



ISSUE MEMORANDUM

DATE	February 26, 2021
TO	Members, California State Board of Optometry (CSBO)
FROM	Cheree Kimball, Assistant Executive Officer
SUBJECT	Agenda Item #5A – Enforcement Program

Staff Update

The Board’s Senior Enforcement Analyst, Matthew McKinney, accepted a promotion to serve as an Enforcement Program Manager (SSMI) with the Veterinary Medical Board. Mr. McKinney’s last day with us was February 19, 2021.

As a smaller board with fewer levels of management than larger boards/buearus, we have a unique oppotyunity to help state workers learn and polish skills, gain confidence and experience, and grow in their careers. Unfortunately that can mean saying goodbye so they can continue to grow.

In his tenure with the Board, Mr. McKinney has coordinated the Continuing Education Audit Program and the Expert Witness Program, served as Probation Monitor, Personnel Liaison, Consumer Protection Committee Staff Liaison, and lent his expertise to DCA’s Expert Witness Program. He conducted the most complex and sensitive investigations, testified at hearings, provided training and mentoring to his colleagues, and helped steer the Enforcement Unit through staff shortages and turnover.

Mr. McKinney was a valued member of our team who consistently demonstrated flexibility, diligence, compassion, integrity, reliability, and proficiency.

It’s been a joy to watch Mr. McKinney grow as an analyst. While we are sad to say goodbye for now. Mr. McKinney is staying in the DCA family, and we look forward to opportunities to work with him in the future.

We have begun the process to refill the vacated position and anticipate filling the position by May. In the interim, we plan to hire a Retired Annuitant with experience in regulatory enforcement to alleviate some of the workload.

Disciplinary Actions

In Quarter 2 of Fiscal Year 2020/2021, the Board approved the following Disciplinary Actions:

- Narbae Vahik Avedian (OPT 15088), Revocation Stayed with Probation, effective January 6, 2021

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- Filip B. Caliwag (SLD 6243), Revocation of Registration, effective January 6, 2021
- Ara Nalbandyan (SLD 4222, and CLD 1263), Revocation of Registrations, effective January 6, 2021

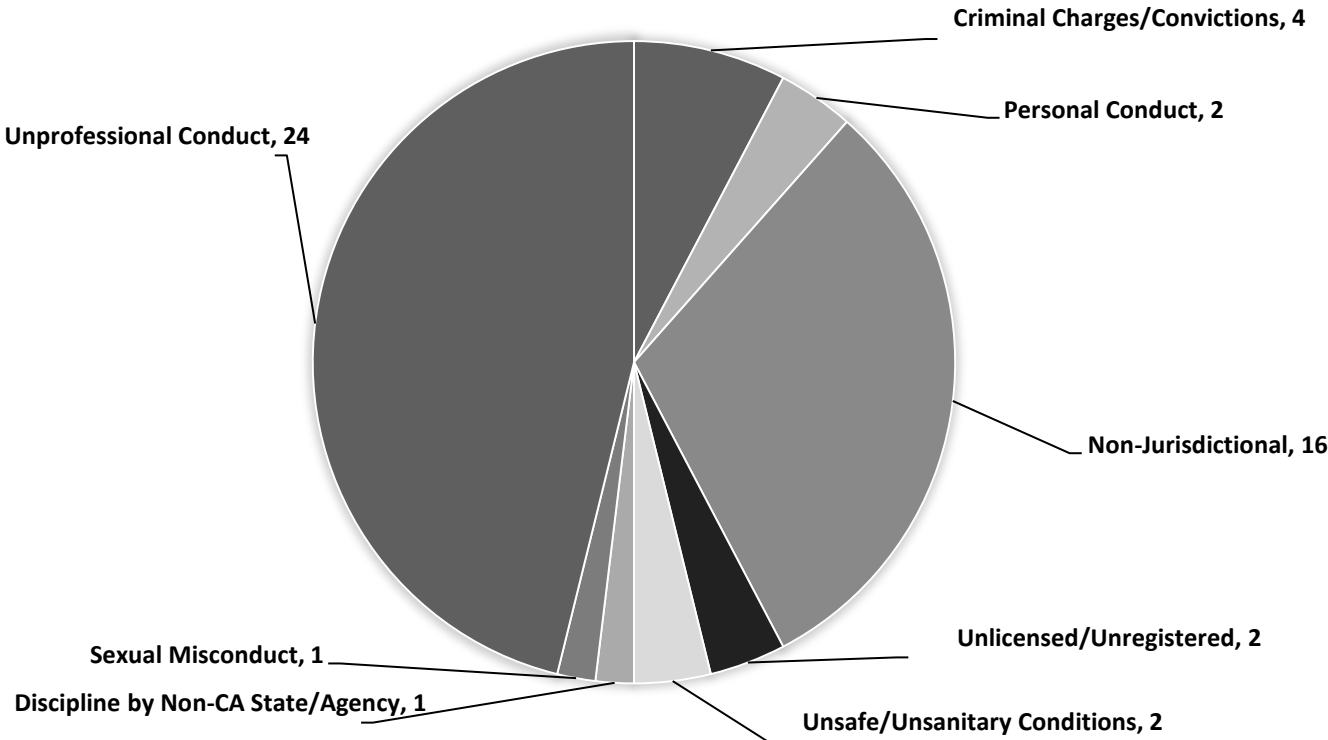
Additionally, the Board granted the following Petitions for Early Termination of Probation:

- Ted Atherton Bailey (OPT 6161), effective January 14, 2021
- Katelyn Terese Nguyen (OPT 12503), effective January 14, 2021

Cases by Priority	Q2 – FY20/21						FY Total	
	Routine		High		Urgent		OPT	OPN
	OPT	OPN	OPT	OPN	OPT	OPN		
Received	52	27	1	1	0	0	108	47
Closed	35	14	1	0	0	0	85	21
Average Age (days) - Closed	85	223	470	0	0	0	147	251
Pending	127	141	10	1	0	0	137	142
Average Age (days) – Pending	581	653	415	24	0	0	567	648
Referred to AG	1	0	2	0	0	0	3	0
Pending at AG	4	28	3	0	0	0	7	28
Final Disciplinary Orders	0	0	0	0	0	0	3	2

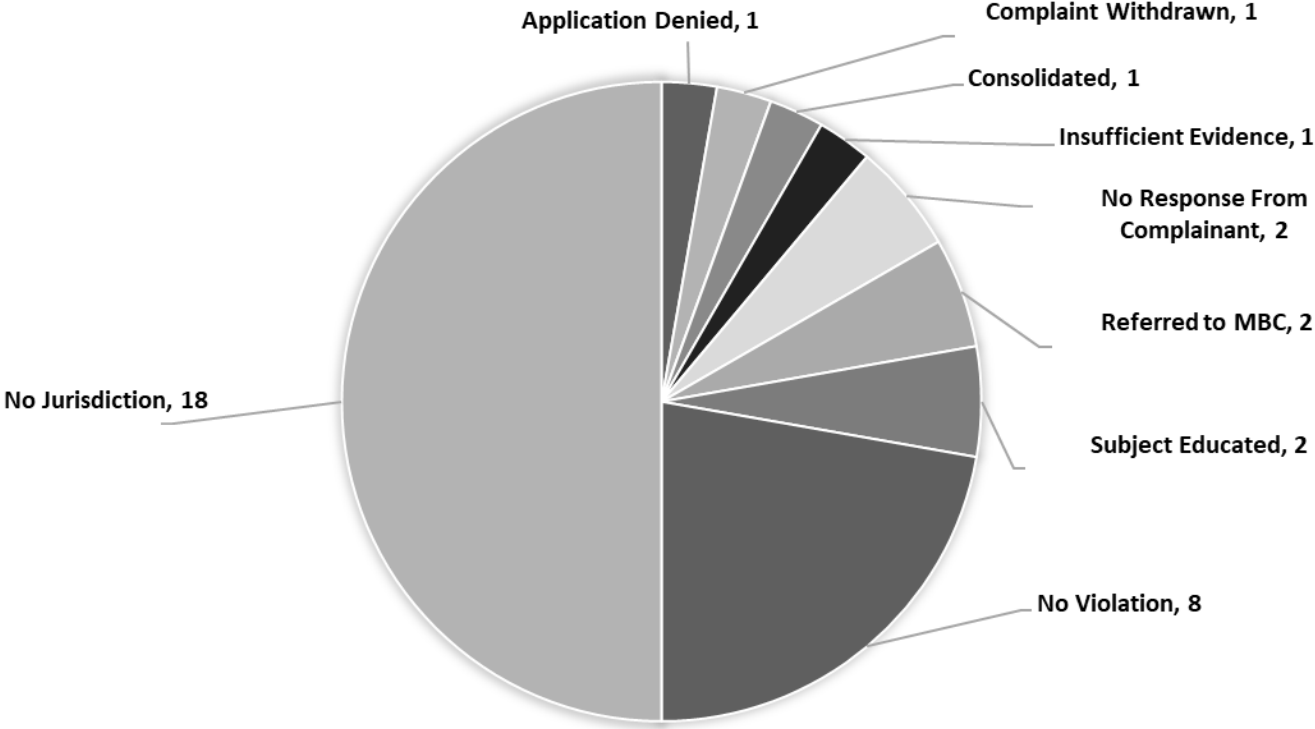
Agenda Item 5A – Figure 1 – Enforcement Statistics Overview, Quarter 2, Fiscal Year 2020-2021

