



ISSUE MEMORANDUM

DATE	December 9, 2022
TO	Members, California State Board of Optometry (CSBO)
FROM	Eunie Linden, Board Secretary
SUBJECT	Agenda Item #5 – Discussion and Possible Approval of Meeting Minutes

The following meeting minutes are presented for discussion and possible approval:

- August 26, 2022 Board Meeting

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

Lillian Wang, OD, President
Jeffrey Garcia, OD, Vice President
Eunie Linden, JD, Secretary
Stacy Hancock, Optician
Glenn Kawaguchi, OD
Mark Morodomi, JD, Public Member
Joseph Pruitt, OD
Jonathon M. Ross, OD
Sandra D. Sims, JD, Public Member
Donald Yoo, JD, Public Member
Vacant Governor Appointee, Public Member
Shara Murphy, Executive Officer



**QUARTERLY BOARD MEETING
DRAFT BOARD MEETING MINUTES**

Friday, August 26, 2022

This public meeting was held via WebEx Events.

Members Present	Staff Present
Lillian Wang, OD, President	Shara Murphy, Executive Officer
Jeffrey Garcia, OD, Vice President	Randy Love, Assistant Executive Officer
Eunie Linden, JD, Secretary	Terri Villareal, Enforcement Lead
Stacy Hancock, Optician	Eric Phomthevy, Licensing Technician
Glenn Kawaguchi, OD	Brad Garding, Enforcement Analyst
Jonathon Ross, OD	Sabina Knight, Legal Counsel
Donald Yoo, JD	
Members Absent	
Mark Morodomi, JD	
Sandra Sims, JD	Guests
Joseph Pruitt, OD	On File

Link for the audio of discussions: <https://youtu.be/HVwXzPZKDFU>

OPEN SESSION

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

Audio of Discussion: [0:07](#)

Board President, Dr. Lillian Wang called the meeting to order. Board Secretary, Eunie Linden took roll call and a quorum was established. Mark Morodomi, Sandra Sims, and Dr. Joseph Pruitt were absent.

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).)

Audio of Discussion: [2:36](#)

Public Comment was received from Dr. James Dearstorff. He stated that he spoke to the Board during the March 2022 meeting about efforts in Ventura and Santa Barbara Counties to develop a mobile optometric clinic. Dr. Dearstorff requests that the Board place this on the December 2022 agenda. Executive Officer, Shara Murphy asked Dr. Dearstorff to email the Board with his personal information so that staff may make connection with him.

Public Comment was heard from Bonnie Dellatorre who had technical issues with her microphone. She stated that she would email Ms. Murphy her comments regarding CE for immunization certification.

3. Department of Consumer Affairs Update

A. Executive Office

B. Budget Office

Audio of Discussion: [7:55](#)

DCA Legislative Manager, Gregory Pruden delivered an update on DCA's Executive Office. Mr. Pruden reported that the Governor signed Senate Bill 189 on June 30, 2022, which reinstitutes through July 1st of next year, the remote meeting provisions of the Bagley-Keene Open Meeting Act that were in place during the pandemic. The changes took effect immediately. DCA wants boards and bureaus to have the right meeting for their business while taking into consideration both costs and public participation. Therefore, boards are still being asked to track costs for meetings and to use WebEx as much as possible to allow the public to attend remotely. Additionally, DCA is asking boards to complete the public meetings survey to assist in tracking costs for board meetings allowing a comparing of costs for in-person and WebEx meetings. This Legislative change is only in place for this fiscal year until July 1, 2023. DCA asks that the surveys be completed within 30 days of each meeting. Though Legislation has passed allowing remote meetings, DCA is reminding boards that choose to hold "in-person" meetings of the safety measures, best practices, and recommendations for holding public meetings. Mr. Pruden instructed that prior to meeting in person or at a remote location, Members need to submit vaccination verification to DCA's Office of Human Resources or be subject to COVID-19 testing. He announced that on July 5, 2022, DCA held a brown bag meeting with Executive Officers and Bureau Chiefs to roll out changes to the DCA's regulation development and approval process. These changes were discussed and approved by the DCA's Executive Officer and Bureau Chief Cabinet.

On August 10, 2022, the Department conducted a brown bag meeting on the topic of social media in which a presentation included an overview of social media best practices, content example, security, and more. Mr. Pruden reported that the Department takes a proactive and strategic approach to the recruitment and training of its skilled and diverse workforce. To achieve this DCA is updating its annual workforce and secession plan. As part of this process the Department recently requested that board and bureau leaders complete a workforce survey, which will be used with other information to inform decisions that align and support the Department's new strategic plan. He announced the hiring of new DCA staff. Nicole Le was hired on June 24, 2022, as the DCA Deputy Director of Administrative Services. Olivia Trejo was appointed as DCA's Chief of the Office of Human Resources as of August 1st. Taylor Schick was appointed as DCA's Chief Fiscal Officer in July 2022. Mr. Pruden reminded Members that they are required to complete the Board Member Orientation Training (BMOT) within one year of appointment and reappointment.

