

## ISSUE MEMORANDUM

<b>DATE</b>	March 15, 2019
<b>TO</b>	Dispensing Opticians Committee (DOC)
<b>FROM</b>	Shara Murphy, Executive Officer
<b>SUBJECT</b>	Agenda Item #9 - Discussion and Possible Action Regarding Committee Priorities Through Next Strategic Planning Process

At the August 2017 Board meeting, the Committee was given a list of priorities by the Board to review, with the goal of determining the DOC's direction towards the next Strategic Plan in 2020. In subsequent meetings and staff discussions, the following priorities have been proposed:

1. Outreach
2. Payment methodology
3. Education requirements/testing/licensing pathways and applications
4. Updating terminology
5. Scope of licensure; in 'private settings'
6. Valid business relationship/decoupling/mobility
7. Required continued education
8. Harmonizing the RDO program and Optometry statutes
9. Cite and Fine Authority through Regulation (akin to CCR 1576 for Optometry)
10. Out of State/Electronic Commerce

Several issues are already being worked on at the staff level, in accordance with the priority list set out by the DOC:

1. **Disciplinary Guidelines.** The DOC is to review latest updates to the Guidelines at the March 15, 2019 meeting, incorporating input from the DOC at the January 2019 meeting and making additional changes as required by the Substance Abuse Coordination Committee. However, additional changes as a result of DCA Legal direction are pending and will need to be included in future versions of the Guidelines. It is estimated a final draft of the Guidelines will be ready for Committee approval by the Fall of 2019.
2. **Outreach.** As reported to the Board at the November 7, 2017 meeting, the DOC has developed an outreach campaign, recognizing the need to educate the registrant

population about the Board, the registration types, how to certify and register, and the difference between a registration (issued by the Board) and a certification (issued by the American Board of Opticianry). Staff has developed a comprehensive FAQ for optician licensees which is now [posted on the Board's website](#) and has begun training phone staff on this FAQ.

3. In 2017, the DOC directed staff to obtain an occupational analysis (OA) proposal for a survey of optician licensees, in order to further inform the scope of practice and license requirements of opticians. The Office of Professional Examination Services (OPES) has been contracted to complete the OA, which is currently underway in 2019. The first CLD workshop was successfully completed on February 11<sup>th</sup> and 12<sup>th</sup>, and the SLD workshop is planned for May 2019.

**Action requested:** Board staff is requesting the Committee provide further direction and guidance on priorities through the next Strategic Planning Process.

# **California State Board of Optometry Dispensing Optician - Communication Plan**

## **Introduction**

The California State Board of Optometry (Board) was created by the California Legislature in 1913 to safeguard the public's health, safety, and welfare through regulation of the practice of optometry.

Protection of the public is paramount for the Board when exercising its licensing, regulatory and disciplinary functions. The Board currently licenses approximately 7,500 practicing optometrists and dispensing opticians, the largest population of eye-care professionals in the United States.

The Board of Optometry gained authority over dispensing opticians as of January 1, 2016, pursuant to AB 684, (Alejo). The Board's Registered Dispensing Optician Program and the registrations within this program are now under the Board's authority. The Board will perform the registration process for registered dispensing opticians (RDOs), spectacle lens dispensers (SLDs), contact lens dispensers (CLDs), and non-resident contact lens sellers.

The Board recognizes there is a crucial need to educate optometrists and registered dispensing opticians and other stakeholders about the Board's role as it relates to the registration and regulation of nonresident contact lens sellers and dispensing opticians.

It is the intent of the Board to establish a communication plan to educate and bring awareness to all pertinent parties about the Board's role.

