

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, O.D., President
Jeffrey Garcia, O.D., Vice President
Eunie Linden, J.D., Secretary
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Donald Yoo, J.D., Public Member
Vacant Governor Appointee, Public Member

Gregory Pruden, Executive Officer



MEMBERS OF THE COMMITTEE

Mark Morodomi, J.D., Chair
Jeffrey Garcia, O.D.
Eunie Linden, J.D.
Donald Yoo, J.D.

**LEGISLATION AND REGULATION COMMITTEE
TELECONFERENCE MEETING AGENDA**

Friday, April 21, 2023

Time: 9:00 a.m. to close of business

PUBLIC WEBEX MEETING

To access the Webex event attendees will need to click the following link and enter their first name, last name, email, and the event password listed below:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m7c9679a736de1bb6bc41ecb658021631>

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Webinar number: 2493 162 2538

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The California State Board of Optometry will hold a public meeting via the Webex platform. Pursuant to the statutory provisions of Government Code section 11133, teleconference locations are not provided.

Members of the public may, but are not obligated to, provide their names or personal information as a condition of observing or participating in the meeting. When signing into the Webex platform, participants may be asked for their name and email address. Participants who choose not to provide their names will need to provide a unique identifier such as their initials or another alternative, so that the meeting moderator can identify individuals who wish to make public comment; participants who choose not to provide their email address may utilize a fictitious email address like in the following sample format:

XXXXX@mailinator.com

To avoid lack of access due to potential technical difficulties, please consider submitting

written comments via email prior to the meeting: optometry@dca.ca.gov

Action may be taken on any item on the agenda.

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

2. Public Comment for Items Not on the Agenda

Note: The committee 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\(a\)](#).)

3. Discussion and Possible Approval of the February 18, 2022 Meeting Minutes

4. Discussion and Possible Action on Adopting Diversity, Equity, Inclusion, and Belonging (DEIB) Continuing Education Requirement

5. Discussion and Possible Action on Legislation

- A. AB 1028 (McKinnor) Reporting of crimes: mandated reporters.
- B. AB 1369 (Bauer-Kahan) Healing arts licensees
- C. AB 1570 (Low) Optometry: certification to perform advanced procedures
- D. AB 1707 (Pacheco) Health professionals and facilities: adverse actions based on another state's law
- E. SB 340 (Eggman) Medi-Cal: eyeglasses: Prison Industry Authority
- F. SB 457 (Menjivar) Vision care: consent by a minor
- G. SB 544 (Laird) Bagley-Keene Open Meeting Act: teleconferencing
- H. SB 819 (Eggman) Medi-Cal: certification

6. Discussion on Federal Military Spouse Licensing Relief Act

7. Future Agenda Items

8. Adjournment

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.

Action may be taken on any item on the agenda. Items may be taken out of order to accommodate speakers or to maintain a quorum. Meetings of the California State Board of Optometry and its committees are open to the public except when specifically noticed otherwise in accordance with the Bagley-Keene Open Meeting Act. Public comments will generally be taken on agenda items at the time the specific item is raised. Please respect time limits, which the Chairperson may request on an as-needed basis to accommodate all interested speakers and the full agenda.

Closed captioning is provided. The meeting is accessible to persons with disabilities. To request disability-related accommodations, use the contact information below. Please submit your request at least five (5) business days before the meeting to help ensure availability of the accommodation.

Contact Person: Erica Bautista, Administration Analyst

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
916-575-7170
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ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, Chair |
| SUBJECT | Agenda Item #1 – Call to Order, Roll Call, and Establishment of a Quorum |

Chair Mark Morodomi will call the meeting to order. Please note the date and time for the record.

Roll will be called to establish a quorum of the Committee.

1. Mark Morodomi, J.D., Chair
2. Jeffrey Garcia, O.D., Vice-Chair
3. Eunie Linden, JD
4. Donald Yoo, JD



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Mark Morodomi, Chair |
| SUBJECT | Agenda Item #2 – Public Comment For Items Not on the Agenda |

The Committee welcomes public comment for items not on the agenda.

MEMBERS OF THE BOARD

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



MEMBERS OF THE COMMITTEE

David Turetsky, O.D., Chair
Glenn Kawaguchi, O.D.
Eunie Linden, J.D.
Mark Morodomi, J.D.
Sandra D. Sims, J.D.

**LEGISLATION AND REGULATION COMMITTEE
TELECONFERENCE DRAFT MEETING MINUTES**

This public meeting was held via WebEx and attended remotely

**Friday, February 18, 2022
Time: 12:30p until close of business**

| Members Present | Staff Present |
|-----------------------------|-------------------------------------|
| David Turetsky, O.D., Chair | Shara Murphy, Executive Officer |
| Glenn Kawaguchi, O.D. | Genevieve Sanati, Licensing analyst |
| Eunie Linden, J.D. | Marc Johnson, Policy Analyst |
| Sandra D. Sims, J.D. | |
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| | |
| Members Absent | |
| Mark Morodomi, J.D. | |

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

Dr. Turetsky called the meeting to order at 1232 p.m. 4-1 quorum. Mark Morodomi absent.

