

**STATE BOARD OF OPTOMETRY**

2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
 P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



Friday, April 11, 2014
 Elihu Harris Building
 1515 Clay Street, Room 15
 Oakland, CA 94612

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

9:30 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 9:30 a.m.

2. Welcome – President’s Report

Dr. Arredondo welcomed everyone in attendance. He announced that the Western University of Health Sciences School of Optometry invited the Board to attend their graduation on Thursday, May 15, 2014 at the Pasadena Civic Auditorium. Staff is working with members to schedule representation at the graduation ceremonies for the Southern California College of Optometry (SCCO) and the University of California, Berkeley, School of Optometry (UCB). Last year Dr. Arredondo attended the SCCO graduation ceremony and Public Member, Donna Burke attended the graduation ceremony at UCB.

Dr. Arredondo took a brief survey poll of each of the Members tenure of service for the Board. He explained the survey is relevant to a discussion that will occur later in the meeting.

3. Public Comments 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)]

There were no public comments.

4. **Approval of Board Meeting Minutes**

A. August 16, 2013

Public Member, William Kysella posed a question about a noted vote.

William Kysella moved to postpone approval of minutes for the purpose of staff review and to revisit approval of the August 16, 2013 minutes at the next Board meeting. Kenneth Lawenda seconded. The Board voted unanimously (11-0) to pass the motion.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X				
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

B. November 1, 2013

Professional Member, Glenn Kawaguchi, O.D. posed a question about a noted vote.

Glenn Kawaguchi moved to postpone approval of the minutes for the purpose of staff review and to revisit approval of the November 1, 2013 minutes at the next Board meeting. The Board voted unanimously (11-0) to pass the motion.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X				
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

C. January 24, 2014

Kenneth Lawenda moved to approve the January 24, 2014 minutes as amended. David Turetsky seconded. The Board voted (10-Ayes; 0-Nos; 1-Abstention) to pass the motion

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke			X		
Dr. Chawla	X				
Dr. Giardina	X				
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

5. **Controlled Substance Utilization Review and Evaluation System (CURES)**

Jessica Siefertman introduced Mike Small, Administrator II with the Department of Justice (DOJ) CURES Program as the presenter for this agenda item.

Mr. Small has 30 years of experience in the criminal justice program and administration with the DOJ. He served as a manager in the Firearms Division, Western State Information Network and DOJ's Intelligence Operations Program. Mr. Small assumed CURES manager duties in December 2011. Ms. Siefertman reported that Mr. Small was invited to educate the Board on the importance of CURES Prescription Drug Monitoring Program (PDMP) in registering prescribers of scheduled drugs to monitor the over prescribing of drugs and work to control drug abuse.

Mr. Small provided a PowerPoint presentation of CURES for the Board. He reported that prior to 9/11, our intelligence apparatus of this county was not well equipped to deal with terrorist attack. The tendency was for the various agencies to hoard information out of a concern of leakage and informants. The attack on 9/11 made it clear the agencies could no longer function in that manner and the 9/11 Commission urged for a unity of effort amongst all of the agencies. The mantra became "one fight – one team". Mr. Small provided an analogy. Contrasted to the nearly 3,000 deaths of 9/11, unintentional prescription painkiller overdose deaths in 2009 exceeded 15,500. This rate has risen slightly over ensuing years, and has not decreased. Prescription overdose deaths exceed illegal street drug death. Prescription overdose deaths have exceeded automobile accident deaths for the last couple years. The Centers for Disease Control (CDC) has declared this an epidemic. Just as in the case of 9/11 when not all of our parts were working together to deal with defending us against a terror crisis, Mr. Small proposed that not all of our parts are working together to deal with this problem which is resulting in more deaths then highway accidents or illegal street drug use. He stated that very few governmental assets are aimed at this situation, and opioid deaths exceed those of street heroin.

Mr. Small explained that if the well-established protocols were followed, there would not be as much product released. California has had a Prescription Drug Monitoring Program (PDMP) in place since 1939.

CURES stores and reports Schedule II, III, and IV prescription dispensation data reported by dispensers to the Department of Justice (DOJ). In order to reflect exactly what dispensers report the DOJ does not touch or modify dispenser-reported data.

