



## ISSUE MEMORANDUM

<b>DATE</b>	November 19, 2021
<b>TO</b>	Members, California State Board of Optometry (CSBO)
<b>FROM</b>	Eunie Linden, Board Secretary
<b>SUBJECT</b>	Agenda Item #4 – Discussion and Possible Approval of August 27, 2021 Board Meeting Minutes

The draft meeting minutes for August 27, 2021 are presented for review and possible approval.

*The mission of the California State Board of Optometry is to protect the health and safety of California consumers through licensing, registration, education, and regulation of the practice of Optometry and Opticianry.*

**MEMBERS OF THE BOARD**

Lillian Wang, OD, President  
 Mark Morodomi, Vice President  
 Eunie Linden, JD, Secretary  
 Cyd Brandvein, Public Member  
 Jeffrey Garcia, OD  
 Glenn Kawaguchi, OD  
 Joseph Pruitt, OD  
 Sandra D. Sims, JD, Public Member  
 David Turetsky, OD  
 Vacant, Public Member  
 Vacant, Optician Licensed Member



**QUARTERLY BOARD MEETING  
 BOARD MEETING MINUTES**

**Friday, August 27, 2021**

**This public meeting was held via WebEx Events.**

<b>Members Present</b>	<b>Staff Present</b>
Lillian Wang, President	Shara Murphy, Executive Officer
Mark Morodomi, Vice President	Cheree Kimball, Assistant Executive Officer
Eunie Linden, Secretary	Marc Johnson, Policy Analyst
Cyd Brandvein	Terri Villareal, Enforcement Lead
Jeffrey Garcia, OD	Natalia Leeper, Licensing Lead
Glenn Kawaguchi, OD	Rebecca Bon, Legal Counsel
Joseph Pruitt, OD	Brad Garding, Enforcement Analyst
David Turetsky, OD	
<b>Members Absent</b>	
Sandra Sims	

**Webcast links:** Part 1 of 2 [https://youtu.be/iN7YzB\\_WeOg](https://youtu.be/iN7YzB_WeOg)  
 Part 2 of 2 <https://youtu.be/rbnoiU6mtB4>

**OPEN SESSION**

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

*Audio of Discussion:* [0:10](#)

President Wang called the meeting to order at 10:02 a.m. Secretary Linden took roll call. Sandra Sims was absent; all other members were present, and a quorum was established.

**2. Public Comment for Items Not on the Agenda**

*Audio of Discussion:* [1:55](#)

Public comment was received from Dr. Doug Major. Dr. Major provided an update on children’s vision care in California. The Department of Healthcare Services (DHCS) is responsible for over half of the children in this state who need affordable healthcare; he noted this last year over 100,000 children had to wait many months to get their glasses. Dr. Major stated that he is surprised at how little representation children have in this state. DHCS has two people performing vision care currently. When Dr. Major attempts to contact them, nobody answers. DHCS has over 2000 employees in a hundred and twenty-eight-billion-dollar program and children’s vision care only has two employees allocated to it. Dr. Major is hoping the Board will support the idea of having children’s healthcare on the Healthcare Dashboard. All managed healthcare now is run by data and Healthcare Dashboard. Dr. Major reported a recent statistic; San Mateo County, considered the wealthiest county per payroll count in the United States had only 600 glasses issued for the entire county.

President Wang requested that Executive Officer Murphy place children’s vision care on the agenda for a future meeting. Executive Officer Murphy asked Dr. Major to contact the Board’s office; she asserted that she would love to chat with him, as it seems he may be aware of direct action the Board might take. Additionally, it would be helpful for staff to perform some research prior to placing this back on a future agenda.

**3. Board President’s Report – Formation and Appointment to Committees**

*Audio of Discussion:* [9:39](#)

President Wang thanked the members for their service on the Board and in the Board’s committee groups. She provided a list of the current committees. Additionally, she suggested that Member Chawla be reappointed to the Practice and Education Committee (PEC) for another year. She explained that currently Drs. Pruitt and Garcia are serving on the PEC, and both members are relatively new to the Board. It would be helpful to have Dr. Chawla’s experience and expertise while serving on the Committee.

