



STATE BOARD OF OPTOMETRY
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Friday, May 10, 2013

**Western University of Health Sciences, College of Optometry
 Health Education Center (HEC Building), 2nd Floor, Vision Sciences Lab 2205**

**309 E. Second Street
 Pomona, CA 91766**

Members Present	Staff Present
Alex Arredondo, O.D, Board President	Mona Maggio, Executive Officer
Monica Johnson, JD, Vice President, Public Member	Andrea Leiva, Policy Analyst
Alexander Kim, MBA, Board Secretary, Public Member	Jessica Siefertman, Enforcement Lead
Ken Lawenda, O.D, Professional Member	Michael Santiago, Legal Counsel
Madhu Chawla, O.D, Professional Member	
Donna Burke, Public Member	
William Kysella, Public Member	
Fred Dubick, O.D, MBA, FAAO, Professional Member	<u>Guest List</u>
Glenn Kawaguchi, O.D, Professional Member	On File

9:00 a.m.

FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Alex Arredondo, O.D called roll and a quorum was established. The meeting was called to order at 9:16 a.m.

2. Welcome – President’s Report

Dr. Arredondo welcomed everyone in attendance and provided a report of recent Board related events.

Dr. Arredondo attended graduations at the Western University of Health Sciences, College of Optometry and the Southern California College of Optometry. Public member, Donna Burke attended graduations at the University of California, Berkeley, School of Optometry.

Dr. Arredondo congratulated public member, Alex Kim who was recently appointed the Community Affairs Manager for Southern California Gas Company.

Future Board meeting dates were set as follows:

- *August 16, 2013* – Sacramento
- *October 25, 2013* – Sacramento – Specifically for Strategic Planning – Only emergency matters would be placed on this meeting agenda
- *November 1, 2013* – Berkeley
- *January 10, 2014* – Southern California

Ms. Burke and Ms. Maggio met with Mayor Kevin Johnson’s staff member, Symia Stigler,

regarding Vision to Learn and how the Board might partner with him.

This year is the Board Centennial and it was discussed how staff might recognize the Board as a consumer protection agency for 100 years. Ideas included adding a banner to the website. Ms. Leiva has already contacted the DCA publications office to create a design. Other thoughts were a Board resolution from the legislature/governor's office and recognizing the oldest living O.D with a certificate.

3. Approval of Board Meeting Minutes

The Board was asked to approve the minutes for the following Board meetings:

- A. **December 14, 2012** – Donna Burke moved to approve as amended the December 14, 2012 minutes. Alex Kim seconded. The Board voted unanimously (8-0) to pass the motion.

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

- B. **March 6, 2013** - Donna Burke moved to approve the March 6, 2013 minutes. Dr. Ken Lawenda seconded. The Board voted unanimously (8-0) to pass the motion.

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

4. Executive Officer's Report

Executive Officer, Mona Maggio reported on the following:

A. Budget

Overview

The Board is a Special Fund California state government agency, which means it supports its operations entirely through fees, and does not receive any funds from the state General Fund. Although categorized as a Special Fund agency, the Board's budget is incorporated into the Governor's budget. The Board's expenditures are attributed to three major categories: Personnel, Operating Expenses and Equipment (OE&E), and Enforcement.

2012/2013 Budget

It is projected that after expenditures, the Board will leave an unencumbered balance of \$142,889, a surplus of 8.44%. Any surplus funds are reverted to the Board's reserve fund. The Board's fund condition has a 6.1 months reserve.

B. Personnel

The Board's organization consists of 10.4 authorized positions and 3 temporary staff positions. A request to hire a Youth Aid (high school student) to perform basic clerical support for the licensing program will be submitted for consideration. If approved, the Youth Aid will work for approximately six weeks during the summer.

Jessica Siefertman was promoted to an Associate Governmental program Analyst (Enforcement Lead) effective April 30, 2013.

