



Board of Optometry
 2450 Del Paso Road, Suite 105, Sacramento, CA 95834
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SPECIAL BOARD MEETING
 ACTION MINUTES
 February 22, 2017
 2420 Del Paso Road
 Sequoia Room
 Sacramento, CA 95834

DRAFT

and at the following teleconference locations:

4700 Natick Avenue
 Sherman Oaks, CA 91403

Nugget Market – 2nd Floor
 4500 Post Street
 El Dorado Hills, CA 95762

and

Moraga Country Club
 1600 St. Andrews Drive
 Moraga, CA 94556

Las Lomas Community Park
 Craft Room
 10 Federation Way7
 Irvine, CA 92603

Obexer's General Store Café
 5300 West Lake Blvd.
 Homewood, CA 96141

| Members Present | Staff Present |
|--|---|
| Madhu Chawla, O.D., President | Jessica Siefertman, Executive Officer |
| Donna Burke, Public Member, Vice President | Kurt Heppler, Supervising Legal Counsel |
| Lillian Wang, O.D., Secretary | |
| Cyd Brandvein, Public Member | |
| Martha Garcia, CLD, SLD | |
| Rachel Michelin, Public Member | |
| Maria Salazar Sperber, JD, Public Member | |
| David Turetsky, O.D. | |
| | |
| | |
| Excused Absences | |
| Glenn Kawaguchi, O.D. | |
| Debra McIntyre, O.D. | Guest List |
| Mark Morodomi, JD, Public Member | On File |

February 22, 2017
10:00 a.m.
FULL BOARD OPEN SESSION

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

Board President, Madhu Chawla, O.D. called roll and a quorum was established.

2. Finding of Necessity for Special Meeting (Gov. Code, § 11125.4)

Legal Counselor, Kurt Heppler stated his belief that “given the Board’s Imminent Sunset date and some of the difficulties obtaining product from the joint committee, complying with the 10 day notice requirement would place a substantial hardship on this body. The Board would not have an opportunity to prepare and approve its responses for the Sunset Committee Hearing within the allocated time frame.”

Lillian Wang moved that the 10-day notice requirement would impose a hardship on the Board as they would not be able to meet to prepare an appropriate response to the release of the Sunset Issue Report and resulting legislation prior to the Hearing date of February 27, 2017. Donna Burke seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

3. Public Comment for Items Not on the Agenda

There were no comments.

4. Discussion of Proposed Responses to Sunset Issues Report and Resulting Legislation; Possible Action

Executive Officer, Jessica Siefertman explained that “staff has not yet received a public version of the report from the Committee. They did provide the four issues the Board is being asked to testify to. A proposed response has been prepared based on prior conversations the Board has had. Staff asks the Members to provide any input considered necessary for Dr. Chawla and Ms. Burke to testify to.”

Dr. Chawla opened the floor to discussion and possible action on the following:

ISSUE # 2: *Should the RDO and Optometry funds be merged? Should the RDO program be merged into the Optometry Practice Act?*

Dr. Chawla stated that from her perspective the main objective is to make it known that the Board is discussing this. “It is on the Board’s radar.” “The Board is discussing what it perceives as the pros and the cons; it is most important to make certain the RDO program is sustaining itself, and that the Board can monitor the program.”

Ms. Burke commented that “the budget team will be a valuable resource to conduct any research the Board may need going forward.

Dr. Lillian Wang commented that “her concern is that both the RDO and optometry programs are self-sustaining, and that the optometry program is not funding the RDO program.”

Dr. Chawla provided a background on the Optometry Practice Act. “The Optometry Practice Act basically outlines what the practice of optometry is in this state.” The Act can be very difficult to interpret at times. Dr. Chawla expressed her view that the language needs to be cleaned up first. Once the language is made easier to interpret, she sees does not see a problem in attempting to merge the RDO problem into the Act.

Her second concern is that the Board knows “what some of the confusion was exactly; and what the scope of practice is for some of these assistants” Some assistants interpreted the Act incorrectly and were operating outside of their scope of practice. This presents a danger to the public. She reiterated that she does not have concerns about the merge in the future however there is a lot of work that must be done before this occurs.