OPTOMETRY CASES RECIEVED - Q2, FY 2020/2021



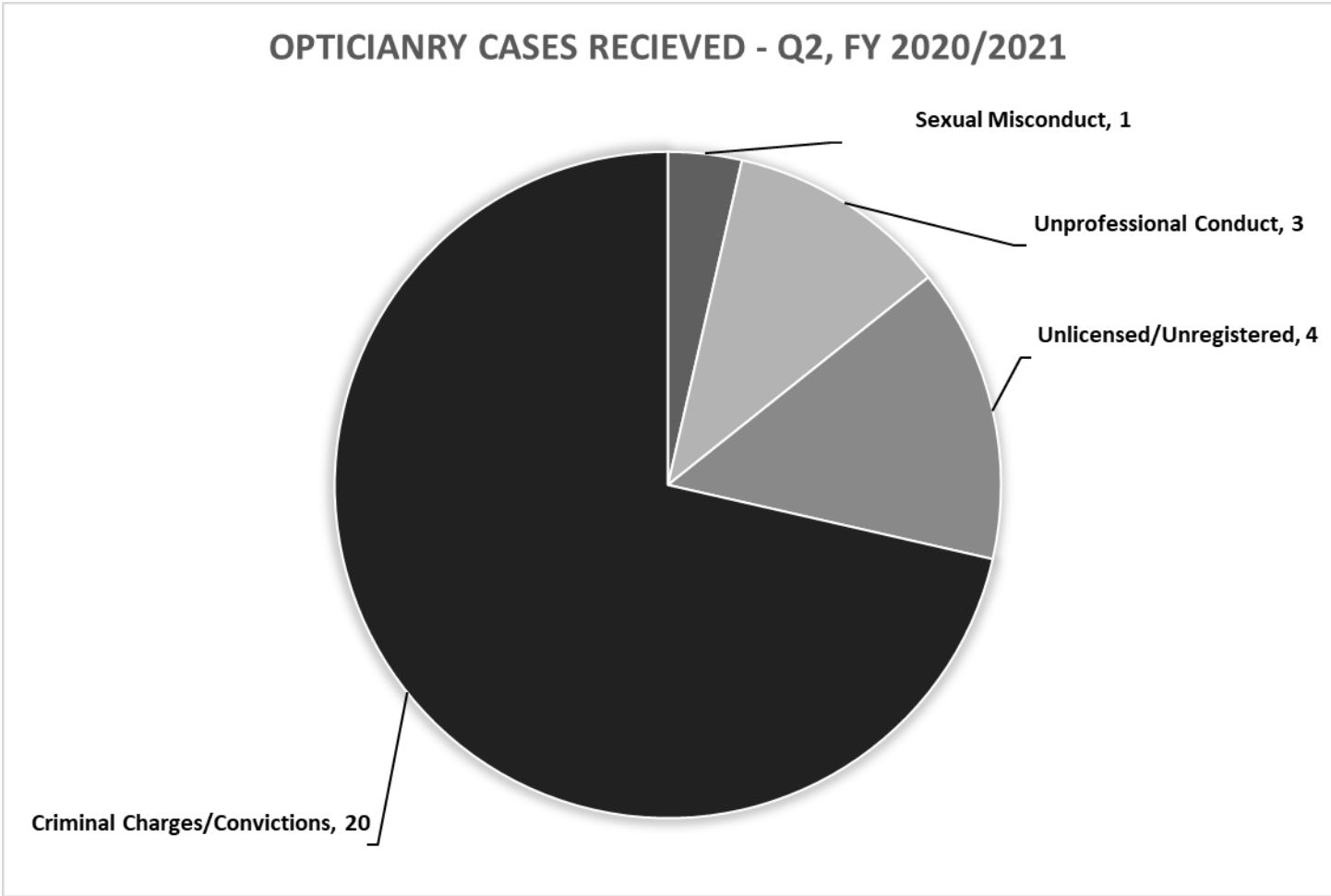
Agenda Item 5A – Figure 2 – Optometry Cases Received by Allegation Type, Quarter 2, Fiscal Year 2020-2021

OPTOMETRY CASES CLOSED - Q2, FY 2020/2021



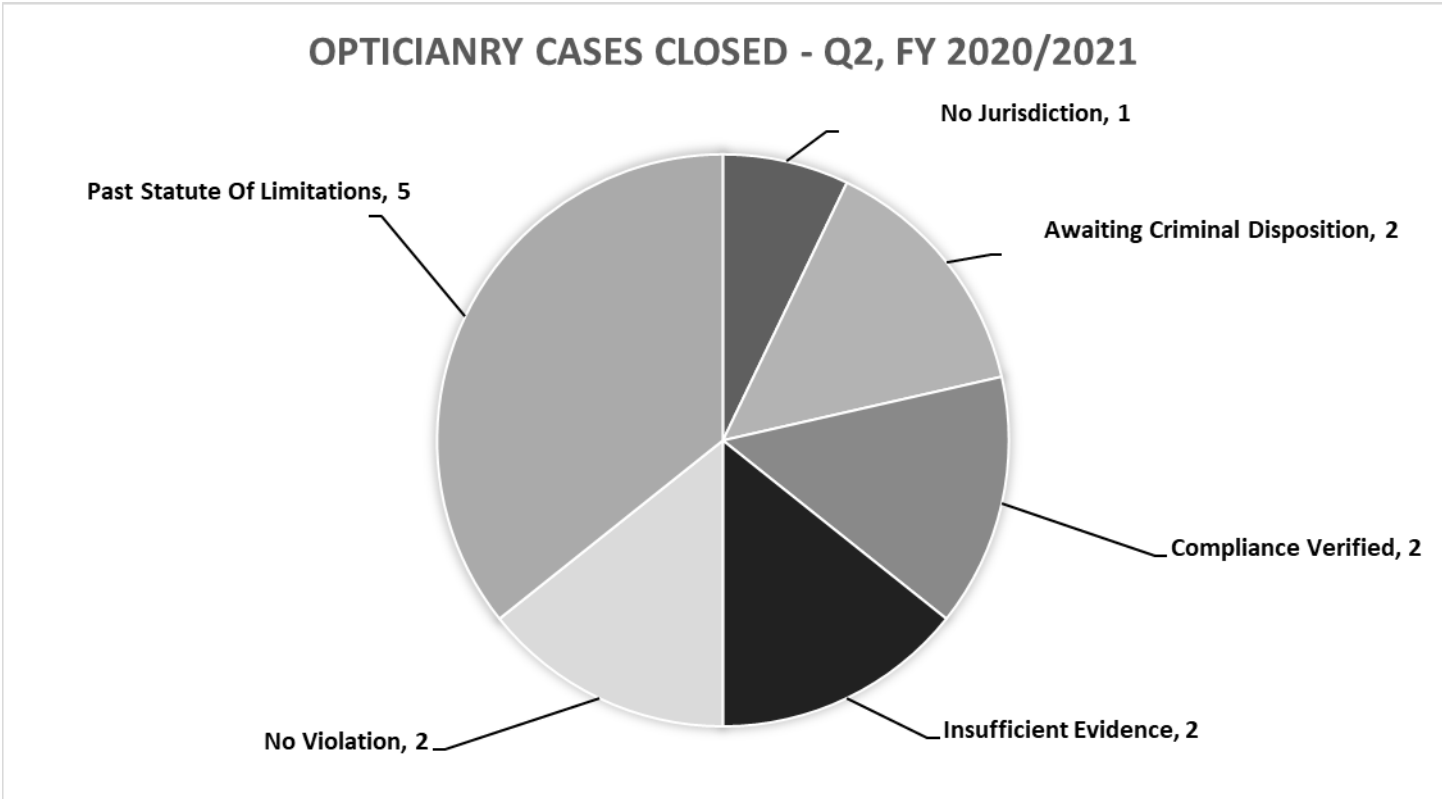
Agenda Item 5A – Figure 3 – Optometry Cases Closed by Closure Type, Quarter 2, Fiscal Year 2020-2021

OPTICIANRY CASES RECIEVED - Q2, FY 2020/2021



Agenda Item 5A – Figure 4 – Opticianry Cases Received by Allegation Type, Quarter 2, Fiscal Year 2020-2021

OPTICIANRY CASES CLOSED - Q2, FY 2020/2021



Agenda Item 5A – Figure 5 – Opticianry Cases Closed by Closure Type, Quarter 2, Fiscal Year 2020-2021



ISSUE MEMORANDUM

DATE	February 26, 2021
TO	Members, California State Board of Optometry (CSBO)
FROM	Natalia Leeper, Lead Licensing Analyst
SUBJECT	Agenda Item #5B: Examination and Licensing Programs

Examination

Potential 2021 graduates are currently taking their California Laws and Regulations Exam (CLRE). The board staff has responded to emails and phone calls regarding scheduling the exam. We realize that many applicants do not provide email addresses or provide valid “Addresses of Records” to receive test confirmations. Working with the deans of the California optometry schools and colleges, we are communicating this information is needed for communication with the third-party testing vendor (PSI), and timely processing within the licensure process

I am making changes to the exam application to make it clearer to candidates in the future. As a long-term fix, staff will seek approval for a regulatory change that makes a valid email address required for processing applications.

Optometry

I am preparing for graduation season. The Frequently Asked Questions page has been updated on the Board’s website to provide more answers to new applicants. Staff submitted several Breeze Maintenance and Operations requests (BMOs formerly known as SIRs) to make the application more efficient and easier to understand. The DCA IT Unit has committed to implementing these changes before May and June graduations.

Processing times remain at 6-8 weeks, despite the Spring 2020 loss of staff within the Licensing Unit.

Opticianry

The ABO and NCLE exams continue to test applicants monthly as adopted during the COVID-19 Pandemic in mid-2020 (the previous schedule was every three months).

Due to staff loss in November—processing times have increased from 4-6 weeks to 6-8 weeks. Management is working to backfill the single OPN licensing position quickly with a Retired Annuitant; the lengthier human resources processes for permanent staffing will run simultaneously. With the approval of the Board’s 2021-2022 Budget Change Proposal (1111-063-BCP-2021-GB), the Licensing Unit will receive an Office Technician dedicated to application pre-processing.



CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Population Statistics
 License Population as of 02/18/2021



License Status (20-45)

License Type	20 - Current	21 - CurrentInactive	22 - CurrTmp FamSupp	28 - Military-Active	31 - Fam Supp Susp	32 - Fam Supp Dend	45 - Delinquent
Optometrist	12	10					24
Optometrist-DPA	104	85					150
Optometrist-TLG	4,002	71		1	1		203
Optometrist-TPA	1,476	82					241
Optometrist-TPG	968	5					43
Optometrist-TPL	948	54		1			99
Statement of Licensure	1,374						634
Fictitious Name Permit	1,278						416
Registered Dispensing Optician	1,109						386
Registered Spectacle Lens Dispenser	2,920		3		4	1	1,238
Registered Contact Lens Dispenser	1,144				1		390
Nonresident Contact Lens Seller	15						3



CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Fiscal Year 2021



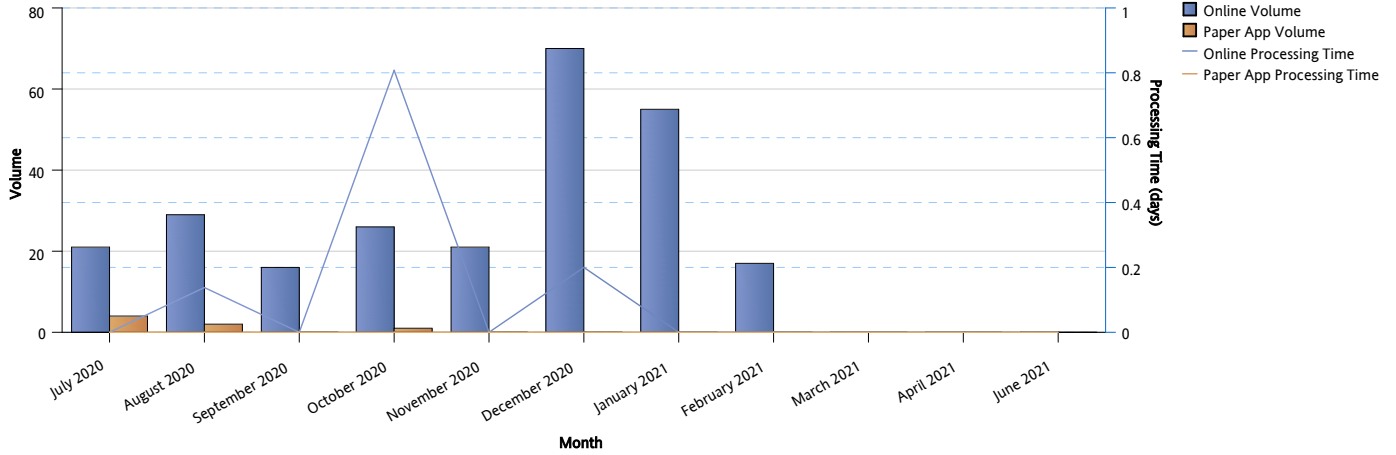
LT - Transaction Description	Online Volume	Average Online Processing Time	Paper App Volume	Average Paper App Processing Time
Optometrist - Exam Request	255	0	7	0
Optometrist - Initial License	193	80	7	78
Statement of Licensure - Issue License	215	0	0	
Fictitious Name Permit - Issue License	53	39	3	66
Registered Dispensing Optician - Initial Application	13	209	0	
Registered Dispensing Optician - Initial License	10	9	0	
Registered Spectacle Lens Dispenser - Initial Application	172	46	6	44
Registered Spectacle Lens Dispenser - Initial License	168	10	1	416
Registered Contact Lens Dispenser - Initial Application	40	49	0	
Registered Contact Lens Dispenser - Initial License	42	11	0	



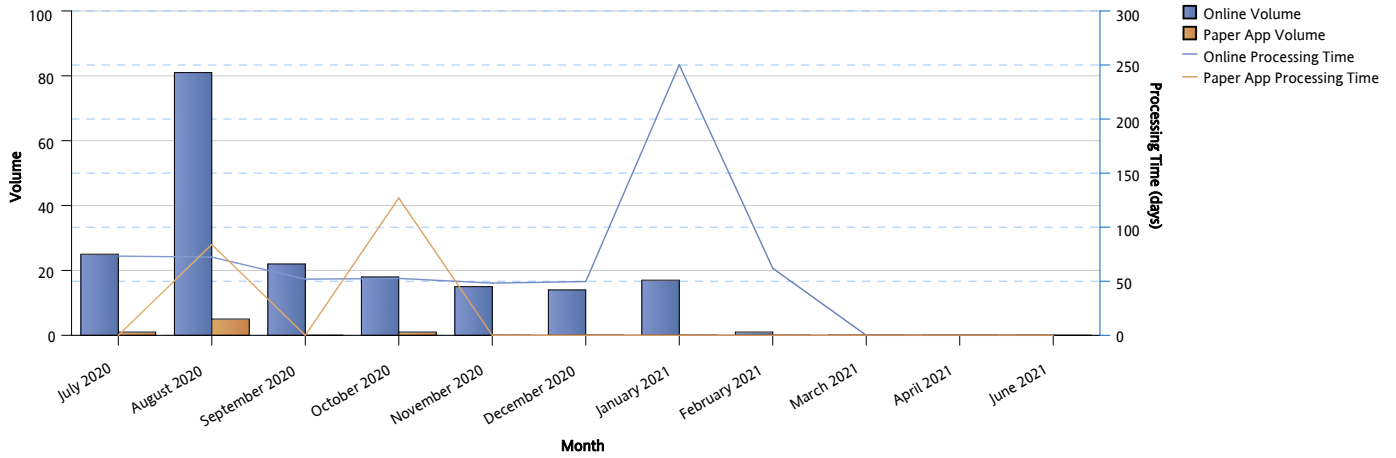
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Monthly Trend
 Fiscal Year 2021