C. Sunset Report

The Board's Sunset Hearing was held on March 11, 2013 before the Senate Business, Professions and Economic Committee, Chaired by Senator Curran Price, and Co-Chair Assembly member Richard Gordon. Dr. Arredondo, Ms. Donna Burke and Ms. Maggio presented the Board's report. The Committee thanked the Board for its work, its service, and efforts in upholding its mandate to protect the public. They also expressed appreciation that the responses to the Committee's questions were clear, concise and thorough. The Board is awaiting the final report with actions to be completed by the next Sunset Hearing or sooner if directed by the Committee.

D. BreEZe Update

The BreEZe system will allow licensees to apply for, renew, pay and track their licensing requests online. Additionally, it will dramatically increase the capabilities for the DCA boards, bureaus, and oversight programs to isolate unscrupulous practitioners.

The Board's initial BreEZe implementation date was January 2012. However, due to several ongoing problems with the Release 1 phase, the date has been continuously pushed. It is estimated that the new implementation date for Release 2 (which is the Board's release) is in 2014.

The BreEZe team has initiated the Data Conversion process. This process is comprised of three parts: Data Mapping, Data Conversion, and Data Verification. In addition, the User Acceptance Testing (UAT) will commence shortly. Due to limited Board staff, the licensing process will be severely hindered during the Data Conversion and UAT processes. Unless the Board is granted temporary "fill-in" staff, all licenses will be delayed.

Ms. Burke inquired if DCA or the Board can issue a press release to communicate to licensees and the public that the issuance of licenses will be delayed due to the transition to BreEZe.

Reichel Everhart, DCA Deputy Director for Board and Bureau Relations responded that it is a possibility and that she will check with the DCA Executive Team.

E. Examination and Licensing Programs

Ms. Maggio provided the Board with licensing statistics which were prepared by Licensing Analyst, Jeff Robinson.

F. Enforcement Program

Ms. Maggio provided an overview of the new Disciplinary Guidelines (DGs), the data clean up project, and the data banks (a report prepared by Enforcement Analyst, Ms. Siefertman).

The DGs were designed for use by Administrative Law Judges, attorneys from the Office of the Attorney General, licensees, Board staff and others involved in the Board's disciplinary process and are to be followed in all disciplinary actions involving the Board.

The three phase "Clean Up" project is set to be completed by June 30, 2013, in time for the fourth quarter Performance Measures.

The Senate Business, Professions and Economic Committee expressed its concern with the protection of the public and the effective operation of the profession. The Committee recommended that the Board work with the Department of Consumer Affairs (DCA) to ensure they are provided funds to apply for the National Practitioners Data Bank (NPDB) and the Healthcare Integrity & Protection Data Bank (HIPDB). Ms. Siefertman is working with NPDB staff to determine the necessary process and will provide an update on the feasibility of the continuous query at the August 2013 Board meeting.

The Board inquired whether legislation could be enacted to have the licensees pay for the use of the NPDB. The fee could be in the initial optometrist license fee, or during the renewal period. It was decided that this possibility be considered at a Legislation and Regulation Committee Meeting.

G. Strategic Planning

On March 13, 2013, Ms. Maggio and Policy Analyst, Andrea Leiva met with Shelly Menzel and Terrie Meduri with DCA SOLID Training Solutions to discuss the development of the Board Strategic Plan. It was agreed to create a five year plan for the period of 2014-2018. The Board session is scheduled for October 25, 2013.

H. Other

Board members were provided statistical charts/tables/records regarding the Board's fund condition, expenditure report, BreEze, licensing statistics, and enforcement statistics.

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

Ms. Leiva reported on the following regulations affecting the Board:

A. SB 1111 Regulations and April 30, 2013 Committee Meeting

On April 30, 2013, the SB 1111 Regulations Committee met in Los Angeles to discuss nine enforcement related regulations that were created by the DCA to streamline enforcement and disciplinary processes. The nine regulations came from the DCA sponsored SB 1111 (Negrete McLeod), which was a component of the Consumer Protection Enforcement Initiative (CPEI).