The use of CURES is not mandatory, however the Legislature decided via SB 809 to require CURES registration by all dispensers and prescribers who hold DEA controlled substance registration cards. Anyone subject to the aforementioned criteria will need to be registered with CURES by January 2016.

In an effort to facilitate the global use of CURES by the healthcare community, the DOJ hopes to build a new system that will interoperate with all major healthcare systems in the states. This would enable the CURES data to be along-side of patient's health records or directly inside of patient's electronic health record (EHR), when the practitioner enters the room to see the patient. The objective is to make it so the practitioner would have to choose to ignore the data rather than make an effort to find it. Hopefully, this will become a standard of care matter for practitioners.

The Integration/Interoperation will afford other features such as ensuring a patient can only obtain schedule II, III, or IV prescriptions from the same doctor (prevent doctor shopping), and other watch flags. It will accommodate peer-to-peer collaborative communication across disparate email systems.

DOJ hopes to streamline the registration process with the new system.

Members expressed disbelief and frustration that practitioners are required to register but not required to use CURES. Mr. Small provided a brief legislative background as to how this came about.

Public Member, William Kysella asked if the Board can make using CURES a standard of care regulation for optometrists. Legal Counsel, Michael Santiago explained that to make this a standard of care issue the Board would have to get the expert opinion to say standard of care means this must be included. Mr. Santiago is not certain the Board would be able to get an expert to state that.

Public Member, Cyd Brandvein questioned, although the public will become knowledgeable that CURES exists, how will this be helping the public since practitioners are not required to use the system.

Since the original form of SB 809 was a requirement to both register and use CURES, Professional Member, Madhu Chawla inquired if Mr. Small is aware of any legislative movement to revisit the requirement to use the system. Mr. Small replied that he is not aware of any movement and that the requirement was resoundingly opposed.

Citing as an example the instance when the Legislature emphatically opposed the provisions of Senate Bill (SB) 1111 regarding registered sex offenders, but the Department of Consumer Affairs (Department) considered those provisions of such importance that it requested every board to individually implement regulations, Mr. Kysella expressed disbelief that the Department would not consider the requirement to use CURES of equal importance and take the same action it did as in the case of SB 1111.

Professional Member, David Turetsky noted as a matter of interest that DEA licensed optometrists are only allowed to prescribe a maximum of 3 days-worth of hydrocodone compounds. Optometrists are not large providers of this narcotic anyway and it would not be a bad idea if this Board could do something, for optometrists to be used as a model of how to utilize this system.

Dr. Arredondo asked Ms. Maggio to report on how staff will be handling CURES. Ms. Maggio reported that staff has been attending all of the CURES meeting with Mr. Small and representatives from the Department. Staff member, Rob Stephanopoulos will be assigned to become the CURES expert within the Board and he has begun attending the meetings as well. Licensees with April 2014 expiration dates have already seen the increase on their renewal invoices. Ms. Maggio and Mr. Santiago will work together on the health & safety code which requires optometrists to register and create a system for notifying optometrists of this requirement. This may require that Therapeutic Pharmaceutical Agent (TPA) and higher certified optometrists obtain a DEA number.

6. Department of Consumer Affairs, Report

Presentation by Christine Lally, Deputy Director of Board/Bureau Relations

Ms. Lally announced that the April 2014 Board Member Orientation Training was very successful. She thanked Mr. Santiago who was a key presenter at the training. Mr. Santiago reported on the Open Meeting Act and conflict of interest at the training. Ms. Lally thanked Dr. Turetsky who was also present at the Board Member Orientation.

Ms. Lally reminded the newest Members that the Board Member Orientation Training is mandatory and Members are required to take this training within one year of appointment. She provided upcoming training dates for any Members who have yet to take the training.

7. BreEZe Overview and Update

*Presentation by Sean O'Connor, BreEZe Business Project Manager
and Awet Kidane, DCA Chief Deputy Director*

Ms. Siefertman introduced Sean O'Connor and Awet Kidane.

Mr. O'Connor is the BreEZe Business Project Manager. He is the liaison between Boards and Bureaus and the BreEZe Project Team to ensure the BreEZe system meets the business needs of its users. Prior to his position on the BreEZe Project Team, Mr. O'Connor was a policy analyst and outreach coordinator for the California Department of Consumer Affairs. Mr. O'Connor earned his undergraduate degree in English and his graduate degree in Public Policy and Administration from CSU, Sacramento.