Dr. David Turetsky agreed that “there needs to be better delineation of portions of the Act, especially as it relates to new and emerging technologies; and maybe incorporate the two professions into one. There needs to be a clear definition of what an optometrist can do versus what a spectacle or contact lens dispenser can do.”

The Members all agreed. There was no public comment.

Donna Burke moved to authorize the Executive Officer to adopt the language that is specified in the recommendation, and work with the Sunset Committee to incorporate The language that Dr. Chawla offered regarding outlining the optometry practice. David Turetsky seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

ISSUE # 10: *What is the status of the Board's inspection procedures?*

Dr. Turetsky stated that “some entities are skirting around the law. For example, an optical company will contract with an ophthalmology corporation to employ an optometrist; so then theoretically it is a medical office regardless of the fact that no physician has stepped foot in that practice.” Dr. Turetsky asked if the Board would have inspection authority in this case or if it would fall to the Medical Board. Mr. Heppler and Ms. Sieferman clarified that any place where optometry is being practiced, the Board has inspection authority.

Public Member, Cyd Brandvein would like to “have the Legislation and Regulation Committee examine ways that the Board may strengthen some of its rules to ensure that the Board has appropriate inspection authority over all areas and all locations where optometry is being practiced, including the RDO program.”

Donna Burke moved to approve the language that has been recommended and authorize the Executive Officer to work with the Sunset Committee to incorporate the additional language. Martha Garcia seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

ISSUE #13: RDO Program. What is the status of the RDO Committee?

There were no comments regarding this issue.

Donna Burked moved to accept the language that staff has provided the Sunset Committee to discuss at the Sunset Hearing. Lillian Wang seconded. The Board voted unanimously (8-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

ISSUE #15: New and Emerging Technologies.

Registered Dispensing Optician (RDO) Martha Garcia expressed concern over the “health aspect of new technologies. With regards to online eye examinations, who is responsible for filling those prescriptions?” Online refractions are too easy to obtain enabling consumers to avoid or overlook their eye/vision health needs. Ms. Garcia believes “the Board needs to have much more discussion and really begin enforce protection for the consumer; reach out to the consumer with information regarding what these services can and cannot provide.”

Ms. Burke suggested adding that “any and all emerging technologies will be investigated by the Board to ensure that the standard of care is met and that statute and regulations are adhered to.”

Ms. Wang pointed out that the new technologies are mostly utilized by younger people, and the Board should find a way of using technology to reach out to the younger generation with

this information. Ms. Michelin agreed. She stated “the Board needs to focus on the target market and not come across as negative towards social media technology.”

Dr. Chawla believes these points can be incorporated.

Ms. Sieferman clarified that “the purpose of asking the Committee to include the background information that they provided was to show the Board the intent of this issue which is basically specific to online refractions.” The Committee has provided a draft issue regarding outreach. Ms. Sieferman suggested that “perhaps information about what the Board plans to do using technology such as Twitter may be better applied to that response.”

Ms. Brandvein explained “that the Board needs to demonstrate that it embraces technology while at the same time providing education and outreach. She believes it is when the Board is in shut-down mode that people try to skirt around its regulations.”

Dr. Chawla suggested language such as “the Board is open to all new technologies and will be looking at them to see which can be incorporated and practiced while continuing to ensure quality patient care and quality patient health.”

Public Member, Maria Salazar is concerned that if the Board is too technical in its response it may be limiting itself.

Members robustly suggested and discussed various language options to address this issue.

Mr. Heppler recommended leading off with language that demonstrates the Board’s openness to emerging technology changes while maintaining its consumer protection obligations. He suggested “the Board recognizes that new technologies are continuously going to emerge in the market place and while the Board is cognitive of these changes it intends to make certain that the standard of care and other obligations are met.”

Donna Burked moved to authorize the Executive Officer to work with the Sunset Committee to incorporate the language that the Board’s senior attorney has recommended. David Turetsky seconded. The voted 7-Aye; 1-Abstention and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | | | X | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

5. Adjournment