



STATE BOARD OF OPTOMETRY
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Friday, January 24, 2014

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

Health Education Center
 701 E. Second Street
 Pomona, CA 91766

Members Present	Staff Present
Alejandro Arredondo, O.D., Board President	Mona Maggio, Executive Officer
Alexander Kim, MBA, Board Secretary, Public Member	Jessica Siefertman, Enforcement Lead
Cyd Brandvein, Public Member	Michael Santiago, Senior Legal Counsel
Madhu Chawla, O.D., Professional Member	
Frank Giardina, O.D., Professional Member	
David Turetsky, O.D., Professional Member	
Glenn Kawaguchi, O.D., Professional Member	
William H. Kysella, Jr., Public Member	
Kenneth Lawenda, O.D., Professional Member	
Bruce Givner, Esq., Public Member	
Excused Absence	Guest List
Donna Burke, Public Member	On File

9:35 a.m.

FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Alejandro Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:35 a.m.

Public Member, Bruce Givner arrived at 9:50 a.m.

2. Welcome – President’s Report

Dr. Arredondo welcomed everyone in attendance, and introduced new Professional Board members, Frank Giardina, O.D. and David Turetsky, O.D. Dr. Arredondo thanked Dr. Fred Dubick for his service to the Board.

Next Dr. Arredondo confirmed the upcoming Board Meeting dates and locations which are as follows:

- April 11, 2014 at Southern California College of Optometry (SCCO) - Tentative
- August 1, 2014 in Sacramento
- November 14, 2014 in San Diego

3. Approval of Board Meeting Minutes

A. September 13, 2013

B. November 1, 2013

C. December 2, 2013

Ken Lawenda moved to approve the September 13, 2013 minutes as amended. Madhu Chawla seconded. The Board voted: 7-Aye; 0-No; 3-Abstention to pass the motion.

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

The November 1, 2013 Board Meeting Minutes were deferred to the next meeting to confirm how Professional Member, Glenn Kawaguchi, O.D. voted.

William Kysella moved to approve the December 2, 2013 Meeting Minutes as amended. Ken Lawenda seconded. The Board voted: 8-Aye; 0-No; 2-Abstention to pass the motion.

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

4. Review and Possible Approval of the 2014-2018 Strategic Plan

On December 2, 2013, the Board met for Strategic Planning in Sacramento at the Department of Consumer Affairs (DCA). DCA's strategic planners, Dennis Zanchi and Shelly Menzel from SOLID Training and Planning Solutions, facilitated the meeting. During this meeting, the Board reviewed the results of all the collected information in an environmental scan, and was given the opportunity to improve and/or update the Board's mission, vision, and values. The Board developed new objectives for each of the Board's major functions of licensing, exams, outreach, enforcement, and legislation/regulation.

Members were asked to review, make edits, if any, and approve the Board's draft 2014-2018 Strategic Plan.

Cyd Brandvein moved to accept the strategic plan as amended. Frank Giardina seconded. The Board voted unanimously (10-0) to pass the motion.

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

5. Petition for Reduction of Penalty or Early Termination of Probation

Administrative Law Judge (ALJ) Joseph D. Montoya presided over the Hearings. Anita Crawford was the Deputy Attorney General (DAG). Board members heard the following Petitions. The first Hearing was called to order at 10:30 am.

A. Dr. Sharon Samski, O.D.

Due to sensitive background information the public was recused from the Hearing.

Dr. Giardina made Members and staff aware that he knows the petitioner and recused himself from the decision making.

6. Petition for Reduction of Penalty or Early Termination of Probation

A. Dr. Wyman Chan, O.D.

FULL BOARD CLOSED SESSION

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

- a) Steven M. Polatis (OPT 10401) – Case No. CC 2012-38 - Stipulated Surrender of License and Order
- b) Jennifer Anne Jensen – Case No. CC 2011 315 – Proposed Decision and Order

FULL BOARD OPEN SESSION

8. Discussion and Possible Action Pertaining to Granting Continuing Education Credits for Pro Bono Comprehensive Eye Examinations

Enforcement Analyst, Cheree Kimball prepared the following update and action request.

Dr. Turetsky has requested that the Board consider providing continuing education credits to licensees for performing pro-bono comprehensive eye examinations and providing eye glasses when indicated. An amendment would need to be made to California Code of Regulations section 1536 to allow the Board to accept this work for continuing education credit. For the proposes of continuing education credit, only comprehensive eye examinations – not screenings would qualify for credit, and the examinations would need to be documented and verifiable by the sponsoring organization.

Members were asked to discuss and possibly refer this issue to the Practice and Education Committee for further research and clarification of questions and issues, including the following

- 1. Do any other states or licensing agencies do this, and, if so, what are their procedures and regulations?

2. How does this provide for the ongoing enhancement of a licensee's education?
3. What is an appropriate amount of credit for a certain number of hours served and what would be the maximum hours of credit allowed per renewal cycle?
4. How would the service be verified?