Mr. Kidane serves as the BreEZe Project's Executive Project Sponsor. Mr. Kidane was appointed Chief Deputy Director in January 2012. As Chief Deputy Director, Mr. Kidane oversees the internal operations of the Department. Before being appointed to DCA, he served in various positions in the state Legislature, where he was a chief of staff, a senior advisor, and a consultant.

Mr. Kidane provided a background explanation of why BreEZe came about. BreEZe was the IT part of the Consumer Protection and Enforcement Initiative (CPEI) in 2009. The CPEI was a three-prong approach (budget, Legislative, and BreEZe). In 2011 the contract was awarded to Accenture (the current vendor).

Mr. Kidane explained that BreEZe is currently in the middle of the design phase of Release II. This Board is in Release II. The BreEZe Project team is employing serious lessons learned. He explained (using the Board of Registered Nursing as example) that more time should have been spent in the design phase of Release I. Fortunately, the processes in place to deal with breaks in the system, worked, and fixes were made. Mr. Kidane stressed that his wish is for this Board to invest as much time as needed in the design so he can contractually lock in the best product for the Board's needs.

Mr. O'Connor reported on the benefits of BreEZe compared to the Department's legacy systems. Some of the notable features of BreEZe include:

- Applicants may apply for licenses online
- Consumers may submit complaints online
- Subscriber may subscribe to be notified of any change in the license status of a specific licensee
- Board Members may vote on enforcement issues electronically

- Cross-board communication and automatic database checks to notify staff of any disciplinary history with other boards and in other states before licensing individual. Especially important since the Board's mission is consumer protection.

Mr. Kidane submitted two encouragements to the Board regarding the need for staff assistance during the design phase and for staff to really reflect about how this Board does business while understanding that what has worked in the past may not necessarily work with this system.

Mr. O'Conner submitted for the Board's consideration one of the key lessons learned in Release I (the importance of establishing a presence for online applications) as soon as possible. This is beneficial to the Board's applicant population as well as to staff in the back office. Mr. O'Conner explained that the BreEZe Project Team have models from Release I that are very effective and they will be working with Board staff to ensure those business processes are in place. Mr. O'Conner urged the Board to announce the establishment of online applications to its schools as the Board gets closer to its rollout date.

Dr. Arredondo opened the floor to comment.

Public Member, Cyd Brandvein inquired about the user acceptance team and if it consists of only staff. Mr. Kidane responded that initially, during Release I, the user acceptance team was just Board staff (experts who tested the design and discovered defects). Now during Release II Mr. Kidane is studying the contract to see if they have the ability to bring in end users ("fresh eyes") - consumers who can offer a different context.

Mr. O'Connor suggested that prior to the application being made available online the Board might consider taking a poll from one or two of its schools to get a few students in on the evaluation. He stated that in a collaborative effort like this, the perspective of the end user is tremendously valuable.

Dr. Arredondo asked and Mr. Kidane explained that the current contract provides for a release in December, however, Mr. Kidane and his BreEZe team believe this is a dangerously aggressive schedule that does not allow the team to build in safeguards from lessons learned. Mr. Kidane is in negotiations with the vendor. He is 90% there with regards to obtaining the time and methodology, and more importantly for Release I, a dedicated maintenance team that will not be pulled from any other release to "stabilize the trailblazers in Release I."

Dr. Kawaguchi inquired if a plan will be in place, during the second rollout, for Board staff to be able to quickly acquire additional staff if needed. Mr. Kidane assured the Board that in the event there is an unforeseen issue on the back end which causes a spike in phone calls, the calls will be directed to his call center. He stressed that the most important thing the Board can do to prevent calls is to get the design right during this phase.

Public Member, Donna Burke inquired and Mr. Kidane explained that he does not want to offer the Board any guarantee that there will not be any additional negative media attention. What Mr. Kidane is concerned about is that the media does not grab onto something substantive.

Ms. Maggio announced that she and Ms. Sieferman attended the Town Hall meeting held by the assembly member so they could hear from the students about various issues they experienced. This was for the purpose of this Board being proactive.

8. **California Optometric Association**

Presentation by Kristine Shultz

Dr. Arredondo welcomed Kristine Shultz who reported on Senate Bill (SB) 492.

