Board Meeting Materials

Day One
Strategic Planning/Full Board Meeting

Thursday, August 13, 2020
10:00 a.m. until close of business

WebEx Teleconference

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
916-575-7170 optometry.ca.gov

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
Maria Salazar Sperber, JD
David Turetsky, OD
Lillian Wang, OD
Vacant, Public Member
Vacant, Public Member
Vacant, Licensed Member
Vacant, Licensed Member

California State Board of Optometry

QUARTERLY BOARD MEETING AGENDA

Thursday, August 13, 2020 and Friday, August 14, 2020

This public meeting will be held via WebEx Events. To participate in the Webex meeting, please log on to the website the day of the meeting using the links below.

THURSDAY: https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e9d8e908d658901cc4ab8679ec9689fd5
Meeting Code: 145 385 3899 **Meeting Password:** Optometry81320

FRIDAY: https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=ef499b8316e198300f371150ea0152b98
Meeting Code: 145 428 5458 **Meeting Password:** Optometry81420

NOTICE: Pursuant to Governor Gavin Newsom's Executive Order N-29-20, in response to the COVID-19 pandemic, the meeting is being held entirely telephonically. No physical public location is being made available for public participation. Members of the public may observe or participate using the link above. Due to potential technical difficulties, please consider submitting written comments via email by August 3, 2020, to optometry@dca.ca.gov for consideration.

Action may be taken on any item on the agenda.

THURSDAY, AUGUST 13, 2020 – STRATEGIC PLANNING/FULL BOARD MEETING
10:00 a.m. to Completion of Business

WebEx link: https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e9d8e908d658901cc4ab8679ec9689fd5

Meeting Code: 145 385 3899 **Meeting Password:** Optometry81320

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

2. **Public Comment for Items Not on the Agenda**

Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]

FULL BOARD MEETING – CLOSED SESSION

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

FULL BOARD MEETING – OPEN SESSION

4. **Strategic Planning Overview (SOLID)**
   A. Introductions
   B. Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis
   C. Environmental Scan

5. **Re-establish Mission, Vision, and Values (SOLID)**

6. **Objective Development (SOLID)**
   A. Licensing
   B. Examination
   C. Law and Regulation
   D. Enforcement
   E. Outreach
   F. Board Administration

7. **Executive Officer's Report**
   A. Enforcement Program
   B. Examination and Licensing Programs
   C. Regulatory Update
   D. Committee Meeting Updates

8. **Discussion and Possible Approval of May 15, 2020 Board Meeting Minutes**

9. **Update, Discussion and Possible Action on Assembly Bill 896 (Low)**

10. **Future Agenda Items**

11. **Adjournment Until Friday, August 14, 2020**

FRIDAY, AUGUST 14, 2020 – FULL BOARD OPEN SESSION
10:00 a.m. to Completion of Business

WebEx link : https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=ef499b8316e198300f371150ea0152b98

Meeting Code: 145 428 5458 **Meeting Password:** Optometry81420

12. **Call to Order / Roll Call and Re-establishment of a Quorum**

13. **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)]

14. **Board President's Report**
    A. Recognition of Past Board and Committee Members

15. **Call for Nominations for Board Officer Elections**

16. **Discussion and Possible Action on Appointment of Non Boardmembers to Board Committees**
    A. Dr. Madhu Chawla, OD to Practice and Education Committee

17. **Discussion and Possible Action Regarding Which Board Member Should be Appointed to Serve on the Dispensing Optician Committee Pursuant to Business and Professions Code Section 3020**

18. **Discussion and Possible Action on Presentation by the National Board of Examiners in Optometry for Additional Test Locations**

19. **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**
    A. Department of Consumer Affairs
    B. Budget Office

20. **Update, Discussion and Possible Action on Changes to Title 16, California Code of Regulations Section 1536 (Continuing Education Regulations)**

21. **Update, Discussion and Possible Action on Changes to Title 16 California Code of Reuglations Sections 1399.270 – 1399.285 (Optician Program Regulations)**

22. **Update, Discussion and Possible Action on Changes to Chapters 5.4, 5.45 and 5.5 of the Business and Professions Code (Optician Program Statutes)**

23. **Update, Discussion and Possible Action on Changes to Title 16, California Code of Regulations Section 1399.273 and Optician Disciplinary Guidelines Incorporated by Reference**

24. **Future Agenda Items**

25. **Adjournment**

Meetings of the California State Board of Optometry are open to the public except when specifically noticed otherwise in accordance with the Bagley-Keene Open Meeting Act. Public comments will generally be taken on agenda items at the time the specific item is raised. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board at 916-575-7170, email optometry@dca.ca.gov or mailing a written request to Kristina Eklund at the California State Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834**.** Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation*.*

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, President
SUBJECT	Agenda Item #1 – Call to Order/Roll Call and Establishment of a Quorum

Board President Mark Morodomi will call the meeting to order. Please note the date and time for the record. Also please note the meeting being held is via WebEx teleconference pursuant to the Governor's Executive Order NO-29-20.

Board Secretary Debra McIntyre, will call roll to establish a quorum of the Board.

Mark Morodomi
Glenn Kawaguchi, O.D.
Cyd Brandvein
David Turetsky, O.D.
Debra McIntyre, O.D.
Lillian Wang, O.D.

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, Board President
SUBJECT	Agenda Item #2 – Public Comment for Items Not on the Agenda

The Board welcomes public comment for items not on the agenda.

Please note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry
FROM	Cheree Kimball, Assistant Executive Officer
SUBJECT	Agenda Item #3 – Closed Session

Pursuant to Government Code Section 11126(c)(3), the Board will meeting in closed session for discussion and deliberation on disciplinary matters.

The closed session will not be available for the public to view via WebEx.

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry
FROM	Shara Murphy, Executive Officer & SOLID Training and Planning Solutions
SUBJECT	Strategic Planning

The Board's current Strategic Plan covers the 2017-2020 timeframe. A new strategic plan will be needed to continue with the Board's priority of protecting the public.

The Department of Consumer Affairs (DCA) SOLID Training Planning Solutions team is assisting the Board with this endeavor. This process included interviewing Board Members before the planning session to help shape the framework and agenda. SOLID also facilitated a Board staff focus group and created a survey that was distributed to the Board's stakeholders. Board Member, Committee Member, stakeholder, and staff participation provided valuable input that helps the Board understand how it is doing and where it is headed.

Data collected from the interviews, focus group and the electronic survey were combined to compile the Environmental Scan. The Environmental Scan helps the Board identify key issues to address in our next strategic plan.

SOLID will facilitate the Board's strategic planning session. The SOLID facilitator's primary goal is to ensure active engagement and productive discussion from everyone involved in the strategic planning process. Using feedback from the planning session, SOLID will draft a Strategic Plan for the Board's review, comment, and adoption at a future meeting.

The Board will be assisted by SOLID's moderators:

Trisha St.Clair, Strategic Business Analyst and Facilitator
Ms. St. Clair joined the SOLID team in 2016 as a Change Management Specialist with OCM, working with over eleven Boards/Bureaus to determine their change readiness and facilitate business process mapping workshops to streamline their business processes and determine their business requirements. In 2018, she became a Strategic Planner with SOLID. Prior to DCA, Trisha worked as a Forms Analyst for the Board of Equalization, facilitating meetings with key stakeholders to identify areas for improvement and formulate solutions for new and revised tax forms, as well as independently researching and analyzing tax form data to develop professional quality tax forms. Before coming to the state, she worked for 10 years in the technology industry as an Account Manager and Technical Support Representative. She graduated

with a bachelor's degree in Fine Art with a minor in English Literature from the University of Redlands in Redlands, CA.

Shelly Jones, Planning Manager
Ms. Jones returned to DCA, joining the SOLID team in July 2020, following a two-year special assignment with the California Department of Corrections where she served as a Project Manager overseeing the overhaul of regulations for the Division of Juvenile Justice. Prior to her two-year departure, Shelly worked in the Executive Office for Board and Bureau Relations from 2015 to 2018. Shelly began her career in 1989, where she worked as a member of the California disaster response team under the direction of the Department of Social Services. Shelly served victims of some of the most destructive natural disasters, from the Loma Prieta earthquake in 1989, to the Oakland Hills firestorm of 1991, Northridge earthquake in 1994, and many smaller natural disasters in between. During her stint as a disaster worker, she secured permanent employment with the California Victims of Crime Program, now named California Victim Compensation Board, where she served victims of violent criminal offenders. In 1995, Shelly transferred to the Juvenile Parole Board, where she rose through the ranks overseeing staff workloads; developing workload processes; designing and facilitating training of parole agents and hearing officers, and more, seeing the Board through five department transitions and realignment under the California Department of Corrections. Shelly worked closely with the Division of Juvenile Justice, Department of Finance, Office of Inspector General, Attorney General's Office, and the federal courts, plaintiff's counsel, and court-appointed special masters as she assisted with the oversight of one of the Divisions largest class action lawsuits. Shelly was integral in the development of policies and audit processes, resulting in department wide program reforms and settlement of the case in record time.

CALIFORNIA STATE BOARD OF OPTOMETRY

2017-2020 Strategic Plan

Prepared by
SOLID Planning Solutions
Department of Consumer Affairs
Adopted

Table of Contents

TABLE OF CONTENTS **2**
MEMBERS OF THE BOARD **3**
MESSAGE FROM THE PRESIDENT **4**
ABOUT THE BOARD **5**
STRATEGIC GOALS **9**
MISSION, VISION, VALUES **8**
GOAL 1: LICENSING **9**
GOAL 2: EXAMINATION **13**
GOAL 3: LAW AND REGULATION **14**
GOAL 4: ENFORCEMENT **16**
GOAL 5: OUTREACH **18**
GOAL 6: ORGANIZATIONAL EFFECTIVENESS **18**
STRATEGIC PLANNING PROCESS **19**

MEMBERS OF THE CALIFORNIA STATE BOARD OF OPTOMETRY

Cyd Brandvein, President

David Turetsky, OD, Vice President

Rachel Michelin, Secretary

Donna Burke

Madhu Chawla, OD

Martha Garcia, CLD, SLD

Glenn Kawaguchi, OD

Debra McIntyre, OD

Mark Morodomi

Maria Salazar Sperber

Lillian Wang, OD

Edmund G. Brown, Jr., Governor

Alexis Podesta, Secretary, Business Consumer Services and Housing Agency

Dean Grafillo, Director, Department of Consumer Affairs

Jessica Sieferman, Executive Officer, California State Board of Optometry

MESSAGE FROM THE PRESIDENT

The California State Board of Optometry (Board) is pleased to present its 2017-2020 Strategic Plan. Development of this Strategic Plan has been a collaborative effort between Board Members, Board staff, and the public and we thank everyone for their input and support throughout the process. This plan reflects the Board's continued commitment to work closely with stakeholders to meet its mission to protect the health and safety of California consumers through licensing, education and regulation of the practice of optometry.

We begin this transformative period with a reimagined Strategic Plan, one that guides us in our analysis and response to new and emerging issues in the fields of optometry and healthcare. Our four-year pathway will address timely and diverse topics that are fundamental to consumer protection. These include organizational realignment, access to quality eye care, technology and innovation, new or emerging business models in optometric care, and professional and technical excellence.

Already in progress is an organizational realignment. We are fulfilling our Board's regulatory requirement by integrating Registered Dispensing Opticians into our Board, constituting the Dispensing Opticians Committee and establishing a new and productive partnership with opticians throughout the State.

As we look at access to quality eye care, we will sponsor legislation, understand the future role of mobile optometric facilities as well as examine alternative methodologies for delivery of optometric and dispensing services in the most underserved areas of California. We will also be evaluating, assessing and educating the public regarding new technological advancements in eye care such as online, telemedicine and concierge services in California in keeping with our mission to promote consumer protection and care. And lastly, evaluating and refreshing regulations such as licensing processes and electronic database use will help keep us current with today's optometric and opticianry practices.

While these issues are priorities for the Board, we remain focused in our commitment to strongly advocate for public protection through our actions as a unified public policy voice. On behalf of the Board, we thank you for your interest in our Strategic Plan.

Sincerely,

Cyd

ABOUT THE BOARD

Since its inception over 100 years ago, the California State Board of Optometry (Board) has supported and helped consumers by advocating consumer interests before lawmakers, regulating to protect consumers from unlicensed practitioners and guarding our licensees against unfair competition, enforcing laws to protect the consumer and resolving disputes between business and a customer or a consumer and a licensee.

Our authority to protect the health and safety of California patients receiving optometric care through licensing, education, and regulation of the practice of Optometry was expanded on January 1, 2016, when Governor Jerry Brown signed Assembly Bill 684, transferring the practice of optical dispensary from the Medical Board of California (MBC) to our State Board. Overnight, the Board's regulatory population grew by 50% - expanding its regulatory oversight from 8,000 licensees to roughly 12,000 licensees and registrants.

Today, the Board regulates the largest population of optometrists and dispensers in the United States with over 17,400 licenses, registrations, and permits. The Board is also responsible for issuing optometry certifications for Diagnostic Pharmaceutical Agents, Therapeutic Pharmaceutical Agents, Lacrimal Irrigation and Dilation, and Glaucoma.

With this significant change in population come new, emerging responsibilities. Our Board stands ready and has the capabilities and resources to maintain the same level of accountability, efficiency, effectiveness, integrity and customer service it has delivered since the last Sunset Review. Further, it is in the best interest of California consumers to continue protecting their eye care health and safety through the Board in its current constituted state – an independent Board that relies on the Department of Consumer Affairs (DCA) for administrative support.

As we continue our evolution – from a Board with challenges in 2002 to a well-functioning Board today – we are poised to meet the regulatory changes, adjust through internal improvements to our organizational structure and set a new path forward through a revised Strategic Plan that better aligns with our evolving consumer protection mandate.
The Board currently has the following four committees, all composed of professional and public members.

Achieving our Mission and Positioned to Move Forward

The Board's mission is to protect the health and safety of California consumers through licensing, education, and regulation of the practice of Optometry. The Board accomplishes its mission through the following responsibilities:

• Promulgating regulations governing Board procedures, admission of applicants for examination for an optometric license; minimum standards of optometric and dispensing services offered and performed, the equipment and sanitary conditions in all registered locations;
• Investigating consumer complaints and criminal convictions including, but not limited to substance abuse, unprofessional conduct, incompetence, fraudulent action, and unlawful activity;
• Taking disciplinary action for violations of laws and regulations governing the practice of optometry and dispensing when warranted.
• Accrediting schools and colleges of optometry;
• Establishing educational and examination requirements to ensure the competence of candidates for licensure/registration;
• Setting and enforcing standards for continued competency of existing licensees;
• Establishing educational and examination requirements for optometrists seeking certification to use and prescribe certain pharmaceutical agents and other procedures; and
• Issuing branch offices licenses, statements of licensure and fictitious name permits.

California became the third state to regulate the optometry profession in 1903, and a new Optometry Practice Act, enacted in 1913, created the Board, defined its duties and powers, and prescribed a penalty for violations of the Act. The Act was later incorporated in the Business and Professions Code (BPC). Empowered with rulemaking authority (BPC Sections 3025 and 3025.5), the Board promulgated the first rule for the practice of optometry in 1923. In the same year, the legislature passed a law requiring all applicants for licensure to meet certain educational requirements, i.e., graduate from an accredited school or college of optometry and charged the Board with the responsibility of accrediting these schools. Prior to this time, individuals desiring to practice were not required to have any specific formal education.

On January 1, 2016, Assembly Bill 684, moved the RDO Program under the Board's jurisdiction, and created a Dispensing Optician Committee, comprised of two public members, two dispensers, and one Board Member to advise the Board on dispensing-related matters and education for registered opticians. Assembly Bill 684 replaced one of the Board's professional members with registered optician.

Board Committees

The Board has the following committees composed of professional and public members:

- Legislation and Regulation
  Responsible for recommending legislative and regulatory priorities to the Board and assisting staff with drafting language for Board-sponsored legislation and recommending official positions on current legislation. The committee also recommends regulatory additions and amendments.

- Practice and Education
  Advises Board staff on matters relating to optometric practice, including standards of practice and scope of practice issues. Reviews staff responses to proposed regulatory changes that may affect optometric practice. Also reviews requests for approval of continuing education courses, and offers guidance to Board staff regarding continuing education issues.

- Consumer Protection
  Oversees the development and administration of legally defensible licensing examinations and consults on improvements/enhancements to licensing and enforcement policies and procedures.

- Public Relations – Outreach
  Assists with the development of outreach and development of educational materials to the Board's stakeholders.

- Children's Vision Workgroup
  SB 402 was created to address the gap in providing eye exams to entry elementary school students as a result of budgetary cuts in the public school system. Among other things, it mandated that children entering school receive a comprehensive eye exam in order to combat the one in three school vision screenings which miss vision problems. Due to the failure of SB 402 to pass out of the Senate Appropriations Committee, the Board created this workgroup, comprised of two members, tasked with meeting with stakeholders on this issue and providing legislation recommendations to the Board for consideration during the 2017 legislative session.

- Mobile Clinic Workgroup
  Protecting and providing families' access to convenient, quality eye care, and support to optometrists so they continue providing the vision care services Californians need and deserve in many environments, the Board created the Mobile Clinic Workgroup. Prior to the workgroup, Senate Bill 349 was introduced, which focused on creating guidelines for mobile optometric facilities; however, it failed to pass out of the Senate Committee on Business and Professions in 2015. The workgroup, comprised of two members, is tasked with

meeting with stakeholders on this issue and providing legislation recommendations to the Board for consideration during the 2017 legislative session.

- Foreign Graduate Workgroup
  Recognizing that there was no pathway for foreign graduates to become licensed in California after they pass all required state and national examinations, the Board sponsored Senate Bill 496 (Senator Nguyen). If passed, this would have created the pathway for foreign graduates to become licensed in California; however, it was pulled by the author in 2015 after receiving several equivalency concerns from schools/colleges of optometry and the professional association. In order to determine the best avenue to move forward, the Board created this workgroup, comprised of two members, and tasked it to meet with stakeholders, including the accredited schools and colleges of optometry, to provide stronger legislation recommendations to the Board for consideration during the next legislative session.

- Dispensing Optician Committee – Development Workgroup
  The Board created a DOC Appointments Committee, comprised of two members, to vet potential candidates and make recommendations to the full Board. The DOC will begin meeting in mid-2017.

- Dispensing Optician Committee
  The DOC is the only Board committee created by statute (BPC § 3020) and is comprised of two public members, one spectacle lens or contact lens dispenser, one registered dispensing optician and one Board Member. The DOC is responsible for the following:
    - Recommending registration standards and criteria for the registration of dispensing opticians, nonresident contact lens sellers, spectacle lens dispensers, and contact lens dispensers.
    - Reviewing of the disciplinary guidelines relating to registered dispensing opticians, nonresident contact lens sellers, spectacle lens dispensers, and contact lens dispensers.
    - Recommending to the board changes or additions to regulations adopted pursuant to Chapter 5.5 (commencing with Section 2550).
    - Carrying out and implementing all responsibilities and duties imposed upon it pursuant to this chapter or as delegated to it by the board.

STRATEGIC GOALS

1 ***LICENSING***

2 ***EXAMINATION***

3 ***LAW AND REGULATION***

4 ***ENFORCEMENT***

5 ***OUTREACH***

6 ***ORGANIZATIONAL EFFECTIVENESS***

California State Board of Optometry Mission, Vision, and Values

Mission

To protect the health and safety of California consumers through licensing, registration, education, and regulation of the practice of Optometry and Opticianry.

Vision

To promote high quality optometric and optical care for the people of California.