President Wang suggested appointing Drs. Chawla and McIntyre to the Telemedicine Workgroup. They were the two members of the previous Telemedicine Workgroup, and they would be helpful to the current workgroup who are both new members of the workgroup.

There were no requests for public comment.

**Cyd Brandvein moved to approve the President’s proposed appointment of Madhu Chawla to the Practice and Education Committee and the President’s proposed appointments of Madhu Chawla and Debra McIntyre to the Telemedicine Workgroup pursuant to Board policy regarding committee appointments as listed in the 2019 edition of the Optometry Board Member Handbook; Mark Morodomi seconded. The Board voted unanimously (8-0-1) and the motion passed.**

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				

<b>Mr. Morodomi</b>	<b>X</b>				
<b>Ms. Linden</b>	<b>X</b>				
<b>Ms. Brandvein</b>	<b>X</b>				
<b>Dr. Garcia</b>	<b>X</b>				
<b>Dr. Kawaguchi</b>	<b>X</b>				
<b>Dr. Pruitt</b>	<b>X</b>				
<b>Ms. Sims</b>				<b>X</b>	
<b>Dr. Turetsky</b>	<b>X</b>				

**4. Discussion and Possible Approval of July 9, 2021 Board Meeting Minutes**

*Audio of Discussion:* [14:34](#)

Dr. Kawaguchi noted an error in the draft minutes. Staff will make the correction.

There were no requests for public comment.

**Jeffrey Garcia moved to accept the July 9, 2021 Board meeting minutes as amended. Mark Morodomi seconded. The Board voted unanimously (8-0-1) and the motion passed.**

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Mr. Morodomi	X				
Ms. Linden	X				
Ms. Brandvein	X				
Dr. Garcia	X				
Dr. Kawaguchi	X				
Dr. Pruitt	X				
Ms. Sims				X	
Dr. Turetsky	X				

**5. Association of Regulatory Boards of Optometry (ARBO) Annual Meeting Report from Lisa Fennell with Comments from Madame President and Board Member Kawaguchi**

*Audio of Discussion:* [18:19](#)

Lisa Fennell, Executive Director of Association of Regulatory Boards of Optometry (ARBO) provided an update and overview on ARBO’s 2021 Annual Meeting, held on June 19-20. Dr. Kenneth Lawenda joined Ms. Fennell for this update. Key talking points during the June 19-20 ARBO meeting included the following:

- Four resolutions approved at the meeting.
- Presentations and discussions regarding changes that have taken place during the pandemic by member boards of ARBO.
- Discussion regarding what ARBO may wish to continue doing going forward. These topics included telemedicine, licensure exams, board operations, provisional

- licensure, and safe infectious disease practices.
- Report from ARBO's OE Tracker committee where they talked about ways in which the OE Tracker assisted ARBO's member boards during the pandemic. Additionally, they talked about the importance of continuing education (CE) audits, and ways in which the OE Tracker can assist with or completely perform CE audits.
  - Announcement that ARBO is seeking volunteers for their OE Tracker Committee.
  - List of COPE categories is in the process of revision and will take effect in January 2022
  - The COPE committee's accreditation system and criteria.
  - COPE's accreditation system was reaffirmed in July to be substantially equivalent with medicines accreditation program.
  - ARBO's National Exam Review Committee reported their findings from the 2020 review of the NBEO exam development and administration process.
  - ARBO was joined by the President and President Elect to talk about the NOA and what they do, their activities and some of the issues related to diversity equity and inclusion in optometry.
  - Members from the Mississippi and Wyoming Boards of Optometry participated to discuss the recent scope of practice expansion in their states.

