optician or an optical company may operate, own, or have an ownership interest in a health plan so long as the health plan does not directly employ optometrists to provide optometric services directly to enrollees of the health plan, and may directly or indirectly provide products and services to the health plan or its contracted providers or enrollees or to other optometrists. For purposes of this section, an optometrist may be employed by a health plan as a clinical director for the health plan pursuant to Section 1367.01 of the Health and Safety Code or to perform services related to utilization management or quality assurance or other similar related services that do not require the optometrist to directly provide health care services to enrollees. In addition, an optometrist serving as a clinical director may not employ optometrists to provide health care services to enrollees of the health plan for which the optometrist is serving as clinical director. For the purposes of this section, the health plan’s utilization management and quality assurance programs that are consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) do not constitute providing health care services to enrollees.

(2) The registered dispensing optician or optical company shall not interfere with the professional judgment of the optometrist.
(3) The Department of Managed Health Care shall forward to the State Board of Optometry any complaints received from consumers that allege that an optometrist violated the Optometry Practice Act (Chapter 7 (commencing with Section 3000)). The Department of Managed Health Care and the State Board of Optometry shall enter into an Inter-Agency Agreement regarding the sharing of information related to the services provided by an optometrist that may be in violation of the Optometry Practice Act that the Department of Managed Health Care encounters in the course of the administration of the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with section 1340) of Division 2 of the Health and Safety Code.
(d) An optometrist, a registered dispensing optician, an optical company, or a health plan may execute a lease or other written agreement giving rise to a direct or indirect landlord-tenant relationship with an optometrist, if all of the following conditions are contained in a written agreement establishing the landlord-tenant relationship:
(1) (A) The practice shall be owned by the optometrist and in every phase be under the optometrist's exclusive control, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, fees charged for optometric products and services, the examination procedures and treatment provided to patients and the optometrist's contracting with managed care organizations.
(B) Subparagraph A shall not preclude a lease from including commercially reasonable terms that: (i) require the provision of optometric services at the leased space during certain days and hours, (ii) restrict the leased space from being used for the sale or offer for sale of spectacles, frames, lenses, contact lenses, or other ophthalmic products, except that the optometrist shall be permitted to sell therapeutic ophthalmic products if the registered dispensing optician, health plan, or optical company located on or adjacent to the optometrist's leased space does not offer any substantially similar therapeutic ophthalmic products for sale, (iii) require the optometrist to contract with a health plan network, health plan, or health insurer, or (iv) permit the landlord to directly or indirectly provide furnishings and equipment in the leased space.
(2) The optometrist's records shall be the sole property of the optometrist. Only the optometrist and those persons with written authorization from the optometrist shall have access to the patient records and the examination room, except as otherwise provided by law.
(3) The optometrist's leased space shall be definite and distinct from space occupied by other occupants of the premises, have a sign designating that the leased space is occupied by an independent optometrist or optometrists and be accessible to the optometrist after hours or in the case of an emergency, subject to the facility's general accessibility. This paragraph shall not require a separate entrance to the optometrist's leased space.
(4) All signs and displays shall be separate and distinct from that of the other occupants and shall have the optometrist's name and the word "optometrist" prominently displayed in connection therewith. This paragraph shall not prohibit the optometrist from advertising the optometrist's practice location with reference to other occupants or prohibit the optometrist or registered dispensing optician from advertising their participation in any health plan's network or the health plan's products in which the optometrist or registered dispensing optician participates.
(5) There shall be no signs displayed on any part of the premises or in any advertising indicating that the optometrist is employed or controlled by the registered dispensing optician, health plan or optical company.
(6) Except for a statement that an independent doctor of optometry is located in the leased space, in-store pricing signs and as otherwise permitted by this subdivision, the registered dispensing optician or optical company shall not link its advertising with the optometrist's name, practice, or fees.
(7) Notwithstanding paragraphs (4) and (6), this subdivision shall not preclude a health plan from advertising its health plan products and associated premium costs and any copayments, coinsurance, deductibles, or other forms of cost-sharing, or the names and locations of the health plan's providers, including any optometrists or registered dispensing opticians that provide professional services, in compliance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(8) A health plan that advertises its products and services in accordance with paragraph (7) shall not advertise the optometrist's fees for products and services that are not included in the health plan's contract with the optometrist.
(9) The optometrist shall not be precluded from collecting fees for services that are not included in a health plan's products and services, subject to any patient disclosure requirements contained in the health plan's provider agreement with the optometrist or that are not otherwise prohibited by the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
(10) The term of the lease shall be no less than one year and shall not require the optometrist to contract exclusively with a health plan. The optometrist may terminate the lease according to the terms of the lease. The landlord may terminate the lease for the following reasons:
(A) The optometrist's failure to maintain a license to practice optometry or the imposition of restrictions, suspension or revocation of the optometrist's license or if the optometrist or the optometrist's employee is or becomes ineligible to participate in state or federal government-funded programs.
(B) Termination of any underlying lease where the optometrist has subleased space, or the optometrist's failure to comply with the underlying lease provisions that are made applicable to the optometrist.
(C) If the health plan is the landlord, the termination of the provider agreement between the health plan and the optometrist, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).
(D) Other reasons pursuant to the terms of the lease or permitted under the Civil Code.
(11) The landlord shall act in good faith in terminating the lease and in no case shall the landlord terminate the lease for reasons that constitute interference with the practice of optometry.
(12) Lease or rent terms and payments shall not be based on number of eye exams performed, prescriptions written, patient referrals or the sale or promotion of the products of a registered dispensing optician or an optical company.
(13) The landlord shall not terminate the lease solely because of a report, complaint, or allegation filed by the optometrist against the landlord, a registered dispensing optician or a health plan, to the State Board of Optometry or the Department of Managed Health Care or any law enforcement or regulatory agency.
(14) The landlord shall provide the optometrist with written notice of the scheduled expiration date of a lease at least 60 days prior to the scheduled expiration date. This notice obligation shall not affect the ability of either party to terminate the lease pursuant to this section. The landlord may not interfere with an outgoing optometrist's efforts to inform the optometrist's patients, in accordance with customary practice and professional obligations, of the relocation of the optometrist's practice.
(15) The State Board of Optometry may inspect, upon request, an individual lease agreement pursuant to its investigational authority, and if such a request is made, the landlord or tenant, as applicable, shall promptly comply with the request. Failure or refusal to comply with the request for lease agreements within 30 days of receiving the request constitutes unprofessional conduct and is grounds for disciplinary action by the appropriate regulatory agency. Only personal information as defined in Section 1798.3 of the Civil Code may be redacted prior to submission of the lease or agreement. This section shall not affect the Department of Managed Health Care's authority to inspect all books and records of a health plan pursuant to Section 1381 of the Health and Safety Code.
Any financial information contained in the lease submitted to a regulatory entity, pursuant to this paragraph, shall be considered confidential trade secret information that is 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).
(16) This subdivision shall not be applicable to the relationship between any optometrist employee and the employer medical group, or the relationship between a medical group exclusively contracted with a health plan regulated by the Department of Managed Health Care and that health plan.
(e) No registered dispensing optician may have any membership, proprietary interest, coownership, or profit sharing arrangement either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist, except as permitted under this section.
(f) Nothing in this section shall prohibit a person licensed under Chapter 5 (commencing with Section 2000) or its professional corporation from contracting with or employing optometrists,

