

MEMBERS OF THE BOARD

Mark Morodomi, JD, President
Glenn Kawaguchi, OD, Vice President
Rachel Michelin, Secretary
Cyd Brandvein
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Debra McIntyre, OD
Maria Salazar Sperber, JD
David Turetsky, OD
Lillian Wang, OD
Vacant, Public Member



QUARTERLY BOARD MEETING AGENDA

Friday, August 2, 2019
Time: 9:00 a.m. – 5:00 p.m.

Locations:

UC Berkeley School of Optometry
Minor Hall, Room 491
200 Minor Lane
Berkeley, CA 94720-2020

Western University of Health Sciences
Health Education Center, Classroom E
701 E. Second St.
Pomona, CA 91766
(teleconference location)

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations of resources.

FULL BOARD OPEN SESSION

- 1. Call to Order/Roll Call and Establishment of a Quorum**
- 2. Public Comment for Items Not on the Agenda**
Note: The Board 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 Sections [11125](#), [11125.7\(a\)](#)]
- 3. Discussion and Possible Action on Board Meeting Minutes for April 5, 2019**
- 4. President's Report**
- 5. Election of Board Secretary**
- 6. Executive Officer's Report**
 - A. Enforcement Program
 - B. Examination and Licensing Programs
 - C. Legislative and Regulatory Update
 - D. Report on June 2019 Association of Regulatory Boards of Optometry Meeting
- 7. Discussion and Presentation on the Practice of Optometry Via Telemedicine**
 - A. Dr. Melissa Bailey, O.D, PhD

B. Dr. Jorge Cuadros, O.D., PhD

8. **Update, Discussion and Possible Action Regarding 2020 Legislation**
 - A. Optometrists Employing Opticians
 - B. Practice Act to Combine Both Programs
 - C. Other Possible Legislation
9. **Discussion and Possible Action on Updates provided by DCA Representatives regarding the Department's Divisions and Programs, including Legislative, Regulatory and Policy updates**
 - A. DCA Assistant Deputy Director of Board and Bureau Services Patrick Le
 - B. Current Occupational Analysis for Contact Lens Dispensers – Dr. Heidi Lincer, Chief, Office of Professional Examination Services
10. **Update, Discussion and Possible Action on Potential Occupational Analysis for Optometric Assistants**
 - A. Dr. Heidi Lincer, Chief, Office of Professional Examination Services
11. **Update, Discussion and Possible Action Regarding Board Committee Reports**
 - A. Dispensing Optician Committee
 - B. Legislation and Regulation Committee
 - C. Practice and Education Committee

FULL BOARD CLOSED SESSION

12. **Pursuant to Government Code Section [11126\(c\)\(3\)](#), the Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters**

FULL BOARD OPEN SESSION

13. **Update, Discussion and Possible Action on 2019 Legislation Impacting the Practice of Optometry**
 - A. Assembly Bill 458 (Nazarian): Optometrists: home residence permit
 - B. Senate Bill 53 (Wilk): Open meetings
 - C. Assembly Bill 1714 (Rubio): Extended Optometric Clinical Facilities
14. **Update, Discussion and Possible Action Regarding 2020 Calendar Review**
 - A. Review proposed meeting dates through calendar year 2020
15. **Future Agenda Items**
16. **Adjournment**

Meetings of the California State Board of Optometry 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. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Evan Gage at (916) 575-7185, emailing a written request to Evan.Gage@dca.ca.gov or mailing a written request to that person at the California State Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, President
SUBJECT	Agenda Item #1 – Call to Order/Roll Call and Establishment of a Quorum

Board President, Mark Morodomi, will call the meeting to order. Please note the date, time and physical location of the meeting for the record.

Board Vice President, Dr. Glenn Kawaguchi, will call roll to establish a quorum of the Board.

Cyd Brandvein

David Turetsky OD

Madhu Chawla OD

Martha "Ruby" Garcia CLD/SLD

Debra McIntyre OD

Maria Salazar-Sperber

Lillian Wang OD

Rachel Michelin

Glenn Kawaguchi O.D.

Mark Morodomi



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, President
SUBJECT	Agenda Item #2: Public Comment for Items Not on the Agenda

The Board welcomes public comment addressing items not listed on the agenda.

Note: The Board 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 Sections 11125, 11125.7(a)]



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Dr. Glenn Kawaguchi, Board Vice President
SUBJECT	Agenda Item #3 - Discussion and Possible Action - Board Meeting Minutes from April 5, 2019

The CSBO meeting minutes from the April 5, 2019 public meeting are presented for review and possible approval.

CALIFORNIA STATE BOARD OF OPTOMETRY
Public Board Meeting
Draft Meeting Minutes
Friday, April 5, 2019

Location:
Four Points by Sheraton San Diego
Pacifico Room
3888 Greenwood Street
San Diego, CA 92110

Link to webcast for discussions:
<https://www.youtube.com/watch?v=2uw9RX4IIZU>

Members Present	Staff Present
Cyd Brandvein, Public Member, President	Shara Murphy, Executive Officer
Dr. David Turetsky, O.D., Vice President	Evan Gage, Assistant Executive Officer
Rachel Michelin, Public Member, Secretary	Marc Johnson, Policy Analyst
Dr. Madhu Chawla, O.D.	Cheree Kimball, Lead Enforcement Analyst
Martha Garcia, CLD, SLD	Arsha Qasmi, Lead Licensing Analyst
Dr. Glenn Kawaguchi, O.D.	Jessica Swan, Administrative Analyst
Dr. Debra McIntyre, O.D.	
Mark Morodomi, J.D., Public Member	Anahita Crawford, Deputy Attorney General
Maria Salazar Sperber, J.D., Public Member	Mina Hamilton, Legal Counsel
Dr. Lillian Wang, O.D.	
Dr. Debra McIntyre, O.D.	Guest List
	On File

FULL BOARD OPEN SESSION

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

Discussion: [0:17 / 3:27:06](#)

President Cyd Brandvein called the meeting to order at 9:15 a.m. Secretary Rachel Michelin called the roll. All members were present at the meeting. 10-0 quorum established.

2. Public Comment for Items Not on the Agenda

Discussion: [0:41 / 3:27:06](#)

No public comments were made for items not on the agenda.

3. President's Report

Discussion: [1:34 / 3:27:06](#)

A. Discussion of Recent President's Message (distributed March 25, 2019) B. Reflections and Thoughts about Service as Board President

Ms. Brandvein thanked the California State Board of Optometry (Board) for entrusting her to serve as Board President for the last two years. She reflected upon navigating organizational changes, passage of legislation, regulatory changes, an increase in service levels and advancement of the Registered Dispensing Opticians (RDO) Committee program.

No public comment was made.

4. Discussion and Possible Action – Board Meeting Minutes from February 1, 2019

Discussion: [4:55 / 3:27:06](#)

A minor change was made on page six from 'compact' to contact.

Motion: David Turetsky moved to approve the February 1, 2019 Board Meeting Minutes. Cyd Brandvein seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

No public comment was made.

5. Update by Representative(s) of the Department of Consumer Affairs, Which May Include Updates Pertaining to the Department's Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as Well as Legislative, Regulatory and Policy Matters

Discussion: [8:39 / 3:27:06](#)

A. Review and Discussion of Completed Executive Officer Salary Study
B. Update on Substance Abuse Coordination Committee's Revisions of Uniform Standards

Ms. Murphy noted there was no representative from DCA at the meeting, so the issues would be taken up at a future meeting.

No public comment was made.

6. Executive Officer's Report

Discussion: [9:00 / 3:27:06](#)

Ms. Murphy provided the Executive Officer's report.

A. Strategic Plan Update

No update was provided on this item.

B. Enforcement Program

A memo was provided to Board members on this item as part of the meeting materials. Staff was directed to report on trends emerging in the areas which might result in violations.

C. Examination and Licensing Programs

Discussion: <https://youtu.be/2uw9RX4IIZU?t=570>

A memo was provided to Board members on this item as part of the meeting materials. Ms. Qasmi described efforts staff is making to inform applicants about the processing times. Dr. McIntyre asked how the new requirement of statement of licensure (SOL) is being communicated; she noted several of her colleagues were not aware of the need for it. Ms. Qasmi replied that licensees were mailed a letter and have been sent emails regarding the change. Ms. Hamilton will look further into the statute to determine if additional information would need to be sent out, and Dr. Chawla suggested an insert be sent with renewals describing the change with SOLs.

D. Regulatory Update

Discussion: <https://youtu.be/2uw9RX4IIZU?t=1362>

A memo was provided to Board members on this item as part of the meeting materials. Dr. Kawaguchi asked how the Board was communicating changes in regulation to continuing education; Mr. Johnson replied they are in process and not in law yet.

E. Budget Update

Discussion: <https://youtu.be/2uw9RX4IIZU?t=1524>

A memo was provided to Board members on this item as part of the meeting materials. Mr. Morodomi asked for an average in hours spent on attorney general costs and was concerned the Board was paying too much; Ms. Kimball replied that the Board is sent monthly statements for tracking. Ms. Murphy said staff will provide reports in future meetings which will show these hours. Mr. Morodomi raised the question of optometry fund condition and Ms. Murphy noted staff does not see any budget issues and fund reserves are adequate.

F. Outreach Activities

Discussion: <https://youtu.be/2uw9RX4IIZU?t=1877>

A memo was provided to Board members on this item as part of the meeting materials. Ms. Murphy detailed her recent and upcoming visits to optometry schools and professional associations and noted participation at California Optometry Association's recent event. These visits have received good feedback. Dr. Kawaguchi suggested reaching out to professional optometry societies, which staff will do via social media. Ms. Murphy also introduced the Board's new website, which has been streamlined and improved with a new design. She will discuss with DCA linking outside websites, which is currently not allowed.

No public comment was made.

7. Discussion and Possible Action Regarding Board Attendance at Annual Conference of the Association of Regulatory Boards of Optometry

Discussion: [43:40 / 3:27:06](#)

The Board discussed attendance at this year's ARBO conference. There was consensus that the Executive Officer and at least one Board member should attend.

Public comment was made urging the Board to have the Executive Officer participate in the conference, feeling it would be a good opportunity for networking and understanding of the industry.

Rachel Michelin moved to approve expenditure to have the Executive Officer and one other Board Member attend the Association of Regulatory Boards of Optometry Annual Conference in June, and for it to be at the discretion of the new President to decide who the Board representative will be. David Turetsky seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

FULL BOARD CLOSED SESSION

The Board went into closed session at 10:15 a.m.

8. Pursuant to Government Code Section 11126 (c)(3), the Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters

FULL BOARD OPEN SESSION

The Board resumed open session at 11:30 a.m.

9. Update, Discussion and Possible Action Regarding Board Committee Reports

A. Dispensing Optician Committee

Discussion: <https://youtu.be/2uw9RX4IIZU?t=3668>

Ms. Garcia provided the Dispensing Optician Committee report. She noted the DOC has held previous discussions on DOC priorities. One priority is regarding the unregistered assistant population, which came about while working on the disciplinary guidelines. The concern is that opticians who may be going through Board review for some disciplinary matter might simply go into unregistered status and continue to practice, which is a public protection concern. Ms. Garcia noted it may be beneficial for an occupational analysis to be performed on the unregistered population. The Board raised the issues of occupational analysis costs, certification for an assistant and impacts on prison inmates who often become optician from a prison program. Staff was directed to research the need for an occupational analysis on unlicensed personnel. Another priority raised was the overall cost of becoming a registered optician; staff was directed to research the costs involved.

No public comment was made.

B. Practice and Education Committee

Discussion: <https://youtu.be/2uw9RX4IIZU?t=4808>

Dr. Chawla provided the Practice and Education Committee report and reported the following:

- The PEC discussed webinars and whether they should be considered live or online based learning.
- Steps being taken by staff to make the process better for both the Board and optometrists taking their continuing education by creating a model that more closely resembles COPE (Council on Optometric Practitioner Education) with clearly identifiable course identifier numbers.
- Encouraging providers of continuing education to make certain they clarify to their attendee whether the course is already Board approved or if approval is pending.

Staff was directed to research how other boards handle CE eligibility and determine live versus “webinar” courses.

A public comment was made encouraging the Board to accept CME Level I or Ophthalmology courses.

C. Legislation and Regulation Committee

Discussion: <https://youtu.be/2uw9RX4IIZU?t=5581>

The Legislative and Regulation Committee report was given. Ms. Murphy reported that staff was unsuccessful in finding an author to introduce the text from SB 402 from 2015 but had good interactions with stakeholders and have some consensus language being worked on. Ms. Michelin was concerned that the approach was not the same as what the Board previously envisioned, and that this approach lacks a comprehensive approach. Dr. Kawaguchi notes the approach is shifting towards more education and awareness rather than a mandate for exams. Ms. Murphy is looking to do a legislative staff briefing to find new authors and introduce the consensus language with a new author in the 2020 legislative year.

No public comment was made.

10. Discussion and Possible Action on 2019 Legislation Impacting the Practice of Optometry

Discussion: [2:50:41 / 3:27:06](#)

A. Assembly Bill 458 (Nazarian): Optometrist: Home Residence Certification

Staff was directed to work closely with the author to clarify and amend Section 3097 in the bill.

Rachel Michelin moved to approve the recommendation of the Leg/Reg Committee for a watch on AB 458. David Turetsky seconded. The Board voted (8-Aye; 1-Abstain) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein				X	
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi			X		
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

B. Assembly Bill 613 (Low): Professions and vocations: regulatory fees

Rachel Michelin moved to approve the support recommendation of the Leg/Reg Committee for AB 613. David Turetsky seconded. The Board voted unanimously (9-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein				X	
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

C. Assembly Bill 896 (Low): Registered Dispensing Opticians: RDO Fund: Optometry Fund

No action was taken on this item, as a support position was already taken.

D. Assembly Bill 1467 (Salas): Optometrists: scope of practice: delegation of services agreement

David Turetsky moved to take a watch position on AB 1467 and take further action at the next Board Meeting. Maria Sperber seconded. The Board voted unanimously (9-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein				X	
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

No public comment was made.

11. Review, Discussion, and Possible Action on Implementing Regulations for Assembly Bill 2138 (Chiu, Chapter 995, Statutes of 2018)

Discussion: [1:40:49 / 3:27:06](#)

Ms. Hamilton opened on the item and noted the implementation of the bill was time sensitive and the Board needed to approve the proposal as soon as possible. She explained there are two program regulatory changes which need to be addressed - the optician program and for the optometry program – using DCA’s legal memo and text as a template. She started with the optician program.

For substantially related crimes in subdivision (c), Ms. Hamilton recommended adding in penal codes relating to sexual abuse, child abuse and fiscal dishonesty; listing them in regulations gives the Board more enforcement authority. Since many optician licensees will often be in direct contact with a patient in close circumstances, it was recommended to add direct references to the codes. Ms. Crawford noted listing these codes means they can be used beyond just conviction of a crime, such as professional misconduct or the act of doing so. Board discussion led to agreement on these additions.

Rachel Michelin moved to edit the language to include all three penal codes. Glenn Kawaguchi seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				

Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

Ms. Hamilton then asked for a motion to approve the changes to 1399.270.

Lillian Wong moved to approve the proposed regulatory amendments to Section 1399.270, Title 16 of the California Code of Regulations related to substantial relationship criteria with the edits already approved; direct staff to submit the proposed text to the Director of the Department of Consumer Affairs, and the Business Consumer Services and Housing Agency for review and if no adverse comments are received to authorize the Executive Officer to make any non-substantive changes to the rulemaking package and set the matter for Hearing. Madhu Chawla seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

Ms. Hamilton then referred to proposed amendments for the Optometry Program. She recommended additions of three additional penal codes for substantially related crimes, similar to what was added as part of the Optician program. Board agrees.

David Turetsky moved to accept the optometry substantial relationship criteria proposed edits recommended by the Department of Consumer Affairs Legal office and add the same three additions. Rachel Michelin seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				

Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

Debra McIntyre moved to approve the optometry proposed regulatory amendments as amended today to section 1517 of Title 16 of the California Code of Regulations substantial relationship criteria; direct staff to submit the proposed text to the Director of the Department of Consumer Affairs and the Business Consumer Services and Housing Agency for review and if no adverse comments are received to authorize the Executive Officer to make any non-substantive changes to the rulemaking package and set the matter for Hearing. Rachel Michelin seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

Madhu Chawla moved to approve the proposed regulatory amendments to Section 1399.271 criteria for denial and reinstatement of registration of the California Code of Regulations; Direct staff to submit proposed text to the Director of the Department of Consumer Affairs and the Business of Consumer Services and Housing Agency for review and if no adverse comments are received authorize the Executive Officer to make any non-substantive changes to the rulemaking package and set the matter for Hearing. Lilian Wang seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				

Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

David Turetsky moved to approve the proposed regulatory amendments to Section 1399.272 criteria for denial and reinstatement of registration of the California Code of Regulations; Direct staff to submit proposed text to the Director of the Department of Consumer Affairs and the Business of Consumer Services and Housing Agency for review and if no adverse comments are received authorize the Executive Officer to make any non-substantive changes to the rulemaking package and set the matter for Hearing. Rachel Michelin seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

Lilian Wang moved to approve the proposed regulatory amendments as amended to Section 1516 of Title 16 of the California Code of Regulations; Direct staff to submit proposed text to the Director of the Department of Consumer Affairs and the Business of Consumer Services and Housing Agency for review and if no adverse comments are received authorize the Executive Officer to make any non-substantive changes to the rulemaking package and set the matter for Hearing. Glenn Kawaguchi seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				

Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

12. Review, Discussion, and Possible Action on Implementing Regulations for Assembly Bill 443 (Salas, Chapter 549, Statutes of 2017)

Discussion: [2:26:03 / 3:27:06](#)

The item was previously discussed at the February 1, 2019 public meeting. Ms. Hamilton presented proposed changes to the application for immunization form needed for as part of the implementation of AB 443. Dr. McIntyre noted the form does not have a section for a date of course completion and that training could have been taken over two years ago; Ms. Hamilton added the date specified in the proposed regulation to the form. A minor change was made adding “immunization form” into the signature box at the bottom of the form.

Public comment was made requesting clarification on ACPE certification requirements and the criteria for how many hours are needed for the training program; Ms. Hamilton noted the statute does not set out the required hours but only completion of an approved course.

The Board was presented with the regulatory text; there were no further changes made.

Madhu Chawla moved to approve both the form with the edits discussed as well as approve the proposed regulatory amendments with the edits discussed to add Section 1572 Title 16 of the California Code of Regulations; Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business of Consumer Services and Housing Agency for review and if no adverse comments are received authorize the Executive Officer to make any non-substantive changes to the rulemaking package and set the matter for Hearing. Cyd Brandvein seconded. The Board voted unanimously (10-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

13. Election of Board Officers

Discussion: [2:38:09 / 3:27:06](#)

The Board held elections for President, Vice-President and Secretary for 2019-2020. The terms will be effective as of the next Board meeting.

A. President

For the position of President, nominees were Mark Morodomi and Maria Salazar Sperber. Mr. Morodomi was elected President on a 7-3 vote.

Member	Mr. Morodomi	Ms. Sperber	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla		X			
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber		X			
Dr. Turetsky	X				
Dr. Wang		X			

B. Vice-President

For the position of Vice-President, nominees were Glenn Kawaguchi and Lilian Wang. Dr. Kawaguchi was elected Vice-President on a 6-4 vote.

Member	Dr. Kawaguchi	Dr. Wang	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla		X			
Ms. Garcia	X				
Dr. Kawaguchi	X				
Dr. McIntyre		X			
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber		X			
Dr. Turetsky	X				
Dr. Wang		X			

C. Secretary

For the position of Secretary, nominees were Martha Garcia and Debra McIntyre. The position was not elected due to a tie vote.

Member	Ms. Garcia	Dr. McIntyre	Abstain	Absent	Recusal
Ms. Brandvein	X				
Dr. Chawla		X			
Ms. Garcia	X				
Dr. Kawauchi		X			
Dr. McIntyre		X			
Ms. Michelin	X				
Mr. Morodomi	X				
Ms. Sperber		X			
Dr. Turetsky	X				
Dr. Wang		X			

Rachel Michelin moved to call for a teleconference meeting for late June at which time the Board will allow for a change of Board Members and the appointment of the Senate Pro Tem's Appointee and take vote on Secretary for the year term. Madhu Chawla seconded. The Board voted 7-Aye; 3-No and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Ms. Brandvein		X			
Dr. Chawla	X				
Ms. Garcia	X				
Dr. Kawauchi	X				
Dr. McIntyre	X				
Ms. Michelin		X			
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Turetsky		X			
Dr. Wang	X				

There was no public comment.

14. Future Agenda Items

Discussion: [3:25:26 / 3:27:06](#)

Lilian Wang stated she has a request from the foreign graduates at UC Berkeley that a special license be considered whereby they could see patients and supervise students in school clinics only.

There were no future agenda items from the public.

15. Adjournment

Meeting adjourned at 3:15 p.m.

DRAFT

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, Board President
SUBJECT	Agenda Item #4 – President's Report

Thoughts Upon Assuming the Office of President

Four years ago, the U.S. Supreme Court struck down the actions of an out-of-state professional licensing board for decreasing professional competition without regard for consumer protection. That's far from the case for the CSBO. We consistently put consumers first.

For the second time in a row – Board members elected a non-optometrist as Board President. Attendees at the annual conference of the Association of Regulatory Boards of Optometry told our Executive Officer that election of a non-professional member as president is beyond imagination in other states. The faith that the Board has in me is an example of the dedication that each of the members, professional and non-professional, has for the priorities of the board: patient protection and access to healthcare. I am honored by their faith.

The actions by this board in the past year are further examples of their dedication. Under the leadership of last term's Board President Cyd Brandvein, CSBO had several notable accomplishments.

The Board continued to review California laws and regulations that limit access to healthcare. The Board introduced and successfully passed through the Legislature and the Governor a law that eliminates the two-office limitation on the number of offices an optometrist may own. The old law, in place for 64 years, limited competition. It also weakened consumer access to optometric care when optometrists in rural and underserved areas retire, because the office limitation prevented other doctors from continuing the retired person's practice. This forced consumers in these areas to travel great distances and pay higher prices for care.

Another law supported by the Board and adopted by the Legislature and Governor authorizes optometrists to administer vaccines. Optometrists administering vaccine shots appears, at first blush, a bit odd. But recent nationwide outbreaks of measles underscore the need for convenient public access to immunizations from any healthcare professional.

Members Glenn Kawaguchi and Rachel Michelin of the Board's Children's Vision Workgroup continued to tirelessly fight in the Legislature for recognition of the importance of comprehensive eye exams for children through Assembly Bill 2444 (Burke, 2018).

The CSBO Enforcement Unit issued 54 citations—the largest amount in any fiscal year—while also decreasing by 12 percent the average number of days to impose discipline. Additionally, there was an 86 percent increase in transmission of cases to the California Office of the Attorney General. This includes enforcement actions authorized by the Board's new jurisdiction over opticians.

