



STATE BOARD OF OPTOMETRY
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Meeting Minutes

Friday, March 2, 2012

Western University of Health Sciences,
 School of Optometry
 309 E. Second Street
 Pomona, CA 91766

Members Present

Lee Goldstein, OD, MPA
 Board President
 Alejandro (Alex) Arredondo, OD
 Board Vice President
 Monica Johnson, Secretary
 Fred Naranjo, MBA, Public Member
 Kenneth (Ken) Lawenda, OD
 Alexander (Alex) Kim, MBA, Public Member
 Donna Burke, Public Member

Staff Present

Mona Maggio, Executive Officer
 Andrea Leiva, Policy Analyst
 Jeff Robinson, Licensing Analyst
 Jessica Sieferman, Probation Monitor
 Michael Santiago, Senior Staff Counsel

Guest List

On File

9:30 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 9:12 a.m. Dr. Goldstein called roll and a quorum was established.

2. Petition for Reinstatement of License

- A. Dr. Larry Franklin Thornton, O.D.
- B. Dr. Lawrence Edwin Young, O.D.

3. Petition for Reduction of Penalty and Early Termination of Probation

- A. Dr. Edward Rabb Nell, O.D., License Number OPT 6522
- B. Dr. Huyen Nguyen, O.D. License Number OPT 10148

FULL BOARD CLOSED SESSION

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

The Board was unable to obtain an Administrative Law Judge (ALJ) for the hearings. Therefore, Agenda items 2, 3, and 4 were moved to a meeting scheduled on March 30, 2012.

Board and staff members discussed logistics, complications, and recommendations for rescheduling this hearing and scheduling future hearings.

FULL BOARD OPEN SESSION

5. President's Report

A. Welcome and Introductions

Dr. Goldstein welcomed everyone in attendance in Pomona.

B. Other

Dr. Goldstein announced the following activities:

- 1) Since the last meeting he has been in regular contact with staff on legislative matters appearing on this meeting's agenda;
- 2) He met with Assembly Member Atkins regarding Assembly Bill (AB) 778, Health Care Service Plans; Vision Care;
- 3) In February he presented a report on behalf of the State Board of Optometry at the California Optometric Association, House of Delegates; and
- 4) He and Executive Officer, Mona Maggio, are still working through the appointment process.

Dr. Goldstein opened the floor to Board members to report on recent activities. There were no reports.

6. Approval of the December 2, 2011 Board Meeting Minutes

Board members were asked to review and approve the draft minutes from the December 2, 2011 meeting.

Ken Lawenda moved to approve the minutes. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Ms. Johnson	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

7. Executive Officer's Report

Executive Officer, Mona Maggio reported on the following:

Board Member Appointments

On February 7, 2012 Ms. Maggio met with Deputy Director of Appointments, Office of the Governor, Terry Holloman, to discuss the current and pending vacancies on the Board. Seventeen applications for appointment to the Board have been received and a number of first round interviews have been held. Second round interviews will be held at the end of February or first part of March.

Ms. Maggio announced that she also met with the Deputy Director to Boards and Bureaus within the Department of Consumer Affairs, Reichel Everhart, last week; in which, Ms. Maggio shared with Ms. Everhart her concerns about the Board's vacancies. Ms. Everhart informed Ms. Maggio that she's working with the Appointment's Secretary on filling the vacancies. The Appointments Office has been focusing on state departments/boards/commissions that are without a quorum. There hasn't been an urgency to fill our vacancies since the Board has a quorum and has been able to hold meetings.

Board Staffing

In November 2011, the Board was notified it was no longer subject to the provisions of the hiring freeze due to following all of the directives of the Governor. However, appointments at the analyst level and above must still be approved by the Department of Consumer Affairs and the Department of Personnel Administration.

Brianna Miller transferred to the Bureau of Automotive Repair. The Board is attempting to fill the Staff Services Manager 1 as well as Brianna's vacant position.

Budget

The Board's budget for fiscal year 2011-12 is \$1,554,425. Expenditures as of January 31, 2012 total \$794,342, which amounts to 51% of the budget. There's an anticipated year-end surplus of \$121,248 or 7.8% of the budget.

In response to California's budget shortfalls, the Board loaned the General Fund \$1 million dollars. Currently a repayment plan is not in place. In order to be repaid, the Board would have to request repayment and show a need for the funds to be repaid, as well as develop a repayment plan with the Department of Finance. Ms. Maggio is in discussions with the Department of Consumer Affairs Budget Office on the repayment process.

Ms. Maggio presented a detailed budget report for the Members.