Values

Consumer Protection *– We make effective and informed decisions in the best interest and for the safety of Californians.*

Integrity – *We are committed to honesty, ethical conduct, and responsibility.*

Transparency – *We hold ourselves accountable to the people of California. We operate openly so that stakeholders can trust that we are fair and honest.*

Professionalism – *We ensure qualified, proficient, and skilled staff provides excellent service to the State of California.*

Excellence – *We have a passion for quality and strive for continuous improvement of our programs, services, and processes through employee empowerment and professional development.*

GOAL 1: LICENSING

- *The Board provides applicants and licensees a method for obtaining and maintaining license registration, business licenses, and certifications required to practice optometry in California.*

1.1 Streamline the initial license and renewal process, including paperless options and synchronizing multiple license renewal dates, to improve staff efficiency and licensee compliance.

1.2 Review the possibility of including continuing education requirements for both spectacle and contact lens dispenser licenses to protect consumers and maintain licensee competence.

1.3 Continue monitoring and exploring opportunities to enhance BreEZe utilization (e.g. 100% continuing education compliance, usage of national database, etc.) to increase staff productivity and promote licensee compliance with continuing education requirements.

GOAL 2: EXAMINATION

- *The Board works to provide a fair, valid and legally defensible licensing exam (California Law and Regulation Examination) and exam process to ensure that only qualified and competent individuals are licensed to provide optometric services in California.*

2.1 Recruit more subject matter experts to create examination questions in order to strengthen the diversity of the test.

2.2 Analyze the examination requirements to evaluate for competency and the validity of the examination.

2.3 Create a budget change proposal to secure funds so the Board can perform an occupational analysis on the registered dispensing optician program in order to check for validity of the examination.

2.4 Consider the feasibility of developing a state law exam for opticians to verify their familiarity with California laws.

GOAL 3: LAW AND REGULATION

- *The Board works to establish and maintain fair and just laws and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost-effective practices.*

3.1 Review federal law to identify methods that will strengthen existing California legislation regarding the sale of contact lenses and eye glasses as a means of improving enforcement and enhancing consumer protection.

3.2 Contact members of congress and the Federal Trade Commission regarding the current 48 hour law to obtain information that would assist in closing existing loopholes.

3.3 Continue prioritization for review and updates to existing statutes, legislation, and regulations, for both optometry and dispensing opticians, in order to identify whether or not they are the cause of enforcement delays and determine promulgation of new regulations.

3.4 Continue partnering with the Medical Board of California to identify potential loopholes regarding online and kiosk refraction administration to enhance consumer protection.

3.5 Review current methods and explore new opportunities to increase access to care (e.g. scope of practice, mobile clinics, new technology, tele-medicine).

3.6 Review and identify existing practice requirements with regards to unnecessary licensing barriers in an effort to reduce barriers to entry, enhance consumer access to care, and maintain consumer protection.

3.7 Explore the feasibility of proposing legislation to synchronize the expiration dates of all license types for a given individual.

3.8 Explore the feasibility of proposing legislation to merge the RDO and Optometry funds to stabilize the long-term Optometry fund condition.

3.9 Explore the feasibility of proposing legislation to merge the RDO program into the Optometry Practice Act.

3.10 Work in conjunction with all stakeholders to ensure consumer protection is weighed equally with consumer choice so legislation and/or regulation promotes fair access to goods and services while informing consumers of the risks and benefits such goods and services afford.

3.11. Develop and implement a new inspection program using best practices from other existing programs within DCA. If necessary, sponsor/approve legislation or regulatory amendments to improve inspection authority language.

GOAL 4: ENFORCEMENT

- *The Board protects the health and safety of consumers of optometric services through the active enforcement of the laws and regulations governing the safe practice of optometry in California.*

4.1 Review enforcement timing between initial offense and when it is conveyed to the Board to act upon in order to protect the consumer and maintain patient access to care.

4.2 Explore the feasibility of participating in the FBI rap back program to expedite and enhance enforcement efforts.

4.3 Research the possibility of changing the statute to require licensees to self-report to the Board within thirty days of conviction or other disciplinary action as a means of expediting and enhancing enforcement efforts.

4.4 Research the possibility of requiring licensees to enroll in the national practitioner's databank to expedite and enhance enforcement efforts.

4.5 Develop proactive methods to enforce the unlicensed sale and distribution of cosmetic contact lenses.

4.6 Establish a partnership with DCA Boards and county and state organizations to identify and address unlicensed activity (e.g. contact lens sales and expired prescriptions) in an effort to protect consumers.

4.7 Review the corrective action for compliance (and revise if necessary) in order to deter unlicensed activity.

4.8 Analyze the 2012 disciplinary guidelines for optometrists and revise where necessary, to promote consistency and fairness with enforcement decisions and enhance consumer protection.

4.9 Adopt disciplinary guidelines for opticians to promote consistency and fairness with enforcement decisions and enhance consumer protection.

4.10 Improve working relationships with the Attorney General's Office, Division of Investigation, District Attorneys and other Government Agencies to identify and fix enforcement bottlenecks and streamline enforcement processes.

4.11 Develop and implement a new inspection program using best practices from other existing programs within DCA.

GOAL 5: OUTREACH

- *The Board proactively educates, informs, and engages consumers, licensees, students, and other stakeholders on the practice of optometry and the laws and regulations which govern it.*

5.1 Review and educate licensees about the scope of practice for optometric assistants, opticians, RDO's, CLD's and SLD's to mirror the letter and chart sent to optometrists clarifying privileges for specific licensing certifications in order to enhance consumer protection.

5.2 Educate practitioners about current federal law regarding contact lens prescription release (48 hour law).

5.3 Educate licensees and registrants about advertising requirements (e.g. free eye exams, free 2nd pair of glasses, etc.) to avoid misleading the public and reduce licensee confusion.

5.4 Educate the public on how to adequately fill contact lens prescriptions based on expiration dates and quantity limits to increase awareness and enhance consumer protection.

5.5 Develop a public relations campaign to educate unlicensed sellers regarding contact lens distribution laws to mitigate future violations, therefore protecting consumers.

5.6 Promote BreEZe's online renewal capability to licensees to decrease manual entries and improve staff efficiency.

5.7 Develop a communication plan utilizing technology to communicate more effectively with stakeholders, patients, and licensees.

5.8 Develop a communication plan to raise awareness of the importance of children's vision health and wellness.

5.9 Conduct an in depth review the Board's website and update information for consumers, licensees, and registrants.

GOAL 6: ORGANIZATIONAL EFFECTIVENESS

- *The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.*

6.1 Provide customer service training for staff to improve communication with stakeholders.

6.2 Investigate technology options for conducting committee and special meetings to broaden access to stakeholders and consumers.

6.3 Provide teambuilding training or exercises to Board members to improve Board functioning.

6.4 Provide teambuilding exercises between Board members and staff to improve relationships.

6.5 Improve communication and build relationships between the Governor's office, legislators, and the Board to effectively achieve the Board's objectives.

Strategic Planning Process

To understand the environment in which the Board operates and identify factors that could impact the Board's success, the California Department of Consumer Affairs' SOLID unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- An online survey sent to the Board's stakeholders, comprised of industry professionals, professional associations, California colleges, government agencies, consumers and others who expressed interest in the strategic direction of the Bureau. The online survey received 428 responses.
- Telephone interviews with all eleven Board members as well as interviews with the Executive Officer and Assistant Executive Officer in November, 2016.
- Focus group discussion with Board staff in November, 2016.

The most significant themes and trends identified from the environmental scan were discussed by the Board members and executive team during a strategic planning session facilitated by SOLID on January 26, 2016. This information guided the Board in the development of its mission, vision, and values, while directing the strategic goals and objectives outlined in this 2017–2020 strategic plan.

CALIFORNIA STATE BOARD OF OPTOMETRY
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
www.optometry.ca.gov

Prepared by:

Department of Consumer Affairs
1747 N. Market Blvd., Suite 270
Sacramento, CA 95834

This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the California Board of Optometry in January 2017. Subsequent amendments may have been made after Board adoption of this plan.

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

Goal 1: Licensing

The Board provides applicants and licensees a method for obtaining and maintaining license registration, business licenses, and certifications required to practice optometry in California.

Objective 1.1: Streamline the initial license and renewal process, including paperless options and synchronizing multiple license renewal dates, to improve staff efficiency and licensee compliance.	
• Conducts monthly meetings discussing timelines and identifying bottlenecks to better streamline the processes. • Identified and raised necessary BreEZe SIRs to improve processes, including independent transaction not requiring staff interaction and board approval (e.g., Statement of Licensure Applications). • Created SIR to generate paperless initial and synchronize certificates. • Conducted outreach informing licensees of the paperless direction of the Board.	**Status:** COMPLETED SCD[1]: Jan. 2019
Objective 1.2: Review the possibility of including continuing education requirements for both spectacle and contact lens dispenser licenses to protect consumers and maintain licensee competence.	
• Researched other states' continuing education (CE) requirements for Opticians. • Researched consumer complaints from other state agencies that regulate opticians. • Utilized consumer complaint reports received to research and identify any potential consumer harm. • Presented research to DOC (Dispensing Optician Committee) for consideration. • DOC recommended not pursuing continuing education requirements at this time. While continuing education is important for registrants to stay apprised of technological advances and industry standards, research indicates no immediate or apparent consumer protection need.	**Status:** COMPLETED SCD: Dec. 2017
Objective 1.3: Continue monitoring and exploring opportunities to enhance BreEZe utilization (e.g. 100% continuing education compliance, usage of national database, etc.) to increase staff productivity and promote licensee compliance with continuing education requirements.	
• Researching BreEZe SIRs to remove the automated printing/mailing of certificates. Instead, staff working with the BreEZe team to show pdf documents on licensees' dashboards after initial/renewal/address change etc. applications are processed. • BOARD DISCUSSION: Staff recommends removing the automated remittance coupon on the bottom of renewal notices. Instead, renewal notices would direct licensees to BreEZe. • Staff has implemented new procedure at the closing of each licensing file to upload PDF certs.	**Status:** COMPLETED SCD: Dec. 2017

Goal 2: Examination

The Board works to provide a fair, valid and legally defensible licensing exam (California Law and Regulation Examination) and exam process to ensure that only qualified and competent individuals are licensed to provide optometric services in California.

Objective 2.1: Recruit more subject matter experts to create examination questions in order to strengthen the diversity of the test.	
• Increased utilization of email, social media and newsletters. • Worked with DCA to design enticing flyer highlighting free CE opportunities. • Partnered with California Optometric Association (COA). • Provided recruitment flyers to continuing education events and other COA events. • Significantly increased SME pool.	**Status:** COMPLETED AND ONGOING SCD: Dec. 2017
Objective 2.2: Analyze the examination requirements to evaluate for competency and the validity of the examination.	
• Collaborated with the Office of Professional Examination Services (OPES) to conduct an occupational analysis and a linkage study. • OA/Linkage Study in Progress; OPES will present to the Board upon completion.	**Status:** COMPLETED SCD: Feb. 2019
Objective 2.3: Create a budget change proposal to secure funds so the Board can perform an occupational analysis on the registered dispensing optician program in order to check for validity of the examination.	
• OPES and DCA Budgets presented to DOC regarding the RDO's fund condition and recommendations for proceeding with OAs for ABO and NCLE exams • Working with DCA Budgets to prepare/submit BCP Concept; final BCP submitted in June 2019.	**Status:** COMPLETED SCD: Jan. 2019

[1]SCD: Scheduled Completion Date

Objective 2.4: Consider the feasibility of developing a state law exam for opticians to verify their familiarity with California laws. • DOC DISCUSSION: The DOC and staff identified a significant need to provide outreach to registrants about the Board, registration, and renewal requirements. In addition, the DOC is working to streamline registration processes and revise applications. Due to this need, staff recommends holding off on considering new registration requirements for one year. This will allow time for stabilizing the existing program.	**Status:** IN PROGRESS SCD: Jun. 2020
Goal 3: Law and Regulation ***The Board works to establish and maintain fair and just laws and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost-effective practices.***	
Objective 3.1: Review federal law to identify methods that will strengthen existing California legislation regarding the sale of contact lenses and eye glasses as a means of improving enforcement and enhancing consumer protection. • Made connections within the FTC regarding the Federal Eyeglass and Contact Lens laws. • FTC currently working on improving the applicable sections. • No staff recommendations on legislation at this time.	**Status:** COMPLETED SCD: Jun. 2018
Objective 3.2: Contact members of congress and the Federal Trade Commission regarding the current 48 hour law to obtain information that would assist in closing existing loopholes. • BOARD/DOC DISCUSSION: Please clarify for staff what "loopholes" currently exist. • Board is not responsible for communications with Federal Officials	**Status:** NOT STARTED SCD: Jun. 2018
Objective 3.3: Continue prioritization for review and updates to existing statutes, legislation, and regulations, for both optometry and dispensing opticians, in order to identify whether or not they are the cause of enforcement delays and determine promulgation of new regulations. • DOC and Board working on regulatory amendments to create RDO Program Disciplinary Guidelines and improve existing Optometry Disciplinary Guidelines. • DOC and Board approved regulatory amendments to improve applications. • Board sponsored SB 1386 which includes additional enforcement provisions to hold owners accountable for standard of care within optometry practice.s. • DOC and Board staff reviewed and proposed changes to optician statutes in 2019 and 2020.	**Status:** COMPLETED AND ONGOING SCD: Dec. 2018
Objective 3.4: Continue partnering with the Medical Board of California to identify potential loopholes regarding online and kiosk refraction administration to enhance consumer protection. □ Attended the Medical Board of California (MBC) board meeting. □ Provided MBC with materials developed from the board's communication plan. □ Working closely with MBC on joint-jurisdiction enforcement matters involving online and kiosk refractions.	**Status:** COMPLETED AND ONGOING SCD: Dec. 2017
Objective 3.5: Review current methods and explore new opportunities to increase access to care (e.g. scope of practice, mobile clinics, new technology, tele-medicine). • Established mobile clinic workgroup to develop legislation increasing access to quality optometric care to homebound patients in 2017. • Board and staff worked with stakeholders and the Legislature on AB 458, signed into law in 2019, which allows optometrists to perform examinations and treatment for homebound patients • Board and staff discussed telemedicine at the October 2019 and May 2020 public meetings and formed telemedicine workgroup.	Status: COMPLETED AND ONGOING SCD: Dec. 2020
Objective 3.6: Review and identify existing practice requirements with regards to unnecessary licensing barriers in an effort to reduce barriers to entry, enhance consumer access to care, and maintain consumer protection. • Reviewed the Little Hoover Report • Researched all relevant practice requirements and identify possible licensing barriers and worked with legislature to remove barriers in AB 1708. • Sponsored SB 1386 to repeal BPC § 3077 – an unnecessary license barrier that was created for the profession and for "the avoidance of the evils of competition."	Status: COMPLETED SCD: JAN. 2019
Objective 3.7: Explore the feasibility of proposing legislation to synchronize the expiration dates of all license types for a given individual.	Status: NOT STARTED SCD: Mar. 2020

Objective 3.8: Explore the feasibility of proposing legislation to merge the RDO and Optometry funds to stabilize the long-term Optometry fund condition. • Bill introduced as Assembly Bill 896 and is currently pending approval in the Senate.	Status: COMPLETED AND ONGOING SCD: Sept. 2019
Objective 3.9: Explore the feasibility of proposing legislation to merge the RDO program into the Optometry Practice Act. • Worked with legal counsel to prepare legislative amendments combining the practice acts. • LRC and Board approved legislative approval in January 2018 with further Board discussion in 2019. • Board reviewed revised proposal at August 2019 public meeting but did not take any action. •	Status: COMPLETED SCD: Sept. 2020
Objective 3.10: Work in conjunction with all stakeholders to ensure consumer protection is weighed equally with consumer choice so legislation and/or regulation promotes fair access to goods and services while informing consumers of the risks and benefits such goods and services afford. • Worked with stakeholders regarding mobile optometric practice, repealing Branch Office law, sponsoring legislation devoted to children's vision, and improving the RDO Program.	Status: COMPLETED AND ONGOING SCD: Dec. 2019
Objective 3.11: Develop and implement a new inspection program using best practices from other existing programs within DCA. If necessary, sponsor/approve legislation or regulatory amendments to improve inspection authority language. • Board proposed legislative amendments included in AB 1708 to improve inspection authority language. • Full Board heard from existing DCA inspection programs to learn best practices. • CPC held additional committee meetings reviewing available data and soliciting feedback from stakeholders on the Board's inspection program. • Full Board voted at April 2018 meeting to postpone implementation, and allow staff to compile a report about the enforcement effectiveness and cost benefit analysis of proactive inspections.	Status: IN PROGRESS SCD: Dec. 2019
Goal 4: Enforcement ***The Board protects the health and safety of consumers of optometric services through the active enforcement of the laws and regulations governing the safe practice of Optometry in California.***	
Objective 4.1: Review enforcement timing between initial offense and when it is conveyed to the Board to act upon in order to protect the consumer and maintain patient access to care. • Discussed during the Jan 2019 CPC Meeting, Enforcement reports that Subsequent Arrest Reports are obtained weekly, and cases are opened accordingly • Established that lag in Board review of enforcement cases due to collection of reports from other jurisdictions	**Status:** COMPLETED SCD: Jan. 2019
Objective 4.2: Explore the feasibility of participating in the FBI rap back program to expedite and enhance enforcement efforts. • Discussed participation requirements with the FBI and DOJ • Requested assistance from the DCA • Discussed during January 2018 Director's Meeting • DOJ starting stakeholders meeting to determine project plan and resources needed.	**Status:** IN PROGRESS SCD: Dec. 2019
Objective 4.3: Research the possibility of changing the statute to require licensees to self-report to the Board within thirty days of conviction or other disciplinary action as a means of expediting and enhancing enforcement efforts. • Discussed during the Jan 2019 CPC Meeting, Committee clarified desire to more quickly open enforcement cases against licensees disciplined by other boards, agencies and states • Staff to research potential regulations (authority of other boards) to implement self-reporting of such actions, and present findings at a future meeting.	**Status:** IN PROGRESS SCD: Oct. 2019
Objective 4.4: Research the possibility of requiring licensees to enroll in the national practitioner's databank to expedite and enhance enforcement efforts. • Included in Board's Sunset Bill (AB 1708) effective January 1, 2018. • As of July 1, 2018, all applicants and licensees will be enrolled in NPDB and be charged $2 for initial applications and $4 during renewal to support NPDB.	**Status:** COMPLETED Jan. 2018
Objective 4.5: Develop proactive methods to enforce the unlicensed sale and distribution of cosmetic contact lenses.	