Ms. Shultz reported that Senator Hernandez introduced this bill as part of a package of three other bills, all of which would expand the scope of practice for the respective practitioners (optometrists, nurse practitioners and pharmacists) and expand the services they could provide. The bills were introduced in an effort to help address the provider gap. With health care reform it was anticipated that there would be 3-5 million new individuals with health coverage which would result in a severe physician shortage. These three bills were introduced proactively to address this issue.

SB 492 eliminates the list of medications that optometrists can prescribe and instead allows them to prescribe all FDA approved medications. It changes the language to allow optometrists to perform appropriate laboratory and imaging tests. This bill also creates a new certification called Advanced Procedures. Optometrists would receive additional training for these procedures. This certification would allow optometrists to treat glaucoma with laser treatment. It would allow for removal of lesions from the eyelid, injection treatments of the eye, and it would allow Advanced Procedures certified doctors to administer certain immunizations. The bill is still a work in progress.

Ms. Shultz thanked Ms. Maggio, and her staff, for attending all of the workgroup meetings and providing indispensable input for SB 492.

Ms. Shultz addressed the three concerns that were identified in the Board's November 1, 2013 minutes as follows:

- The bill will specify the number of pathways needed to become certified to use these advanced procedures. Everyone involved in discussions of SB 492 desire specificity.
- Assembly Member Bonilla of the Business and Professions Committee was the chair and she specifically asked that everyone move away from the number of hours and talk instead about competencies. The thought is that the language will specifically list the necessary competencies (i.e. course title, course content etc.) and there will probably be a minimum number of hours.
- The Board's staffing needs (costs) to implement the bill in a timely manner is and will be noticed by the Legislature.

9. **Executive Officer's Report**

Ms. Maggio reported on the following:

Future Board Meetings

The next Board meeting will be in August and held in Sacramento. The November meeting will be in San Diego. Ms. Maggio believes another meeting will be necessary in late May or June to discuss any legislation the Board wishes to take action on.

A. Budget

Ms. Maggio recently met with the Board's budget analyst and at this time the Board is doing well. The Board has spent about 62% of its total budget. It is projected that the Board will have a surplus of 6.5%. Any surplus funds are reverted to the Board's reserve fund. The Board's fund condition has 7.4 months in reserve.

Out of State Travel

Staff is currently working on out-of-state travel requests. In the last few years all such travel has been denied; however, there is hope that some travel may be approved if the justification meets the criteria for mission critical travel.

Budget Change Proposals

Staff will begin working on concept papers for Budget Change Proposals (BCPs) that will be due in July 2014. This is the process for the Board to request staff and augmentation to its budget.

B. Personnel

Ms. Maggio held Interviews and a job offer has been made to fill the vacant Associate Government Analyst (Policy Analyst) position. The Department of Consumer Affairs is completing the necessary paper-work.

The DCA Office of Human Resources is reviewing Ms. Maggio's justification to upgrade the receptionist position from an Office Assistant (entry level clerical) to the Office Technician (journey level clerical) classification.

Nancy Day, Management Services Technician currently works half time in the licensing unit. Nancy will begin working full time on May 1, 2014.

C. Examination and Licensing Programs

Presentations to third year students have been scheduled, and staff requests Board member participation for April 14th and April 29th presentations:

April 14th University of California, Berkeley School of Optometry

April 29th Western University, College of Health Sciences, College of Optometry

April 30th Marshall B. Ketchum University, Southern California College of Optometry

Jeff Robinson and Ms. Sieferman will present at all school presentations. Cyd Brandvein will join staff at the SCCO presentation. Staff is requesting other board members join staff at Berkeley's and Western U's presentation.

Western University, College of Health Sciences, College of Optometry has requested that staff present to the fourth-year optometry students.

Mr. Robinson provided current licensing statistics for the Board.

D. Enforcement Program

Ms. Sieferman reported on Enforcement Program updates.

During DCA's Sunset Hearing in March, the legislature identified this Board was identified as one of the boards not meeting Performance Measure 3: Intake and Investigation (90 day target cycle time) in the last two fiscal years. Citing various reasons for the missed target (i.e., staffing, technology issues, potentially unrealistic target, etc.), the Board worked with DCA's Budget Office to respond to concerns raised.