2. Public Comment for Items Not on the Agenda

No public comment.

3. Discussion and Possible Approval of October 22, 2021 Meeting Minutes

Members had no changes. There was no public comment.

Eunie Linden motioned to accept the minutes as presented. Glenn Kawaguchi seconded. Motion passes 4-0-1.

| Member | Aye | No | Abstain | Absent |
|---------------|------------|-----------|----------------|---------------|
| Turetsky | X | | | |

| | | | | |
|-----------|---|--|--|---|
| Kawaguchi | X | | | |
| Linden | X | | | |
| Morodomi | | | | X |
| Sims | X | | | |

4. Discussion and Possible Action on 2021-2025 Strategic Plan Items Relevant to the Committee

Item # 3.1 - Policy Analyst Marc Johnson discussed this item which advocates for the adoption for new optician statutes and regulations with goal completion of Quarter 1, 2024.

Item # 3.1.2 – Mr. Johnson noted this item was to track federal legislation. Mr. Johnson noted that staff had reached out to the Department’s legislative unit for guidance and would be working with the Attorney General’s Office to better understand how federal law preempts state law and would report back at a later date. This item was also relevant for Item 3.5

Item # 3.2 – Mr. Johnson noted the mobile optometric office rulemaking package, implementing AB 896, was in progress and staff would be bringing a revised package to the March 11, 2022 meeting, incorporating items from the board’s sunset bill, AB 1534. Mr. Johnson also discussed the continuing education regulatory package.

Item # 3.3 – Mr. Johnson reported to the Committee that staff was continuing research into the telemedicine issue and would be looking at Minnesota and ARBO for information. Mr. Johnson noted that this item had a goal completion date of Quarter 4 of 2024 and staff would continue to look at.

Item # 3.4 – Mr. Johnson reported on staff work to pursue sunset review legislation that modernizes language and concepts in light of current and future practice, that synchronizes the expiration dates of fictitious name permits to align with renewals of general licensure and statements of licensure, and that implements a license verification fee to support unfunded staff work. Mr. Johnson discussed work that staff is doing in preparation of sunset review.

Item # 3.5 – Staff will work with DCA’s legislation and regulation committee to determine if the Board can track federal legislation.

Member Turetsky asked Mr. Johnson to provide more information to the Committee, particularly the public members, about changes to law regarding optometrists working for another doctor.

Mr. Johnson reported to the Committee that recent law changes now allow optometrists to work for any type of licensed physician, whereas previous law only allowed an optometrist to work for an ophthalmologist.

No public comment.

5. Update and Discussion on the Following Rulemaking Packages

Mr. Johnson provided an update on the following Board-approved rulemaking packages:

- a. Mobile Optometric Office Regulations (Adopt Title 16, §§ 1583 – 1587)

- b. Optometry Continuing Education Regulations (Amend Title 16, § 1536)
- c. Implementation of AB 458 (Adopt Title 16, §1507.5; Amend Title 16, § 1524)
- d. Optician Program Omnibus Regulatory Changes (Amend Title 16, §§ 1399.200 – 1399.285)
- e. Optometry Disciplinary Guidelines (Amend Title 16, §1575)
- f. Dispensing Optician Disciplinary Guidelines (Amend Title 16, § 1399.273)
- g. Requirements for Glaucoma Certification (Amend Title 16, § 1571)

Mr. Johnson noted that AB 1534 made several large changes to law and staff is currently working on items related to that bill and incorporating changes into existing regulations.

Mr. Johnson mentioned AB 107, which requires all DCA boards issue temporary licenses to military spouses. The bill could require a standalone regulation package which would come before the committee.

Public comment was received from Joe Neville, National Association of Optometrists and Opticians, who asked when will AB 1534 go into place? What is actionable from AB 1534 and what requires regulations? Will the board provide general advice to the public?

Member Turetsky asked Mr. Johnson if AB 1534 was part of Item #6. Mr. Johnson noted that staff would have to discuss with counsel what is consider actionable and what would have to go through the regulation process.

Member Turetsky asked Executive Officer Murphy about a workgroup and sunset cleanup. Executive Officer Murphy noted that AB 1534 implementation happens in three steps as some items took effect on January 1 following the bill being signed, some items took effect on a future date, and some items will need accompanying regulations. Staff will work with legal counsel to differentiate these items and will likely have a message out in the next month or two to inform licensees.

No motion needed, informational update.

6. Discussion and Possible Action on Legislative Proposals and Priorities for 2022

a. Proposed Changes to Business and Professions Code Sections 655, 2559, 3040 and 3094 (Optometry and Optician Practice Acts)

Dr. Turetsky gave a short overview of work he is doing as part of a workgroup with Member Kawaguchi and Board staff. The work is aimed at closing loopholes and improving enforcement.

Executive Officer Murphy referred to materials and noted a legislative author has not been found. Executive Officer Murphy believes this is opportunity for modernization of the practice act, particularly the way in which modern technology and practices are enabling optometrists to provide their services with autonomy.

Member Kawaguchi noted that stakeholders need to be involved as the Board continues to work to improve consumer protection. Member Kawaguchi noted that regulations should have a balancing act and that regulations strike the right balance and don't hand-tie practitioners.