Budget Analyst, Veronica Hernandez presented the Board's expenditure projections and the Fund Condition Statement. The expenditure projections are based on actuals and projected expenses as of fiscal month 12 or through June 2022. The Board had a beginning budget of approximately 2.9 million which includes \$93,000 in reimbursement authority. Year-to-Date (YTD) the Board has expended approximately 2.2 million and is projected to spend approximately 2.3 million leaving a reserve balance of \$605,000 or about 20.84 percent. This is considered a very healthy reserve and the Budget Office has no concerns at this time. The Board began 2020-2021 with an adjusted beginning balance of close to 2.1 million, collected approximately 1.8 million in revenue and expended approximately 1.7 million in direct expenditures plus an additional \$143,000 in direct

draws from the fund to support statewide expenses for a total expense of just under 1.9 million. The Board ended 2020-2021 with a little over a 2 million reserve balance or about 10 months in reserve. For fiscal year 2021-2022 based on the fiscal month 12 data, Ms. Hernandez projected the Board to receive an estimate of 2.559 million in revenue which is approximately \$183,000 less than was projected in the Governor's budget. Expenditures for this fiscal year as a fiscal month 12 are projected to be approximately 2.3 million with an additional \$177,000 in direct draws to the fund for a total projected expenditure of 2.6 million. The Board is projected to end the current year with 2.1 million or 6.3 months in reserve. For budget year and ongoing revenue is projected to remain stable, estimated approximately 3 million in revenue. The fund balance remains stable currently showing a fund balance of 4.3 months in reserve by the end of 2023-2024. This fund condition was prepared on August 17, 2022. One of the main factors driving expenditure increases in future years is a result of personnel services adjustment. The budget office adds an additional 3 percent to account for these ongoing incremental adjustments; however, the fund condition does not include increased enforcement expenditures which may create additional cost pressures to the Board's fund in out years. Ms. Hernandez noted that any future legislation or unanticipated events could result in the Board's need for additional resources which would increase pressure on the fund.

Matt Nishimini from the DCA Budget Office and the DCA Regulations Unit also provided a presentation on the Board's budget. He announced that he has been actively following the Board meetings and monitoring the Board's budget for the past year. His role is to assist the Board in navigating the next few years to stabilize the Board's funding and spending and ensure ongoing operations. He reminded the Board of its fiduciary responsibilities under current law. Pursuant to the Budget Act, the Board is allocated a budget appropriation for a specific purpose with a year to spend those funds. The Board is responsible for ensuring that the fund remains solvent and not attempt to incur expenditures over the legally authorized budget appropriation. The Budget Act states that officers of the various departments and boards are expressly forbidden to make any expenditures over these appropriations and any member who votes for any expenditure or create any indebtedness against the state in excess of the respective appropriations shall be liable both personally and on their official bond. Mr. Nishimini stressed that the Board's fund condition has concerns. He reported that when comparing the 2022-2023 fiscal year budget with the 2021-2022 fiscal year budget the FY 22-23 budget projects revenues of 2.441 million primarily in renewal fees and \$571,000 in initial licenses and permits for a total of 3 million ninety thousand dollars. During the prior year, although 2.7 million was projected, only 2.559 million was brought in. So, the projection was overestimated by nearly \$200,000. This occurred primarily due to RDO registrations being overstated by approximately \$135,000. The remainder of the overestimate was due to the mobile clinics revenue that has not yet begun. Additionally, the expenditures increased from the previous year by about 68 percent. This increase is due to 5 budget change proposals (BCP's) the Board was approved for. The Board is currently structurally imbalanced by \$964,000, which will grow and accelerate over time unless the Board takes corrective action.

Mr. Nishimini presented the Board with corrective options. He explained that the Board's fees are established in statute and set regulatorily, and currently not all the fees are set at the statutory cap. This means the Board can increase its fees through the regulatory process. Raising all the fees to the statutory cap will generate about \$500,000 to \$600,000 per year. However, this will not eliminate the structural imbalance by itself which means the Board will need a statutory increase as well. Additionally, Members may opt to cut costs. Without changes the Board may become insolvent in as early as 24 months. The most expeditious way to increase the fund would be through the regulatory process to generate another \$500,000 to \$600,000 annually and would delay insolvency. Board staff with the assistance of the regulatory unit will help to prepare the regulatory documents. The first document is an internal desk fee study to eliminate and justify any new fee levels and is a statutory requirement. This study is a two-to-four-month project. He encouraged the Board to begin this analysis as soon as possible. Once this analysis is completed, Legal will work with staff on regulatory text to adjust the fee levels, which staff will possibly present before the Board at its December 2022 meeting. Meanwhile the 24-month clock is ticking. He suggested that the Board may also need stakeholder meetings to inform its licensees of what is happening and of the regulatory increase as step one and then step two seek legislation in the future. Upon Board

Member approval the package and supporting documents are completed in coordination with the DCA Regulatory Unit. This will take another 2 to 6 months. Upon approval from DCA the package goes to Agency. Agency has 30 business days. Then the package goes out for public comment and based upon public comment, it may be necessary to revise the regulatory text. After responding to public comment, the documents are finalized. Then the package goes back to DCA for review, Agency for review, the Department of Finance and Office of Administrative Hearings for review. Concurrently, the Board will need the IT configuration of these new fee levels with the Office of Administrative Services (OAS). OAS will have to test the new fee levels to ensure they are being adjusted appropriately. Mr. Nishimini encouraged Members to engage with a statutory increase concurrently.