As previously reported, however, the Board's Enforcement Program is diligently working to meet its performance measures. In October 2013, the Enforcement Program made a goal to meet its performance measures by the end of the fiscal year. Armed with a fully staffed program, increased Deputy Attorney General and Division of Investigation communication, and streamlined processes, the Board's Enforcement Program closed March (end of Quarter 3) with an average cycle time of 88 days. In addition, the Board's Enforcement Program has the lowest pending caseload it has had in years, with only 68 complaints pending.

E. Strategic Planning

During the January 2014 Board meeting, the Board voted to adopt the Strategic Plan as amended. March 19, 2014, Board staff met with SOLID Training Solutions to draft an extensive

action plan to assist staff in meeting each objective identified in the Board's Strategic Plan. The action plan included timelines for each task and deadlines for each objective. Staff will continue

10. Election of Officers

Ms. Maggio reported that Business and Professions Code, section 3014 states that the Board shall elect from its membership a President, Vice President, and Secretary, and the policy for the election of officers found in the Board Member Handbook states that the Board elects officers at the last meeting of the fiscal year. Officers serve a term of one year, beginning July 1st of the next fiscal year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve more than one term.

Ms. Maggio explained that both professional and public members can serve as president/chair for a board. She provided the Members with a brief description of duties for each of the three offices.

Ms. Maggio opened nominations for President.

Professional Member, Kenneth Lawenda nominated Donna Burke for the office of President. Public Member, Bruce Givner nominated Dr. Arredondo for the office of President. Both candidates provided a statement to the Board.

The Board voted 7-4 for Alex Arredondo as President.

Ms. Maggio announced that both Dr. Arredondo and Board Secretary, Alex Kim have both served two years in their current offices. Former Public Member, Monica Johnson was the Board's Vice President. When Ms. Johnson was thanked for her service by the Governor, the Board did not fill that vacancy because the elections were forthcoming at the next Board Meeting.

Ms. Maggio opened nominations for Vice President.

Dr. Arredondo nominated Dr. Chawla for Vice President. Professional Member, Frank Giardina seconded the nomination. Dr. Lawenda nominated Ms. Burke for Vice President. Both candidates provided a qualifications statement to the Board.

The Board voted 8-2 for Madhu Chawla as Vice President. Bruce Givner did not vote.

Ms. Maggio opened nominations for Secretary.

Dr. Arredondo nominated Mr. Kim for Secretary. Dr. Chawla nominated Ms. Burke for Secretary. Both candidates provided a statement to the Board.

The Board voted 6-4 for Donna Burke as Secretary. Bruce Givner did not vote.

11. Committee Appointments

Ms. Maggio reported that the Board's policy on Committee Appointments is found in the Board Member Handbook, Chapter 4. "Selection of Officers and Committees."

The President shall establish committees, whether standing or special, as necessary. The composition of the committees and the appointment of the members shall be determined by the Board President, Secretary and the Executive Officer. Appointment of non-Board members to a committee is subject to the approval of the Board.

The Board currently has four committees all composed of professional and public members:

- 1) Legislation and Regulation

Committee is comprised of three public members and one professional member. It is responsible for recommending legislative and regulatory priorities to the Board and assisting staff with drafting language for Board-sponsored legislation and recommending official positions on current legislation. The committee also recommends regulatory additions and amendments.

2) Practice and Education

Committee is comprised of three professional members and one public member. The committee advised Board staff on matters relating to optometric practice, including standards of practice and scope of practice issues. It reviews staff responses to proposed regulatory changes that may affect optometric practice, reviews requests for approval of continuing education courses, and offers guidance to Board staff regarding continuing education issues.

3) Consumer Protection

Committee is comprised of two public members and one professional member. This committee oversees the development and administration of legally defensible licensing examinations and consulting on improvements/enhancements to licensing and enforcement policies and procedures.

4) Public Relations – Outreach

Committee is comprised of two public members and one professional member.

Members interested in serving on committees are as follows:

- Legislation and Regulation – All Members
- Practice and Education – Drs. Lawenda and Chawla and Ms. Brandvein
- Consumer Protection – Ms. Burke, Ms. Brandvein and Dr. Turetsky
- Public Relations – Outreach – Drs. Chawla and Kawaguchi, Ms. Burke and Mr. Kim

12. **Review and Possible Approval of Amendments to Records Retention Schedule**

Administrative Assistant, Lydia Bracco reported on the Records Retention Schedule which regulates by policy the professional management and control of the Board's records from the time they are created or received up to their eventual destruction/disposal.