Governor's Budget for 2012/2013

The Governor has released his budget for the upcoming fiscal year. This year the budget was released on January 5, 2012. The proposed budget provides \$1,720,000 in authorized spending for the Board, a slight increase from the Board's current year spending.

The Governor's budget also includes a series of proposals for improving government efficiency and paying down California's debts. Additionally, there are proposals for the re-organization of state government to make it more efficient by the consolidation of functions.

It appears the Board will not be directly impacted by the re-organization proposals, however, changes proposed to the Department of Consumer Affairs and Consumer Services Agency could result in some indirect changes. Board staff will continue to monitor developments and will provide reports to the Board as more information is obtained.

Ms. Maggio provided the members with the Governor's plan for streamlining the California personnel system, as well as other department's.

BreEZe

The BreEZe project is underway. There are three phases for bringing all the Boards and Bureaus under this new database. The Board is currently in phase two, which encompasses a lot of data clean up for a smooth transition.

All staff attended a Town Hall meeting for phase two participants. Staff was able to see how it will work (e.g., what end users will be using for online renewals, paying with credit cards, applications). BreEZe should streamline many of the processes for optometrists and applicants. On staff's end, it will be much more efficient to run reports and identify issues. Being that this system is brand new to everyone, it is expected that there will be a large learning curve. A five week training session will be held as the Board moves closer to its phase in. Not everyone will attend every training session (e.g., enforcement unit will go to the enforcement training; licensing unit will go to licensing training, etc.).

California Optometric Association

Licensing Analyst, Jeff Robinson, Policy Analyst, Andrea Leiva, and Ms. Maggio attended the California Optometric Association's (COA) House of Delegates on February 10, 2012 at the Hyatt Hotel in Sacramento. The Board has a very strong working relationship with the COA, and this was a great opportunity for staff to interact with licensees and COA staff, and listen to the achievements of the association.

Department of Consumer Affairs (DCA)

Denise Brown, 60, of Fair Oaks, has been appointed director of the California Department of Consumer Affairs. Ms. Brown was an advisor to the executive officer and staff of the California Air Resources Board from 2009 to 2011. She served in the DCA in multiple positions from 1977 to 2009, including chief deputy director.

Two new deputy directors have been appointed to DCA (Awet Kidane, and Reichel Everhart). Although Ms. Maggio has not yet met Mr. Kidane, she reported that she has heard many great things about him. Ms. Reichel and Ms. Maggio have met. Ms. Reichel is very open and willing to work with the Board. She will be attending some of the Board's meetings in the future.

Brian Stiger who was the director of DCA, resigned to accept the position of director of the Los Angeles County Department of Consumer Affairs. Ms. Maggio noted that Mr. Stiger was a positive influence on the department and a great mentor.

Dr. Goldstein opened the floor to questions.

Board Member, Alex Arredondo inquired and Ms. Maggio explained that in order for the Board to take any action to increase its fees, the million dollars that was loaned to the General Fund would have to be paid back.

Board Member, Fred Naranjo inquired and Ms. Maggio explained that this has lowered our reserves. The Board is down to four months of reserves.

Dr. Goldstein noted that the purpose of licensing fees isn't to balance the state budget but rather to fund the Boards. Therefore, he believes the Board should ask for the money back or at least set-up a schedule for repayment.

Mr. Naranjo agreed with Dr. Goldstein and noted that it is the doctor's money. We need to protect their money and their payments.

8. Regulations

Ms. Leiva presented updates on regulatory issues.

A. *Discussion of Comments Received During the 45-day Comment Period of California Code of Regulations (CCR) §1575 Disciplinary Guidelines*

On February 22, 2012, staff learned that the DCA received a legal opinion from the Attorney General pertaining to the Uniform Standards Related to Substance Abuse pursuant to Senate Bill (SB) 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008). The Attorney General's legal opinion defers from the Legislative Counsel's Legal opinion, thus DCA has requested that all Boards implementing SB 1441 hold off on taking anymore action until the opinions can be reviewed. Therefore, staff is requesting that the Board agree to move this regulatory package to the next Board meeting for further discussion. The Board has until October 21, 2012 to complete this regulatory package and submit it to the Office of Administrative Law (OAL).

Ms. Maggio explained that since the SB 1441 Uniform Standards are tied to the Disciplinary Guidelines, the Board cannot use the Disciplinary Guidelines at administrative hearings. The Board has to use the guidelines from 1999.