Since DCA continues to be scrutinized in news articles, annual reports, and audits identifying various program issues, deficiencies, and shortcomings, the DCA continues its efforts to address the root causes of these problems. DCA has attempted to implement the CPEI and train staff, streamline business operations, and improve coordination and communication between various governmental entities. These efforts have been met with modest success.

As one of its efforts to meet its goal to implement portions of the CPEI, DCA identified nine provisions from SB 1111 that could be implemented via regulation by the healing arts boards. Many of them are modeled after laws that are currently in effect and utilized by the Medical Board, the Dental Board, the Board of Psychology, and Pharmacy Board to name a few.

The Committee's review of the nine regulations resulted in recommendations which were presented to the Board. After much discussion, the following actions were taken:

The Board voted to adopt Provisions 5 – Failure to provide documents and failure to comply with court order, Provision 6 – Psychological or medical evaluation of applicant, and Provision 8 – Failure to provide information or cooperate in an investigation. These provisions were deemed necessary to streamline the enforcement process.

Monica Johnson made the motion. Dr. Ken Lawenda seconded. The Board voted unanimously (8-0) to pass the motion.

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

The Board voted to reject Provision 1 – Board delegation to the Executive Officer regarding stipulated settlements to revoke or surrender a license as recommended by the Committee. It was decided that this provision prevented the Board from weighing in on disciplinary decisions and that since the Board does not receive that many of these kinds of settlements; they should be heard by the Board.

Bill Kysella made the motion. Dr. Madhu Chawla seconded. The Board voted (5-4) to pass the motion.

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

The Board did not discuss Provision 4 – Confidentiality agreements regarding settlements (gag clauses) because the provision is already in law.

The following provisions were tabled for further discussion at the Board's August 16, 2013 Board meeting:

- Provision 2 – Revocation for sexual misconduct;
- Provision 3 – Denial of application for registered sex offender;
- Provision 7 – Sexual misconduct defined in regulation; and
- Provision 9 – Failure to provide information or cooperate in an investigation.

Monica Johnson made the motion. Donna Burke seconded. The Board voted unanimously (8-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mrs. Johnson	X		
Mr. Kim	X		
Dr. Lawenda	X		

Dr. Chawla	X		
Mrs. Burke	X		
Mr. Kysella	X		
Dr. Dubick	X		
Dr. Kawaguchi	X		

The members also requested that a DCA representative attend the Board's August meeting to provide further justification as to why the un-adopted provisions are needed. Ms. Everhart responded that she will have Michael Gomez, DCA Deputy Director, Division of Investigation and Enforcement Programs attend the meeting to provide further information regarding the SB 1111 regulations.

Public Member, Monica Johnson left for the day at the conclusion of this agenda item.

B. California Code of Regulations (CCR) §1575 Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

This regulation updated the Board's Disciplinary Guidelines, which had not been updated since 1999, and adds the Uniform Standards Related to Substance Abuse pursuant to Senate Bill 1441. This regulation was approved by the Office of Administrative Law (OAL) and became effective April 1, 2013.

The Board's enforcement staff has already started utilizing the updated Guidelines. Also, Board staff worked with DCA's Office of Publications, Design and Editing (PDE) to make the Guidelines into a booklet. The Members were each provided a booklet.

C. CCR §1508, §1508.1, §1508.2, and §1508.3 Sponsored Free Health Care Events

These regulations have been approved by the OAL. They are currently in law and ready to be implemented. These regulations exempt out-of-state optometrists from licensure solely for the purpose of participating in sponsored free health care events. These regulations establish a process for this to take place, which includes application and registration requirements, disciplinary requirements, and recordkeeping requirements.

The Remote Area Medical (RAM) Volunteer Corps conducted an eight-day health event in Los Angeles County, which provided \$2.9 million in free services to over 14,000 low-income individuals during the event. Although the event was extremely successful, RAM experienced a shortage of volunteer medical, dental and vision providers because of restrictions in state laws which prohibit volunteer out-of-state licensed medical personnel from providing short-term services. As a result, thousands of residents needing services were turned away.