Dr. Garcia asked if this is a similar situation faced by other boards or if it is unique? Mr. Nishimini responded saying it is not unique. Most other boards are facing cost increases. The part that is unique is that this Board has increased operational costs by 70%. He noted that license fee increases appear to be more regular now.

Dr. Garcia questioned if license fee caps change annually based on the cost of living or some other formula? Mr. Nishimini explained that a formal third-party fee study is only required when seeking statutory changes. Caps are one way to go; others use ranges. If a range is enacted with a minimum and maximum fee, boards may start at the minimum and increase up to the maximum without seeking changes regulatorily or statutorily. There is no cost-of-living cap; it is a hard cap. Mr. Nishimini suggested that it may a good idea to hold a fee study every 4-5 years to stay ahead.

Ms. Linden asked if any of the BCPs for new positions were related to the takeover of the Registered Dispensing Optician program? Ms. Murphy explained that much of the BCPs were to address the Board with its backlog of enforcement cases that sat for 3-4 years and were not worked on. A unit manager was brought in to help staff work their caseloads appropriately. Additional licensing help was brought in; many of which were to support the mobile optometric clinic service delivery. Others were to help with the increase of certifications that have been enacted through Legislation.

Dr. Garcia questioned where information on citations and fines would be found on the budget? Mr. Nishimini advised that this information will be found under "other regulatory fees and permits" section. Budgets will provide staff with a more detailed breakdown. He explained that they do not want to budget based on citations and fine. A licensee who is being disciplined by the Board may not have a job or they may simply leave. Therefore, it is extremely difficult to budget off disciplinary revenue. Ms. Murphy added that the Board can work with the Franchise Tax Board to collect these fees, which does not include businesses. Staff is also in the process of reviewing opportunities to work with debt collectors but have not had the staff bandwidth to find an appropriate number of resources and go out to bid for a contract.

There were no requests for public comment.

4. Board President's Report

A. Formation of, and Appointment to Committees

Audio of Discussion: [1:05:56](#)

Dr. Wang welcomed the two new Board members, Dr. Jonathon Ross and Stacy Hancock who introduced themselves to the public.

Dr. Wang directed Members' attention to a list of committees and workgroups in their materials. She announced that she wishes to put the list to a vote for appointing a few of the Board's most recent past Members to become a part of the workgroups. She explained that Dr. Glenn Kawaguchi is still part of the Optometry and Optician Practice Act Workgroup, and she wants to put it to a vote to have Dr. David Turetsky continue to be a member of this workgroup.

There were no requests for public comment.

Dr. Jeffrey Garcia moved to appoint Drs. David Turetsky and Glenn Kawaguchi to the Optometry and Optician Practice Act Workgroup. Dr. Jonathon Ross seconded. The Board voted unanimously (7-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Garcia	X				
Ms. Linden	X				
Ms. Hancock	X				
Dr. Kawaguchi	X				
Mr. Morodomi				X	
Dr. Pruitt				X	
Dr. Ross	X				
Ms. Sims				X	
Mr. Yoo	X				

Dr. Wang stated that Dr. Madhu Chawla has been sitting on the Board's Practice and Education Committee as a past Board member, and Dr. Wang wishes to have a motion for Dr. Chawla to remain on the Committee for an additional year.

There were no requests for public comment.

Jonathon Ross moved to appoint Dr. Chawla to the Practice and Education Committee for another year. Lillian Wang seconded. The Board voted unanimously (7-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Garcia	X				
Ms. Linden	X				
Ms. Hancock	X				
Dr. Kawaguchi	X				
Mr. Morodomi				X	
Dr. Pruitt				X	
Dr. Ross	X				
Ms. Sims				X	
Mr. Yoo	X				

Dr. Wang announced that past member, Cyd Brandvein sat with her on the National Board of Examiners in Optometry (NBEO), Association of Regulatory Boards in Optometry (ARBO) workgroup, and she would like to have a motion to appoint Ms. Brandvein to continue providing her expertise to the workgroup.

There were no requests for public comment.