ophthalmologists, or optometric assistants and entering into a contract or landlord tenant relationship with a health plan, an optical company, or a registered dispensing optician, in accordance with Sections 650 and 654 of this code.
(g) Any violation of this section constitutes a misdemeanor as to such person licensed under Chapter 7 (commencing with Section 3000) of this division and as to any and all persons, whether or not so licensed under this division, who participate with such licensed person in a violation of any provision of this section.
SEC. 3.
Section 2546.2 of the Business and Professions Code is amended to read:
2546.2.
All references in this chapter to the division shall mean the State Board of Optometry.
SEC. 4.
Section 2546.9 of the Business and Professions Code is amended to read:
2546.9.
The amount of fees prescribed in connection with the registration of nonresident contact lens sellers is that established by the following schedule:
(a) The initial registration fee shall be one hundred dollars ($100).
(b) The renewal fee shall be one hundred dollars ($100).
(c) The delinquency fee shall be twenty-five dollars ($25).
(d) The fee for replacement of a lost, stolen, or destroyed registration shall be twenty-five dollars ($25).
(e) The fees collected pursuant to this chapter shall be deposited in the Dispensing Opticians Fund, and shall be available, upon appropriation, to the State Board of Optometry for the purposes of this chapter.
SEC. 5.
Section 2550.1 of the Business and Professions Code is amended to read:
2550.1.
All references in this chapter to the board or the Board of Medical Examiners or division shall mean the State Board of Optometry.
SEC. 6.
Section 2554 of the Business and Professions Code is amended to read:
2554.
Each registrant shall conspicuously and prominently display at each registered location the following consumer information:
“Eye doctors are required to provide patients with a copy of their ophthalmic lens prescriptions as follows:
Spectacle prescriptions: Release upon completion of exam.
Contact lens prescriptions: Release upon completion of exam or upon completion of the fitting process.
Patients may take their prescription to any eye doctor or registered dispensing optician to be filled.
Optometrists and registered dispensing opticians are regulated by the State Board of Optometry. The State Board of Optometry receives and investigates all consumer complaints involving the practice of optometry and registered dispensing opticians. Complaints involving a California-licensed optometrist or a registered dispensing optician should be directed to:
California State Board of Optometry
Department of Consumer Affairs
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Phone: 1-866-585-2666 or (916) 575-7170
Email: optometry@dca.ca.gov
Website: www.optometry.ca.gov”
SEC. 7.
Section 2556 of the Business and Professions Code is amended to read:
2556.
(a) Except as authorized by Section 655, it is unlawful for a registered dispensing optician to do any of the following: to advertise the furnishing of, or to furnish, the services of an optometrist or a