• CPC reviewed plan for informational campaign on cosmetic contact lens at March 2019 meeting and full Board discussed at the August 2019 public meeting. • Board staff and DCA created blog post on cosmetic contacts in October 2019 and posted on Board's website	**Status:** COMPLETED SCD: Dec. 2019
Objective 4.6: Establish a partnership with DCA Boards and county and state organizations to identify and address unlicensed activity (e.g. contact lens sales and expired prescriptions) in an effort to protect consumers. • Board staff participated in several optician fairs and made presentations on opticianry.	**Status:** NOT STARTED SCD: Sept. 2018
Objective 4.7: Review the corrective action for compliance (and revise if necessary) in order to deter unlicensed activity	**Status:** NOT STARTED SCD: Dec. 2018
Objective 4.8: Analyze the 2012 disciplinary guidelines for optometrists and revise where necessary, to promote consistency and fairness with enforcement decisions and enhance consumer protection • CPC workgroup developed recommendations for CPC consideration during March 23, 2018 and January 11, 2019 meetings • Board approved updated guidelines at October 2019 public meeting. • Staff developing rulemaking package for submittal to DCA and OAL by Summer 2020.	**Status:** COMPLETED SCD: Oct. 2019
Objective 4.9: Adopt disciplinary guidelines for opticians to promote consistency and fairness with enforcement decisions and enhance consumer protection. • Discussed multiple times during DOC meetings; held various workgroup meetings • DOC reviewed and approved revised Guidelines at December 2019 public meeting • Full Board review and approval expected by late summer 2020.	**Status:** IN PROGRESS SCD: Aug. 2019
Objective 4.10: Improve working relationships with the Attorney General's Office, Division of Investigation, District Attorneys and other Government Agencies to identify and fix enforcement bottlenecks and streamline enforcement processes. • Working with DAG Liaison to streamline processes, update transmittal memos, and improve communication throughout all AG Offices • Met with Northern Area Commander at DOI to discuss concerns and improve investigation quality; requesting additional meetings with Southern Area Commander and the Division Chief. • EO and Board staff met monthly with DAG Liaison and Legal Counsl throughout 2019.	**Status:** COMPLETED AND ONGOING SCD: Dec. 2019
Objective 4.11: Develop and implement a new inspection program using best practices from other existing programs within DCA. • Researched existing programs and presented information during Dec. 2017 CPC meeting • Inspection "tools" being discussed/developed during March 23, 2018 meeting • Full Board voted at April 2018 meeting to postpone implementation, and allow staff to compile a report about the enforcement effectiveness and cost-benefit analysis of proactive inspections.	**Status:** IN PROGRESS SCD: Dec. 2019
Goal 5: Outreach ***The Board proactively educates, informs and engages consumers, licensees, students and other stakeholders on the practice of optometry and the laws and regulations which govern it.***	
Objective 5.1: Review and educate licensees about the scope of practice for optometric assistants, opticians, RDOs, CLDs and SLDs to mirror the letter and chart sent to optometrists clarifying privileges for specific licensing certifications to enhance consumer protection. • Content developed as part of Spring 2018 Newsletter • Next Steps: Develop Scope of Practice FAQ • DOC and Board staff developed definitions of duties within statute for RDO, CLD and SLD as part of optician statutory review.	**Status:** IN PROGRESS SCD: July 2019
Objective 5.2 Educate practitioners about current federal law regarding contact lens prescription release (48-hour law). BOARD/DOC DISCUSSION: Please clarify for staff what "loopholes" currently exist. No DOC law exam	**Status:** NOT STARTED SCD: Sept. 2018
	35

Objective 5.3 Educate licensees and registrants about advertising requirements (e.g. free eye exams, free 2nd pair of glasses, etc.) to avoid misleading the public and reduce licensee confusion. • Content developed as part of Spring 2018 Newsletter • DCA finalizing Spring 2018 Newsletter for publication in late April.	**Status:** COMPETED SCD: May. 2018
Objective 5.4 Educate the public on how to adequately fill contact lens prescriptions based on expiration dates and quantity limits to increase awareness and enhance consumer protection.	**Status:** NOT STARTED SCD: Apr. 2019
Objective 5.5 Develop a public relations campaign to educate unlicensed sellers regarding contact lens distribution laws to mitigate future violations, therefore protecting consumers.	**Status:** NOT STARTED SCD: Dec. 2018
Objective 5.6 Promote BreEZe's online renewal capability to licensees to decrease manual entries and improve staff efficiency. • Increased social media usage to specifically promote BreEZe • Distributed courtesy emails to those up for renewal with link to BreEZe • Replaced paper applications on Board's website with links to BreEZe • Working with stakeholders to promote BreEZe	**Status:** COMPLETED AND ONGOING
Objective 5.7 Develop a communication plan utilizing technology to communicate more effectively with stakeholders, patients, and licensees. • Communications plan adopted by the Board • Currently implementing; developing videos, articles, op-eds • Social Media: Facebook, Twitter • New DCA License Lookup for mobile devices • DCA Blog: Glaucoma Awareness Month, O's for the Eyes • Consumer Connection Magazine (O's for the Eyes included)	**Status:** COMPLETED
Objective 5.8 Develop a communication plan to raise awareness of the importance of children's vision health and wellness. • Communications plan adopted by the Board • Currently implementing; developing videos, brochures, op-eds • Video: Children's Vision Screenings: A False Sense of Security • Article: For Some Kids, Four Eyes Than Two • Brochure: Kids Eye Health is Not Child's Play (Attachment 3) • Reaching out to high profile "YouTubers" to solicit support for #ShowOffYourFrameGame	**Status:** COMPLETED
Objective 5.9 Conduct an in depth review the Board's website and update information for consumers, licensees, and registrants. • Completed committee review of website and updated information • New FAQs provided on website for Optometry and Optician applicants • Website re-design completed May 2019to elevate presence of Optician Program, and bring new, more relevant communication to the the homepage.	**Status:** COMPLETED AND ONGOING SCD: Aug. 2019
Goal 6: Organizational Effectiveness ***The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.***	
Objective 6.1: Provide customer service training for staff to improve communication with stakeholders. • Board management encourages customer service training for staff; staff to complete training at least every two years.	**Status:** COMPLETED SCD: Jan. 2019
Objective 6.2: Investigate technology options for conducting committee and special meetings to broaden access to stakeholders and consumers. • Held various committee and stakeholder meetings using WebEx and provided call-in numbers for stakeholders throughout the US to participate in stakeholder meetings. • Broadcasted DOC meetings using Facebook Live. • Meetings posted via social media and email list.	**Status:** COMPLETED SCD: Sep. 2019

Objective 6.3: Provide teambuilding training or exercises to Board members to improve Board functioning.	**Status:** COMPLETED AND ONGOING SCD: Mar. 2018
• Rather than specific teambuilding training or exercises, Board members opted for lunches and dinners during various meetings.	
Objective 6.4: Provide teambuilding exercises between Board members and staff to improve relationships.	**Status:** COMPLETED AND ONGOING SCD: Jun. 2018
• Rather than specific teambuilding training or exercises, Board members opted for coffee breaks, lunches and dinners during various meetings.	
Objective 6.5: Improve communication and build relationships between the Governor's office, legislators, and the Board to effectively achieve the Board's objectives.	**Status:** COMPLETED SCD: Sep. 2019
• Board staff held various meetings with legislatures regarding Board sponsored legislation and legislative proposals for omnibus bill consideration. • Children's Vision Workgroup participated in various meetings with author's office.	

2020

Environmental Scan

SOLID PLANNING

Table of Contents

Introduction 2
Acronyms 3
Licensing 4
Licensing Strengths 4
Licensing Weaknesses 4
DCA Active License Statistics 6
Examination 7
Examination Strengths 7
Examination Weaknesses 7
Law and Regulation 8
Law and Regulation Strengths 8
Law and Regulation Weaknesses 8
Enforcement 9
Enforcement Strengths 9
Enforcement Weaknesses 9
DCA Performance Measures Summary 10
Outreach 11
Outreach Strengths 11
Outreach Weaknesses 11
Organizational Effectiveness 12
Organizational Effectiveness Strengths 12
Organizational Effectiveness Weaknesses 12

Introduction

One of the first steps in developing a strategic plan is to conduct a scan and analysis of the environment in which an organization operates. This analysis allows us to look at the factors that impact the organization's success. This is a summary of the environmental scan recently conducted by SOLID Planning for the California State Board of Optometry in the months of June and July 2020.

The purpose of this environmental scan is to provide a better understanding of stakeholders, board members, committee members, board management, and board staff's thoughts about the Board's performance in the following goal areas:

- Licensing
- Examination
- Law and Regulation
- Enforcement
- Outreach
- Organizational Effectiveness

This document outlines areas were board members, committee members, board management, board staff, and stakeholders agree and disagree, while providing additional insight to assist the Board in developing goals and objectives for the upcoming strategic plan.

Please review this information carefully in preparation for the upcoming strategic planning session. At this planning session, we will discuss and evaluate this information as a group to help us identify new strategic objectives the Board will focus on during the new strategic plan period.

If you have any questions about this report, please contact Trisha St.Clair with SOLID Planning at (916) 574-8517 or Trisha.St.Clair@dca.ca.gov.

Acronyms

ABO	American Board of Ophthalmology, American Board of Opticianry
AG	Attorney General
AMA	American Medical Association
AOA	American Optometric Association
BreEZe	Online licensing and enforcement system for the Department of Consumer Affairs
CE	Continuing Education
CL	Contact Lens
CLD	Contact Lens Dispenser
COA	California Optometric Association
COVID19	Corona Virus Disease 2019
DAG	Deputy Attorney General
DCA	Department of Consumer Affairs
DEA	Drug Enforcement Administration
DOI	Department of Investigations
DUI	Driving Under the Influence
FNP	Family Nurse Practitioner
IPL	Intense Pulsed Light
LLC	Limited Liability Company
MRS	Magnetic Resonance Spectroscopy
NBEO	Optometry National Board Exam
OCT	Optical Coherence Tomography
OPES	Office of Professional Examination Services
PCP	Primary Care Physician
RDO	Registered Dispensing Optician
SBO	State Board of Optometry
SLD	Spectacle Lens Dispenser
SME	Subject Matter Expert
SOL	Statement of Licensing
TPL	The optometrist is also certified to perform lacrimal irrigation and dilation procedures for patients over the age of 12 years.
TLG	The optometrist is also certified to perform lacrimal irrigation and dilation procedures for patients over the age of 12 years and diagnose and treat primary open angle glaucoma in patients over the age of 18 years.
TMOD	Treatment & Management of Ocular Disease
TPA	The optometrist may treat certain conditions of the human eye, or any of its appendages, with therapeutic pharmaceutical agents.
VSP	Vision Service Plan
YAG	Yttrium-Aluminum-Garnet

Licensing

The Board provides applicants and licensees a method for obtaining and maintaining license registration, business licenses, and certifications required to practice optometry in California.

Licensing refers to the initial application submission process for obtaining a license from the Board, as well as the renewal process. Licensing includes processing times, processing backlogs, and responsiveness of board staff to initial and renewal applicant inquiries. Inquiries may include information from the Board about the licensing process, licensing requirements, and eligibility criteria for licensure.

Licensing Effectiveness			
Rating	External Stakeholders	Board & Committee Members	Board Management & Staff
Very effective	31 %	8 %	9 %
Effective	60 %	92 %	73 %
Poor	7 %	0 %	18 %
Very poor	2 %	0 %	0 %
Total	100%	100%	100%

Licensing Strengths

1. Stakeholders, board members, and board management say board staff is easy to reach and readily answers questions and provides information.
2. Stakeholders, board staff, and board management compliment licensing on being an efficient process.
3. Stakeholders and board members cite the online licensing process is an improvement and an aid to the licensing turnaround time.
4. Stakeholders and board members praise licensing for timely notices, prompt responses, and a fast turnaround time.
5. Stakeholders and board members cite communication as a strength, saying licensing provides good quality regular communication and helpful updates.

Licensing Weaknesses

1. Stakeholders, board members, and board staff agree timeliness is the biggest weakness, saying it takes too long to receive a license and process forms and renewals.
2. Stakeholders, board members, and board management agree licensing can use more staff.

3. Stakeholders and board members state licensing lacks good customer service, exhibiting poor phone etiquette and appearing unwilling to help.
4. Stakeholders, board management, and committee members suggest communication can improve by offering applicants status updates, providing CE and renewal reminders, and using more consistent responses.
5. Stakeholders and board members say CE requirements are confusing, too numerous, and could be more flexible.

DCA Active License Statistics

To ensure that DCA and its stakeholders can effectively execute the department's core mission of consumer protection, the department has established a transparent set of measurements to track licensing activity. The chart below shows the number and types of licenses issued in current and prior years and year-over-year change for each category.

Data Definitions

License Application – An application for first licensure received by a DCA entity at any time during the period July 1 through June 30 of the year selected.

Active License – A license issued by a DCA entity that was active at any time during the period July 1 through June 30 of the year selected.

New License – A license issued by a DCA entity to a first-time licensee at any time during the period July 1 through June 30 of the year selected.

Renewed License – A license that was renewed by a DCA entity at any time during the period July 1 through June 30 of the year selected.

Licensing Measures	SFY 2018/1019	SFY 2017/2018	SFY 2017/2016
Active Licenses	23,315	43,485	42,982
Licensing Statistics - Licensing Applications	2,116	1,652	2,484
Licensing Statistics - Renewed Licenses	7,379	7,800	7,929
Licensing Statistics - New Licenses	1,819	1,217	2,173

The data contained in this table is compiled from the Open Data Portal which uses monthly statistical reporting from DCA Boards and Bureaus. Years are based on California's fiscal year (sfy), which runs from July 1 through the following June 30.,

Examination

The Board works to provide a fair, valid and legally defensible licensing exam (California Law and Regulation Examination) and exam process to ensure that only qualified and competent individuals are licensed to provide optometric services in California.

Examination Effectiveness			
Rating	External Stakeholders	Board & Committee Members	Board Management & Staff
Very effective	27 %	17 %	30 %
Effective	67 %	75 %	60 %
Poor	5 %	8 %	10 %
Very poor	1 %	0 %	0 %
Total	100%	100%	100%

Examination Strengths

1. Stakeholders, board members, board management, and board staff cite collaboration as an examination strength, saying the Board works with practicing doctors, subject matter experts, OPES, and TSI in its exam writing process.
2. Stakeholders, board members, and committee members cite the Board maintains standards via the examination.
3. Stakeholders praise the examination for being straight forward with clear expectations and instructions.
4. Stakeholders, board members, and committee members express the examination is thorough, ensuring only competent individuals become optometrists.

Examination Weaknesses

1. Stakeholders, board members, and board staff say accessibility of the examination is a weakness, as applicants are having to travel to remote places to take the exam.
2. Stakeholders cite the examination lacks relevancy, saying it is out of touch with practice and emphasizes the wrong things.
3. Stakeholders say the examination lacks quality, saying questions are poorly written or not hard enough.
4. Stakeholders say the waiting period for the re-examination is too long.

Law and Regulation

The Board works to establish and maintain fair and just laws and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost-effective practices.

Law & Regulation Effectiveness			
Rating	External Stakeholders	Board & Committee Members	Board Management & Staff
Very effective	17 %	33 %	25 %
Effective	60 %	50 %	75 %
Poor	18 %	17 %	0 %
Very poor	5 %	0 %	0 %
Total	100%	100%	100%

Law and Regulation Strengths

1. Stakeholders, board members, and board management praise the Board for communicating updates and changes to laws and regulations.
2. Stakeholders, board members, and board management cite the Board places consumers first in its approach to laws and regulations.
3. Stakeholders, board members, board management, and committee members say the Board handles laws and regulations effectively and makes reasonable assessments.
4. Stakeholders, board members, and board management say the Board proactively approaches laws and regulations, seeking to re-evaluate and change them as the world changes.

Law and Regulation Weaknesses

1. Stakeholders, committee members, and board management would like to see better communication with licensees regarding existing laws.
2. Stakeholders would like to see more auditing and enforcement of laws and regulations.
3. Stakeholders and board members cite the Board lacks power in the area of laws and regulations and lets itself be pushed around.
4. Stakeholders feel laws and regulations often do not support the best interests of licensees.
5. Stakeholders, committee members, board management, and board staff believe the laws and regulations could use more clarification.

Enforcement

The Board protects the health and safety of consumers of optometric services through the active enforcement of the laws and regulations governing the safe practice of optometry in California.

Enforcement Effectiveness			
Rating	External Stakeholders	Board & Committee Members	Board Management & Staff
Very effective	18 %	33 %	50 %
Effective	58 %	67 %	50 %
Poor	17 %	0 %	0 %
Very poor	7 %	0 %	0 %
Total	100%	100%	100%

Enforcement Strengths

1. Stakeholders, board members, committee members, board management, and board staff state the Board's enforcement is effective, assessing and prioritizing complaints appropriately.
2. Stakeholders, board members, and board management say enforcement always works through cases with the consumer in mind.
3. Board management and staff praise the quality of the enforcement team, describing it as technically competent, hardworking, and having good leadership.
4. Board members, board management, and board staff state the Board's enforcement is thorough in its investigative process and takes all complaints seriously.

Enforcement Weaknesses

1. Stakeholders state enforcement is ineffective, allowing remote eye exams and not preventing the sale of eyewear or contact lenses without a prescription.
2. Stakeholders cite the Board fails to support licensees by not going after big corporations.
3. Stakeholders, board members, board management, and board staff say the Board lacks enough enforcement staff and current staff is spread too thin.
4. Stakeholders, board members, board management, and board staff state the enforcement case turnaround time is too slow.

DCA Performance Measures Summary

The performance measures demonstrate DCA is making the most efficient and effective use of resources. Performance measures are linked directly to an agency's mission, vision, strategic objectives, and strategic initiatives. The chart below shows the number of days between the stages of investigating a consumer complaint for the Board. The column labeled "target" is the goal the Board established for itself. The remaining columns show the actual number of days to move a complaint from one step of the investigative process to the next.

Glossary of Performance Measure Terms

Volume – Number of complaints and convictions received.

Intake – Average cycle time from complaint receipt to the date the complaint was assigned to an investigator.

Intake & Investigation – Average cycle time from complaint receipt to closure of the investigative process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Formal Discipline – Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the board/board and prosecution by the Attorney General.)

Probation Intake – Average number of days from monitor assignment to the date the monitor makes first contact with the probationer.

Probation Violation Responses – Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Enforcement Performance Measures	**SFY 2018/2019**		**SFY 2017/2018**		**SFY 2016/2017**	
Complaint Volume	77		41		69	
	Target	*Actual*	Target	*Actual*	Target	*Actual*
Complaint Intake (days)	10	*1*	7	*2*	7	*4*
Investigation (days)	90	*222*	90	*142*	90	*138*
Formal Discipline (days)	540	*624*	540	*582*	540	*620*

The data contained in this table is compiled from the Open Data Portal which uses monthly statistical reporting from DCA Boards and Bureaus. Years are based on California's fiscal year (sfy), which runs from July 1 through the following June 30.

Outreach

The Board proactively educates, informs, and engages consumers, licensees, students, and other stakeholders on the practice of optometry and the laws and regulations which govern it.

Outreach Effectiveness			
Rating	External Stakeholders	Board & Committee Members	Board Management & Staff
Very effective	14 %	0 %	9 %
Effective	54 %	55 %	36 %
Poor	27 %	36 %	55 %
Very poor	5 %	9 %	0 %
Total	100%	100%	100%

Outreach Strengths

1. Stakeholders, board members, committee members, and board management state the Board sends informative emails on a regular basis.
2. Board members, board management, and board staff say the Board is trying to use social media more.
3. Stakeholders, board members, and board management cite the Board is good about reaching out to students and providing them with information on licensing and enforcement.
4. Board members and board management state the Board website has improved significantly.

Outreach Weaknesses

1. Stakeholders, board members, and board staff would like to see more communication to licensees.
2. Stakeholders and board staff would like to see more education offered on what optometrists do, the importance of optometric exams, and changes to laws.
3. Stakeholders, board members, committee members, and board management state the Board needs to increase its outreach.
4. Stakeholders, board members, committee members, board management, and board staff state the Board could use a more comprehensive social media approach.

Organizational Effectiveness

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

Organizational Effectiveness			
Rating	External Stakeholders	Board & Committee Members	Board Management & Staff
Very effective	14 %	33 %	46 %
Effective	57 %	59 %	45 %
Poor	24 %	8 %	9 %
Very poor	5 %	0 %	0 %
Total	100%	100%	100%

Organizational Effectiveness Strengths

1. Stakeholders and board staff cite staff accessibility as an organizational effectiveness strength, saying staff answer the phone and return emails and calls promptly.
2. Board members, committee members, board management, and board staff praise the staff's productivity and team player spirit.
3. Stakeholders and board staff say board staff are helpful and good about answering questions.
4. Board members, committee members, and board management agree the Board has strong leadership that supports staff and encourages growth.

