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To: Dispensing Optician Committee Members **Date:** November 2, 2017

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Subject: **Agenda Item 8 - Update, Discussion and Possible Action Regarding Initial Education and Continuing Education Requirements for RDO Program Registrants; Recommendation to the Full Board**

At its last meeting, the DOC reviewed a report presented by staff that compiled initial and renewal registration requirements for dispensing opticians for those states that regulate the profession. The purpose of this report was to work toward fulfilling Objective 1.2 of the Board's Strategic Plan, which is to "review the possibility of including continuing education requirements for both spectacle and contact lens dispenser licenses to protect consumers and maintain licensee competence."

No final decision was reached by the DOC, who instead requested that staff continue to research the regulation of dispensing opticians in other states to determine whether there may exist a correlation between a lack of mandatory continuing education as a condition of renewal, and negative outcomes for consumers.

Of the 22 states that regulate dispensing opticians, California is one of only three that does not currently require licensees to complete any continuing education as a condition of license renewal. Because there is a question about whether the lack of such a requirement increases the potential for consumer harm, staff for the Board of Optometry reached out to the other 21 regulatory boards/programs asking for the following information:

- What is the volume of consumer complaints you receive regarding opticians annually?
- What is the nature of the complaints you receive?
- What is the reasoning behind your state's continuing education requirement?

Staff received responses from only eight states. Additional information or information not provided by respondents was gathered from regulatory board websites for those states that make such information available for public search. The following information has been compiled addressing each of the questions posed based on the combination of those responses and that research:

What is the volume of consumer complaints you receive annually?

The following table is comprised of the data received or researched for official disciplinary actions taken against dispensing opticians from 2015 to present:

State	Disciplinary Actions Taken since 2015
Alaska	3
California*	3
Connecticut	3
Florida	8
Hawaii*	0
Nevada	2
New Jersey	1
New York	3
Rhode Island	0
South Carolina	0
Tennessee	11
Virginia*	0

*Does not require CE

What is the nature of the complaints you receive?

For states where the nature of the disciplinary action was made available, the following violations were noted:

- Practicing without a license
- Insufficient continuing education hours
- Practicing on a lapsed/expired license
- Inaccurate or fraudulent information supplied on an application
- Improper supervision of an optician assistant
- Operating under an incorrect license type
- Criminal conviction
- Improper billing practice

What is the reasoning behind your state's continuing education requirements?

The response to this question was essentially uniform across states that responded, and is consistent with the general reasoning behind the desire to have licensees of any profession continue to educate themselves about changes in their occupational field. A sample of those responses includes:

Washington – “The purpose of continuing education is to ensure the continued high quality of services provided by licensed dispensing opticians. Continuing education consists of programs of learning which contribute directly to the advancement or enhancement of skills in the field of opticianry, designed to keep the licensed dispensing opticians informed of current and forecasted developments in a rapidly changing field.”

South Carolina – “Public safety concerns led to the determination that opticians needed to retain a certain level of competence by taking continuing education to stay up to date with modern day technology and changes with contact lenses.”

While the information collected is far from exhaustive, what has been compiled seems to indicate that there is no substantial relationship between a lack of mandatory continuing education and an increase in harm to consumers. This can be deduced for the following reasons:

- The lack of any disciplinary action whatsoever in states that do not mandate continuing education runs counter to the hypothesis that continuing education for opticians leads to better outcomes regarding consumer protection.
- In the states with mandatory continuing education, the disciplinary actions taken are not issues that would necessarily be solved by additional regulations focused on continuing education.

It should also be noted that any licensee who holds ABO-NCLE certifications is already subject to continuing education requirements during every three-year renewal cycle.

In addition, the DOC requested to see the Governor's veto letter related to a continuing education bill that was mentioned during the last meeting. The 2011 veto letter ([here](#)) was in response to a bill requiring court reporters to complete continuing education to renew their license. [here](#) provides an idea of the Governor's view on continuing education.

Governor Brown writes, in pertinent part, the following:

"The whole idea of legally mandated 'continuing education' is suspect in my mind. Professionals already are motivated to hone their skills – or risk not getting business. Requiring them to pay fees to 'continuing education providers' is an unwarranted burden."

In 2015, a similar bill made it to the Governor's desk and shared the same result. In his veto letter ([here](#)), Governor Brown writes, in pertinent part, the following:

"This measure is very similar to SB 671, which I vetoed in 2011. My view then was that, 'the whole idea of legally mandated continuing education is suspect in my mind.' My thinking hasn't changed."