I have only been Board President for a month, so my activities report is necessarily limited. I have been working to reconstitute our Board committees. I also attended the Executive Officer Salary Study Meeting conference call on July 12, 2019. The Department of Consumer Affairs presented its long-awaited study and answered questions. Board presidents and executive officers in the audience expressed uniform displeasure about the futility and non-transparency of the State's executive officer salary raise process.

Reconstitution of Board Committees

The Board Bylaws state that the Board President determines the composition of the committees with solicitation of interest from the Board Members during a public meeting. Below are my proposed committee memberships.

Legislation and Regulation Committee

Lillian Wang, OD – *Chair*
Rachel Michelin
Glenn Kawaguchi, OD
Maria Salazar-Sperber, JD
David Turetsky OD

Practice and Education Committee

Madhu Chawla, OD - *Chair*
Martha "Ruby" Garcia CLD, SLD
Debra McIntyre, OD

Consumer Protection Committee

Cyd Brandvein - *Chair*
Martha "Ruby" Garcia CLD, SLD
Debra McIntyre, OD
David Turetsky, OD

Public Relations and Outreach Committee

Maria Salazar-Sperber, JD - *Chair*
Madhu Chawla, OD
Rachel Michelin
David Turetsky, OD

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, President
SUBJECT	Agenda Item #5 – Election of Board Secretary

Due to a tie vote for Board Secretary at the April 5, 2019 public meeting, an additional round of voting for Secretary is required. In an effort to promote greater inclusion in board business management by a greater number of board members, Ms. Garcia has declined her nomination for the office. Below is the candidate statement submitted by Dr. McIntyre, the remaining candidate for consideration.

Secretary

a. Debra McIntyre OD – Candidate Statement

As a professional member of the Board of Optometry since March 2016, I've been able to both familiarize myself with the various issues we contend with and to become more comfortable with format in which we operate. I feel that, since my participation so far has been largely peripheral, I can contribute more by becoming more involved in our organization. The role of Secretary of the Board would allow me to express other leadership skills which have been underutilized thus far. My analytic skills and objectivity will be an asset to the Board. I look forward to continued service in a fuller capacity.

Attachment:

1. Email from Ms. Ruby Garcia (dated July 10, 2019); Re: Board Secretary

From: [Martha Garcia](#)
To: [Morodomi, Mark@DCA](#); [Murphy, Shara@DCA](#)
Subject: Board Secretary
Date: Wednesday, July 10, 2019 2:42:04 PM

Hi Mark & Shara

It is my hope to support Board needs through working on Board agendas and committees, especially the DOC. We are accomplishing new ground for Opticians through the DOC.

It is important for me to balance shared Board responsibility with all Board Members, and for that reason I am hoping to pull my name from Board Secretary nomination to encourage Dr. McIntyre take that lead.

I am anticipating working on the DOC and other committees.

Thanks
Ruby Garcia, ABOC, NCLEC State Licensed Optician
805-263-9765

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Sent from Gmail Mobile

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>prepared by Cheree Kimball, Lead Enforcement Analyst</i>
SUBJECT	Agenda Item #6A – Executive Officer's Report: Enforcement Program

Statistical Review of Fiscal Year 2018-2019

In fiscal year 2018-2019, CSBO enforcement staff:

- received a total of 393 new cases,
- closed 425 cases with no action,
- issued 12 administrative citations,
- referred 17 cases to the Attorney General's Office for disciplinary action, and
- processed 15 disciplinary orders.

The majority of the cases received by the Optometry program contain allegations of unprofessional conduct, while Optician program cases saw criminal charges as the most common allegation in new cases. The majority of case closures for both programs occurred within one year of the receipt of the initial case. Of the 17 cases referred to the AG's office, 7 were classified as high priority cases. High priority cases were referred to the AG's office, on average, around 250 days after receipt, while regular priority cases, on average, were referred around 400 days after receipt.

Statistics Charts for Fiscal Year 2018-2019

Attachment 1: Statistical Overview

Attachment 2: Optometry program cases received by allegation type

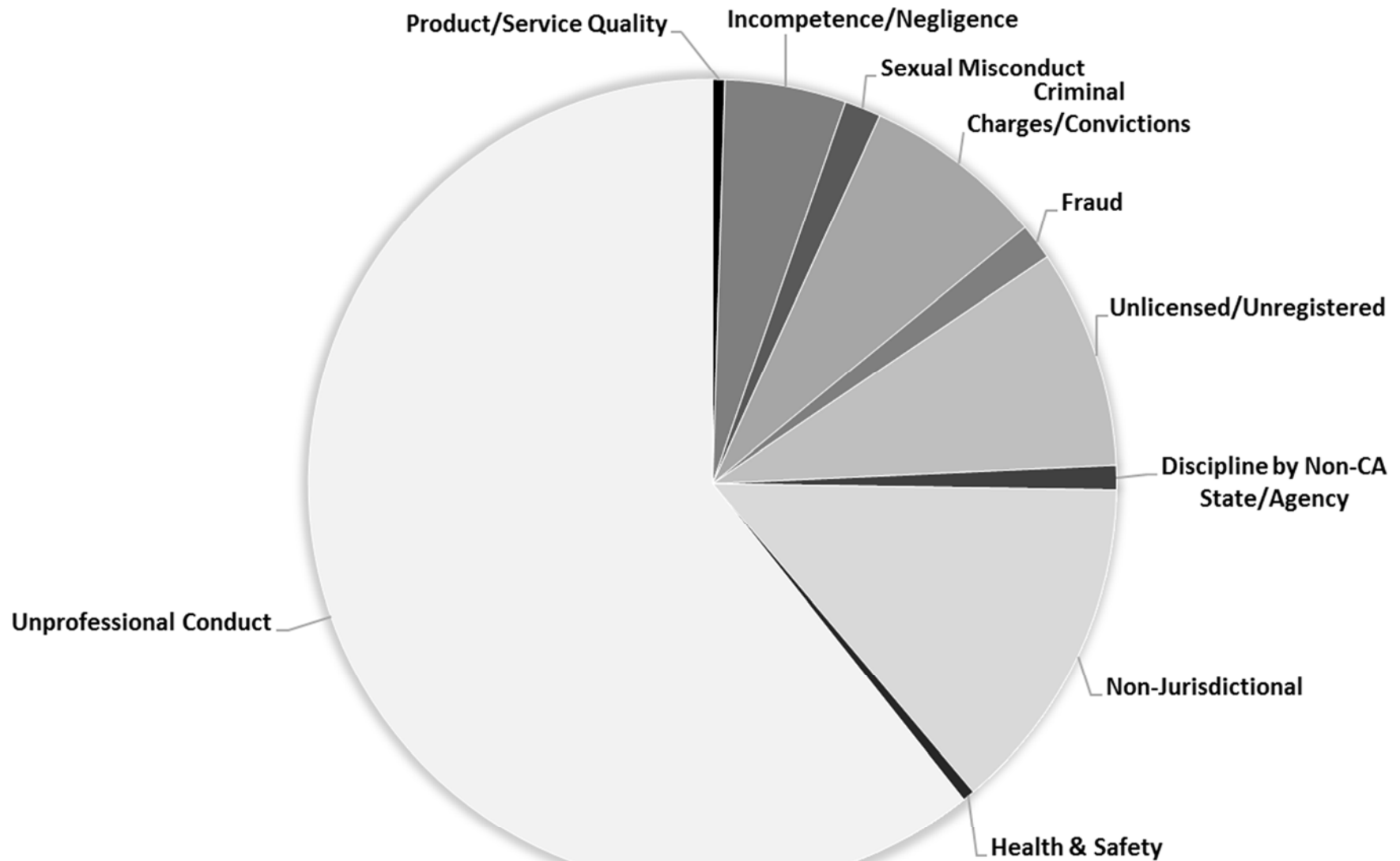
Attachment 3: RDO program cases received by allegation type

Attachment 4: Optometry program case closures by case age

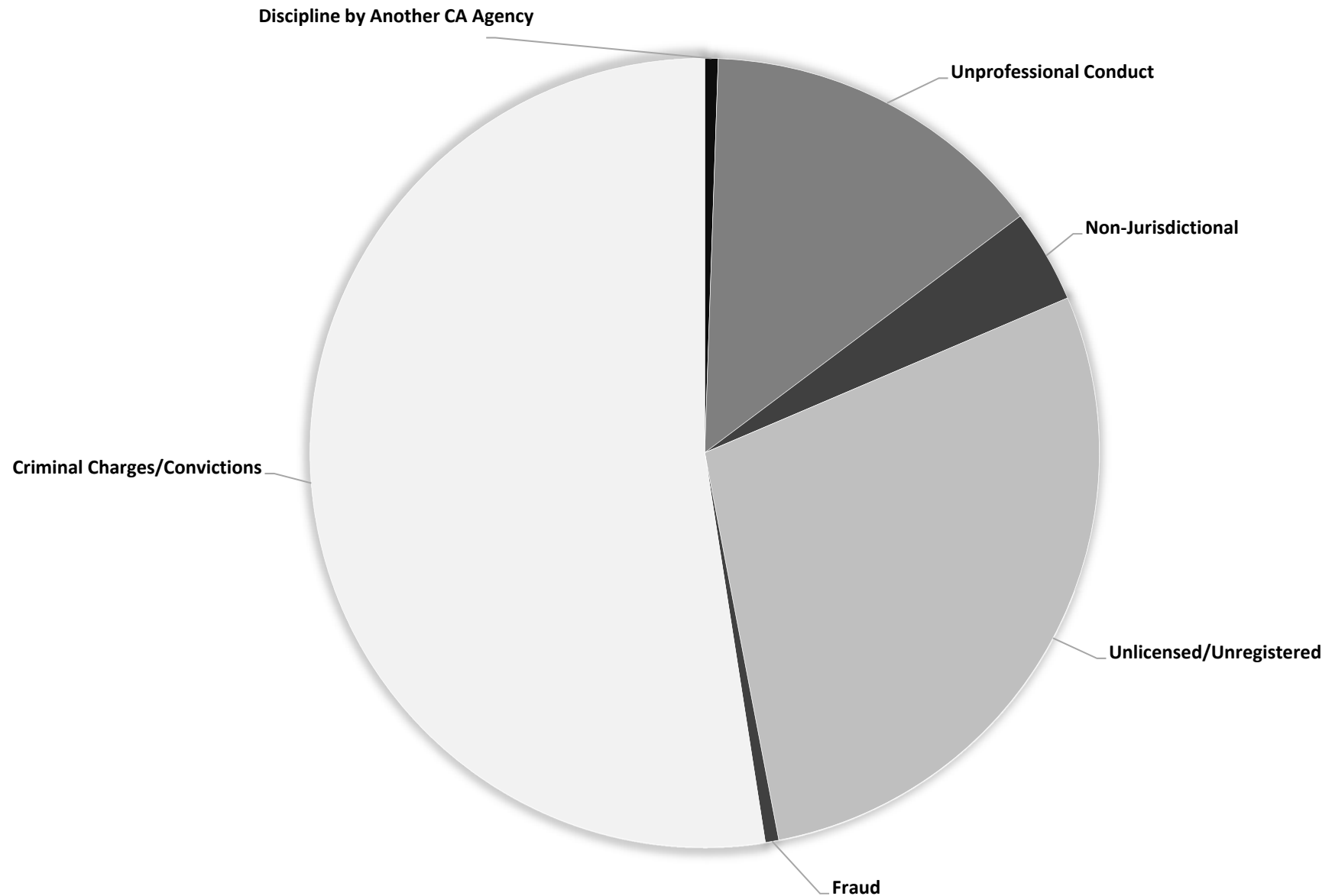
Attachment 5: RDO program case closures by case age

	Q1 – FY18/19						Q2 – FY18/19						Q3 – FY18/19						Q4 – FY18/19						FY Total	
	Routine		Urgent		High		Routine		Urgent		High		Routine		Urgent		High		Routine		Urgent		High			
Cases by Priority	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO
Received	50	52	0	0	4	0	44	34	0	0	4	1	47	42	0	0	4	4	52	53	0	0	2	0	207	186
Closed	40	44	0	0	3	0	42	45	0	0	3	1	42	49	0	0	1	0	81	66	0	0	7	1	219	206
Average Age (days) - Closed	146	120	0	0	150	0	200	135	0	0	268	163	223	126	0	0	3	0	265	170	0	0	304	212	268	170
Pending	160	130	0	0	17	2	164	124	0	0	15	2	168	120	0	0	16	3	138	107	0	0	11	2	149	109
Average Age (days) – Pending	291	239	0	0	200	155	164	283	0	0	242	226	348	326	0	0	265	219	378	363	0	0	278	336	370	363
Referred to AG	0	1	0	0	2	0	2	2	0	0	0	0	1	0	0	0	2	0	2	2	0	0	3	0	12	5
Pending at AG	6	26	0	0	3	0	8	27	0	0	3	0	7	26	0	0	3	0	8	29	0	0	6	0	14	29
Final Disciplinary Orders	4	5	0	0	0	1	0	0	0	0	0	0	1	1	0	0	0	0	1	2	0	0	0	0	6	9

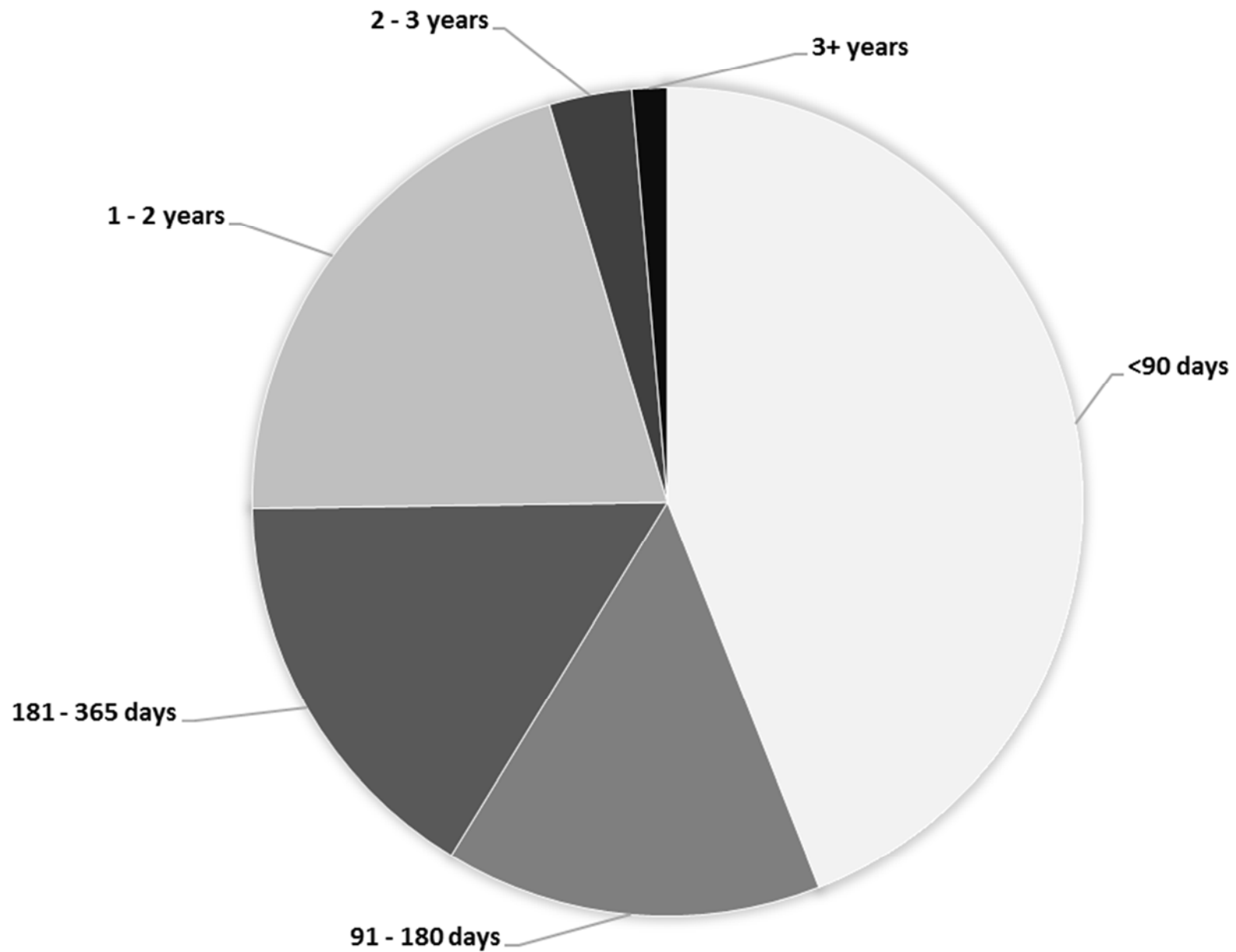
OPTOMETRY CASES RECEIVED - FY 2018/2019



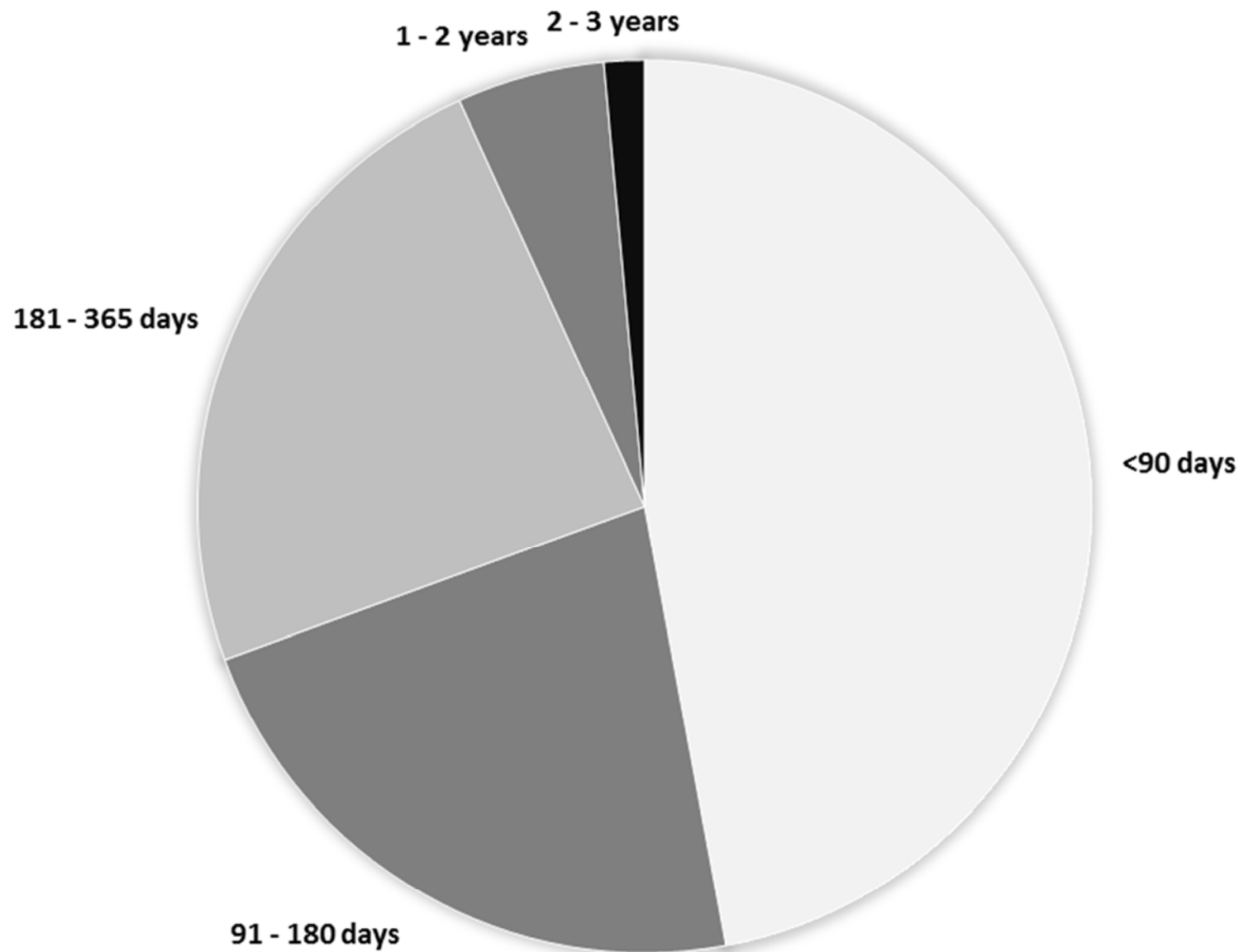
RDO CASES RECEIVED - FY 2018-2019



OPTOMETRY CLOSURES BY AGE - FY 2018/19



RDO CLOSURES BY AGE - FY 2018/19



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>prepared by Arsha Qasmi, Lead Licensing Analyst</i>
SUBJECT	Agenda Item #6B – Executive Officer’s Report: Examination and Licensing Programs

Optometry Examination

As of July 30th, all workshops for examination development have been fully staffed and completed by qualified subject matter experts. An updated version of the California Law and Regulations Exam is under review and will be released on schedule in October.

Optometry Licensing Program

In April and May of 2019, the Board’s Executive Officer and Lead Licensing Analyst presented to the third-year optometry students at University of California, Berkeley, Western University, and Southern California College of Optometry. Students were given an overview of the licensing process and noteworthy items were highlighted. This continues to be a valuable opportunity for students to connect with the Board and for the Board to gain insight from the newest generations of optometrists.

The licensing unit has amended its procedures to include the digital upload of all documents related to an application. This change allows any member of the staff to access an application and view its status. Ensuring all documents are in BreEZe has made application checks more efficient and permitted staff to better assist applicants.

Increasing efficiency, management has found methods to quicken the application process for new graduates. Adding the assistance of our current Office Technician to aid the Licensing Lead has improved processing times dramatically. Staff is confident that a majority of new graduates will be licensed by the end of August.

The number of optometrist applications increased in the third and fourth quarter, which is expected as applicants graduate. There was an increase in license applications opened in June with a total of 55, this was the highest volume in FY 2018/2019. Also 35 licenses were issued, making it the third highest month this fiscal year. BreEZe utilization remains strong with new optometrists applying online 98 percent of the time. Licensing continues to work through applications as efficiently as possible, focusing on applications in the order received. Current processing times have dropped to 8-10 weeks for the Optometry.

Opticianry Licensing Program

Board staff has been focused on outreach and education for both new and existing opticians. Staff recently was invited to California Association of Dispensing Opticians and California State Society of Opticians to speak with applicants and existing opticians regarding the Board's processes and the Opticianry Practice Act. In doing so, staff anticipates applicants will understand the application process, and be more aware of the laws that govern opticians.