Lillian Wang moved to appoint past member Cyd Brandvein to the NBEO/ARBO workgroup. Jonathon Ross seconded. The Board voted unanimously (7-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Garcia	X				
Ms. Linden	X				
Ms. Hancock	X				

Dr. Kawaguchi	X				
Mr. Morodomi				X	
Dr. Pruitt				X	
Dr. Ross	X				
Ms. Sims				X	
Mr. Yoo	X				

Dr. Wang recommended appointing the Board's new member and registered optician, Ms. Hancock to the Dispensing Optician Committee (DOC). With this appointment, the DOC will be able to schedule a meeting immediately upon the Governor's appointment of enough committee members to allow committee vote.

There were no requests for public comment.

Lillian Wang moved to appoint Stacy Hancock to the Dispensing Optician Committee. Jonathon Ross seconded. The Board voted unanimously (7-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Garcia	X				
Ms. Linden	X				
Ms. Hancock	X				
Dr. Kawaguchi	X				
Mr. Morodomi				X	
Dr. Pruitt				X	
Dr. Ross	X				
Ms. Sims				X	
Mr. Yoo	X				

5. Discussion and Possible Approval of Meeting Minutes

A. March 11, 2022 Board Meeting

B. May 20, 2022 Board Meeting

Audio of Discussion: [1:16:49](#)

There were no requests for public comment.

Eunie Linden moved to approve the March 11, 2022 and May 20, 2022 Draft Board Meeting Minutes as presented. Jonathon Ross seconded. The Board voted unanimously (7-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Garcia	X				
Ms. Linden	X				
Ms. Hancock	X				
Dr. Kawaguchi	X				
Mr. Morodomi				X	
Dr. Pruitt				X	
Dr. Ross	X				
Ms. Sims				X	
Mr. Yoo	X				

Dr. Wang announced that the meeting will be taken out of order. Dr. Ruth Shoge will provide the presentation for Agenda Item 6 at 1:00 p.m. upon the Board's return from lunch. The meeting moved to Agenda Item 7.

6. Pursuant to CSBO 2021-2025 Strategic Plan, Goal 5 on Outreach: Presentation on Diversity, Equity, Inclusion, and Belonging (DEIB) by Dr. Ruth Shoge, O.D. (Director of DEIB and Associate Clinical Professor, Herbert Wertheim School of Optometry & Vision Science at the University of California, Berkeley)

Audio of Discussion: [1:48:37](#)

Upon reconvening Ms. Linden took roll call, and a quorum was established. Mr. Morodomi, Ms. Sims, and Dr. Pruitt were absent.

Dr. Ruth Shoge, O.D. and Associate Clinical Professor at the Berkeley School of Herbert Wertheim School of Optometry and Vision Science provided a presentation on Diversity, Equity, Inclusion, and Belonging (DEIB) in optometry in which she is the Director. She explained what it is and why it is important. She began with a land acknowledgement of the indigenous tribes for which Sacramento is their ancestral land. With truth, transparency, and reconciliation the DEIB acknowledges the existence and impression of oppression and exclusion of these people. DEIB also recognize the actions that are necessary to rectify past wrongs. Dr. Shoge described her cherished family life, her professional career history (which includes pediatrics, binocular vision, vision therapy and traumatic brain injury populations), and the circumstances and events that led her to becoming Director of the DEIB. Her experience in working in various geographical clinics where some were primarily a black population and some clinics where primarily a white population revealed to her that there exists a disconnect and that something is missing in terms of health care. Dr. Shoge attended Temple University where she obtained her M.P.H. concentrated in social and behavioral science. She started a consulting company for the purpose of advocating the optometric profession, students, faculties, practicing optometrists in the community on why health disparities, cultural competencies are important to our practice. Through the consultation she worked with Berkeley. The Dean offered her a job and that is how she found herself here.

Dr. Shoge led the Members in a visualization exercise. She then explained that the associations and visualization we make are unconscious biases that are reinforced. They are formed involuntarily by our life experiences. Unless we have experiences that break some of the stereotypical daily reinforcement that we experience, it is difficult to break out of that box. Cognitive neuroscience research has demonstrated that most of the decisions people make are alarmingly contaminated by our biases which would have some effect on patient care. One bias that has stood out in Dr. Shoge's research is one called "physician bias". Our assessments of others are never as objective as we would like to believe unless we are actively working to break our biased associations. These have been known to be related to ongoing health care disparities. Through the health care disparity research, the US health care system decided several decades ago that for good health care certain aims were needed (quality, effectiveness, patient centeredness, timely, safe, and efficient). It was later learned equity needed to be added as a health care aim. In 2010, the institution of medicine did a follow up report to see how the US is doing in providing this quality health care; particularly in reducing disparities. They found that with regards to equity there had been little progress and was coined "the forgotten aim". In an equitable system assistance should be tailor made to the people who need them. Dr. Shoge noted that there is a level beyond equity which is justice. If the structural problems of the system are fixed, then providing equal access to tools and assistance makes sense in a just system.

