STATE BOARD OF OPTOMETRY
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Meeting Minutes
Monday, April 11, 2011
Southern California College of Optometry
TVCI Conference Room
2575 Yorba Linda Boulevard
Fullerton, CA 92831-1699

Members Present
Lee Goldstein, OD, MPA
Board President
Alejandro Arredondo, OD
Board Vice President
Monica Johnson
Board Secretary
Susy Yu, OD, MBA, FAAO
Fred Naranjo, MBA, Public Member
Kenneth Lawenda, OD
Alexander Kim, MBA, Public Member
Edward Rendon, MA, Public Member

Members Absent (Excused)
Donna Burke, Public Member

Staff Present
Mona Maggio, Executive Officer
Margie McGavin, Enforcement Manager
Andrea Levia, Policy Analyst
Jessica Sieferman, Probation Monitor
Jeff Robinson, Lead Licensing Analyst
Michael Santiago, Staff Counsel
Char Sachson, Deputy Attorney General

Guest List
On File

Monday, April 11, 2011
10:00 a.m.
FULL BOARD OPEN SESSION

1. Call to Order – Establishment of a Quorum

Board President, Lee Goldstein, O.D. called the meeting to order at 10:04 a.m.
Dr. Goldstein called roll and a quorum was established.

Board member, Edward Rendon arrived at 10:20 a.m.

Board member, Monica Johnson arrived at 12:30 p.m.

2. President's Report

A. *Welcome and Introductions*
Dr. Goldstein welcomed everyone in attendance. He asked the Board members and members of the public to introduce themselves.

B. *DCA Director and Board President Conference Calls*
Dr. Goldstein announced that the Department of Consumer Affairs (DCA) Director and board presidents' meet via teleconference on the 2nd Tuesday of each month. This month's primary concern is continuing competency. He noted that he wants enforcement, pending legislation and regulation, and budget concerns to be on the next agenda.

C. *California Optometric Association (COA) Legislative Day, March 23, 2011*
Dr. Goldstein reported that he and Dr. Kenneth Lawenda attended the COA Legislative Day

conference (Dr. Goldstein representing his society). The State Treasure spoke and provided a non-partisan view of the state budget. California is in the bottom five of having the least number of employees per capita of citizens.

D. *Other*

Fred Naranjo represented the Board at the Cal Berkeley School of Optometry workshop for senior students. Mr. Naranjo commended Jeff Robinson on providing great workshops for the students. He was pleased to see that the students were happy to have a Board member present and that they asked many questions. Some of the students concerns were as follows:

- Students requested a summary of the laws and regulations they are required to know.
- Misunderstanding regarding their birth date and paying their first renewal fee.
- Students would like to meet with Board staff early in their senior year rather than later in that year.

3. Approval of Board Meeting Minutes

A. *October 22, 2010 Meeting*

B. *January 11, 2011 Meeting*

This agenda item was continued to the Board's August meeting.

4. Director's Report

A representative from the Department of Consumer Affairs, Cindy Kanemoto provided a report on behalf of the Director, Brian Stiger. She thanked Executive Officer, Mona Maggio and staff for their assistance with all of the ongoing DCA projects (probation monitoring, BreEZe project, etc.).

Ms. Kanemoto's update included:

- An explanation of the Governor's hiring freeze exemption. She described the process for requesting an exemption and emphasized the necessity of proving a critical need justification for the requested position(s)
- She announced that the DCA is in its 3rd phase of developing measurements for the Consumer Protection Enforcement Initiative (CPEI) which should be posted to the Department's website by the end of April
- She explained that the DCA is requesting for each board to provide an enforcement program update, so the Department is aware of improvements made at each board. The Department will provide a more extensive enforcement report at the next meeting which will include an overview of the enforcement statistics gathered with other information regarding enforcement processes
- The Department encourages the Board to move forward with is its regulations to improve and strengthen their enforcement unit, and provide the Executive Officer with the tools needed to enhance their enforcement program
- The Department thanks the Board for moving forward with Senate Bill (SB) 1441 Uniform Standards and incorporating the necessary language into the disciplinary guidelines. The Department encourages the Board to continue to move forward with noticing the regulations and holding a hearing
- An update on the Vehicle Executive Order. On January 27, 2011 an Executive Order was issued requesting that each department look into home storage permits for state vehicles and withdraw those that are nonessential
- She thanked the Board for all of their assistance with the BreEZE project. Between April and August the program will be securing the final contract approvals between the Department of General Services and the Legislature. The contract is expected to begin in August of this year
- An overview of the Executive Officer (EO) Evaluation and Study. The Department receives several requests from Boards asking to increase the Executive Officer's salary. These requests must be approved by the Department of Personnel Administration (DPA) and the Governor's Office. The DCA wanted to assure that all Board EO's salary is reviewed to determine if the position is at the appropriate salary. Therefore, the Department has entered into a contract to

review all EO salaries. Until the study is completed (projected in August), the Department will not be moving forward with increasing EO's salaries

5. Executive Officer's Report

Ms. Maggio announced the upcoming Board Meeting dates which are as follows:

• June 21, 2011 (Enforcement)	Junipero Serra State Building	Los Angeles, CA.
• August 5, 2011	DCA Hearing Room	Sacramento, CA
• November 4, 2011	TBD	Southern California

Board Members

Ms. Maggio provided an overview of the Board member appointment dates, expiration dates, and re-appointments. Dr. Goldstein informed the Board that he's asking the Governor's office to make appointment decisions as close to June 1 as possible to avoid agenda stalling.

A. *Budget Update*

Ms. Maggio reported on the 2010/2011 Fiscal Year (FY) budget. The Board's budget authority for the 2010/2011 fiscal year is $1,651,385. Expenditure projections indicate that at the end of the FY, the Board anticipates an unexpended reserve in the amount of $179,654. The expenditure projections for the remainder of the FY indicate the Board will not exceed its current budget authority.

B. *Board Operations*

Ms. Maggio reported on the BreEZe project, the office move, personnel issues, sunset review, and the Board's website.