President Wang asked if the OE Tracker audits are completely performed by ARBO and how many states are currently using the system; Ms. Fennell responded that the audits are 100% all inclusively performed by the ARBO. Dr. Garcia asked if COPE has a specific category for recognizing elder or child abuse; Ms. Fennell replied they do not because it is usually incorporated into their public health. Member Brandvein questioned if ARBO conducts a survey to gather member input on a regular basis and asked that ARBO continue to work with the Board on issues such as provisional licensing. Executive Officer Murphy interjected that when the Board had its conversations about provisional licenses last year, staff was using the data that was collected from individual member states that was compiled by Ms. Fennell and sent to staff. She believes there should be a more concerted effort by staff to collect from board members their concerns and queries; and to report more often on the interaction staff has with ARBO on a regular basis.

President Wang thanked Ms. Fennell for her presentation; She noted that she and Dr. Kawaguchi were able to attend the virtual meeting and found it to be very informative. Dr. Lawenda commented that the OE Tracker Committee is an extremely important one. He believes it is important for someone from the Board to join them and he highly encourages the Board's participation.

There were no requests for public comment.

## **6. Department of Consumer Affairs Update**

*Audio of Discussion:* [41:34](#)

### **A. Executive Office – Carrie Holmes, Deputy Director of Board and Bureau Relations**

DCA Deputy Director of Board and Bureau Relations Carrie Holmes provided an update. She reported that DCA has been receiving many questions regarding whether meetings will be allowed to continue remotely. Although all boards are required to resume in-person meetings after September 30<sup>th</sup>, due to ongoing changes with the COVID-19 pandemic, it is possible that the ability to meet remotely may be extended in some capacity, but it is unclear what is next. Ms. Holmes reminded Members that 2021 is a mandatory Sexual Harassment Prevention Training year.

## **B. Budget Office**

DCA Fiscal Operations Budget Office Analyst Bikram Dhaliwal presented on the status of the Board's fund and a general update. The Board's expenditure projections are expected to revert about 18.6% of its budget which is considered savings. Much of the savings is from Attorney General, personnel services and travel line items. This will greatly help the Board's reserves. He also reported on the Board's fund condition. Renewal fees are the main driver for board and bureau revenue. The Board is projected to collect about \$1,819,000 with renewal fees leading the way. This projection shows that about 1.6 million of the revenue for the current year is coming from renewal fees; which is an increase from the previous fiscal year. It is projected to go up in future years, especially with the optometry and optician fund merger.

Mr. Dhaliwal explained the fiscal year breakdown of the Board's expenditure projections. Expenditures for the current year 20-21 shows about a \$400,000 reversion which is ultimately helping the fund. The fund balance comes out to \$1,784,000 at the end of FY 20-21. This leaves the Board with a 7.8-month reserve balance. Vice President Morodomi asked if there are any concerns with a "use it or lose it" syndrome regarding the Board's surplus; Mr. Dhaliwal responded that the savings occurred from expenditures having been less than what the Board had budgeted for. The unspent money is going back into the fund.

Member Brandvein asked Mr. Dhaliwal to walk members through the licenses and permits line and the budget year; where is the spike in revenue coming from? Mr. Dhaliwal noted when you combine the revenue coming in from the Registered Dispensing Optician (RDO) program, it has an impact and the other factor is that the Board anticipated more license and application fee revenue in 2022.

There were no requests for public comment.

## **7. Executive Officer's Report**

*Audio of Discussion:* [1:03:47](#)

### **A. Enforcement Program**

- i. Quarterly Statistics**
- ii. Presentation on Enforcement Process**

Enforcement Lead Terri Villareal provided enforcement program quarterly statistics update for the last fiscal year. She explained that staff have completed training procedure manuals for tasks that are performed regularly. Staff have been working hard to get these manuals up and

running, and they are a work in progress. These same manuals will hopefully be used to create videos to train Board Members on many of the processes in the enforcement unit. One of enforcement's goals is to ensure that the members understand clearly what the enforcement unit is all about and what staff strive to accomplish in this unit.