A letter was received for public comment from National Association of Optometrists and Opticians. Member Kawaguchi noted the letter reinforced his comments about maintaining

dialogue with stakeholders and that new laws and regulations are created that flex the best way for the Board to protect consumers in the modern era.

Member Turetsky supported Member Kawaguchi's comments.

Member Kawaguchi mentioned the Board's struggle in that the Dispensing Optician Committee does not have a quorum and is a critical part of working through this issue.

Executive Officer Murphy said the Board is encouraging individuals to apply as the Committee is critical to modernizing the profession and protecting consumers.

No public comments.

b. Other Legislative Proposals and Priorities

Executive Officer Murphy referred to letter in packet received from the Little Hoover Commission— AB 1733. The bill would allow a hybrid meeting environment, in person and virtual, and would not require members to disclose their home address. The Governor's Executive Order only authorizes these meetings through March and this bill would extend it. The Committee recommends support.

Public comment: Mr. Neville commented about how stakeholder meetings will unfold and whether they'll be in person or virtual and how best to engage.

Executive Officer Murphy responded that the Board would be willing to engage in a variety of ways, including meetings and surveys, and valued all of the feedback.

Public comment: Kristine Schultz, California Optometric Association (COA), brought up two scope of practice measures: AB 2236 (Low) in spot form and Salas will author a clean up bill to AB 407 regarding to tests and stabilizing glaucoma patients. They are also looking at a bill to allow optometrists to go outside of the prison industry authority, SB 1089 (Wilk). The last bill is to waive all fees for all active duty licensees, SB 1237 (Newman). To make clear that the waiver is not just for temporary assignments, but also for those who are on permanent or longer term assignment. The COA would also like to be a partner in stakeholder meetings and the sunset process.

Member Kawaguchi and Member Linden want updates on access to care issue and Medi-Cal.

Member Linden believes it would be in the Board's interest to be a co-author and wants an update on military families legislation as a future Board agenda item.

7. Future Agenda Items

Member Sims requested an update/understanding of Medi-cal reimbursements.
No public comment.

Executive Officer Murphy provided information that the Board is working with DCA to bring information forward at the next Board meeting to help the Board potentially partner with COA on military legislation.

Member Kawaguchi thanked Mr. Johnson for his work and wished him well.

Member Sims echoed the sentiment expressed by Member Kawaguchi.

8. Adjournment

Adjourned at 1:24 p.m.



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #4 – Discussion and Possible Action on Adopting Diversity, Equity, Inclusion, and Belonging (DEIB) Continuing Education Requirement |

Issue:

Should the Board consider mandating continuing education courses in DEIB as a condition of license renewal? And, if so, should the mandate be pursued via regulation or statute?

Background:

At the August 26, 2022, Board meeting a presentation was given on DEIB by Dr. Ruth Shoge, O.D., the Director of DEIB and Associate Clinical Professor, Herbert Wertheim School of Optometry & Vision Science at the University of California, Berkeley. It was noted at that presentation that the Board does not have a requirement that licensees take cultural competency training. As a possible parallel, it was noted that current law allows and encourages licensees to take courses in child and elder abuse as part of their continuing education requirements, although Board statistics reveal that most licensees gravitate toward taking courses in the statutorily mandated topics. Members expressed interest in this topic being mandated.

At the January 27, 2023, Practice and Education Committee, members asked for the topic to be referred both to the Legislation and Regulation Committee as well as included as a future agenda item for the next Practice and Education Committee meeting, which was held on March 24, 2023. During that meeting, Board staff provided the Committee with information regarding options for pursuing this topic as a mandated continuing education topic.

Analysis:

The statutory requirements for continuing education are specified in Business and Professions Code (BPC) section 3059 and Title 16 California Code of Regulations (CCR) 1536. BPC 3059(e) specifically provides that: “An optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 shall complete a total of 50 hours of continuing education every two years in order to renew his or her certificate. Thirty-five of the required 50 hours of continuing education shall be on the diagnosis,

treatment, and management of ocular disease in any combination of the following areas:

- (1) Glaucoma.
- (2) Ocular infection.
- (3) Ocular inflammation.
- (4) Topical steroids.
- (5) Systemic medication.
- (6) Pain medication, including the risks of addiction associated with the use of Schedule II drugs.”

Three other subsections of the statute provide the board some legislative direction on other topics to consider requiring optometrists to take as a condition of renewal:

(f) The board shall encourage every optometrist to take a course or courses in pharmacology and pharmaceuticals as part of his or her continuing education.

(g) The board shall consider requiring courses in child abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(h) The board shall consider requiring courses in elder abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected elder persons.

The Board is presently pursuing a regulatory proposal to amend the existing continuing education requirements at 16 CCR 1536. Those Board-approved regulations would for the first time make explicit that part of the criteria for judging and approving continuing education courses is whether the program is in one of the subject matter areas provided for in Business and Professions Code section 3059(e)-(h). The Board-approved regulations do not mandate taking courses in child abuse or elder abuse detection.

Statute is unclear on whether the Board has the legislative direction to pursue requiring via regulation a mandate that optometrists take continuing education courses in DEIB as a condition of renewal.