People who have been in a historically marginalized group tend to have worse health care outcomes. These groups tend to be at greater risk of losing their vision from a variety of eye diseases. They are less likely to be screened for diabetic retinopathy (for example) and have a higher prevalent and more severe form of the disease. This is proportionately affected by poverty level. The communities most affected are those in the black community, Latinx and American Indian, and these groups have 2.8 times or more chances of having visual impairment and blindness. Additionally, there is a maldistribution of health professionals in rural populations, which has worsened over the years. 20% of the US population lives in non-metropolitan areas and 50% of them have a primary health care provider shortage. Only 10% of practicing physicians are based in rural

areas. There is an anticipated 25% increase in visual impairment and blindness by 2050 which coincides with an aging population. Dr. Shoge noted that differences are also seen in sex and gender as certain eye diseases are more common in females. Authors of the racial and socioeconomic differences in eye care utilization among Medicare beneficiaries with Glaucoma study found that disparities among black and Hispanic patients with glaucoma persisted even after stratification by socioeconomic status suggesting that systemic racism may be an independent driver. Dr. Shoge believes that more research is needed to have the appropriate conversation and take the appropriate measures for change. Community engagement and targeted intervention will be a huge solution to the problem of health care and eye care disparities. One possible under tapped resource are federally qualified health care centers. Currently 70% do not have onsite eye care in those facilities. Routine school vision screenings are also very important. Improving work force diversity, improved patient education and engagement, and ongoing bias awareness and culturally responsive care training and efforts in technology are important intervention measures. All people have biases and a susceptibility to biases. Acknowledgement, awareness, and action leading with cultural humility will be key to combating our biases.

Dr. Shoge described her priorities at the Berkeley DEIB and defined diversity, equity, inclusion and belonging. The DEIB seeks diversity in its student body, faculty body and staff body.

Ms. Linden asked if Dr. Shoge knows what percentage of licensees take cultural competency (without requirement) as part of their CE requirement. Dr. Shoge stated that she would need to ask the academies. Only in the last few years has she seen cultural competency courses popping up in the academies. Ms. Murphy noted a parallel with this Board in that it allows and encourages licensees to take courses in child and elder abuse as part of their CE requirements. The Board's CE audits reveal that very little (if any) of these courses are being taken by licensees. She noted that suggestion is great however it is in requirement that you really see people dig in and begin to engage with the content. Ms. Linden proclaimed that she would love to push for this as a requirement.

The meeting moved to Agenda Item 8.

7. Discussion and Possible Action to Amend Title 16, CCR, Section 1536, Optometry Continuing Education

A. Attachment A

B. Attachment B

Audio of Discussion: [1:20:14](#)

Ms. Murphy provided a summary and history of this agenda item. In 2019 and 2020, the Board approved a series of changes to CCR, Section 1536 ("Continuing Optometric Education; Purpose and Requirements"). The Practice and Education Committee then recommended a series of amendments the Board subsequently approved at the August 21, 2020 Board meeting. The Board approved additional amendments on August 27, 2021. Legal counsel recommended further amendments to the text and Form CE-01 which the Board approved on November 19, 2021. The Board also recommended amendments to the text and form at the November 19 meeting, which staff has incorporated in the proposed text and form in the Board materials. The updated regulatory rulemaking package to implement these changes was submitted to the Department of Consumer Affairs for review and approval before posting for public comment. However, legal counsel noticed that some changes to Form CE-01 were not correctly shown by underline and strikethrough. Once approved, the rulemaking process will continue with posting for public comment by the end of the year.

There were no requests for public comment.

Jonathon Ross moved to approve the proposed regulatory text for Section 1536 and form CE-01 incorporated therein by reference, direct staff to submit the 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, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non- substantive changes to the package and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at section 1536 and form CE-01 as noticed. Eunie Linden seconded. The Board voted unanimously (7-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Garcia	X				
Ms. Linden	X				
Ms. Hancock	X				
Dr. Kawaguchi	X				
Mr. Morodomi				X	
Dr. Pruitt				X	
Dr. Ross	X				
Ms. Sims				X	
Mr. Yoo	X				

The meeting moved to agenda item 9

**8. Discussion and Possible Action on Assembly Bill 2236 (Low) Optometry:
Certification: Use of Anterior Segment Lasers and Performing Minor Procedures**

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

Ms. Murphy directed Members to their copies of AB 2236 entitled “Certification to Perform Advanced Procedures” that was provided in their handout materials. Additional amendments to this bill were made yesterday. Staff’s analysis of the bill is that there has been an intense effort to negotiate the correct standards for the expansion of scope. Staff are concerned about the considerations for implementation. She noted that there are several places within the bill where the Board is charged with approving, authorizing, or certifying and the need for some type of medical expertise within the Board to verify the course applications and curriculum. Additionally, staff has concerns regarding the ability to review the reports of any adverse outcomes; what those reports should entail, and what information should be requested for additional substantiation for the optometrist care plan. Staff is requesting that the Board consider a position of opposed unless amended, simply for those considerations and not at all on policy. Ms. Murphy hopes the bill language can reflect a delayed implementation and reflect the time needed for a regulatory package to move through the process. A three-year delayed implementation is anticipated.