She reported that the Board's two enforcement analysts left the Board for promotional positions and a new enforcement technician has joined staff. Dr. Kawaguchi asked where the Board is currently in staffing; Executive Officer Murphy responded that the Board is still one technician short; however, staff has a new hire who has extensive experience in enforcement with other boards. Staff is also undergoing the hiring process for an AGPA analyst who will oversee the creation of the mobile optometric unit program and oversee the development of the enforcement and license review programs as well.

Ms. Villareal reported that the fourth quarter of the fiscal year experienced an increase in cases received. Vice President Morodomi asserted that high priority cases must be resolved and if it means reaching out to another agency that is causing a delay then that is what must be done. Executive Officer Murphy agreed and assured that this is part of staff's strategy as a whole; to better understand and manage caseloads and determine how staff can marshal resources to move the DOI process more expediently. She also clarified that not all "high-priority" cases involve patient harm. The most egregious cases are addressed immediately. Some high-priority cases may involve unlicensed practice which is difficult to prove. She stated that she wishes to assuage member fears; regarding all cases that are particularly egregious such as loss of vision, sexual assault or sexual harassment, staff is immediately addressing those cases and moving as quickly as possible to remove that licensee and ensure no patient harm. She noted Assistant Officer Cheree Kimball and Enforcement Analyst Brad Garding have completed a lot of work on those cases.

Member Linden questioned if a few of the longest pending cases are removed, would that dramatically decrease the average number of days it takes to close a case; Executive Officer Murphy assured that staff is currently analyzing the unit caseload to address this question. She explained that staff needs to look at the data on our cases; what can be extracted out to analysts to quickly work on. She noted that aside from the backlog cases, staff can work through most cases. The Board receives around 350 cases per year, and staff are typically able to close around 300 to 325 of those cases. However, more targeted analysis is needed and in process to determine what the peak closing times will be and how staff can best work the caseload in order to bring the numbers back to where we want them to be.

Ms. Villareal reported that over the next several board meetings and the next couple years, staff will compile trainings to present at Board meetings to better give Board Members an understanding of the entire complaint process from start to finish. She provided a basic overview of how a case is handled once filed with the Board, as follows:

- Complaints are received through the BreEZe electronic program; they are also received via email and through USPS mail. Less often complaints are received via the DCA's call center.
- Each case is received, opened, and investigated. Investigations vary widely from case-

to-case. The determination that enforcement analysts' use is very basic; has a violation of the Optometry Practice Act occurred? Additionally, the Board investigates criminal convictions as part of the applicant process for licensure. Rap sheets are received from the Department of Justice (DOJ) and the FBI, in relation to fingerprints, which describe the violation(s).

- At intake, if a complaint is received outside the Board's jurisdiction, the complainant is contacted and informed that the Board does not have jurisdiction and is told who does. The correct entities information is provided to the complainant.
- Once a case is opened it is assigned to an analyst for investigation. The analyst reviews the complaint and the supporting documents. Often the required documents needed are not included with the complaint, and staff then needs to reach out for police reports, court records, notifications from insurance companies, medica records, billings etc. This can be quite time consuming and can sometimes even take months.
- Each case is entered into the BreEZe system by the Board's enforcement technician and are assigned with a priority ranking. Cases with a standard priority are those in which the complainant wants their money back and/or an apology. Sometimes they want their money refunded and their glasses. The analyst will write to the complainant and explain that the Board cannot require money be returned but we will contact the subject and ask if they will address the issue. Billing errors, problems with prescriptions and copies of medical records that complainants have requested are also documents the analysts try to get from subjects.
- High priority cases are those including patient harm, malpractice like loss of vision or failure to diagnose, sexual harassment and assault.
- 350 cases are received per year on average, which is a lot of cases for a small board.
- Enforcement analysts work with Subject Matter Experts (SME) who are licensed optometrists or optician professionals when a determination of violation cannot be determined.
- Enforcement staff also work very closely with the Attorney General's (AG's) Office on cases with formal disciplinary action which may be an accusation or a statement of issues (denial of an application).
- After the analyst has all the information for the case, the analyst writes a recommendation for further investigation, referral, or closure. The recommendation is reviewed by the Lead Enforcement Analyst, the Assistant Executive Officer and sometimes by the Executive Officer as well.