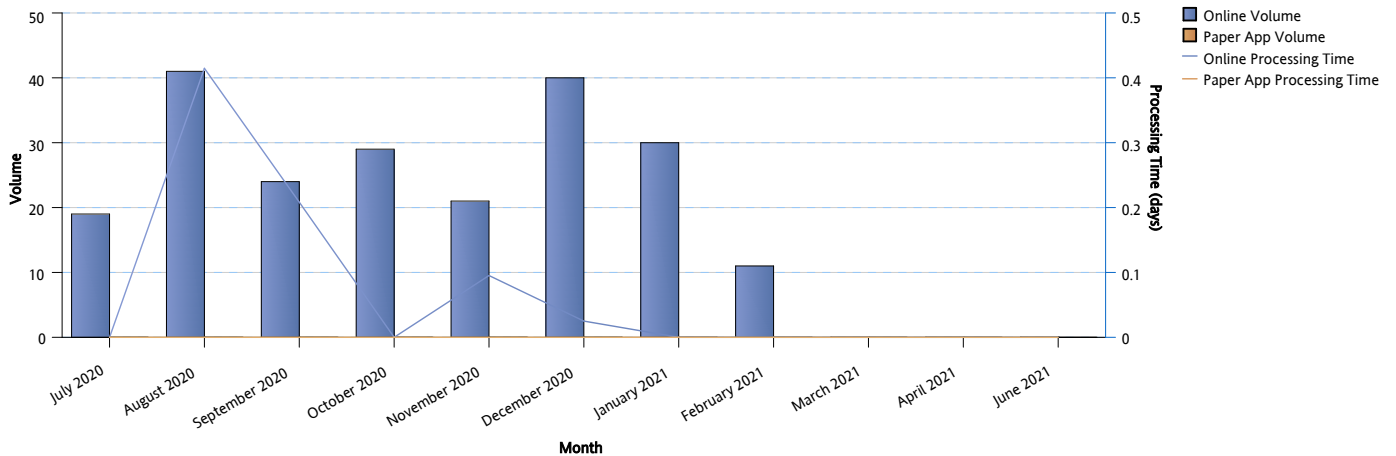
Optometrist - Exam Request



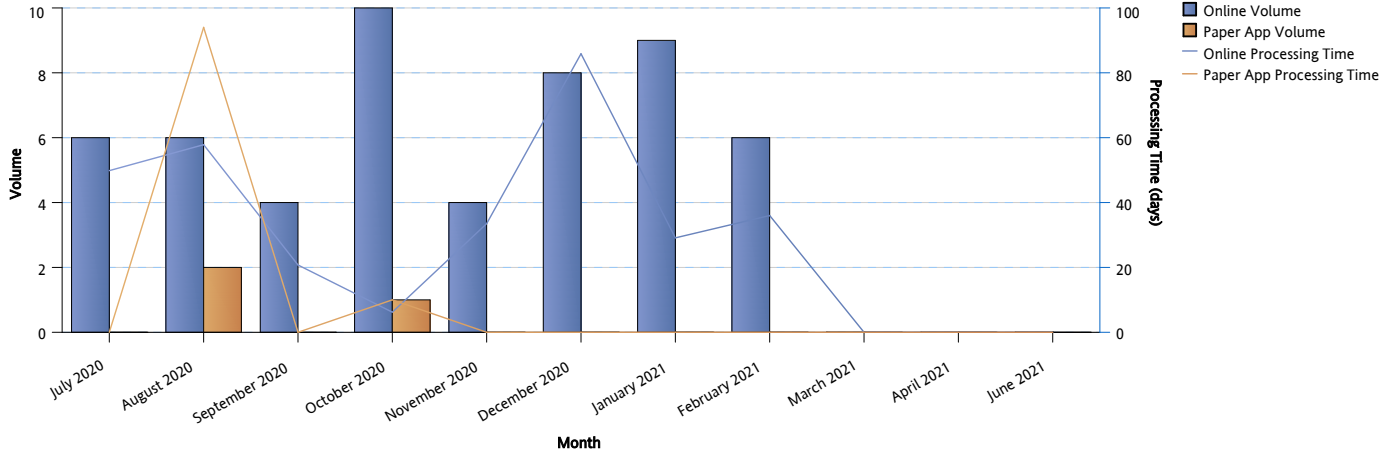
Optometrist - Initial License



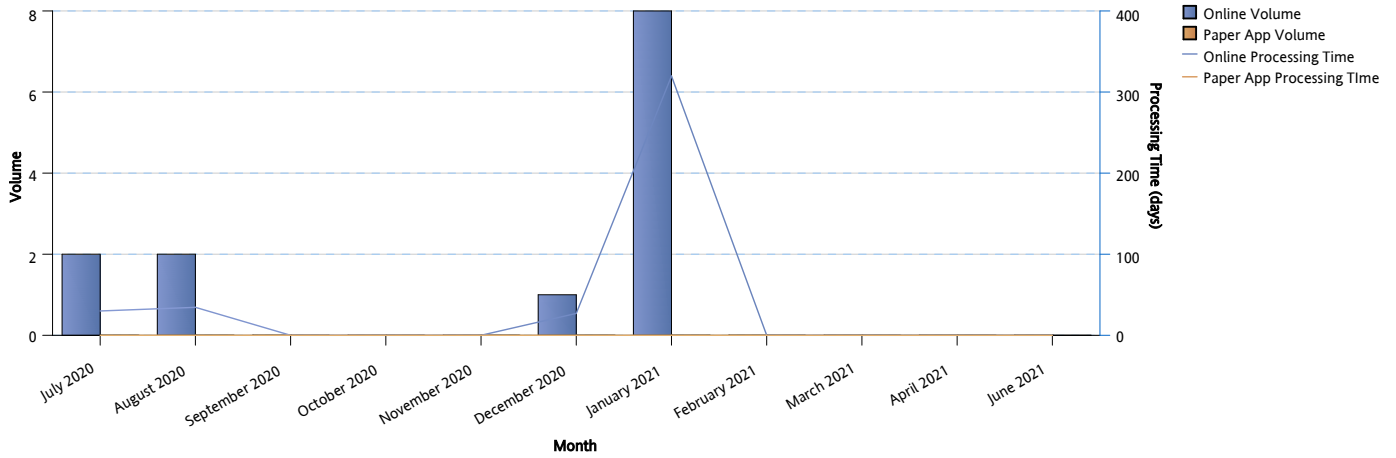
Statement of Licensure - Issue License



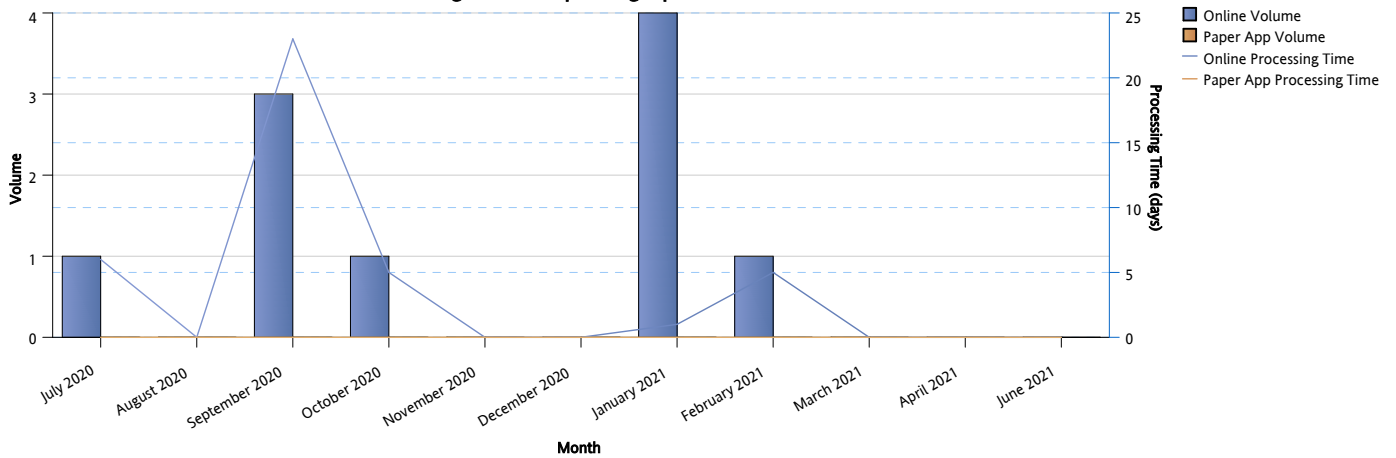
Fictitious Name Permit - Issue License



Registered Dispensing Optician - Initial Application



Registered Dispensing Optician - Initial License

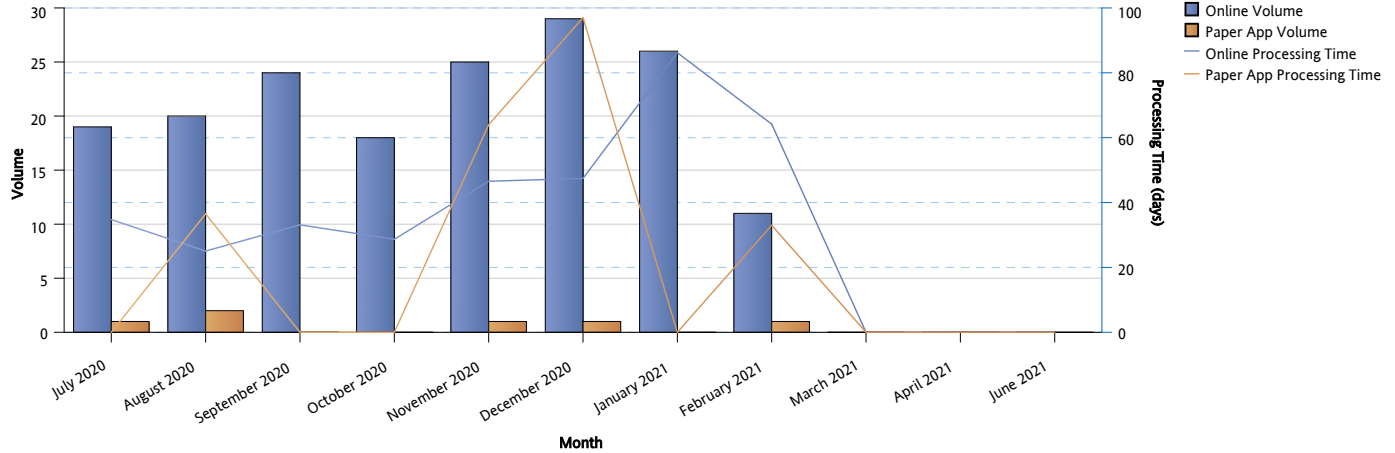




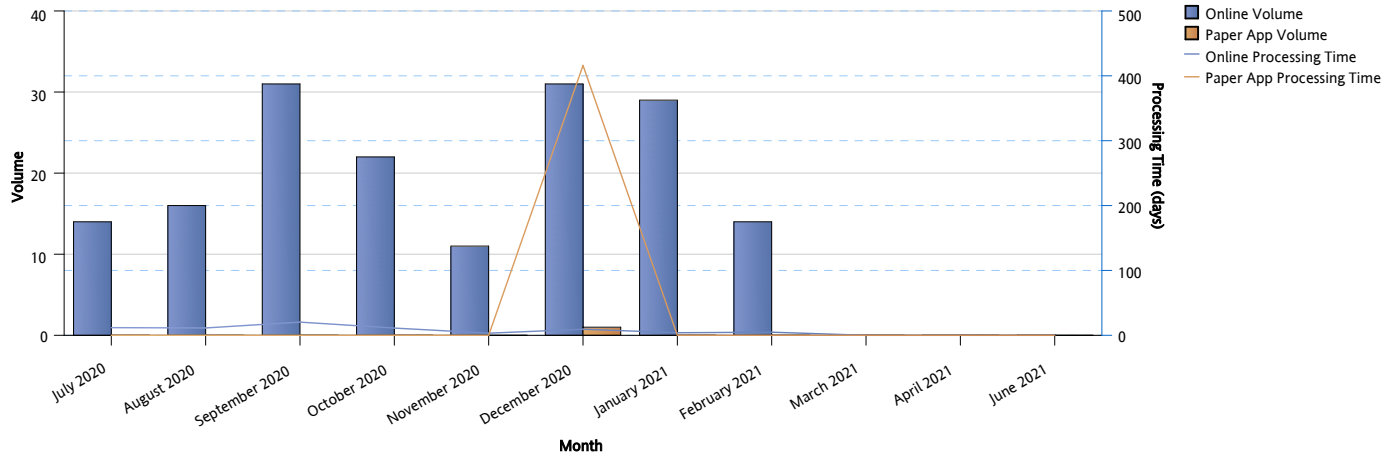
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Monthly Trend
 Fiscal Year 2021



