

**Board of Optometry**

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ACTION MINUTES
 QUARTERLY BOARD MEETING MINUTES
 Friday, November 20, 2015
 Elihu Harris Building
 1515 Clay Street, Room 15
 Oakland, CA 94612

Members Present	Staff Present
Madhu Chawla, O.D., President, Professional Member	Jessica Siefertman, Executive Officer
Cyd Brandvein, Vice President, Public Member	Kurt Heppler, Supervising Legal Counsel
Rachel Michelin, Secretary, Public Member	
Alejandro Arredondo, O.D., Professional Member	
Donna Burke, Public Member	
Glenn Kawaguchi, O.D., Professional Member	
William H. Kysella, Jr., Public Member	
Mark Morodomi, Public Member	
Lillian Wang, O.D., Professional Member	
Excused Absence	Guest List
Frank Giardina, O.D., Professional Member	On file
David Turetsky, O.D., Professional Member	

Friday, November 20, 2015**9:00 a.m.****1. Call to Order/Roll Call and Establishment of a Quorum**

Board President, Madhu Chawla, O.D. called the meeting to order and took roll; a quorum was established.

2. Public Comment for Items Not on the Agenda

Note: The workgroup 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 §11125, §11125.7(a)].

A comment was heard from Board's Legal Counsel, Kurt Heppler regarding pending litigation against the Department and a board within.

The Board heard a public comment from Dr. Pam Miller, O.D. who thanked the Board for the actions taken regarding CME Level 1 continuing education courses.

No action was taken on this agenda item.

3. President's Report**A. Welcome and Introductions****B. 2016 Board Meeting Dates and Locations****C. Committee Appointments**

No action was taken on this agenda item.

4. Approval of Board Meeting Minutes

- A. August 28, 2015
- B. September 9, 2015
- C. October 16, 2015

Lillian Wong moved to approve all of the minutes. Glenn Kawaguchi seconded. The Board voted 7-Aye; 2-Abstain to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo			X		
Dr. Chawla	X				
Ms. Burke			X		
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi	X				
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

5. Department of Consumer Affairs Report

Legislative Analyst for the Department of Consumer Affairs (DCA), Natalie Martin-Rojas reported on DCA updates from the Director's Office.

6. Executive Officer's Report

Executive Officer, Jessica Sieferman reported on the following:

- A. BreEZe Database
- B. Strategic Plan
- C. Budget
- D. Personnel
- E. Examination and Licensing Programs
- F. Enforcement Program

Public comment was heard from Dr. Stewart Gooderman, O.D. who requested clarification concerning the requirement of obtaining a Drug Enforcement Agency (DEA) number to prescribe Hydrocodone.

No action was taken on this agenda item.

7. Consideration and Approval of the Board Member Handbook

Rachel Michelin moved to approve the Board Member Handbook with the recommended amendments, and to delegate authority to the Executive Officer to make non-substantive changes or corrections if needed. Donna Burke seconded. The Board voted unanimously (9-0) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi	X				
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

8. Update and Consideration of Potential Board Action Related to Online Refractions and the Laws Governing Optometry in the State of California

Ms. Siefertman provided a background on online refractions and the laws.

The Board heard public comment from Dr. Gooderman, O.D. who expressed his concerns regarding online refractions and dangers to the public.

Public comment was heard from Dr. Miller, O.D. who expressed her concerns regarding online refractions, and the duties of the Board to protect the consumer.

The Board heard public comment from Kara Corches with the California Optometric Association who believes the companies offering online refractions are in violation of the Optometric Practice Act.

Public comment was heard from Registered Dispensing Optician, Michael Nutt regarding his concerns about problems online refractions will present for opticians and consumers.

Madhu Chawla made a motion to task the committees to address the issue and bring updates back to the next Board meeting. Donna Burke seconded. The Board voted unanimously (9-0) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi	X				
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

9. Discussion and Possible Action Regarding Legislative Proposal Setting Enforcement Case Prioritization

No action was taken on this agenda item.

10. Update on the Supreme Court Decision Regarding the *North Carolina Board of Dental Examiners v. Federal Trade Commission*

No action was taken on this agenda item.