The Records Retention Schedule (RRS), Amendment 2 was approved by the Board at the December 14, 2012 meeting. Since that meeting, staff found the RRS needed to be amended to include the following:

- Add a new Item number to include Statement of Licensure as it was not included in the original RRS.
- Breakout the License Renewal Receipts from the Licensed Optometrist File and make it a separate item number.
- Change retention years for Fictitious Name Permits, Branch Office Licenses and Corporation Licenses.

The policy recommends all records reflect a description of files in certain categories making them more organized and identifiable when it is time to purge documents and/or in the instance of an audit.

Ms. Bracco described, for the Board, the amendments made for each of the amended items in the RRS.

Board members and staff discussed the benefit and cost of having the Board's files scanned into electronic documents and purge the paper files.

Dr. Arredondo opened the floor to public comment. There was none.

Ken Lawenda moved to explore the feasibility of scanning all Board documents to digital files. Bruce Givner seconded. The Board voted unanimously (11-0) to pass the motion.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X				
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

William Kysella moved to approve the Records Retention Schedule amendments as presented during this meeting. Madhu Chawla seconded. The Board voted 9-Aye; 0-No; 2-abstention to pass the motion.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X				
Mr. Givner	X				
Dr. Kawaguchi			X		
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda			X		
Dr. Turetsky	X				

13. Review and Possible Approval of the Board’s Proposed Auditing Plan for Probation

Ms. Sieferman reported on the proposed auditing plan for probation.

In the Board’s 2012 Disciplinary Guidelines, Condition 32 Audit Required is an optional condition placed on licensees who are disciplined for inappropriate billing and/or insurance fraud. According to this condition, the Board is required to provide the approved billing auditor with copies of the decision(s), accusation(s), and a proposed auditing plan.

Ms. Sieferman explained that staff does not have an auditing plan in place to present to the probationers. She worked with one of the Board’s experts in developing an auditing plan and requests that the Board review, discuss, and possibly approve the proposed auditing plan.

Dr. Turetsky requested a change to the Proposed Auditing Plan to state “Minimum of five records with claim for comprehensive eye examinations (CPT code 92004 and 92014) **and/or** Minimum of five records with claim for Evaluation and Management and Management code (CPT code 99201-99215)”, with the insertion of and/or being the change. He noted that the word Gonioscopy was misspelled and requested the edit. Dr. Turetsky requested that the Patient Verification of Services Rendered paragraph be revised to ask the patient to verify general easily remembered questions (i.e. did you receive an examination? Were you fit for contact lenses? Did you purchase contact lenses, etc.)? Additionally Dr. Turetsky informed staff that International Classification of Diseases, Clinical Modification (ICD-9-CM) codes will be replaced with ICD-10-CM). Therefore, he requested the language be amended to read “including applicable ICD-CM”.

Drs. Kawaguchi and Chawla suggested that the language under Selection of Health Records read: "Auditor will randomly select, **without the influence of the probationer**, the following sample of health records to review per month. It was also requested that the words "where applicable" be added to read: "Where applicable, a minimum of five records where eyeglasses or contact lenses were supplied to patient".

Dr. Turetsky and Mr. Santiago discussed HIPAA privacy and whether there would need to be a beneficiary consent for someone to review the patient records. Mr. Santiago will research the issue.

Dr. Lawenda requested clarification and Ms. Sieferman explained that although Dr. Cory Vu has not done any auditing for the Board he does have extensive experience in auditing. Ms. Maggio stated that no probationer's have requested Dr. Vu as their auditor. It's up to the probationer to nominate the auditor. Dr. Vu obtained his experience in auditing via auditing Medi-Cal records.

Dr. Turetsky noted that under Evaluation and Management of the Preliminary Billing Audit Checklist, #4. "For comprehensive ophthalmological services" should be changed to "optometric services". He also noted that in the sentence which reads "initiation of diagnostic and treatment programs, and as indicated, biomicroscopy, examination with cycloplegia, and tonometry", cycloplegia should be replaced with dilation.

Board members agreed that no action is needed on this agenda item and Ms. Sieferman will make the amendments as requested.

14. Discussion and Possible Action on Business and Professions Code Section 3057.5 Eligibility of Graduates from Foreign Universities and California Code of Regulations Section 1530.1 Qualifications of Foreign Graduates

Mr. Robinson provided an overview of international graduates.

