



ISSUE MEMORANDUM

DATE	May 21, 2021
TO	Members, California State Board of Optometry (CSBO)
FROM	Dr. Debra McIntyre, O.D., Board Secretary
SUBJECT	Agenda Item #6 – Discussion and Possible Approval of February 26, 2021 Meeting Minutes

The meeting minutes for February 26, 2021 are presented for review and possible approval.

The mission of the California State Board of Optometry is to protect the health and safety of California consumers through licensing, registration, education, and regulation of the practice of Optometry and Opticianry.

MEMBERS OF THE BOARD

Mark Morodomi, JD, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Jeffrey Garcia, OD
Eunie Linden, JD
Sandra D. Sims, JD
David Turetsky, OD
Lillian Wang, OD
Vacant, Public Member
Vacant, Optician Licensed Member



**QUARTERLY BOARD MEETING
BOARD MEETING MINUTES**

Friday, February 26, 2021

This public meeting was held via WebEx Events.

Members Present	Staff Present
Mark Morodomi, President	Shara Murphy, Executive Officer
Glenn Kawaguchi, Vice President	Cheree Kimball, Assistant Executive Officer
Debra McIntyre, Secretary	Marc Johnson, Policy Analyst
Cyd Brandvein	Natalia Leeper, Licensing Coordinator
Jeffrey Garcia, OD	Rebecca Bon, Legal Counsel
David Turetsky, OD	
Lillian Wang, OD	

Link for the audio of discussions:

https://www.youtube.com/watch?v=wSK_qBDImul

OPEN SESSION

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

Audio of Discussion: [0:31 / 2:50:42](#)

Mr. Morodomi called the meeting to order at 12:00pm. All Members were present, and a 7-0 quorum was established.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: [1:26 / 2:50:42](#)

Public comment was received from a [concerned applicant](#) who did not provide their name. Applicant applied for a California State Board of Optometry (CSBO) license last March and was concerned about the lack of information about their license application. Ms. Murphy assured that she and staff are aware of this applicant's case; licensing and enforcement staff are working concurrently and will utilize some resources to bring movement to this case.

Public Comment was received from [Ms. Bonnie Dellatorre](#). Ms. Dellatorre spoke on Assembly Bill (AB) 443 regarding immunization certification and the California optometrist licensed renewal. She explained that California optometrists have been eager to obtain their immunization certification. The Southern California College of Optometry (SCCO) has had three pharmacy immunization programs with over 60 optometrists certified by the American Public Health Association (APHA). SCCO intends to advise their ODs that 15 hours of the 20-hour course may be used for their license renewal in the “other” category as therapeutic continuing education COPE category systemic disease using PH (for pharmacology) as the designation. She explained that many companies in California will not reimburse for CE unless it can be used as part of their relicensing hours. Ms. Dellatorre requested that if this issue is not discussed during Agenda Item 5, that it be placed on the agenda for the next Board meeting.

3. Board President’s Report

Audio of Discussion: [11:38 / 2:50:42](#)

Board President Mark Morodomi announced the Board is seeking additional candidates to become members of both this Board and the Dispensing Optician Committee (DOC). He asked for any viewers who are interested in affecting policy related to the practice of optometry and opticianry to please submit their applications to the Governor’s Office.

There was no public comment.

4. Update by Representatives of the Department of Consumer Affairs, which may include updates, Discussion and Possible Action Pertaining to the Department’s Administrative Services, Budgetary, Human Resources, Enforcement, Information Technology, Communications and Outreach, as well as Legislative, Regulatory and Policy Matters

Audio of Discussion: [15:38 / 2:50:42](#)

A. Department of Consumer Affairs

Carrie Holmes, Deputy Director of Board and Bureau Services at the Department of Consumer Affairs (DCA) announced that the DCA waiver was approved on February 11, 2021. This will allow optometrists with specified training and certification to order and administer COVID-19 vaccines. DCA is open to the public and all preventative safety measures continue to be in place to safeguard the health and safety of employees. Ms. Holmes explained that one of her office’s top priorities are appointments. She echoed what President Morodomi said earlier; the Governor’s Office needs applicants for these positions.

Ms. Holmes announced that for current Board Members, 2021 is a mandatory sexual harassment prevention training year. All employees and Members are required to complete the training within this year. She reminded Members that Form-700 filings are due April 1, 2021 and Board Members being designated appointees requires completion of a Statement of Economic Interests Form-700 even if there are no reportable interests. Ms. Holmes also announced that the Board and Bureau Services in partnership with SOLID training has

developed a new Board Member Orientation training to be held via WebEx on March 11th. She reminded the Members that newly appointed and reappointed Members are required to complete this training within the year of appointment.