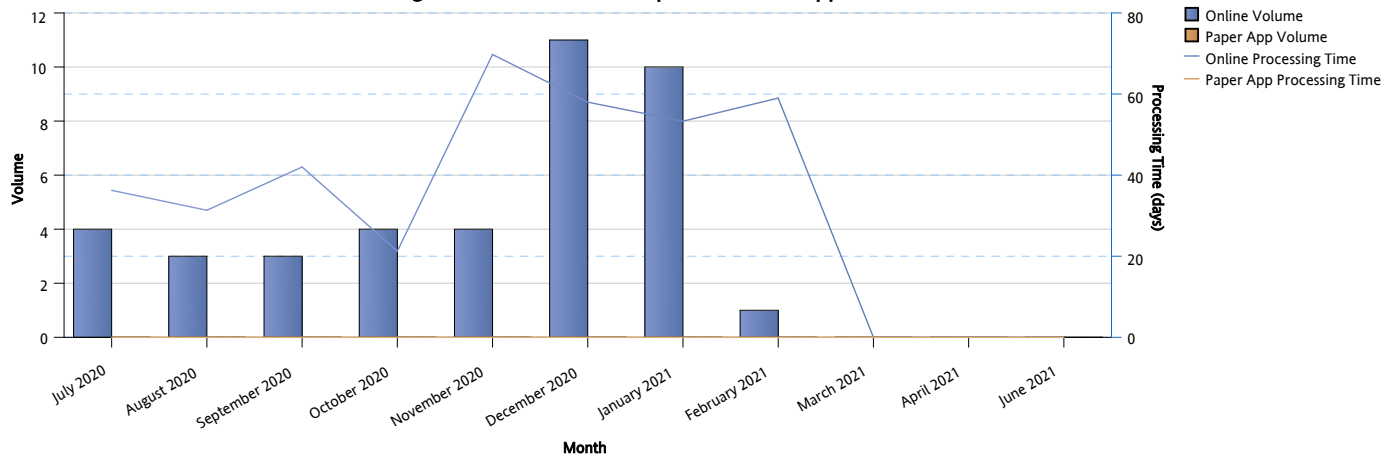
Registered Spectacle Lens Dispenser - Initial Application



Registered Spectacle Lens Dispenser - Initial License



Registered Contact Lens Dispenser - Initial Application

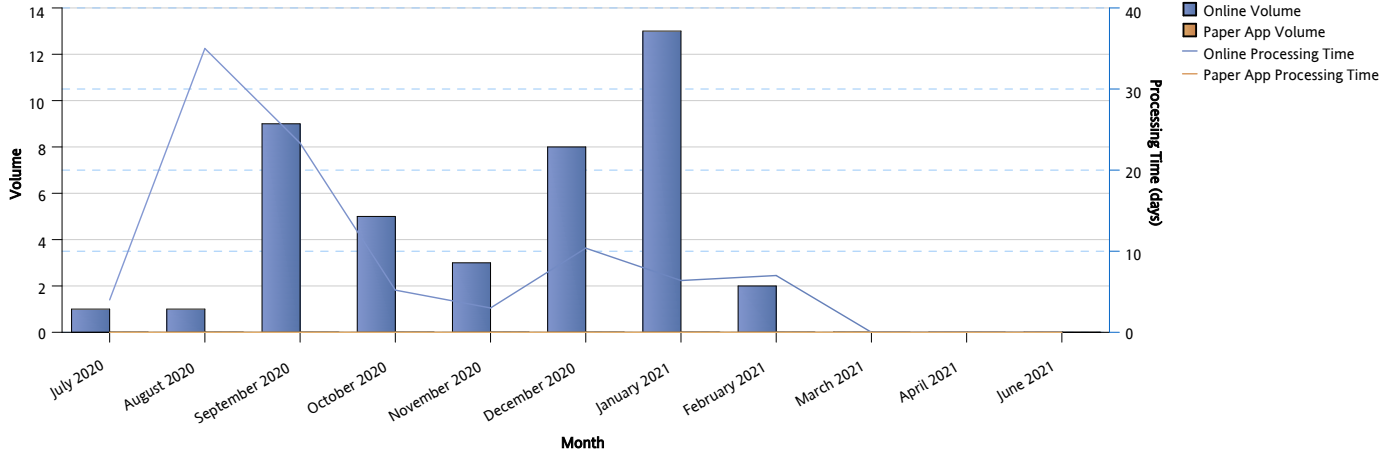




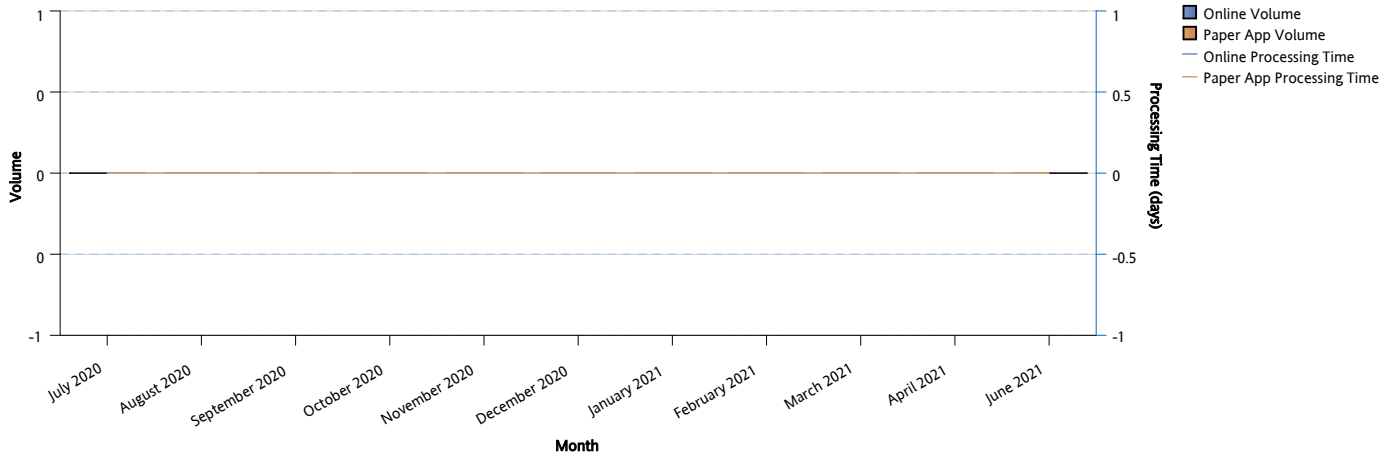
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Monthly Trend
 Fiscal Year 2021



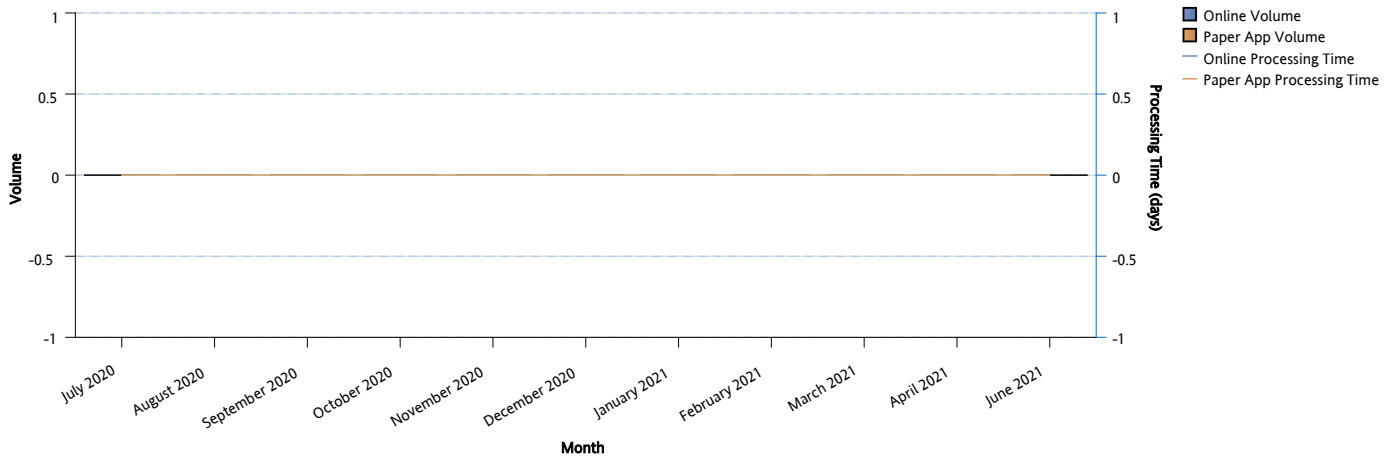
Registered Contact Lens Dispenser - Initial License