physician and surgeon, to directly employ an optometrist or physician and surgeon for the purpose of any examination or treatment of the eyes, or to duplicate or change lenses without a prescription or order from a person duly licensed to issue the same. For the purposes of this section, “furnish” does not mean to enter into a landlord-tenant relationship of any kind.
(b) Notwithstanding Section 125.9, the board may, by regulation, impose and issue administrative fines and citations for a violation of this section or Section 655, which may be assessed in addition to any other applicable fines, citations, or administrative or criminal actions.
SEC. 8.
Section 2556.1 is added to the Business and Professions Code, to read:
2556.1.
All licensed optometrists in a setting with a registered dispensing optician shall report the business relationship to the State Board of Optometry, as determined by the board. The State Board of Optometry shall have the authority to inspect any premises at which the business of a registered dispensing optician is co-located with the practice of an optometrist, for the purposes of determining compliance with Section 655. The inspection may include the review of any written lease agreement between the registered dispensing optician and the optometrist or between the optometrist and the health plan. Failure to comply with the inspection or any request for information by the board may subject the party to disciplinary action. The board shall provide a copy of its inspection results, if applicable, to the Department of Managed Health Care.
SEC. 9.
Section 2556.2 is added to the Business and Professions Code, to read:
2556.2.
(a) Notwithstanding any other law, subsequent to the effective date of this section and until January 1, 2019, any individual, corporation, or firm operating as a registered dispensing optician under this chapter before the effective date of this section, or an employee of such an entity, shall not be subject to any action for engaging in conduct prohibited by Section 2556 or Section 655 as those sections existed prior to the effective date of this bill, except that a registrant shall be subject to discipline for duplicating or changing lenses without a prescription or order from a person duly licensed to issue the same.
(b) Nothing in this section shall be construed to imply or suggest that a person registered under this chapter is in violation of or in compliance with the law.
(c) This section shall not apply to any business relationships prohibited by Section 2556 commencing registration or operations on or after the effective date of this section.
(d) Subsequent to the effective date of this section and until January 1, 2019, nothing in this section shall prohibit an individual, corporation, or firm operating as a registered dispensing optician from engaging in a business relationship with an optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) before the effective date of this section at locations registered with the Medical Board of California before the effective date of this section.
(e) This section does not apply to any administrative action pending, litigation pending, cause for discipline, or cause of action accruing prior to September 1, 2015.
(f) Any health plan, as defined in Section 655, subject to this section shall report to the State Board of Optometry in writing that (1) 15 percent of its locations no longer employ an optometrist by January 1, 2017, (2) 45 percent of its locations no longer employ an optometrist by August 1, 2017, and (3) 100 percent of its locations no longer employ an optometrist by January 1, 2019. The board shall provide those reports as soon as it receives them to the director and the Legislature. The report to the Legislature shall be submitted in compliance with Section 9795 of the Government Code.
SEC. 10.
Section 2567 of the Business and Professions Code is amended to read:
2567.
(a) The provisions of Article 19 (commencing with Section 2420) and Article 20 (commencing with Section 2435) of Chapter 5 which are not inconsistent or in conflict with this chapter apply to the issuance and govern the expiration and renewal of certificates issued under this chapter. All fees collected from persons registered or seeking registration under this chapter shall be paid into the Dispensing Opticians Fund, and shall be available, upon appropriation, to the State Board of Optometry for the purposes of this chapter. Any moneys within the Contingent Fund of the Medical

Board of California collected pursuant to this chapter shall be deposited in the Dispensing Opticians Fund.
(b) The board may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this chapter.
SEC. 11.
Section 3010.5 of the Business and Professions Code is amended to read:
3010.5.
(a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members and one of the nonpublic members shall be an individual registered as a dispensing optician. The registered dispensing optician member shall be registered pursuant to Chapter 5.5. (commencing with Section 2550) and in good standing with the board.
Six members of the board shall constitute a quorum.
(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to former Section 3010. The board may enforce any disciplinary actions undertaken by that board.
(c) 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. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.
SEC. 12.
Section 3011 of the Business and Professions Code is amended to read:
3011.
Members of the board, except the public members and the registered dispensing optician member, shall be appointed only from persons who are registered optometrists of the State of California and actually engaged in the practice of optometry at the time of appointment or who are members of the faculty of a school of optometry. The public members shall not be a licentiate of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.
No person except the registered dispensing optician member, including the public members, shall be eligible to membership in the board who is a stockholder in or owner of or a member of the board of trustees of any school of optometry or who shall be financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale.
No person shall serve as a member of the board for more than two consecutive terms.
A member of the faculty of a school of optometry may be appointed to the board; however, no more than two faculty members of schools of optometry may be on the board at any one time. Faculty members of the board shall not serve as public members.
SEC. 13.
Section 3013 of the Business and Professions Code is amended to read:
3013.
(a) Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.
(b) Vacancies occurring shall be filled by appointment for the unexpired term.
(c) The Governor shall appoint three of the public members, five members qualified as provided in Section 3011, and the registered dispensing optician member as provided in Section 3010.5. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.
(d) No board member serving between January 1, 2000, and June 1, 2002, inclusive, shall be eligible for reappointment.
(e) For initial appointments made on or after January 1, 2003, one of the public members appointed by the Governor and two of the professional members shall serve terms of one year. One of the public members appointed by the Governor and two of the professional members shall serve terms of three years. The remaining public member appointed by the Governor and the remaining two professional members shall serve terms of four years. The public members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall each serve for a term of four years.
(f) The initial appointment of a registered dispensing optician member shall replace the optometrist member whose term expired on June 1, 2015.