Several recent efforts to mandate cultural competency or implicit bias training have occurred and impacted DCA boards and bureaus. AB 465 (Chapter 167, Statutes of 2021) requires applicants for a professional fiduciary license to have taken at least one (1) hour of instruction in cultural competency and requires all licensees, as a condition of renewal, to take at least two hours of instruction in ethics, two hours of instruction in cultural competency, or two hours of instruction in both ethics and cultural competency every year. AB 948 (Chapter 352, Statutes of 2021) requires all real estate appraisers to complete cultural competency and elimination of bias training as a condition of renewal. AB 2194 (Chapter 958, Statutes of 2022) requires pharmacists, as a condition of renewal, to take at least one (1) hour of the required 30 hours in cultural competency during the two-year renewal period.

All of the Board’s currently mandated continuing education topics are directly related to the practice of optometry and are specified in Business and Professions Code section 3059. For most optometrists, 35 of the required 50 hours are in mandated topics or areas, with 15 hours left unspecified. A review of Board-approved continuing education courses shows no courses submitted in the areas of elder abuse, child abuse, cultural

competency, implicit bias, or DEIB. A review of ARBO-accredited continued education courses showed approximately 30-40 courses with “diversity” or “equity” in their course title.

The Committee and full Board could consider pursuing this policy change as a legislative proposal. The next opportunity to pursue legislative proposals would be this fall for inclusion in a bill in 2024. Another option for the Board to consider is including this item as a sunset review topic during the sunset review process which will next occur in 2025.

Recommendation:

Direct staff to bring to the Board a legislative proposal, for 2024, to encourage optometrists to take courses in DEIB.



ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #5A – Discussion and Possible Action on Legislation: AB 1028 |

BILL NUMBER: AB 1028

AUTHOR: McKinnor

BILL DATE: February 15, 2023

SUBJECT: Reporting of crimes: mandated reporters

SPONSOR: Unknown

DESCRIPTION OF CURRENT LEGISLATION:

This bill would, on and after January 1, 2025, eliminate the requirement that a health practitioner report to law enforcement when they suspect a patient has suffered physical injury caused by assault or abuse. In its place, the bill would require health practitioners who suspect that a patient is experiencing any form of domestic or sexual violence to provide brief counseling, education, or other support, and a warm handoff or referral to a local or national domestic or sexual violence advocacy services. The bill would exempt health practitioners from civil or criminal liability for any report made in good faith and in compliance with applicable state and federal laws.

BACKGROUND:

This bill is a reintroduction of AB 2790 (Wicks), which was held in the Senate Appropriations Suspense File. Last year, this bill was supported by organizations such as the Alliance for Boys and Men of Color, Futures Without Violence, the UC Irvine Domestic Violence Law Clinic, and ACLU California Action who argued existing mandating reporting law dissuades many victims from seeking medical care or sharing information with health practitioners to avoid law enforcement involvement. The bill was opposed by the Academy of Forensic Nursing, California District Attorneys Association, California Police Chiefs Association, and the Board of Registered Nursing who argued the bill would lead to more domestic violence and have more serious consequences.

ANALYSIS:

Under existing law, health practitioners employed by health facilities and other settings are required to report certain information to law enforcement officers. These reports are

mandatory if the practitioner suspects that a patient has suffered a physical injury that is either self-inflicted, caused by a firearm, or caused by assaultive or abusive conduct. This bill would maintain mandatory reporting requirements for self-inflicted or firearm injuries, but beginning January 1, 2025, it would eliminate the reporting requirements for suspected assaultive or abusive conduct.

In its place, health practitioners who know or reasonably suspect that a patient is the victim of domestic or sexual violence would instead be required to provide brief counseling, education, or other support to the degree that is medically possible for the patient. They must also offer a warm handoff or referral to domestic or sexual violence advocacy services. Practitioners could satisfy this requirement by connecting the patient with a survivor advocate, either in-person or via a call, or sharing information with the patient about how to get in touch with such organizations and letting patients know how they can help. Practitioners would not need to personally provide a handoff or referral, as the requirements would be met if such services are offered by a member of the health care team at the facility.

Although this bill would eliminate mandatory reporting in many instances, it would still allow health practitioners to make a report to law enforcement if they believe it is necessary to prevent or lessen a serious and imminent threat to the health or safety of the patient or the public. They could also make a report if they have the patient's consent.

FISCAL: None

SUPPORT: Likely to be previous supporters of AB 2790.

OPPOSITION: Likely to be previous opponents of AB 2790.

POSITION: Recommendation: Support

ATTACHMENT: [AB 1028 \(McKinnor\) Reporting of crimes: mandated reporters](#)
[AB 2790 \(Wicks\) Reporting of crimes: mandated reporters](#)

Version: February 15, 2023



ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #5C – Discussion and Possible Action on Legislation: AB 1570 |

BILL NUMBER: AB 1570

AUTHOR: Low

BILL DATE: February 17, 2023

SUBJECT: Optometry: certification to perform advanced procedures

SPONSOR: California Optometric Association

AUTHOR REASON FOR THE BILL:

According to the author's statement on AB 2236 (2022), which is substantially similar: "Today's optometrists are trained to do much more than they are permitted in California. Optometrists in other states are performing minor surgical procedures, including the use of lasers to treat glaucoma with no adverse events and little to no requirements on training. This bill provides additional training that will be more rigorous than any other state and will ensure that patients will have access to the care they need. In some counties, Medi-Cal patients must wait months to get in with an ophthalmologist. Optometrists already provide 81 percent of the eye care under Medi-Cal. Optometrists are located in almost every county in California. Optometrists are well situated to bridge the provider gap for these eye conditions that are becoming more common as our population ages."