Board members discussed how even with the Expansion of Affordable Care Act, there are still people without healthcare (i.e. homeless, indigent, undocumented corporations). For needy people referred by official or quasi-official organizations like the Red Cross and Salvation Army, this type of outreach would be good public relations for the Board.

Board members discussed possible ratios for CE credit. Possibly 2 exams might equal 1 credit of CE, with a maximum of 4 or 8 in a renewal period.

Professional Member, Glenn Kawaguchi, O.D. expressed concern over not wanting to create too much extra work for staff.

Public Member William Kysella asked if there is an option for self-certification. He suggested that (for the purpose of getting optometrists to provide pro-bono service) it might be best to impose a requirement for all licensees to provide service just as students must perform community service as a graduation requirement.

Cyd Brandvein moved to refer this issue to the Practice and Education Committee. David Turetsky seconded. The Board voted unanimously (8-0) to pass the motion. Bruce Givner and Frank Giardina were unavailable to vote.

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

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

Executive Officer, Mona Maggio reported on the following:

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

At its December 14, 2012 meeting, the Board voted to initiate rulemaking to establish the retired license status fees. The rulemaking action was printed in the California Regulatory Notice Register on March 1, 2013; the 45-day comment period for the public started on March 1, 2013 and ended on April 15, 2013; The hearing was on April 15, 2013. No comments were received from the public. On May 10, 2013, the Board voted to continue with the rulemaking package.

The package has been approved by the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency and the Department of Finance. It was submitted to the Office of Administrative Law on November 22, 2013 and approved on January 7, 2014. The regulation becomes effective on April 1, 2014. Board staff is working to implement these regulations. Information about the process and the applications will be posted on the Board's website once the vacant policy analyst position is filled. Staff will be ready to process these requests starting April 1, 2014.

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

At its August 16, 2013 meeting, the Board voted to initiate rulemaking to give the Board authority to compel an applicant to submit to a psychological or physical examination, and further define unprofessional conduct. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013, and the 45-day comment period for the public started on October 18, 2013 and ended on December 2, 2013. The hearing was held December 2, 2013 in Sacramento at the Department of Consumer Affairs. No comments were received. The Board has until October 18, 2014 to complete this rulemaking package.

Staff is requesting that the Board direct staff to continue with the finalization of the rulemaking package for CCR § 1516 and 1582. Additionally, staff requests that the Board grant the Executive Officer delegation to make non-substantive changes to the rulemaking file as it goes forward in the process.

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

The updates were prepared by Enforcement Analyst, Robert Stephanopoulos

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

1. Assembly Bill 258 (Chavez) State agencies: veterans

Staff will work to update its applications and forms to include the question by July 1, 2014.

2. Assembly Bill 480 (Calderon) Service contracts

Staff will monitor this bill to see how it will affect licensed optometrists, if at all. If necessary, educational materials will be created to provide guidance to affected optometrists.

3. Assembly Bill 512 (Rendon) Healing arts: licensure exemption

The Board has already completed its regulations for implementation, and has information and instructions on its website so out-of-state practitioners can apply.

4. Assembly Bill 1057 (Medina) Professions & vocations: licenses: military service

Staff will work to update its applications and forms to include the question by January 1, 2015.

5. Senate Bill 305 (Lieu) Healing arts: boards – optometry sunset bill

Staff will work to familiarize themselves with the new enforcement language so it can be utilized appropriately.

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

Staff will work to familiarize themselves with this new section of law and add it to its law book. Staff will also work to add educational materials on its website for consumers and licensees focusing on both parties' rights.

7. Senate Bill 809 (DeSulnier) Controlled substances: reporting

Staff will be working with the Department of Consumer Affairs (Department) to finalize implementation of this bill. The Department has already established a CURES fund in preparation for the collection of the \$6 annual fee required by this bill.

8. Senate Bill 821 (Committee on Business, Professions & Economic Development) Healing arts

There are no next steps for this bill.

B. Legislation That Will Continue to Be Monitored in 2014

1. Assembly Bill 186 (Maienschein) Professions & vocations: military spouses: temporary licenses

This bill proposes to require the boards within the Department to issue a 12-month temporary license to an applicant who is a military spouse or domestic partner while the license application is being processed, if certain requirements are met.

2. Assembly Bill 213 (Logue) Healing arts: licensure/certification requirement military experience

This bill proposes to require the State Department of Public Health, upon the presentation of evidence by an applicant for licensure or certification, to accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate for specified professions and vocations if that education, training, or experience is equivalent to the standards of the department. If a board with the Department or the State Department of Public Health accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than January 1, 2015, require those schools seeking accreditation or approval to have procedures in place to evaluate an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification, as specified.