To address concerns regarding processing times within the Opticianry Program, staff spent considerable time and energy in February and March, 2019 auditing processes and procedures (including SLD, CLD, RDO, and NCLS registrations). In March, staff implemented a new procedure whereby Opticianry Program staff contacts new applicants within 30 days of application receipt. Applicants are sent a deficiency letter outlining all missing information. These changes have improved processing times and reduced the volume of calls and postal mail received by the Board. Concurrently, the Licensing Lead has worked with BreEZe to implement changes to the application, removing the statement requesting notarization of the application and clarifying the fingerprint requirement.

Board staff has observed an increase in the number of opticianry applications received, which is to be expected with American Board of Opticianry exam results posting in May. Despite this uptick, Opticianry Program processing times are currently between 6-8 weeks, a reduction of nearly 6 weeks.

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>prepared by Marc Johnson, Policy Analyst</i>
SUBJECT	Agenda Item #6C – Executive Officer’s Report: Legislative and Regulatory Update

Legislative Update

Upcoming Legislative Deadlines:

August 12 – Legislature reconvenes from Summer Recess
 August 30 – Last day for fiscal committees to meet and report bills (Suspense Hearing)
 September 3-13 – Floor session only
 September 6 – Last day to amend bills on the floor
 September 13 – Last day for any bill to be passed
 October 13 – Last day for Governor to sign or veto bills

Based upon previous Board action, staff is currently tracking the following bills:

1. Assembly Bill 458 (Nazarian) Optometrists: home residence permits.
 This bill is discussed under Agenda Item #13.
2. Assembly Bill 613 (Low) Professions and Vocations: regulatory fees.
Location: Senate Business, Professions and Economic Development Committee.
Status: Heard on July 1, 2019; no vote taken.
Summary: This bill would authorize each board within the Department of Consumer Affairs to increase their fees every 4 years in an amount not to exceed the increase in the Consumer Price Index in the preceding 4 years. Fees increased pursuant to this bill would be exempt from the Administrative Procedure Act. A vote was not taken in Committee; it is unclear if the bill will move forward this year and may be taken up again in the 2020 Legislative session.

Board Position: Support

3. Assembly Bill 896 (Low) Registered Dispensing Opticians: dispensing opticians fund: optometry fund.

Location: Senate Floor, on consent calendar.

Status: Awaiting final passage.

Summary: This bill would dissolve the Dispensing Opticians Fund on July 1, 2022 and transfer those funds to the Optometry Fund.

Board Position: Sponsor

4. Assembly Bill 1467 (Salas and Low) Optometrists: scope of practice: delegation of services agreement.

Location: Senate Business, Professions and Economic Development Committee.

Status: Hearing has not been scheduled. Likely 2-year bill.

Summary: This bill would authorize an optometrist to provide services set forth in a delegation of services agreement between an optometrist and an ophthalmologist, thereby expanding the optometry scope of practice. It is unclear if this bill will move forward this year; negotiations to further clarify the language between the author, stakeholders and the California Optometric Association (sponsor) are ongoing.

Board Position: Watch

5. Senate Bill 53 (Wilk) Open Meetings.

This bill is discussed under Agenda Item #13.

Regulatory Update

The recent transition of Legal Counsel has delayed work on several regulatory issues; however, staff work is continuing on the following:

1. Implementation of AB 2138 (Amend §§1399.270, 1399.271, 1399.272, 1516, 1517):

The regulatory text was approved at the [April 5, 2019 public meeting](#). The rulemaking package has been completed by staff and submitted to Legal Counsel for review, prior to submission to DCA. Upon DCA approval, it is anticipated this rulemaking package will be submitted for OAL approval by fall 2019.

2. Implementation of AB 443 (Amend §1524; Adopt §1527):

The regulatory text and application form were approved at the [April 5, 2019 public meeting](#). The rulemaking package has been completed by staff and submitted to Legal Counsel for review, prior to submission to DCA. Upon DCA approval, it is anticipated this rulemaking package will be submitted for OAL approval by Fall 2019.

3. Optometry Disciplinary Guidelines (Amend §1575):

The Consumer Protection Committee last reviewed the issue at the [January 11, 2019 meeting](#). At that meeting, staff noted further updates may be made to

several sections of the Guidelines due to statutory changes coming into effect in 2019. Staff work is ongoing. It is anticipated these will be ready for Consumer Protection Committee in the fall.

4. Dispensing Optician Disciplinary Guidelines (Amend §1399.273):

The Dispensing Optician Committee reviewed the latest version of the Optician Disciplinary Guidelines at the [March 15, 2019 meeting](#) and made several changes. Additionally, further updates have been made to several sections of the Guidelines due to statutory changes coming into effect in 2019. Staff work is ongoing. It is anticipated these will be submitted to the DOC for final approval in the fall.

5. Continuing Education Regulations (Amend §1536):

Staff work is ongoing. It is anticipated draft language and potential changes will be submitted to the Practice and Education Committee by early 2020.

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>prepared by Cheree Kimball, Lead Enforcement Analyst</i>
SUBJECT	Agenda Item #7 – Discussion and Presentation on the Practice of Optometry via Telemedicine

The Practice of Optometry via Telemedicine

Telemedicine and telehealth were discussed throughout the 2019 conference of the Association of Regulatory Boards of Optometry (ARBO). Today's presentation brings to CSBO the academic presenters from the agenda of the ARBO conference.

Over the last few years, telemedicine has had an increasing presence in the eye care profession and is being used in multiple settings to provide expanded access to eye care services, including refractions.

While the equipment and process may vary from provider to provider, there are similarities. Typically, an assistant will document medical history and do pre-testing. Next, a technician will facilitate the refraction process, either in person or through a live video link. There may be images taken of the retina and/or other structures of the eye. Finally, the data and testing information is reviewed by a California licensed eye care professional (most commonly an Ophthalmologist), and, if appropriate, a corrective lens prescription is issued and signed by the eye care professional.

Presenter Biographies

A.

Melissa D Bailey, OD, PhD is an associate professor at The Ohio State University (OSU) College of Optometry. She received her optometry degree and PhD in vision science from The Ohio State University. Dr. Bailey's research career is devoted to developing new technologies for use in eye care as well as her research on the role of the ciliary muscle in the development of myopia and accommodative function in children.

In 2015, Dr. Bailey was selected as the Early Career Innovator of the Year at The Ohio State University for her work in developing patented methods for measuring the ciliary muscle. In addition, she has teamed up with the local startup company, Sight4All, Inc., to develop new, patent-pending ways to estimate a patient's glasses prescription and

also measure eye alignment with a smart phone. Sight4All, Inc. and Dr. Bailey secured a grant from Ohio Third Frontier to finalize the software for these new technologies and take them to market. Dr. Bailey is also developing a novel, bifocal contact lens design in collaboration with other researchers with support from an Accelerator Award from The Ohio State University.

Dr. Bailey's myopia research has been funded through the Ohio Lions Eye Research Foundation and The Ohio State University Center for Clinical and Translational Sciences (CCTS) as a KL2 scholar. Her KL2 grant funded research investigating the role of the ciliary muscle in myopia development. Data collection for many of Dr. Bailey's research endeavors are collected in a unique research setting, thanks to a collaboration with a local science museum, the Center of Science and Industry (COSI), where she is the director of research in the Eye Pod at COSI's Labs in Life.

Dr. Bailey teaches students in the optometry curriculum at The Ohio State University, Contact Lenses I, as well as graduate seminar courses.

B.

Jorge Cuadros, OD, PhD is an Assistant Clinical Professor at the Berkeley School of Optometry. Starting in 1994, Cuadros developed several programs for remote clinical diagnosis and distance learning, including programs in China, India, and Latin America. EyePACS was developed as an open access system for clinical communication in eye care, and has been used for teleconsultations, retinopathy screening, home care, education, digital grand rounds, and research. Member of DICOM's working group on data interchange for ophthalmic diagnostic information objects, the defacto international standards organization for eye care imaging. Member of Health Level 7, the American Medical Informatics Association, and the American Telemedicine Association. As past chair of Association of Schools and Colleges of Optometry's informatics special interest group, led the development of informatics standards for optometry schools. Doctoral thesis is entitled: "Low Complexity Adaptable Image-Capable Systems for Inter-Clinician Communication." Currently directing UCB Retinal Reading Center for diabetic retinopathy detection. Clinical Case Studies include Evaluation of remote diabetic retinopathy detection in urban diabetes clinic, Evaluation of new methods for remote consultations in community clinics in the California Central Valley, and Validation of new retinal imaging devices for detection of diabetic retinopathy.

Attachments:

1. Presentation from 2019 ARBO provided by Melissa D Bailey, OD, PhD
2. Presentation from 2019 ARBO provided by Jorge Cuadros, OD, PhD
3. Telehealth guidelines implemented by the Washington State Board of Optometry

Guideline

Title:	Appropriate Use of Telehealth	OD 18-01
References:	Chapter 18.53 RCW	
Contact:	Loralei Walker, Program Manager	
Phone:	360-236-4947	E-mail: Loralei.Walker@doh.wa.gov
Effective Date:	December 14, 2018	
Approved By:	Dale Heaston, OD, Chair (signature on file)	

Purpose

To clarify the appropriate use of telehealth in optometric practice, and to outline the Board of Optometry's expectations of optometric physicians when using telehealth technology.

Background

Advances in technology, communication and data management have resulted in new approaches to delivery of optometric medical care, including those in which physician and patient are not in the same physical location, but interact using enabling technology. These new approaches are referred to as telehealth. If employed appropriately, telehealth can provide important benefits to patients, including:

- Increased access to health care.
- Access to health care professionals who are not available in the patient's home community.
- Rapid availability of patient records.
- Potential reduction in the cost of health care delivery.

The Board of Optometry (Board) developed this guideline to describe how the Board will define, supervise, regulate and discipline telehealth practices consistent with existing statutes governing the practice of optometry within the state of Washington. Recognizing that technology is developed and applied to practice with impressive speed, this guideline's intent is to delineate general principles applicable to both existing and future technologies, rather than focusing on specific current technologies.

Definitions

Enabling Technology: Technology and devices allowing a practitioner to engage in telehealth.

Usually this is electronic. These technologies may simply transmit audio information and/or images at one end of the spectrum, or at the other end they may enable one to perform complex invasive procedures employing robotics.

In-person contact: Interaction between a practitioner and patient in the physical presence of each other as opposed to remote interaction that characterizes telehealth.

Practice of optometry: For the purposes of this guideline, this is evaluation, diagnosis or treatment of a patient for which the practitioner receives, or would reasonably be expected to receive, compensation in some form. The practice of optometry occurs at the location of the patient.¹

Practitioner: The word “practitioner” throughout this document means optometric physicians licensed under [Chapter 18.53 RCW](#).

Practitioner-Patient Relationship: The relationship between a provider of optometric services (practitioner) and a receiver of optometric services (patient) based on mutual understanding of their shared responsibility for the patient’s health care. The relationship is clearly established when the practitioner agrees to undertake diagnosis and/or treatment of the patient and the patient agrees that the practitioner will diagnose and/or treat, whether or not there has been or is an in-person encounter between the parties. The parameters of the practitioner-patient relationship for telehealth should mirror those that would be expected for similar in-person medical encounters.

Telehealth: The practice of optometry using enabling technology between a practitioner in one location and a patient in another location with or without an intervening practitioner. It is a tool in optometric practice, not a separate form of optometry.

Guidelines for Appropriate use of Telehealth

1. **Licensure:** A practitioner using telehealth to practice optometry on patients in Washington must be licensed to practice optometry in Washington. This includes practitioners who treat or prescribe to Washington patients through online service sites.
2. **Standard of Care:** Practitioners using telehealth will be held to the same standard of care as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law. Failure to conform to the standard of care, whether rendered in person or via telehealth, may subject the practitioner to discipline by the Board. Some elements of the standard of care as applied to telehealth include:
 - a. **Practitioner-Patient Relationship:** When practicing telehealth, a practitioner must establish a practitioner-patient relationship with the patient. The absence of in-person contact does not eliminate this requirement. Patient completion of a questionnaire does not, by itself, establish a practitioner-patient relationship, and therefore treatment, including prescriptions, based solely on a questionnaire does not constitute an acceptable standard of care.

¹ The Board recognizes that there may be situations in which a patient, following in-person contact with a practitioner in Washington, may communicate with that practitioner by phone, email or other technology for clarification, advice or follow-up regarding that visit from somewhere outside Washington. Response of the practitioner in such situations, even if not licensed for the location of the patient at that time, would not be considered unlicensed or illegal practice.

- b. **Informed Consent:** As with optometric care involving in-person contact, a practitioner should obtain and document appropriate informed consent for telehealth encounters. Because of the unique characteristics of telehealth, it is best practice for the informed consent to include:
 - i. Reasonable understanding by all parties of the enabling technologies used, their capabilities and limitations, and a mutual agreement that they are appropriate for the circumstances;
 - ii. The credentials of the practitioner.
- c. **Patient Evaluation:** An appropriate history and evaluation of the patient must precede the rendering of any care, including provision of prescriptions. Not all patient situations will be appropriate for telehealth. As an example, the current standard of care is to have the patient's physical eye health assessed in some manner and within a reasonable time period before prescribing medications, contact lenses or glasses. In the case of contact lens prescriptions, it is standard of care to assess the fit of the contact lens before prescribing. Because, by definition, telehealth does not involve in-person contact between practitioner and patient, if circumstances require in-person contact, a legally appropriate surrogate examiner acceptable to the telehealth practitioner and the patient must be present, with the patient, to provide necessary in-person observations, or the telehealth practitioner should advise the patient to be seen in-person by a practitioner. Evaluating the adequacy and significance of any surrogate examination remains the responsibility of the telehealth practitioner.
- d. **Allowable Treatment Parameters:** The telehealth practitioner may provide any treatment deemed appropriate for the patient, including prescriptions, if the evaluation performed is adequate to justify the action taken. The practitioner is responsible for knowing the limitations of the care he or she can provide, no matter how the care is delivered. Just as in a traditional setting, telehealth practitioners should recognize situations that are beyond their expertise, their ability, or the limits of available technology to adequately evaluate or manage in the existing circumstances, and refer such patients for appropriate care.
- e. **Medical Records:** Practitioners providing telehealth services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects what occurred during the encounter in accordance with Center for Medicare and Medicaid Services documentation standards. Such records should be permanent and easily available to or on behalf of the patient and other practitioners in accordance with patient consent, direction and applicable standards. Practitioners should maintain security and confidentiality of the medical record in compliance with applicable laws and regulations related to the maintenance and transmission of such records.
- f. **Prescriptions:** Prescribing medications, whether in person or via telehealth, is at the professional discretion of the practitioner. The practitioner, in accordance with current standards of practice, must evaluate the indications, appropriateness, and safety considerations for each telehealth prescription. Telehealth prescriptions entail the same

professional accountability as prescriptions incident to an in-person contact. Where appropriate clinical procedures and considerations are applied and documented, practitioners may exercise their judgment and prescribe medications as part of telehealth. Especially careful consideration should apply before prescribing Drug Enforcement Administration-controlled substances, and compliance with all laws and regulations pertaining to such prescriptions is expected. Measures to ensure informed, accurate and error-free prescribing practices (e.g. integration with e-Prescription services) are encouraged.

3. **Mobile Medical Technology:** Mobile medical technologies provide innovative ways to improve health delivery by allowing patients and health care practitioners access to useful information when and where they need it. The federal Food and Drug Administration (FDA) regulates the safety and efficacy of medical devices, including mobile medical applications (apps) that meet the definition of “device” under the FDA Act, particularly apps that pose a higher risk if they do not work as intended.

The Board has no jurisdiction over mobile medical apps, peripherals or other devices, and will refer complaints to the FDA or other appropriate agency.² The Board advises practitioners who use or rely upon such technology to ensure the technology has received FDA approval and is in compliance with applicable federal law. Additionally, those apps used by a practitioner or patient that do not have FDA approval may be outside the standard of care, and may be investigated by the consumer protection division of the Federal Trade Commission (FTC).³ If the Board receives complaints about such apps or devices that are deemed outside its jurisdiction, the Board will forward the complaint to the FDA or the FTC as appropriate.

4. **Discipline:** The Board may investigate and take disciplinary action against a practitioner, whether licensed in Washington or not, who treats a resident of Washington via telehealth, and who fails to meet the required standard of care. An out-of-state practitioner is also subject to action by the Department of Health for the unlicensed practice of a profession under RCW 18.130.190.

The Board reaffirms its position that establishing a telehealth presence accessible to Washington patients through a website or other access portal is not exempt from Washington licensure.

² For more information on the FDA’s regulation of mobile medical apps, see <https://www.fda.gov/MedicalDevices/DigitalHealth/MobileMedicalApplications/ucm255978.htm>. The Federal Trade Commission protects consumers from anticompetitive, deceptive or unfair business practices, including false or misleading claims about the safety or performance of a mobile medical app. <https://www.ftc.gov/tips-advice/business-center/guidance/mobile-health-apps-interactive-tool>. The Office for Civil Rights within the U.S. Department of Health and Human Services enforces the HIPAA rules, which protect the privacy and security of certain health information. <https://www.hhs.gov/hipaa/index.html>

³ <https://www.ftccomplaintassistant.gov/#cmt&panel1-1>



THE OHIO STATE UNIVERSITY

COLLEGE OF OPTOMETRY

Autorefraction & Telemedicine

Melissa D Bailey, OD, PhD, FAAO



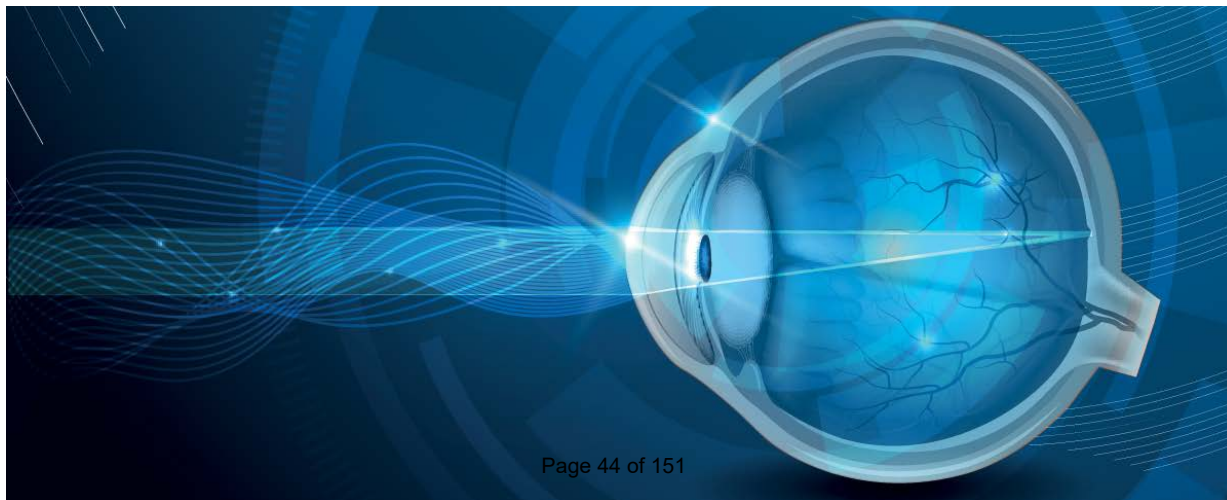
Conflict of Interest Disclosure

- The Ohio State University has filed multiple patents for autorefraction and digital cover test on behalf of Dr. Bailey
 - Bailey MD Automated Detection of Eye Alignment. US9750405B1, Issued September 5, 2017. US20160270653A1, Issued January 5, 2018. Multiple international patents.
 - Bailey MD Methods and Apparatus for Making a Determination about an Eye in Ambient Lighting Conditions. US20160128559A1, Issued March 5, 2019.
 - Bailey MD Measurements Using a Single Image Capture Device. Application number PCT/US2017/021764, Filed March 10, 2017.



Objective Refraction

- Refractive error measurement without patient input
- Eye – closed optical system!
 - Light must enter and exit the eye for a measurement





Objective Refraction – General Considerations

- Accommodation and target
 - Distance measurements – relaxed accommodation and/or cycloplegia
 - Provide a near target and measure accommodation!



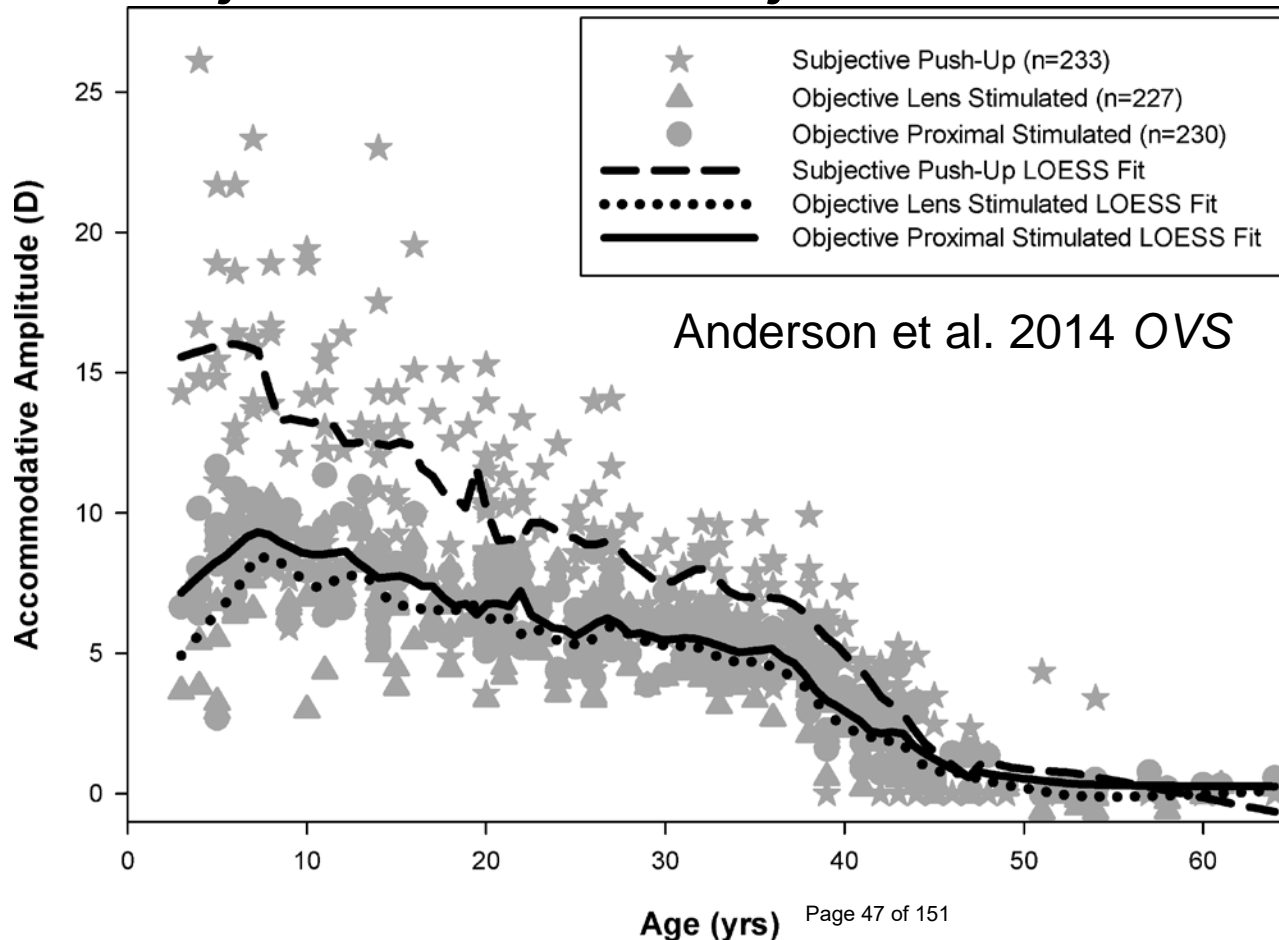
Objective Refraction – Why do you need it?