SEC. 14.
Section 3020 is added to the Business and Professions Code, to read:
3020.
(a) There shall be established under the State Board of Optometry a dispensing optician committee to advise and make recommendations to the board regarding the regulation of a dispensing opticians pursuant to Chapter 5.5 (commencing with Section 2550). The committee shall consist of five members, two of whom shall be registered dispensing opticians, two of whom shall be public members, and one of whom shall be a member of the board. Initial appointments to the committee shall be made by the board. The board shall stagger the terms of the initial members appointed. The filling of vacancies on the committee shall be made by the board upon recommendations by the committee.
(b) The committee shall be responsible for:
(1) Recommending registration standards and criteria for the registration of dispensing opticians.
(2) Reviewing of the disciplinary guidelines relating to registered dispensing opticians.
(3) Recommending to the board changes or additions to regulations adopted pursuant to Chapter 5.5 (commencing with Section 2550).
(4) Carrying out and implementing all responsibilities and duties imposed upon it pursuant to this chapter or as delegated to it by the board.
(c) The committee shall meet at least twice a year and as needed in order to conduct its business.
(d) Recommendations by the committee regarding scope of practice or regulatory changes or additions shall be approved, modified, or rejected by the board within 90 days of submission of the recommendation to the board. If the board rejects or significantly modifies the intent or scope of the recommendation, the committee may request that the board provide its reasons in writing for rejecting or significantly modifying the recommendation, which shall be provided by the board within 30 days of the request.
(e) After the initial appointments by the board pursuant to subdivision (a), the Governor shall appoint the registered dispensing optician members and the public members. The committee shall submit a recommendation to the board regarding which board member should be appointed to serve on the committee, and the board shall appoint the member to serve. Committee members shall serve a term of four years except for the initial staggered terms. A member may be reappointed, but no person shall serve as a member of the committee for more than two consecutive terms.
SEC. 15.
Section 3021 is added to the Business and Professions Code, to read:
3021.
The board shall have rulemaking authority with respect to Chapter 5.45 (commencing with Section 2546) and Chapter 5.5 (commencing with Section 2550) in accordance with Section 3025. Regulations adopted pursuant to Chapter 5.45 (commencing with Section 2546) and Chapter 5.5 (commencing with Section 2550) by the Medical Board of California prior to the effective date of this section shall continue to be valid, except that any reference to the board or division contained therein shall be construed to mean the State Board of Optometry, unless the context determines otherwise.
SEC. 16.
Section 3023.1 is added to the Business and Professions Code, to read:
3023.1.
(a) The nonresident contact lens seller program established under Chapter 5.45 (commencing with Section 2546) and the registered dispensing optician, spectacle lens dispensing, and contact lens dispensing programs established under Chapter 5.5 (commencing with Section 2550) are hereby transferred from the jurisdiction of the Medical Board of California and placed under the jurisdiction of the State Board of Optometry.
(b) All the duties, powers, purposes, responsibilities, and jurisdictions of the Medical Board of California under Chapter 5.45 (commencing with Section 2546) and Chapter 5.5 (commencing with Section 2550) shall be transferred to the State Board of Optometry.
(c) For the performance of the duties and the exercise of the powers vested in the board under Chapter 5.45 (commencing with Section 2546) and Chapter 5.5 (commencing with Section 2550), the State Board of Optometry shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the Medical Board of California.

SEC. 17.

The Legislature finds and declares that Section 1 of this act imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to allow the State Board of Optometry and the Department of Managed Health Care to fully accomplish its goals, it is imperative to protect the interests of those persons submitting information to those departments to ensure that any personal or sensitive business information that this act requires those persons to submit is protected as confidential information.

SEC. 18.

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.

AB 684 Implementation

High Priority

1. Legislative Budget Change Proposal (BCP) for 2.0 positions: 0.9 position from the Medical Board's RDO allocation and 1.1 positions out of RDO budget currently used for the Medical Board's shared services agreement.
2. Hire an Assistant Executive Officer at the Board of Optometry that can assist with the implementation of the RDO program.
3. Develop legislative cleanup language to address Board concerns.