The provisions of Business and Professions Code (BPC) 3057.5 authorizes the Board to allow graduates of foreign universities who meet the Board's requirements to take the examinations required for California optometrist licensure which include the California Laws and Regulations Examination (CLRE), and Parts 1 (Applied Basic Science), II (Patient Assessment and Management/Treatment and Management of Ocular Disease), and III (Clinical Skills) by the National Board of Examiners in Optometry (NBEO).

Applicants that meet the provisions of BPC 3057.5 and California Code of Regulations (CCR) 1530.1 are allowed to apply for, register, and schedule themselves for the CLRE, but must also be "sponsored" by a state licensure board of optometry or an Accreditation Council on Optometric Education (ACOE) – accredited school/college of optometry to meet the qualifications required to apply for and take Part I and/or Part II of the NBEO examinations. Those sponsored may apply for and take Part II of the examinations after they have successfully passed Parts I and II.

Since 1972, the Board has received several hundred requests for sponsorship. A total of 133 of those applicants were able to provide the Board with satisfactory evidence of the age, moral character, and education as was/is required by law. Of the number of applicants sponsored, eight (8) of them have received California licenses. These eight licenses were issued between August 1, 2007 and January 30, 2013.

The problem staff has encountered is that our current laws do not specifically address the areas of sponsorship, licensure, or certifications (e.g. TPA) for foreign graduates, but Board staff has granted sponsorship to those foreign graduates who have met the provisions of BPC 3057.5 and CCR 1530.1 and, assuming that the course of instruction received by the foreign graduate was reasonably equivalent to the course of instruction given by an accredited school/college of optometry, issued optometrist licenses to those who appeared to have met all of the requirements for licensure.

However, Board staff was recently directed to CCR 1523 (Licensure Examination Requirements) which states that, “Satisfactory evidence of graduation from an accredited school or college of optometry approved by the Board.” It does not mention anything about education equivalency which has staff concerned about the issuance of licenses to the aforementioned 8 licenses.

TPA didactic courses are no longer being offered by accredited schools/colleges of optometry which makes it difficult, if not impossible, for foreign graduates to obtain TPA certification in California. Without TPA certification, those foreign graduates who are able to obtain California optometrist licensure will also be unable to apply for and receive lacrimal irrigation and dilation or glaucoma certification.

Because the Board no longer provides its own optometrist license examination, BPC sections 3041.3, 3057.5 and CCR sections 1530.1, 1567 (Therapeutic Pharmaceutical Agents), and 1568 (Therapeutic Pharmaceutical Agents Usage – Purpose and Requirements) may require some revision and/or amending.

The NBEO has informed Board staff that the California and New York Boards of Optometry are the two states that currently sponsor foreign graduates. Because the California Board appears to be the number one choice for foreign graduates seeking sponsorship, staff will continue to accept and review applications for and grant sponsorship to those who meet the provisions of BPC 3057.5 and CCR 1530.1. We have been advised to, and will cease the issuance of optometrist licenses for foreign graduates until this matter has been resolved.

With the possibility of the need for new legislation concerning this matter, staff requests that these items be reviewed by the Practice and Education Committee before being brought back to a full Board at later date for future discussion.

Madhu Chawla moved to accept the recommendation and have the material reviewed by the Practice and Education Committee. Donna Burke seconded. The Board voted unanimously (10-0) to pass the motion. Dr. Giardina left the meeting at 3:20 pm and was not present for this vote.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X			X	
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

15. Regulations Affecting the Board of Optometry

Ms. Maggio provided the update.

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

This regulation became effective on April 1, 2014, and Board staff is working to implement these regulations. The situation staff is encountering is that due to implementation of the BreEZe database system, changes cannot be made to the legacy database system which staff would need to process these applications. Staff is meeting with the BreEZe Change Control

Board on April 21, 2014 to request the Board be allowed to process retired license applications through the legacy system until such time that the Board transitions to BreZE. Otherwise, the implementation of issuing the retired licenses would be delayed until the implementation of BreZE.

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 a 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 is placed on hold until the new policy analyst begins which will be May 1, 2014.

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

Ms. Maggio reported on legislation affecting the Board.