BreEZe

Ms. Maggio acknowledged that Policy Analyst, Andrea Leiva and Probation Monitor, Jessica Sieferman are serving on the BreEZe project. Ms. Leiva serves on the forms project (standardized forms for entire department), and Ms. Sieferman serves as a subject matter expert on the BreEZE database development. Enforcement Analyst, Cheree Kimball also served on the project.

Ms. Leiva and Ms. Sieferman provided overviews of their projects.

Move

Ms. Maggio explained that the permits have been obtained. It is anticipated that construction will be completed and we will be moved in by early to mid June. $125,000 was placed in the architectural revolving fund (ARF) for the costs associated with the construction and move, projected costs are $80,000. Thus far, the project is well under our projected costs. Once complete the additional space affords the Board the room to accommodate all staff positions in one office as well as provide opportunity for future growth.

Personnel

Ms. Maggio reported the Enforcement Manager, Margie McGavin has accepted a position as the Enforcement Program Coordinator with the Bureau of Electronic & Appliance Repair, Home Furnishings and Thermal Insulation. Her last day with the Board of Optometry is April 22, 2011. Margie and her contributions to the Board and its Enforcement Program will be greatly missed by staff, members, and constituents.

Board Member, Dr. Kenneth Lawenda provided a personal thank you to Margie and the other members acknowledged agreement.

Enforcement Technician, Dillon Christensen's limited term office technician position ends August 21, 2011. Staff is working with Personnel and Budgets to determine if the Board would be able to continue to keep Dillon on staff with hopes that a budget change proposal (BCP) can be drafted and approved to make this position permanent.

Sunset Review
Ms. Maggio advised that the Board of Optometry is not scheduled for review until January 1, 2014. However, staff is monitoring the questions and issues the Committee is asking those boards going through the current review process.

Website
Ms. Maggio announced that Ms. Leiva has made many additions and updates to the Board's website since the last Board Meeting. Ms. Leiva has also worked on redesigning and updating the icons for Join Our Mailing List; Expert Witness Recruitment and the Customer Satisfaction Survey. Her efforts have made the icons more "eye catching".

Ms. Maggio commended Ms. Leiva's work on updating the Board's law book. The law book is now formatted differently, easy to follow and up-to-date.

6. Review and Possible Approval of the Records Retention Schedule

Ms. Maggio provided an overview of the records retention schedule status. The Board had not had an updated retention schedule since 2002. Enforcement Analyst, Lydia Bracco worked with staff and Ms. Maggio to update the schedule with respect to both paper and electronic files. Ms. Maggio requested the Board review and approve the records retention schedule.

Dr. Goldstein requested that Ms. Maggio highlight the major changes which are as follows:

- The addition of electronic record
- In regards to licensing: the breaking out further of the applicant examination information, foreign applicant information, laws and regulations information, and the addition of a deceased application file
- In regards to enforcement: the breaking out further of the disciplinary information, complaint file information, and the non-jurisdictional information

Board Member, Dr. Susy Yu inquired as to whether or not the department is shifting towards the elimination of paper records. Ms. Maggio explained that the use of both paper and electronic will remain in place.

Board Member, Fred Naranjo inquired about what security measure the department uses to protect confidential data. Ms. Sieferman provided and brief overview of the security measures in place.

Ms. Kanemoto asked, on behalf of the Department, if staff had referred to the new policy while preparing the records retention schedule. Ms. Sieferman and Ms. Maggio confirmed that they did.

Kenneth Lawenda moved to approve the records retention schedule. Alejandro Arredondo seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		

7. Review and Possible Approval of the Disciplinary Guidelines

Ms. Sieferman provided an overview of the disciplinary guidelines and uniform standards.

A. *SB 1441 Uniform Standards*

Ms. Sieferman explained that the first 12 uniform standards will be incorporated in the Board's Disciplinary Guidelines. The remaining three standards only apply to Boards with diversion programs and thus will not be incorporated.

Ms. Sieferman reported that there has been a great deal of opposition from various Boards and Bureaus throughout DCA, regarding Uniform Standard #4 (Drug Testing Standards) which has to do with the frequency of testing. We are currently at the standard which is 104 times during the first year and 50 times every year thereafter. Due to the continued opposition on this, the Subcommittee met on March 9, 2011 to discuss the proposed amendments. The amendments were approved by the Subcommittee. Ms. Sieferman provided the rational for their amendments as well as their proposed final amendments. The amendments reduce the frequency of testing quite a bit as well as break them down into levels of testing. The amendments also include five exemptions, which will allow more flexibility in the frequency of testing. The vote to adopt the amendments is scheduled for today.

B. *Revised Disciplinary Guidelines*

Ms. Sieferman stated that the Board's Disciplinary Guidelines have been revised to incorporate Senate Bill (SB) 1441 Uniform Standards which promote consistency, and provide further clarification of conditions. She noted that several comments, previously made, by Dr. Goldstein and Deputy Attorney General, Char Sachson, were incorporated into the guidelines. Ms. Sieferman explained that the main recommended changes by Ms. Sachson, which had to do with the wording of the uniform standards, couldn't be altered.

Dr. Goldstein questioned, with respect to substance abuse, what difference will these changes make for the Board? Ms. Sieferman responded that the most significant change is providing the Board options and flexibility in deciding the frequency of testing. Testing is quite expensive for the probationers and some cases don't necessitate the same testing frequency.

Dr. Yu asked if the wording gives the Board the option of increasing testing. Ms. Sieferman clarified that it does give the Board the option and authority to increase testing frequency.

Board Member, Alexander (Alex) Kim, Ms. Sieferman, and Ms. McGavin discussed the process of this compromise with regards to the legislature. There have been many comments taken from both sides, so the frequency that will be voted on today, is a compromise that both sides have agreed to.

Dr. Lawenda asked if California is more stringent then other states. Ms. Sieferman responded that currently (at the104) California is at the top, if not the top for testing frequency.

Board Member, Dr. Alejandro (Alex) Arredondo asked if we are reimbursed for the testing. Ms. Sieferman replied that the Board does not pay for the testing. It is the sole responsibility of the probationer to pay for the substance abuse tests.