Finally, she reported on two exciting initiatives launched by DCA's Director Kirchmeyer for 2021 to enhance DCA services to all boards and bureaus. The first is the Enlightened Licensing Project workgroup which will utilize subject matter experts within DCA. This will help boards and bureaus streamline licensing processes more effectively and efficiently. The second is an Executive Officer Cabinet. This group of executives will maintain regular communication, provide feedback and information to DCA, and assist with special projects that will impact all boards and bureaus. Ms. Murphy is a member of this new advisory body.

B. DCA Budget Office

The Board's newly assigned [Budget Analyst, Bikram Dhaliwal](#) provided the budget report. He reported that renewal fees provide the most revenue in every fiscal year and licensing fees are the second largest revenue driver. For the current year 20-21, the beginning balance was \$2,080,000. He added that going off the first half of the fiscal year, renewals are coming in at a higher rate than originally anticipated. The Department of Finance took \$117,000 out of Optometry's fund and transferred it as a loan to the General Fund. Because of the pandemic, debt, and budget shortfalls the Department of Finance decided to tap into some of these special funds; which will ultimately be paid back with interest. Ms. Murphy interjected explaining that previous loans had set payback dates of two to three years; however due to the unprecedented situation this loan does not have a set date. She assured that staff are watching very closely about what sort of triggers the Board has for ensuring payback before drastic cuts overall or drastic increases to fees need to be implemented.

Mr. Dhaliwal added that when you consider the \$2,082,000 and deduct \$117,000, the balance of total revenue is \$1,965,000 which brings us to the total resources of \$4,045,000. He noted that due to savings in personnel services, attorney general fees, travel, and certain other line items and categories, budgets is projecting overall that the optometry fund will save a lot of money in the current fiscal year. This will leave the Board with eight months in reserve. This is a decrease from the 12 months the Board saw previously. Ms. Brandvein questioned whether this period of increased revenues; are revenues accrued or not accrued; Mr. Dhaliwal responded that there is a 90-day window that licensees must pay their renewal fees, and DCA Accounting collected the revenue in advance; then it just happened to hit the month of October all-at-once. Ms. Brandvein explained that she is asking because we are including revenue that we do not yet have but are hoping to receive.

Next, Mr. Dhaliwal reported on the optician fund. The adjusted beginning balance for the RDO program from the previous year was \$868,000; revenue was \$680,000 with renewals being the main driver in the amount of \$406,000. The total resources were \$1,548,000; total expenditures were \$455,000 leaving a fund balance in reserve of \$1,093,000. The months in reserve is 26.2 which is very good and provides much cushion. This will help the optometry fund when merged on July 1, 2021. The current year beginning balance is \$1,093,000; revenues are fiscal-month-six projections. For current year program expenditures for fiscal-

month-six projections, Mr. Dhaliwal is anticipating total expenditures to be around \$469,000 leaving a fund balance of \$1,334,000. He does not have an exact date for when this balance will roll into the optometry fund.

There was no public comment.

5. Executive Officer's Report

Audio of Discussion: [1:01:12 / 2:50:42](#)

A. Enforcement Program

Mx. Kimball reported on the Enforcement Program. They announced that the Senior Enforcement Analyst, Matt McKinney accepted a promotion to serve as an Enforcement Program Manager with the Veterinary Medical Board. February 19th was his last day with the Optometry Board.

Mx. Kimball reported that in the second quarter of the current fiscal year the Board approved three disciplinary actions and granted two petitions for early termination of probation. They all become effective in January 2021. President Morodomi asked for the current number of the average age of pending cases; Mx. Kimball explained that the average age of pending cases has not increased significantly over the last year. Some high priority cases take longer than other cases they are dragging down the timelines. President Morodomi noted that the average days pending is 415 and questioned which cases are determined to be high-priority cases and what causes their delay? Mx. Kimball responded that high-priority cases are those that are most likely to go to the Division of Investigation (DOI); then subsequently are reviewed by an expert witness. They can take longer than a routine case. They clarified that there are currently 10 high priority cases that, when combined, amount to 415 days pending.

B. Examination and Licensing Programs

Ms. Leeper provided an overview on the Licensing Program. Staff has started to see the influx of the 2021 graduates ready to take their law exam. Staff is preparing for their Part II's to be submitted in the next couple of months, making last minutes changes to BreEZe and ensuring they have adequate contact information to provide to staff. The Frequently Asked Questions (FAQ's) has been updated for the new graduating season. Current processing times for new applications are 6-8 weeks and holding steady. Ms. Leeper reported the loss of one optician program employee causing processing times to increase from 4-6 weeks to 6-8 weeks. Management is trying to back fill that position with a retired annuitant. Additionally, The Board will be obtaining a new Office Technician for the licensing program in the new fiscal year. This should help regain some traction lost due to revolving staff.