Legal Counsel, Michael Santiago reported that the Attorney General's Office hopes to get some guidance out to all of the Boards, in regards to the SB 1441 standards, in the next couple of weeks. Therefore the Board should receive some guidance on how to proceed before the next Board meeting.

Ken Lawenda moved to continue this item to the next Board meeting. Monica Johnson seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Ms. Johnson	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

B. Discussion and Possible Action Pertaining to Comments Submitted During the 15-Day Comment Period of the Proposed Rulemaking for CCR §1513. Registered Name Only, §1514. Renting Space from the Practicing on Premises of Commercial (Mercantile) Concern, and §1525.1 Fingerprint Requirements

Ms. Leiva announced that since there are no issues with §§ 1514 and 1525.1, they will not be discussed at this meeting. §1513 will be the sole discussion for this agenda item.

At the December 2, 2011 meeting, the Board considered the comment received during the 45-day comment period and approved the modified text in order to address the comment. Ms. Leiva provided a copy of the modified text as a handout for member's review.

The required 15-day comment period for the modified text began on December 8, 2011 and ended on December 23, 2011. Three comments in opposition and one comment in support were received.

Ms. Leiva provided the members with prepared proposed responses to the comments. The prepared comments were reviewed and deemed acceptable by the members.

Ms. Leiva inquired if the Members want to continue with the modified text that is being defended in the proposed responses, or if they want to consider a completely different option, which is including license numbers on all forms of advertising. Or do the Members wish to take more time to consider the options.

Ms. Leiva noted that some health professions, like psychologists, require license numbers on all forms of advertising, but other health professionals such as medical and dental doctors do not require license number on their advertising.

Dr. Goldstein opened the floor for comments by the members.

Dr. Goldstein stated that having license numbers accompany optometrist's names seems to be a rational idea, particularly from the standpoint of consumers and from the standpoint of the Board when similar names are in question.

Dr. Lawenda inquired and Ms. Leiva responded that she is not aware of any conversations about additional health boards being required to become completely uniform with one another in the future. However optometry does like to be uniform with the Medical and Dental Boards. These decisions are up to the various board's discretion.

Dr. Goldstein and Ms. Leiva discussed, what is considered to be a full name? Mr. Santiago was asked to clarify this issue.

Mr. Santiago explained that we have the general Business and Professions Code (BPC) provisions about advertisements and prohibition against false and misleading names. He clarified that whether they chose

to use their middle name spelled out, initial only, or omit their middle name, it's still in line as long as they use their real name.

Ken Lawenda moved to table this item. Fred Naranjo seconded. The Board did not vote.

Dr. Goldstein stated that he speaks against tabling this issue because staff is having a problem with licensees with common names and licensees practicing under different names than what is on their license. Dr. Goldstein recommends continuing this issue for improving the language.

The motion and second to table this item were withdrawn.

Ms. Leiva commented on her experiences with optometrists and her belief that most would rather come into compliance by using their registered name versus including their license number.

Board Member, Alex Arredondo inquired into the number of complaints which Ms. Leiva advised she's not at liberty to divulge that information, as it is not public.

Board Member, Alex Kim noted his former experiences with other professional groups in identifying similar names and the difficulty it presents. He stated he believes it would be good for the Board to be proactive and "forward thinking" about this issue.

Board Member, Monica Johnson asked and Dr. Goldstein clarified that members can make a motion to modify the text and send the language back out for comment. However, if moved to continue then this would not be possible.

Ken Lawenda moved to continue this item. Fred Naranjo seconded. The Board did not vote.

Ms. Leiva cautioned against moving to modify text because the package expires in May.

Dr. Goldstein clarified that by continuing this item the Board would be starting all over with this because it's due to expire.

The motion and second to continue were withdrawn.

Ms. Johnson shared her concern about a perceived loophole in the first modified text and clarified her proposed changes to the second modified text.

Ms. Leiva and Mr. Santiago provided additional suggestions to the second modified text.

Monica Johnson moved to modify the first modified text as suggested and provide for a second 15-day comment period. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Ms. Johnson	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

Dr. Goldstein opened the floor to comments by the public.

The public commenters did not identify themselves but the comments received are as follows:

- A question about if just the optometrist's name can be on the building signage but the license number on every other form of advertisement.
- If you have a fictitious name would that number have to be on the advertisements as well? Having license numbers on prescriptions and letterhead he understands, but changing signage may become burdensome.

Dr. Goldstein responded to the first commenter that you would have to put your real name on the building.

Ms. Leiva clarified, in response to the second public commenter, that the first modified language agreed upon keeps the two options of using your full name registered with the Board or your license number.