Alex Kim moved to accept the Uniform Standards, and approve the new Disciplinary Guidelines. Alex Arredondo seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		

8. Review and Possible Approval of the Case Management Requirement for Glaucoma Certification

Dr. Goldstein continued this agenda until 12:30 p.m., when Board member, Monica Johnson would be present.

Legal Counsel, Mr. Santiago provided an overview.

Pursuant to CCR Section 1571, the accredited California Schools and Colleges of Optometry must cooperatively develop the Case Management Course and Grand Rounds Program, which then must be approved by the Board.

On March 2, 2011 and March 18, 2011, representatives from the University of California, Berkeley Schools of Optometry, the Southern California College of Optometry, and Western University of Health Sciences, College of Optometry met to develop the glaucoma courses.

Mr. Santiago advised that if the Board has any substantive changes that they present them to the colleges for discussion before submitting the final program.

A. *Case Management Course*

The curriculum was developed by the three schools of optometry.

Dr. Goldstein announced the participants of the curriculum workgroup who are as follows:

Berkeley School of Optometry
Patsy Harvey, O.D.
Carl Jacobsen, O.D.

Southern California College of Optometry
David Sendrowski, O.D.
George W. Comer, O.D.

Western University of Health Sciences, College of Optometry
Maryke Neiberg, O.D.
Donald Egan, O.D.

Dr. Goldstein invited the participants present to comment. They discussed the case management requirement, course flexibility and curriculum, expectations, testing format and consistency of materials.

Dr. Lawenda asked if there is a preferable way via statistical studies of taking the courses (i.e. didactically or online).

Dr. Goldstein invited the participants to talk about the Grand Rounds Program. The goal of the Grand Rounds Program is to assist California optometrists in becoming glaucoma certified pursuant to CCR Section 1571. The objectives are:

1) Present a variety of patients selected for maximum educational value
2) Evaluate and analyze live patients
3) Develop contemporary treatment and management plans, including referrals when appropriate for medical or surgical consultation
4) Facilitate learning environment through open discussions
5) Demonstrate proficiency through a competency exam.

Dr. Goldstein provided an overview of the various methods of becoming certified to treat glaucoma under SB 1406 (Preceptorship, Case Management Course, and Grand Rounds Program).

Dr. Lawenda and Ms. Leiva inquired if taking these courses would apply towards continuing education (CE) credit requirements. Board members, staff, and guests from the optometry schools discussed this idea. Dr. Goldstein continued this question to the next meeting for further discussion.

Kenneth Lawenda moved to approve the case management requirement for glaucoma certification. Monica Johnson seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		
Ms. Johnson	**X**		

9. Examination/Licensing Program Report

Lead Licensing Analyst, Jeff Robinson provided an overview on this agenda item.

A. *California Laws and Regulations Examination (CLRE)*

Mr. Robinson reported that Board staff has been working with Psychological Services, Inc. (PSI), the Board's computer-based testing vendor, in order to begin providing examination invitations for testing eligibility via e-mail. Most candidates are in a transition period at the time they submit an application. E-mailing eligibility notices will allow candidates to receive this important information regardless of their current location, and should increase efficiency.

Mr. Robinson added that the Board's 2011 Laws and Regulations book is now only one document on the website, not multiple links which created confusion. Staff is hopeful that studying for the CLRE will now be easier for the candidates.

B. *CAS to ATS Conversion*

Mr. Robinson announced that staff is working with the DCA Consumer Affairs System (CAS) and Applicant Tracking System (ATS) for a conversion of records from CAS to ATS. The CAS and ATS units of the Office of Information Services (OIS) held a "Retro Renewals Fingerprint Project" meeting on February 2, 2011 for several of its boards, including optometry. He explained that we are in the process of re-fingerprinting most of our licensees because they did not have FBI clearance which is now required of all our licensees. This conversion will allow licensing staff to export the fingerprint data of those licensees into CAS and provide them with the ability to verify those who have met the fingerprint requirement.

C. *Student Outreach*

Mr. Robinson reported that student outreach has formerly been provided to the graduating classes of the optometry schools and colleges. Recently, there have been staff discussions about whether or not it's important to provide the licensing process information to the graduating classes, since most likely they already know this information. It was decided, during these discussions, that the 3rd year students would benefit most from this particular outreach. Licensing staff are in the process of working with the schools to facilitate outreach to the 3rd year students.

D. *Program Statistics and Performance Measures*

Mr. Robinson presented the number of license applications received, those pending completion, and optometrists who were issued licenses/permits from 11/10 through 03/11. The Board has been working with the DCA 'Licensing for Job Creation (LJC) unit on statistics to find out how quickly we license optometrists and get them into the workforce. He explained that the data does not lend itself well to measurement in most cases because many of the new graduates do residencies upon graduation and are not interested in becoming licensed right away. Also, some graduates become licensed in other states.

Board members and staff discussed the number of applicants with "sitting" applications due to residency in another state, the length of time applications and exam scores are maintained via retention schedule and weeding out dead files.

Dr. Goldstein opened the floor to questions from members and the public. There were no questions.

10. Enforcement Program Report

Ms. McGavin provided an overview.

A. *Unlicensed Activity/Outreach to California District Attorneys*

Ms. McGavin reported that Board staff continues to enforce unlicensed activity when it's reported to staff. Since 2010, the Board has received approximately 20 complaints against unlicensed vendors (retail stores, tattoo parlors, gas stations, etc.) selling cosmetic contact lenses without a prescription.

She announced that on February 24, 2011, the Department hosted a training conference with the California District Attorney Association's (CDAA). At this training, staff members were able to discuss this information with the District Attorneys. Enforcement Analysts, Brianna Miller and Ms. Kimball were invited to present this information at the Northern California Consumer Protection Committee's roundtable discussion on March 4, 2011 in Berkeley.

B. *CLEAR Training*

Ms. McGavin stated that in February 2011, Fingerprint Coordinator, Lydia Bracco, Ms. Miller and Ms. Sieferman attended the Council on Licensure, Enforcement and Regulation (CLEAR), National Certified Investigator/Inspector Training (NCIT) Basic Program sponsored by the DCA. This was a three-day program that covered many topics regarding professional conduct and administrative law and the regulatory process. Enforcement Technician, Dillon Christensen has been scheduled to attend the next Basic NCIT in April 2011. After his training, the entire enforcement unit will have received this training.