Short-Term

Priority Regulation Work

- Fees – The Medical Board was going to do a rulemaking packet to increase fees as well as a legislative proposal to increase fees in statute. The Administration and the Department will assist to raise the fees in statute, but Optometry Board staff will have to complete the rulemaking packet.
- Notification – Optometry Board staff will need to create a form for co-location notifications, write regulations, and develop procedures to process forms.
- Inspection – Optometry Board staff will need to prepare the rulemaking packet for the inspection program.

Logistics

- Applications/Forms - All applications and complaint forms will need to be updated. These include the obvious changes, but also updating pursuant to new bills (e.g., military bill, ITIN, etc.). The Medical Board was going to do this, but Optometry Board staff will now take over.
- DCA Outreach - Informing all DCA entities of the transfer of the RDO Program – mail room, cashiering, accounting, etc.
- Live Scan – Applicants will need to be informed that live scan results must be sent to the Optometry Board; notify DOJ/FBI of change for CORI purposes.
- Outreach to registrants – all existing fact sheets will need to be updated and new fact sheets will need to be created now that this 655 mess is resolved. RDOs and Optometrists will need to know what this means to them.
- Consumer Outreach – Both the Medical Board and the Optometry Board websites need to be updated so consumers know how to look up a registration and how to file a complaint. Since those BreEZe changes can't happen until July 2016-July 2017, it will need to be made very clear for consumers.
- Policies/Procedures – Optometry Board staff will need to update/create policy and procedure manuals to account for all changes – administrative, registrations, and enforcement
- Scripts – Board of Optometry staff will prepare staff scripts to address telephone calls pertaining to RDO Program in general and explain how AB 684 impacts them.
- DOI – changes will need to be made to CATS to be able to send cases to DOI (at minimum, include some kind of flag so DOI knows which is RDO and which is Optometry)
- Physical files – move all files (enforcement and licensing) from MBC and archives to optometry – may need to hire a mover

- Retention Schedule – Update retention schedule to reflect RDO program files, including enforcement, licensing, policies, procedures, etc.
- Electronic files – The Medical Board is looking into electronic files and how to transfer to Optometry – possibly through iCenter in BreEZe
- Staff Training – The Medical Board can train Optometry staff - hold training towards the end of the year.
- Pro-Rata – need to ensure pro-rata services are properly directed/performed
- Develop Nomination Process – the Board will have to approve a nomination process in order to make initial appointments to the RDO Advisory Committee
- Creation of Appointment Committee – An appointment committee will need to be created to vet the committee applications and make recommendations to the full Board for appointment.

Long Term

Staffing

- Hire additional staff for the RDO program based on higher fees.

Legislative/Regulatory Changes

- SB 800 (4/20/15 version) had several amendments pertaining to the RDO Program (RDOs/contact lens/spectacle lens/non-resident dispensers). However, these amendments were taken out of the omnibus bill and the Medical Board was going to continue working on the necessary legislative amendments. Optometry Board staff will now take these over.
- BPC Sections 2238 and 2239 – Medical Board staff were looking into leg proposals to apply 2238 and 2239 to RDO program – Optometry Board staff will now research this.
- Probation Costs – The Medical Board was able to charge probation costs under the Medical Board authority and was going to do a rulemaking packet to include these costs under the RDO program. Optometry Board staff will need to take this over.
- Disciplinary Guidelines – Currently, the RDO program does not have any disciplinary guidelines. Optometry Board staff will have to create these and prepare rulemaking packets.
- Sexual Offender Revocation – The Medical Board was working on statutory changes for this issue. Optometry Board staff will look into this for the RDO program.
- Overall Reg. Cleanup – Optometry Board staff will need to make all necessary changes to existing regulations showing the transfer of the RDO program.