Dr. Goldstein stated that he doesn't have a problem with the way the Board is adopting this. A registered fictitious name is a different issue. Making optometrist's identifiable is what this is about.

Ms. Johnson inquired and Dr. Goldstein clarified that if the name on the sign is a fictitious name that is registered with the Board, the optometrist(s) license number is not required on the sign since it is a fictitious name.

Board Members discussed and agreed to strike the work "sign" from the language so that §1513 will read "cards, stationary, or other publications".

Member of the public, Dr. David Turetsky requested clarification as to whether or not optometrists will have the option of putting their license numbers and using a different first name that sounds "Americanized" (e.g. Sandy Winn in lieu of Whey Tran Winn) or will the optometrists be required to have their full name and license number on their advertisement publications?

Dr. Goldstein and staff clarified that according to the second modified text agreed upon, optometrists will be required to use their full name and their license number.

Mr. Santiago noted that there's a difference in interpretation between "full name" and "full name registered with the Board". Just "full name" alone will allow optometrists more flexibility as in Dr. Turetsky's example of using Sandy Winn in place Whey Tran Winn. But using "full name as registered with the Board" will not allow any options.

Ms. Leiva requested to read the second proposed modified text of §1513 aloud for confirmation of having captured it correctly. The text was read as follows:

"Any card, stationary, publication, other media or other advertisement must clearly and prominently identify the full name of the individual optometrist or optometrists and include each optometrist's license number as issued by the Board".

Mr. Santiago suggested striking the word "other" between media and publication.

Donna Burke moved to approve the second modified text and approve the proposed responses to the comments received reflecting today's discussion. Monica Johnson seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Ms. Johnson	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

Donna Burke moved to delegate authority to the Executive Officer to adopt the modified text at the expiration of the second 15-day comment period provided the Board does not receive any adverse comments directed at the modified text. Monica Johnson seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Ms. Johnson	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

C. Discussion and Possible Action to Amend CCR §1536 to Allow Therapeutic Pharmaceutical Agent (TPA) Certified Optometrists to Earn 50% of their Continuing Optometric Education (CE) from Internet or Correspondence (Independent Study) Courses

Licensing Analyst, Jeff Robinson reported on this issue.

This request has come about because optometrists who are not TPA certified (who have less certification than their TPA certified colleagues) are allowed to complete 50% if their CE credits through independent study sources.

Mr. Robinson initially introduced this subject to the Board at the September 16, 2011 meeting. Board members requested that staff do an analysis of the CE requirements of other states to provide them with a better sense of whether or not this matter should be considered.

Board staff completed an analysis of five states recognized as having the largest concentration of licensed optometrists outside of the State of California (New York, Illinois, Texas, Pennsylvania, and Florida) and learned that only one of the five states allowed the completion of 50% of the CE hours through independent study courses. However, almost all of DCA's other health boards allow their optometrists to obtain 50% or more of their CE through independent study courses as long as the courses are completed by providers they recognize and approve.

Mr. Robinson requested that the Board revisit CCR §1536(c) for discussion and possible action to amend CCR §1536 to allow TPA certified licensees (and above) to earn 50% of their CE through the completion of independent or self study courses.

Dr. Goldstein opened the floor to questions.

Dr. Lawenda inquired and Mr. Robinson responded that with regards to Continuing Medical Education (CME) courses (which are largely ophthalmology courses), there is nothing written in regulation that allows us to accept those hours directly. However, Mr. Robinson has found over the last several years that many optometrists like to take CME courses. Optometrists who wish to take a CME course for their CE credit must submit the course for approval, either to the Board, or the Counsel on Optometric Practitioner Education (COPE), or other organization that the Board recognizes.

Dr. Goldstein noted and Mr. Robinson confirmed that some CME courses are already COPE approved.

Alex Arredondo moved to amend CCR §1536(c) to allow 50% of the course hours for Therapeutically Certified optometrists to be completed through correspondence and self study courses. Monica Johnson seconded. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Ms. Johnson	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

D. Discussion and Possible Action to Initiate a Rulemaking to Adopt CCR, Article 2.1 Sponsored Free Health Care Events – Requirements for Exemption:

Andrea Leiva presented this agenda item.

These regulations were prompted by AB 2699 (Bass, Ch. 270, 2011). This bill permits out-of-state optometrists to come to California for a maximum of ten days to participate at a sponsored free healthcare event. The regulations establish a process for them to come in and participate. It also creates applications for the out-of-state licensee and for the free healthcare event sponsor.