Dr. Garcia commented that he feels AB 2236 already has significant patient protection language included. He noted that the bar is extremely high, and the Board should not expect a large influx of applications for these advanced procedure certification seekers right from the start. All scope expansions take time to implement sometimes years.

Dr. Garcia suggested creating a budget committee with quarterly meetings to ensure the Board stays on track. He also noted that federally qualified health clinics would significantly increase access to health care for the most vulnerable populations. He strongly recommends that the Board take a support position on AB 2236.

Dr. Kawaguchi stated that in general his opinion is that as health care is evolving so does optometry need to evolve. He explained that he is torn about deciding today due to the timing of the information received.

Dr. Ross agrees with the other Members comments. Additionally, he noted that these specialty procedures are actively taught in the colleges every day and students are graduating with these

skills that they simply cannot use, and which are direly needed in the underserved populations today. Dr. Ross added that the 43 total live patient care is extensive and will take a multi-year trajectory to complete the program. He would look forward to supporting this legislation.

Ms. Linden commented that she believes everyone shares the principal conviction that anything that can be done to improve access to patient care is necessary and a great goal. She asked if such a Board approved course for these procedures exists currently. She also noted that she is having difficulty seeing the harm in including a delayed implementation when even if the bill was passed without it, there would still be a lengthy process delaying implementation anyway; so, she does not understand the concern with this issue.

Public comment regarding current education programs was received from Christine Shultz representing the California Optometric Association (COA). Ms. Shultz explained that there are 32-hour courses available currently. The bill is written so that the standard course most states use to train optometrists for these procedures may count towards the requirement. The bill includes the requirement of a 32-hour course, national board test, then the completion of 43 procedures on live humans through a grand rounds and preceptorship. From COA perspective, the requirement is for the Board to approve the course which can be done through a public process by obtaining public expert input in optometry and ophthalmology. The same thing applies to training by the colleges that the Board would have to approve. Once a college puts a program together, it can be presented at a board meeting and expert opinion may be received at that time. Ms. Shultz noted that she and Ms. Murphy have worked together on the language and Ms. Murphy has provide a lot of great opinions and expert advice for COA moving through this process. Amendments were taken to lift the cap on the certificate fees so that the Board may charge whatever the cost is for implementation and ensure that the funds are available to enforce this law. COA also took amendments based on input from Ms. Murphy to ensure reporting is performed every two years versus every year to make implementation easier.

Ms. Shultz explained that regarding delayed implementation, their attorneys' opinion is that it is unnecessary because everything in the language is contingent upon the Board taking action. The Board is in control of the timeline and there is nothing COA can do to force the Board hand in moving faster on this. There is no deadline in the bill. Additionally, the language feels very prescriptive as far as what is required. The initial requirement for the Board is to approve the education; there is the 32-hour course to approve, the course with the live patients to approve, and then a form. The rest is the more difficult task regarding continued competency requirements which occurs after someone has been licensed for two years. Therefore, there is some time to determine how it will work and be implemented. Ms. Shultz and the COA hope that AB 2236 can be implemented quickly so that optometrists may begin their training requirement. Lastly, Ms. Shultz advised the Board that subdivision (k) was removed which was the requirement for the qualified educator to notify their licensing board of their participation in the education. She also advised that the Board could take a support position and include in the letter its concerns regarding having enough staff to implement it without taking an opposed position. The 72-hour deadline to make an amendment has passed. She cannot make any amendments to the bill if she wanted to.

Dr. Garcia responded stating that he believes the fact that no deadlines, timelines, or wickets exist alleviates most, if not all the concerns some Members have had regarding implementation. He believes that communication to patients and applicants is key to moving forward.

Dr. Wang asked what the regulatory process involves and the timelines? Ms. Murphy explained that the Board does not have the internal competency to say that the professional schools are doing as it states in the bill. She believes that it would be against the Board's duty of consumer protection to approve the courses without having done a check or done any research on the other programs that are available across the country. Ms. Murphy also expressed concern that these programs have been taught for years, yet it is her understanding that these programs have only been enacted in California schools for a year or two. They are teaching outside the scope so that students can practice in other states; but it is not as though this coursework, particularly for advanced procedures

has been taught for many years. Ms. Murphy's concern is that a regulatory package will need to be negotiated that says "this is how we will receive these applications. This is how we will verify the courses. This is how we then verify the reports that are sent to the Board by licensees who become certified". All the regulations will need to be developed around this, and then the Board would move into the timeframe of 12 to 18 months to go through the administrative law process to have the packet approved. The ability to have someone with medical knowledge on staff would mean the Board can determine, in a timely manner that these courses are appropriate, do our due diligence in researching other states and with regards to the national examination and be able to say that California's courses map to the law and are ensuring that licensees and providers are equipped and ready to provide this advanced care. She explained that the regulatory package takes at least 12 to 18 months, but that is when you have a final product developed.