Ms. Villareal noted that typically there is not just one, but several documents needed to arrive at one decision. Vice President Morodomi stated that he has four ideas for individual training. Executive Officer Murphy responded that at the end of today's meeting, staff would like to collect all ideas, and then in the Spring of next year and talk in depth about one of those topics. Vice President Morodomi asked for an explanation of citation versus accusation and asked if there is any analysis on whether an interim of suspension order is appropriate early in the process. Ms. Villareal explained that a citation is a monetary discipline that can be imposed on an unlicensed or licensed person; if the Board asks them to correct an infraction repeatedly, then a citation is issued. Executive Officer Murphy added that staff always tries to gain the subjects compliance to the lowest level of enforcement possible. If compliance is obtained it may not even be necessary to move on to citation.

Mr. Garding further detailed the difference between citations and accusations; he reported that citations are issued when the Board has tried to gain compliance and has not been successful.



Accusations which are more serious matters such as multiple DUIs or patient injury are the threshold where the Board would take action against the subject's license. Vice President Morodomi noted that members do not ever see the number of citations. Ms. Villareal responded that once the citations become final, staff can begin including this information in the member's enforcement reports. She added that they can find this information from the Board's website as well.

Dr. Garcia thanked Ms. Villareal for an excellent presentation and suggested a training on social media and advertising and requested a presentation on process of licensing of new graduates. Member Brandvein requested an overview of the Board's communications plan, channels the Board is currently using, and examples of what is currently going into those sent over to the committee.

There were no requests for public comment.

## **B. Examination and Licensing Programs**

### **i. Quarterly Statistics**

### **ii. Presentation on Optometry Initial Licensing Process**

Ms. Leeper presented on the quarterly statistics for the examination and licensing programs and reported that examination applications have slowed down after the increase of applications due to graduation season. The pass rate for the 2020 fiscal year is 90.33%, with only 38 applicants having failed. She noted processing time is currently 10 weeks, but staff is working on reducing that time frame so new graduates can enter the workforce as quickly as possible. In total since April 30th, the Board has received 174 applications. Most applications are processed by the licensing lead, who is also providing support, retraining and licensure authorization for a minimal number of applications processed by an additional AGPA resource.

Ms. Leeper reported that the American Board of Opticianry (ABO) and National Contact Lens Examiners (NCLE) exams continue monthly as adopted during the COVID-19 Pandemic in mid-2020. There has been no communication to Candidates or Licensing boards to indicate when or if a return to the quarterly testing schedule will occur. Processing time has increased due to the lack of staff in the licensing unit. The Board is currently recruiting to fill the vacant Optician Program Technician position which has been vacant over a year.

Ms. Leeper gave a brief training on the initial licensing application process.

#### Starting the Application

- Use their BreEZe account to start a New "Exam Request Application.
- Staff encourages applicant to include a phone number and email for easy contact.

#### Scheduling the Exam

- After submittal of application, PSI will contact the applicant to schedule the exam, either via email or mail.
- The applicant will be contacted within 2 weeks of the submission of the application.
- PSI locations are located all over the US.

- Study guides are sent to applicants with information on how to take the exam.
- If applicants fail the exam, they will need to wait 6 months to retake it.
- The exam is valid for 5 year after applicants pass.

#### Passing the CLRE

- Applicants must Log back into their BreEZe account to complete the “Initial License Application- Part 2” Required documents before submittal include transcripts and NBEO scores.

#### Application Review

- Once the Initial License Application is submitted and the required documents received, the application will be reviewed.
- If application meets the requirements, the license will be issued.
- If the application is missing items or information, staff will contact the applicant to let the applicant know what is outstanding.
- Licenses cannot be issued until the application meets all requirements.

Dr. Pruitt asked if staff receives an individual breakdown on individual questions and/or topics on the CLRE; Ms. Leeper replied that she is not certain whether PSI provides this, but she will research PSI about this for a future meeting. Executive Officer Murphy interjected that the Office of Professional Exam Services (OPES) perform a review every six months when the Board comes into a new exam cycle and creates a new exam. President Wang noted that although staff informs applicants of the 10 to 12-week processing time when speaking with them, she believes staff should consider make new graduates aware of this timeline ahead of time.