- Estimate for speed of subjective refraction
- Special needs patients
 - Non-communicative patients
 - Unable to participate
 - Pediatric patients
- Troubleshooting
- Accommodation measurements?



Objective Refraction – objective accommodation

- Objective vs. Subjective Accommodation





Objective Refraction – Retinoscopy

- Earliest form of objective refraction
 - Good repeatability
 - 95% LOA
 - Dry = ± 0.78 D
 - Wet = ± 0.95 D
 - Limitations
 - Requires extensive training, time, bright lights, equipment
 - Smart-phone-based retinoscopy

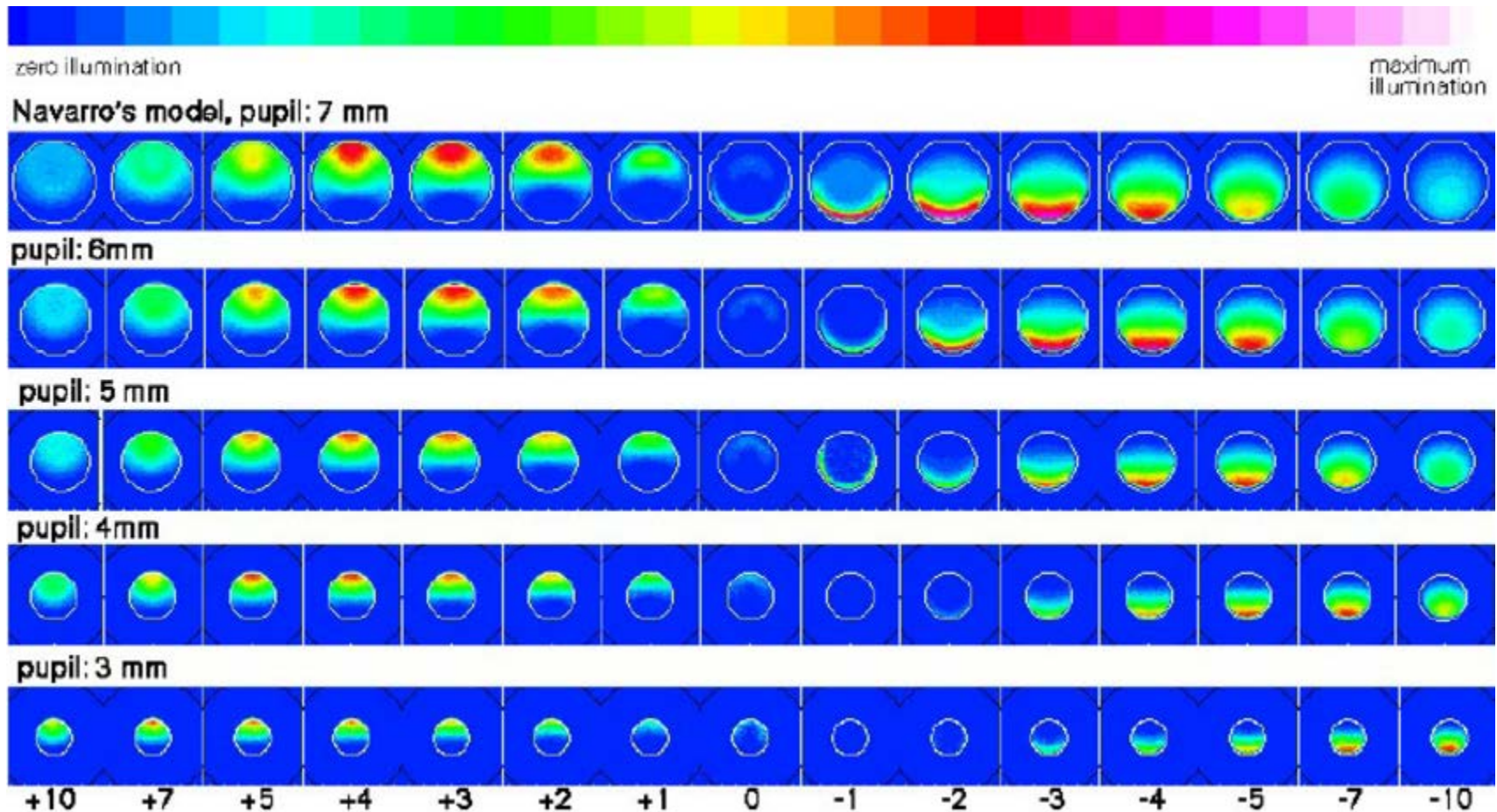


Objective Refraction – Automated Refraction

- Two types of automated refraction
 - Photorefraction
 - FDA Class II – recently “exempt”
 - Autorefraction
 - FDA Class I



Objective Refraction – Photorefracton





Objective Refraction – Photorefraction

- Can be read from photos or videos
 - Repeatability and accuracy
 - Acceptable for screening methods only
 - Limitations
 - Dependent on a variety of factors
 - Pupil size, retinal pigmentation, environmental lighting



Objective Refraction – Photorefraction

- Latest Innovations
 - GoCheck Kids, Spot, iScreen, PlusOptix, 2WIN



▲ 2WIN photorefractor records and displays readings in 7 seconds.



Objective Refraction – Autorefractometer

- Many models/brands
- Almost exclusively use infrared light
- 7 optical principles of operation
 1. Scheiner
 2. Retinoscopic
 3. Best-focus
 4. Knife-edge
 5. Ray-deflection
 6. Image-size
 7. Aberrometry



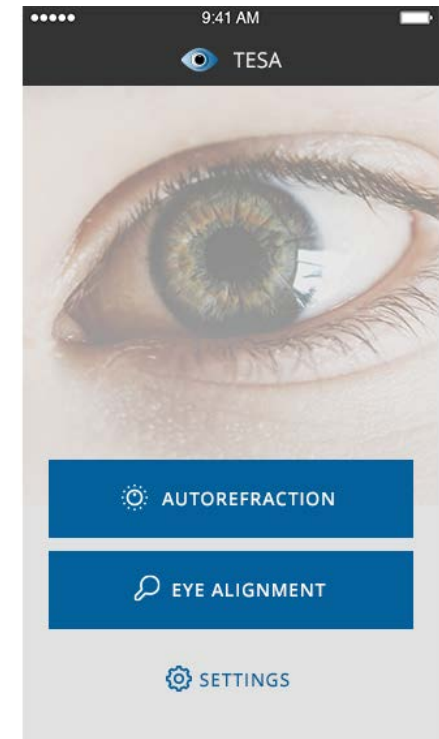
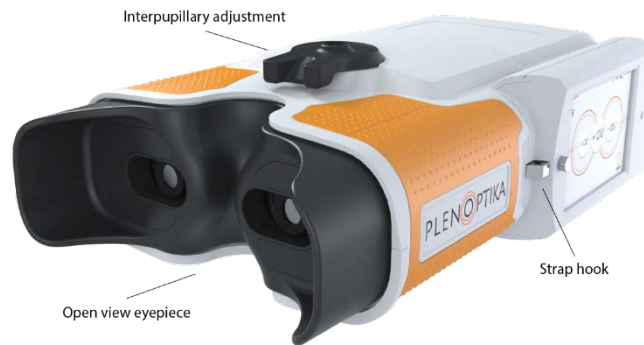
Objective Refraction – Autorefractometry

- Repeatability/Accuracy
 - Depends on the unit/principle
 - Consider pupil region measured
 - Open-field vs. fogging
 - More repeatable than other methods
 - Changes of less than 0.50 D (with cycloplegia) could be due to measurement error. Zadnik et al. 1992 /OVS



Objective Refraction – Autorefractometry

- Latest Innovations
 - SVOne (no longer for sale?), QuickSee (available soon), TESA (available soon)





Objective or Subjective? – Self-refraction

- EYE NETRA



- EyeQue





Self-refraction and telemedicine

- Opternative
 - online refraction
- 6 over 6





Self-refraction and Telemedicine

- 20/20NOW
- SmartVision
- EyeNETRA/Blink



Subjective Refraction

- Numerous techniques
- Always based on the patient's perception
 - Not a true indicator of the optical power of the eye.
 - Repeatability = ± 0.63 D
 - Changes of 0.75 D or more are likely to be real changes in refractive error.



Subjective Refraction

- Why do we find repeatability differences?
 - Some patients are poor observers
 - Intelligence, past experiences
 - Accustomed to visual imagery



Subjective Refraction – Changes and Repeatability

- Refractions are routinely modified
 - 45% of cases had a modification to subjective refraction prior to prescribing. Hrynychak et al. 2012 OVS.

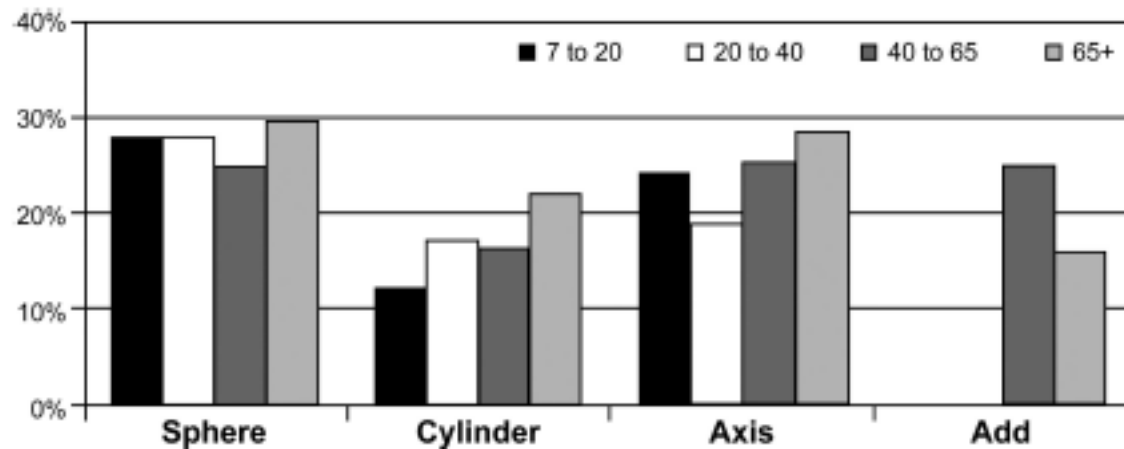


FIGURE 2.

Subgroup analysis by age of any change in refraction to create the prescription.



Importance of new innovation in patient care

- Special patient populations
- Improved identification of pediatric vision problems
- Objective measurements of accommodation
 - Replace subjective measurements
 - Measure for longer periods of time



What is Needed?

- **Special populations**
 - Non-contact
 - No bright lights
 - Objective



What is Needed?

- Open field – allows choice of real accommodative target
- Paired with other tests
 - How much is your patient accommodating during cover test?
 - What about automating AC/A measurements?



Telehealth And AI To Engage Patients And Prevent Blindness

Jorge Cuadros, OD (UCB '80),
PhD (Medical Informatics UCSF '04)



First Telemedicine Consult – 1993

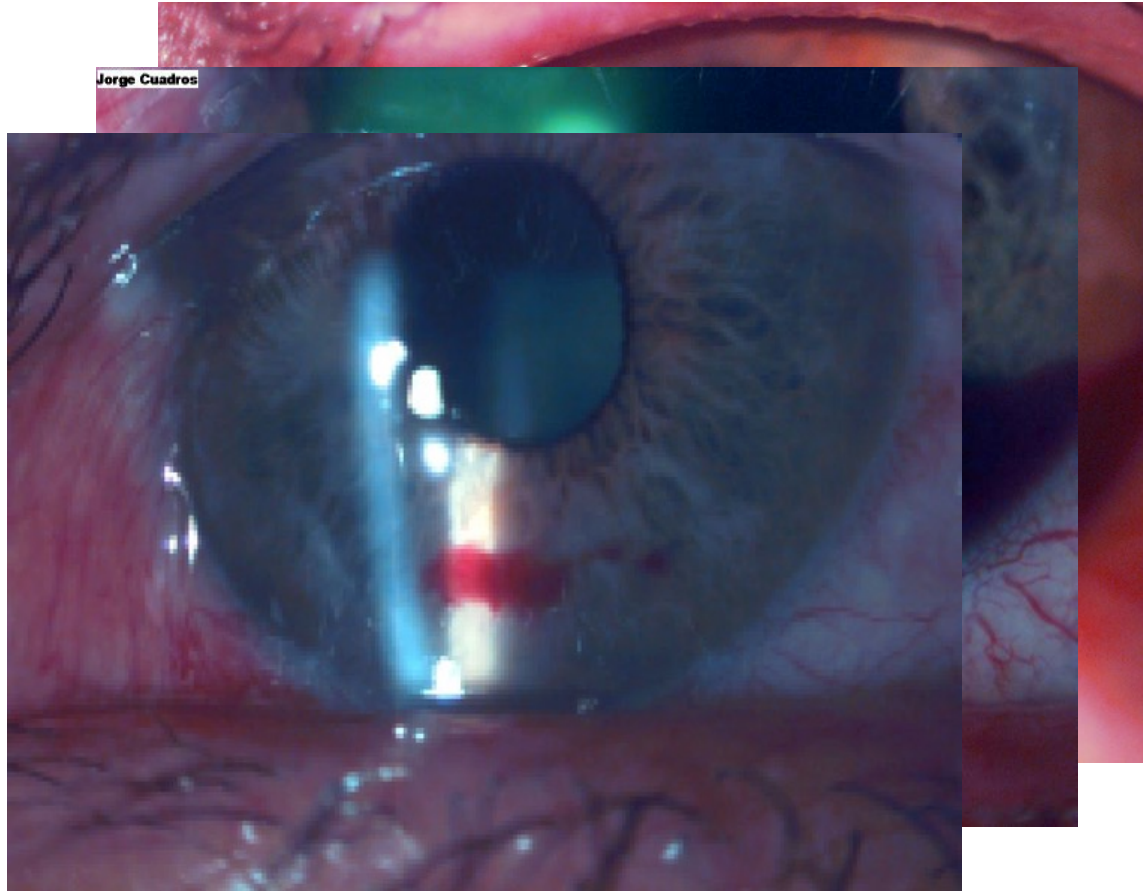
- Dr. Foster Carr describes how to attach digital camera to slit lamp
- 38 year old Latin American gardener
- Stone hit eye at work
- 15% hyphema
- Resolved in one week with ophthalmology guidance



*Foster Carr, MD
Harvard Internal
Medicine*



*Kodak DCS 420 camera
\$9,000 – 1.3 megapixel*



Telemedicine at UC Berkeley and EyePACS

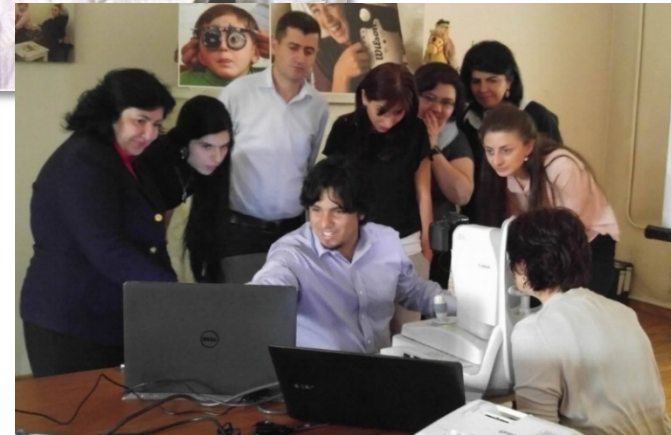
- ▶ 1993 – First Telemedicine Consult
- ▶ 1998 – First “billable” encounter
- ▶ 1999 – Telemedicine Consults with China and India
- ▶ 2001 – EyePACS first version curbside consults
- ▶ 2003 – Diabetic retinopathy Screening
- ▶ 2005 – \$US 2.7 million from CHCF to expand
- ▶ 2010 – EyePACS begins DRS programs beyond California (now 40 states, Canada, Mexico, Colombia, Djibouti, and Guyana)
- ▶ 2011 – Digital Health Clinic becomes a required rotation for third year optometry students at UCB
- ▶ 2019 – >120,000 encounters per year;
>1,000 active sites; >4,000 active users

Telemedicine demonstration in Beijing, 1999



Diabetes Management team in Fresno, CA featured in Time, 2003

Training Armenian providers in Yerevan, Armenia 2016



Flashback 1998

Past Predictions About Telemedicine..



"Good morning, Doctor. I found a way to patch into your email with teleconferencing now you don't have to make a house call."

medscape®

<http://www.medscape.com>

- 1998 Telemedicine legislation passed in most states, especially California.
- HCFA mandates Medicare reimbursement for telemedicine in HPSA's.
- Medicaid required to accept billing for telemedicine consults anywhere in California.
- Telemedicine projected to be \$20 billion industry by year 2000.
- Telemedicine projected to be 10% of Medicare budget by year 2005

Flashback 1998

Past Predictions About Telemedicine → Cautious Optimism Today

Practice Management > Information Technology

Big Red-Flag Study on Telemedicine

— Should we be worried?

by Mikhail Varshavski DO

May 02, 2019



Can telemedicine replace a traditional visit to the doctor? Dr. Mike doesn't think so. He's worried that the drive for profits will take center stage, shoving proper healthcare to the rear.

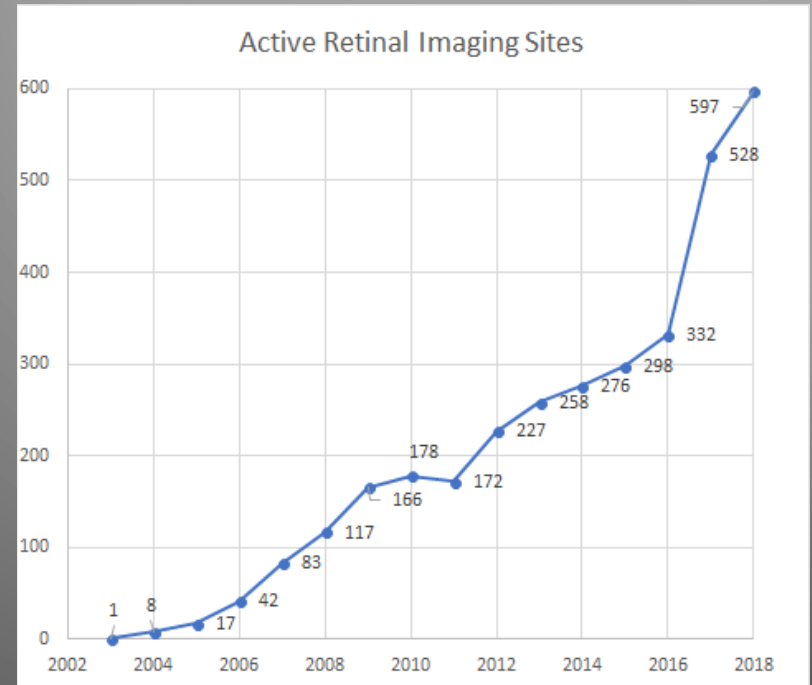
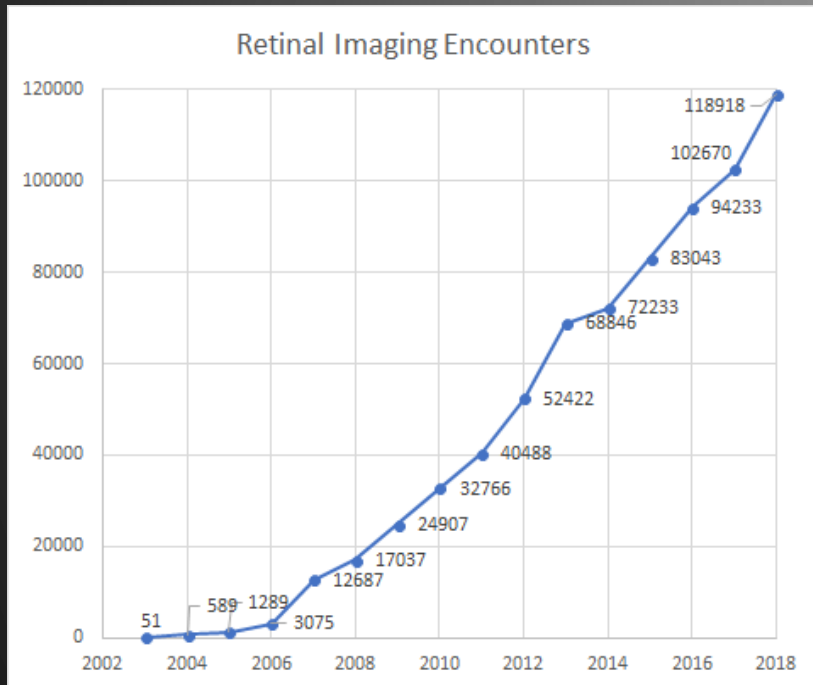
- Telemedicine legislation has already been passed in most states, especially California.
- HCFA now mandates Medicare reimbursement for telemedicine in HPSA's.
- Medi-Cal now required to accept billing for telemedicine consults anywhere in California.
- Telemedicine projected to be \$20 billion industry by year 2000.
- Telemedicine projected to be 10% of Medicare budget by year 2005

**LIMITED
REIMBURSEMENT
DESPITE LEGAL
GAINS**

**GLOBAL ESTIMATE
FOR 2022: JUST \$9.5
BILLION**

**IT'S LESS THAN
1%**

Clinical Encounters and Active Sites in EyePACS since 2003



Note: Average number of consults per month has increased steadily from 4 to 24 encounters per site per month.