To prevent future shortages at sponsored free health-care events, Assembly Bill (AB) 2699 was introduced to permit health-care providers licensed in other states the ability to practice in California for a limited time.

Board staff is currently working to implement these regulations. Information about the process and the applications will be posted on the Board's website in the next few weeks. Staff will be ready to process these requests starting June 1, 2013.

D. CCR 1524 Fees for Retired License Statuses

Board sponsored legislation, SB 1215 (Emerson), created two retired license statuses and became effective January 1, 2013. The first retired license is for optometrists who are at retirement age and ready to retire and stop working. The second is for optometrists who are at retirement age, ready to retire, but want to provide their services in a volunteer capacity only.

At its December 14, 2012 Meeting, the Board voted to initiate a rulemaking to establish the retired license status fees (\$25 for retired license and \$50 for retired volunteer). The rulemaking action was printed in the California Regulatory Notice Register on March 1, 2013, and the 45-day comment period for the public began on March 1, 2013 and ended on April 15, 2013. The hearing was on the same date. No comments were received from the public.

Staff is requesting that the Board direct staff to continue with the rulemaking package for CCR § 1524 which establishes the fees for the retired license statuses.

Donna Burke moved to approve and adopt the proposed language and direct staff to continue with the rulemaking process. Ken Lawenda seconded. The Board voted unanimously (8-0) to pass the motion.

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

Ms. Maggio requested to interject information before moving on. She explained that not all of the Members have completed the Board Member Orientation Training (BMOT) and therefore, may not be aware of the process of how regulations go through after they have been approved by the Board.

Ms. Maggio provided a brief overview of the regulatory rulemaking process. After a rulemaking package is approved by the Board, it is first sent to the DCA Legislation/Regulations Unit for review. If there are questions, Board staff is contacted. If any changes need to be made, the package is returned to the Board. It then goes to Legal, from Legal to the Director, from the Director to Department of Finance, and from the Department of Finance it is sent to the Consumer Services Agency Secretary (which is the direct link to the Governor). Because the Board and/or Committee must demonstrate that it had thorough discussion on all of the items, the minutes are included in the regulatory package.

Ms. Maggio explained that this process is why staff sometimes brings discussions back to the Board. If there has not been sufficient discussion, the packet will be rejected and staff asked to bring it back to the Board for further discussion.

6. Discussion and Possible Action on Legislation Affecting the Board of Optometry

Ms. Leiva reported that the following bills which, as currently written, affect the Board's functions and the practice of optometry. Staff requests that the Board discuss each bill and determine if they would like to establish a formal position on each bill.

Ms. Leiva provided the Members with an analysis for each bill. Additionally, she provided a legislative calendar with the deadlines included. She explained that the legislative process follows the deadlines. If a deadline is missed, the bill either does not move forward or it becomes a two-year bill. Ms. Leiva added the legislature is in a two-year legislative cycle which means if the bills do not pass one of the committees, they will have the opportunity to continue on next year rather than dying and having to start over.

A. Assembly Bill 186 (Maienschein) Military

Currently in law, the Board is required to expedite the issuance of the license of the spouse of someone serving in the military. This bill will take it a step further and require the Board to issue a temporary license to an applicant in the process of obtaining and expedited license pursuant to Business and Professions Code (BPC) § 115.5 that holds an optometrist license in another jurisdiction and who supplies satisfactory evidence of being married to, or in a domestic partnership or legal union with, and active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

Ms. Leiva explained that the author’s intent is to enable military spouses to become employed as soon as possible. A few studies were conducted which estimates that 26% of military spouses have difficulty securing employment due to frequent relocation with their spouse. Currently, there is a lot of federal effort to assist military personnel and their families.

According to the analysis provided, there exist concerns with this bill for the following reasons:

- A temporary license would be issued before it has been confirmed that the applicant has met all of the requirements for licensure, making this a potential consumer issue,
- There is no funding (for any board) to have temporary licensure implemented,
- It takes a minimum of \$20,000 to implement a new license status,
- The need for the bill is not clear since the Board is already expediting licensure for military spouses and utilizing all of the checks and balances.