Dr. Garcia asked what the current average pass rate is for the optician program; Ms. Leeper replied that for the national exam the average is around 48%. Dr. Garcia asked why the pass rate is so low; Ms. Leeper explained that the licensing department is researching this. Dr. Garcia asked how many years California has been below the national average and suggested that this be researched as well. President Morodomi asked for an explanation of the difference

between the Registered Dispensing Optician (RDO) Initial application and RDO initial license; Ms. Leeper explained that all the optician applications have two parts to them. The initial application contains the bulk of what she needs to receive in order to process an application. Once she has approved the application there is the initial license which simply means an additional fee must be paid and then she issues the license. Ms. Leeper clarified that the process was set up this way initially because the fees are separated out in statute. Staff has been entertaining combining it into one application to make the process smoother.

Mr. Kimball also noted Ms. Leeper had been promoted to Lead Licensing Analyst and proved she was the best fit for the program.

C. Regulatory Update

Mr. Johnson presented a regulatory update. He reported that staff is currently working on the following regulatory packages:

- Implementation of AB 443, which allows a TPA-licensed optometrist to administer immunizations provided the applicant meets certain conditions and training. This is the bill that allows optometrists to administer flu vaccines. It does not affect COVID vaccine administration. This package is being published today by the Office of Administrative Law (OAL) for the 45-day comment period.
- Implementation of AB 2138, relating to denial of applications, revocation, or suspension of licensure and criminal convictions or optometry and opticianry program applicants. The package has been submitted to the OAL. This bill was approved yesterday and is now in law.

Mr. Johnson announced that staff anticipates beginning work on the following regulatory packages for Board approval in 2021:

- Implementation of AB 896, which would allow non-profit charitable organizations to provide mobile optometry services to patients and receive reimbursement by Medi-Cal. The Consumer Protection Committee (CPC) reviewed this bill yesterday. Staff will continue working on this package and hopefully bring back to the CPC at the next meeting.
- Implementation of AB 458, 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 Committee would also be required to provide a consumer notice to a patient. This was presented to the Committee on February 25, 2021.

Regarding AB 443, Dr. Kawaguchi asked if it is still appropriate for the Practice and Education Committee (PEC) to discuss methods of dealing with the training hours and whether it would count as continuing education (CE). Does it require a regulatory change? Dr. Wang responded stating that traditionally the schools have self-regulated and categorized their own

CE. She added that Ms. Dellatorre had stated that from the 20-hour course they would take 15 hours and designate them as therapeutic hours. Dr. McIntyre suggested taking this up at the next meeting and see which courses are comprising that 15 hours and how they the hours apply towards the therapeutic requirement. Dr. Wang agreed and asked Ms. Murphy to add this to the next agenda.

D. COVID-19 Update

Dr. Turetsky asked if, in the event an optometrist provided a vaccine incorrectly which resulted in an adverse reaction, it would be the Board's jurisdiction to initiate investigation or would it be the California Department of Public Health's jurisdiction (CDPH); Ms. Murphy responded that staff will need to investigate this. Dr. Turetsky questioned whether the waiver includes flu vaccines or strictly COVID. Ms. Murphy confirmed that the waiver is only for the COVID vaccine.

Ms. Murphy clarified that the waiver was approved by the Director of DCA; the Process will go through the CDPH. The waiver allows optometrists to complete the correct courses and obtain basic life support certification. It allows optometrists to provide the vaccine in a public health care setting as well as a private practice setting. Board staff is asking optometrists who are part of a medical group to contact with their clinical director of their vaccination center to work with the CDPH to receive their verification and help within that clinic. Ms. Murphy announced that DCA is working collaboratively with the CDHP to develop modules which will clearly communicate the waiver process.

Public comment: Bonnie Delatorre. She announced that she was told by a pharmacist that they never go through the Board; they simply obtain certification by showing their director confirmation of having completed the waiver requirements.

E: 2021-2025 Strategic Plan Update

Ms. Murphy announced that the pre-action planning inquiry for the Board's strategic plan will soon be made available on the Board's website. On March 5th, staff will meet with SOLID and review the pre-action plans to develop an action plan. Once the action plan is completed, staff will bring it to the appropriate committees to inform them of the progress and how staff will be moving forward. Those committee chairs may then report the progress to the Board at the full Board meeting.