DESCRIPTION OF CURRENT LEGISLATION:

This bill is a reintroduction of AB 2236 (Low, 2022). It would create a new certificate type to allow optometrists to perform advanced laser surgical procedures, excision or drainage of nonrecurrent lesions of the adnexa, injections for treatment of chalazia and to administer anesthesia, and corneal crosslinking procedures. Prior to certification, optometrists would be required to meet specified training, pass an examination, and complete education requirements to be developed by the Board. It would also require optometrists to report any adverse treatment outcomes to the Board and require the Board to review these reports in a timely manner.

BACKGROUND:

Existing law provides that the practice of optometry includes the prevention, diagnosis, treatment, and management of disorders and dysfunctions of the visual system, as well as the provision of habilitative or rehabilitative optometric services, and specifically authorizes an optometrist who is certified to use therapeutic pharmaceutical agents to diagnose and treat the human eye for various enumerated conditions. (BPC § 3041) Existing law also requires an optometrist seeking certification to use therapeutic pharmaceutical agents and diagnose and treat specified conditions to apply for a certificate from the CBO and meet additional education and training requirements. (BPC § 3041.3)

ANALYSIS:

This bill would expand the scope of optometry and enable most licensed optometrists to provide optometric services in California consistent with their education and training. Specifically, the bill would:

- Authorize an optometrist certified to treat glaucoma to obtain certification to perform specified advanced procedures if the optometrist meets certain education, training, examination, and other requirements.
- Require the board to set a fee for the issuance and renewal of the certificate authorizing the use of advanced procedures, which would be deposited in the Optometry Fund.
- Require an optometrist who performs advanced procedures pursuant to these provisions to report certain information to the board, including any adverse treatment outcomes that required a referral to or consultation with another health care provider.
- Require the board to compile a report summarizing the data collected and make the report available on the Board's internet website.

To qualify for the certification proposed by the bill, the Board is required to designate Board-approved courses designed to provide education on the advanced procedures required of an optometrist who wishes to qualify for the certification. An additional requirement under the bill is the completion of a Board-approved training program conducted in California.

The bill also requires optometrists to report to the Board, within three weeks, any adverse treatment outcome that required a referral to or consultation with another health care provider. The bill authorizes this to be reported on a form or via a portal. The bill requires the Board to review these adverse treatment outcome reports in a timely manner, and request additional information, if necessary, impose additional training, or to restrict or revoke a certification.

This bill would currently have the following impact to the Board:

- A process for reviewing and approving Board-approved courses of at least 32 hours. These courses must include a written examination requirement. It is unclear who must design and administer the exam. The Board would need to amend or create new regulations to approve these courses.
- The bill provides discretion to the Board to waive the requirement that an applicant for certification pass both sections of the Laser and Surgical

Procedures Examination of the National Board of Examiners in Optometry. The Board would likely need to develop criteria in regulation for this process.

- Applicants must complete a Board-approved training program conducted in California. The bill specifies that the Board is responsible for determining the percentage of required procedures that must be performed. The Board will need to implement this requirement in regulation.
- The bill requires the performance of procedures completed by an applicant for certification be certified on a form approved by the Board. The Board will have to implement this requirement in regulation.
- The bill requires a second form also be submitted to the Board certifying the optometrist is competent to perform advanced procedure and requires the Board to develop the form. The Board will have to implement this requirement in regulation.
- The bill requires optometrists to monitor and report to the Board, on either a form or an internet-based portal, at the time of license renewal or upon Board request, the number of and types of procedures performed and the diagnosis of the patient at the time the procedure was performed.
 - It is unclear whether the Board must review or audit the information submitted at time of license renewal.
 - The bill further requires within three (3) weeks of the event, any adverse treatment outcomes that required referral or consultation to another provider.
 - The bill requires the Board to timely review these reports and make enforcement decisions to impose additional training or restrict or revoke the certification.
 - Regulations and resources would be required to develop a process to receive and review these reports.
- The bill requires the Board to compile a report on adverse outcomes and publicly post the information on the website. It is unclear if this is a one-time report or an annual requirement.
- The bill requires the Board to develop in regulation the fees for the issuance and renewal of an advanced procedures certificate.

Significant resources and regulatory work would be required to implement the bill as written. It is likely that additional positions would be required to perform the work required by the bill, and a fee would be pursued that could be in the hundreds of dollars to support the workload requirements. The regulatory requirements would likely take at least two (2) years to complete, and it could be beyond 2026 when the first certificates are issued.

