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To: Board Members **Date:** April 21, 2017

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Legal Counsel

Subject: **Agenda Item 7 – Bagley Keene-Open Meetings Act Pertaining to
Teleconference Procedures and Meeting Locations Training**

The Board has significantly increased the number of teleconference over the past couple of years. In the current fiscal year (July 1, 2016 – June 31, 2017), 12 of the 17 noticed meetings were held via teleconference (71%).

Due to the increase, DCA's Legal Office will provide specific training for teleconference procedures as it pertains to the Bagley Keen-Open Meetings Act.

To assist in the training, please refer to the attached Teleconference Meeting Tips and Government Code (GC) § [11123](#) below.

Government Code (GC) § [11123](#)(b) provides specific requirements for teleconferences:

GC § 11123:

a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, “teleconference” means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

Attachment

1. TIPS for Holding a Teleconference Meeting



TIPS for Holding a Teleconference Meeting

Each teleconference location must be noticed on the meeting agenda and posted 10 full days prior to the meeting (Government Code Section 11125).¹ Please keep in mind the Internet team needs a minimum of 24 hours to post something to the website. In addition, agendas are typically posted during the workday (8 a.m.–5 p.m.), so the first day the agenda is posted does not count for the 10-day notice. Thus, agendas need to be finalized (approved by the Board of Optometry [Board] President and Department of Consumer Affairs' Legal Division) at least 12 days prior to the meeting.

An Acceptable Location

- Choose a location accessible to all members of the public, free of charge.
- Locations that have age and membership restrictions are not acceptable.
- The location must be Americans with Disabilities Act (ADA) compliant. Additionally, authorization to use the location and display the appropriate signage must be secured.
- Make sure the location has a fixed and specific address so attendees can easily find it.
- Pick a location with a meeting room or office with a door. This will help minimize background noise or potential interruptions.
- Avoid coffee shops and restaurants, which tend to get loud during business hours. This can make it difficult for others to hear and may limit public participation.
- If the meeting includes a closed session, the location must have the capacity for the members to hear and deliberate in private on the designated items.
- Keep public perception in mind. Board meetings are governed by state law and need to reflect professionalism at all times—including how the location is noticed on the agenda. Although a local restaurant may be open to all ages, if it contains words such as “pub” in the name, it may be perceived as the Board conducting a meeting at a bar.
- If you are using a cellphone to conduct a meeting, verify that the location’s cell service is adequate.
- Find a location with Wi-Fi for easy access to meeting materials. If Wi-Fi is not available, make sure to save the meeting materials to your electronic device or print copies for yourself and the public.

On Meeting Day

- **Make sure there is at least one Board member physically present at the noticed location** (Government Code Section 11123 (b)(1)(F)). If you are the only member at the noticed location and you are unable to attend, please immediately notify the Executive Officer, **as the meeting will need to be canceled.**
- Arrive at least 15 minutes early to test the teleconference line and adjust for any last-minute difficulties.
- Post meeting signs and agendas at the location entrance and where you are sitting. If you are located in a large building, more signs may be needed. Members of the public should be able to quickly and easily find where the meeting is being held.
- Leave sign-in sheets where they will be easily identifiable when entering the meeting.
- Make sure the public will be able to hear the discussion, view meeting materials, and participate during the open session of the meeting.
- Use a landline with a speakerphone, which is preferred. However, if you are using your cellphone, use your speakerphone and/or a Bluetooth speaker.



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¹ Special meetings only require 48-hour notice. However, the same agenda and location requirements apply. In addition, the agenda must be provided to all national press wire services and made available to newspapers of general circulation and radio or television stations (Government Code Section 11125.4(b)).