Organizational Effectiveness Weaknesses

1. Stakeholders, board members, board management, and board staff agree communication could be improved on many levels, including communication with licensees, staff, and the governor's office as well as how phone calls are directed.
2. Stakeholders cite poor customer service as a weakness, saying staff comes across as unfriendly and unhelpful on the phone.
3. Stakeholders, board members, committee members, and board management say staffing issues are a weakness, including high turnover and not enough staff to do the work.
4. Stakeholders would like to see faster responses to their inquiries.

INSTRUCTIONS

Using the attached worksheets, determine potential Objectives for each goal area for the new Strategic plan based on:

a. Review of the Environmental Summary Report
b. Items outlined in Sunset Review (if applicable)
c. Experience and previously identified needs

GUIDELINES TO DEVELOPING OBJECTIVES

When developing objectives, you should consider the MARS objectives method:

Measurable	Success that can be measured
Action-Oriented	Uses action words
Realistic	Possible to attain
Specific	Details what needs to be done

ACTION VERB	WHAT?	WHY?
Action words give the objective movement. Use the "Action Verb" list.	What is the objective to address?	Why does action need to be taken?

Below are examples of how to use the formula to develop objectives.

ACTION VERB	WHAT?	WHY?
Create	an onboarding program	to ensure their successful transition to the Board.
Recruit and train	three additional Subject Matter Experts	to reduce investigative cycle times.

Licensing		
ACTION VERB	**WHAT?**	**WHY?**

NOTES:

Examination		
ACTION VERB	**WHAT?**	**WHY?**

NOTES:

Law and Regulation		
ACTION VERB	**WHAT?**	**WHY?**

NOTES:

Enforcement		
ACTION VERB	**WHAT?**	**WHY?**

NOTES:

OUTREACH		
ACTION VERB	**WHAT?**	**WHY?**

NOTES:

Organizational Effectiveness		
ACTION VERB	**WHAT?**	**WHY?**

NOTES:

ACTION VERBS

All-Purpose		Investigative *Checking it out*		Consultative *Doing the research*	Communication *Sharing knowledge*
Adapt	Lead	Analyze	Interview	Address	Communicate
Administer	Perform	Anticipate	Investigate	Advise	Discuss
Adopt	Plan	Appraise	Locate	Benchmark	Disseminate
Combine	Promote	Assess	Measure	Coach	Introduce
Compare	Provide	Calculate	Monitor	Consult	Re-write
Decide	Raise	Conduct	Prioritize	Counsel	Write
Decrease	Recommend	Confirm	Quantify	Demonstrate	
Define	Revise	Determine	Re-evaluate	Guide	
Discontinue	Select	Divide		Inform	
Enhance	Serve	Evaluate	Research	Mentor	
Expand	Simplify	Explore	Seek	Model	
Gather	Streamline	Find	Survey	Negotiate	
Help	Strengthen	Hypothesize	Validate	Resolve	
Increase	Supervise	Identify	Verify	Review	
Initiate	Use			Suggest	
	Utilize			Teach	

Generative *Making things happen*		Coordinative *Organize it*	Collaborative *Working with others*	
Acquire	Generate	Accelerate	Accommodate	Offer
Activate	Innovate	Arrange	Assist	Participation
Advance	Invent	Assimilate	Co-create	Partner with
Allocate	Launch	Clarify	Collaborate	Persuade
Assemble	Make	Condense	Compile	Recognize
Apply	Maximize	Connect	Contribute	Resolve
Automate	Modify	Coordinate	Educate	Share
Build	Organize	Decide	Encourage	Steer
Consolidate	Outline	Direct	Facilitate	Support
Construct	Prepare	Establish	Guide	Synthesize
Contract	Preserve	Facilitate	Help	Synchronize
Create	Produce	Fund	Leverage	Unite
Deliver	Propose	Harmonize	Mitigate	
Design	Publish	Implement		
Develop	Redesign	Include		
Devise	Re-engineer	Intervene		
Document	Require	Itemize		
Draft	Restructure	Lead		
Establish	Revise	Manage		
Execute	Simplify	Merge		
Extend	Start	Organize		
Formalize	Update	Pursue		
Formulate		Rank		
		Systematize		

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer
SUBJECT	Agenda Item #7 – Presentation and Discussion of Executive Officer's Report

Executive Officer Shara Murphy and designated staff will offer the Executive Officer's Report regarding the following topics:

A. Enforcement Program
B. Examination and Licensing Program
C. Regulatory Update
D. Committee Meeting Updates

ISSUE MEMORANDUM

DATE	August 14, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Cheree Kimball, Assistant Executive Officer *prepared by Matt McKinney, Enforcement Analyst and*
SUBJECT	Agenda Item #7A – Enforcement Program

Fiscal Year 2019-2020 Wrap Up

On June 30th, we closed out fiscal year 2019-2020. In that year, enforcement staff did the following:

- opened 240 Optometry cases and 130 Opticianry cases
- closed 268 Optometry cases and 133 Opticianry cases
- issued 9 Optometry citations
- sent 1 Optometry case and 5 Opticianry cases to the Attorney General's Office
- took Disciplinary Action against 5 Optometrists and 4 Opticians
- worked on updating the Disciplinary Guidelines for the Optometry program
- worked on drafting Disciplinary Guidelines for the Opticianry program
- began a review and update of the forms used for probation monitoring
- worked on updating procedure manuals for the tasks performed by enforcement staff
- recruited, hired, and trained a new lead enforcement analyst
- moved twice to facilitate the remodel of the Board's office
- worked on the comprehensive review of the statutes and regulations governing the practice of Opticianry, and the draft language for changes that will improve consumer protection and the enforcement process
- participated in DCA's Expert Witness Program Work Group to share expertise and help develop a standard training program and manaual for Expert Witnesses

Disciplinary Actions

Of the five Disciplinary Actions taken against Optometrists in fiscal year 2019-2020, two were based on criminal convictions, two were based on unprofessional conduct, and one was based on a drug related offense.

Of the four Disciplinary Actions taken against Opticians in fiscal year 2019-2020, all four were based on criminal convictions.

	Q4 – FY19/20						FY Total	
	Routine		High		Urgent			
Cases by Priority	OPT	RDO	OPT	RDO	OPT	RDO	OPT	RDO
Received	48	24	0	0	0	0	240	130
Closed	65	14	1	0	0	0	268	133
Average Age (days) - Closed	74	58	291	0	0	0	155	131
Pending	105	116	12	0	0	0	96	102
Average Age (days) – Pending	532	555	475	0	0	0	526	555
Referred to AG	0	0	0	0	0	0	1	5
Pending at AG	5	30	2	0	0	0	5	28
Final Disciplinary Orders	0	2	1	0	0	0	5	4