Ms. Leiva provided support and opposition information for the Board to review. She asked the Board to take a position (support, opposed, neutral).

Board Members and staff discussed the consumer protection issue this bill might create, and the length of time it currently takes to expedite an out-of-state military applicant who meets all of the requirements. They discussed what the Board might do (procedurally) in the event a temporary 12 month license is issued and subsequently, it is discovered that the licensee is not in good standing in his/her state (process for nullifying the license). Other issues discussed included, how this bill would affect current staff processing times, whether or not the bill is necessary, the need for more time to evaluate whether or not the Board’s current system of expediting is working, the reasons behind why three organizations are opposed to the bill, and whether to take a position now or to just watch the bill.

Ken Lawenda moved to watch the bill and not take a position. Alex Arredondo seconded. The Board voted 7 Aye; 1 No; and 0 Abstention to pass the motion.

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

B. Assembly Bill 213 (Logue) Military – Veterans Health Care Workforce Act of 2013

Ms. Leiva reported that Assembly Bill (AB) 213 requires DCA boards (who have national organizations that develop their licensing examination) to have the national organizations establish

a process whereby they can evaluate military experience so that it may be applied to licensure and expedite the licensure process.

Bill Kysella moved to take no position and watch the bill. Donna Burke seconded. The Board voted unanimously (7-0) to pass the motion.

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

Dr. Arredondo noted for the record that Dr. Dubick stepped outside and was unable to participate in this vote.

C. Assembly Bill 258 (Chavez) Veterans

Ms. Leiva explained that the objective of this bill is to have every state agency which asks if the person is a veteran (on any written form, publication or internet website) to request that information in the following manner: Have you ever served in the US Military? The authors of the bill want this to be a specific standard question.

Ken Lawenda moved to not take a position and watch the bill. Alex Kim seconded. The Board voted unanimous (8-0) to pass the motion.

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

D. Assembly Bill 480 (Calderon) Service Contracts

The purpose of this bill is to include optical products within the definition of service contracts so that a wider range of products commonly purchased by consumers may be protected against damage or loss.

Bill Kysella moved to take no position and watch the bill. Ken Lawenda seconded. The Board voted unanimously (8-0) to pass the motion.

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

Mrs. Burke	X		
Mr. Kysella	X		
Dr. Dubick	X		
Dr. Kawaguchi	X		

E. Assembly Bill 512 (Rendon) Licensure Exemption

Ms. Leiva reported that AB 512 is related to sponsored free health care events. The provisions in law that implemented the sponsored free health care event are set to sunset on January 1, 2014 and the program needs more time to demonstrate its success. This bill deletes the January 1, 2014 date of repeal, and instead allows the exemption to operate until January 1, 2018.

Bill Kysella moved to take no position and to watch this bill. Donna Burke seconded. The Board voted unanimously (8-0) to pass the motion.

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

F. Assembly Bill 1003 (Maienschein) Professional Corporations – Healing Arts Practitioners

Ms. Leiva explained that discussion is not necessary at this time. This bill is already a two-year bill. AB 1003 has been merged with AB 1000. Even after the merge, the bill expands who may be employed by a professional corporation that provides health services. Originally, only specific health practitioners could be employed, but this bill would allow anyone licensed under the B&P Code, the Chiropractic Act, or the Osteopathic Act. Other professions licensed under the B&P Code include Accountants, Barbers and Cosmetologists, Security Guards, Contractors, and Architects, to name a few. It should be considered if all these professional services should be permitted to be owned by all kinds of professionals and under the same professional corporation.

Bill Kysella moved to take no position and watch this bill. Fred Dubick seconded. The Board voted unanimously (8-0) to pass the motion.

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

G. Assembly Bill 1057 (Medina) Military

Ms. Leiva reported that AB 1057 (similar to AB 186) would require each board, commencing January 1, 2015, to inquire in every application for licensure if the applicant is

serving in, or has previously served in, the military.