F. Update on New Federal Contact Lens Rules

Ms. Murphy provided an update on the Federal contact lens rules. Staff was watching this last year and did not have an opportunity to comment during the process. These new rules were intended to go into effect in October but were delayed until an implementation date of March 31, 2021. There has not been a complete legal review, but staff have looked at it and understand that the Federal contact lens rule supersedes Board statute. The issue was sent to the CPC for further discussion.

President Morodomi questioned whether it is always true that Federal rule supersedes Board authority. Ms. Murphy referenced the rule itself. *“Rule 315.11 effect on state and local laws and regulations that establish a prescription expiration date of less than one year or that restricts prescription release or require active verification are preempted. Rule 315.11(b) any other state or local laws or regulations that are inconsistent with the act or this part are preempted to the extent of the inconsistency”*.

She added that there is the intent that this sets a national standard. If the Board wishes to go beyond the national standard, a complete legal review would become necessary.

G. Update on Alternative Methods of Verification of Practice Competency

Members and staff continued their discussions regarding the National Board of Examiners in Optometry (NBEO) only having one testing site and the need for graduates to be able to continue with their testing should that site become unable to accommodate testing for whatever reason. They discussed how this issue has been formerly approached from the perspective of COVID and future pandemics; however, the impact of one site is far broader in scope as any type of crisis can occur. Ms. Murphy assured that conversations with the NBEO and executive officers in the other western states are occurring (monthly) and will continue to occur in order to solve this problem with either the development of a second testing site and/or some form of contingency plan in place. Ms. Brandvein contended that she would hate for the Board to rely on just one single building from one single provider; it is a single point of failure.

Dr. Kawaguchi noted that one of the things that separates California as a state is that we have three large optometry schools putting out a lot of graduates. Additionally, California has a large population of optometrists, so we serve a very large population of consumers as well as licensees. Not having a backup plan puts a lot of people at risk. He believes it would help if awareness is made to the other state boards to view this issue from a perspective far beyond just COVID-19. Ms. Brandvein and Dr. Wang will comprise a workgroup to handle this issue.

There was no public comment.

6. Discussion and Possible Approval of Board Meeting Minutes

Audio of Discussion: [2:20:22 / 2:50:42](#)

- A. September 18, 2020**
- B. October 23, 2020**
- C. November 20, 2020**
- D. December 11, 2020**

Members had no changes. There was no public comment.

Dr. Lillian Wang moved to approve the September 18, 2020 Draft Board Meeting Minutes. Dr. David Turetsky seconded. The Board voted (6-Aye, 0-No, 1-Abstain) and the motion passed.

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

Dr. Debra McIntyre moved to approve the October 23, 2020, the November 20, 2020, and the December 11, 2020 Draft Board Meeting Minutes. Dr. Lillian Wang seconded. The Board voted unanimously (7-0) and the motion passed.

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

7. Discussion and Possible Action to Initiate Rulemaking Process to Amend Title 16, California Code of Regulations Section 1571 (Glaucoma Grand Rounds Program)

Audio of Discussion: [2:27:32 / 2:50:42](#)

Mr. Johnson reported on the status of California Code of Regulations (CCR) Section 1571 which sets out the glaucoma requirements for licensees. In response to COVID, Marshall B. Ketchum university was granted a director’s waiver to offer their grand rounds program online as a live course. This proposed regulation would make a change to 1571(b), in deleting the requirement that patients must be evaluated in person. Dr. Wang expounded on this stating that glaucoma certification applicants who graduated prior to 2007 had to complete a glaucoma certification course. In the regulations it states that the course must be in-person. She noted that Ketchum’s virtual glaucoma course took the exact same amount of time as the in-person course and they did a very good job. She added that the number of glaucoma courses being offered has drastically been reduced; therefore, she feels this is a good option for the future. Dr. Kawaguchi requested clarification on what “live” training means.

Public comment was received by [Ms. Tiffany Witherspoon](#), Director of Continuing Education for Western University. She asked if there is a specific method for submittals of online CE request and requested more clarification.

Glenn Kawaguchi moved to approve the proposed text for California Code of Regulations Title 16 Section 1571 as presented and discussed including conversations to clarify the live training, and direct staff to submit the text to the Office of Administrative Law for posting for a 45-day comment period; and if no adverse

comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, making any non-substantive changes to the package and set the matter for hearing. Cyd Brandvein seconded. The Board voted unanimously (7-0) and the motion passed.

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

8. Future Agenda Items

Audio of Discussion: [2:43:45 / 2:50:42](#)

Dr. Turetsky would like to have a discussion regarding Section 3109 of Optometry Laws and Regulations. He believes it would benefit the public to remove the “specialty of ophthalmology” part. He believes this just restricts the public’s access to various methods of care.

There was no public comment.

9. Adjournment

Meeting adjourned at 2:43 p.m.