C. *Fingerprint Program*

California Code of Regulations Section 1525.1 states, "(a) As a condition of renewal for a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, such licensee shall furnish to the Department of Justice (DOJ) a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal criminal offender record information search conducted through the DOJ."

Ms. McGavin explained that licensees have indicated that this language is unclear. Thus, to alleviate confusion regarding optometrists needing their fingerprints completed, staff proposes clarifying changes to regulation 1525.1.

She reported that staff continues to streamline the fingerprinting process. The Office of Information Services (OIS) is coordinating the transfer of records from CAS (Consumer Affairs System) into ATS (Applicant Tracking System) to reflect compliance with the fingerprint requirement. The transfer will commence once OIS has communicated with the affected DCA boards and bureaus, which is anticipated in April 2011.

She added that the Board is implementing a plan to insert fingerprint requirement notices into renewal notice envelopes. Three things must first be accomplished in order for the requirement notices to be executed. They are:

1) The Board's Executive Officer will approve the language of the notification.
2) Staff will contact DCA, Digital Print Services to reproduce the notification.
3) Upon completion of reproduction, the form will be forwarded to the Production Support Unit (PSU). PSU will then request Employment Development Department (EDD) to insert, assemble and mail the renewal notices, with the notification, on behalf of the Board.

D. *Probation Program*

Ms. McGavin reported that Ms. Sieferman has been active in conducting probation compliance and orientation interviews at the Division of Investigation (DOI) offices in Sacramento and Hayward, California. These interviews have proved to build stronger relationships (i.e. improved communication, eliminated confusion regarding probation conditions, and established a stronger understanding of the probation requirements). These improvements assist the Board in ensuring and maintaining compliance.

Ms. Sieferman continues to receive Biological Fluid Testing (BFT) through Phamatech, Inc., DCA's contracted vendor. The Board's testing frequency has complied with the frequency outlined in DCA's Uniform Standard #4: 104 times during the first year, and 50+ times during every year thereafter. However, due to the changes previously discussed, the frequency of testing will comply with the amended adopted guidelines.

The probationers subject to BFT received a written notification from the Board and Phamatech announcing a change in Phamatech's log-in procedure. This change was necessary because licensees waiting until the last hour to log-in to Pharmatech were having difficulty finding a collection site open. Consequently, Phamatech's log-in window has changed from 24 hours to 12 hours per day.

Ms. McGavin reported that Phamatech has corrected reporting inconsistencies experienced when reporting their results to the Board.

In addition to submitting BFT, probationers are required to attend some form of group support meetings throughout their entire probation term. Last quarter, Ms. Sieferman attended both Narcotics Anonymous and Alcoholics Anonymous meetings in order to obtain a better understanding of the offerings of these organizations, and experiences the probationers endure while participating in their programs.

Ms. McGavin announced that Ms. Sieferman, Ms. Maggio and staff from other boards and bureaus completed the creation of DCA's first probation monitoring training course. The two day training course was held on February 28 and March 1, 2011. Ms. Sieferman, Ms. Maggio, and Ms. Kimball each instructed portions of the course.

Participants of this course were introduced to a new resource, the Probation Monitoring Forum, created by Ms. Sieferman. This forum connects Probation Monitors throughout DCA in order to share information such as forms/reports and pertinent as well as general information pertaining to probation monitoring.

Ms. McGavin presented Probation Program Statistics for the Board.

E. *Statistics/Performance Measure*

Ms. McGavin presented an enforcement statistic overview. She announced that the optometry performance measures, for the second quarter of the 2010/2011 fiscal year, have been posted on the Department of Consumer Affairs Website. This data represents complaints and investigations in process for October 2010 through December 2010.

The intake and investigation process has an average of 92 days from receipt of complaint to closure. A contributing factor to the number of days a complaint remains open is whether it is being investigated by Board staff or at the Division of Investigation (DOI). In the past fiscal year, the Board has significantly increased its caseload referral to DOI, amounting in an 866% increase in cases submitted to the DOI from the previous year.

Ms. McGavin stated her gratitude for having been able to serve the Board for the last five years.

Dr. Lawenda inquired about what possible effect the current budget crisis may be having on the cases investigated. Ms. McGavin explained and clarified that the budget isn't having an effect on the investigations, rather many of the types of complaints staff receive are considered less severe in regards to physical harm and the DOI prioritizes their cases by severity. Our cases are not viewed as the highest priority in severity.

Drs. Yu, Goldstein, and Lawenda, and Ms. McGavin and Ms. Sieferman discussed the notice, citation, database, disciplinary action and proceedings for accusation process.

Drs. Goldstein, and Lawenda, and Ms. McGavin and Mr. Robinson discussed optometrists with discipline practicing outside the U.S. jurisdiction.

11. Review of Rulemaking Calendar

Ms. Leiva provided an overview.

A. *Status of Title 16, CCR Section 1518, Fictitious or Group Names, Section 1523, Licensure Examination Requirements, Section 1531, Licensure Examination, Section 1532, Re-Examination, Section 1533, Re-Scoring of Examination Papers, Section 1536, Continuing Optometric Education, and Section 1561, Topical Pharmaceutical Agents Usage – Purpose and Requirements*

1518, 1523, 1531, 1532, 1533, and 1561 were approved by the Office of Administrative Law (OAL) on February 8, 2011 and became effective on March 10, 2011. This information was posted on the Board's website and is included in the updated 2011 Law Book.

1536 Continuing Optometric Education updates the regulation with current information and offers new CE opportunities including up to eight credits for course work in ethics, up to two credits for a full days attendance at a Board meeting, up to four credits upon receipt of a CPR certification among other things.

This regulation has been reviewed favorably by the DCA and State and Consumer Services Agency (SCSA). It was submitted to OAL on April 6, 2011. We will know if it was approved in 30 business days.

B. *Discussion and Action to Approve Draft Language and Commence a Rulemaking for CCR Section 1525.1, Fingerprint Requirements*

Ms. Leiva re-stated Ms. McGavin's report that licensees have found the language in this regulation confusing. Thus to alleviate the confusion and reduce the number of calls received by the fingerprint coordinator, staff recommends that CCR Section 1525.1 be amended for clarification purposes.