Nonresident Contact Lens Seller - Initial Application



Nonresident Contact Lens Seller - Initial License

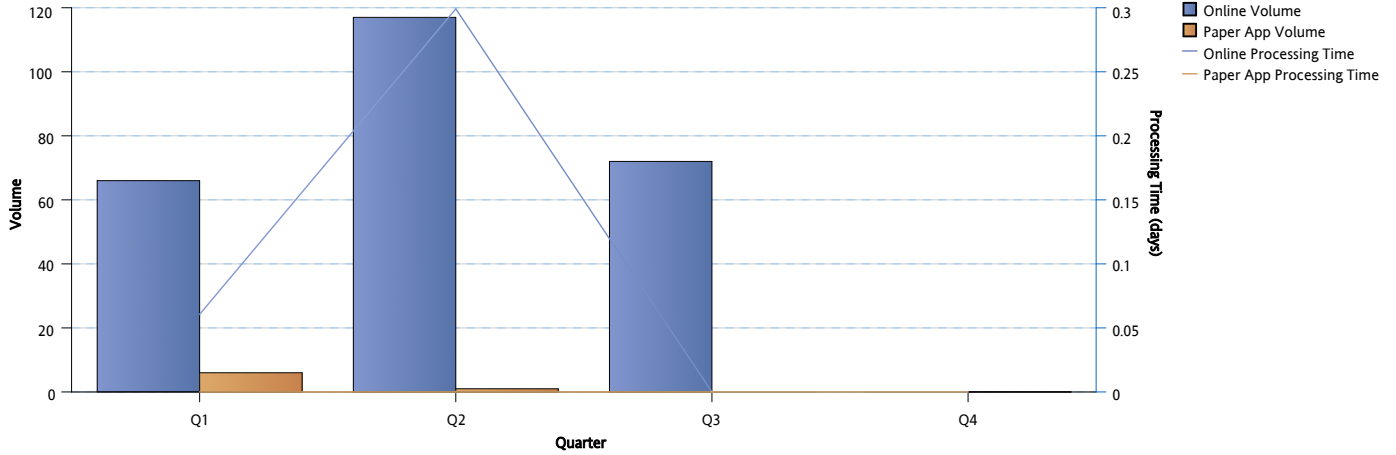




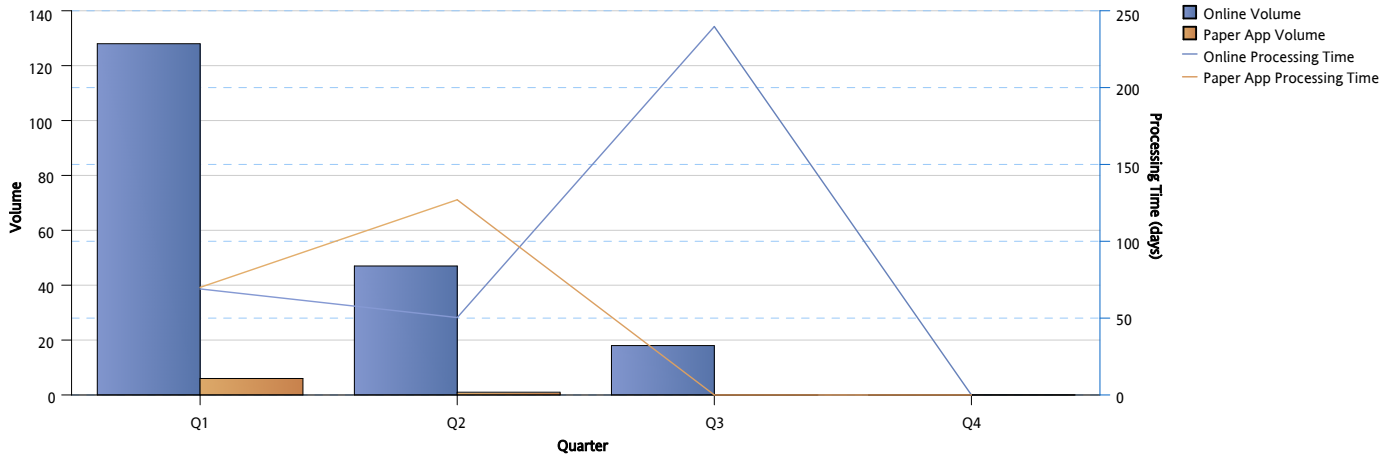
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
 BREEZE SYSTEM
 Licensing Application Volume and Processing Time
 Quarterly Trend
 Fiscal Year 2021