Dr. Wang explained that her confusion is in that there is no timeline in this bill, yet we are asking for delayed implementation. The Board could take one, two or more years to develop a regulatory package. Ms. Murphy agreed but called another example to Members' attention. The immunization authority that was passed by the Legislature prior to Ms. Murphy's tenure. The Board was unable to get a regulatory package approved by the Board then moved to the Office of Administrative Law (OAL). At that point the ability to perform competent research and provide a package that would ensure implementation was deemed unnecessary and the Legislature stepped in to tell the Board how to do the program. The inability to perform the research, develop a competent program, get through the OAL process, and provide a regulatory package by which we could guide the immunization simply meant that the Legislature decided for us how the program would be run. Ms. Murphy noted that if we want professional knowledge here to be a part of how the program is implemented, if we want to do our due diligence in medical consultancy and making sure that outside entities are doing as the law says and as we will regulate, that there is a need for more time to implement this program and that we should be honest about it up front. Dr. Wang commented that if the package become effective January 1, 2023, the Board can inform stakeholders that they cannot take the course yet because the Board does not have a regulatory package started yet, and they will be notified when they may take the course.

Dr. Kawaguchi asked Ms. Murphy for specifics regarding what she wanted to suggest. Ms. Murphy clarified that the Board could state that the bill will be enacted as of 2024 or 2025. This is what will occur according to the timelines of the process. Additionally, she does not believe the current fiscal budget reflects the need to bring a subject matter expert medical consultant for even a limited time to help the Board develop this program competently and provide checks on the outside stakeholders providing this new content. Dr. Kawaguchi asked what difference it makes when a bill is enacted when regulations are not in place to be able to execute the new law? Legal Counsel, Sabina Knight addressed his question. She suggested for consideration that if there is not a date already in the bill, then it may be to the Board's advantage to not have a date specified because of the obstacles cited. The problem is that if it is pushed out another year and the Board still does not have something ready, does it not look worse that the Board still is not ready after having a delayed implementation date. Right now, if it is open, the Board has plenty of time to be working on it without going over a date in statute.

Ms. Shultz assured that the pushback that occurred with the immunization bill will not occur with this bill. She understands everyone's concern and it was frustrating for everyone. In the immunization bill there was no claw back date so when folks took the course, they were unaware that they would have the waiting period. In this bill we can inform folks that there will be a lag period between when they complete their requirements and when they can become certified. Ms. Shultz asked Ms. Murphy (without any language ensuring that there is some type of funding available for staff to implement this package) what she envisions happening if that funding is not explicit. Ms. Murphy clarified that staff was given the opportunity to provide an analysis of the resources needed. That analysis did not include the medical consultants needed that became so clear in this second to last version of the bill. When staff writes the next budget change proposal (BCP) dependent upon this legislation, staff will be told that there is not the classification of positions available and stated to do the work. Consequently, we will be limited in who we are able to hire based upon the fiscal analysis

that is currently on the bill which does not include resources for medical consultants. Ms. Schultz noted that COA did take the \$150 cap off the fees; therefore, there is no limit on what the Board can charge for the certificate or whatever it needs to be to cover the costs of the bill. She assured that although there is a different process for hiring folks and every step along the way must be justified, there is no barrier in legislation for the Board hiring whomever it needs to hire. Ms. Murphy explained that the internal process still goes to what the fiscal analysis is. Even though staff may be able to justify the work in prior BCPs, staff has been told “yes, the workload does say that you need 1.7 basically 2 people to do the work, we will give you one because the fiscal analysis gave you one. Ms. Murphy noted that it is important for the Members to know, for this legislation and future legislation that the Board’s ability to accurately interpret what will be needed to implement a new program really does dictate the resources staff will be able to hire on the back end to get the work done.

Ms. Linden referred to the previous comment about courses currently available and she absolutely agrees with Ms. Murphy that even though there are courses available we cannot just defer everything. She feels it is very important for the Members and staff to feel that we have the competency within ourselves, and not feel like we are rubber stamping something just because another state or school may be doing it. Ms. Linden asked if scope expansions in the past, that have required approval of training or courses, had subject matter experts brought in? Ms. Murphy explained that staff does not have the institutional knowledge on that. Staff does not have internal records that provide this information unfortunately, and consequently are having to take it on the word of those who were part of this industry at that time that there was not. The specific steps taken, and resources used to build that program (particularly with regards to glaucoma) are unknown. Ms. Schultz announced that she was around during that time and can provide background. She stated that the Board did contract with Dr. Carvalli to draft the education standards for the glaucoma law. She noted however that this was when the Board was developing all the training and had to determine the type of procedures. The Board had to determine every detail of the program.