Dr. Goldstein, Ms. Leiva, and Mr. Robinson discussed concerns regarding clarity. Dr. Goldstein asked members and staff if anyone thinks optometrists might mistakenly believe they need to be re-fingerprinted at each renewal (as a condition of renewal). Ms. Leiva noted that once everyone's been fingerprinted, this regulation will be eliminated.

Edward Rendon moved to approve the proposed language for the fingerprint requirement. Susy Yu seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		

C. *Discussion and Action to Approve Draft Language and Commence a Rulemaking for CCR Section 1513, Registered Name Only*

D. *Discussion and Action to Approve Draft Language and Commence a Rulemaking for CCR Section 1514, Renting Space from and Practicing on Premises of Commercial (Mercantile) Concern*

Current law requires that all signs, cards, stationary or other advertising clearly and prominently identify an optometrist. Current law also requires that an optometrist who is practicing in a rented space at a commercial location display all advertising in such a way that it will be clear that the optometrist is separate and distinct from the other occupants.

Ms. Leiva reported that while enforcement staff was reviewing various optometry websites, signage and other advertising, it was discovered that it has become a common practice for optometrists to alter their names by either shortening their Fictitious Name Permit, or their first name (such as Stephen to Steve). Also, while investigating office locations or other mercantile locations, it was noted that some locations do not have proper signage indicating who owns the business or who is providing services at the location.

The language has been amended to further clarify the use of an optometrist name in advertising and at business locations. Board staff requests that the Board review the proposed language as amended, make edits if necessary, approve it, and make a motion to begin a rulemaking for this proposal.

Dr. Goldstein opened the floor to discussion and/or comments.

Dr Arredondo asked for clarification of leasing. Members and staff discussed proper signage that isn't misleading about the practice being separate and distinct.

Susy Yu moved to adopt the proposed language for Sections 1513 and 1514. Ed Rendon seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		

E. *Discussion and Action to Approve Draft Language and Commence a Section 100 Rulemaking for CCR Section 1519, Ophthalmic Device Standards*

Current law requires optometrists to follow ophthalmic device standards from the American National Standards Institute (ANSI). The current regulation only refers to ANSI standards Z80.1 and Z80.2.

Ms. Leiva explained that this regulation has not been updated since 1976. Since then, Z80.2 no longer exists, and there are 19 "new" standards which apply to optometry as it is practiced today. Staff originally thought it was possible to do a Section 100 (non-controversial) change, but upon further research discovered the regular rulemaking process is required. Board staff requests that the Board review the proposed language as amended, make edits if necessary, approve it, and make a motion to begin a rulemaking for this proposal.

Dr. Goldstein, Mr. Santiago, Ms. Maggio, and Ms. Leiva discussed why the language should not be incorporated by reference.

Dr. Goldstein opened the floor to questions/comments.

Members and staff discussed the wording of the amended language.

Kenneth Lawenda moved to direct staff to proceed with a draft of a rulemaking regarding ANSI standards including Z80 thru Z87 to be reviewed at the Board's August meeting. Susy Yu seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		

F. *Discussion and Action to Approve Draft Language and Commence a Rulemaking to Add and Amend Regulations Pertaining to Senate Bill 1111 and Senate Bill 1441 to Division 15, Title 16 of the CCR*

Since the Disciplinary Guidelines have been approved, the Board may proceed forward with Senate Bill (SB) 1441. The only concern with SB 1111 is regarding Section 1575.1, Required Actions Against Registered Sex Offenders. The DCA had encouraged staff to keep this mandatory. Nevertheless, staff has added language which provides discretion to the Board to decide upon denying an application or revoking a license because this is the Board's jurisdiction.

Dr. Goldstein recalled that at the last Oakland meeting, an Attorney with the Attorney General's Office recommended the Board keep discretional authority.

Ms. Leiva requested that (before the final vote) the Disciplinary Guidelines be separated from SB 1111 because it's a very comprehensive and large rulemaking package. She recommended beginning SB 1441 first and after it has gone through then begin SB 1111. She also advised that we would be waiting a year for the other regulations to go through before beginning the SB 1111 package. Dr. Goldstein and Mr. Santiago agreed with the plan to separate the packages.

Ms. Kanemoto stated the Department wants to go on record as not wanting the word discretion in relation to registered sex offenders.

Alejandro Arredondo moved to begin the rulemaking process for 1575 Uniform Standards Related to Substance Abuse and Disciplinary Guidelines. Kenneth Lawenda seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		

Edward Rendon moved to continue SB 1111 to the August 2011 meeting. Kenneth Lawenda seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		

The meeting broke for lunch at this time and reconvened at 12:30 p.m. Ms. Johnson was present and Dr. Goldstein returned to agenda item 8 – Review and Possible Approval of Case Management Requirement for Glaucoma Certification.

12. Legislative Update

Ms. Leiva reported on the updates.

A. *AB 761 (Roger Hernandez) Optometrists as CLIA Lab Directors*

This bill expands the category of persons who may perform clinical laboratory tests or examinations that are classified as waived to include licensed optometrists if the results of the tests can be lawfully utilized within their practice, and would provide that a laboratory director may include a licensed optometrist, as specified for purposes of waived examinations.

Currently, optometrists are allowed to perform Clinical Laboratory Improvement Amendments (CLIA) waived tests under their scope of practice and are authorized to be lab directors for more complex tests under federal law, but state law hasn't been updated. CLIA tests specified tests that may be used at home and are performed by various methods such as dipstick, tablet, reagent urinalysis, fecal occult blood, etc.

As of November 1997, the CLIA waiver provisions were revised by Congress to make it clear that tests approved by the Food and Drug Administration (FDA) for home use automatically qualify for CLIA waiver.

Currently, this legislation has been double referred to the Assembly Business & Professions Committee and Assembly Health Committee. No date has been set.

For all of the bills in this agenda item, staff's requesting that the Board members take each bill to the Legislation and Regulation Committee for further discussion.