These costs and implementation items can likely be mitigated if less requirements are placed on the Board. For example, creating the application form and other forms in statute or including statutory language exempting the forms from the rulemaking process would help with implementation costs and resource requirements. Specifying or designating in law existing training programs that meet the requirements for advanced certification and any examination requirements, instead of requiring the Board to approve training courses, training programs, and determining the percentage of required procedures would reduce resource requirements and implementation timelines. Setting the fee in statute with a floor and including language that permissively allows it

to be increased via regulation down the line, would implement the fee upon enactment and allow it to be adjusted in regulation.

FISCAL: Significant resources would be needed to implement.

SUPPORT: California Optometric Association

OPPOSITION: None on File

POSITION: Recommendation: Support if amended.

ATTACHMENT: [AB 1570 \(Low\) Optometry: certification to perform advanced procedures.](#)

Version: 02/17/2023 – Introduced



ISSUE MEMORANDUM

| | |
|----------------|--|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #5D – Discussion and Possible Action on Legislation: AB 1707 |

BILL NUMBER: AB 1707

AUTHOR: Pacheco

BILL DATE: March 16, 2023

SUBJECT: Health professionals and facilities: adverse actions based on another state's law

SPONSOR: Unknown

AUTHOR REASON FOR BILL

Author statement not yet received.

DESCRIPTION OF CURRENT LEGISLATION:

This bill would prohibit CSBO and all healing arts boards under the Department of Consumer Affairs from denying an application for a license or imposing discipline upon a licensee solely on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that is based on the application of another state's law that interferes with a person's right to receive care that would be lawful in California. The bill would similarly prohibit a health facility from denying staff privileges to, removing from medical staff, or restricting the staff privileges of a licensed health professional solely on the basis of such a civil judgment, criminal conviction, or disciplinary action imposed by another state. The bill would exempt a civil judgment, criminal conviction, or disciplinary action imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of this state.

BACKGROUND:

Existing law requires all applicants for licensure as an optometrist or optician to be fingerprinted and successfully pass a criminal background check. General speaking, a criminal conviction or disciplinary action is not automatically disqualifying depending on the conviction or discipline and other factors. But past criminal history or disciplinary action could be prohibitive to receiving a license or may lead to conditions of licensure being imposed, depending on the circumstances.

State actions around issues such as reproductive rights and gender affirming care have raised new threats for licensed healing arts practitioners and this bill would aim to protect those professionals from having their professional license, or application for professional license, at risk for performing actions that would be lawful if performed in California.

ANALYSIS:

Practicing healing arts professionals in some states have their professional licenses at risk due to changes in state law around issues of reproductive rights and gender affirming care. This bill could impact applicants for California licensure who held a license in another state that was subject to a disciplinary action based on activities in that state that would be legal if performed in California. This bill would prohibit those matters from being used for purposes of denying licensure or imposing discipline upon a licensee in California. However, the bill provides that this exemption does not apply to civil judgments, criminal convictions, or disciplinary actions imposed by another state for which a similar claim, charge, or action would exist against the applicant or licensee under the laws of California.

The impact of this bill is largely minimal to the practice of optometry given its distance from most of these issues. As part of the licensing process, any applicant for which a background check came back with criminal convictions would be subject to an enforcement review and determination as to whether licensure was suitable. The same would be true for licensees for whom the board receives DOJ subsequent arrest notifications for.

FISCAL: None

SUPPORT: Unknown

OPPOSITION: None known.

POSITION: Recommendation: Support

ATTACHMENT: [AB 1707 \(Pacheco\) Health professionals and facilities: adverse actions based on another state's law](#)

Version: 03/16/2023 – amended



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #5E – Discussion and Possible Action on Legislation: SB 340 |

BILL NUMBER: SB 340

AUTHOR: Eggman

BILL DATE: February 7, 2023

SUBJECT: Medi-Cal: eyeglasses: Prison Industry Authority

SPONSOR: California Optometric Association

AUTHOR REASON FOR THE BILL:

According to the author: “current DHCS policy requires that eyeglasses for the Medi-Cal program be obtained through CalPIA. Unfortunately, the delivery system is fraught with long delays and quality control issues. Medi-Cal beneficiaries often wait one to two months to receive their eyeglasses and thousands are suffering because they cannot see well enough to perform necessary life functions. School-age children experiencing lengthy delays for their glasses are visually handicapped in their classroom causing them to struggle academically. Recreational and other extra-curricular activities are also negatively impacted. Over 13 million Californians rely on the Medi-Cal program for health coverage including over 40% of the state’s children, nearly 5.2 million kids. Because two thirds of Medi-Cal patients are people of color, the lack of timely access to eyeglasses in Medi-Cal is an equity concern. This bill, the Better Access to Better Vision Act, addresses the ongoing concerns with delays and quality of products by optometrists participating in the Medi-Cal program by authorizing the option of using a private entity when ordering eyeglasses. Expanding the source options for eyewear allows providers to better meet their patients’ needs.”

DESCRIPTION OF CURRENT LEGISLATION:

This bill, for purposes of Medi-Cal reimbursement for covered optometric services, would authorize a provider to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from the Prison Industry Authority (PIA). The bill would condition implementation of this provision on the availability of federal financial participation.