Bill Kysella moved to take no position and watch this bill. Ken Lawenda seconded. The Board voted unanimously (8-0) to pass the motion.

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

H. Senate Bill 305 (Price) Healing Arts Boards

SB 305 is the Board's sunset bill. This bill:

- extends the board's sunset date and makes changes to the Practice Acts for Osteopathic Physicians and Surgeons, Naturopathic Doctors, and Respiratory Care Doctors,
- Extends the operation of the Optometry Board's provisions until January 1, 2018, and provides that the repeal of these provisions subjects the Board to review by the appropriate policy committees of the Legislature,
- Authorizes DCA boards to request and receive, from a local or state agency, certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation, and would authorize a local or state agency to provide those records to the Board upon request.

Ken Lawenda moved to approve the recommendations. Glenn Kawaguchi seconded. The Board voted unanimously (8-0) to pass the motion.

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

I. Senate Bill 430 (Wright) Pupil Health

Ms. Leiva reported that SB 430 would require that upon enrollment in elementary school, and until the child has completed eighth grade, the child's health vision is to be appraised by the school nurse, or other authorized person. This is not a comprehensive exam but rather another screening test.

Ms. Shultz added that the COA is opposing this bill. The vision screenings that occur right now are insufficient and do not catch a lot of problems children have. It is the COA's position that children should receive a comprehensive eye examination prior to entering elementary school.

Bill Kysella moved to support the bill if amended to include comprehensive eye exams prior to entering school. Nobody seconded. The motion died.

Ken Lawenda moved to oppose the bill unless amended to include comprehensive eye exams prior to entering school. Madhu Chawla seconded. The Board voted 7-Aye; 1-No; 0-Abstention to pass the motion.

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

J. Senate Bill 492 (Hernandez) Optometrist: Practice: Licensure

Director of Government Affairs, California Optometric Association (COA), Kristine Shultz reported on SB 492 and asked for the Board’s support of this bill. The goals of the bill are:

- to: redefine the practice of optometry to better match the training and the authority that has been granted in other states for many years,
- Streamline the practice act,
- Allow optometrist to treat diabetes, hypertension, and high cholesterol under protocol of a physician.

Ms. Shultz reported that the bill is needed because of a shortage of health care providers. Additionally, in 2014 there will be 3-5 million new individuals with health insurance added to the health care system. The COA believes that optometrists can do a great job in dealing with this provider gap. COA staff has been meeting with the California Medical Association who is in opposition of this bill. The California Academy of Eye Physicians and Surgeons is not in opposition at this time because COA has been negotiating in good faith. Ms. Shultz opened the floor to questions.

Ms. Burke asked about the concerns of the Blind Children’s Center. Ms. Shultz explained that their concerns were with the original text of the bill because it allowed optometrist to teat all conditions and use medications without limitation. Their concern was that it allowed to broad a scope of practice. The Blind Children’s Center is not opposed to the bill as amended. Ms. Shultz provided the Board with the current version of the bill.

Dr. Chawla inquired about the Medical Board’s opposition. Ms. Shultz assured that COA will continue having further discussions with the Medical Board.

Drs. Kawaguchi and Arredondo questioned how this might impact malpractice liability insurance for optometry. Ms. Shultz responded that many other states have expanded their scope of practice and have not experienced an increase in malpractice insurance. Kentucky, specifically, has a very broad scope of practice and their optometrists are allowed to perform laser surgery in many instances.

Dr. Lawenda referred to crossed-out text regarding drug schedules and what optometrists can and cannot prescribe. He asked if there was an issue regarding the different drug schedules.

Ms. Shultz explained that the cross-outs and underlines are language that has not yet been fully settled in negotiations.

Mrs. Burke and Ms. Shultz briefly discussed future meeting plans with the Academy of Eye Physicians and Surgeons.

Dr. Kawaguchi and Ms. Maggio discussed requesting additional staffing for the Board's office.