Implementation Timeline

Task #	Task Name	Duration	Start	Finish	Predecessors
1	Leg. BCP	4 days	Fri 10/2/15	Wed 10/7/15	
2	AEO RPA Package	1 day	Thu 10/1/15	Thu 10/1/15	
3	HR Review and Approval	7 days	Fri 10/2/15	Mon 10/12/15	2
4	AEO Posting	10 days	Tue 10/13/15	Mon 10/26/15	3
5	Application Review	11 days	Wed 10/14/15	Wed 10/28/15	3
6	Schedule Interviews	1 day	Thu 10/29/15	Thu 10/29/15	5
7	Hold Interviews	2 days	Fri 10/30/15	Mon 11/2/15	6
8	Complete Hiring Process	14 days	Tue 11/3/15	Fri 11/20/15	7
9	AEO Start Date	1 day	Wed 12/2/15	Wed 12/2/15	
10	Research Fee Analysis Vendor, Process, Contract	30 days	Fri 10/2/15	Thu 11/12/15	
11	Fee Analysis	60 days	Fri 11/13/15	Thu 2/4/16	10
12	October Board Meeting	1 day	Fri 10/16/15	Fri 10/16/15	
13	Develop Legislative Fixes Proposals	7 days	Mon 10/19/15	Tue 10/27/15	12
14	Leg/Reg Committee Meeting	1 day	Fri 11/13/15	Fri 11/13/15	
15	Appointment of Advisory Committee	70 days	Mon 10/19/15	Fri 1/22/16	12
16	Finalize language proposal	3 days	Mon 11/16/15	Wed 11/18/15	14
17	November Board Meeting	1 day	Fri 11/20/15	Fri 11/20/15	
18	Find Author	7 days	Mon 11/23/15	Tue 12/1/15	17
19	Notification Form	1 day	Fri 10/2/15	Fri 10/2/15	
20	Rulemaking Packet	360 days	Mon 11/23/15	Fri 4/7/17	17
21	January Board Meeting	1 day	Fri 1/22/16	Fri 1/22/16	
22	Inspection Authority	365 days	Mon 11/23/15	Fri 4/14/17	17
23	Application/Forms Updates	30 days	Fri 10/9/15	Thu 11/19/15	
24	DCA Outreach	5 days	Mon 10/12/15	Fri 10/16/15	
25	Live Scan - Notify DOJ/FBI/Registrants	2 days	Wed 10/14/15	Thu 10/15/15	
26	Outreach to Registrants/Licensees	30 days	Mon 10/15/15	Fri 11/23/15	29
27	Consumer Outreach	30 days	Mon 10/15/15	Fri 11/23/15	29
28	Policies/Procedures	30 days	Mon 10/19/15	Fri 11/27/15	
29	FAQs, Fact Sheets, Scripts	10 days	Fri 10/2/15	Thu 10/15/15	
30	DOI	30 days	Mon 10/26/15	Fri 12/4/15	
31	Physical Files	30 days	Tue 11/24/15	Mon 1/4/16	
32	Retention Schedule	1 day	Fri 11/20/15	Fri 11/20/15	
33	Electronic Files	30 days	Tue 11/24/15	Mon 1/4/16	
34	Staff Training	2 days	Mon 12/7/15	Tue 12/8/15	
35	Pro-Rata	365 days	Mon 1/4/16	Fri 5/26/17	
36	Staffing	45 days	Mon 4/10/17	Fri 6/9/17	20
37	SB 800 Changes	250 days	Mon 10/3/16	Fri 9/15/17	
38	BPC Sections 2238 and 2239	250 days	Mon 10/3/16	Fri 9/15/17	
39	Probation Costs	250 days	Mon 10/3/16	Fri 9/15/17	

40	Disciplinary Guidelines	250 days	Mon 10/3/16	Fri 9/15/17	
41	Sexual Offender Revocation	250 days	Mon 10/3/16	Fri 9/15/17	
42	Overall Reg. Cleanup	250 days	Mon 10/3/16	Fri 9/15/17	
43	Board's Mission Statement	250 days	Mon 10/3/16	Fri 9/15/17	

RDO Advisory Committee
Nomination Process

1. Call for applications – staff sends letter and form requesting applications for vacant positions:
    a. Registered Dispensing Opticians – all registrants, CADO, NAOO
    b. Public Members – interested parties (mailing list, Social Media, Facebook, Twitter, public advocacy groups, etc.)
    c. Board Member
2. Applications due December 1, 2015. Applications collected by staff (discipline checks conducted on RDO applicants) and appropriately redacted for forwarding to Appointment Committee members for consideration.
3. Applicants invited to address the Appointment Committee at the appropriate meeting.
4. Appointment Committee Meeting (January 8, 2016)
    a. Candidates given opportunity to address Committee
    b. Individual members nominate candidates for vote by Committee
    c. Vote taken by show of hands
    d. Selected candidates' names submitted to Full Board for appointment recommendation
    e. Staff Memo included in Board packet with Committee's recommendation for appointment, including a brief synopsis of recommended members.
5. Full Board Meeting January 22, 2015
    a. Full Board votes to accept or reject Committee's recommendation for appointment.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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To: Board Members **Date:** October 16, 2015

From: Jessica Sieferman
Executive Officer **Telephone:** (916) 575-7184

Subject: **Agenda Item 5 –Discussion and Consideration of Potential Legislative and Regulatory Revisions Related to the Implementation of AB 684**

A. Conceptual Proposal to Revise Statutory Fee Limits

The RDO Program Fees are set in the following Business and Professions Codes:

- Non-Resident Contact Lens Dispensers: BPC Section 2546.9
- Registered Dispensing Opticians: BPC Section 2565
- Contact Lens Dispensers: BPC Section 2566
- Spectacle Lens Dispensers: BPC Section 2566.1

As explained in Agenda Item 4, several items are needed, including a fee analysis, in order to determine what the appropriate fees should be. Attached are the applicable BPC Sections and where they would need to be amended (Attachment 1).