BACKGROUND:

This bill is substantially similar to SB 1089 (Wilk,2022) which was sponsored by the California Optometric Association. The Board considered that bill in 2022 and took a support position on it. That bill was ultimately gut and amended into an entirely different topic and the language the Board had considered was not enacted.

ANALYSIS:

Optometry and eyeglasses for children are a mandatory benefit of the Medicaid program that states must provide if they participate in Medicaid. Optometry and eyeglasses for adults are an optional state benefit. The adult benefit has been cut in the past during times of budget distress. This last occurred during 2009-2020, with the adult benefit resuming in 2020, subject to an annual appropriation. For both adults and children, routine eye exam and eyeglasses are covered every 24 months.

For more than 30 years, California has required that glasses for Medi-Cal beneficiaries be exclusively made by incarcerated persons within the state's prisons. According to an August 18, 2022, article "[California Prison Optometry Labs Under Pressure to Do Better](#)," there were "295 prisoners in optical programs in three prisons, and the number will rise to 420 when the newest women's optometric program is fully underway in late summer 2022."

A July 8, 2022, article "[Medi-Cal's Reliance on Prisoners to Make Cheaper Eyeglasses Proves Shortsighted](#)" noted that between 2019 and 2021, orders for glasses from Medi-Cal to the Prison Industry Authority nearly doubled, from 490,000 to 880,000; presumably most of this increase is due to the adult benefit resuming in 2020. According to the article, PIA contracts with nine private labs to help fulfill orders, five of these are not located in California, and in 2021, 54% of the 880,000 orders were sent to these contracted private labs.

The COVID-19 pandemic caused PIA service delivery issues leading to average wait times approaching 1.5 months. This compared to historical averages of approximately 1 week. According to recent PIA data, current wait times are averaging 5.5 days; however the March 27, 2023 Senate Health Committee analysis stated "according to a recent public records request shared with the Committee, in the last six months of 2022, nearly 40% of the glasses with a five-day turnaround were late and nearly 50% of the glasses with a ten-day turnaround were late."

According to the PIA, Medi-Cal pays \$19.60 for every pair of glasses made. It is likely that glasses made by private parties will cost more; last year the Department of Health Care Services (DHCS) estimated that "based on fee-for-service rates, cost increase for reimbursement is estimated at a 141 percent increase per claim."

FISCAL: None

SUPPORT: California Optometric Association, California State Society for Opticians, Children Now, National Vision Inc

OPPOSITION: None known.

POSITION: Recommendation: Neutral

ATTACHMENT: [SB 340 \(Eggman\) Medi-Cal: eyeglasses: Prison Industry Authority](#)

Version: 02/7/2023 – Introduced



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #5F – Discussion and Possible Action on Legislation: SB 457 |

BILL NUMBER: SB 457

AUTHOR: Menjivar and Ashby

BILL DATE: March 20, 2023

SUBJECT: Vision care: consent by a minor

SPONSOR: California Coalition for Youth

AUTHOR REASON FOR THE BILL:

According to the author: “For minors affected by homelessness, accessing vision care can be a challenge. Existing law clearly states when an unaccompanied minor can consent to certain medical, dental, reproductive, and sexual health treatments, but it is ambiguous on an unaccompanied minor’s ability to consent to vision care. A child’s ability to see and access to regular eye exams are foundational needs that are vital to a child’s learning and reading comprehension. This bill will allow unaccompanied minors who are on their own to be able get their basic vision care needs met.”

DESCRIPTION OF CURRENT LEGISLATION:

This bill would authorize minors not living with their parents or guardians to consent to their own vision care and would authorize an optometrist to advise the parent or guardian under the same conditions applicable to the provision of medical and dental care. The bill also defines “vision care.”

BACKGROUND:

Under existing law, minors may consent to various medical services without the authorization of their parents or guardians. Minors 15 years or older, not living with their parent or guardian, and who manage their own financial affairs, are able to consent to medical and dental care. Because the law does not explicitly authorize these minors to consent to “vision care,” some independent minors are denied care unless parental consent is provided.

ANALYSIS:

This bill would define “vision care” to mean the “diagnosis, prevention, treatment, and management of disorders, diseases, and dysfunctions of the visual system and the provision of habilitative or rehabilitative optometric services by an optometrist licensed” in California. This definition is consistent with the language in Business and Professions Code section 3041, which states “The practice of optometry includes the diagnosis, prevention, treatment, and management of disorders and dysfunctions of the visual system, as authorized by this chapter, as well as the provision of habilitative or rehabilitative optometric services...”

There is no definition of medical care or dental care provided in or otherwise cited by the bill.

FISCAL: None.

SUPPORT: California Coalition for Youth, Alliance for Children’s Rights, and the California Optometric Association

OPPOSITION: None known.