Ms. Johnson inquired about the process of taking bills to the Legislation Committee. Dr. Goldstein, Ms. Johnson and Ms. Kanemoto discussed possible options.

Dr. Goldstein explained that he believes the language is too premature to take any position on. Ms. Maggio agreed and clarified that regarding all of the items in this legislative update, staff is not asking Members to take a position, but rather to discuss the bills, have the Legislation and Regulation Committee meet to review the bills, direct staff on any suggested amendments and stance. At that time the bills can be brought before the Board at the August meeting with the Committee's recommendation.

Dr. Goldstein provided an explanation of what CLIA tests are (for the public members). Board members and staff discussed this.

Vice President and Dean of Academic Affairs at the Southern California College of Optometry (SCCO) Dr. Morris Berman, O.D., made a brief comment announcing his support of the tests.

Monica Johnson moved to refer to the Legislation and Regulationa Committee. Fred Naranjo seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		
Ms. Johnson	**X**		

B. *SB 709 (Kevin de Leon) Children's Vision*

This bill would create the Voluntary Children's Vision Educational fund in the State Treasury for the purposes of funding projects that help educate parents and guardians about the need for children to receive comprehensive eye examination prior to entering school.

The current system that provides vision screenings to detect vision problems is seriously flawed. Even the best vision screenings miss 30 percent of children with significant eye or vision problems. This information comes from the California Optometric Association (COA).

This bill has been re-referred to the Senate Education Committee. Action requested is that Board members refer this to the Legislation and Regulation Committee for discussion.

Dr. Goldstein opened the floor for comment. Dr. Arredondo expressed his sadness that a child can go on for years never having their eyes examined.

Dr. Goldstein explained that this bill is a way of initiating a discussion with the Legislature about mandatory eye examination laws. Board members and staff discussed this.

Fred Naranjo moved to refer this bill to the Legislation and Regulation Committee. Ken Lawenda seconded. Board members voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		
Ms. Johnson	**X**		

C. *SB 690 (Ed Hernandez) Provider Anti-Discrimination*

This bill would prohibit a health care service plan contract or health insurance policy that is issued, amended, renewed, or delivered on or after January 1, 2014, from discriminating against any health care provider who is acting within the scope of that provider's license, as specified.

Commonly, health plans and insurance companies limit types of health care providers allowed to provide services. An example is that optometrists who are permitted to provide routine vision care under a health plan or insurance contract are often prohibited from treating medical eye conditions, such as glaucoma, that are within their scope of practice.

Currently, this bill is in the Senate Health Committee. It is set for hearing on April 27, 2011. Action requested is that the Board refers it to the Legislation and Regulation Committee for further discussion.

Dr. Goldstein stated that he does not believe this one needs to be referred to the Committee as it is not very controversial. Board members and staff discussed this.

Monica Johnson moved to refer bill to the Legislation and Regulation Committee for discussion. Kenneth Lawenda seconded. The Board voted (7-1) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein		**X**	
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		
Ms. Johnson	**X**		

D. *AB 675 (Curt Hagman) Continuing Education Promoting Labor Organizing, Politics Not Accepted for Licensure Renewal Requirements*

This bill would provide that continuing education courses that advance or promote labor organizing on behalf of a union or that advance or promote statutory or regulatory changes, political candidates, political advocacy, or political strategy shall not be considered content relevant to the practice regulated by the board and shall not be acceptable for meeting requirements for licensure renewal. The bill would also prohibit, to the extent applicable, an approved provider from representing that such a continuing education course is acceptable for meeting requirements for licensure renewal and would require a board, subject to specified procedural requirements, to withdraw its approval of a provider that violates that requirement for no less than five years.

The hearing for this bill was postponed by Assembly on Business, Professions and Consumer Protection. The action requested is that the Board refers this bill to the Legislative Committee for further discussion.

Dr. Goldstein opened the floor to comments/questions.

Dr. Yu inquired as to who this legislation really refers to. Ms. Leiva and Mr. Santiago explained that it is a DCA blanket legislation and should be reviewed by the Board.

Mr. Santiago clarified that this regulation not only prohibits CE courses that promote or advance labor organizing on behalf of unions, but it also prohibits CE courses that advance or promote statutory or regulatory changes. Mr. Santiago emphasized his concern that this language is a little too vague. Board members and staff discussed this.

Kenneth Lawenda moved to refer this bill to the Legislation and Regulation Committee. Monica Johnson seconded. The Board members voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein		**X**	
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		
Ms. Johnson	**X**		

E. *Potential Spot Bill from Ophthalmological/Medical Associations Pertaining to Optometry Scope of Practice and Glaucoma Certification*

There is a possibility that the California Academy of Eye Physicians and Surgeons (CAEPS) will be sponsoring legislation in order to repeal the recently enacted glaucoma regulations. Board staff is reviewing “spot bills” that may become CAEPS’ legislation, and communicating with other stakeholders in order to stay on top of this issue, should action become necessary. At this time, it is unknown who the author of the bill will be.

No action is needed at this time.

F. *Urgency Bill for Expert Consultants by the Senate Business, Professions & Economic Development Committee*

The Board of Optometry, along with other health boards from the Department of Consumer Affairs, will be participating in an urgency bill in order to allow expert consultants to provide their services to boards and bureaus without contracts.

Current law requires consultants hired by a board or bureau to enter into a contract that follows all guidelines, procedures, and rules governed by the State Contracting Manual and the California Public Contract Code. This requirement has not been enforced until now, thus many boards and bureaus have not been using contracts to hire expert consultants.