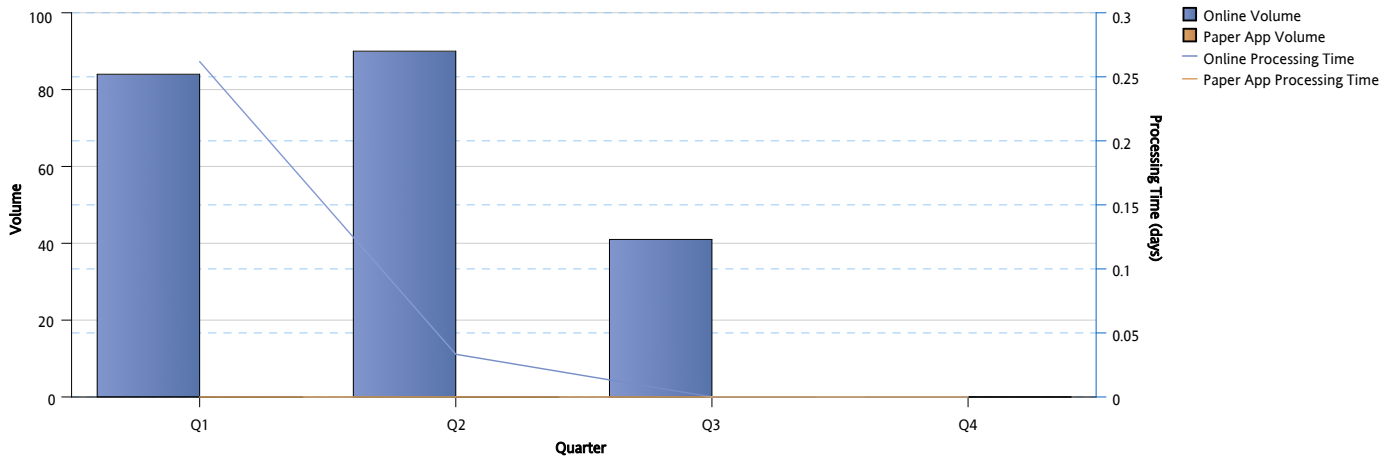
Optometrist - Exam Request



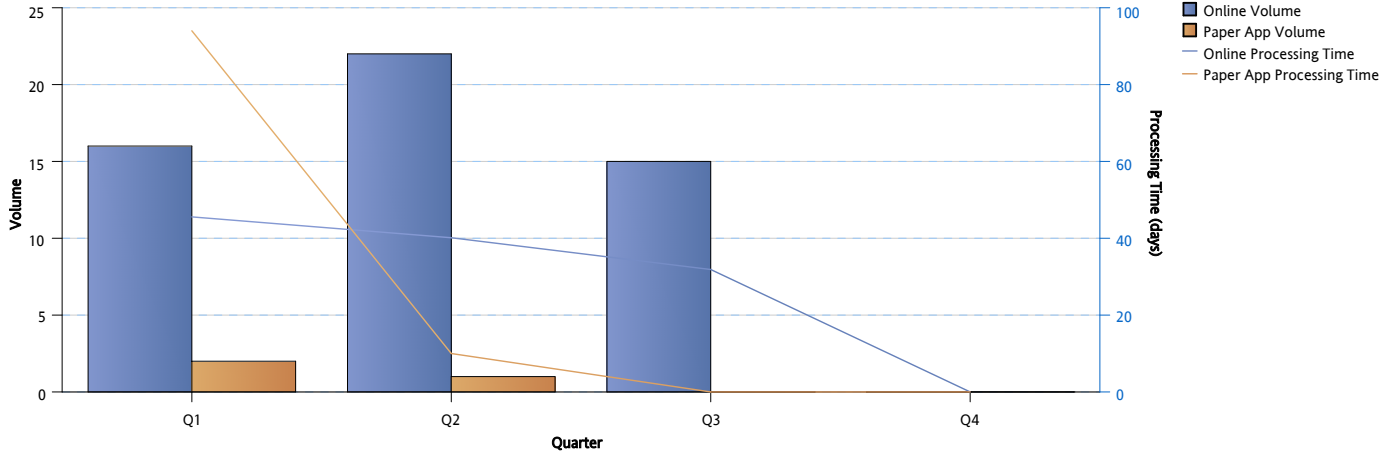
Optometrist - Initial License



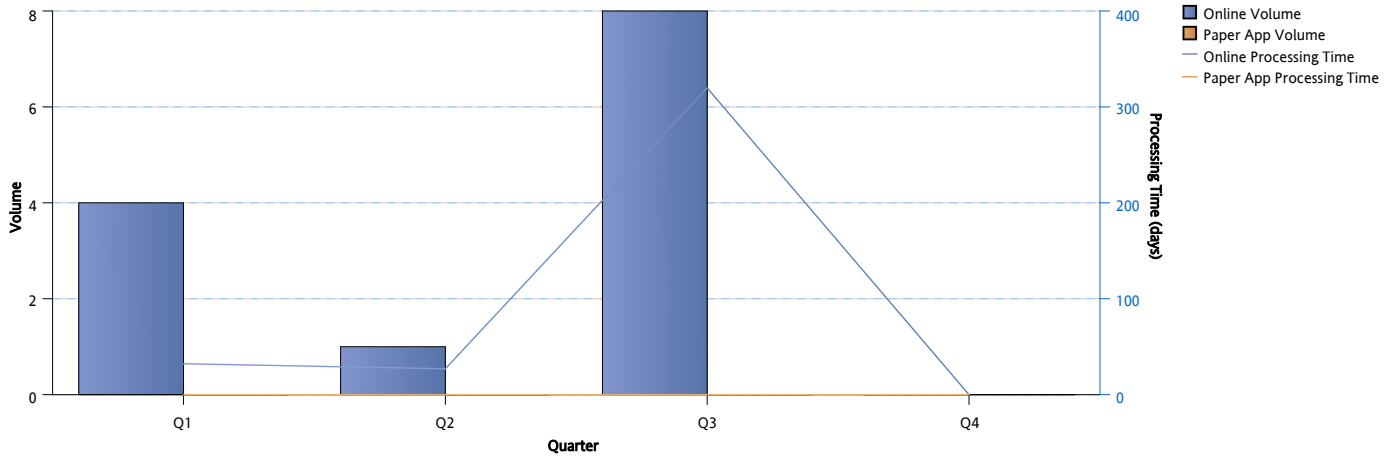
Statement of Licensure - Issue License



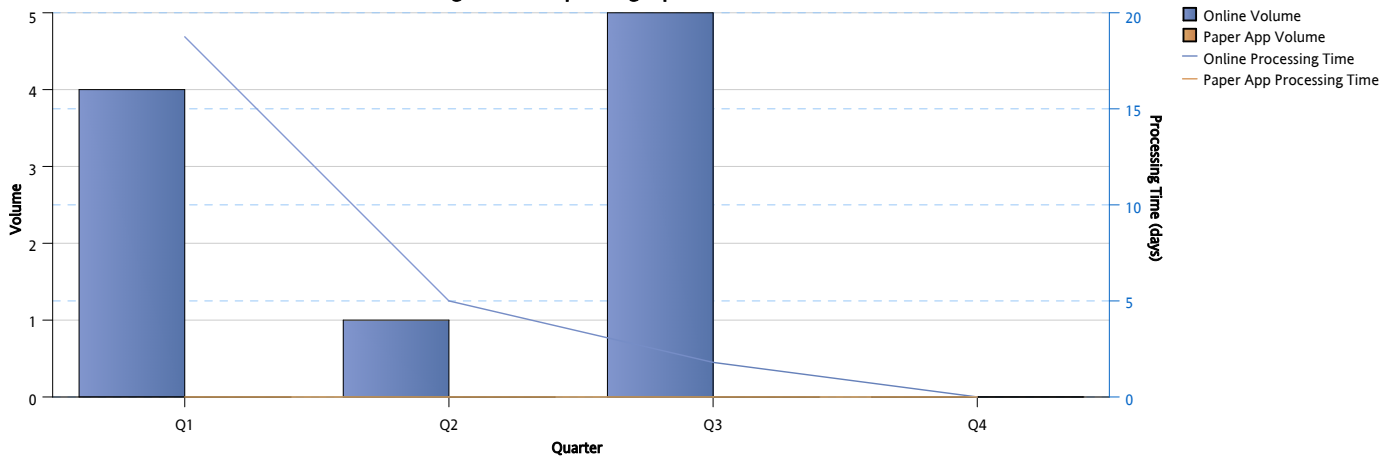
Fictitious Name Permit - Issue License



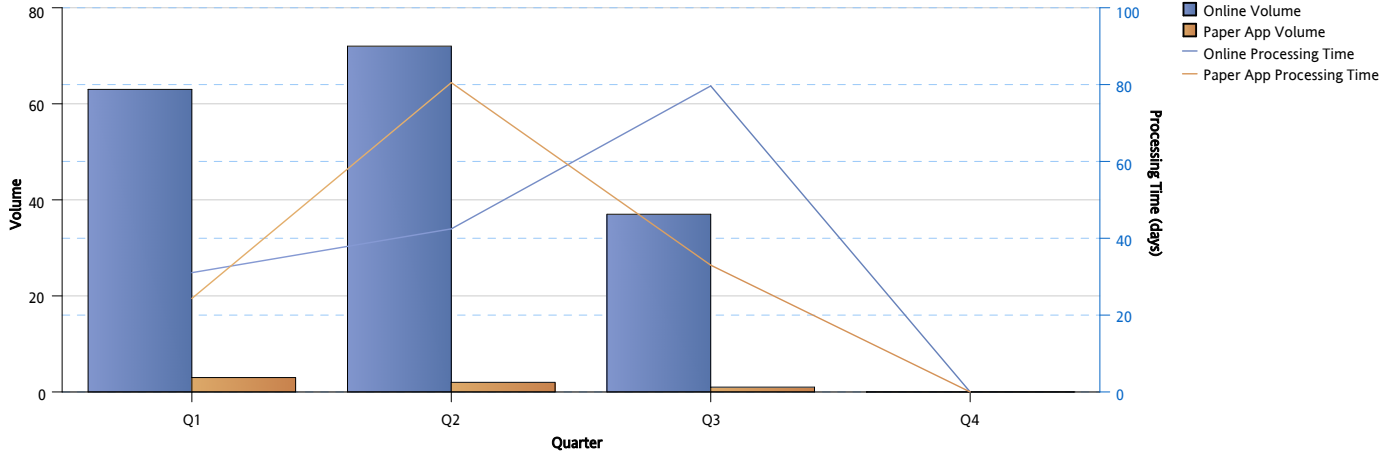
Registered Dispensing Optician - Initial Application



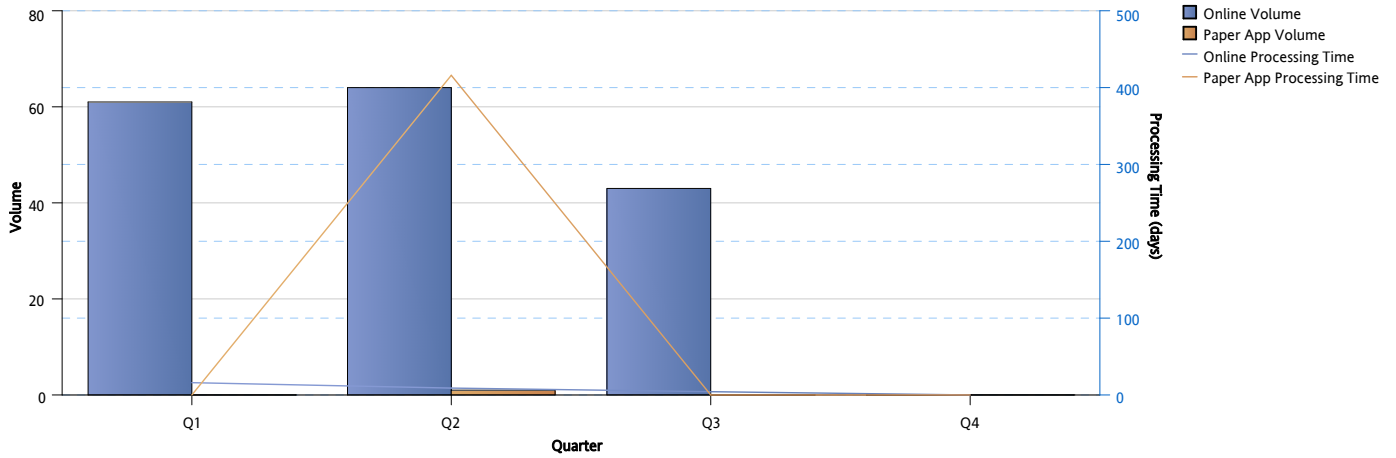
Registered Dispensing Optician - Initial License



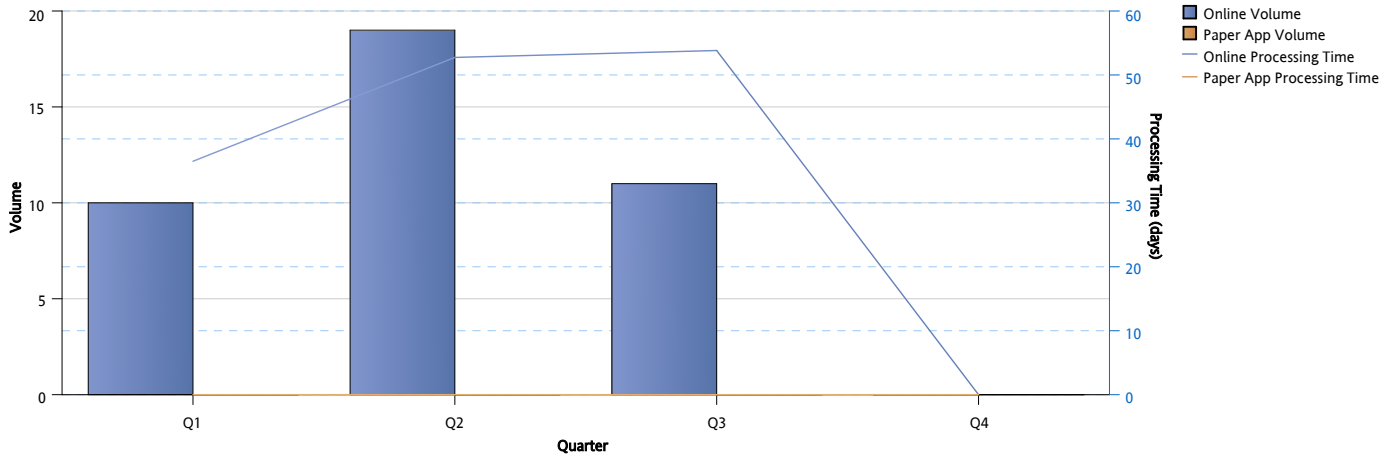
Registered Spectacle Lens Dispenser - Initial Application