Ms. Leeper announced that the Board received 174 application this year which is more than anticipated. Dr. Pruitt asked if the processing is first come first serve; Ms. Leeper acknowledged that it is with exception of military or refugee applicants, who are given priority. President Wang asked if applicants can review their BreEZe files themselves to see which parts are incomplete; Ms. Leeper explained that they can look and see that their application is pending but there is no way for applicants to see what is missing until Ms. Leeper is able to review the application because she has manually input what has been received. Member Sims asked if this is more of a computer programming problem; Ms. Leeper responded that BreEZe is a wonderful but limited program. Staff has been researching for a long time whether the Board can get a communication interaction between the NBEO’s database and BreEZe but unfortunately BreEZe cannot always determine what is missing. Dr. Kawaguchi suggested that when creating the training for soon-to-be graduates, to include a best practices information such as “when is the best time to take the CLRE and why?” “Here are your responsibilities to ensure your application is complete”. “Here are things to watch out for”, and “here are the implications to you if you submit something incorrectly”. Ms. Leeper agreed.

President Wang deferred the remainder of Ms. Leeper’s licensing processing report to the next Board meeting.

### **C. Legislative and Regulations Update**

Executive Officer Murphy provided the updates on AB 1534. She stated that staff has had great conversations with legislative staff in both the Senate, Assembly and outside stakeholders. Much of what the Board intended in our draft language has remained, but staff expects another version in print by mid to end next week. Dr. Turetsky drew attention to AB 1534 §10(h)(1) where it talks about a \$50,000 fine for a violation and mentions fines per investigation. He asked, hypothetically, if Dave's Optical has 15 offices and he has been violating some part of the Optometry Practice Act at all 15 offices, and incurs a \$50,000 fine, would it be a \$50,000 fine the investigation for all 15 offices or would it be \$50,000 x 15? Executive Officer Murphy answered that this is a portion of the bill that staff are having discussions about; she hopes to have some clarification on this within the next amendments that are made public next week.

Public comment was received from James Jack who spoke on behalf of National Vision. He noted that at this Board's main meeting staff was authorized to request the inclusion of optical retail statutory changes into the Sunset Bill. He noted these changes have been extensively deliberated on by this Board and its committees and allowed time for all the stakeholders to understand the implications, and to provide feedback. National Vision is very concerned that since then, the Board's effort has expanded to include some profound new changes to optometry law including new limitations on business arrangements between optometrists and physicians, surgeons, RDOs and health plans. He believes the Sunset Bill now contains some broad and hastily drafted language and requested the Board review the bill further.

Public comment was received from Kristine Schultz. Ms. Shultz updated the Board on two of the bills. AB 407 - the scope of practice bill - eliminates the list of drugs, eliminates the list of conditions that optometrists can treat, and so it allows for treatment of the anterior segment. She noted that it allows optometry to grow. There will be some amendments to the bill to address some concerns that were raised. Additionally, Ms. Shultz reported on AB 691 which is legislation to allow optometrists to continue to administer COVID vaccine and to allow for testing. SB 509 is also moving through to allow for a temporary provisional license that allows grads to practice if the NBEO closes again due to COVID. She stated that it appears that all these bills will pass.

Vice President Morodomi asked, regarding the Sunset bill, the new draft does not include a new topic that was not addressed in earlier drafts or in the Board's testimony before the Legislature; Executive Officer Murphy affirmed that this is correct. She stated that she believes National Vision is speaking specifically to changes made to the Business and Professions Code 655. That text was a part of the materials for the 5/21/21 Board meeting and was part of the packet that was approved by the Board and sent to the Legislature. Executive Officer Murphy also noted the issue was then discussed extensively during the Board's Sunset Review with the Joint Sunset Review Committee.

