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MEMBERS OF THE COMMITTEE

Lillian Wang, OD, Chair
Glenn Kawaguchi, OD
David Turetsky, OD

**LEGISLATION AND REGULATION COMMITTEE
APPROVED MEETING MINUTES**

Friday, January 31, 2020

Teleconference Meeting Locations:

DCA Del Paso – Sequoia Room
2420 Del Paso Road, Room 109
Sacramento, CA 95834

Moraga Library
1500 St. Mary’s Rd.
Moraga, CA 945814

Charter College
Oxnard Campus
2000 Outlet Center Dr,
Suite 150
Oxnard, CA 93036

California Retailers
Association
1121 L Street, Suite
607
Sacramento, CA
95814

Members Present	Staff Present
Lillian Wang, OD, Chair	Shara Murphy, Executive Officer
Glenn Kawaguchi, OD	Cheree Kimball, Assistant Executive Officer
Rachel Michelin	Marc Johnson, Policy Analyst
David Turetsky, OD	Arsha Qasmi, Licensing Lead
	Sabina Knight, Legal Counsel
Members Absent	Guest List
Maria Salazar-Sperber	On File

Link for audio of meeting:

https://www.optometry.ca.gov/meetings/20200131_lrc_audio.mp3

1. Call to Order/Roll Call/Establishment of a Quorum

Audio of Discussion: 0:00 / 1:03:01

Dr. Wang called the meeting to order and took roll. Dr. Turetsky was present at the Del Paso, Sacramento location with three members of the public; Ms. Michelin was present at the California Retailers Association with one member of the public; Dr. Kawaguchi was present at the Charter College location – no public members; Dr. Wang was present at the Moraga Library location – no public members. Ms. Salazar-Sperber was absent. A 4-0 quorum was established.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 00:57 / 01:03:02

There were no public comments.

3. Discussion and Possible Action Regarding Meeting Minutes - September 13, 2019 Committee Meeting

Audio of Discussion: 01:22 / 01:03:02

No changes were made. There was no public comment.

Rachel Michelin moved to approve the September 13, 2019 Committee Meeting Minutes. Glenn Kawaguchi seconded. The Committee voted unanimously (4-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Kawaguchi	X				
Ms. Salazar-Sperber				X	
Ms. Michelin	X				
Dr. Turetsky	X				

4. Update, Discussion and Possible Action on 2020 Legislation

Audio of Discussion: 02:00 / 01:03:02

Mr. Johnson provided an update on 2020 Legislation. Staff does not have any recommended changes and positions on any of the bills the Board is currently tracking.

A. Assembly Bill 156 (Voepel)

There was no discussion on this bill.

B. Assembly Bill 896 (Low)

The Board already discussed AB 896.

C. Assembly Bill 1467 (Salas and Low)

The Board has a watch position on this bill.

D. Assembly Bill 1616 (Low)

Staff recommends a watch position on AB 1616. Mr. Johnson stated staff looked at the bill internally and determined it would have minimal impact on the Board.

Dr. Turetsky asked how many people staff anticipates will be applying for expungement on an annual basis; Mx. Kimball responded that if taken from the standpoint of the actions the Board has taken to revoke or surrender a license it might amount to around ten annually. Dr. McIntyre asked if there is a specific recommendation for the fee; Mr. Johnson explained the fee would be defined by the bill. He is not sure if the fee has been worked out yet. Ms. Michelin confirmed that this bill has passed through the Assembly. She recommended taking a support position; should it be amended again the Board can always change its position.

Rachel Michelin moved to change the Committee's position to support; and move this recommendation on to the full Board at the February meeting. David Turetsky seconded. The Committee voted unanimously (4-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Kawaguchi	X				
Ms. Salazar-Sperber				X	
Ms. Michelin	X				
Dr. Turetsky	X				

E. Senate Bill 53 (Wilk)

Mr. Johnson reported that the bill would require two-member advisory committees of a state body to hold open, public meetings if specified conditions are met. The Board has an oppose position on SB 53. This bill was held in Senate Appropriations due to concerns about implementation and high costs to bureaus and boards.

There was no public comment.

5. Discussion and Possible Action on Title 16, California Code of Regulations §1536 – Continuing Optometric Education; Purpose and Requirements (concurrent review with Practice and Education Committee)

Audio of Discussion: 08:57 / 01:03:02

Mr. Johnson explained that the Practice and Education Committee looked at this earlier today; Staff wanted the LRC to look at it as well. Staff has worked with the PEC for the last year on issues relating to continuing education. Based on direction from the PEC,

staff came up with changes to §1536 to increase the accountability for continuing education for licensees.

At the August 8, 2018 Board meeting, the Board directed staff to draft regulatory language which would change the number of continuing education hours completed via self-study from 20-25. Mr. Johnson noted that at the last Board meeting Dr. Kawaguchi requested staff move the package forward. Staff suggested combining the increase in self-study hours with the additional changes staff recommends. Committee agrees.

Mr. Johnson highlighted the changes for the Committee:

Subsection (c)(1): Further defines what “self-study” means. The PEC wanted staff to define out the meaning. This proposed change would further define “self-study” to mean a form of “orderly learning” without participatory interaction between licensee and instructor. Anything such as YouTube videos, webinars, seminars that are not participatory would count as “self-study”. Dr. Turetsky asked how he can know whether an online course (not sponsored by an accredited school of optometry) is acceptable; Ms. Murphy confirmed that when auditing a licensee’s CE, it is possible the Board may decide the course does not meet the Board’s standards and therefore not approve those hours. She further explained that passing the regulation package would be a great opportunity to communicate to licensees “please be sure to verify the course(s) is approved when attesting.”