UCB and EyePACS in Optometric Education

Current Use Of Telemedicine, AI, and Data Science For Research and Education



Harry Green,
OD, PhD



Mark Sherstinsky,
OD, MPH

- UCB Digital Health Clinic:
 - Telemedicine for diabetic retinopathy screening in primary care clinics
 - 55,000 retinal consults per year from about 100 sites
 - Self-sustaining clinic
 - Resident curriculum includes certification and providing primary consults for these sites
 - Provides a link between optometry and primary care
 - Primary care staff becomes aware of optometric profession

- UCB Digital Health 3rd Year Rotation:
 - A required 3rd year intern 4 week rotation
 - Using images from UCBDH, create virtual scenarios for care of chronic disease patients
 - *Problem based learning for DR, glaucoma, AMD, other retinal lesions*
 - *Discussion and training on primary care communications, patient management, and optometry's role*



UCB and EyePACS in Optometric Research



UCB Public Health Binational DR Trial

Device And Algorithm Trials

- *AEON laser scanning devices (Indiana U.)*
 - *iVue normative database*
 - *LKC electroretinography*
 - *Gold standard validation for FDA and CE Mark*
 - *Hard Exudate Surrogate*
-
- *Kaggle Data Competition*
 - *MIT Media Lab*
 - *Eyenuk*
 - *Google Deep Learning*

Public Health and Clinical Workflows

- *Cost-benefit studies for legislation*
- *Social determinants of treatment adherence*
- *International epidemiological studies*
- *Provider training for retinal image use in primary care*
- *Workflows for AI deployment*
- *Binational patient engagement*

A Few Words About “Standard Of Care”

➤➤ Evidence-Based Medicine
Reality Check..

Validation Of Retinal Imaging For Diabetic Retinopathy Screening

- ▶ Sensitivity and specificity 2 X greater for diabetic retinopathy compared to ETDRS gold standard.
- ▶ Accurately gauge change over time – photodocumentation
- ▶ Only viewing a predetermined snapshot
- ▶ Validated only for diabetic retinopathy screening
- ▶ Mostly ignores far peripheral retina

More Sensitive

Does Not Replace Comprehensive Exam

23 yr. old female type I, pregnant,
HbA1C = 11.7

23 yr. old female type I, pregnant,
HbA1C = 11.7

Ophthalmology Report:

Dilate	mydracyl / phenylephrine / cyclogel	OU	OD	OS
lens	NSC vertical PSC			
PCOL	good position			
p cap	clear/intact spacified yag opening			

VITREOUS: Clear OU

PVD OU / OD / OS

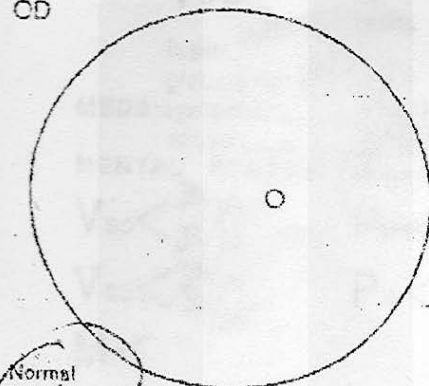
Cells OU / OD / OS

Floaters OU / OD / OS

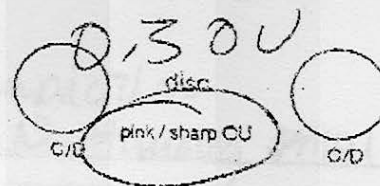
FUNDUS: dilated / direct

(extended - 20° / 30° / 75° / 90° / depressed)

OD

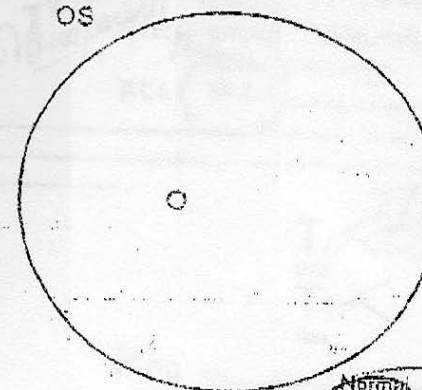


Normal
macula,
periphery,
vessels



pink / sharp OU

OS



Normal
macula,
periphery,
vessels

IMPRESSION:

1. DM ODR
2. Astigmatism
- 3.
- 4.

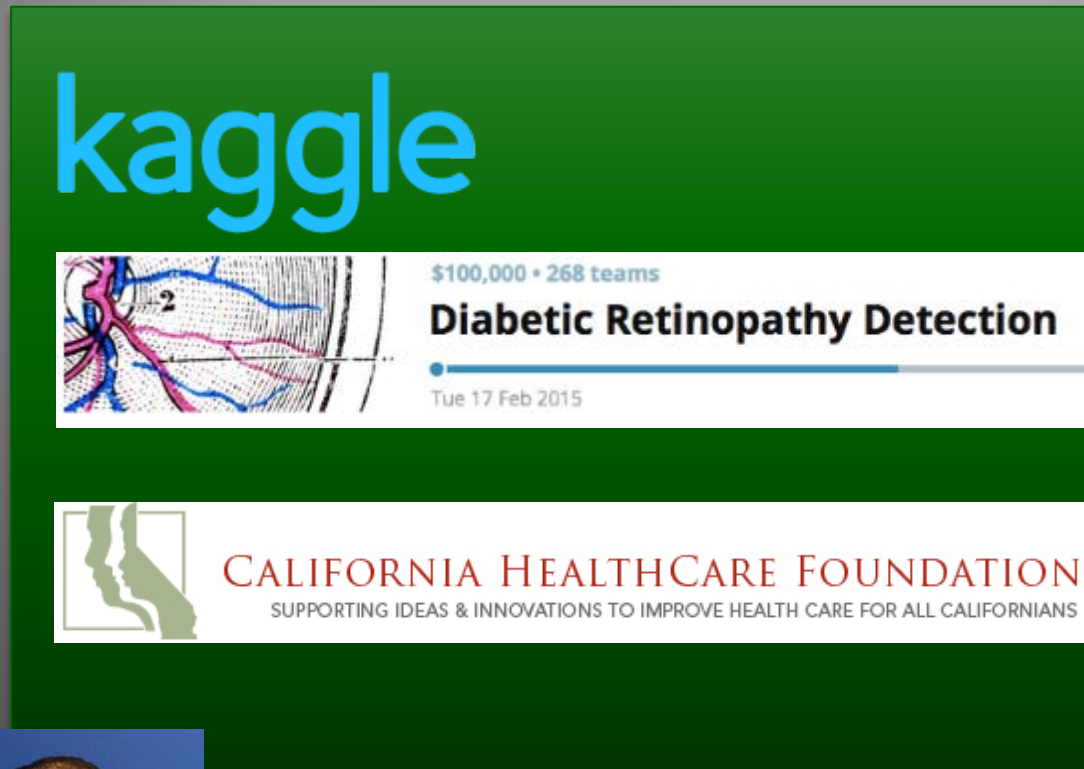
PLAN / COUNSELING:

1. Discussed DM + eyes
2. + BS control
- 3.
- 4.

RTC 1-2 yrs.

AI In Diabetic Retinal Screening

- ▶ Launched with 100,000 EyePACS images in February, 2015
- ▶ Ended on July 27, 2015
- ▶ 661 teams 6,999 entries
- ▶ Best quadratic κ score is .86 – (better than humans who have best score of .83)
- ▶ Prize is \$100,000 won by Prof. Benjamin Graham, Warwick U., UK
- ▶ Most entries are open source, therefore, made freely available to users
- ▶ Free data set is used to train most DR algorithms in use today

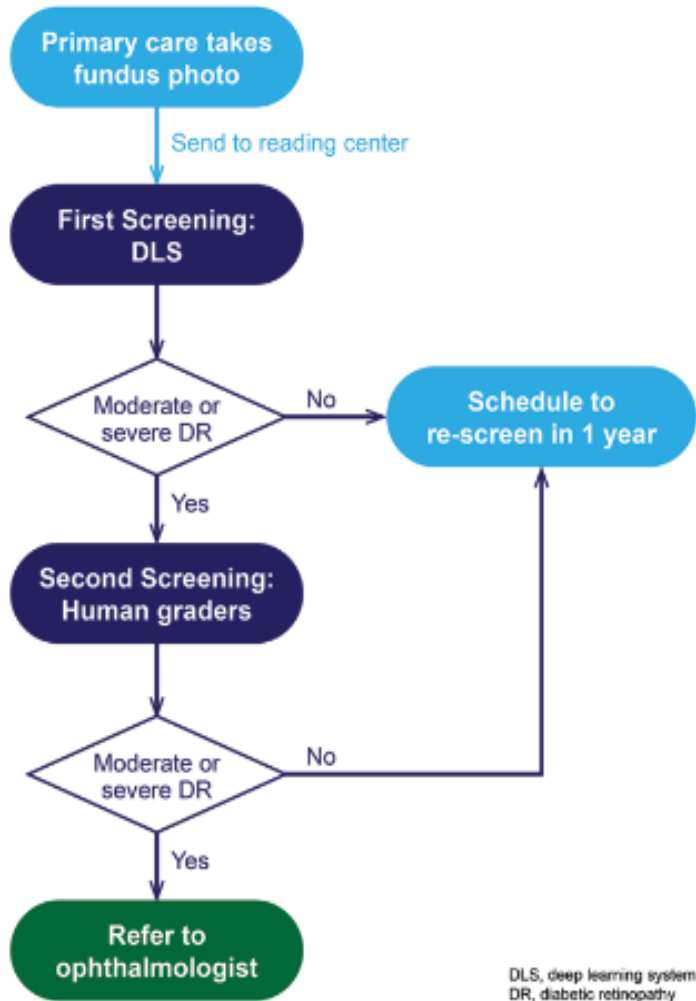


The image shows a banner for the Kaggle Diabetic Retinopathy Detection competition. The top part has the 'kaggle' logo in blue on a green background. Below it, on a white background, is a retinal fundus image with red and blue vessels. To the right of the image, it says '\$100,000 • 268 teams' and 'Diabetic Retinopathy Detection' in bold. Below that is a progress bar and the date 'Tue 17 Feb 2015'. At the bottom, there is a logo for the California Healthcare Foundation, which includes a green silhouette of California, and the text 'CALIFORNIA HEALTHCARE FOUNDATION' and 'SUPPORTING IDEAS & INNOVATIONS TO IMPROVE HEALTH CARE FOR ALL CALIFORNIANS'.



Professor Benjamin Graham

Promising Work Flow for AI DRS

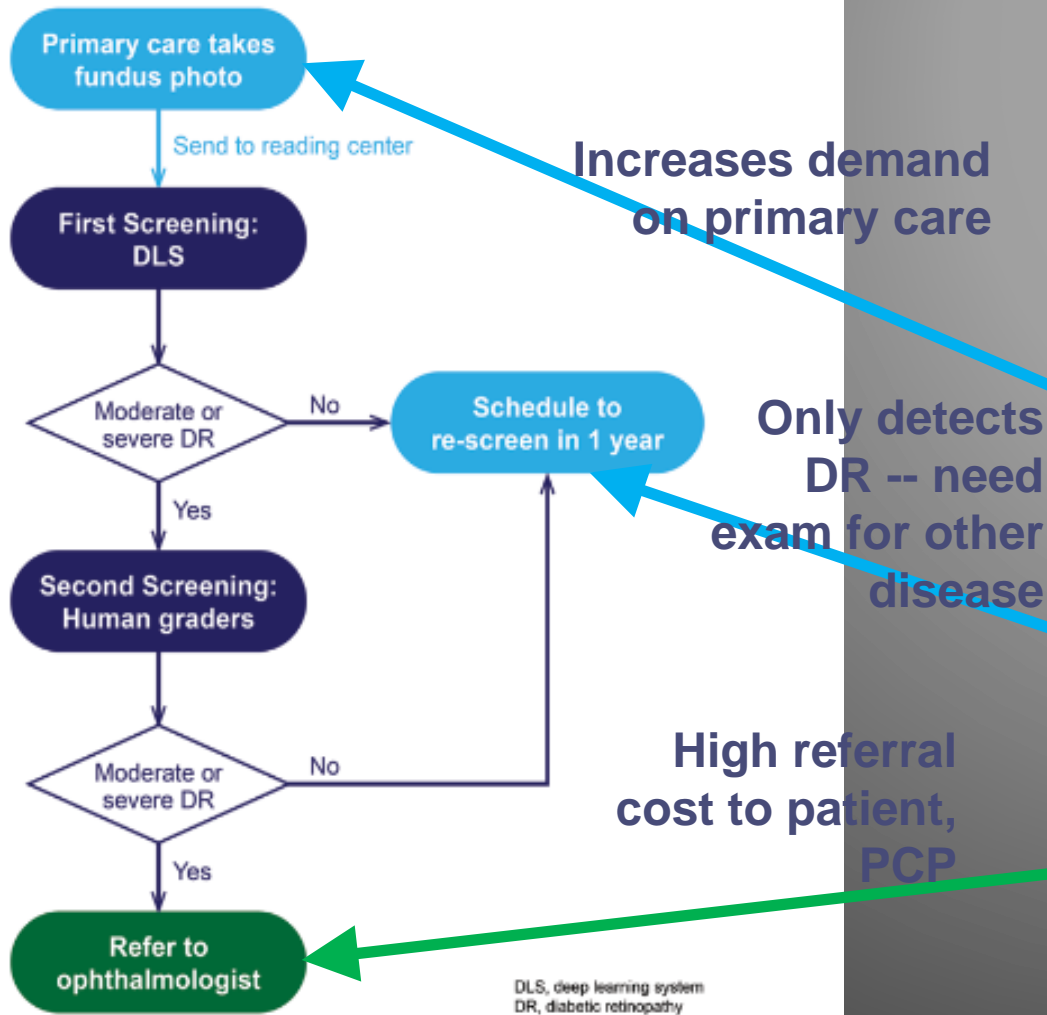


The Promise Of AI
For Diabetic
Retinopathy
Screening:

Reduces
demand on
eye care
providers
Increases
accuracy
Reduces cost

2018

Promising Work Flow for AI DRS?



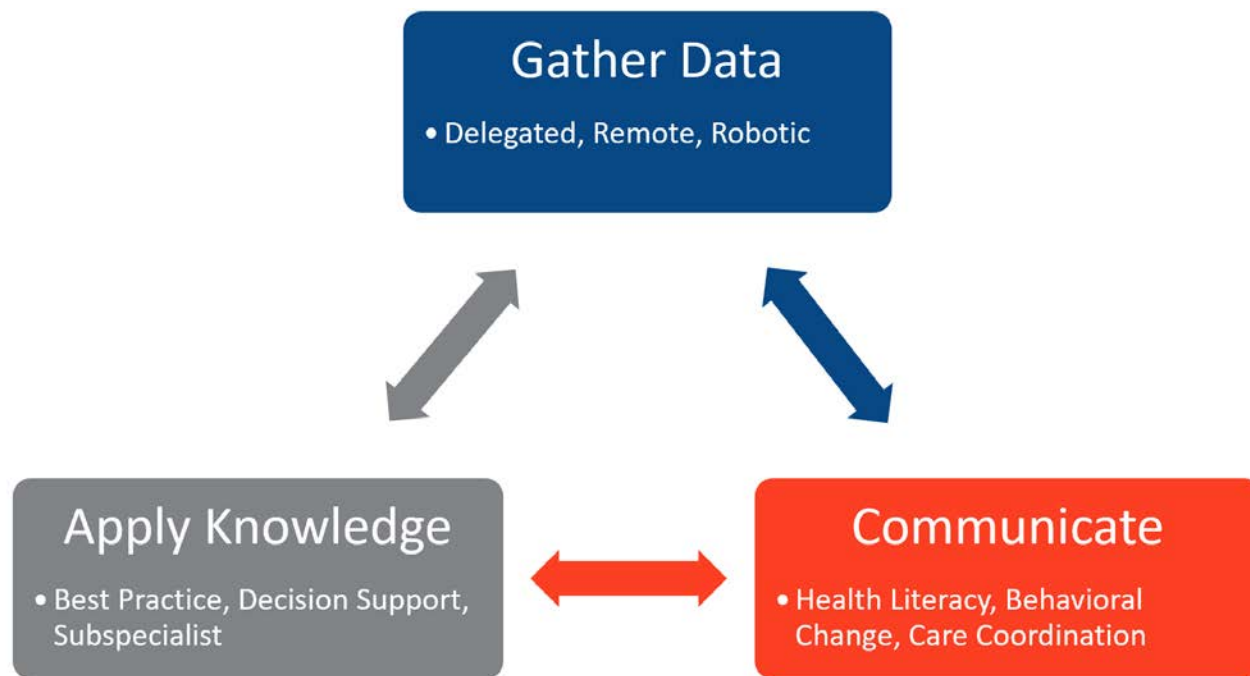
The Promise of AI
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Screening:

Reduces
demand on
eye care
providers
Increases
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Reduces cost

UCB and EyePACS in Optometric Education

Current Use Of Telemedicine, AI, and Data Science For Research and Education

Health Care Encounter Diagram Used for DH Discussion:



“..understanding the dynamics of communication between human beings improves the way we design information systems in health care.”

- Enrico Coiera, “When Conversation Is Better Than Computation” – JAMIA, 2000

We Are Knowledge Workers

- ▶ We define our practice by our ability to communicate and engage our patients to do what is best for them.
- ▶ We will increasingly deal with statistics, uncertainty, excess information and complexity
 - Technology explosion
 - Genome implementation
 - Artificial Intelligence
- ▶ What is our “singularity” plan?



Guyanese Optometrist, Fionna Todd



THANK YOU!

Jorge Cuadros, OD, PhD
jcuadros@berkeley.edu



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>Prepared by Natalia Leeper, RDO Coordinator</i>
SUBJECT	Agenda Item #8A – Update, Discussion and Possible Action Regarding 2020 Legislation: Optometrists Employing Opticians

Needed Action: Board discussion regarding the restriction that Spectacle Lens Dispensers and Contact Lens Dispensers may be employed by Registered Dispensing Opticians only. Direction to research a legislative proposal to bring to the Board for review.

Summary:

In the last year, staff has noticed an increase in inquiries from optician and optometrists regarding locations at which opticians can work. Under current law, optometrists and ophthalmologists may hire unlicensed staff to perform the duties of fit and adjustment, but also states those employees cannot be called “opticians” and cannot perform those duties unless they are under direct supervision from an optometrist or ophthalmologist..

Current Laws:

[Business and Professions Code §2559.2\(e\)](#) sets out of the following:

A registered spectacle lens dispenser is authorized to fit and adjust spectacle lenses at any place of business holding a certificate of registration under Section 2553 provided that the certificate of the registered spectacle lens dispenser is displayed in a conspicuous place at the place of business where he or she is fitting and adjusting.

[Business and Professions Code §2553](#) sets out of the following:

If the board, after investigation, approves the application, it shall register the applicant and issue to the applicant a certificate of dispensing optician. A separate certificate of registration shall be required for each address where the business is to be conducted.

A certificate authorizes the applicant, its agents and employees acting therefor to engage in the business defined in Section 2550 provided that the fitting and adjusting of spectacle lenses is performed in compliance with Article 1.5 (commencing with Section 2559.1) and the fitting and adjusting of contact lenses is performed in compliance with Article 2 (commencing with Section 2560).

Each certificate shall be at all times displayed in a conspicuous place at the certified place of business. The certificate shall not be transferable, but on application to the board there may be registered a change of address of the certificate.

Additionally, staff researched the application of [BPC §655](#), which sets the requirements for Registered Dispensing Opticians that lease space to Optometrists. Staff does not suggest any changes to this section and that optometrists should continue to perform the practice of optometry without interference from an outside party.

Other States:

Staff looked at laws of several other States the license opticians including Washington, New York, Florida, and Hawaii to determine how they address this issue. New York, Washington and Hawaii do not address in statute where opticians can practice. Their statutes only specified that their certificates must be displayed at their place of work.

In Florida's Statutes under Regulation of Profession and Occupations Section 484.066 4 prohibits their Board from creating a rule or policy that prohibits a licensed optician from practicing opticianry in various business settings.

Discussion:

The Board may wish to discuss the following issues raised by staff:

1. Should the Board consider modifying BPC §2559.2(e) to add optometrist, ophthalmologists and health plan providers to a list of places a Spectacle Lens Dispenser and Contact Lens Dispenser are authorized to perform their duties of fit and adjustment. Removing this restriction would allow optometrists to hire licensed opticians and have those opticians perform under their own license and work unsupervised. This would dedicate optometrists to patient exams while opticianry staff fills prescriptions, maintaining strong consumer protection.
2. The Board is currently considering an occupational analysis of unlicensed personnel employed by optometrists. Should this issue be delayed until the analysis is complete?
3. Although previous litigation settled the issue of optometrists leasing space from opticians, the Board may wish to direct Legal Counsel to perform research on potential case law which might apply to optometrists employing opticians, if any.
4. Does the Board wish to move forward with this issue in the next legislative (2020) year, or address the issue as part of the next 2020 Strategic Plan or 2021 Sunset Review?

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Sara Murphy, Executive Officer <i>Prepared by Marc Johnson, Policy Analyst</i>
SUBJECT	Agenda Item #8B – Update, Discussion and Possible Action Regarding 2020 Legislation – Practice Act to Combine Both Programs

Needed Action:

Board discussion regarding the benefit of merging the Opticianry and Optometry Practice Acts. Direction to develop a legislative proposal to bring to the Board for review.

Summary:

Although the Registered Dispensing Optician (RDO) program has been fully merged into the Optometry program as a result of [Assembly Bill 684](#) (Alejo, Chapter 405, Statutes of 2015), several sections relating to scope of practice for opticians are still distributed throughout the Business and Professions Code (BPC). The Board's 2017-2020 Strategic Plan's Goal #3.9 is to explore the feasibility of proposing legislation to merge the RDO program into the Optometry Practice Act. Such a goal would require legislative action.

Current Law:

The practice act for opticians is currently spread out into three chapters within Division Two of the BPC:

- Chapter 5.4 Prescription Lens ([BPC §§2540 – 2545](#))
- Chapter 5.45 Nonresident Contact Lens Sellers (BPC §§ [2546-2546.1](#))
- Chapter 5.5 Registered Dispensing Opticians (BPC §§ [2550-2569](#))

The Optometry Practice Act is set out in Chapter 7 - Optometry (BPC §§ [3000-3167](#)).

History:

During the Board's [2016 Sunset Review](#), the Legislature raised the possibility (Pg.21, Issue #2) of the RDO and Optometry funds being merged, along with the RDO program merging into the Optometry Practice Act:

"The Committees may wish to inquire of the Board if there has been any discussion about consolidating the separate funds in an effort to streamline administrative costs and reduce administrative burdens. The Committees may wish to inquire of the Board how merging the practice acts would improve consumer protection and enhance administrative efficiencies for the Board."

The issue of merging practice acts was addressed separately in the Board's sunset review response:

"Existing statutes within each practice act should be amended to provide clarity for licensees prior to any potential merge. The Board plans to analyze the existing statutes carefully in each act and discuss merging the funds and practice acts at future meetings and will create a strategic plan to move forward no later than fiscal year July 1, 2020. The Board will seek input from various stakeholders throughout this process."

Legislative staff suggested that merging the acts may create efficiencies and may remove perception that the programs are separate and distinct rather than the reality that they are regulated under one Board as a whole. Stakeholders such as COA wanted to ensure that merging the practice acts does not unintentionally remove enforcement authority/applicability from other code sections and that the overall process remains transparent.