Fig. 1: Overall Case Statistics, Q4, FY 2019-2020

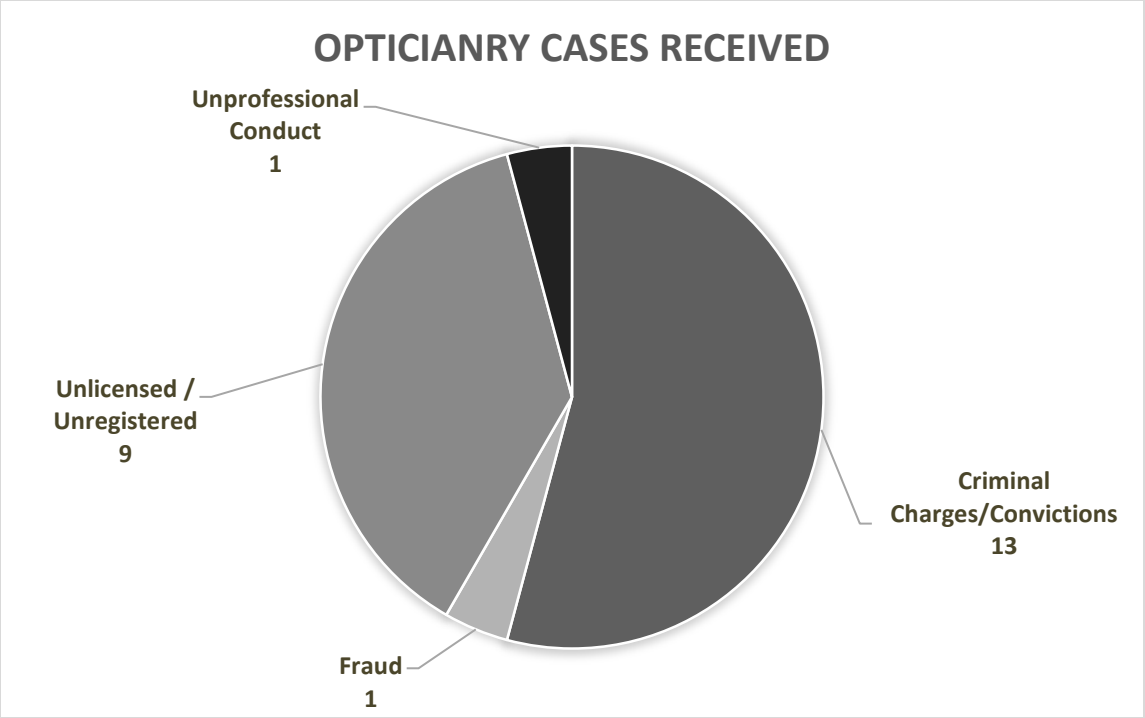


Fig. 2: Opticianry Cases Received by Classification, Q4, FY 2019-2020

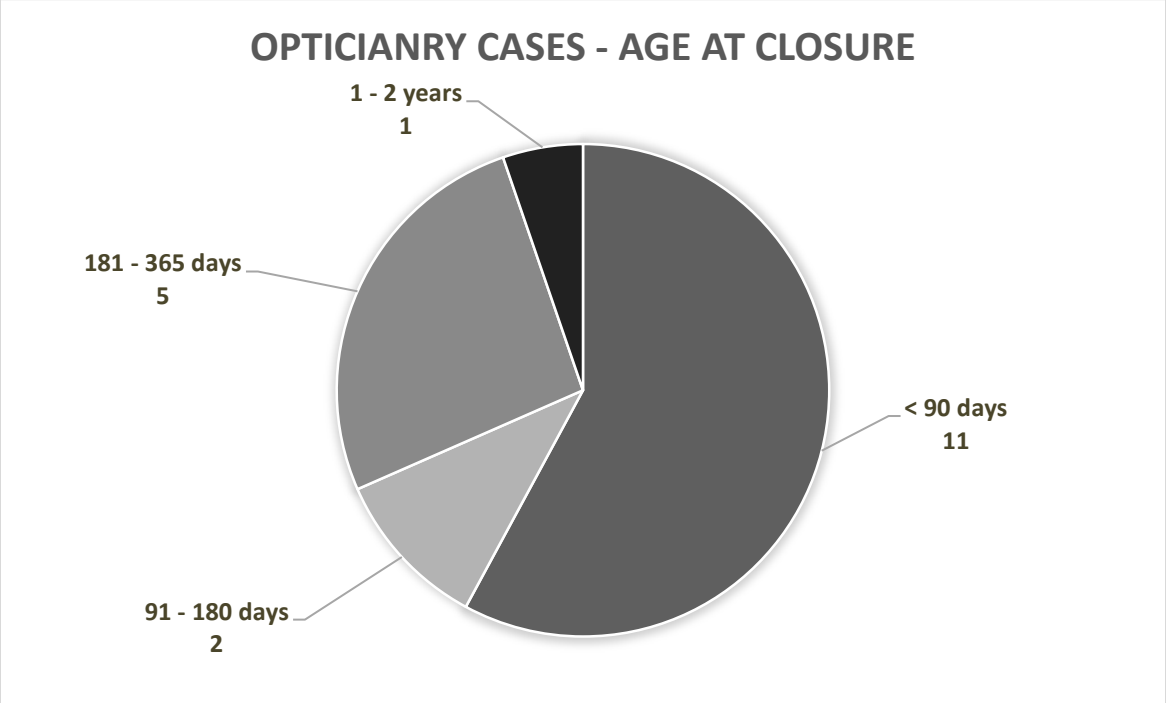


Fig. 3: Opticianry Cases – Age at Closure, Q4, FY 2019-2020

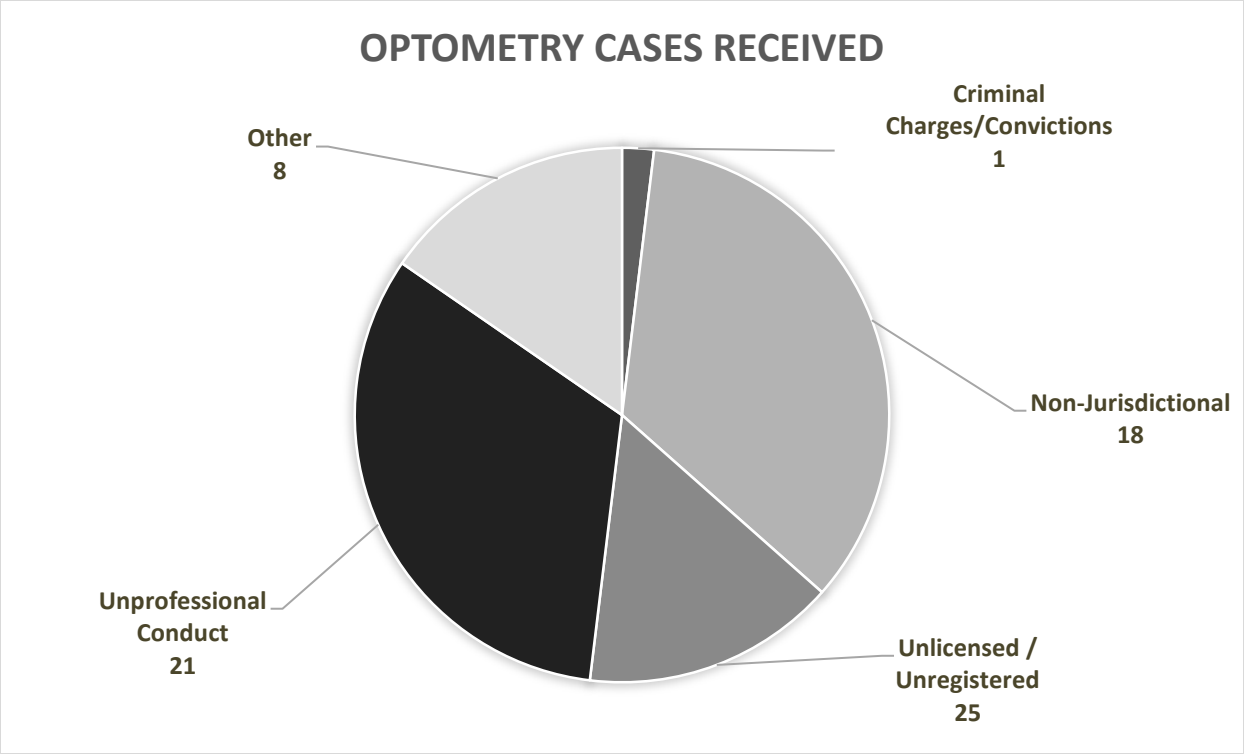


Fig. 4: Optometry Cases Received by Classification, Q4, FY 2019-2020

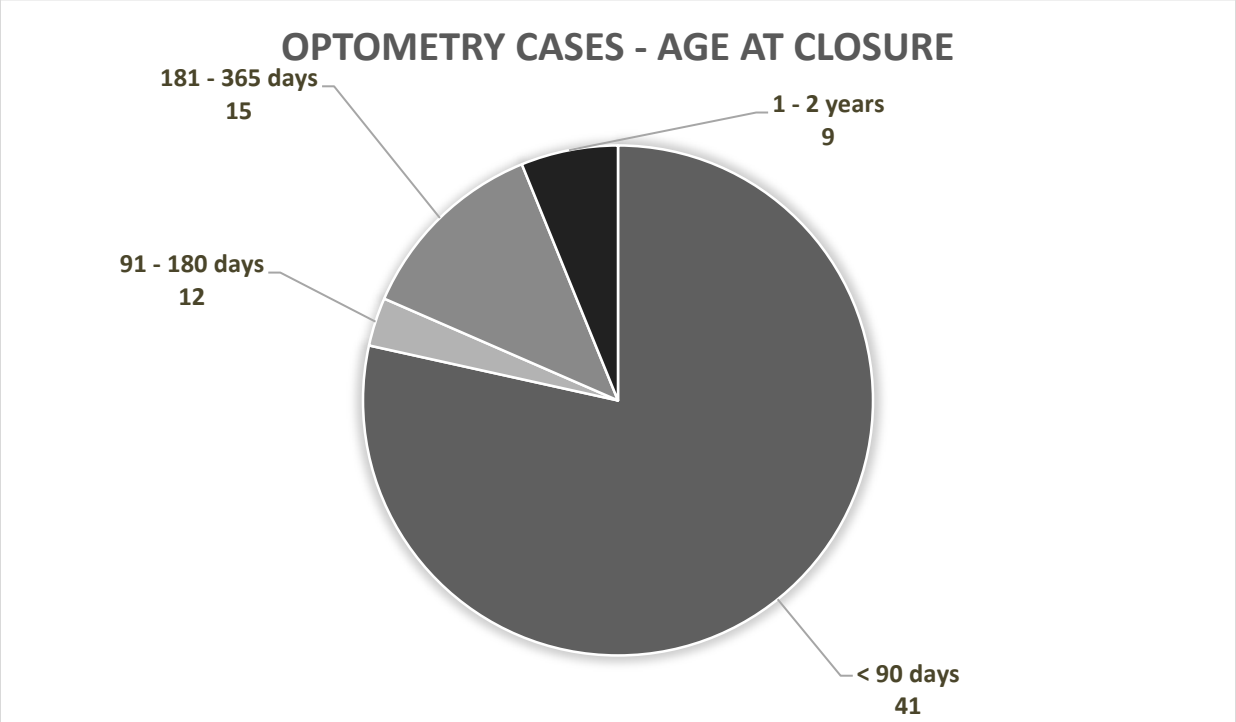


Fig. 5: Optometry Cases – Age at Closure, Q4, FY 2019-2020

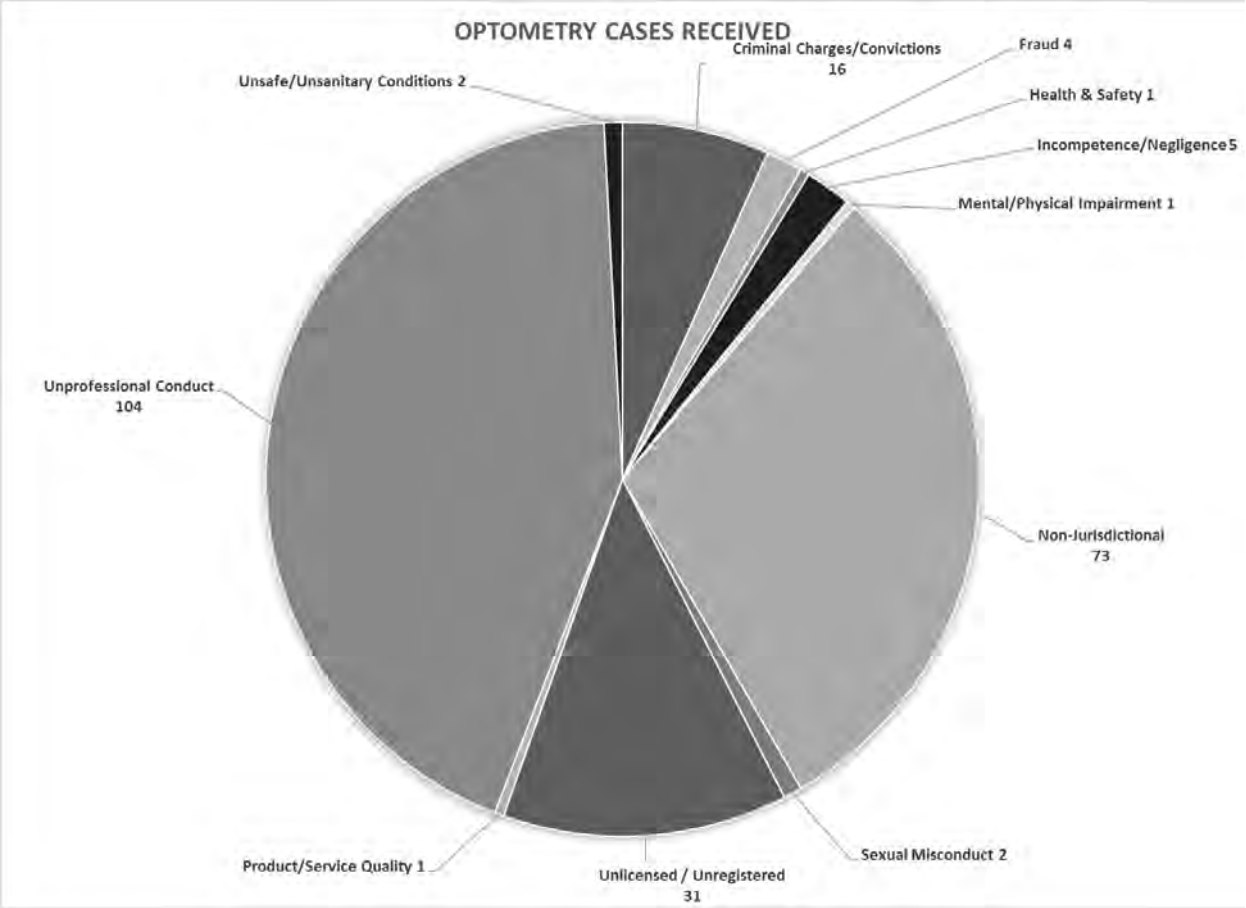


Fig. 6: Optometry Cases Received by Classification – Fiscal Year 2019/2020

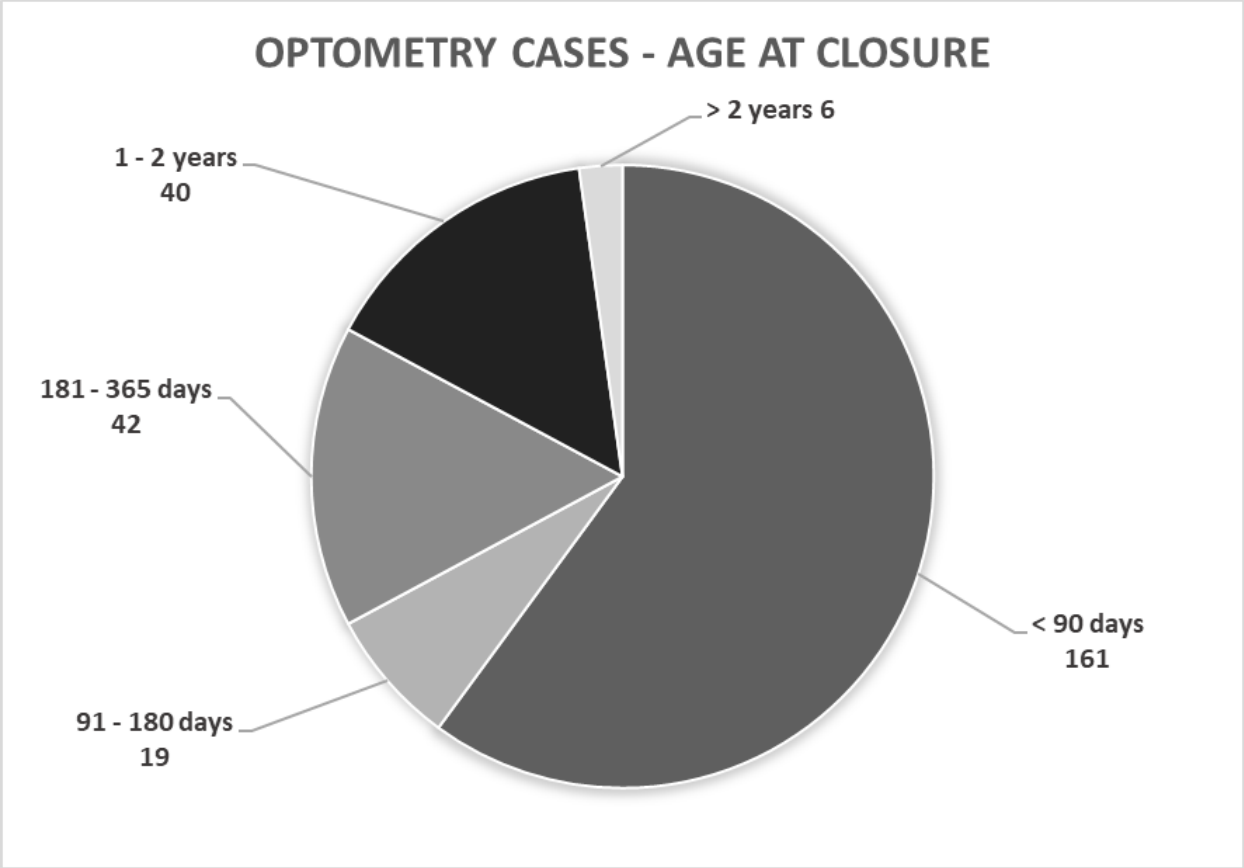


Fig. 7: Optometry Cases Closed by Age – Fiscal Year 2019-2020

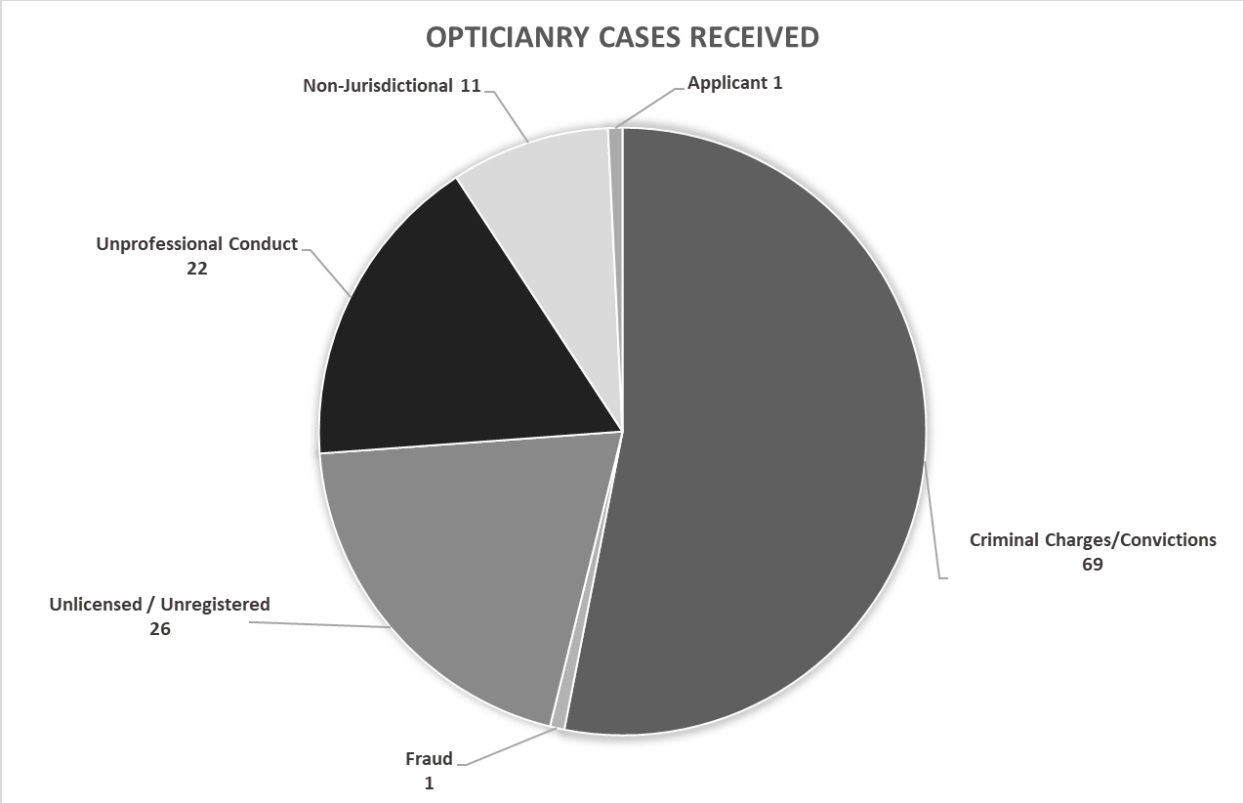


Fig. 8: Opticianry Cases Received by Classification – Fiscal Year 2019/2020

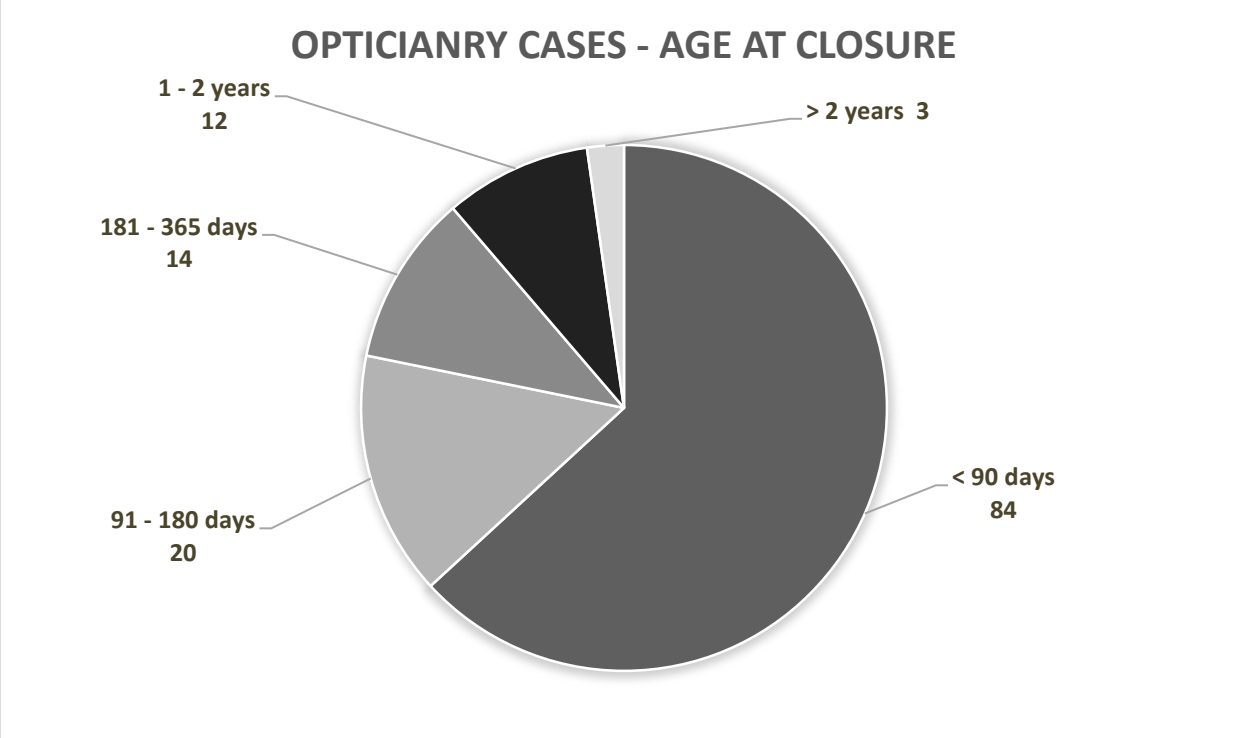


Fig. 9: Opticianry Cases Closed by Age – Fiscal Year 2019-2020

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer *Prepared by Natalia Leeper, Licensing Program Coordinator*
SUBJECT	Agenda Item #7b – Examination and Licensing Program Report

Optometry Licensing Program:
Licensing staff has been processing the influx of applications for Optometry from new graduates of Berkeley School of Optometry, the Southern California School of Optometry at Marshall B. Ketchum University, the College of Optometry at Western University of Health Sciences, and other approved optometric schools.

The Governor's Stay-at-Home Executive Order has been extended in response to COVID-19. Facility closures have continued to limited access to licensing requirements such as LiveScan fingerprinting and the administration of the California Law and Regulations Examination (CLRE) and National Boards. Applicants can still schedule their exams, but seats are limited.

The Board has received most of the transcripts from recent graduates. Incoming documents for licensure have slowed throughout July. NBEO scores have also been released to the Board. The Board anticipates the results of those candidates that had to wait for the Exam or had to retake the Exam will be received in September.

Processing times are currently at 10-12 weeks. Staff that had been shifted by the influx of applications in May is currently working on streamlining the process and bringing that processing time down.

Optometry California Laws and Regulations Examination:
PSI began administering exams again on April 13, 2020, with limited capacity. The limited capacity continues and several locations in Los Angeles have closed completely due to local ordinances. The Board encourages 2020 graduates to schedule their exams as soon as possible to prevent any further delay.

Opticianry Licensing Program:
New registration applications continue to be processed during the Stay-at-Home order in response to COVID-19. Limited availability of LiveScan locations may lengthen overall processing times for new applicants. Approval processing time is stable at 4-6 weeks for initial applications without deficiencies.

The Board hired a new Optician Program Coordinator at the beginning of July. This will help maintain processing times after staff was moved from the Optician program to

assist with new optometry applications. Michelle Blankenship comes to the Board from the Department of Health and is eager to learn.

The testing centers ABO utilizes will be operating under limited capacity and will only allow eight candidates to test at a time. Due to limited availability of the May ABO and NCLE exams cause by the Stay-at-Home Order, testing has been open from June, July, and August. This will allow candidates several months in which they can schedule the exam rather than limiting to the usual exams in August and May. This lessens the impact there may have been if May candidates had been all deferred to August.

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Population Statistics
License Population as of 07/30/2020

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

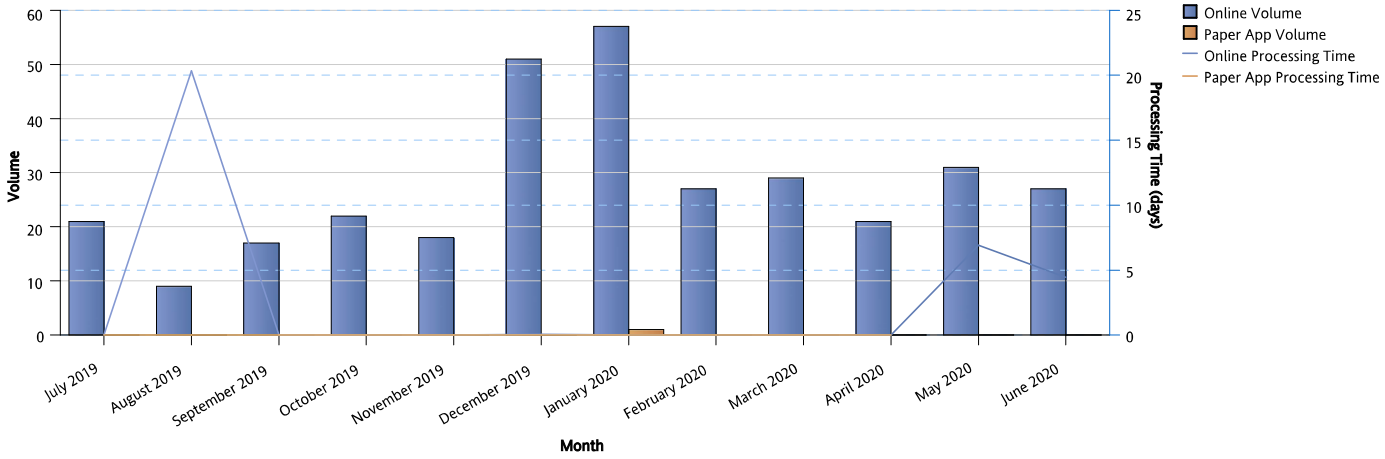
License Type	License Status (20-45)						
	20 - Current	21 - CurrentInactive	22 - CurrTmp FamSupp	28 - Military-Active	31 - Fam Supp Susp	32 - Fam Supp Dend	45 - Delinquent
Optometrist	15	11					24
Optometrist-DPA	116	89					163
Optometrist-TLG	3,848	66		1			224
Optometrist-TPA	1,508	84					240
Optometrist-TPG	971	5					40
Optometrist-TPL	971	50		2			105
Statement of Licensure	1,361						619
Fictitious Name Permit	1,491						220
Registered Dispensing Optician	1,180						324
Registered Spectacle Lens Dispenser	2,880		3		3	1	1,220
Registered Contact Lens Dispenser	1,147				1		375
Nonresident Contact Lens Seller	16						2

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Fiscal Year 2020

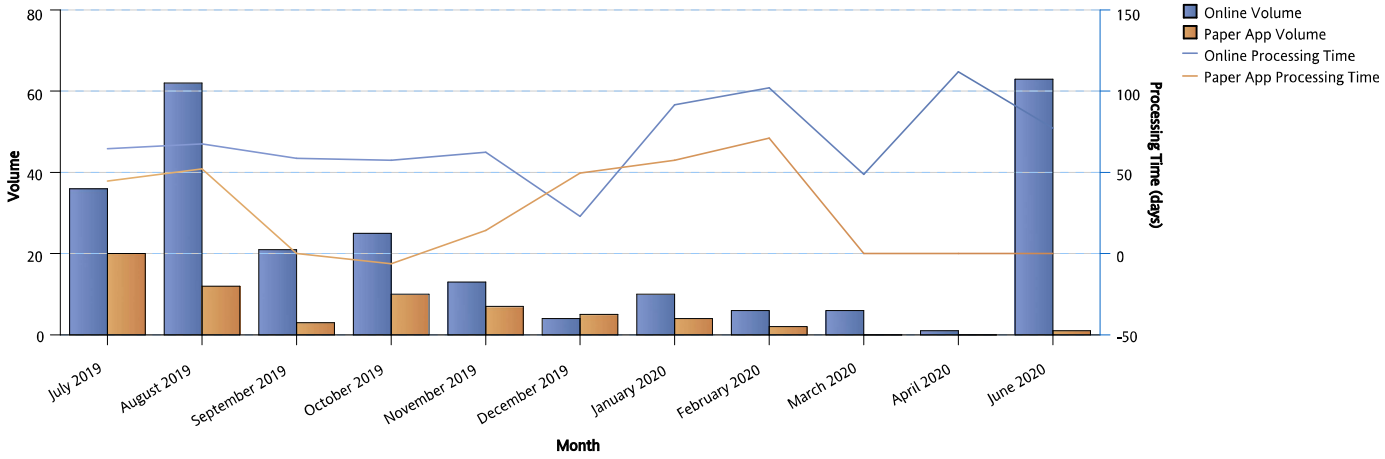
LT - Transaction Description	Online Volume	Average Online Processing Time	Paper App Volume	Average Paper App Processing Time
Optometrist - Exam Request	330	2	1	0
Optometrist - Initial License	247	68	64	34
Statement of Licensure - Issue License	324	1	5	20
Fictitious Name Permit - Issue License	107	30	20	37
Registered Dispensing Optician - Initial Application	103	20	6	6
Registered Dispensing Optician - Initial License	60	4	52	20
Registered Spectacle Lens Dispenser - Initial Application	427	24	18	31
Registered Spectacle Lens Dispenser - Initial License	443	5	14	45
Registered Contact Lens Dispenser - Initial Application	98	26	2	32
Registered Contact Lens Dispenser - Initial License	101	4	3	21
Nonresident Contact Lens Seller - Initial Application	3	9	0	
Nonresident Contact Lens Seller - Initial License	3	24	0	