Dr. Lawenda, Ms. Leiva and Ms. Shultz discussed some of the modified text regarding training and education. They discussed "education and training" versus "scope of practice" language, standard of care that does not need to be stated in law, and assurance of clinical experience for optometrist and public safety.

Ms. Leiva referred to SB 809 (CURES bill) which requires optometrists to obtain DEA (Drug Enforcement Agency) numbers in order to prescribe scheduled drugs. She asked if there will be a provision added informing optometrists that they must obtain this. Ms. Shultz assured that the authority necessary to obtain DEA numbers will be in place.

Dr. Lawenda and Ms. Shultz discussed support or opposition from the other optometry schools, insurance companies and insurance reimbursement for optometrists versus ophthalmologists. Letters from the Southern California College of Optometry (SCCO) and the University of California, Berkeley School of Optometry should be received by the next analysis. COA is meeting with health plans, the Exchange, and the Department of Managed Health Care and working behind the scenes to ensure that doctors of optometry can play an expanded role in health care reform.

Ms. Siefertman and Ms. Shultz discussed standard of care in referrals. Ms. Siefertman explained that when and how to refer patients is not always clear and there is very little law that addresses this issue and how the revised language with standard of care may impact this issue.

Ron Black with Advanced Eye Care stated that there has been a great reluctance with managed care plans to include optometrists on their panels. He advised that as the optometrist scope of practice expands it will no longer be sufficient to be covered under a vision plan. Optometrists would need to be providers and would need inclusion in the managed health care plans.

Dr. Dubick disclosed for the record that he is the President of the California Optometric Association as well as a Board member and colleague, and the COA is the supporting entity of this SB 492. Dr. Dubick stated that part of what the bill attempts to do is protect the public so that they get the benefits of future technologies, future drugs, future procedures and are not locked into this point in time. He urged the State Board of Optometry to support the bill.

Mrs. Burke and Dr. Lawenda shared alternate opinions regarding moving forward. Dr. Lawenda referred to what is happening across the country with the Obama health care plan and advised that supporting this bill passes the message on, that this is the direction that our future is headed in. Mrs. Burke warned that if the Board supports the bill now, then the general public assumes the Board has answered all of the questions. However, since it is still in negotiations, it is unknown what the final product will be and if there will be repercussions adversely impacting the public.

Ms. Shultz expressed understanding regarding the reluctance to move forward early on, but assured the Board that although there may be some "small changes around the edges", throughout the legislative process, this bill (as written now) presents a very thorough and specific direction about where it is going.

Mr. Kysella stated that he is all for expanding the scope of practice and filing health care voids, but is hesitant in taking a position because of what is unknown at this point.

Dr. Dubick argued that specific language about when and how to refer patients are not regulation for other health care professionals. The basic way the medical profession functions is through independent judgment, standards of care, ethics, and malpractice ramifications. When outside of one's comfort zone a referral is made regardless of the type of profession.

Board Members and staff discussed taking a position of support versus remaining neutral (not taking a position). Ms. Maggio added that staff is in support of the bill but there are some issues to work out.

Ms. Maggio suggested taking the position of support with amendments. Members, staff and Ms. Shultz discussed this option and how it should best be stated.

Donna Burke moved to take a neutral position. There was no second and the motion died.

Bill Kysella moved to not take a position and to send a letter to the chair of the committee supporting the expansion of the scope of practice in the direction of current proposed legislation. Donna Burke seconded. The Board voted 2-Aye; 6-No; 0-Abstention and the motion did not pass.

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

Ken Lawenda moved to support if amended. Dr. Chawla seconded. The Board voted 7-Ayes; 1-No; 0-Abstentions to pass the motion.

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

K. Senate Bill 532 (De Leon) Military

Ms. Leiva explained that she does not believe this bill needs further discussion, as it is a spot bill for a very minor change of adding a comma. This is a two-year bill and Ms. Leiva recommended watching the bill to see if it changes.