## Communication Objectives

- Explain the role of the board as it relates to Registered Dispensing Opticians (RDOs), Spectacle Lens Dispensers (SLDs) and Contact Lens Dispensers (CLDs) and optometric assistants and the requirements mandated for each role (bottom to top).
- Promote that the Board of Optometry is the regulating body of optometrists and optician professionals (not MBC) to all stakeholders and current/future licensees.
- Provide an overview specifying that registration is required to do business and work in California for individuals, business owners, corporations (retail) in opticianry. Provide timing deadline for compliance 90/180 days, list sanctions for non-compliance (financial or suspension of registration).
- Explain the difference between Registration vs. Licensing.
- Clarify who they are and what they do (RDOs, SLDs and CLDs).
- Steps to working in the Opticianry field in California (e.g., ABO certification Step 1, BOP registration Step 2). Outline the board's restrictions and guidelines.
- Create education materials that explain the criteria and potential barriers to entry for a career in opticianry in the state for Prison Industry Authority (corrections staff, inmates, others...).
- Promote optical field as a career. Show a career ladder to optometry or opticianry.
- Change board website to be more user friendly, easier to find information. For example, cleaner distinction between information for optometrist applicants and opticianry applicants. Secondly, valuable real estate is not being utilized on the primary page.
- Secure the support of stakeholders (industry organizations/associations, retail, school administrators and current licensees) to assist in the distribution of messaging. Mention in their trade publications, newsletters and social media.

- Encourage licensee support of the Dispensing Optician Committee by brand awareness (currently no mention on website or social media pages). Explain who the committee is and what they do is needed on the website.
- Promote BreEZe as the preferred method for applications and renewals.

### Target Audience

The Board will disseminate tailored messaging and materials to the target audience(s).

- Optician professionals (current) unregistered individuals
- Optician students - individuals
- Optician licensees – Individual proprietor, retail (brick & mortar)
- Opticianry Schools
- Industry organizations and associations

### Messaging

Messaging will be fine-tuned once the primary communication objectives have been finalized by the board.

Audience	Sample Message Themes
Optician professionals unregistered/Optician students	<ul style="list-style-type: none"> <li>• The California Board of Optometry is the regulatory body for the Opticianry field in the state. Do you know the path to registration?</li> <li>• ABO certification is NOT enough to work in The Golden State</li> <li>• Wanna work in Cali? Get Registered with the Board of Optometry</li> </ul>
Optician licensees (RDOs)/Industry organizations and associations	<ul style="list-style-type: none"> <li>• The California Board of Optometry is the regulatory body for the Opticianry field in the state. Are you and your staff registered?</li> </ul>
Opticianry schools	<ul style="list-style-type: none"> <li>• The California Board of Optometry is the regulatory body for the Opticianry field in the state. Do you know the path to registration?</li> <li>• ABO certification is NOT enough to work in The Golden State</li> <li>• Wanna work in Cali? Get Registered with the Board of Optometry</li> </ul>

### Strategy

The Board will work with the Department of Consumer Affairs' Communications Division to create materials and content to use for outreach.

## **Tactics**

The following can be utilized to broadcast the messaging.

### *Social Media Outreach*

- The Board and DCA currently have Facebook and Twitter pages.
- Specific campaigns can be developed (e.g., BRN Green Project) to disseminate pertinent information to stakeholders.
- Social media is an ideal way to promote information about committee meetings.
- Article or EO feature in The DCA Page Blog (can be shared via Facebook and Twitter)

### *Video Development*

- OPA has the resources to develop a video or video series that outlines the path to registration for RDOs, SLDs/CLDs.

### *Collateral Materials*

Several materials can be created for use on the Board's website, social media and for print distribution.

- Brochure- Consider a Career in the Optical Industry (Steps from A to O *instead of* Z) Explain what each level from optometric assistants to optometrist.
- Info-Graphic - Graphic outlining the levels and differences in the optical field. (Steps from A to O *instead of* Z)
- Magazine - EO Feature or Article in DCA Consumer Connection

### *Partnerships*

- Enlist the assistance of stakeholders, industry organizations/associations, trade publications and schools to promote the boards message regarding opticianry.
- Place a write-up or article in a partner's newsletter, trade publication.
- Encourage partners to share and retweet board social media posts.

### *DCA Print Publications*

- Article or EO Feature in Consumer Connection Magazine

## **Timeline**

Will be determined upon confirmation of which communication objectives the board confirms.

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**WESTLAW California Code of Regulations**[Home](#) [Table of Contents](#)**§ 1576. Citations - Content and Service.**

16 CA ADC § 1576

**BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS**Barclays Official California Code of Regulations [Currentness](#)

Title 16. Professional and Vocational Regulations

Division 15. State Board of Optometry

Article 12.5. Citations and Fines (Refs &amp; Annos)

16 CCR § 1576

**§ 1576. Citations - Content and Service.**

(a) The executive officer of the board, or his/her designee, may issue a citation which may contain an administrative fine and/or order of abatement against a licensee for any violation of law which would be grounds for discipline or for violation of any regulation adopted by the board pursuant hereto.