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2020

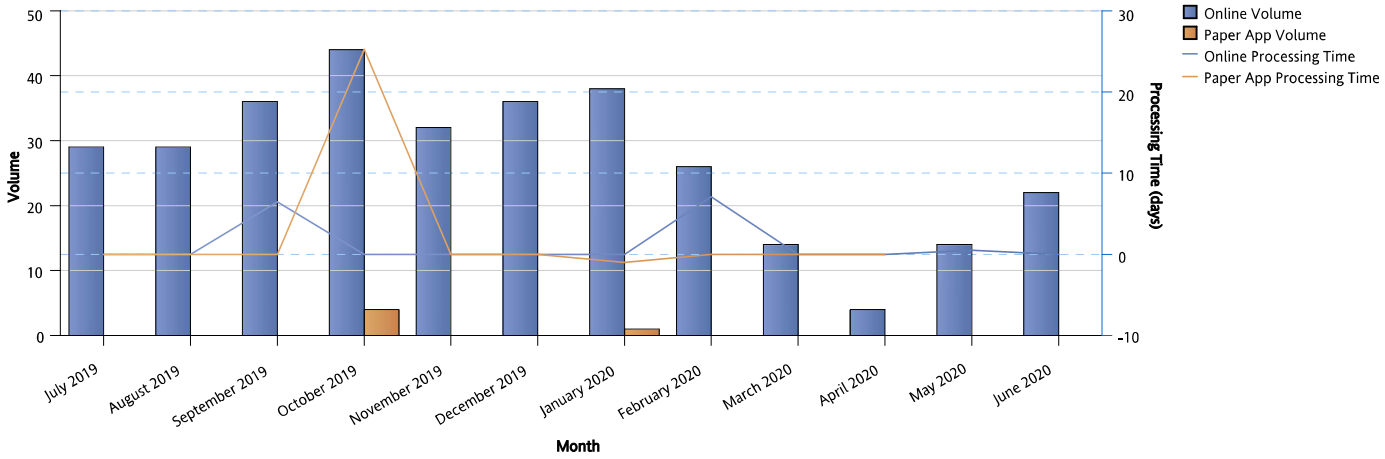
Optometrist - Exam Request



Optometrist - Initial License

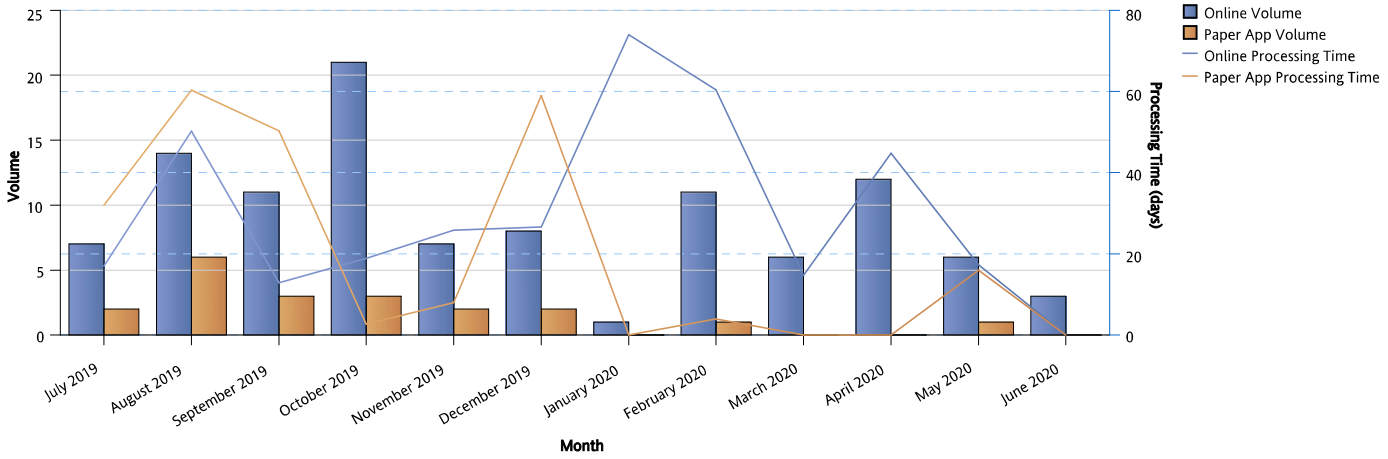


Statement of Licensure - Issue License

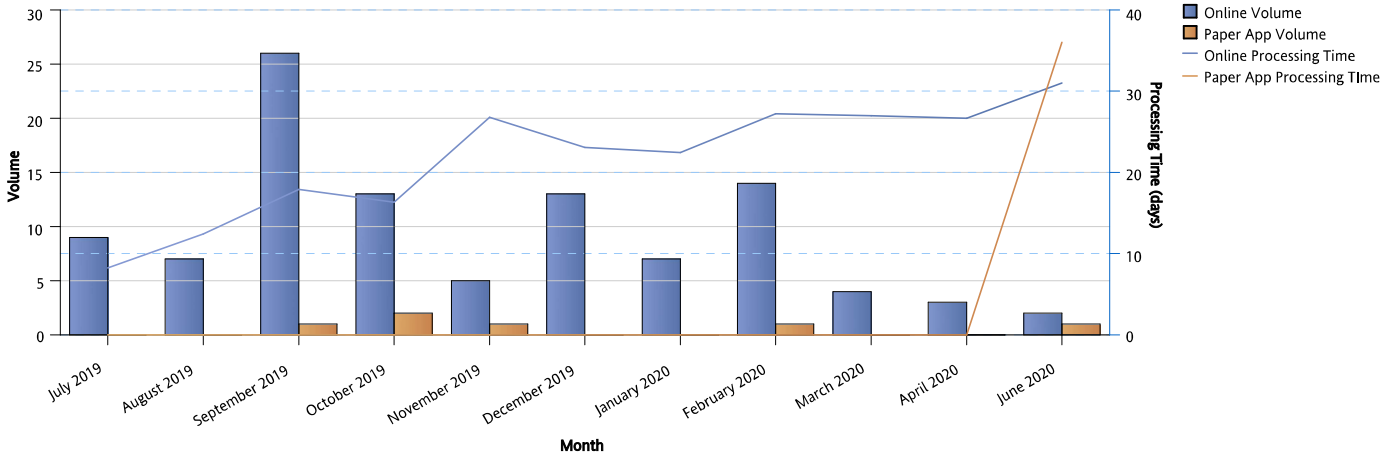


CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2020

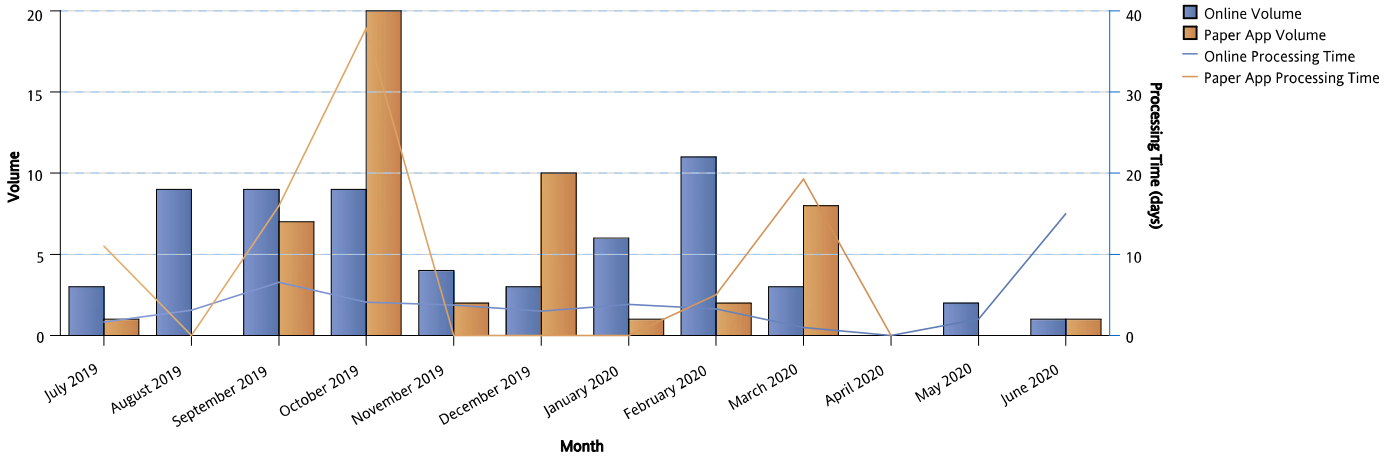
Fictitious Name Permit - Issue License



Registered Dispensing Optician - Initial Application

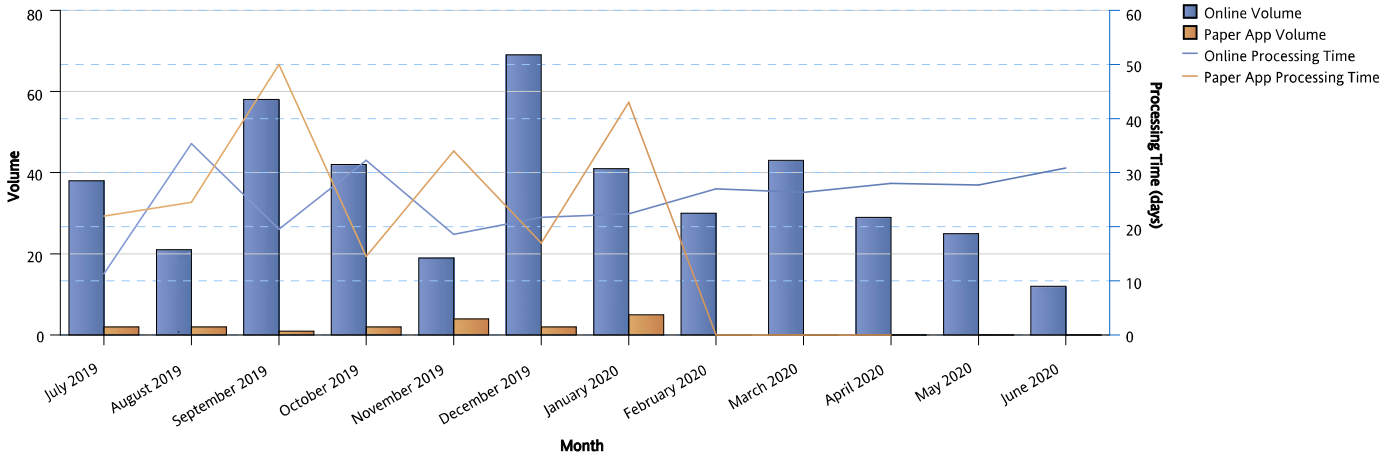


Registered Dispensing Optician - Initial License

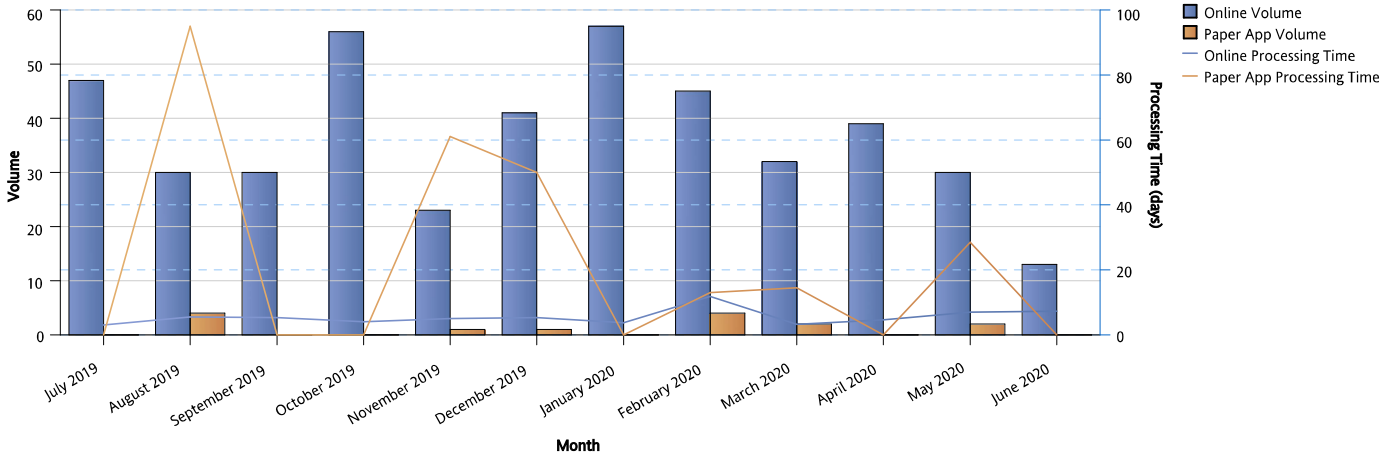


CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2020

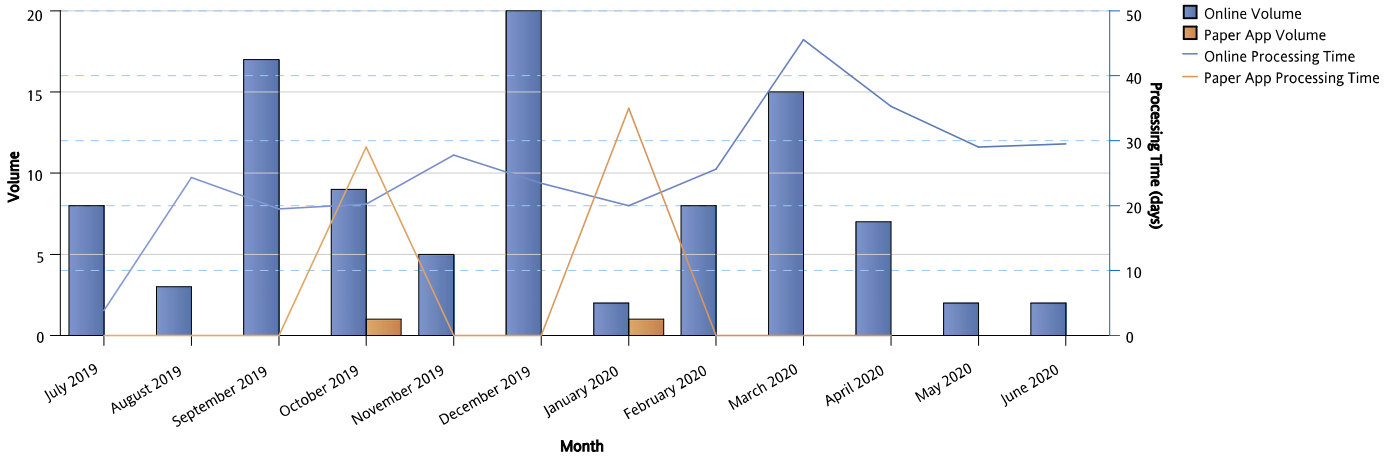
Registered Spectacle Lens Dispenser - Initial Application



Registered Spectacle Lens Dispenser - Initial License

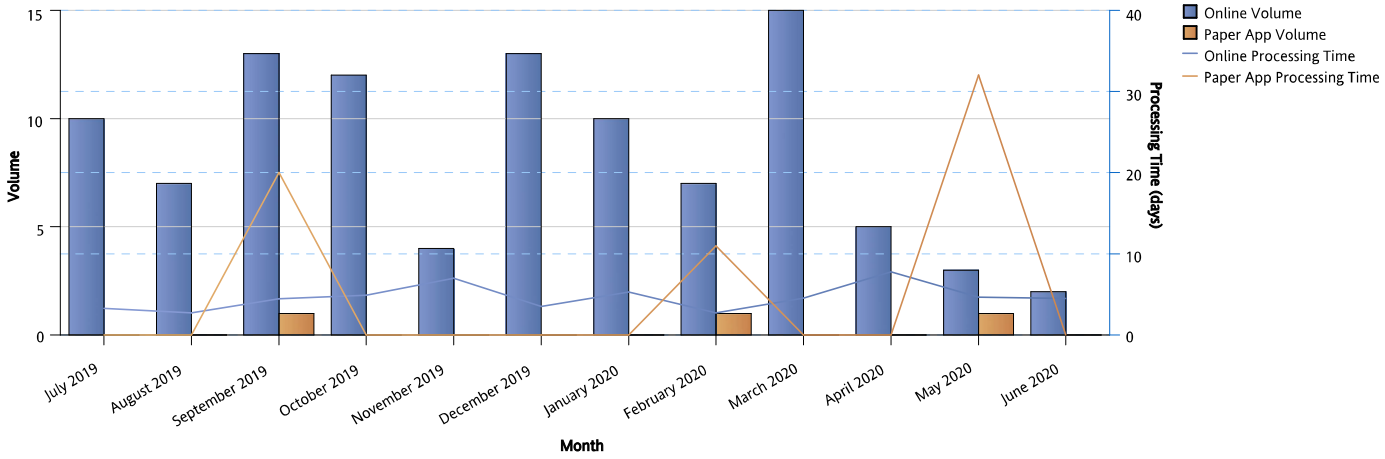


Registered Contact Lens Dispenser - Initial Application

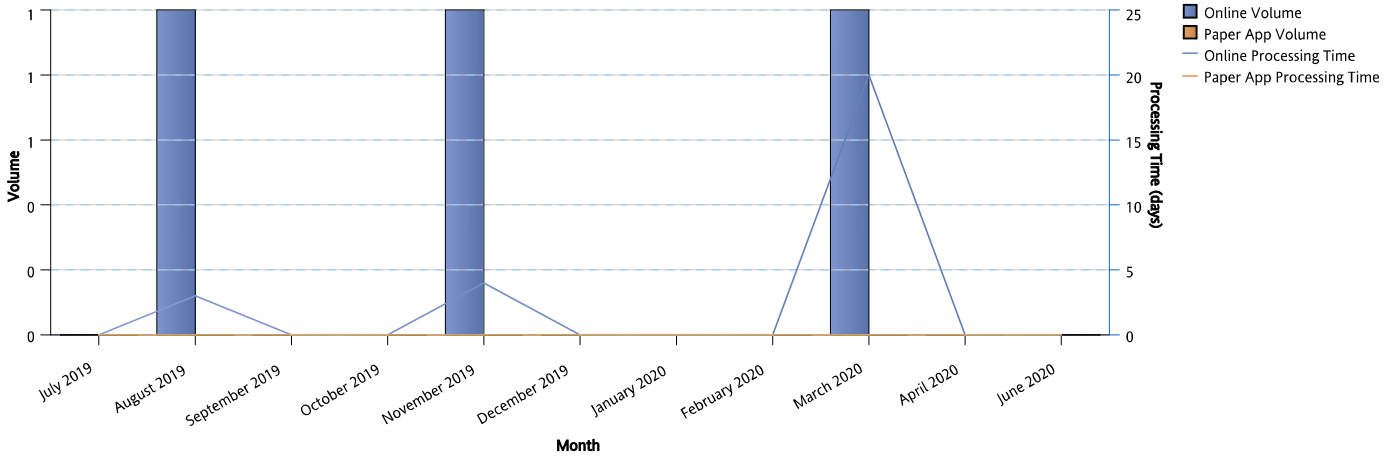


CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Monthly Trend
Fiscal Year 2020