Ms. Leiva provided members with the proposed language that needs to be reviewed and approved by the Board to initiate the regulatory process. She also provided the applications which need to be approved so they may be incorporated by reference into the regulations.

Ms. Leiva explained that the language was prepared with the assistance of DCA so that all of the health care boards will have uniform language.

Dr. Goldstein opened the floor to discussion of the proposed language.

Ms. Leiva inquired and Members discussed whether or not they want to restrict the number of times these practitioners can come for an event. The suggestion is three times. Dr. Goldstein noted that optometrists come all the time and we essentially have optometrists practicing in which the Board has no authority. Therefore, he believes a restriction is a good idea.

Mr. Santiago advised that §901 of the BPC Code states that sponsored events cannot exceed ten calendar days, so three times would be considered a fair amount.

Donna Burke moved to adopt the proposed language and forms and open the comment period. Ken Lawenda seconded. The Board voted (4-Ayes; 1-No; 2 Abstentions) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein		X	
Dr. Arredondo			X
Ms. Johnson	X		
Mr. Naranjo			X
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

Mr. Naranjo was unavailable to vote.

9. Legislation

Ms. Leiva provided an overview.

A. Discussion and Consideration of Pending Legislation that May Impact the Practice of Optometry

Assembly Bill 761 (R. Hernandez)

This bill is sponsored by the California Optometric Association. This bill would authorize a licensed optometrist certified to use therapeutic pharmaceutical agents to additionally perform specified clinical laboratory tests or examinations classified as waived that are necessary for the diagnosis of conditions and diseases of the eye or adnexa, which the bill would define to mean ocular adnexa.

This bill has passed the Assembly and was referred to the Senate Business, Professions and Economic Development Committee. Amendments were accepted by Senator Hernandez from the California Academy of Eye Physicians and Surgeons (CAEPS) limiting the kinds of tests optometrists can perform to those that diagnose conditions related to the eye. CAEPS is now in support of this bill.

Dr. Arredondo inquired and Ms. Leiva explained that not all bills require a sponsor. Having a sponsor is the author's decision.

Assembly Bill 778 (Atkins)

This bill is referred to as the Lenscrafters' bill. This bill would affect the relationship between opticians and optometrists as it would authorize a registered dispensing optician, an optical company, a manufacturer or distributor of optical goods, or a non-optometric corporation to own a specialized health care service plan that provides or arranges for the provision of vision care services, shared profits with the specialized healthy care service plan, contract for specified business services with the specialized health care service, and jointly advertise vision care services with the specialized health care service plan. The bill would prohibit those person's or entities from engaging in conduct that would influence or interfere with the clinical decisions of an optometrist, as specified, and would set forth provisions that apply to medical records. This bill contains other existing laws.

The Board is opposed. Ms. Leiva, Dr. Goldstein, Ms. Maggio, Ms. Anahita Crawford, and Mr. Santiago met with Assembly Member Atkins and her Chief of Staff on January 18, 2012, to discuss the bill, answer questions and discuss the Board's current position, and concerns in general (which are largely around the enforcement model of the Department of Managed Health Care (DMHC)).

Dr. Goldstein opened the floor to questions and comments.

Kathryn Austin-Scott, with Capitol Partners, commented that in the past Board meetings, members asked for information on the DMHC, which she presented to the Board.

Ms. Scott used the materials she provided to show the members the extent to which EyeExam of California is regulated by the DMHC. Regular audits are performed every eighteen months and extensive audits every three years. The audits are an extensive regulatory process. At EyeExam's last audit there were six auditor's present for three to five days. The criteria evaluated are the quality of care, accessibility to care, financial oversight, and medical audits.

Dr. Goldstein announced that he and Ms. Maggio requested a meeting with the DMHC. At this point a date hasn't been established. It will probably occur in April.

Dr. Goldstein opened the floor to questions.

Dr. Lawenda inquired and Ms. Scott explained that if there was a problem, the DMHC would notify EyeExam of California of the issue(s). During the audit process, EyeExam is provided a period of time where they are given deficiencies. Those deficiencies are reviewed and addressed.

Dr. Goldstein explained the audit process (findings, presenting of the findings, debate of the findings etc.). Finally you obtain a final document. The time involved is so lengthy that it presents a problem in

management of systemic care of patients. He noted it's a problem potentially with other health plans as well and further discussion will be held regarding how to move forward.

Senate Bill 690 (E. Hernandez)

This bill is sponsored by the California Optometric Association (COA).

This bill is for the purpose of preventing health insurance coverage discrimination.

SB 690 has passed the Senate, but was "held at the desk" in the Assembly. This means the bill has not had a committee referral or floor action.