(b) Each citation shall be in writing and shall describe, with particularity, the nature and facts of each violation specified in the citation, including a reference to the statute(s) or regulation(s) alleged to have been violated.

(c) The citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable time for abatement of the violation, or both.

(d) The citation shall inform the cited individual of the right to an informal citation conference concerning the matter and the right to an administrative hearing.

(e) The citation shall be served upon the individual personally, or by certified mail in accordance with the provisions of Section 11505(c) of the Government Code.

Note: Authority cited: Sections 125.9, 3025 and 3135, Business and Professions Code. Reference: Sections 125.9 and 3135, Business and Professions Code.

**HISTORY**

1. New article 12.5 (sections 1576-1581) and section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

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16 CCR § 1576, 16 CA ADC § 1576

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**WESTLAW California Code of Regulations**[Home](#) [Table of Contents](#)**§ 1578. Citation Factors.**

16 CA ADC § 1578

## BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 16. Professional and Vocational Regulations

Division 15. State Board of Optometry

Article 12.5. Citations and Fines (Refs &amp; Annos)

16 CCR § 1578

**§ 1578. Citation Factors.**

In assessing an administrative fine or issuing an order of abatement, the executive officer of the board shall give due consideration to the following factors:

- (a) The gravity of the violation. If the violation is of such a nature and/or severity that revocation of the license or restrictions on the license are necessary in order to ensure consumer protection, a citation will not be issued.
- (b) The good or bad faith exhibited by the cited person.
- (c) The history of previous violations of the same or similar nature.
- (d) Evidence that the violation was or was not willful.
- (e) The extent to which the cited person has cooperated with the board's investigation.
- (f) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by the violation.
- (g) Any other factors as justice may require.

Note: Authority cited: Sections 125.9 and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

**HISTORY**

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

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16 CCR § 1578, 16 CA ADC § 1578

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[Home](#) [Table of Contents](#)**§ 1579. Citable Offenses.**

16 CA ADC § 1579

## BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 16. Professional and Vocational Regulations

Division 15. State Board of Optometry

Article 12.5. Citations and Fines (Refs &amp; Annos)

16 CCR § 1579

**§ 1579. Citable Offenses.**

(a) The executive officer of the board shall assess fines for citable offenses listed in this section, provided however, in no case shall the total fines exceed \$2,500 for each violation. The executive officer shall not impose any duplicate fines for the same violation.

(b) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face.

(c) Class "A" citations involve a person who has engaged in the practice of optometry without a current and valid license, including, but not limited to, acting in the capacity of an optometrist or performing or controlling the practice of optometry as defined in Business and Professions Code section 3041.

A class "A" citation is subject to an administrative fine in an amount not less than one thousand five hundred dollars (\$1,500) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(d) Class "B" citations involve an optometrist who has either:

(1) Violated any statute or regulation which would be grounds for discipline by the Board that has caused non-physical financial harm to a person, or

(2) Has committed a violation that are grounds for issuance of a Class "C" citation and has been issued one or more prior Class "C" citations within the three (3) years immediately preceding the issuance of the citation.

A class "B" citation is subject to an administrative fine in an amount not less than five hundred dollars (\$500) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(e) Class "C" citations involve an optometrist who has violated any statute or regulation which would be grounds for discipline by the Board that did not cause physical or financial harm to a person.

A class "C" citation is subject to an administrative fine in an amount not less than two hundred fifty dollars (\$250) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(f) Notwithstanding the administrative fine amounts specified in subsections (c), (d), and (e), a citation may include a fine between two thousand five hundred and one dollars (\$2,501) and five thousand dollars (\$5,000) if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person;

(2) The cited person has a history of two or more prior citations of the same or similar violations;

(3) The citation involves multiple violations that demonstrate a willful disregard of the law;

(4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person;

(5) The citation involves fraudulent billing submitted to an insurance company, or Medi-Cal or Medi-Care programs;

(g) The sanctions authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148, 2545 and 3025, Business and Professions Code. Reference: Sections 125.9, 148 and 2545, Business and Professions Code.