11. Petition for Reduction of Penalty and Early Termination of Probation (12:30 P.M.)

A. Dr. David Butchert, O.D.

FULL BOARD CLOSED SESSION

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

FULL BOARD OPEN SESSION

13. Presentation by UC Berkeley School of Optometry Regarding Its Concerns Related to the National Board of Examiners in Optometry (NBEO) and National Board Examinations (Parts I, II, and III)

Dean of UC Berkeley School of Optometry, John Flanagan provided a presentation.

Madhu Chawla moved to direct staff to look into the matter further, request reports, work with the Office of Professional Examinations, and report back at a future Board meeting with solutions/information/options. Cyd Brandvein requested a friendly amendment to include having the Practice and Education Committee review what comes back to determine whether anything exists that the Committee needs to work on. Madhu Chawla approved the friendly amendment. Glenn Kawaguchi seconded. The Board voted unanimously (9-0) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi	X				
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

14. Consideration and Approval of Legislation and Regulation Committee Recommendations Related to AB 684 Implementation and other Legislation Impacting the Practice of Optometry

Public Member, Rachel Michelin who was elected Chair of the Legislation and Regulation Committee provided overview and updates on the following legislation and regulation:

A. Legislation

- 1. Proposed Amendment to Business and Professions Code (BPC) § 655 to Regulate Optical Companies; Cite and Fine for Non-Compliance; Lease Information to be Provided by Licensees**
- 2. Proposed Amendment to BPC § 2556.1 to Require Registered Dispensing Opticians to Report Co-location**
- 3. Proposed Amendment to BPC § 2556.2 Related to Reporting Requirements**

Donna Burke moved to accept the recommendations from the Committee for A-1, A-2, and A-3; direct the Executive Officer to prepare a letter to the Administration requesting the clean-up language, and work to effectuate the changes. Madhu Chawla seconded. The Board voted (7-Aye, 2-Abstention) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi			X		
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang			X		

4. Review and Possible Amendment to BPC § 3011: Board Composition

No action was taken on this agenda item.

5. Review and Possible Amendment to BPC § 3020: RDO Advisory Committee

No action was taken on this agenda item.

6. SB 402 (Mitchell) Pupil health: vision examinations

No action was taken on this agenda item.

7. SB 496 (Nguyen) Optometry: graduates of a foreign university: examinations and licensure

Public comment was heard from Mr. Flanagan who advised the Board about the difficulty and concerns of creating pathways for foreign graduated optometrists.

The Board heard public comment from Dr. Miller, O.D. who added her insight and concerns.

Lillian Wong moved to create a workgroup with the Author’s office, stakeholders, and opposition over the next year to create stronger legislation for the next session, and explore other alternatives. Madhu Chawla seconded. The Board voted unanimously (9-0) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi	X				
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

8. SB 349 (Bates) Optometry: mobile optometric facilities

No action was taken on this agenda item.

9. SB 622 (Hernandez): Optometry

Public comment was heard from Kristine Shultz representing the California Optometric Association, who hopes the Board will change their position to support.

Rachel Michelin moved to change Board’s position on SB 622 to support. Donna Burke seconded. The Board voted unanimously (9-0) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi	X				
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

Rachel Michelin moved to direct staff to include broader inspection authority to the language in place for AB 684 letter to the Administration. Lillian Wang seconded. The Board voted (8-Aye; 1-Abstention) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi			X		
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

B. Regulation

1. Proposed Addition to California Code of Regulations (CCR) for BPC § 2556.1: Co-location Reporting Requirement
2. Proposed Addition to CCRs for BPC § 655: Implement Inspection Program
3. Proposed Amendment to CCR § 1399.260 RDO Fees, § 1399.261 Contact Lens Dispenser Fees, § 1399.263 Spectacle Lens Dispenser Fees

Mark Morodomi moved to adopt the Legislation Committee’s recommendations to direct staff to commence with the rulemaking process. Rachel Michelin seconded. The Board voted (8-Aye; 1-Abstention) to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Arredondo	X				
Dr. Chawla	X				
Ms. Burke	X				
Ms. Brandvein	X				
Dr. Giardina				X	
Dr. Kawaguchi			X		
Mr. Kysella	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Dr. Turetsky				X	
Dr. Wang	X				

15. Future Agenda Items

No action was taken on this agenda item.

16. Adjournment