- A. Assembly Bill 186 (Maienschein) Professions & vocations: military spouses: temporary licenses**
- B. Assembly Bill 213 (Logue) Healing arts: licensure/certification requirement: military experience**
- C. Assembly Bill 2165 (Patterson) Department of Consumer Affairs, Licensing**
- D. Assembly Bill 2598 (Hagman) Department of Consumer Affairs, Pro-Rata**
- E. Senate Bill 492 (Hernandez) Optometrist: practice: licensure**
- F. Senate Bill 1172 (Steinberg) Pupil health: vision examination: binocular function**

The only bill that has changed is Assembly Bill 213 which is now a dead bill. All of the other bills are in a watch position. Ms. Maggio suggested having a meeting in late May or early June as these bills will begin moving at that time, and the Board will be watching and attending some of the committee hearings. Letters of support or opposition or amendments made be needed.

Maggio explained that Dr. Kawaguchi specifically requested the Board review proposed language on Senate Bill (SB) 1172, and consider writing a letter of support as written or with amendments. There was a similar bill, SB 430. This bill died but much of the language and intent was moved into SB 1172. Ms. Maggio reported that after discussion with Dr. Kawaguchi, staff sent the same support if amended letter to the author's office for SB 1172 and requested the same amendments.

Dr. Kawaguchi reported, for the benefit of the newer Members, that the Board had voted in support of (with amendments) a similar bill, SB 430, which is no longer active and has been replaced by SB 1172. He stated that in his practice he is routinely confronted with children who have conditions that were missed in the current school (Wright) Pupil health: vision screenings.

Dr. Arredondo shared his support and explained that his practice is predominately a Hispanic community. He sees many cases of hyperopia and astigmatism where school vision screenings missed these conditions.

Board Members discussed what a comprehensive eye exam should entail. They agreed that a comprehensive examination should be performed by an eye care professional.

Ms. Shultz, representing the California Optometric Association (COA) announced that there are currently two bills that are focused on revising vision screenings. The other bill Ms. Shultz referenced was Assembly Bill (AB) 265. The COA's position on this is one of great concern. She explained that COA worked very hard to ensure that comprehensive exams are covered at the state and federal level that they are covered by Medi-Cal and that payment is not an issue. The COA will advocate

that the bills be amended to require that children receive a comprehensive eye exam prior to entering elementary school.

Glenn Kawaguchi moved that the position of the Board be in support of SB 1172 and AB 265 if amended to include a statement saying that upon first year enrollment of a student entering a public, a private, or charter elementary school, and at least every second year thereafter until the student's eighth year, the student receive a comprehensive eye examination by an Optometrist or ophthalmologist, and require screening to include a test for binocular function, refraction and eye health. Donna Burke seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X			X	
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

Upon drafting the amended language, the amended bill will come back to the Board for review and approval of the wording.

Ms. Maggio commented on AB 2165. This bill would require each board to complete within 45 days the application review process with respect to each person who has filed with the board an application for issuance of a license, and to issue within those 45 days, a license to an applicant who successfully satisfied all licensure requirements. The bill also requires each board to offer each examination the board provides for the applicant's passage of which is required for licensure, a minimum of 6 times per year.

Ms. Maggio stated that a number of boards have already contacted the author's office. This requirement is impossible. This Board does not have the funding, number of subject matter experts, or the number of applicants who are willing to take the exam this number of times per year. Ms. Maggio would like the Board to oppose this bill.

William Kysella moved to oppose AB 2165 and authorize the Executive Officer to draft a letter of opposition. Bruce Givner seconded. The Board voted unanimously (10-0) to pass the motion.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X			X	
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				

Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

17. Suggestions for Future Agenda Items

Ms. Brandvein commented that mental health is an issue that appears to be addressed frequently and requested that an overview be provided regarding how this issue is evolving in the health care field.

FULL BOARD CLOSED SESSION

18. 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

19. Adjournment

Cyd Brandvein motioned to adjourn the meeting, Madhu Chawla seconded. The Board voted unanimously to adjourn.

Member	Yes	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Ms. Brandvein	X				
Ms. Burke	X				
Dr. Chawla	X				
Dr. Giardina	X			X	
Mr. Givner	X				
Dr. Kawaguchi	X				
Mr. Kim	X				
Mr. Kysella	X				
Dr. Lawenda	X				
Dr. Turetsky	X				

The meeting adjourned at 4:25 p.m.