Other DCA entities have completed mergers of some type in the last three years. Cemetery and Funeral Bureau (CFB) merged their practice acts and funds during their last sunset review, and reported a streamlining of their processes and no pros (or cons) to the merger. BPELSG merged their funds, and reported greater efficiencies as a result; they did not merge practice acts and believed it would be confusing for consumers if they did.

Discussion:

The Board may wish to discuss the following issues raised by staff:

1. The DOC is planning a review of all optician statutes beginning at the September 20, 2019 public meeting. The review may include changes to the scope of practice, registration requirements and additional enforcement changes. The Board may wish to postpone a merger pending the DOC's proposed changes to statutes, which would likely be completed by fall 2020 in time for the Board's 2021 Sunset Review.
2. If a merger is desired, the Board may wish to direct staff to work with Legal Counsel to develop potential statutory language to be brought back to the Board at the October 25, 2019 public meeting.

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #8B – Update, Discussion and Possible Action Regarding 2020 Legislation – Other Possible Legislation

Children's Vision

Staff continues to work with stakeholders to develop consensus language regarding improved outcomes in the prevention and diagnosis of disorders and dysfunctions of the visual systems of California's school children. Staff will continue to work collaboratively with Children's Vision Workgroup, and intends to bring proposed bill language to the Board's October 25, 2019 meeting.

New Proposals

The Board may wish to discuss other potential legislation to be pursued in the 2020 legislative session. Topic previously discussed include the purchase of optometry practices by venture capital investment groups, telemedicine, and mobile practice.



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #9 - Discussion and Possible Action on Updates provided by DCA Representatives regarding the Department's Divisions and Programs, including Legislative, Regulatory and Policy updates

Department representatives have been invited to discuss topics including legislation, regulation and policy updates.

- A. DCA Assistant Deputy Director of Board and Bureau Services Patrick Le
- B. Current Occupational Analysis for Contact Lens Dispensers – Dr. Heidi Lincer, Chief, Office of Professional Examination Services

Attachment:

1. Executive Summary – Occupational Analysis of the Contact Lens Dispenser Profession (July 2019)



OCCUPATIONAL ANALYSIS OF THE CONTACT LENS DISPENSER PROFESSION



OFFICE OF PROFESSIONAL EXAMINATION SERVICES

BOARD OF OPTOMETRY

OCCUPATIONAL ANALYSIS OF THE CONTACT LENS DISPENSER PROFESSION



This report was prepared and written by the
Office of Professional Examination Services
California Department of Consumer Affairs
July 2019

Heidi Lincer, Ph.D., Chief

Miranda R. Morris, M.A., Research Data Analyst I

EXECUTIVE SUMMARY

The Board of Optometry (Board) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an occupational analysis (OA) of contact lens dispenser (CLD) practice in California. The purpose of the OA is to define current practice for CLDs in terms of the actual tasks that new CLDs must be able to perform safely and competently at the time of licensure. The results of this OA provide a description of practice for the CLD profession that can then be used to review the Contact Lens Registry Examination (CLRE) developed by the National Contact Lens Examiners (NCLE).

OPES test specialists began by researching the profession and conducting telephone interviews with licensed CLDs working in locations throughout California. The purpose of these interviews was to identify the tasks performed by CLDs and to specify the knowledge required to perform those tasks in a safe and competent manner. Using the information gathered from the research and the interviews, OPES test specialists developed a preliminary list of tasks performed in CLD practice, along with statements representing the knowledge needed to perform those tasks.

In January 2019, OPES convened a workshop to review and refine the preliminary lists of task and knowledge statements derived from the telephone interviews. The workshop was comprised of licensed CLDs, or subject matter experts (SMEs), with diverse backgrounds in the profession (e.g., location of practice, years licensed, specialty). These SMEs also identified changes and trends in CLD practice, determined demographic questions for the OA questionnaire, and performed a preliminary linkage of the task and knowledge statements to ensure that all tasks had a related knowledge statement and all knowledge statements had a related task. Additional task and knowledge statements were created as needed to complete the scope of the content areas of the description of practice.

After the workshop, OPES test specialists developed a three-part OA questionnaire to be completed by CLDs statewide. Development of the OA questionnaire included a pilot study that was conducted using a group of licensed CLDs. The pilot study participants' feedback was incorporated into the final questionnaire, which was administered in early April 2019.

In the first part of the OA questionnaire, CLDs were asked to provide demographic information relating to their work settings and practice. In the second part, CLDs were asked to rate specific tasks in terms of frequency (i.e., how often the CLD performs the task in the CLD's current practice) and importance (i.e., how important the task is to effective performance of the CLD's current practice). In the third part, CLDs were asked to rate specific knowledge statements in terms of how important each knowledge statement is to effective performance of the CLD's current work.

In April 2019, on behalf of the Board, OPES distributed the questionnaire to licensed CLDs who were in good standing with the Board and had an email address in California (a total of 318 CLDs), inviting them to complete the OA questionnaire online. Paper mail invitations were sent to the entire population of CLDs who were in good standing with the Board (1,354). A total of 151 CLDs, or 11.2% of the CLDs receiving the invitation, responded by accessing the online OA

questionnaire. The final sample size included in the data analysis was 148, or 10.9% of the population invited to complete the questionnaire. This response rate reflects an adjustment: OPES excluded data from respondents who indicated they were not currently licensed and practicing as CLDs in California. The demographic composition of the respondent sample is representative of the CLD population in California.

OPES test specialists then performed data analyses of the task and knowledge ratings obtained from the OA questionnaire respondents. The task frequency and importance ratings were combined to derive an overall criticality index for each task statement. The mean importance rating was used as the criticality index for each knowledge statement.

Once the data was analyzed, OPES conducted an additional workshop with SMEs in May 2019. The SMEs evaluated the criticality indices and determined whether any task or knowledge statements should be eliminated. The SMEs in this group also established the final linkage between tasks and knowledge statements, organized the task and knowledge statements into content areas, and defined those areas. The SMEs then evaluated and confirmed the content area weights of the examination outline.

The examination outline is structured into five content areas weighted by criticality relative to the other content areas. This outline provides a description of the scope of practice for CLDs, and it also identifies the tasks and knowledge critical to safe and competent CLD practice in California at the time of licensure. Additionally, this examination outline provides a basis for evaluating the degree to which the content of any examination under consideration measures content critical to CLD practice in California.

At this time, California licensure as a CLD is granted by passing the CLRE.

Contact Lens Dispenser Occupational Analysis Results

Heidi Lincer, Ph.D., Chief
August 2, 2019



Business and Professions Code Section 139



Principles for the Validation and Use of Personnel Selection Procedures (Society for Industrial and Organizational Psychology)



Standards for Educational and Psychological Testing (American Educational Research Association, American Psychological Association, National Council on Measurement in Education)



Regulations,
Standards,
and
Guidelines

Licensure Examinations

- Must provide a reliable method for identifying practitioners who are able to practice **safely and competently**
- Focus on entry-level tasks and knowledge important for **public protection**
- Uses input from **Subject Matter Experts**



Cycle of Examination Development

Occupational Analysis

- 1 Provides a description of current practice
- 2 Provides the basis of job-related, fair, and legally defensible examinations
- 3 Establishes validity by linking examination content to critical job competencies
- 4 Provides basis for legislation and policies

Occupational Analysis Process

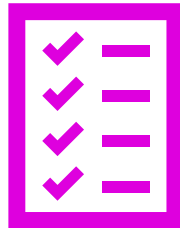
Conduct SME telephone interviews
and research on the profession



Develop Task and Knowledge
statements with SMEs



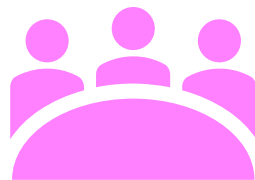
Develop, administer, and
analyze OA survey results



Review survey results with
SMEs



Develop examination outline
with SMEs



Contact Lens Dispenser (CLD) Occupational Analysis Results



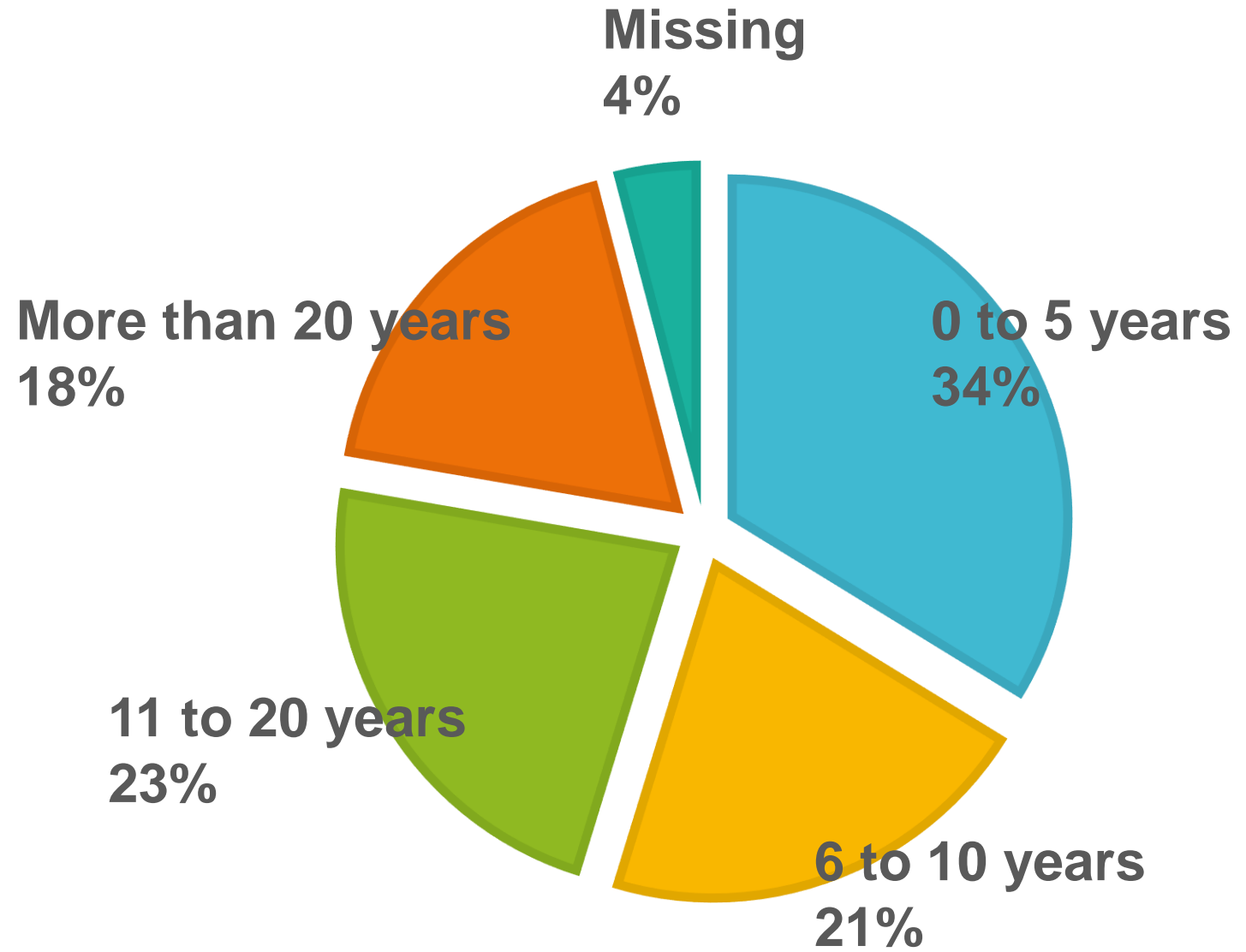
- **All licensed CLDs (1,354)** were invited to complete the online survey
- Survey invitations sent by email and mail
- Final sample size for data analysis was **151 CLDs or 11.2%**

Demographics of Respondents

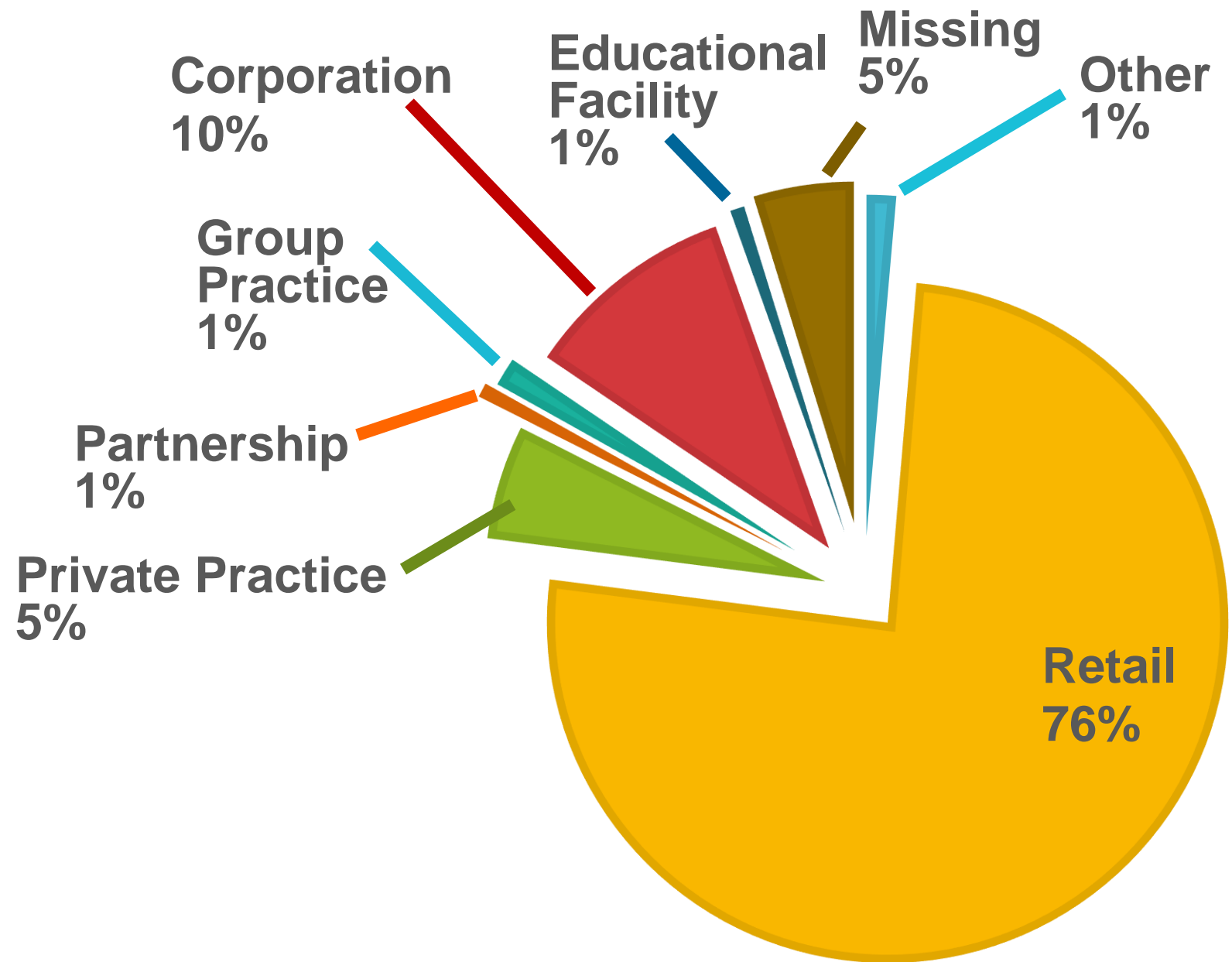
- Describe the respondents in terms of:
 - Training and education
 - Experience
 - Work setting
 - Geographic location
- Provide context for interpreting results



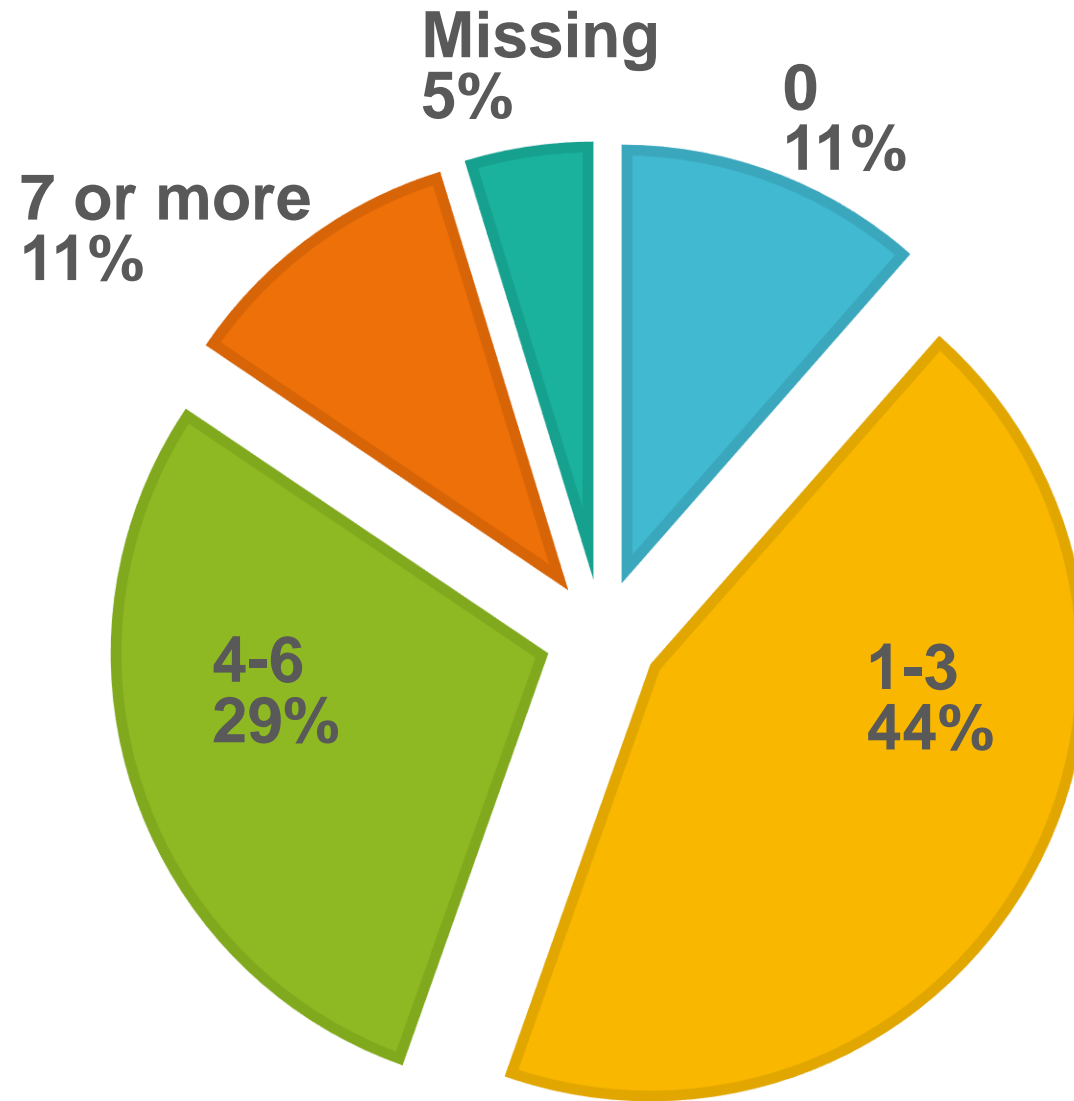
Years Licensed as a Contact Lens Dispenser