POSITION: Recommendation: Support

ATTACHMENT: [SB 457 \(Menjivar\) Vision care: consent by a minor](#)

Version: 3/20/2023 – Amended Senate



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #5G – Discussion and Possible Action on Legislation: SB 544 |

BILL NUMBER: SB 544

AUTHOR: Laird

BILL DATE: March 20, 2023

SUBJECT: Bagley-Keene Open Meeting Act: teleconferencing

SPONSOR: Unknown

AUTHOR REASON FOR THE BILL:

According to the author: "In response to the COVID-19 pandemic and the widespread shutdown, the Governor signed an executive order to provide flexibility so state boards and commissions could continue to serve Californians remotely and safely. Although meant to be temporary, we saw significant benefits of remote meetings such as increased participation and reduced operating costs to the state. Senate Bill 544 codifies the Governor's Executive Order allowing state boards and commissions the opportunity to continue holding virtual meetings without being required to list the private address of each remote member, or providing public access to private locations. The additional flexibility and safeguards may also help attract and retain appointees, who provide invaluable perspective. This bill will promote equity and public participation by removing barriers to Californians that experience challenges attending physical meetings, such as people with disabilities, caretakers, seniors, low-income individuals, and those living in rural or different areas of the state."

DESCRIPTION OF CURRENT LEGISLATION:

This bill would amend portions of the Bagley-Keene Open Meeting Act (Act) that will remain operative after July 1, 2023, to remove indefinitely the teleconference requirements that a state body post agendas at all teleconference locations, that each teleconference location be identified in the notice and agenda of the meeting or proceeding, and that each teleconference location be accessible to the public.

The bill would require a state body to provide a means by which the public may remotely hear audio of the meeting, remotely observe the meeting, or attend the meeting by providing on the posted agenda a teleconference telephone number, an internet website or other online platform, and a physical address for at least one site, including, if available, access equivalent to the access for a member of the state body participating remotely. The bill would require a member or staff to be physically present at the location specified in the notice of the meeting.

ANALYSIS:

The Act regulates meetings held by state bodies and it guarantees the public the right to access these meetings subject to specific exceptions. To ensure this right, the public is entitled to attend, monitor, and participate in state agencies' meetings where actions and deliberations are being conducted unless there is a specific reason to exclude the public. Promoting public participation in the form of open meetings is in both the governments and the public's best interest and provides transparency in government functions.

This bill incorporates the use of modern technology in the Act, making it easier for all Californians and people from all over the world to not only view but actively participate in public meetings.

FISCAL: Significant costs due to planning and logistics for physical board and committee meetings.

SUPPORT: None known.

OPPOSITION: None known.

POSITION: Recommendation: Support

ATTACHMENT: [SB 544 \(Laird\) Bagley-Keene Open Meeting Act: teleconferencing](#)

Version: 3/20/2023 – Amended Senate



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | April 11, 2023 |
| TO | Committee Members, California State Board of Optometry (CSBO) |
| FROM | Gregory Pruden, Executive Officer |
| SUBJECT | Agenda Item #6 – Discussion on Federal Military Spouse Licensing Relief Act |

Purpose:

To inform members, licensees, applicants, and the public about recent federal law changes impacting military veterans, spouses, and their families.

Background:

Until earlier this year, there was no federal law that required states to provide reciprocity in accepting occupational or professional licenses from other jurisdictions, including for military spouses and veterans. According to a 2019 Department of Defense report, there are more than 132,000 active-duty spouses in occupations that require licensing; this represents about 40% of military spouses in the workforce.

Issue:

On January 5, 2023, President Biden signed into law the Military Spouse Licensing Relief Act (Licensing Relief Act). The Licensing Relief Act applies to both service members and their spouses and is intended to make it easier to transfer professional licenses across state lines when making a military move. The only license type the Licensing Relief Act specifically excludes is the practice of law.

The Licensing Relief Act spells out basic requirements for a service member or military spouse to receive license reciprocity:

1. The service member or spouse must have a covered professional license and relocate because of military orders.
 - a. A covered license is defined as being in good standing with the authority that issued it, has been actively used in the two years immediately preceding the relocation
2. The service member or spouse must provide a copy of the military orders.
3. Remain in good standing with the licensing authority that issued the previous license
4. Submit to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.

The Licensing Relief Act specifies that interstate licensure compacts take precedent over the provisions of the law. CSBO is not part of any interstate licensure compact.

The Licensing Relief Act should improve licensure portability for service members and their spouses, but questions remain regarding how states will implement the requirements. For example, if an individual with a covered professional license must take and complete continuing education requirements under their home state's law, will they also have to take continuing education requirements for purposes of "submitting to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements."

How will this impact CSBO? Under several existing laws, CSBO is required to assist service member and military spouse applicants.

Business and Professions Code section 114.3, waives all renewal fees, continuing education and other renewal requirements for licensees called to active duty.

Business and Professions Code section 115.4, expedites the initial licensure process for honorably discharged service members

Business and Professions Code section 115.5, expedites and waives initial license fees for military spouse applicants with a current, active license issued by another state.

CSBO does not receive a high volume of service member or military spouse applicants:

CSBO currently has seven (7) OPT licenses with a military spouse modifier with one (1) pending. The most recent issued was in 2023.

CSBO currently has three active-duty military OPT licensees. The most recent issued was in 2023.

CSBO currently has four (4) SLDs with a military spouse modifier, and the most recent was issued in 2020.

CSBO currently has three (3) CLDs with a military spouse modifier, and the most recent was issued in 2022.