Registered Spectacle Lens Dispenser - Initial License



Registered Contact Lens Dispenser - Initial Application

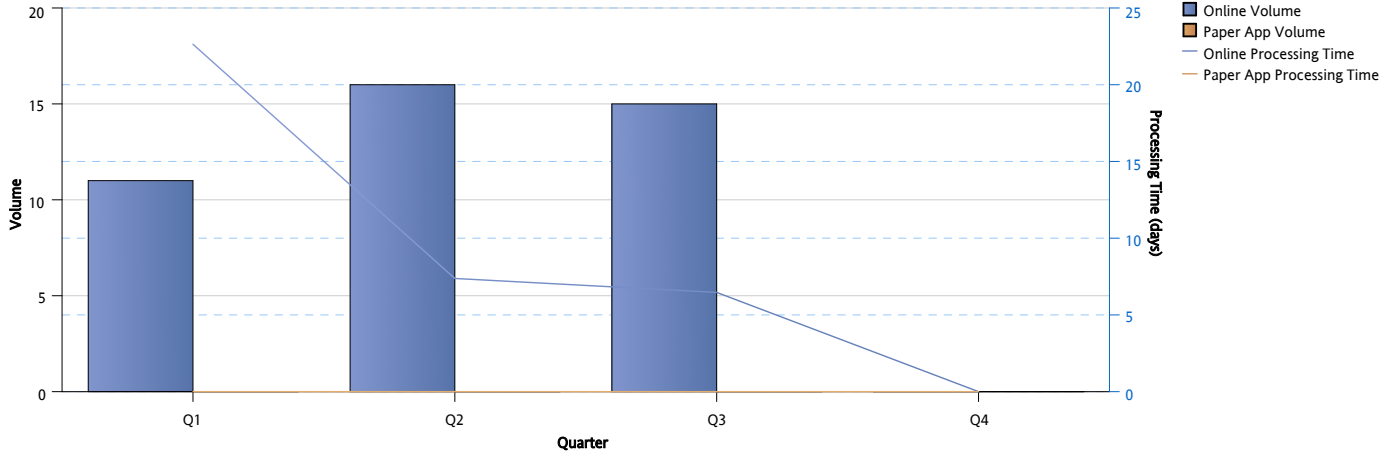




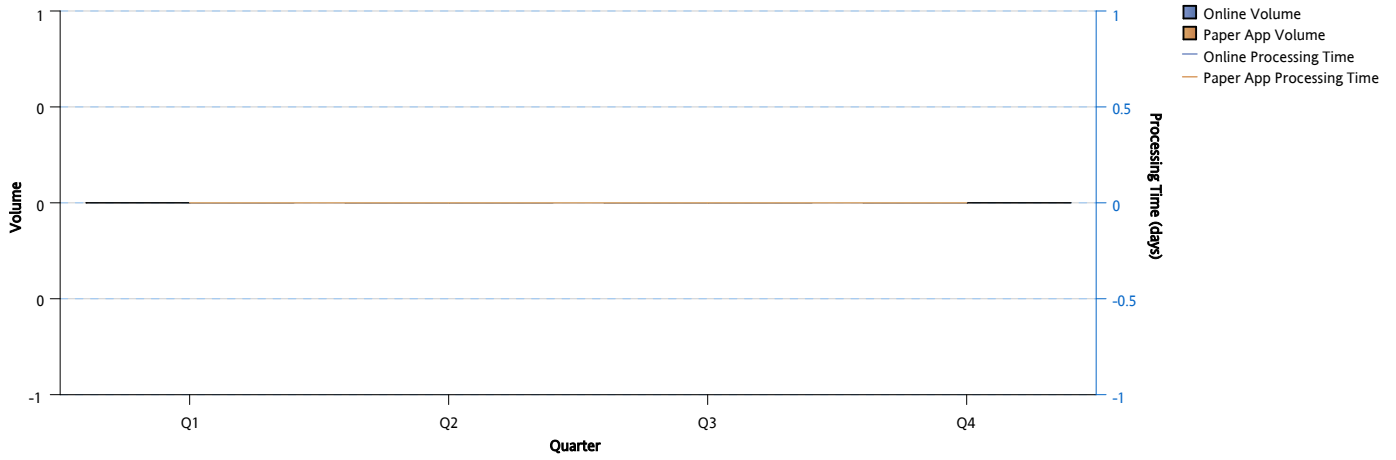
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2021



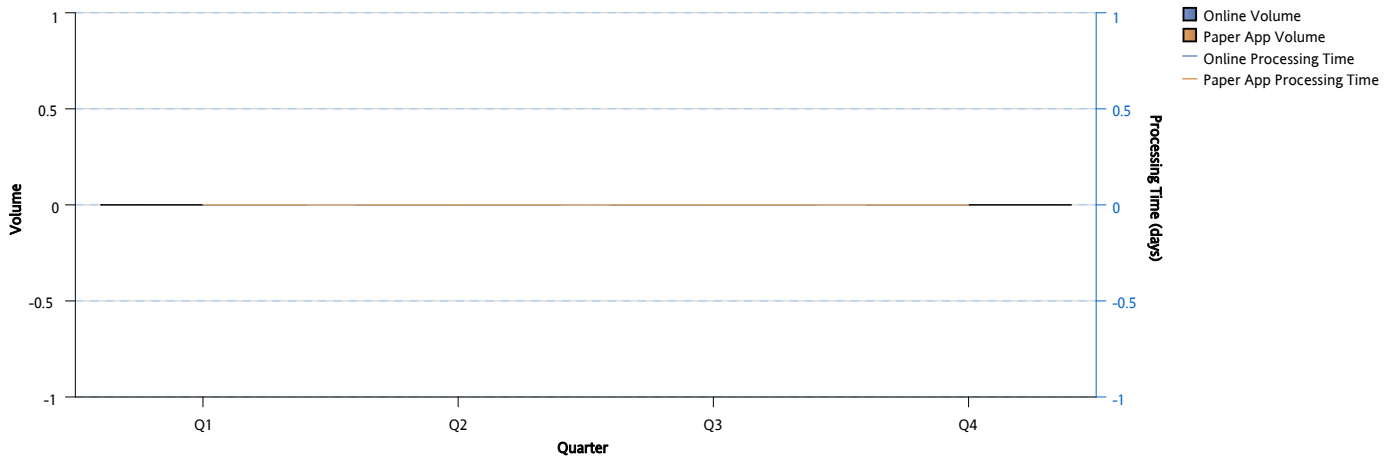
Registered Contact Lens Dispenser - Initial License



Nonresident Contact Lens Seller - Initial Application



Nonresident Contact Lens Seller - Initial License





ISSUE MEMORANDUM

DATE	February 26, 2021
TO	Members, California State Board of Optometry (CSBO)
FROM	Marc Johnson, Policy Analyst
SUBJECT	Agenda Item #5D: Regulatory Update

Status of Existing Regulatory Packages

Staff is currently working on the following regulatory packages which have been approved by the Board:

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

Subject: This proposal would implement AB 443, which allows a TPA-licensed optometrist to administer immunizations provided the applicant meets certain conditions and training.

Status: Currently with Business and Consumer Services Agency for pre-file approval before OAL submission for public notice, likely by March 2021.

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

Subject: This proposal would implement AB 2138, relating to denial of applications, revocation, or suspension of licensure and criminal convictions for optometry and opticianry program applicants.

Status: Submitted to Office of Administrative Law; expected approval by end of February. Once approved, the regulation should be effective on March 1, 2021.

Optician Program Omnibus Regulatory Changes (Amend §§ 1399.200 – 1399.285)

Subject: This proposal makes minor changes to the existing optician program regulations, limited to placing current initial registration and renewal forms (used with the BreZze system), align current fees with the statute and make other non-substantive changes. These changes would not affect any existing operations or modify any current processes.

Status: Approved by the Board at the August 14, 2020, public meeting; rulemaking package undergoing staff preparation for submission to DCA and Agency for pre-file approval with OAL by summer 2021.

Dispensing Optician Disciplinary Guidelines (Amend §1399.273)

Subject: The Optician Guidelines are used to impose discipline including conditions of probation for licensees that address the violations charged and are modeled after the Optometry Disciplinary Guidelines but are modified to meet the needs of the Optician Program.

Status: Approved by the Board at the August 14, 2020, public meeting; rulemaking package undergoing staff preparation for submission to DCA and Agency for pre-file approval with OAL by Spring 2021

Optometry Continuing Education Regulations (Amend §1536)

Subject: This proposal would make a series of changes to §1536, including allowing all 50 continuing education units to be taken online provided the courses meet certain conditions, an increase in self-study hours to 25, better definition of self-study hours and additional requirements for CE providers. Changes were also made to forms incorporated by reference into the section.

Status: Approved by the Board at the August 14, 2020, public meeting; rulemaking package undergoing staff preparation for submission to DCA and Agency for pre-file approval with OAL by Spring 2021.

Optometry Disciplinary Guidelines (Amend §1575)

Subject: 2019 Update of existing Optometry Board Disciplinary Guidelines. The changes include updates to enforcement processes; terminology used and implementation of changes made by the Substance Abuse Coordination Committee in fall 2019.

Status: The Consumer Protection Committee reviewed the guidelines at the September 13, 2019, public meeting. The full Board approved the regulatory text and Guidelines incorporated by reference at the October 25, 2019, public meeting. This rulemaking package is undergoing staff preparation for submission to DCA and Agency for pre-file approval with OAL by summer 2021.

Future Regulatory Packages

Staff anticipates beginning work on the following regulatory packages for Board approval in 2021.

Implementation of AB 896 (Adopt §§1583 – 1586)

Subject: This proposal will implement AB 896 (Low, Chapter 121, Statutes of 2020), which would allow nonprofit charitable organizations to provide mobile optometry services to patients and receive reimbursement by Medi-Cal. It requires the Board to develop a registry for mobile optometry offices and a consumer notice to be provided to patients. The bill requires regulations to be implemented by January 1, 2021.

Status: Presented to the Consumer Protection Committee on February 25, 2021.

Requirements for Glaucoma Certification (Amend §1571)

Subject: CCR Section 1571 sets out the requirements for Glaucoma certification. Due to COVID-19, optometry schools have been offering the Grand Rounds certification program, authorized by subsection (B), online as a live course. This proposal would remove the in-person patient evaluation requirement from CCR Section 1571 (B).

Status: Presented to the Practice and Education Committee and concurrent approval by the Board at the February 26, 2021 public meeting.

Implementation of AB 458 (Adopt §1507.5 and Amend §1524)

Subject: This proposal will implement AB 458 (Nazarian, Chapter 425, Statutes of 2019), which allows an optometrist to engage in the practice of optometry at a home residence, provided they meet specific requirements and submit an application to the Board and pay specified fees. The optometrist would also be required to provide a consumer notice to a patient.

Status: Presented to the Consumer Protection Committee on February 25, 2021.

ISSUE MEMORANDUM

DATE	February 26, 2021
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #5G: Update on Alternative Methods of Verification of Practice Competency

As directed by the Board during the October 23, 2020 meeting—staff and the Office of Professional Examination Services (OPES) engaged in research and analysis regarding optometry school-verification of clinical skills or the development of a state-specific test equivalent to the NBEO Part III.

Staff Recommendation: Maintain the national standard for verification of clinical skills. Continue to monitor test-taking rates and first-hand student reports.

	Pros	Cons
California-created Practical Exam	<ul style="list-style-type: none"> Reduces the necessity for applicants to engage in air/bus/train travel 	<ul style="list-style-type: none"> OPES discourages state-run practical exams and is phasing them out. Abandons systems successfully used during COVID-19 Pandemic.
School or College Verification Program	<ul style="list-style-type: none"> Reduces the individual steps to licensure. 	<ul style="list-style-type: none"> Not accepted by other states Governor/Department of Finance/Legislative Approval for BCP for exam/program 2-3 years to create exam; followed by timeline for implementation. Increase staff to administer exam/oversee program (additional cost in BCP).
NBEO Practical Exam	<ul style="list-style-type: none"> No extra costs to the Board. National Standard. NBEO updates exam to industry standards. 	<ul style="list-style-type: none"> Necessitates air/bus/train travel