B. Conceptual Proposal to Regulate Optical Companies; Reporting Requirements

In order to address the concern that optical companies are not regulated and there would be no ramifications if they broke the law, staff recommends adding the following language to BPC Section 655:

> Notwithstanding any other provision of law, the board may issue a citation and order of abatement to an optical company, an optometrist or a registered dispensing optician and that entity shall be subject to a fine not to exceed fifty thousand dollars ($50,000), for a violation of this section.

In addition there was a concern that there are no ramifications to the health plans if they fail to report and/or fail to meet the imposed deadlines. After speaking with DMHC, it was determined that BPC Section 1386(a)(9) would allow DMHC to impose discipline or administrative penalties to any health plan who violates the reporting requirements set forth in BPC Section 655.

However, as currently written, DMHC would need to inform the Board which health plans are required to report to the Board. Then the Board would have to inform DMHC which plans failed to report in order for DMHC to take appropriate action. In order to streamline the reporting requirement and shift the jurisdiction to the Board, Board staff proposes amending BPC Section 2556.2(f) (Attachment 2).

C. Proposed Revision to Section 655 of the Business and Professions Code Relating to the Lease Information to be Provided by Licensees

In order to address the redaction concerns related to personal information, Board staff recommends amending BPC Section 655 (d)(15) to the following:

> (15) The State Board of Optometry may inspect, upon request, an individual lease agreement pursuant to its investigational authority, and if such a request is made, the landlord or tenant, as applicable, shall promptly comply with the request. Failure or refusal to comply with the request for lease agreements within 30 days of receiving the request constitutes unprofessional conduct and is grounds for disciplinary action by the appropriate regulatory agency. ~~Only personal information as defined in Section 1798.3 of the Civil Code may be redacted prior to submission of the lease or agreement.~~ This section shall not affect the Department of Managed Health Care's authority to inspect all books and records of a health plan pursuant to Section 1381 of the Health and Safety Code.
> Any financial information contained in the lease submitted to a regulatory entity, pursuant to this paragraph, shall be considered confidential trade secret information that is 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).

D. Conceptual Regulatory Proposal to Implement Co-Location Reporting Requirements, Inspection Program, and Fee Increases

Co-Location Reporting Requirement:

Regulations will need to be drafted and approved in order to implement the co-location reporting requirements. A form will also need to be created for which licensees will use to report each co-location. Since no fees were tied to this form, any staff time used to process each form will be absorbed by the Board.

Inspection Program:

There are a variety of inspection programs throughout DCA; thorough research will need to be done in order to determine the most efficient and effective program for the Board. When drafting the regulations, items to consider should include inspection volume, frequency, scope, and cost. Inspection job duties will determine the classification of the inspectors.

Fee Increases:

In order to raise the fees to their statutory caps, a rulemaking packet will need to be submitted. If/When the statutory fees increase, another rulemaking packet will need to be submitted to raise fees again. While this may seem like duplicative work, it is necessary in order to sustain the RDO Fund.

Since these items require research, drafting, and further direction from the Board, Board staff requests these items be referred to the Legislation and Regulation Committee. This Committee is tentatively scheduled to meet on November 13, 2015 in Los Angeles. The Committee can draft language at that time and bring back to the November 20, 2015 Board meeting.

Attachments:

1. RDO Program Fee Schedule
2. BPC Section 2556.2(f) – from AB 684

RDO Program Statutory Fees

2546.9.

The amount of fees prescribed in connection with the registration of nonresident contact lens sellers is that established by the following schedule:

(a) The initial registration fee shall ~~be~~ not exceed ~~one~~ _____hundred dollars ($~~1~~ _00).

(b) The renewal fee shall ~~be~~ not exceed ~~one~~ ____hundred dollars ($~~1~~ _00).

(c) The delinquency fee shall be ~~twenty-five~~ __dollars ($~~25~~ _).

(d) The fee for replacement of a lost, stolen, or destroyed registration shall be twenty-five dollars ($25).

(e) The fees collected pursuant to this chapter shall be deposited in the Dispensing Opticians Fund, and shall be available, upon appropriation, to the Medical Board of California for the purposes of this chapter.

(Amended by Stats. 2000, Ch. 836, Sec. 17. Effective January 1, 2001.)

2565.

The amount of fees prescribed in connection with the registration of dispensing opticians shall be as set forth in this section unless a lower fee is fixed by the division:

(a) The initial registration fee ~~is~~ shall not exceed ~~one~~ ___hundred dollars ($~~1~~ _00).

(b) The renewal fee ~~is~~ shall not exceed ~~one~~ __hundred dollars ($~~1~~ _00).

(c) The delinquency fee ~~is~~ shall not exceed ~~twenty-five~~ ____dollars ($~~25~~ __).

(d) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

This section shall become operative on January 1, 1988.