Public comment was received from Vivian. Vivian stated that she is a new grad and wants to provide a new grads perspective on the licensing process. She assured that new grads are aware that the processing time is 10 weeks and that the timeline does not begin until transcripts are sent. However, for many of them the time has surpassed that, and there is not a

way they can track whether their app has even been viewed; it only states “pending”. Vivian contended that if the process is going to take many months, they need to know this because their future employers are expecting them to start work, and they view them as unprofessional and untimely despite their understanding and flexibility of their situations.

Dr. Turetsky asked Mr. Johnson, with regards to AB 458, what the time frame after enactment that licensees must comply with the provisions of the statute? Mr. Johnson responded that the regulation is silent on this; he anticipated this might come up and checked with legal counsel; Mr. Johnson was advised that the answer basically depends on when the regulations become effective. He explained that staff is still prepping this package currently for submission to DCA.

#### **D. Outreach and Communications Update**

A memo on this agenda item was provided as part of the meeting packet.

There were no requests for public comment.

#### **8. Update, Discussion and Possible Action on Change to Title 16, California Code of Regulations Section 1536 (Continuing Education Regulations)**

*Audio of Discussion:* [3:13:00](#)

Mr. Johnson announced that the CCR Section 1536 rulemaking package is ready for legal review, but the changes discussed today will be integrated into the package then sent to DCA for review prior to public comment. Executive Officer Murphy noted each time a Practice and Education Committee (PEC) meeting is held, there are certain comments that are almost always said, such as category of education and what kind of delivery format is used. Therefore, the PEC is recommending additional changes to the text. Staff added additional categories for continuing education courses to the application form, as well as an opportunity for providers to indicate what tools they will utilize to ensure participation verification of online platform courses.

Ms. Leeper reviewed the proposed changes and noted that several CE categories are not currently listed in statute. She referred to proposed section 3 of section 1536 which added additional courses. Executive Officer Murphy added the changes are based on BPC section 3059. Ms. Leeper explained that many CE course applicants do not know which categories the Board offers. Therefore, staff listed them out which should help better gauge what categories most of the course approvals fall under. Due to this change of adding the list, the space at the bottom for the category to be filled in was removed. Additionally, a check list was added for live online courses for providers to specify whether the webinar has participation auditing, in-content quizzes, polls, video requirement, time logs and a post course test. A minor nonconsequential change was made to the wording for the additional course instructors’ area.

Dr. Garcia asked if COPE’s list of categories is much larger than the Board’s list; Ms. Leeper confirmed this is correct and COPE has a list of broad categories and sub-categories. He then asked if the Board can put child abuse and elder abuse detection under a sub-category rather

than a category of its own; Executive Officer Murphy responded that this was a strategic move, because the Board has had the mandate from the Legislature (for several years) to encourage providers to develop course content around child and elder abuse detection. The intent here is to provide communication to providers that these are topics the Legislature has deemed important to the education of optometrists; and to align what is in statute, regulation, and on the form to better educate providers on what type of content California has deemed important and on what the Board can accept.

Dr. Turetsky noted that if an elder or child abuse detection presentation is given by a state recognized or nationally recognized organization (not related to optometry) they will not apply for Board approval for their content. He asked if there is a way that the Board can say that the course provided by such organization is accepted; Executive Officer Murphy clarified that any course that is not either adopted by COPE or presented by one of California's optometric universities needs to go through the Board for approval. Dr. Kawaguchi expressed concern about the regulation possibly be returned to committee.

Due to a hearings with a time certain start of 2:00pm, the Board moved to agenda item #10.

#### **10. Petitions for Early Termination of Probation**

- **Wayne Hoeft (OPT # 4256)**
- **Martin Dawson (SLD #42036, CLD # 8596)**
- 

*Audio of Discussion:* [17:17 / 3:1](#)

Administrative Law Judge Ji-Lan Zang presided over the hearing for petition for early termination of probation for Wayne Hoeft, OD. Deputy Attorney General Matthew King represented the people of the state of California.