**HISTORY**

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).
2. Amendment of section and Note filed 9-26-2006; operative 10-26-2006 (Register 2006, No. 39).

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16 CCR § 1579, 16 CA ADC § 1579

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**WESTLAW California Code of Regulations**[Home](#) [Table of Contents](#)**§ 1580. Compliance with Citation/Order of Abatement.**

16 CA ADC § 1580

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Barclays Official California Code of Regulations [Currentness](#)

Title 16. Professional and Vocational Regulations

Division 15. State Board of Optometry

Article 12.5. Citations and Fines (Refs &amp; Annos)

16 CCR § 1580

**§ 1580. Compliance with Citation/Order of Abatement.**

(a) If the cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the cited person may request an extension of time in which to make the correction from the executive officer of the board. Such a request shall be in writing and shall be made within the time set forth for the abatement.

(b) If a citation or order of abatement is not contested, or if the citation is contested and the cited person does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial action being taken against the cited person.

(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license or registration renewal fee. A license or registration shall not be renewed without payment of the renewal fee and fine.

Note: Authority cited: Sections 125.9 and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

**HISTORY**

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

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16 CCR § 1580, 16 CA ADC § 1580

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[Home](#) [Table of Contents](#)**§ 1581. Contested Citations.**

16 CA ADC § 1581

## BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 16. Professional and Vocational Regulations

Division 15. State Board of Optometry

Article 12.5. Citations and Fines (Refs &amp; Annos)

16 CCR § 1581

**§ 1581. Contested Citations.**

(a) If a cited person wishes to contest the citation, assessment of the administrative fine, or order of abatement, the cited person shall, within thirty (30) days after service of the citation, file in writing a request for an administrative hearing to the executive officer regarding the acts charged in the citation, as provided for in subdivision (b)(4) of Section 125.9 of the Code.

(b) In addition to, or instead of, requesting an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, the cited person may, within thirty (30) days after service of the citation, contest the citation by submitting a written request for an informal citation conference to the executive officer or his/her designee.

(c) Upon receipt of a written request for an informal citation conference, the executive officer or his/her designee shall, within sixty (60) days, hold an informal citation conference with the cited person. The cited person may be accompanied and represented at the informal citation conference by an attorney or other authorized representative.

(d) If an informal citation conference is held, the request for an administrative hearing shall be deemed to be withdrawn and the executive officer or his/her designee may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued, at the conclusion of the informal citation conference. If affirmed or modified, the citation originally issued shall be considered withdrawn and an affirmed or modified citation, including reason for the decision, shall be issued. The affirmed or modified citation shall be mailed to the cited person and his/her legal counsel, if any, within ten (10) days from the date of the informal citation conference.

(e) If a cited person wishes to contest an affirmed or modified citation, the person shall, within thirty (30) days of his or her notification, file in writing a request for an administrative hearing to the executive officer regarding the acts charged in the affirmed or modified citation, in accordance with subdivision (b)(4) of Section 125.9 of the Code.

Note: Authority cited: Sections 125.0 and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

**HISTORY**

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

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16 CCR § 1581, 16 CA ADC § 1581

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[Home](#) [Table of Contents](#)**§ 1582. Unprofessional Conduct.**

16 CA ADC § 1582

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Title 16. Professional and Vocational Regulations

Division 15. State Board of Optometry

Article 12.5. Citations and Fines (Refs &amp; Annos)

16 CCR § 1582

**§ 1582. Unprofessional Conduct.**

In addition to the conduct described in Section 3110 of the Code, “unprofessional conduct” also includes, but is not limited to the following:

(a) Failure to cooperate and participate in any Board investigation pending against the licensee. This includes, but is not limited to, failure to respond to a Board request for information or evidence within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the information within this time period for good cause. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(b) Failure to report to the Board, within 30 days, any of the following:

- (1) The bringing of an indictment or information charging a felony against the licensee.
- (2) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.
- (3) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military that is related to the practice of optometry.

(c) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the Board.

Note: Authority cited: Section 3025, Business and Professions Code. Reference: Sections 480, 3010.1, 3010.5, 3024, 3025, 3090 and 3110, Business and Professions Code.

**HISTORY**

1. New section filed 12-6-2016; operative 4-1-2017 (Register 2016, No. 50).

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16 CCR § 1582, 16 CA ADC § 1582

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