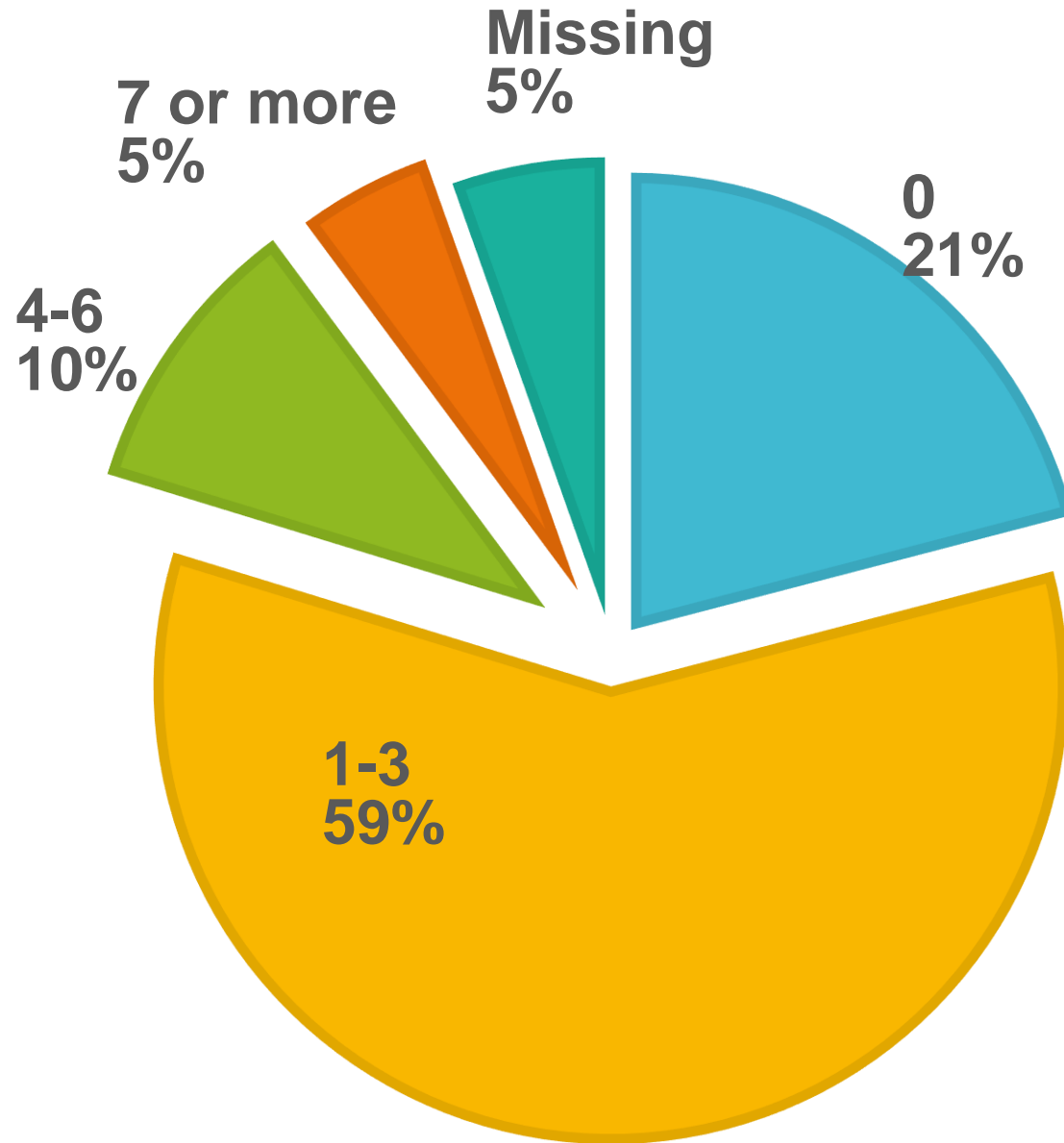
Primary Work Setting



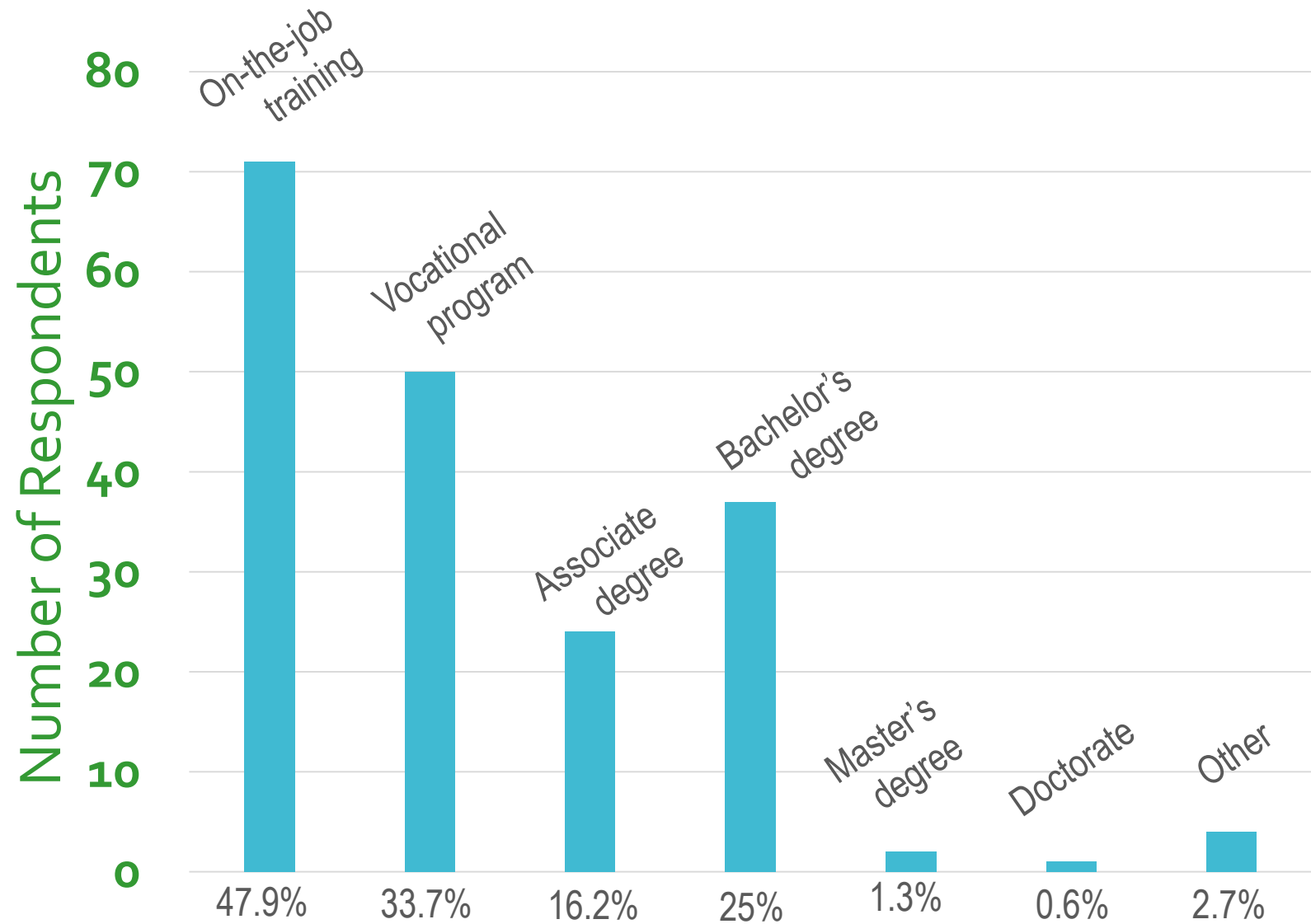
Number of Registered CLDs Working at Facility



Number of Nonregistered CLDs Working at Facility



Education and Training



Respondents by Region

REGION NAME	NUMBER (N)	PERCENT
Los Angeles County and Vicinity	40	27.0%
San Francisco Bay Area		
San Joaquin Valley	19	12.8%
Sacramento Valley		
San Diego County and Vicinity	17	11.5%
Shasta - Cascade		
Riverside and Vicinity	19	12.8%
Sierra Mountain Valley		
North Coast	2	1.4%
South Coast and Central Coast		
Missing	8	5.4%
Total		

Task Ratings

● **FREQUENCY SCALE:** How often do you perform this task in your current practice?

0 – DOES NOT APPLY TO MY PRACTICE. “I do not perform this task in my practice.”

5 – VERY OFTEN. “This task is one of the tasks I perform most often in my practice relative to other tasks I perform.”

● **IMPORTANCE SCALE:** How important is this task for effective performance in your current practice?

0 – NOT IMPORTANT. “This task is not important to my current practice.”

5 – CRITICALLY IMPORTANT. “This task is one of the most critical tasks I perform relative to other tasks; it has the highest degree of priority of all the tasks I perform in my current practice.”

Knowledge Ratings

- **IMPORTANCE SCALE:** How important is this knowledge for effective performance of tasks in your current practice?

0 – DOES NOT APPLY TO MY PRACTICE / NOT REQUIRED. “This knowledge is not required for effective performance of tasks in my current practice.”

5 - EXTREMELY IMPORTANT. “This knowledge is extremely important for effective performance of tasks in my current practice.”

Retail vs. Nonretail Settings

Decisions made based on evaluation of data and SME consensus

- Review data analyzed by setting
- Discuss practice by setting
- Determine if tasks and knowledge fit all settings

Examination Outline

Decisions made based on evaluation of data and SME consensus

- Identify critical tasks and knowledge
- Confirm task-knowledge linkage
- Determine final content area weights

Content Area	Weight
1. Patient Assessment	26%
2. Contact Lens Fitting	21%
3. Patient Education and Training	22%
4. Patient Follow-Up and Contact Lens Dispensing	27%
5. Advertising and Supervising	4%
Total	100%

Examination Content Area Weights



Thank you



Any questions?



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #10 - Update, Discussion and Possible Action on Potential Occupational Analysis for Optometric Assistants

Dr. Heidi Lincer, Chief, Office of Professional Examination Services has been invited to provide expertise to aid in the Board discussion about the potential for an occupational analysis for Optometric Assistants.

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>Prepared by Natalia Leeper, RDO Coordinator</i>
SUBJECT	Agenda Item #11A Update, Discussion and Possible Action Regarding Board Committee Reports – Dispensing Optician Committee Report

The Dispensing Optician Committee (DOC) met on June 7th, 2019 in Burbank, CA. All members of the Committee were present. The Committee discussed the following items at the meeting:

1. Approval of Minutes

The Committee voted to approve the March 15, 2019 DOC meeting minutes.

2. Unregistered Population

Per direction from the Board meeting in April, the Committee discussed the research provided by staff regarding the issue of unlicensed staff working at an optometry office. After review, the Committee determined more information was needed regarding job duties. William Kysella moved to recommend that the CSBO request an occupational analysis of optometric assistants in furtherance of the Board and this Committee's work to determine whether all people performing tasks like CLDs and SLDs should have some form of license or whether SLDs and CLDs should require no licensure because others performing the same tasks do not require a central license.

3. Other Items

Committee members discussed the results of the Contact Lens Dispenser Occupational Analysis and directed the results be taken before the CSBO. Program licensing and enforcement statistics were presented and discussed with the committee.

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Legislation and Regulation Committee (LRC) <i>Prepared by Marc Johnson, Policy Analyst</i>
SUBJECT	Agenda Item #11B – Update, Discussion and Possible Action Regarding Board Committee Reports – Legislation and Regulation Committee (LRC)

The LRC met via teleconference on May 28, 2019, beginning at 1:30 p.m. Committee members Dr. Kawaguchi, Ms. Salazar-Sperber and Dr. Wang were present; Ms. Salazar-Sperber served as chair in Ms. Michelin's absence. The Committee discussed the following items:

1. March 8, 2019 LRC Meeting Minutes

The minutes were approved on a 3-0-1 vote.

2. Assembly Bill 458 (Nazarian): Optometrists: home residence certification

At the request of Board Member Mark Morodomi, the LRC was asked to further review AB 458. Committee members were presented with the bill text as of that date, originally approved Board text, Legal Counsel review of the bill and a letter from Mr. Morodomi outlining his concerns. Mr. Morodomi, during public comment, raised concerns about the text of the bill making the practice of optometry more restrictive, restricted to medical/care facilities. He was concerned the legislation was prohibitory in allowing optometrists to practice in homes and would impose a "ban" on such practice.

The Committee asked for amendment to the bill, implementing more permissive language and allowing regular service in home settings by adding a permit into law. Legal Counsel was subsequently asked to draft text which could be used as amendments to the bill.

Ms. Murphy noted the author's office is open to change the text from "certification" to "permit" to better denote the true intent of the bill.

Committee adjourned at 2:03 p.m.

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Practice and Education Committee (PEC) <i>Prepared by Evan Gage, Assistant Executive Officer</i>
SUBJECT	Agenda Item #11C – Update, Discussion and Possible Action Regarding Board Committee Reports – Practice and Education Committee

The PEC met via teleconference on June 14, 2019, beginning at 10:30 am. All members were present.

1. March 8, 2019 PEC Meeting Minutes

The minutes were approved on a 4-0-1 vote.

2. Discussion and Possible Action on Continuing Education Course Approval Requests Pursuant to Title 16, California Code of Regulations § 1536

Dr. Wang moved to approve all course topics except for 4.G.1 and 4.G.2, which were instead approved for one hour each. Topic 4.W has been tabled pending further research by staff.

The motion passed on a 5-0 vote.

3. Discussion on Applicability of Immunization Training Courses as Continuing Education Units for Biannual License Renewal

The PEC asked staff to continue the conversation with Ketchum University in order to set the tone for future approval of self-audited course offerings. Staff will draft a letter to Ketchum to work out a definition of how pharmaceutical coursework benefits the practice of optometry.



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>prepared by Matthew McKinney, Enforcement Analyst</i>
SUBJECT	Agenda Item #12 – Full Board Closed Session

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #13A – Update, Discussion and Possible Action on 2019 Legislation Impacting the Practice of Optometry – AB 458 (Nazarian) Optometrists: home residence permit – as amended June 25, 2019

Status:

Approved by the Senate Appropriations Committee on July 8, 2019 and awaiting action on the Senate floor. There is no known opposition to the bill.

Summary:

This bill would prohibit an optometrist from engaging in the practice of optometry at any home residence without a home residence permit, except for a person engaging in the temporary practice of optometry. The bill would authorize an optometrist who TPA certified to obtain a home residence permit by submitting an application to the board and paying applicable fees, and would establish a process for the issuance and renewal of home residence permits. The bill would require an optometrist engaging in the practice of optometry at any health facility or residential care facility, or home residence to provide each patient with a consumer notice, as specified, approved by the board. This bill would also has other minor requirements as defined in statute.

Background / Discussion:

Recent concerns have been raised that specific wording in previous version of the bill would restrict rather than allow the practice of optometry in settings outside of a hospital or residential care facility. The bill was discussed further at the [May 28, 2019 Legislation and Regulation Committee Meeting](#), with the Committee providing additional direction on the scope of the bill. Additionally, at the request of DCA's Legislative Office, additions were made to §3152 adding in a ceiling for fees not to exceed \$100.00; these additions are routine and do not impact the scope of the bill. Concerns raised by stakeholders and members have been addressed by recent amendments to the bill.

Although CSBO is the sponsor of the bill, staff recommends a formal support position be taken on the bill, and direction to staff to write a letter of support to the Governor.

Attachments:

1. AB 458 text (as amended June 25, 2019)
2. AB 458 analysis

AMENDED IN SENATE JUNE 25, 2019

AMENDED IN SENATE JUNE 6, 2019

AMENDED IN SENATE MAY 22, 2019

AMENDED IN ASSEMBLY APRIL 10, 2019

AMENDED IN ASSEMBLY APRIL 3, 2019

AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 458

Introduced by Assembly Member Nazarian

February 11, 2019

An act to amend Sections 3070.1 and 3152 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 458, as amended, Nazarian. Optometrists: home residence permit.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of the practice of optometry by the State Board of Optometry and makes a violation of the act a misdemeanor. Existing law authorizes an optometrist to practice optometry at a health facility or residential care facility, subject to specified conditions, including that the optometrist maintain and disclose patient records in a specified manner. Existing law requires an optometrist to be certified to use therapeutic pharmaceutical agents in order to diagnose and treat specified conditions.

This bill would prohibit an optometrist from engaging in the practice of optometry at any home residence without a home residence permit,

except for a person engaging in the temporary practice of optometry. The bill would authorize an optometrist who is certified as a therapeutic pharmaceutical agent to obtain a home residence permit by submitting an application to the board and paying applicable fees, and would establish a process for the issuance and renewal of home residence permits, including prescribing application, renewal, and delinquency fees.

The bill would require an optometrist engaging in the practice of optometry at any health facility or residential care facility, or home residence to provide each patient with a consumer notice, as specified, approved by the board. The bill would require a certified home residence optometrist, before engaging in the practice of optometry at a home residence, to provide the patient with a consumer notice that includes, among other things, an authorization to release the patient's medical information related to the optometrist's provision of optometry services to the board for specified purposes, including investigating complaints and conducting the board's enforcement duties.

By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3070.1 of the Business and Professions
- 2 Code is amended to read:
- 3 3070.1. (a) For purposes of this section, the following terms
- 4 have the following meanings:
- 5 (1) "Health facility" means a health facility, as defined in
- 6 Section 1250 of the Health and Safety Code, exclusive of a hospital
- 7 defined in subdivision (a) or (b) of that section.
- 8 (2) "Residential care facility" means a residential facility, as
- 9 defined in paragraph (1) of subdivision (a) of Section 1502 of the
- 10 Health and Safety Code, licensed by the State Department of Social
- 11 Services, including, but not limited to, the following:

1 (A) Adult residential facilities.

2 (B) Adult residential facilities for persons with special health
3 care needs.

4 (C) Residential care facilities for the chronically ill.

5 (D) Residential care facilities for the elderly.

6 (E) Continuing care retirement communities.

7 (F) Social rehabilitation facilities.

8 (3) “Home residence” means the primary residence of an
9 individual who is restricted by a disabling physical or mental
10 condition. “Home residence” does not include a health facility, as
11 defined in Section 1250 of the Health and Safety Code, or a
12 community care facility, as defined in subdivision (a) of Section
13 1502 of the Health and Safety Code, but does include an individual
14 condominium unit, apartment, single-family home, cooperative
15 unit, mobilehome, or trailer, if it is used as a residence.

16 (b) (1) An optometrist who is certified as a therapeutic
17 pharmaceutical agent pursuant to Section 3041.3 may, in the form
18 and manner prescribed by the board, submit an application to the
19 board for a home residence permit, and pay all applicable fees
20 prescribed in Section 3152. The board shall, upon application and
21 payment of the fee prescribed in Section 3152, issue a home
22 residence permit to an optometrist certified as a therapeutic
23 pharmaceutical agent pursuant to Section 3041.3. A home residence
24 permit authorizes the holder to engage in the practice of optometry
25 at a home residence as specified in this section.

26 (2) A home residence permit shall expire on the same date the
27 licensee’s optometry license expires. A home residence optometrist
28 may renew the permit by submitting an application, in the form
29 and manner prescribed by the board, to the board for renewal, and
30 paying any applicable fees prescribed in Section 3152.

31 (3) A person engaging in the temporary practice of optometry,
32 as defined in subdivision (b) of Section 3070, is not required to
33 obtain a home residence permit in order to engage in the temporary
34 practice of optometry at a home residence.

35 (c) An optometrist may engage in the practice of optometry at
36 any health facility or residential care facility, and in a home
37 residence, if all of the following requirements are satisfied:

38 (1) The optometrist maintains a primary business office, separate
39 from the health facility, residential care facility, or home residence,
40 that meets all of the following requirements:

1 (A) Is open to the public during normal business hours by
2 telephone and for purposes of billing services or access to patient
3 records.

4 (B) Is licensed to the optometrist or the employer of the
5 optometrist as a local business with the city or county in which it
6 is located.

7 (C) Is registered by the optometrist with the Board of Optometry.

8 (D) Is owned or leased by the optometrist or by the employer
9 of the optometrist.

10 (E) Is not located in or connected with a residential dwelling.

11 (2) The optometrist maintains or discloses patient records in the
12 following manner:

13 (A) Records are maintained and made available to the patient
14 in such a way that the type and extent of services provided to the
15 patient are conspicuously disclosed. The disclosure of records shall
16 be made at or near the time services are rendered and shall be
17 maintained at the primary business office specified in paragraph
18 (1).

19 (B) The optometrist complies with all federal and state laws
20 and regulations regarding the maintenance and protection of
21 medical records, including, but not limited to, the federal Health
22 Insurance Portability and Accountability Act of 1996 (42 U.S.C.
23 Sec. 300gg).

24 (C) Pursuant to Section 3007, the optometrist keeps all necessary
25 records for a minimum of seven years from the date of service in
26 order to disclose fully the extent of services furnished to a patient.
27 Any information included on a printed copy of an original
28 document to a patient shall be certified by the optometrist as being
29 true, accurate, and complete.

30 (D) If a prescription is issued to a patient, records shall be
31 maintained for each prescription as part of the patient's chart,
32 including all of the following information about the optometrist:

33 (i) Name.

34 (ii) Optometrist license number.

35 (iii) The place of practice and the primary business office.

36 (iv) Description of the goods and services for which the patient
37 is charged and the amount charged.

38 (E) A copy of any referral or order requesting optometric
39 services for a patient from the health facility's or residential care
40 facility's administrator, director of social services, the attending

1 physician and surgeon, the patient, or a family member shall be
2 kept in the patient's medical record.

3 (3) The optometrist possesses and appropriately uses the
4 instruments and equipment required for all optometric services
5 and procedures performed within the health facility, residential
6 care facility, or home residence.

7 (4) The optometrist provides each patient and, if applicable, the
8 patient's caregiver, a consumer notice approved by the board that
9 includes the following:

10 (A) The name, license number, primary telephone number, and
11 primary business address of the optometrist.

12 (B) Information for filing a complaint with the board.

13 (d) An optometrist who satisfies all of the requirements in this
14 section for the practice of optometry at a health facility, residential
15 care facility, or home residence shall not be required to comply
16 with Section 3070 with regard to providing notification to the
17 board of each health facility, residential care facility, or home
18 residence at which the optometrist practices.

19 (e) (1) Before engaging in the practice of optometry at a home
20 residence, an optometrist shall provide each patient and, if
21 applicable, the patient's caregiver, a consumer notice approved by
22 the board that includes the following:

23 (A) An authorization to release the patient's medical information
24 related to the optometrist's provision of optometry services to the
25 board. The authorization shall disclose that the patient's
26 authorization to release medical information to the board is
27 voluntary and that the medical information shall be used by the
28 board only to investigate complaints and to conduct the board's
29 enforcement duties under the act.

30 (B) Any other information the board deems appropriate to
31 safeguard the public from substandard optometric care, fraud, and
32 other violations of the act.

33 (2) The optometrist shall maintain a copy of the signed consumer
34 notice described in paragraph (1) in the patient's file.

35 (f) The board may promulgate regulations to conduct quality
36 assurance reviews for optometrists engaging in the practice of
37 optometry at a home residence.

38 SEC. 2. Section 3152 of the Business and Professions Code is
39 amended to read:

1 3152. The amounts of fees and penalties prescribed by this
2 chapter shall be established by the board in amounts not greater
3 than those specified in the following schedule:

4 (a) The fee for applicants applying for a license shall not exceed
5 two hundred seventy-five dollars (\$275).

6 (b) The fee for renewal of an optometric license shall not exceed
7 five hundred dollars (\$500).

8 (c) The annual fee for the renewal of a branch office license
9 shall not exceed seventy-five dollars (\$75).

10 (d) The fee for a branch office license shall not exceed
11 seventy-five dollars (\$75).

12 (e) The penalty for failure to pay the annual fee for renewal of
13 a branch office license shall not exceed twenty-five dollars (\$25).

14 (f) The fee for issuance of a license or upon change of name
15 authorized by law of a person holding a license under this chapter
16 shall not exceed twenty-five dollars (\$25).

17 (g) The delinquency fee for renewal of an optometric license
18 shall not exceed fifty dollars (\$50).

19 (h) The application fee for a certificate to perform lacrimal
20 irrigation and dilation shall not exceed fifty dollars (\$50).

21 (i) The application fee for a certificate to treat glaucoma shall
22 not exceed fifty dollars (\$50).

23 (j) The fee for approval of a continuing education course shall
24 not exceed one hundred dollars (\$100).

25 (k) The fee for issuance of a statement of licensure shall not
26 exceed forty dollars (\$40).

27 (l) The fee for biennial renewal of a statement of licensure shall
28 not exceed forty dollars (\$40).

29 (m) The delinquency fee for renewal of a statement of licensure
30 shall not exceed twenty dollars (\$20).

31 (n) The application fee for a fictitious name permit shall not
32 exceed fifty dollars (\$50).

33 (o) The renewal fee for a fictitious name permit shall not exceed
34 fifty dollars (\$50).

35 (p) The delinquency fee for renewal of a fictitious name permit
36 shall not exceed twenty-five dollars (\$25).

37 (q) The fee for a retired license shall not exceed twenty-five
38 dollars (\$25).

39 (r) The fee for a retired license with volunteer designation shall
40 not exceed fifty dollars (\$50).

1 (s) The biennial renewal fee for a retired license with volunteer
2 designation shall not exceed fifty dollars (\$50).

3 (t) The application fee for a certificate to administer
4 immunizations shall not exceed fifty dollars (\$50).

5 (u) The application fee for a home residence permit ~~shall not~~
6 ~~exceed~~ is fifty dollars (\$50). *The board may increase the fee to*
7 *not more than one hundred dollars (\$100).*

8 (v) The renewal fee for a home residence permit ~~shall not exceed~~
9 *is* fifty dollars (\$50). *The board may increase the fee to not more*
10 *than one hundred dollars (\$100).*

11 (w) The delinquency fee for a home residence permit ~~shall not~~
12 ~~exceed~~ is twenty-five dollars (\$25). *The board may increase the*
13 *fee to not more than one hundred dollars (\$100).*

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

O

SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 458 (Nazarian) - Optometrists: home residence permit

Version: June 6, 2019

Urgency: No

Hearing Date: June 24, 2019

Policy Vote: B., P. & E.D. 9 - 0

Mandate: Yes

Consultant: Samantha Lui

Bill Summary: Assembly Bill 458 would authorize an optometrist, certified as a therapeutic pharmaceutical agent, to provide services in a home residence of an individual who has a physical or mental disability. Would require the Board of Optometry (Board) to establish a home residence certification program.