3. Senate Bill 430 (Wright) Pupil health: vision examination: binocular function

This bill proposes to require a child at an elementary school to, upon first enrollment in a private or public elementary school, receive a vision examination by a physician, optometrist, or ophthalmologist and require that screening to include a test for binocular function, refraction and eye health.

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

This bill proposes to expand the scope of practice of optometrists

5. Senate Bill 723 (Correa) Veterans (Vetoed)

This bill was vetoed by the Governor, and is back in the Senate where the veto is being considered. The Legislature has 60 days to override a veto with a 2/3 vote in each house.

This bill proposes to require the Employment Development Department (EDD), and the Department, on or before January 1, 2015, to jointly send a report to the Legislature containing best practices by state government agencies around the nation in facilitating the credentialing/licensing of veterans by using their documented military education and experience.

Professional Member, Kenneth Lawenda, O.D. asked if optometrist in the field are requesting areas to be added to the scope of practice. Also if there is collaboration between the Board and the California Optometric Association (COA) regarding this bill? Board members discussed these issues.

11. Executive Officer's Report

Ms. Maggio provided the Executive Officer's Report on the following topics:

A. Budget

The 2013/2014 budget released for the Board is \$1,901,030.00. As of December 31, 2013, the Board has spent \$933,241.00 reflecting 49% of the total budget. It is projected that the Board will spend \$1,798,566.00, leaving an unencumbered balance of \$99,464.00, a surplus of 5.2%. Any surplus funds are reverted to the Board's reserve fund. The Board's fund condition has 7.4 months in reserve.

Ms. Maggio will meet with the Board's DCA budget analyst in the next few weeks to go over the Governor's Budget that was released on January 10, 2014.

B. Personnel

Staff is working to recruit for the following vacancies:

- 1) Associate Government Analyst (Policy)
- 2) Office Assistant (Receptionist)

In addition, staff is working to recruit two temporary employees to assist when current staff is out of the office working on BreEZe.

C. Examination and Licensing Programs

Licensing statistics were prepared by Ms. Sieferman and provided to the Board members.

Effective April 1, 2014, licensed optometrists that are Therapeutic Pharmaceutical Agents (TPA, TPG, TLG) certified will be charged an additional \$12 per renewal cycle, pursuant to Senate Bill (SB) 809. SB 809 established the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES. This fee will be assessed regardless of whether a TPA certified optometrist exercises their authority to prescribe the scheduled drugs specified in the Optometry Practice Act.

D. Enforcement Program

Enforcement statistics were prepared by Ms. Sieferman and provided to the Board members.

E. BreEZe

Ms. Sieferman provided an update on the BreEZe project.

As previously reported, BreEZe will replace the existing Consumer Affairs System (CAS), Applicant Tracking System (ATS), and multiple "workaround" systems with an integrated, industry-proven system for use by the Department's organizations. The goal is for BreEZe to provide all of the Department's organizations with an enterprise system that supports all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities.

Release 1, comprised of ten of the Department's boards, went live on October 8, 2013. The Board of Optometry is currently in Release 2. The schedule for Release 2 and Release 3 boards has not been released, but it is estimated to become available shortly.

BreEZe team and Accenture held an informational meeting on December 2, 2013 to provide Release 2 boards with updates and an overview of expected BreEZe activities. In addition, the Board's enforcement and licensing units have met with the BreEZe team and Accenture for lab sessions and pre-configuration interviews.

Configuration interviews for the Board's licensing unit are scheduled for February 24-26, 2014 and the enforcement unit is scheduled for March 3, 2014.

12. Public Comment for Items Not on the Agenda

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

There were no comments.

13. Suggestions for Future Agenda Items

Members of the Board suggested items for staff research and discussion at future meetings.

Dr. Turetsky stated he would like to discuss amending the Board’s laws concerning mobile practice to include allowing optometrists to go into schools of low income areas and provide billable comprehensive eye exams and billable glasses.

Dr. Turetsky added that healthcare professions who are coming to Skilled Nursing Centers and Mental Health Hospitals are interested in working with the Department of Public Health and healthcare boards for the purpose of posting on the facilities websites information about who is providing care. The postings would include names of practitioner providing services at the facility, the board who has jurisdiction over each practitioner and which agency to go to with complaints.

Dr. Lawenda requested holding a discussion on the National Board of Examiners in Optometry (NBEO) Certification and whether the Board intends to take any action.

Additionally, Dr. Lawenda suggested a discussion about the maintenance of competence and recommended obtaining information from all optometric organizations.

Public member, Alexander Kim stated that he attended a Vision to Learn meeting and suggested adding this topic to a future agenda.

Dr. Kawaguchi requested more information about SB 430 and stated he wants the Board to take a position.

14. Adjournment

Bruce Givner moved to adjourn the meeting. Glenn Kawaguchi seconded. The Board voted unanimously (9-0) to pass the motion.

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

The meeting was adjourned at 3:15 pm.