Ms. Leiva inquired if there is any update from the COA.

A spokesperson for COA responded that the "intent" of the bill will move forward.

Dr. Goldstein agreed and stated that there are many other bills in the legislature regarding implementing health care reform and this bill's probably somewhere in the mix.

Assembly Bill 1926 (Solorio)

This bill will make optical products fall under service contracts. If an optometrist provides a service contract for optical products he/she would be required to register with the Bureau of Electronic and Appliance Repair Home Furnishings and Thermal Insulation under the Dealer Registration Law.

Ms. Leiva reported that this bill is being watched and requires further analysis to determine if the Board will consider involvement.

Board Sponsored Bill

Ms. Leiva reported on the Board of Optometry's bill.

The Board is sponsoring legislation for the following:

- *Retired License Status* – This would permit an optometrist to pay a one time \$25 fee; become exempt from the continuing education requirements and earn the designation of "retired" versus "inactive", "delinquent", or "cancelled" as is currently done.
- *Retired License Status With a Volunteer Designation* – This would permit an optometrist to pay an initial \$50 fee, renewable every two years to practice as a volunteer (only) who provides free services. Optometrists with this designation would still have continuing education requirements since they would be practicing optometry,
- *Temporary Practice* – The Board has been trying to define temporary practice for five years. The author of this bill will be Senator Bill Emerson. Ms. Leiva thanked Senator Ed Hernandez for assisting the Board with finding an author.

Ms. Leiva opened the floor to comments.

External Relations Manager, Jason Gabhart announced that COA has taken official support of this bill.

Dr. Goldstein commended Ms. Leiva for all of her hard work on finding authors and working on language. He noted this has been a major effort.

10. Revised Board Members Handbook with Administrative Procedures Manual

Ms. Leiva provided a report.

The Board Member Handbook, which includes the Administrative Procedures Manual, has been updated, approved by the members at the December 2, 2011 Board meeting, and created into a spiral bound notebook by the DCA Office of Publications, Design & Editing (PDE).

This reference tool is for current and future Board members, and offers guidance on the general processes involved with their position on the Board of Optometry.

Ms. Maggio announced that the DCA liked it so much they're going to use it as a model for all of the boards.

11. Strategic Plan Update

Ms. Leiva highlighted the most important points as follows:

- The Board's strategic plan was approved in March 2010;
- Staff has been working on the goals established in the plan;
- Staff recommends that the development of a new plan begin after the implementation of the BreEZe project in June 2013. This will allow Board staff to complete the remaining items in the current plan, and evaluate the new possibilities that the BreEZe plan will bring to the Board; and
- Members should consider that the Board is up for Sunset Review January 1, 2014.

Goal 1 – Licensing

- A process for auditing CE has been developed. Ms. Kimball and Ms. Eklund need to work on the CE audits more consistently;
- The Board's AB 2683, Practice of Optometry in Healthcare Facilities became effective January 1, 2011. Various omnibus bills also became effective;
- Whether or not the Board should offer Glaucoma Certification through reciprocity continues to be discussed;
- Ms. Kimball and Ms. Sieferman anticipate that the online license renewal will be implemented June, 2013 through the BreEZe project;
- Staff continues to work on establishing email address for all of its licensees. Emails will be added to all applications;
- Staff is updating all the forms to be more consistent, clear and user friendly;
- Mr. Robinson, Ms. Day, Ms. Melendrez, and Ms. Eklund continue to work on data clean up activities in preparation for BreEZe to make certain records match for a smooth transition; and
- Ms. Maggio, Ms. Leiva, and Mr. Robinson continue to monitor Accreditation Council of Optometric Education to ensure all schools and colleges of optometry currently accredited continue to be accredited, and apply accreditation processes for new schools of optometry and clinics.

Goal 2 – Examination

- Ms. Leiva continues to monitor the contact with PSI and works with Jeff to troubleshoot any issues licensees may have with the vendor. Licensees continue to be pleased with PSI;
- Ms. Leiva and the Office of Professional Examination Services (OPES) continue to hold law exam workshops to ensure there are new questions for the law exam. Each year they are able to secure new Subject Matter Experts. Many have gone on to become Enforcement Matter Experts; and
- Ms. Leiva and Mr. Robinson continue outreach to optometry schools. Mr. Robinson has been working on presentations for the third year students.