Fiscal Impact: According to the Board of Optometry, \$63,000 (Optometry Fund) and a 0.5 Associate Governmental Program Analyst for workload associated with application processing and responding to public inquiries. Minor and absorbable workload related to regulation promulgation. Minor and absorbable IT costs, by redirecting existing maintenance resources. The IT workload would add a modifier to designate the certification versus the license type for transaction and fees. For more detail, please see Staff Comments.

Background: According to the 2018 Department of Consumer Affairs Annual Report, the Board licenses approximately 43,480 licensees, registrations, certificates, and permits. The Board is also responsible for issuing optometry certifications for Diagnostic Pharmaceutical Agents, Therapeutic Pharmaceutical Agents, Lacrimal Irrigation and Dilation, and Glaucoma. Current law authorizes optometrists to practice in traditional optometric settings, as well as in health facilities and residential care facilities, as long as the optometrist retains a traditional office-based practice and complies with other requirements.

Proposed Law: AB 458 includes the following provisions, among others:

Home residence permit: application, fee schedule, and renewal.

- Authorizes an optometrist, as specified, to, in the form and manner prescribed by the Board, submit an application for a home residence permit, and pay all applicable fees.
- Requires the Board to, upon application and payment of the fee, issue a home residence permit to an optometrist, as specified.
- Provides a home residence permit authorizes the holder to engage in the practice of optometry at a home residence, as defined.
- Requires a home residence permit to expire on the same date the licensee's optometry license expires.

- Authorizes a home residence optometrist to renew the permit by submitting an application and paying any applicable fees.
- Sets the following fees:
 - Application fee not exceed \$50;
 - Renewal fee not exceed \$50; and,
 - Delinquency fee not to exceed \$25.

Consumer notice. Adds to the list of requirements an optometrist must meet in order to practice optometry, a patient notice, and if applicable, the patient's caregiver, a consumer notice that includes the following:

- The name, license number, primary telephone number, and primary business address of the optometrist, and,
- How to file a complaint with the Board.

In addition, before engaging in the practice of optometry at a home residence, an optometrist must provide each patient and, if applicable, the patient's caregiver, a consumer notice that includes the following:

- An authorization to release the patient's medical information, including a disclosure that the information released is voluntary and must only be used to investigate complaints and conduct enforcement.
- Any other information deemed appropriate by the Board to safeguard the public from substandard optometric care, fraud, and other violations of the Act.

The optometrist must maintain a copy of the signed consumer notice in the patient's file.

Regulation promulgation. The bill authorizes the Board to promulgate regulations to conduct quality assurance reviews, as specified.

Definitions. The bill defines "home residence" as the primary residence of an individual who is restricted by a disabling physical or mental condition. "Home residence" does not include a health facility, as defined, or a community care facility, as defined, but does include an individual condominium unit, apartment, single-family home, cooperative unit, mobile home, or trailer, if used as a residence.

Related Legislation: AB 896 (Low) would abolish the Dispensing Opticians Fund on July 1, 2022, and require any remaining funds to be deposited into the Optometry Fund before July 1, 2022. The bill is being considered in this committee on June 24, 2019.

Staff Comments: Staff notes to the extent that while the IT costs may be minor and absorbable, staff interprets these to be direct cost pressures (likely one-time, low thousands, special fund), in order to prevent displacement of current workload.

-- END --

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #13A – Update, Discussion and Possible Action on 2019 Legislation Impacting the Practice of Optometry – SB 53 (Wilk) Open Meetings -- as amended March 5, 2019

Status:

In Assembly Appropriations Committee, must be heard before August 30, 2019.

Summary:

This bill would revise the Bagley-Keene Open Meeting Act regarding state body-created advisory committees, requiring two-member advisory committees to notice and hold open, public meetings if one or more of the advisory committee members is a member of the larger board, committee, or commission, and the advisory committee is supported either wholly or partially by state funds. The intent to is mirror the Brown Act, applying to local governments. This bill would take effect immediately as an urgency statute.

Background / Discussion:

CSBO has several committees which consist of three to five members, and those committee meetings are noticed and available to the public, consistent with the Open Meetings Act. Several two-person workgroups have been used by the Board in the past, and those workgroups are not subject to the open meetings act.

The bill would prevent the Board or staff from asking two members to review a document, draft a letter or provide expert analysis without giving public notice. Additionally, SB 53 may prevent Board outreach and communications activities that include more than one member present, as that may constitute a meeting, and therefore be subject to the Open Meetings Act. Staff feels this bill would heavily restrict the Board's ability to conduct day to day business.

Unknown fiscal impact, but the bill could increase expenditures on travel, reimbursements and administrative costs to schedule and notice such meetings.

Staff recommends an oppose position on this bill.

Attachments:

1. SB 53 (as amended March 5, 2019)
2. SB 53 analysis

AMENDED IN SENATE MARCH 5, 2019

SENATE BILL

No. 53

Introduced by Senator Wilk

~~(Coauthor: Assembly Member Lackey)~~

(Coauthors: Senators Bates, Glazer, Jones, and Portantino)

*(Coauthors: Assembly Members Choi, Gallagher, Lackey, Mathis, and
Patterson)*

December 10, 2018

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as amended, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in ~~his or her~~ *their* official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article, “state body” means each of the
4 following:

5 (a) Every state board, or commission, or similar multimember
6 body of the state that is created by statute or required by law to
7 conduct official meetings and every commission created by
8 executive order.

9 (b) A board, commission, committee, or similar multimember
10 body that exercises any authority of a state body delegated to it by
11 that state body.

12 (c) An advisory board, advisory commission, advisory
13 committee, advisory subcommittee, or similar multimember
14 advisory body of a state body, if created by formal action of the
15 state body or of any member of the state body, and if the advisory
16 body so created consists of three or more persons, except as
17 provided in subdivision (d).

18 (d) A board, commission, committee, or similar multimember
19 body on which a member of a body that is a state body pursuant
20 to this section serves in ~~his or her~~ *their* official capacity as a
21 representative of that state body and that is supported, in whole or
22 in part, by funds provided by the state body, whether the
23 multimember body is organized and operated by the state body or
24 by a private corporation.

25 (e) Notwithstanding subdivision (a) of Section 11121.1, the
26 State Bar of California, as described in Section 6001 of the
27 Business and Professions Code. This subdivision shall become
28 operative on April 1, 2016.

29 SEC. 2. This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:

1 In order to avoid unnecessary litigation and ensure the people's
2 right to access the meetings of public bodies pursuant to Section
3 3 of Article 1 of the California Constitution, it is necessary that
4 this act take effect immediately.

O

SENATE RULES COMMITTEE

SB 53

Office of Senate Floor Analyses

(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 53
Author: Wilk (R), et al.
Amended: 3/5/19
Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 3/12/19

AYES: Dodd, Wilk, Archuleta, Borgeas, Bradford, Chang, Galgiani, Glazer, Hill,
Hueso, Nielsen, Portantino, Rubio, Wiener

NO VOTE RECORDED: Allen, Jones

SENATE APPROPRIATIONS COMMITTEE: 6-0, 4/8/19

AYES: Portantino, Bates, Bradford, Hill, Jones, Wieckowski

SUBJECT: Open meetings**SOURCE:** Author

DIGEST: This bill modifies the Bagley-Keene Open Meeting Act (Bagley-Keene) to require two-member advisory committees of a “state body” to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body, and the advisory committee is supported, in whole or in part, by state funds.

ANALYSIS:

Existing law:

- 1) Requires, under Bagley-Keene, that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.
- 2) Defines a state body, for purposes of Bagley-Keene, to mean each of the following:

- a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings, and every commission created by executive order.
- b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.
- c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.
- d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.
- e) The State Bar of California, as specified.

This bill:

- 1) Clarifies that, under Bagley-Keene, a two-member advisory board, commission, committee, subcommittee, or similar multimember advisory body of a state body, is defined as a “state body” if a member of that larger state body sits on the advisory board, commission, committee, subcommittee, or similar multimember advisory body and the advisory board, commission, committee, subcommittee, or similar multimember advisory body is supported, in whole or in part, by funds provided by the state body.
- 2) Contains an urgency clause to take effect immediately.

Background

The Bagley-Keene Open Meeting Act. Bagley-Keene covers all state boards and commissions and generally requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony, and conduct their meetings in public unless specifically authorized by Bagley-Keene to meet in closed session.

For the purposes of Bagley-Keene, existing law defines an advisory board, commission, committee, subcommittee, or similar multimember advisory board of a state body that is created by a formal action of the body or by any member of the

state body as a “state body” if it is comprised of three or more persons. This generally requires state agencies, boards, and commissions to publicly notice meetings, prepare formal agendas, accept public testimony, and conduct meetings in public, unless specifically authorized to meet in closed session.

This bill changes the definition of a “state body,” for the purposes of Bagley-Keene, to include any advisory board, commission, committee, subcommittee, or similar multimember advisory body comprised of two (not three) or more persons, if one member of the larger state body serves in their official capacity as a representative of the state body, and if the advisory board is funded by the state.

Previous attempts. In 2014 and in 2015, Governor Jerry Brown vetoed similar measures. In the veto message of AB 2058 (Wilk, 2014), Governor Brown wrote, “[a]ny meeting involving formal action by a state body should be open to the public. An advisory committee, however, does not have authority to act on its own and must present any findings and recommendations to a larger body in a public setting for formal action. That should be sufficient.”

The following year Governor Brown vetoed AB 85 (Wilk, 2015), writing “[t]his bill expands the Bagley-Keene Open Meeting Act to include advisory bodies, regardless of their size. My thinking on this matter has not changed from last year when I vetoed a similar measure, AB 2058. I believe strongly in transparency and openness but the more informal deliberation of advisory bodies is best left to current law.”

Comments

Purpose of the bill. According to the author, “SB 53 provides much-needed transparency to state government. The Bagley-Keene Act, which sets open meeting requirements for state government, is ambiguous in its definition of which state bodies must comply with Bagley-Keene.”

Further, the author states that “the ambiguity of Bagley-Keene has for years provided a loophole for state agencies that create two-member committees and claim they are exempt from open meeting requirements so long as they do not take action on anything. SB 53 clarifies Bagley-Keene to state in definite terms that any multimember body that is funded by a state body, created by formal action, or served by a state official is defined as a state body and falls under the scope of the Bagley-Keene.”

The author has provided examples of two-member advisory committees that have been created utilizing what the author argues is a loophole in current law, thereby

exempting these two-member advisory committees from the open meeting requirements of Bagley-Keene. Most prominently, during budget negotiations in 2015, the University of California (UC) Board of Regents endorsed forming a committee consisting of two members, Governor Jerry Brown and UC President Janet Napolitano. The author of this bill argues that this two-member committee was in fact a “state body,” and the exemption of this two-member advisory committee defies the original legislative intent of Bagley-Keene.

Related/Prior Legislation

AB 85 (Wilk, 2015) was substantially similar to SB 53, and would have modified Bagley-Keene to require two-member advisory committees of a “state body” to hold open, public meetings if at least one member of the advisory committee is a member of the larger state body, and the advisory committee is supported, in whole or in part, by state funds. (Vetoed by Governor Brown)

AB 2058 (Wilk, 2014) would have modified the definition of “state body,” under Bagley-Keene, to exclude an advisory body with less than three individuals, except for certain standing committees. (Vetoed by Governor Brown)

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, in general this bill imposes minor to moderate costs on affected state entities. Some state entities may simply decide to eliminate certain advisory bodies and specified standing committees rather than spend limited resources for compliance with open meeting requirements.

Additionally, many regulatory entities with the Department of Consumer Affairs use advisory committees of less than three members. These entities would incur costs to comply with open meeting requirements, including costs for board member and staff travel, communications, and providing public meeting space. Costs would be less than \$150,000 per entity per year. (Various special funds)

SUPPORT: (Verified 4/9/19)

CalAware
California Association of Licensed Investigators
California News Publishers Association
League of Women Voters of California

OPPOSITION: (Verified 4/9/19)

California Board of Accountancy

ARGUMENTS IN SUPPORT: In support of the bill, the California News Publishers Association writes that, “[o]ne of the purposes of the Bagley-Keene Act is to ensure that deliberations of state agencies be conducted openly. See Government Code § 11120. Unfortunately, ambiguity in the law is allowing state agencies to deliberate behind closed doors by limiting standing committees to fewer than three members. What this means is that decisions about policy development are being made without the public having a seat at the table. When two-member advisory committees are allowed to meet outside of public view, the public only gets the benefit of an abbreviated version of the deliberations that underlie actions taken by the state body.”

ARGUMENTS IN OPPOSITION: In opposition to the bill, the California Board of Accountancy (CBA) writes that, “[t]his bill would prevent the CBA, and its committees, from asking two members to review a document, draft a letter, provide expert analysis, or advise CBA staff on other matters without giving public notice. SB 53 may prevent the CBA from conducting certain outreach and communications activities that include more than one member present, as that may constitute a meeting, and therefore be subject to the Open Meeting Act. This bill would also appear to prohibit two board members meeting together with Legislators in support of any important consumer protection issues relating to the practice of public accountancy as it would be impractical, if not impossible, to publically notice such visits.”

Prepared by: Brian Duke / G.O. / (916) 651-1530
4/10/19 14:59:02

**** END ****

ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #13C – Update, Discussion and Possible Action on 2019 Legislation Impacting the Practice of Optometry – Assembly Bill 1714 (Rubio): Extended optometric clinical facilities – as amended TBD

Status:

In Senate Rules Committee, must be heard by Senate policy committees and passed through Senate Appropriations before August 30, 2019.

Summary:

The attached proposed language was drafted through negotiations between Vision to Learn (VTL) and California Optometric Association. This bill would make it possible for charitable organizations to maintain and operate mobile optometric vehicles without the partnership of the clinical department of an approved optometry school (as prescribed in [California Code of Regulations, title 16 §1507](#), Extended Optometric Clinical Facilities).

Although VTL has tried to negotiate a memorandum of understanding with an approved optometry school, they are finding that university legal departments are reluctant to accept liability for VTL's statewide operations. To come into compliance with law and fulfill a reported 20,000 service commitments between now and the end of 2019, this bill contains an urgency clause, allowing the bill to take effect immediately. As a result, the bill requires two-thirds' vote of the Legislature.

Background / Discussion:

Staff was made aware of amendments to the bill on July 8th. Several questions are raised by the proposed text:

1. Should these "trailers, vans or other means of transportation in which the practice of optometry is performed" be considered optometric practices; and therefore ownership should be limited to that of a licensed optometrist?
2. Should these "trailers, vans or other means of transportation" be tied to a physical location at which customer complaints can be reliably received?
3. Should this type of service delivery be given blanket approval or be subject to permit, as in CBSO's sponsored bill Senate Bill 458 (Nazarian): Optometrists: in-home optometric care?
4. Within what timeframe of beginning operation and with what frequency should operators file the information required in Section 3070.2(b)?

5. Is the request for dates of operation needed to implement the inspection/investigation functions of the CSBO?
6. Considering the current operations of VTL at school sites and the applicability of this service delivery model to many populations, how should the consumer notice be handled? How should the reference to “a patient’s caregiver” in Section 3070.2(d) be expanded?
7. Should optometrists in this service delivery model be required to provide a voluntary patient medical release form at or before time of service, reinforcing the inspection/investigation functions of the Board to best protect consumers (as in Senate Bill 458 (Nazarian): Optometrists: in-home optometric care)?
8. What is the realistic implementation date of a governing regulatory package—as yet to be prescribed in Section 3070.2(e)—with the current pipeline of five regulatory packages being prepared by CSBO?

Attachments:

1. Proposed text for AB 1714
2. [California Code of Regulations, title 16 §1507](#), Extended Optometric Clinical Facilities

Section 3070.2 is added to the Business and Professions Code, to read:

3070.2. (a) For purposes of this section, "extended optometric clinical facility" means a trailer, van or other means of transportation in which the practice of optometry is performed, as defined in Section 3041 and which is not affiliated with an approved optometry school in California. This section shall not apply to optometric services provided remotely by an approved optometry school in California which meets the requirements of California Code of Regulations section 1507.

(b) The ownership of an extended optometric clinical facility shall be limited to a charitable organization that is providing optometric services to patients, regardless of the patient's ability to pay. The extended optometric clinical facility must be registered with the Board and may not accept payment for services other than those provided to Medi-Cal beneficiaries.

The owner of the extended optometric clinical facility shall provide the following information to the Board:

- (1) The scope of practice to be rendered by the facility.
- (3) The name of the optometrists providing patient care.
- (4) The dates of operation (?) and geographical areas served.
- (5) A description of how follow-up care will be provided.

(c) The owner of the optometric clinical facility shall be responsible for notifying the board of any changes to the information required in subdivision (b).

(d) (1) An extended optometric clinical facility shall provide each patient and, if applicable, the patient's caregiver, a consumer notice approved by the Board that includes the following:

- (A) The name, license number, and contact information for the optometrist.
 - (B) Information for filing a complaint with the Board.
 - (C) Information on how to obtain a copy of the patient's medical information.
 - (D) Any other information the Board deems appropriate to safeguard the public from substandard optometric care, fraud, and other violations of the act.
- (2) The optometrist shall maintain a copy of the signed consumer notice described in paragraph (1) in the patient's medical record.

(e) By January 1, 202, the Board shall promulgate regulations establishing a registry for extended optometric clinical facilities and shall set a registration fee at an amount not to exceed the costs of administration.

(f) The Board may promulgate regulations to conduct quality assurance reviews for optometrists engaging in the practice of optometry at an extended optometric clinical facility.

[Home](#) [Table of Contents](#)**§ 1507. Extended Optometric Clinical Facilities.**

16 CA ADC § 1507

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 2. Location of Practice (Refs & Annos)

16 CCR § 1507

§ 1507. Extended Optometric Clinical Facilities.

(a) As used in this regulation "extended optometric clinical facility" means and includes any clinical facility employed by an approved optometry school for instruction in optometry which exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved optometry school, and in which optometric services are rendered.

(b) It is the intent of this section to provide a procedure whereby an extended optometric clinical facility may be identified, qualified and approved by the Board as an adjunct to, and an extension of, the clinical department of an approved optometry school.

(c) Optometric services provided by optometry students at undergraduate and graduate levels in an extended optometric clinical facility shall constitute a part of the optometric education program .

(d) Approved optometry schools shall register extended optometric clinical facilities with the Board. Such registration shall be accompanied with information supplied by the optometry school pertaining to faculty supervision, scope of practice to be rendered, name and location of the facility, date operation will commence, discipline of which such instruction is a part, and a brief description of the equipment and facilities available. The foregoing information shall be supplemented with a copy of the agreement between the approved optometry school or parent university and the affiliated institution establishing the relationship. Any change in the information initially provided to the Board shall be communicated to the Board.

(e) Mobile optometric facilities may only function as a part of a school teaching program as approved by the Board.

(f) The itinerary of the mobile optometric unit must be submitted to the Board with 30 days prior notice.

Note: Authority cited: Sections 3023.1, 3025 and 3077, Business and Professions Code. Reference: Sections 3023, 3023.1 and 3077, Business and Professions Code.

HISTORY

1. New section filed 5-11-73; effective thirtieth day thereafter (Register 73, No. 19).

2. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

This database is current through 7/5/19 Register 2019, No. 27

16 CCR § 1507, 16 CA ADC § 1507

END OF DOCUMENT

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ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer <i>Prepared by Jessica Swan, Administrative Analyst</i>
SUBJECT	Agenda Item #14A – Update, Discussion and Possible Action Regarding 2020 Calendar

Needed Action: Board discussion of the proposed 2020 schedule for board and committee meetings taking into consideration budget constraints and proposed change to a Wednesday meeting day.

The Board's annual budget allocation for all meeting travel is \$8000. During the 2018-19 fiscal year, the Board spent an average of \$3,104.45 per meeting for board members only. Midweek travel will provide reduced airfares and hotel rates, which are the primary cost drivers in the travel budget

This \$8000 budget allotment must also accommodate all staff travel to committee and board meetings. Budget allocations are allotted based upon the DCA best practice for meeting attendance—a 10:1 staff to board member ratio. With the continued onboarding of the new Executive Officer, Assistant Executive Officer and Policy Analyst, it has been necessary for program expert staff to be on hand during each meeting in the last six months. This was an important interim strategy, but a significant expenditure of funds.

With fewer staff in attendance, the post-meeting debrief becomes more important to the accurate and timely execution of the Board's direction. Currently, staff schedules the debrief to occur on the business day immediately following the meeting. With Friday meeting dates, the interruption of a weekend could result in less complete and effective debriefs.

Many events compete for our time and attention and often they are scheduled on Friday's or weekend days. Staff believe that a Wednesday meeting day will be less disruptive to personal schedules or weekend plans for all attendees.

Additionally, staff determined that it would be more cost and administratively efficient to schedule all committee meetings as back-to-back teleconferences. This would replace week-apart schedule of FY 2018/2019.

January 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
			*New Year's Day			
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
	*MLK Jr. Day					
26	27	28	29	30	31	
			Committee Meeting Day (Teleconferences)	Dispensing Optican Committee Meeting		

February 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
	*Washing- ton's Birthday					
23	24	25	26	27	28	29
			Board Meeting (San Jose)			

*State Holidays Observed

March 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				
		*Cesar Chavez Day				

April 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 Committee Meeting Day (Teleconferences)	2 Dispensing Optican Committee Meeting	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

May 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13 Board Meeting (LA Area)	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	*Memorial Day					

June 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17 Committee Meeting Day (Teleconferences)	18 Dispensing Optican Committee Meeting	19	20
21	22	23	24	25	26	27
28	29	30				

July 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
					*Independence Day	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	
26	27	28	29	30	31	

August 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
			Two - Day Meeting			
9	10	11	12 Board Meeting (Sacramento)	13	14	15
	17	18	19	20	21	
23	24	25	26	27	28	29
30	31					

September 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
	*Labor Day					
13	14	15	16	17	18	19
20	21	22	23 Committee Meeting Day (Teleconferences)	24 Dispensing Optican Committee Meeting	25	26
27	28	29	30			

October 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21 Board Meeting (Monterrey/ Fresno)	22	23	24
25	26	27	28	29	30	31

November 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
			*Veteren's Day			
15	16	17	18	19	20	21
22	23	24	25	26	27	28
				*Thanksgiving Holiday		
29	30					

December 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
					*Christmas	
27	28	29	30	31		



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, President
SUBJECT	Agenda Item #15 – Future Agenda Items

The Board may wish to discuss future agenda items from the Board, staff or the public.



ISSUE MEMORANDUM

DATE	August 2, 2019
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, President
SUBJECT	Agenda Item #16 - Adjournment