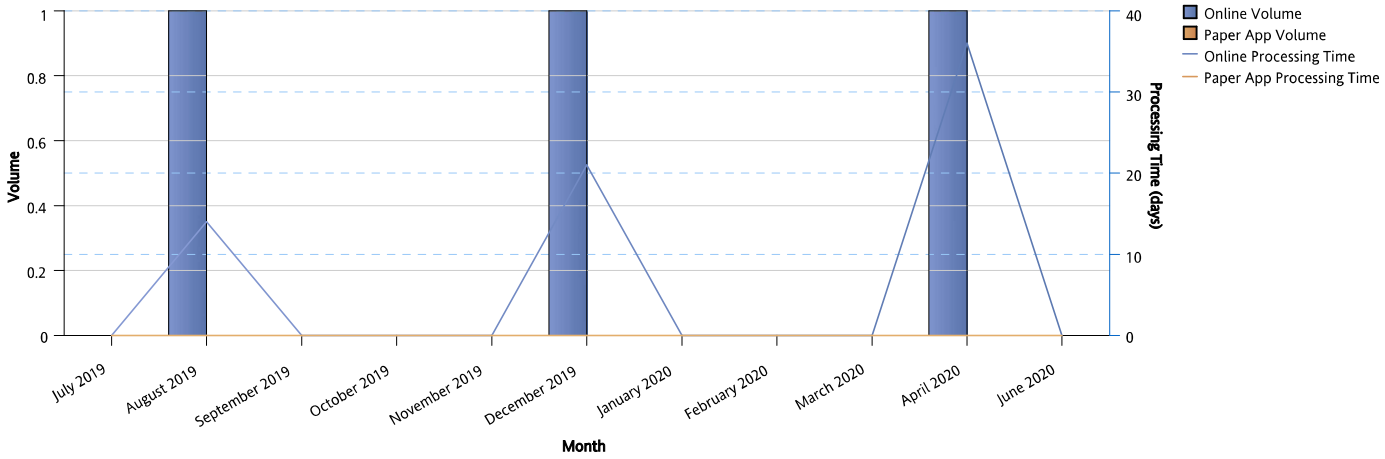
Registered Contact Lens Dispenser - Initial License



Nonresident Contact Lens Seller - Initial Application

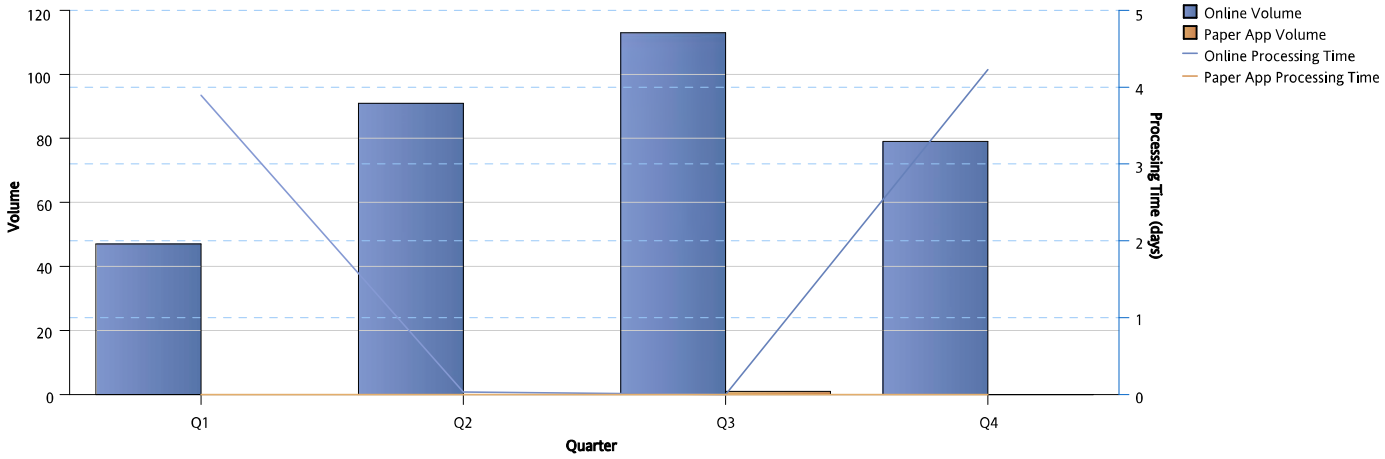


Nonresident Contact Lens Seller - Initial License

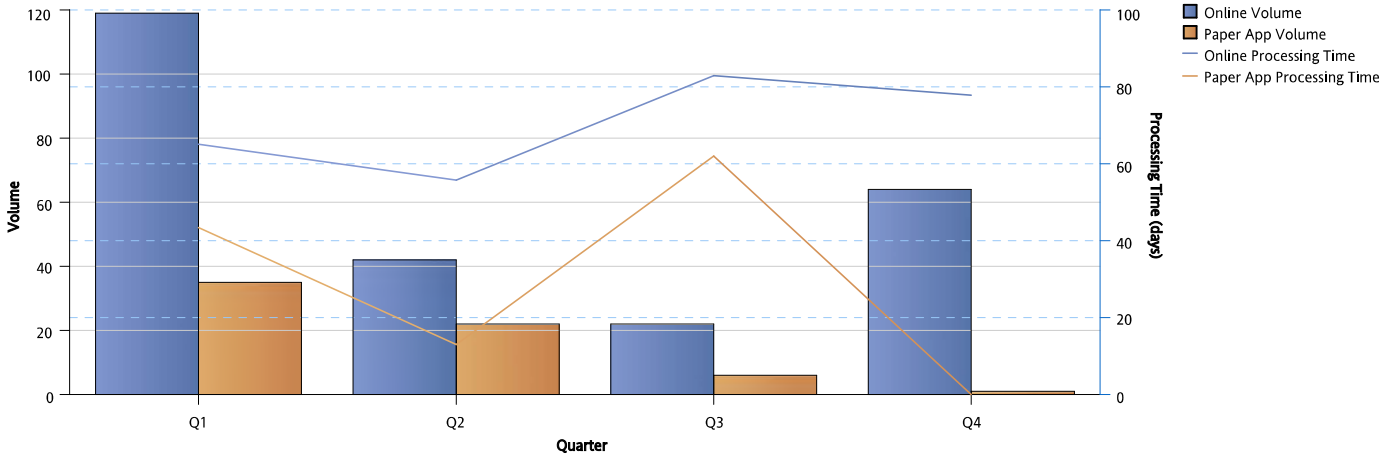


CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2020

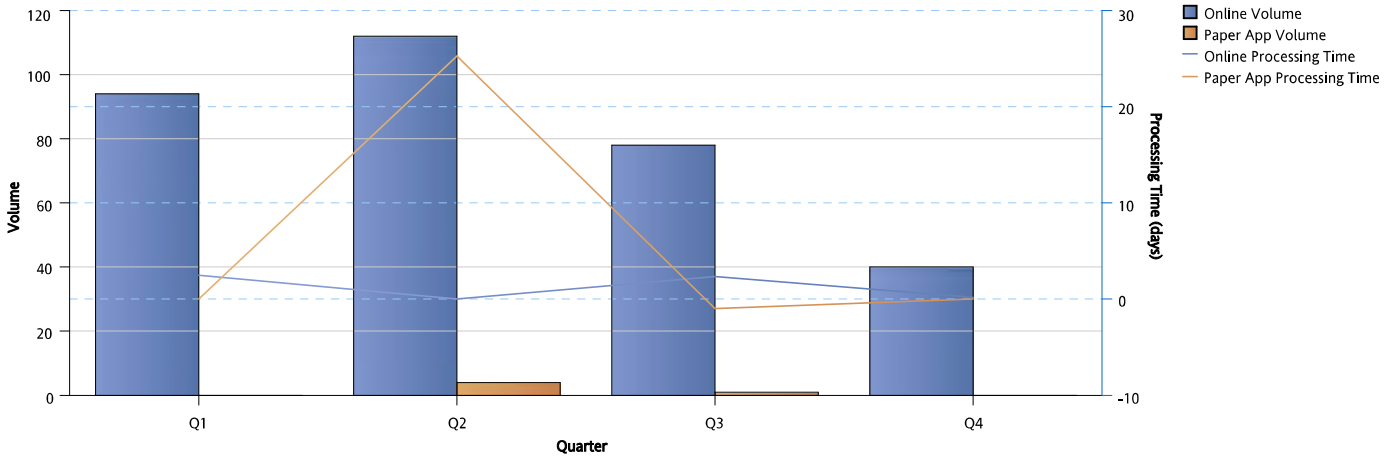
Optometrist - Exam Request



Optometrist - Initial License

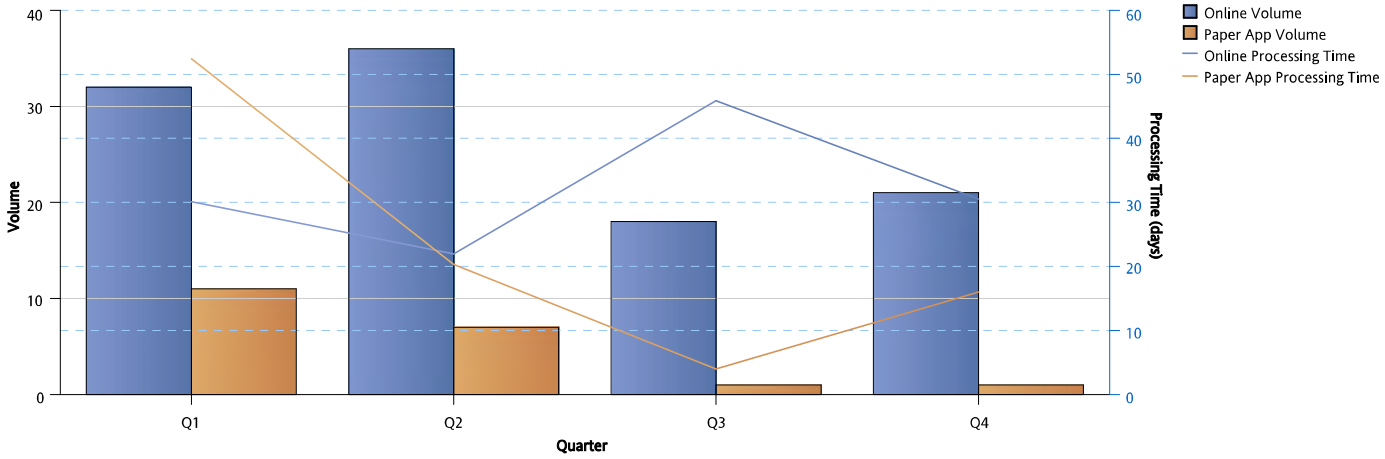


Statement of Licensure - Issue License

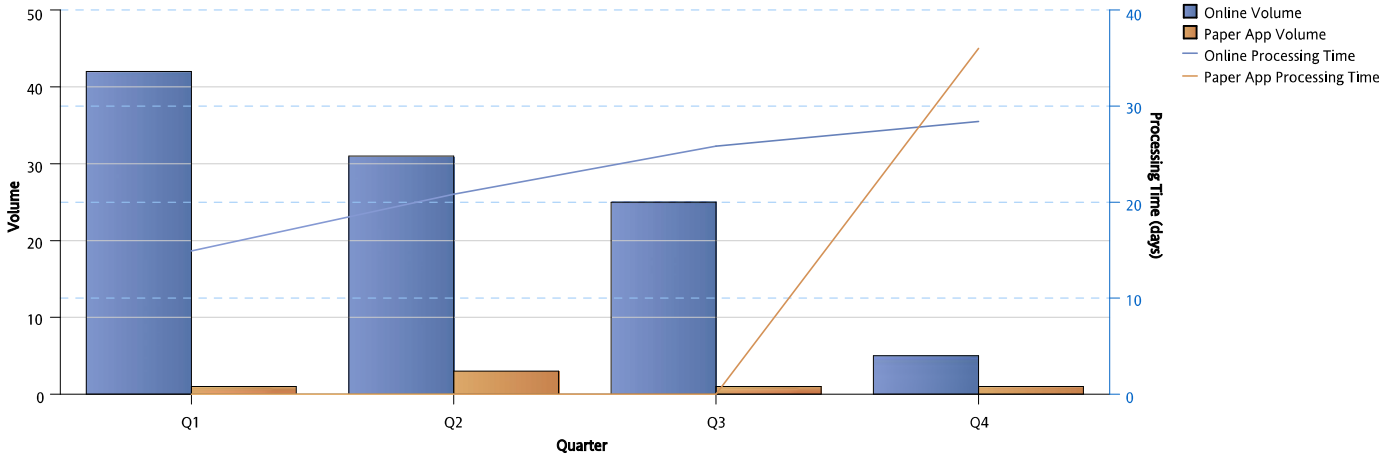


CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2020

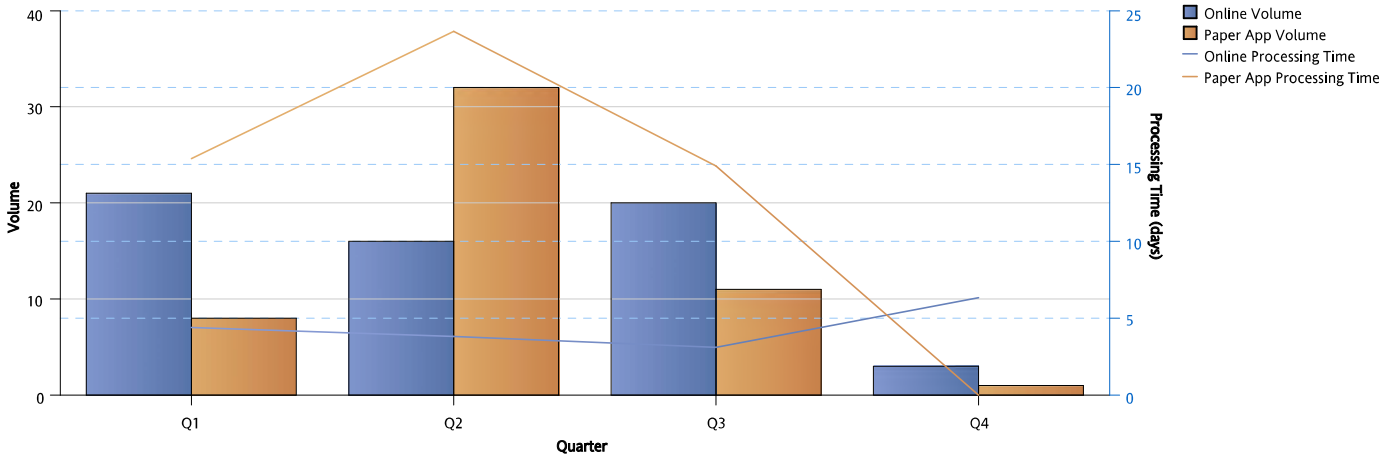
Fictitious Name Permit - Issue License



Registered Dispensing Optician - Initial Application

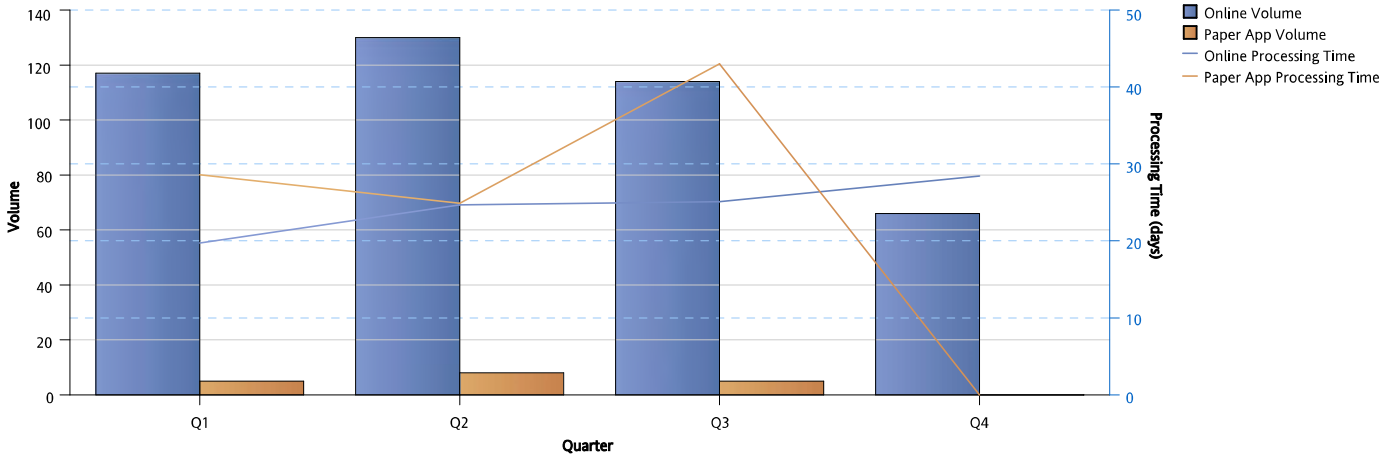


Registered Dispensing Optician - Initial License

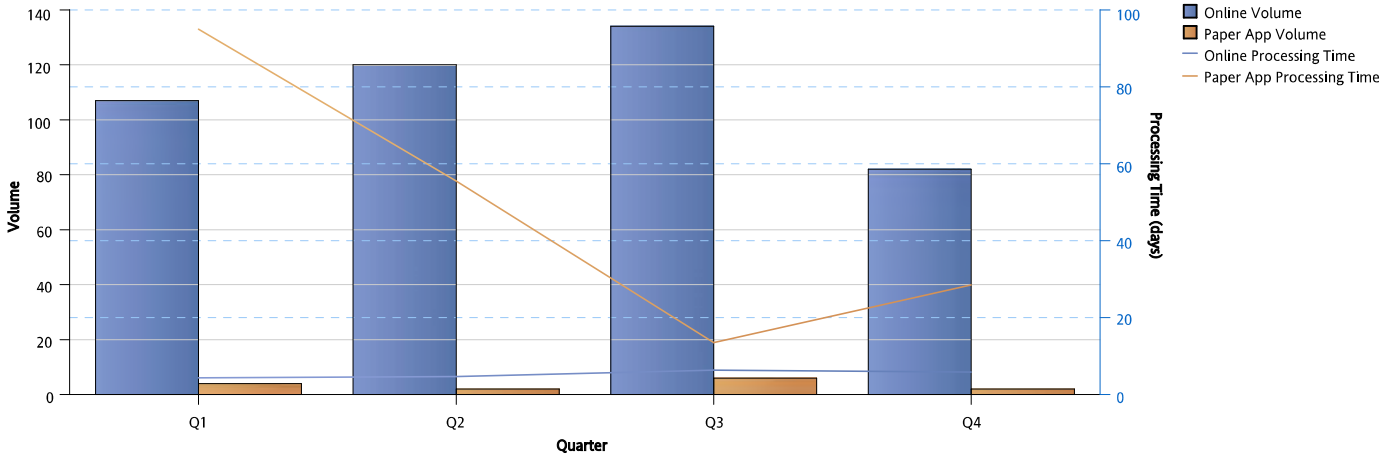


CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2020

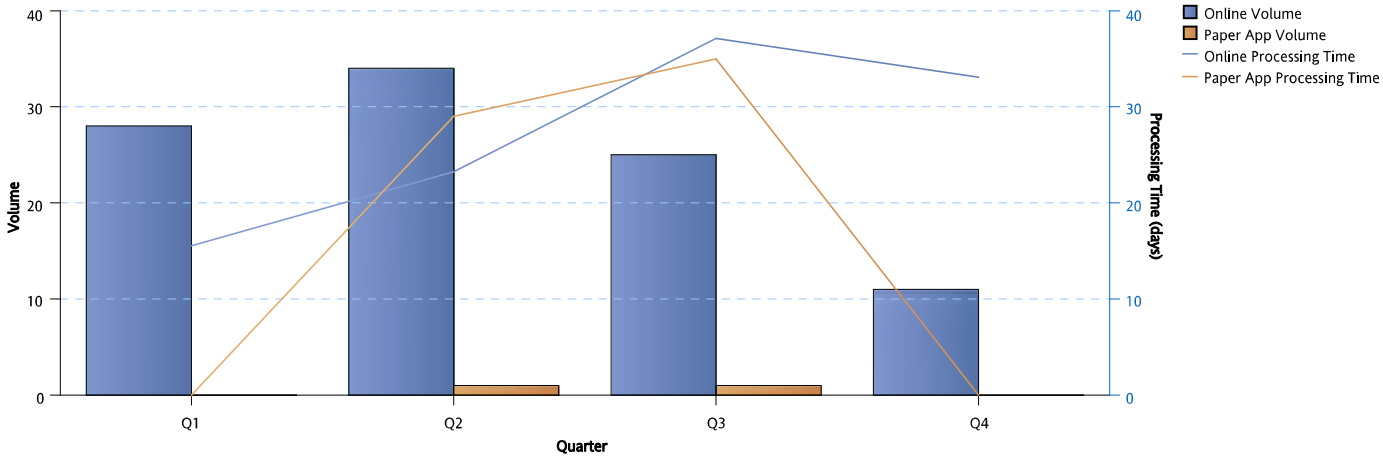
Registered Spectacle Lens Dispenser - Initial Application