Goal 3 – Legal and Regulatory

- Ms. Maggio and Ms. Leiva are pursuing legislation necessary to implement strategic goals, pursuing changes to California Code of Regulations (CCR) to implement new laws affecting optometry, and monitoring and participating in legislation that affects the practice of optometry;
- The Board's Sunset Review process takes place January 1, 2014. Staff is working on compiling information and reviewing other board's Sunset reviews; and
- Ms. Maggio and members continue to monitor the issue of continuing competency until further development. If there is no news of further development by May 2012, Ms. Maggio plans to create a group of Executive Officers independent of DCA to explore this issue further.

Goal 4 – Enforcement

- Enforcement staff continues the outreach on illegal contact lenses with positive results. Undercover stings have been performed which resulted in violators being caught in the act of illegal sales; and Disciplinary actions are still being posted on our website.

Mr. Naranjo inquired and Ms. Sieferman responded that when it becomes known that a vendor is selling illegal contact lenses, they are first sent written communication informing them they must cease and desist selling the contacts. Enforcement follows up to determine if they have complied,

Goal 5 – Education and Outreach

- Staff plans to develop and disseminate a “Your State Board Starter Kit for New Optometrists”:
- Staff continues outreach to optometry students and to licensed optometrists at optometric events (e.g. Monterey Symposium, COA Society meetings, Association of Regulatory Boards in Optometry meetings, House of Delegates, etc.):
- Another plan is for staff and the Board Public Affairs Committee to develop regular public relations opportunities that highlight timely and pertinent optometric information. The Public Affairs Committee is composed of members Donna Burke and Alex Kim. Their first meeting was held on October 18, 2011: and
- A new law book will come out in 2013.

12. Review and Possible Approval of Revised Consumer Pamphlets

Ms. Maggio presented the revised pamphlets for the Board. Former staff member, Brianna Miller had them made.

At the December 2, 2011 meeting, staff presented three pamphlets to the members (Cosmetic Contact Lenses, What to Expect at an Eye Examination, and Focus on Consumer Protection). The members requested several revisions to these pamphlets. Examples of such revisions include new text (e.g., What to Expect at an Eye Exam) and a new cover for the Cosmetic Contact Lenses pamphlet.

Dr. Goldstein and Ms. Johnson provided some suggested edits to a paragraph in one of the pamphlets.

Ms. Leiva announced that staff plans to distribute the pamphlets to various optometrists across the State. She explained that the idea is to create an order form (for a limited time).

Mr. Naranjo inquired and Ms. Leiva explained that the pamphlets will not only be made available to optometrists but the public as well. Electronic versions will be made available on the Board's website which can be printed and emailed. They will also be provided at any health fairs that the DCA participates in.

Dr. Arredondo inquired and Ms. Leiva answered that the photos were found by DCA staff.

Mr. Kim inquired and Ms. Leiva responded that printing the brochures in other language (e.g., Spanish, Chinese, Korean) would probably require a translation service. She explained that she will have to find out if DCA has a contract for such services or if the Board would have to contract out.

Mr. Naranjo asked and Ms. Leiva answered that the COA reviewed the pamphlets and provided their edits.

Board members, COA member(s), and staff discussed getting these out to the underserved areas, translations and participating with other organizations to share translation costs, the DCA's funding for translation, and translation software programs.

Mr. Gabhart advised that COA has a foundation that serves the underserved and his association would be happy to bring these to the various doctors that are a part of the foundation.

Dr. Arredondo stated that in the city where he resides they have several annual street fairs. Around three hundred thousand people go through these fairs during a weekend. He suggested that perhaps the COA and the Board would be open to participating in some of these type of events with a stand/booth.

Ms. Maggio replied that staff has done this before at the State Fair and would be open to participation in these street fair events. Mr. Gabhart also expressed openness to participation.

Mr. Naranjo reported that it's important for the Board to note that 50% of the Latino community will become a diabetic. Therefore it is very important to get the message out to the Latino community that if they could at least get regular eye exams perhaps early detection of diabetes can be identified.

Dr. Arredondo added that if he understand the statistics correctly, Hispanic females are more likely to purchase cosmetic contact lenses.

13. Examination/Licensing Programs Report

Mr. Robinson presented an overview.

He reported that on January 24, 2012, per the request of Tamalon Littlefield, COA's Meeting and Event Planner, he and Ms. Maggio met with Ms. Littlefield and COA Executive Director, Bill Howe, and Education and Conference Coordinator, Brenda Stewart to discuss the provisions of CCR §1536 (Continuing Optometric Education; Purpose and Requirements).

COA was interested in learning about any limitations the regulation might have in regard to their interest in providing more self-study courses to their members.

Mr. Robinson reported that staff continues to certify optometrists to treat glaucoma. The number of certifications is now over a thousand.