Public comment was received from Bonnie Dellatorre, Director of Continuing Education with Marshall B Ketchum University (MBKU). She explained that her comment was for the previous discussion, and she announced that the directors of the academy are talking about DEI speakers for the future. Hopefully, it will be implemented across the country. Dr. Kawaguchi asked if AB 2236 gets passed, and the education program is already in place are Marshall B Ketchum, how long would it take her or her organization to build an education for doctors who have already graduated? Ms. Dellatorre clarified that MBKU has plans with the COA to train 50 people by a doctor in Oklahoma who already has the program Ms. Shultz announced. MBKU intends to include faculty and COA members; however, has not been put out to the public yet.

Dr. Kawaguchi expressed agreement with Ms. Murphy’s concerns. He explained that AB 2236 is a large bill, and the Board will not be able to implement this bill quickly without the support of the entire eye care community. He is hopeful regarding the scope expansion; but he also shares Ms. Murphy’s concerns.

Jeffrey Garcia moved to support Assembly Bill 2236 without amendment and to write a letter stating the Board’s specific concerns regarding the bill. Jonathan Ross seconded. The Board voted (6-Aye; 1-Abstention) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Wang	X				
Dr. Garcia	X				
Ms. Linden			X		
Ms. Hancock	X				
Dr. Kawaguchi	X				
Mr. Morodomi				X	
Dr. Pruitt				X	

Dr. Ross	X				
Ms. Sims				X	
Mr. Yoo	X				

The meeting moved to Agenda Item 10.

9. Executive Officer's Report

A. DCA Update to Statistical Reporting

B. Enforcement Program

i. Statistical Review, Fiscal Year 2021-2022

ii. Staff Update

iii. Update Regarding Processes for Class of 2022 Graduate Applicant Season

Audio of Discussion: [1:26:00](#)

Ms. Murphy introduced the Board's new hire of an Enforcement Manager, Joely Walker.

Enforcement Lead, Terri Villareal reported on the enforcement program. During this past year, enforcement staff have continued to focus on closing old cases, which is in line with the Department's performance measures timeline. The hiring of additional enforcement staff has helped greatly in achieving this goal. The Board's second enforcement bulletin was published one week ago. The featured article addresses the citation process. Each bulletin contains a section called "Ask an Analyst" in which a common question is asked and answered. Staff have received a large amount of positive feedback on the bulletin.

Ms. Villareal reported that over the past six months enforcement staff have been working on a new format for the compilation of enforcement statistics that will show details in greater depth. This project is now complete and in the Board Members materials. There are two spreadsheets, one for the optometry program and one for the optician program. Enforcement staff is pleased and grateful to have Ms. Walker on board. She is a tremendous asset to the team.

Ms. Villareal explained each section of the enforcement statistics for the Members. She noted that this format was introduced by Enforcement Analyst, Cricket Borges who has been with the unit for about a year. Ms. Borges has been a great help in implementing this report.

Ms. Murphy noted that half of the cases are being turned around within the 90-day target period. It is the historic backlog which staff continues to work through that is bringing down the numbers. The new enforcement staff have been tremendously instrumental in clearing out old cases and reducing cycle times bringing the numbers down consistently.

Dr. Garcia commended the enforcement team for their hard work and noted that the format looks amazing.

Assistant Executive Officer, Randy Love reported on the examination and licensing program statistical review, fiscal year 2021-2022. They started this fiscal year by providing an overview of the prior one. As with the enforcement statistics, the licensing statistics are coming more into line with the type that staff submit to DCA for their annual report and what is submitted for the Sunset Review. Mx. Love also included some prior year statistics. They explained the various sections of the report for the Members.

Mx. Love announced upon losing two of the Board's full-time licensing staff members in 2021-2022, one new full-time licensing staff member has been hired. Staff is recruiting for 3 new positions the Board acquired with the Budget Act of 2022-2023. Additionally, staff will soon be recruiting for the vacant positions and look forward to beginning 2023 with a full licensing unit. Finally, for licensing and exams 2022 optometrist graduation application season, Mx. Love noted that staff has rolled out a new process to facilitate proactive communication and greater transparency with our optometrists

regarding what we have received, where applicants are in the process, and reduce the time it takes to issue a license. They announced that staff is currently on track to have everyone from the class of 2022 licensed by mid-September.

There were no requests for public comment.

Upon reconvening from a lunch break the meeting moved to Agenda Item 6.

10. Future Agenda Items

Audio of Discussion: [3:42:04](#)

Dr. Garcia requested a discussion at the next meeting regarding the Board's statutory and regulatory processes to increase the fees.

Dr. Linden stated that she would like to learn more about and discuss cultural competency as continuing education.

Dr. Ross desires to look more into the connection between ARBO's OE Tracker and the BreEZe system to completely understand the steps involved.

Ms. Hancock would like a discussion to see if it is possible to bring Registered Dispensing Opticians (RDOs) into the Mobile Optometric Clinics.

11. CLOSED SESSION

- A. The Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters, Pursuant to Government Code §11126(c)(3)**
- B. The Board Will Adjourn the Meeting**

The meeting adjourned at 4:00 pm.