Thus, instead of being able to obtain an expert consultant in a day without a contract, it would take 30 to 90 days with a contract. The DCA’s Contracts Unit has streamlined their own processes to drastically shorten the processing time to 2-3 weeks of receiving a

request for an Expert Consulting Contract. Although many boards and bureaus appreciate the department's assistance, requiring expert consultants to contract with the state significantly increases staff workload and deters future expert consultants from working with the Board. Therefore, the health boards still wish to try to bypass this law with some type of emergency legislation. Staff supports this idea for the following reasons:

1) *Subject Matter Experts (SME) for Law Development*
   Typically, SME's participate in one or two workshops a year for continuing education (CE) credits. Many participating SME's see this as a CE opportunity, not as a form of work. SME's sign up at will, sometimes a couple of weeks in advance and sometimes cancel a day before the workshop. This group enjoys the flexibility and ease of which they can participate in these workshops and a contract will be burden for them as well as Board staff. SME's are not paid. They receive a $100 per day per diem as well as reimbursement for all travel costs and meals during the time they are providing services to the state. Staff would have to do nine separate contracts per workshop, since many SME's do not like to commit so far in advance,
2) *Expert Witnesses for Enforcement Issues*
   Typically, expert witnesses are asked to review confidential case material, prepare written reports and, possibly testify at administrative hearings. They are paid at a rate of $100 an hour for record review and preparation of a written report, and $150 an hour for testimony at a hearing. Since expert witnesses are paid, this type of expert consultant will be easier to contract with. Also, there are only about five to ten enforcement complaint cases a year that require an expert witness.

Board staff is monitoring this bill's development and plans to be in support once it is introduced.

Ms. McGavin added that with these types of contracts, expenditures get tied up. Even if there is no activity with the contract whatsoever, the budget is impacted.

Kenneth Lawenda moved to refer bill to Legislative Committee. Alejandro Arredondo seconded. The Board voted (7-1) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	**X**		
Dr. Yu	**X**		
Dr. Arredondo	**X**		
Dr. Lawenda	**X**		
Mr. Naranjo	**X**		
Mr. Kim	**X**		
Mr. Rendon	**X**		
Ms. Johnson		**X**	

13. Review and Update Pertaining to the Strategic Plan
Ms. Leiva provided the update.

On March 25, 2010 the Board adopted its 2010-2011 Strategic Plan. Staff had begun working on achieving the goals established in the plan.

GOAL 1 – LICENSING: Provide applicants and licensees a fast, accurate and cost effective process for obtaining and maintaining licensure registration and certifications required to practice optometry in the State of California.

Ms. Kimball (CE auditor) conducted the first group of audits in December 2009, March 2010, October 2010, and April 2011. Staff's goal is to conduct audits on a monthly basis, auditing 10% of licenses renewed as active in a given month. Staff member, Krista Eklund is assisting Ms. Kimball with the CE process by sending out the initial audit letters and tracking responses to the audit. The audits include misunderstandings regarding the specifics of the CE requirements and options for licensees who are not actively practicing due to illness, lack of employment or living out of state. Staff hopes to address the most common misconceptions in an upcoming newsletter article. CE Audits do not have a deadline, so the status of this goal is ongoing.

Board members and staff discussed this.

Ms. Leiva provided an overview of the following highlights:

- Staff continue to work closely with the BreEZe project team to ensure the best possible outcome
- The Department has established the Online Professional Licensing Unit in order to implement online license renewals
- Staff is working to establish an appropriate address of record (for licensees), including a requirement for a valid e-mail address, for Board communications and consumer protection
- Staff is updating the Board's forms to be more consistent, clear, and user friendly. The forms will hopefully be updated before BreEZe goes into effect in 2014 because some forms have not been updated for approximately ten years
- Licensing staff will be improving efficiency in processing applications. This includes dealing with the birthdates of the licensees and syncing ATS and CAS
- Staff will be reviewing current accreditations and affirm and apply the accreditation process for new schools of optometry and clinics. Staff is planning to invite representatives from Western University of Health Sciences College of Optometry (Pomona, CA), University of the Incarnate Word School of Optometry (San Antonio, TX), and Midwestern University Arizona College of Optometry (Glendale, AZ) to a future board meeting so that they may present to the Board an overview of their programs

GOAL 2 – EXAMINATIONS: Provide a fair, valid and legally defensible licensing exam process to ensure that only qualified and competent individuals are licensed to provide optometric services in the State of California.

Ms. Leiva provided an overview of the following highlights:

- Staff have successfully implemented computer based testing with the new vendor
- The ongoing exam development and California Laws and Regulations Examinations validation workshops are going very well
- Board staff have expanded the subject matter expert pool
- Staff has provided outreach to the schools and colleges of optometry. Mr. Robinson is working on providing a presentation to the 3rd year students so that they may utilize the information that is provide to them
- The Board's Laws and Regulations book has been updated

GOAL 3 – LEGAL AND REGULATORY: Establish and maintain fair and just laws and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost effective practices.

Ms. Johnson requested that a meeting be scheduled soon between the Legislation and Regulation Committee and Board staff to begin discussions.

Ms. Leiva provided an overview of the following highlights:

- Ms. Leiva announced a new regulation that Members have not yet heard about. This bill (Sponsored Free Health Care Events – Requirements for Exemption). This is a proposal to exempt out-of-state optometrists from participating in free health clinics. The Department has

provided staff with language, which is being reviewed, so that it may be presented either in August or at the Legislation and Regulation Committee meeting

- staff is reviewing the preparatory materials of other boards who have already gone through the sunset review to get a sense of the questions the Sunset Review Committee will be asking, to become more fully prepared

- Ms. Leiva will be preparing a pilot of assessing continuing competency of optometrists. This will be discussed at a later time

GOAL 4 – ENFORCEMENT: Protect the health and safety of consumers of optometric services through the active enforcement of the laws and regulations governing the safe practice of optometry in the State of California.