Dr. Goldstein inquired and Mr. Robinson responded that this figure does not include optometrists who are recently licensed. These are optometrists who have become certified due to previous legislation and SB 1406 and were previously TPA or TPL certified.

Mr. Naranjo inquired and Mr. Robinson confirmed that there are currently 153 pending applications. Most of these are students who have not graduated yet and will later in 2012. Once they graduate and all required items are received they are usually licensed within a couple of days.

Mr. Robinson reported that Ms. Leiva has worked very hard with staff to get licensing applications updated and posted onto the Board website.

Dr. Lawenda inquired and Mr. Robinson explained the renewal license process.

14. Enforcement Program Report

Probation Program

Ms. Sieferman provided an overview.

She reported that storeowner Najjar R. Sadreddin, was ordered to pay \$6,000 in fines, including nearly \$2,500 to the Board. These fines have been completely reimbursed.

Expert Witnesses

Four new Expert Witness contracts have been approved and all optometrists have had cases assigned to them. Thus far, four cases have been sent to experts and one has been completed. Ms. Sieferman has not yet seen any of the reports but she has been advised that it's going well.

Phamatech

On February 4, 2012, Jessica Sieferman participated in a teleconference with representatives from DCA's BreEZe technical team, Accenture (BreEZe Vendor), and Phamatech (the Board's drug testing vendor) in order to design a Phamatech interface within BreEZe. The goal for this interface is to have all drug testing results automatically entered into BreEZe, rather than having staff manually enter in each result.

The Board recently experienced some complications with Phamatech's reporting system. Specifically, the Board received three notifications that probationers had failed to submit to drug testing when selected. After receiving evidence to the contrary, Phamatech informed the Board the errors were due to the dates being incorrectly entered into their system, and Phamatech assured the Board they will do everything in their power to prevent this from happening in the future.

California Laws and Regulations Exam (CLRE)

The current pass rate for first time test takers remains at 33%. Currently, the Board is administering the CLRE via pencil and scantron method with the presence of Ms. Sieferman. After receiving objections from a probationer who made the argument they weren't being treated like regular candidates and were being discriminated against, Board staff contacted PSI in order to explore the possibility of probationers taking the CLRE through PSI with other licensing candidates. After successful completion of a PSI exam, the Board may wish to continue taking the exam in this manner.

Dr. Goldstein expressed agreement and questioned why we would want to administer the exam any other way.

Ms. Sieferman replied there is some question as to how this will work with the BreEZe system. This change will need to be discussed with Accenture (BreEZe Vendor) to ensure the records are converted properly and there is a distinction between licensing candidates and probationers taking the CLRE.

Dr. Goldstein inquired and Ms. Sieferman explained that the records should go into BreEZe in order to reflect the results and have them tied to the conditions of probation.

Completions

After being granted their Petitions for Early Terminations, Doctors' Casey Finn, O.D. and Lisa Breen, O.D. returned to unrestricted practice on January 1, 2012. Dr. Breen remains in contact with Ms. Sieferman in order to participate in the Board presentations at SCCO and Berkeley.

Pending Petitions to Revoke Probation

The Board has filed a Petition to Revoke Probation for Dr. Gregory Tom, O.D. on August 18, 2011. The hearing for this petition is scheduled for the end of May.

Probation Program Statistics

Ms. Sieferman provided members with the Probation Program statistics as of February 14, 2012.

Probation Date	As of 12/2/11*	Completed	New	Total	% of Total
Male	25	1	0	24	92
Female	3	1	0	2	8
Pending AG	2	1	0	2	8
Active	13	2	0	11	42
Tolled	6	0	0	6	23
Surrendered	9	0	0	9	35
Total	28	2		26	100%

Statistic/Performance Measures

Ms. Sieferman presented members with the Enforcement Statistical Overview, prepared by

Enforcement Analyst, Cheree Kimball. The results are as follows:

Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 days

Q2 Average: 136 days

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG).

Target: 365 days

Q2 Average: 570 days

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 6 days

Q2 Average: N/A – The Board did not receive any new disciplinary cases this quarter.

15. Public Comment for Items Not on the Agenda

There was no public comment.

16. Suggestions for Future Agenda Items

Mr. Goldstein advised that he believes our next agenda is set.

The next Board meeting was scheduled for May 18, 2012 in Sacramento.

FULL BOARD OPEN SESSION

17. Adjournment

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

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Ms. Johnson	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

The meeting was adjourned at 1:10 p.m.

Monica Johnson, Board Secretary

Date