Bill Kysella moved to watch the bill. Ken Lawenda seconded. The Board voted unanimously (8-0) to pass the motion.

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

L. Senate Bill 723 (Correa) Veterans

Ms. Leiva reported that SB 723 asks the DCA to work with the Employment Development Department to present a report to the Legislature containing best practices for establishing the credentialing of Veterans, by using their documents in military education experience.

Fred Dubick moved to watch the bill. Bill Kysella seconded. The Board voted unanimously (8-0) to pass the motion.

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

M. Senate Bill 724 (Emmerson) Charitable Vision Screenings

Ms. Leiva explained that according to current law, certain facilities that donate edible food, are granted immunity from any damage or injury resulting from the consumption of donated food. SB 724 adds provisions to limit the liability of a non-profit charitable organization, or participating licensed optometrist, ophthalmologist or volunteer working with a nonprofit organization for damage or injury resulting from the provision of a vision screening. Ms. Burke questioned if it is a benefit for consumers (even those who cannot afford to visit an optometrist) to obtain donated glasses (which is not their actual prescription) because it is based off of a vision screening and looking through a box containing differing powers of glasses. Is this fair to these consumers, even though it is a temporary solution?

Board members, Ms. Shultz and staff discussed this issue at length. The discussion included concerns, studies, departure from the standard of care, policy change, low income community, vouchers for school children for eye services, malpractice and federal law. COA will support the bill only if amended to remove the reference to used eye wear.

Ken Lawenda moved to approve if amended to remove the reference to used eye wear. Fred Dubick seconded. The Board voted 6-Aye; 2-Abstention to pass the motion.

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

N. Senate Bill 809 (DeSaulnier & Steinberg) Controlled Substances: Reporting

Ms. Leiva reported that SB 809 (sponsored by Kamala Harris) creates funding for the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances. All practitioners who prescribe scheduled drugs will have their fees raised by \$3.19 and \$4.93 to support the database.

Bill Kysella moved to watch the bill. Fred Dubick Seconded. The Board voted unanimously (8-0) to pass the motion.

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

7. Public Comment for items Not on the Agenda

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

8. Suggestions for Future Agenda Items

Ms. Maggio suggested a two-day meeting in August. The Board has three hearings and many presentations. Additionally, The Association of Regulatory Boards in Optometry (ARBO) would like to present information regarding OE Tracker. All of the Members expressed favor for a long one-day meeting.

Ms. Maggio announced that the next meeting will be solely strategic planning and the meeting is scheduled for November 1, 2013. She also asked the Board to keep in mind that staff will be out of the office much of the time working on BreEZe.

Dr. Arredondo requested a discussion on eye exams at schools. He explained that kids are obtaining eye exams at schools, in trailers with equipment and obtaining glasses. While he does not have a problem with screenings, this sounds like eye examinations. Dr. Kawaguchi requested a linking discussion of school eye exams with comprehensive eye exams for children.

Ms. Leiva asked for the creation of a small committee to assist with legislative items since the Board cannot always meet to deal with legislative issues that have deadlines. She added that Ms. Johnson

suggested at a prior meeting that holding Board meetings following the legislative calendar so the Board can be involved in the legislative process.

Dr. Lawenda asked for a monthly legislation report with updates and information on bills the Board is supporting.

Mrs. Burke suggested a two-Member review committee. Members requested that Dr. Arredondo and Ms. Johnson comprise the new review committee.

9. Disciplinary Process – Conflict of Interest, When to Recuse

This presentation did not take place and was moved to a future meeting.

10. Petitions for Reduction of Early Termination of Probation

A. Dr. Susanne Anderson, O.D., OPT 6613

B. Dr. Svetlana Fisher, O.D., OPT 9936

FULL BOARD CLOSED SESSION

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

FULL BOARD OPEN SESSION

12. Adjournment

Ken Lawenda moved to adjourn. Donna Burke seconded. The Board voted unanimously (8-0) to pass the motion.

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

Alexander Kim, Board Secretary

Date