Ms. Leiva provided an overview of the following highlights:

- All enforcement staff participated in the development and implementation of DCA's new enforcement model
- Ms. Kimball and Ms. Sieferman are participating in the Department's BreEZe project as well as workgroups developed as part of this project
- Ms. Sieferman served on the Probation Monitoring Workgroup that created a training program for the Department's probation monitors
- In accordance wit the Consumer Protection Enforcement Initiative, Ms. Kimball issues monthly statistical reports to the Department detailing complaint case activity
- The BreEZE project is anticipated to be completed by 2014
- All enforcement staff are being trained on the implementation of the entire enforcement process
- Dillon Christensen will attend the Enforcement Academy in Spring 2011
- On February 1, 2011, Ms. Miller, Ms. Sieferman, Ms. Bracco, and Ms. Kimball attended the National Certified Investigator/Inspector Training. This two-day course discussed investigative report writing and how to properly and effectively conduct an interview and investigation
- On February 24, 2011, Ms. Miller, Ms. Sieferman, Ms. Bracco, and Ms. Kimball attended the California District Attorney Association (CDAA) training conference hosted by the Department. Here, Department representatives discussed their enforcement processes and District Attorneys presented exemplar cases to promote participation with them by Boards and Bureaus
- Ms. Miller is working on developing and implementing a training program and retaining subject matter experts for the enforcement unit
- On December 30, 2010, Ms. Miller created a recruitment advertisement form which will be posted on the Board's website and, possibly, distributed in a mass-mailing to licensees
- In January 2011, the Board began developing an Expert Witness Handbook, which will serve as reference material for future experts
- On March 11, 2011, in conjunction with the Department's design team, Ms. Miller and Ms. Leiva created a new link to advertise expert witness recruitment on our website. Ideally, this will attract more interested parties. This should be completed in 2011-2012
- Ms. McGavin has been exploring the feasibility of gaining site inspection authority
- Ms. Miller continues to work on exploring further options for preventing unlicensed practice of optometry

GOAL 5 – EDUCATION AND OUTREACH: Proactively educate, inform, and engage consumers, licensees, optometry students and other stakeholders on the practice of optometry and the laws and regulations which govern it.

Ms. Leiva provided an overview of the following highlights:

- Staff continues to publish summaries of disciplinary actions on the Board's website

- All staff will be working on developing and disseminating a "Your State Board Starter Kit for New Optometrists
- Mr. Robinson, and staff, will continue the outreach program to optometry students and licensed optometrists at optometric events in California
- Staff will expand involvement in consumer outreach and health fairs
- Staff will continue to develop regular public relations (PR) opportunities that highlight timely and pertinent optometric information
- Ms. Leiva, and staff, will develop and disseminate new publications and forms in multiple languages
- There will be a website overhaul for continuity between the Boards and Bureaus. This is anticipated to occur in June 2011
- Staff continues to develop and foster partnership with health care advocates and stakeholders. Staff has excellent working relationships with the California Optometric Assocation (COA) and the American Optometric Association (AOA). Vision Services Plan (VSP) worked with staff on Assembly Bill (AB) 2683, which became effective January 1, 2011. Staff work with the Department of Health Services, and collaborate on enforcement issues with the Medical Board of California. Enforcement staff participated in a roundtable discussion with Northern California District Attorneys

GOAL 6-ORGANIZATIONAL EFFECTIVENESS: Develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

Ms. Leiva provided an overview of the following highlights:

- Staff are working on identifying their training needs and establishing corresponding training plans
- Board members and staff are working to solidify the Board's national presence as a regulator optometry. Staff continue to request permission to attend national optometric meetings held by the Association of Regulatory Boards of Optometry (ARBO), AOA and COA. Dr. Yu is an active member of ARBO
- Ms. Maggio and Ms. McGavin will develop and implement the new Board member orientation and training program. Orientation and training information will be incorporated into the Administrative Procedures Manual
- Ms. Miller is updating and revising the Administrative Procedures Manual
- Ms. Leiva will continually update and disseminate the California Laws and Regulations Related to the Practice of Optometry
- Ms. Leiva continues to receive completed customer service satisfaction surveys. She will provide an update on the results at a future Board meeting
- Ms. Maggio and Board members continue to hold Board meetings in geographically diverse areas of state and invite local stakeholders

Dr. Goldstein noted that some of the ongoing items should have completion dates.

Mr. Kim announced that he will be attending several Health Fairs in Orange County on behalf of his company. He will forward the information to staff.

Board members and staff discussed a bill that deals with free vision services and the underserved population.

14. Public Comment for Items Not on the Agenda

Dr. Goldstein opened the floor for comment.

Dr. David Turetsky commented on his groups interest in nursing home care. He reported that at least one (and possibly three) optometrists in health care facilities are providing services to staff and basically neglecting the residents. Legislation prohibits this practice. Turetsky asked if the

Board might send an announcement to the administrators of the nursing homes advising them of this concern.

Board members discussed this issue.

Mr. Kim announced that he will be attending the California Asian Pacific Islander Policy Summit 2011, on May 2-3, on behalf of his company. Given that members of this conference are also on the health committee, Mr. Kim noted that it would be great if staff could visit the Summit.

15. Suggestions for Future Agenda Items

Dr. Goldstein opened the floor to suggestions.

Dr. Turetsky asked if AB 778 can be on the next meetings agenda. Dr. Goldstein confirmed it will be discussed at the next meeting if not before that time.

Dr. Yu reported that ARBO is requesting official Board positions on the issues of maintenance of licensure, continued competence, and board certification. Dr. Yu stated she does not believe the timing will work out for discussion before a Board meeting. Dr. Goldstein suggested a conference call for discussion of this subject.

Dr. Yu explained that ARBO has sent out three very specific questions. The idea is to have an open dialogue, and healthy discussion around this very controversial issue (nationally) to get an idea of where all the jurisdictions stand.

Dr. Goldstein provided an overview of his observations and thoughts on this issue.

FULL BOARD CLOSSED SESSION

16. Pursuant to Government Code Section 11126(e)(1) the Board Will Confer With Legal Counsel to Discuss Pending Litigation: *California Academy of Eye Physicians & Surgeons, and California Medical Association v. State Board of Optometry, Case Number CGC-11-507241, San Francisco Superior Court*

17. Pursuant to Government Code Section 11126(c)(3), to Deliberate on Disciplinary Decisions

A. *Stipulated Settlement and Disciplinary Order, Huyen Nguyen, O.D., License Number OPT 10148*

B. *Default Decision, Brett Cornelison, O.D., License Number OPT 9861*

C. *Stipulated Settlement and Disciplinary Order, Brent Lee Gibson, O.D., License Number OPT 10198*

18. Discussion Regarding Executive Officer Pay Scale

The Board convened to close session at 2:25 p.m.

FULL BOARD OPEN SESSION

19. Adjournment

The Board agreed to adjourn at 3:30 p.m.

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Monica Johnson, Board Secretary Date