Administrative Law Judge Jami Teagle-Burgos presided over the hearing of the petition for early termination of probation for Martin Dawson, SLD, CLD. Deputy Attorney General Ted Drcar represented the people of the state of California.

#### **11. CLOSED SESSION**

##### **A. The Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters, Pursuant to Government Code Section 11126(c)(3)**

##### **(Continued) 8. Update, Discussion and Possible Action on Change to Title 16, California Code of Regulations Section 1536 (Continuing Education Regulations)**

Upon conclusion of closed session, the Board resumed on Item #8.

President Wang noted that although the Board's categories on the form do not completely match up with COPE categories, they still pinpoint the different CE categories that are required for TPA and glaucoma certified optometrists. Dr. Garcia contended that he still feels that if the Board's goal is to line up with COPE, then the Board is going the opposite direction by creating the subcategories by name identifying child and elder abuse. He noted that there are other

courses available which would be just as helpful such as recognizing opioid abuse or recognizing human trafficking. His opinion is that there are many other courses that the Board could classify under Public Health going forward because there may be other mandates in the future. Executive Officer Murphy agreed and noted the Board may wish to place this on the form as ethics education or public health education and that change can be incorporated easily with the changes that staff has suggested in today's materials.

Vice President Morodomi asked if the Board votes to approve the form and is it part of the regulatory package; Executive Officer Murphy replied that the regulatory package does not have to be submitted today; however, if it is not resolved today then it will have to be brought back in November. Dr. Kawaguchi noted although he does not have strong opposition to the changes proposed, he does not believe they have been vetted; therefore, he will not be able to support changes and run the risk of moving forwarding something the Board has not had the chance to fully discuss. Dr. Garcia responded that he recognizes the concerns, but he does not believe the changes he is suggesting are very substantial. He is not suggesting that the Board not promote offering the courses; he is simply suggesting reclassifying them under a common classification that is recognized by COPE that they fit nicely under. Additionally, it allows the Board to move forward with adding future courses under those categories.

Executive Officer Murphy proposed an amendment to the text, slipping "c" to "d". Under "c" the category can be created of ethical or public education. That would still tie back to the child and elder abuse authority we have within statute; at the same time giving the Board the opportunity to look at future issues that can be added to the list or added by regulation. Member Brandvein asked what the COPE words are? Ms. Leeper answered that ethics and jurisprudence is what COPE considers appropriate for their child/elder abuse section. Public health is under their clinical optometry section. COPE only has five large categories with everything else a subcategory. Executive Officer Murphy suggested that within the text of the regulation we include ethics and jurisprudence education as another bullet giving us the opportunity to include other pandemics and human trafficking within that large category of allowable categories.

Member Brandvein asked President Wang to advise the Board again on what the PEC is recommending. President Wang replied that PEC has had difficulties in the past because providers often fail to provide the course category. These changes to the form are to make it easier for providers by checking a box versus writing it out. She explained that the categories are all listed under the OE Tracker. Vice President Morodomi requested that Executive Officer Murphy state what new category that will become the new c or d, he will make a motion to approve the package with that additional language; she responded that the current c would become d.

There were no requests for public comment.

**Mark Morodomi moved to approve proposed changes to Title 16, Section 1536, including the amendment discussed today; and the Form CE-01 incorporated by reference into the section as presented and discussed here today; and delegate authority to the Executive Officer to make non-substantive changes to the text and**

**Form CE-01 prior to submission to the Director of the Department of Consumer Affairs and the Business, Consumer Services and Housing Agency for review; and if no adverse comments are received authorize the Executive Officer to set the matter for hearing if requested. Cyd Brandvein seconded. The Board voted (7-Aye; 1-No) and the motion passed.**

<b>Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Dr. Wang	X				
Mr. Morodomi	X				
Ms. Linden	X				
Ms. Brandvein	X				
Dr. Garcia	X				
Dr. Kawaguchi		X			
Dr. Pruitt	X				
Ms. Sims				X	
Dr. Turetsky	X				

The meeting adjourned at 5:00 p.m.