Subsection (c)(7): Staff proposes raising the amount of CEU that can be obtained by participating in a Board workshop as an SME from eight to 12 hours, as the Board will often hold two-day workshops totaling 16 hours. However, a total of 12 hours would not overlap with the 35 hours required for the diagnosis, treatment and management of ocular disease whereas a total of 16 hours may. Dr. Kawaguchi asked staff intends to leave it to the licensees to determine if they have completed the correct category of courses. Ms. Murphy confirmed a licensee may choose to take practice management courses (for example), but what they really need are the credits that are applicable to patient care.

Dr. Kawaguchi requested adding some type of explanation of what self-study needs to be in order to count as part of CE requirements. He proposed adding to subsection (e) to clarify Dr. Turetsky’s concern about licensees taking credits they believe will count towards their total, but do not meet the requirement standards. Ms. Murphy added staff needs to make it explicit within the regulation what’s already stated in statute so that licensee have a clear list of what they can take. At the suggestion of Ms. Knight, text was added clarifying who the schools and colleges are accredited by such as WASC.

Subsection (f): Makes consistent with the Board’s new internal policy for assigning provider numbers and requires providers include that on certificates. Limits approvals to one year, mirroring COPE standards. It also restricts use of the Board’s letterhead, seal or logo to be used on certificates or advertising which will help to prevent fraud and illegal advertising of courses which are not Board approved. Committee agrees with this section but changed provider approvals from one to two years in length.

Subsection (g)(4): Staff proposes text which further specifies the records a provider must keep, such as dates and places of the course and the completion certificates. It also requires providers to keep records on file for four years instead of three. Committee agrees with these changes.

Subsection (h)(9): This change adds text requiring the Board's course approval number, which will assist licensees and staff to track courses consistent with the Board's CE course list. Staff also proposes modification of text from "use of" to "A" certificate is required for any CE course. Additionally, deletion of text specifying "supplied by the Board" and "such forms will be furnished by the Board upon request", since the Board does not produce such a document. These changes will make clear that all licensees must have a completion certificate for their CEUs. Dr. Wang commented that LRC had discussed utilizing BreZE as a method for confirming licensee's CE completion. Ms. Murphy explained that BreZE does not currently allow this capability. Staff has looked at other resource (outside vendors) however they have not proven to be cost-effective.

Subsection (k): Staff recommends addition of text requiring licensees to keep their course completion certificates on file for four years for auditing and enforcement purposes. Like other Boards, it would also codify the Board's "recommendation" as listed on the website to keep files for four-years and make it actionable if a licensee fails to do so during an audit or other action. Mr. Johnson explained this standard is currently implied, but this language will put it in regulation.

Dr. Kawaguchi suggested the word "certificates" should be changed to "records" to account for online courses. Mr. Johnson asked Ms. Knight if it is implied that any courses the licensee has taken, including those under self-study, will be issued a certificate. Ms. Knight responded saying other boards (who have allowed online courses) have specific requirements for the online courses. Ms. Murphy suggested changing the wording to "certificates or applicable records," and to work with Ms. Knight in researching how other boards are specifying their requirements for online courses. Dr. Kawaguchi noted that our current Section (h) may need to be modified as well to include self-study courses.

Subsection (m): Staff proposes a new subsection (m) which would prohibit a licensee repeating courses during a two-year renewal period, making it actionable for enforcement purposes if discovered during an audit or via complaint. During audits in 2018-19, it was discovered multiple licensees were claiming repeat credit during their two-year renewal period. Committee agrees with these changes.

Subsection (n): Staff proposes a new subsection (n), which is based on a Dental Board regulation. It would require that any hours obtained outside of the 25 hours of the alternative methods as defined in subsection (c) must be live, in person and interactive, and would further define what such a course is and how it is taught via participatory interaction. As currently written, this would not allow these courses to be taught via the internet (ex. Skype or web meeting) even if the internet course allowed for such participatory interaction.

Dr. Turetsky had a concern with the list of acceptable general categories for the courses. He noted that there is no reference to courses such as CPR, Child Abuse, and Elder Abuse which are all eligible for credit. He also noted that number (8) on the list just states Diagnosis and Treatment but is not specific as to ocular conditions. Dr. Turetsky is uncertain as to whether to be very specific or very general in the definitions.

Ms. Murphy suggested eliminating the list; Dr. Kawaguchi believes the entire Subsection (n) should be removed. Ms. Murphy commented that the only part of (n) she wishes to retain is: *“For the purposes of this section, such courses are defined as live in-person lecture, live in-person workshop demonstrations, or live in-person classroom studies, which allows participatory interaction between the licensee and the instructor during the instructional period.”* Dr. Kawaguchi believes this should go in Subsection (d) or Subsection (e).

Ms. Murphy requested confirmation that the Members do not see a need for the list; The beginning portion of (n) is redundant and possibly restrictive and should be placed in either Subsection (d) or (e). Members confirmed this is correct.

Glenn Kawaguchi moved to recommend to the full Board the language presented as well as edited today for full Board consideration. David Turetsky seconded. The Committee voted unanimously (4-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Kawaguchi	X				
Ms. Salazar-Sperber				X	
Ms. Michelin	X				
Dr. Turetsky	X				

There was no public comment.

6. Future Agenda Items

Audio of Discussion: 01:02:14 / 01:03:02

No future agenda items were suggested. There was no public comment.

7. Adjournment

Meeting adjourned at 2:48 p.m.