(Amended by Stats. 1999, Ch. 655, Sec. 33.3. Effective January 1, 2000.)

2566.

The amount of fees prescribed in connection with certificates for contact lens dispensers, unless a lower fee is fixed by the division, is as follows:

(a) The application fee for a registered contact lens dispenser shall ~~be~~ not exceed ~~one~~ hundred dollars ($100).

(b) The biennial fee for the renewal of certificates shall ~~be fixed by the division in an amount~~ not to exceed ~~one~~ ___hundred dollars ($~~1~~ _00).

(c) The delinquency fee ~~is~~ shall not exceed ~~twenty-five~~ ___dollars ($~~25~~ __).

(d) The division may by regulation provide for a refund of a portion of the application fee to applicants who do not meet the requirements for registration.

(e) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

This section shall become operative on January 1, 1988.

(Amended by Stats. 1999, Ch. 655, Sec. 34. Effective January 1, 2000.)

2566.1.

The amount of fees prescribed in connection with certificates for spectacle lens dispensers shall be as set forth in this section unless a lower fee is fixed by the division:

(a) The initial registration fee ~~is~~ shall not exceed ~~one~~ ___hundred dollars ($~~1~~ _00).

(b) The renewal fee shall ~~be~~ not exceed ~~one~~ ___hundred dollars ($~~1~~ _00).

(c) The delinquency fee ~~is~~ shall not exceed ~~twenty-five~~ ___dollars ($~~25~~ __).

(d) The fee for replacement of a lost, stolen or destroyed certificate is twenty-five dollars ($25).

(Amended by Stats. 1999, Ch. 655, Sec. 35. Effective January 1, 2000.)

Conceptual Amendments
BPC Section 2556.2

2556.2. (a) Notwithstanding any other law, subsequent to the effective date of this section and until January 1, 2019, any individual, corporation, or firm operating as a registered dispensing optician under this chapter before the effective date of this section, or an employee of such an entity, shall not be subject to any action for engaging in conduct prohibited by Section 2556 or Section 655 as those sections existed prior to the effective date of this bill, except that a registrant shall be subject to discipline for duplicating or changing lenses without a prescription or order from a person duly licensed to issue the same.

(b) Nothing in this section shall be construed to imply or suggest that a person registered under this chapter is in violation of or in compliance with the law.

(c) This section shall not apply to any business relationships prohibited by Section 2556 commencing registration or operations on or after the effective date of this section.

(d) Subsequent to the effective date of this section and until January 1, 2019, nothing in this section shall prohibit an individual, corporation, or firm operating as a registered dispensing optician from engaging in a business relationship with an optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) before the effective date of this section at locations registered with the Medical Board of California before the effective date of this section.

(e) This section does not apply to any administrative action pending, litigation pending, cause for discipline, or cause of action accruing prior to September 1, 2015.

(f) Any Registered Dispensing Optician who owns a health plan that employs optometrists, ~~, as defined in Section 655,~~ subject to this section shall report to the State Board of Optometry in writing that (1) 15 percent of its locations no longer employ an optometrist by January 1, 2017, (2) 45 percent of its locations no longer employ an optometrist by August 1, 2017, and (3) 100 percent of its locations no longer employ an optometrist by January 1, 2019. The board shall provide those reports as soon as it receives them to the director and the Legislature. The report to the Legislature shall be submitted in compliance with Section 9795 of the Government Code.

(1) Notwithstanding any other provision of law, the board may issue a citation and order of abatement to a registered dispensing optician and that entity shall be subject to a fine not to exceed fifty thousand dollars ($50,000) for a violation of this section.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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To: Board Members **Date:** October 16, 2015

From: Dr. Madhu Chawla, OD
President **Telephone:** (916) 575-7170

Subject: **Agenda Item 6 – Future Agenda Items**

The Board may discuss and decide whether to place a matter on the agenda of a future meeting. Future agenda items currently include, but are not limited to, the following:

- Update on Online Refractions Pursuant to the Laws Governing Optometry in the State of California
- Update on Budget Change Proposal for Association of Regulatory Boards of Optometry's 2016 Annual Meeting
- National Board of Examiners (NBEO) and national board exams (parts I, II, and III)
- Enforcement Case Prioritization
- Update on Out of State Travel Request for attendance to the Association of Regulatory Boards of Optometry 2016 Annual Meeting
- Petition for Reduction of Penalty or Early Termination of Probation
- Update on the Supreme Court Decision Regarding the North Caroline Board of Dental Examiners v. Federal Trade Commission
- Staff Outreach for CE at schools
- Control over scope of practice – what other states are doing
- Blue ribbon panel on children's vision
- TPA certification; discussion on minimum certification to practice

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To: Board Members

Date: October 16, 2015

From: Madhu Chawla, OD
Board President

Telephone: (916) 575-7170

Subject: **Agenda Item 7 – Adjournment**

Adjournment