Registered Spectacle Lens Dispenser - Initial License

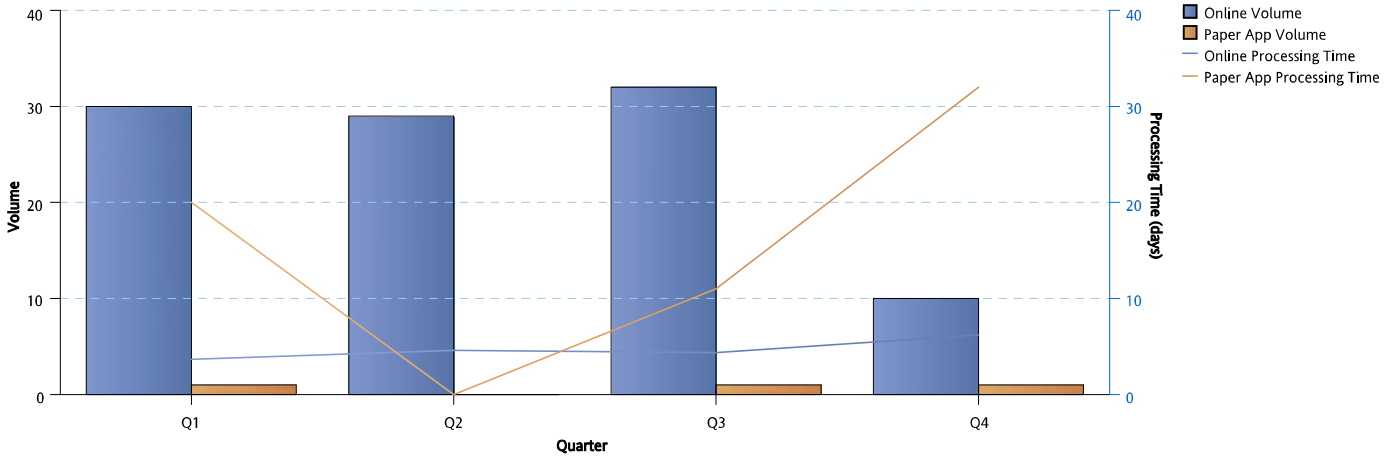


Registered Contact Lens Dispenser - Initial Application

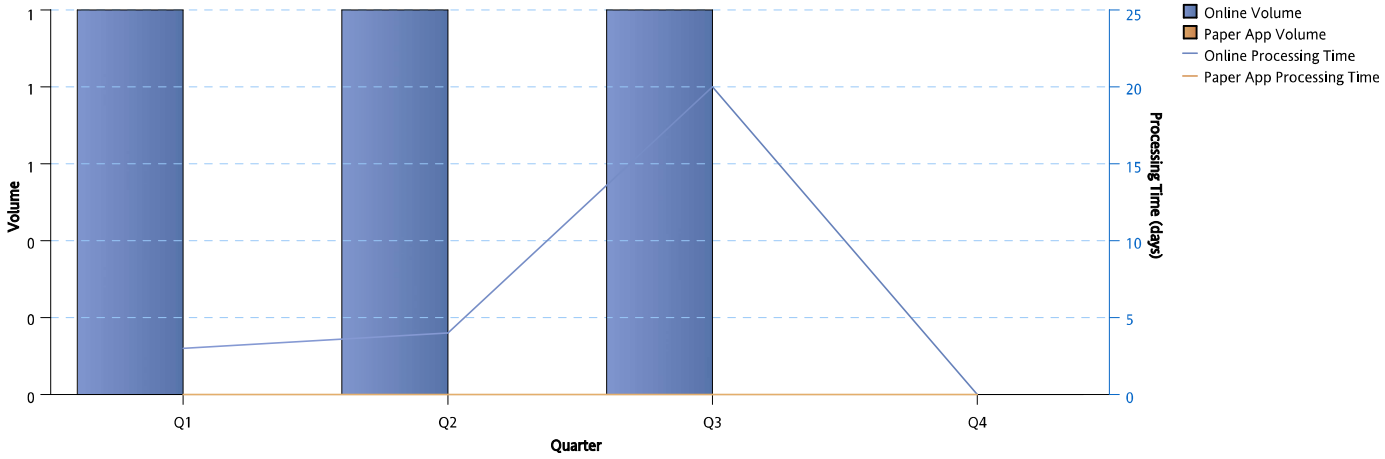


CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
BREEZE SYSTEM
Licensing Application Volume and Processing Time
Quarterly Trend
Fiscal Year 2020

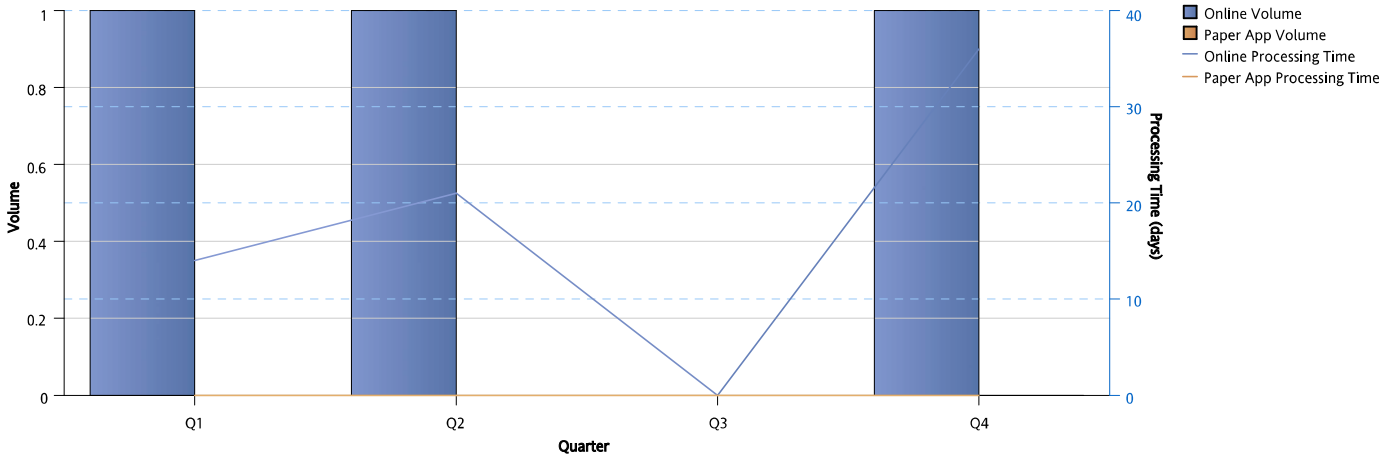
Registered Contact Lens Dispenser - Initial License



Nonresident Contact Lens Seller - Initial Application



Nonresident Contact Lens Seller - Initial License



ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Shara Murphy, Executive Officer *prepared by Marc Johnson, Policy Analyst*
SUBJECT	Agenda Item #7C – Presentation and Discussion of Executive Officer's Report: Regulatory Update

Staff is currently working on the following regulatory issues:

1. 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.

Status: The Board reviewed comments and approved amended text at the May 15, 2020 public meeting. A 15-day public comment period for the amended text ended June 9, 2020 with no comments received. The rulemaking package is currently with Agency for review, with submission to OAL for final approval/denial early this fall.

2. 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: DCA Legal returned minor changes to the text, which the Board approved at the May 15, 2020 public meeting. The rulemaking package is currently with DCA for review. As the national Centers for Disease Control has ordered more than twice the historical volume of influenza vaccinations and has developed a program to expand vaccination avenues, the Board is pursuing this as an emergency regulation.

3. Optometry Disciplinary Guidelines (Amend §1575)

Subject: 2019 Update of Optometry Board Disciplinary Guidelines

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. Staff is currently working on the rulemaking package for DCA Legal and anticipates submission by fall 2020.

4. Dispensing Optician Disciplinary Guidelines (Amend §1399.273)

The Board will review this item as part of Agenda Item #23.

5. Continuing Education Regulations (Amend §1536)

The Board will review this item as part of Agenda Item #20.

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Dr. Debra McIntyre, Board Secretary
SUBJECT	Agenda Item #8 – Discussion and Possible Action on May 15, 2020 Board meeting minutes

The May 15, 2020 draft board meeting minutes 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
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Rachel Michelin
Maria Salazar Sperber, JD
David Turetsky, OD
Lillian Wang, OD
Vacant, Public Member

DRAFT BOARD MEETING MINUTES
Friday, May 15, 2020
10:00 a.m. to 4:00 p.m.

VIA WEBEX TELECONFERENCE

Members Present		Staff Present
Mark Morodomi, President		Shara Murphy, Executive Officer
Glenn Kawaguchi, OD, Vice President		Cheree Kimball, Assistant Executive Officer
Debra McIntyre, OD, Secretary		Marc Johnson, Policy Analyst
Cyd Brandvein		Natalia Leeper, Licensing Program Coordinator
Madhu Chawla, OD		Matt McKinney, Enforcement Analyst
Martha Garcia, CLD, SLD		Will Maguire, Legal Counsel
Rachel Michelin		Dani Rogers, Legal Counsel
Maria Salazar Sperber		Trisha St. Clair, SOLID, Moderator
David Turetsky, OD		Sarah Irani, SOLID, Moderator
Lillian Wang, OD		

Link for the audio of discussions:
Part One - https://www.youtube.com/watch?v=eAPDXyfYHyU
Part Two - https://www.youtube.com/watch?v=spbsS4VBKj0&feature=youtu.be&t=5491

FULL BOARD OPEN SESSION

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

Audio of Discussion: 1:27 / 3:09:27

Mr. Morodomi called the meeting to order at 10:14 a.m. and a 10-0 quorum was established via WebEx teleconference. The meeting was moderated by Ms. St. Clair and Ms. Irani.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 2:52 / 3:09:27

The following public comments were made:

- Dr. Maziar Haririfar felt there are many questions and concerns over the cancellation of continuing education (CE) courses due to the COVID-19 pandemic. Mr. Morodomi explained that the answer to Dr. Haririfar's concerns will most likely be answered during Agenda Item 9's discussion.

- Bonnie De La Torre wanted to ensure that during agenda item nine, there will be a discussion concerning glaucoma certification. Ms. De La Torre explained that on behalf of the Southern California College of Optometry (SCCO) she is requesting of the Board to discuss the glaucoma grand rounds certification course to be conducted as a live patient interactive webinar for the protection of the live patient-practitioner and all attendees for August of 2020 at SCCO. She announced that SCCO's glaucoma certification program (with 20 attendees) was canceled for April due to COVID-19 pandemic and campus closures.

- Cam Solani asked if there will be a summary of this meeting's minutes sent via email; the moderator replied that this meeting is being recorded and the minutes will be posted on the Board's website.

3. Presentation and Discussion of President's Report

Audio of Discussion: 13:37 / 3:09:27

Mr. Morodomi noted that there are over 70 attendees logged into the meeting and he welcomed them. He reported that he has been working with the Executive Officer throughout the crisis and speaks with Ms. Murphy weekly, and she has been providing great updates as to the measures she and her staff have been taking. Mr. Morodomi announced that he is highly impressed with how Ms. Murphy has managed the Board to keep it functioning through this crisis with its everyday business. He thanked Ms. Murphy and Board staff for keeping the business of the Board moving forward.

There was no public comment.

4. Update by Representative 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

A. Department of Consumer Affairs

Audio of Discussion: 20:20 / 3:09:27

Ms. Murphy noted there has been constant communication with the Executive Office and DCA. There have been weekly meetings with the Director and Executive Team as well as communications running from the Governor's Office down to the Board itself. Additionally, she noted the continued work on the Americans with Disabilities Act (ADA) compliance for the websites and the Board Member Orientation Training; Dr. Turetsky asked if the Board itself has any enforcement obligation for licensees to monitor their ADA compliance. Ms. Murphy clarified that compliance enforcement is handled through other agencies.

Mr. Morodomi asked if given the possible recession and the consequential effect on the state budget, what can state government or the Legislature do adversely to the Board's budget and positions? Ms. Murphy replied that she watched Governor Newsom's address yesterday and then had a call with the DCA Executive Office. Item 4b will cover the funds of the Board of Optometry's programs, and will also contain information regarding what staff has been told about how the Legislature, the Governor's Office, and the Department of Finance will seek to bridge the budget deficit looming over the Board.

B. Budget Office

Audio of Discussion: 25:34 / 3:09:27

Ms. Murphy reported on the status of the Board's budget condition. She noted that the Board is expected to finish the fiscal year with a slight reversion in each fund, but staff has been successful at making cuts in various areas (including personnel) to keep positions open. There should not be any issues of the Board going into a deficit. Mr. Morodomi inquired about what a reversion means; Ms. Murphy explained that with a reversion, money goes back into the savings account. She stated the Board has also been asked to consider additional decreases in spending and there is a potential for a 5% decrease in spending for 2020-2021 across all boards and bureaus.

Ms. Garcia asked when the OA for unlicensed optometry assistants is expected to begin and if any savings is anticipated since the OA will be performed remotely; Ms. Murphy does not anticipate that there will be savings and the OA will begin with the new fiscal year. Dr. Turetsky asked Ms. Murphy if she foresees any delays in issuing initial and renewal licenses for new optometry graduates and spectacle lens dispenser (SLDs) with the budget cuts and 10% reduction in payroll. She responded that to balance out the Board's spending authority and the administrative costs of the Board, several of the positions have been kept open during this time. During this peak time, there is approximately a 10 to 12 week processing time for new optometrist licenses and approximately a 4 to 6 week processing time for new optician licenses. The Board is working with skeleton staffing while trying to maintain those timelines.

Ms. Brandvein noted that meetings via teleconference do help the Board's budget; Mr. Morodomi advised that while the web conferencing is certainly convenient, when everything returns to normal the Bagley Keene Act rules become in full force and he believes they require that members of the public have access to each of the conference locations. Ms. Murphy explained that regarding the endorsement of technologies and these sort of hubs, she believes

there will be some pressure upon Agency and the Governor's Office to allow those measures to remain in place so that we can continue to social distance as folks feel comfortable; and also to obtain some cost savings.

There were no public comments.

5. Presentation and Discussion of the Executive Officer's Report

A. Board Response to COVID-19

Audio of Discussion: 48:31 / 3:09:27

Ms. Murphy reported on the Board's response to COVID-19. This Board was one of the first boards to use telework and worked early in the month to issue as many laptops as possible to staff, and staff has been following social distancing and cleaning protocols while at the office. Ms. Murphy added she has engaged in weekly conversations with schools regarding the national board exams, which are expected to begin rescheduling on May 18, 2020. She added that Part III of the National Board of Examiners in Optometry (NBEO) can only be taken in South Carolina. Staff resources have been shifted to licensing to better address the incoming examination requests, the certification of transcripts, and test scores.

Dr. Turetsky asked if the Board has sufficient law exam questions for the fiscal year since obtaining subject matter experts to create new questions will not be possible; Ms. Murphy replied that thankfully the subject matter expert workshops were completed before the end of February so there is a bank of good questions to utilize through the end of the year. She warned that the budget does not currently have a line item to fund examination development. Dr. Wang requested confirmation that the 10 to 12-week processing time begins after graduates have taken and passed both the NBEO and CLRE; Ms. Murphy responded that staff is imploring applicants to get through the licensing requirements that they can impact on their own. Staff is working with the NBEO to understand how many potential graduates have already completed the Part III, and staff has been informed that the NBEO intends to open additional testing sites in June and July if necessary. Dr. Wang noted that she has been receiving email from new grads stating they cannot take the CLRE until the end of May because they receive notifications that the test has been canceled and the applicant needs to reschedule.

Public comments:

- Anthony Buelan suggested making the live lecture webinars, not just as a COVID-19 approval, but rather a standard policy. Mr. Morodomi responded that CE will be discussed during the next item.

- Kristine Schultz commended Ms. Murphy and her staff on their COVID response and expressed appreciation for Ms. Murphy's clarification on the interactive platform being counted as live CE. She explained that regarding the NBEO exam issue, the NBEO exam center is open now; however, many students have canceled since schools are not

open for practice and they are not comfortable with travel at this time. If they fail to take it now, their next opportunity will not be until December. Ms. Schultz asked for the Board's assistance in lobbying the DCA or the NBEO or both.

Mr. Morodomi asked Ms. Murphy how the Board would procedurally go about lobbying the NBEO to change its procedures. Ms. Murphy explained that he can direct staff to begin conversations and research into this. Dr. Chawla added that if the Board cannot form a workgroup, it can be accomplished with the Practice and Education Committee. Legal Counsel advised that since this item is just a presentation and discussion (informational) item the Board cannot take any official action. Mr. Morodomi explained that he would like staff to work on this; however, he will leave it to staff to decide whether the Practice and Education Committee (PEC) is most adept to deal with this issue. Dr. Wang asked the issue be dealt with sooner rather than later.

9. (MOVED UP) Update, Discussion and Possible Action on Changes to Title 16, California Code of Regulations, section 1536 (Continuing Education Regulations)

Audio of Discussion: 1:21:10 / 3:09:27

Ms. Murphy introduced changes to Title 16, California Code of Regulations (CCR), section 1536 explaining what the proposed changes to the regulation would be. In consideration of the Board's continuing education regulations, the Board approved a package to advance during the February 28th meeting. Staff brought that package through the beginning phases of approval and comment by DCA Legal. She explained that this item has been brought back today in part due to those comments; also, due in part to the questions that have arisen around distancing and the availability of CE courses. Within the package, the Board approved on February 28th the term "in-person" was included, which lends to interpretation, during the pandemic, what "in-person" means. Ms. Murphy explained that this item was brought back for a discussion around this issue specifically. Further, Mr. Morodomi explained that a few months ago the Board approved changes to the CE rules which created some definition as to which online courses were available. Then the pandemic crisis occurred and the pre-existing rules were examined, and the Board discovered that there existed some ambiguity as to whether these online interactive courses were considered "live". Ms. Murphy used her authority to interpret them and found in an interpretation and consultation with Legal Counsel that the online interactive courses were considered "live" under the Board's current regulations.

Dr. Chawla noted she began taking many of these interactive, participatory online courses and found the quality to be very good. In her opinion, the participants were more engaged with an abundance of robust questions and believe these platforms are essential currently with COVID-19 pandemic. She also that there has been much confusion for licensees about how these online courses are categorized. Dr. Wang noted that the previous concerns members had about monitoring attendance and participant engagement are no longer concerns. Dr. McIntyre stated that she believes this online interactive CE will change how professionals get educated and does not see a downside as she has also taken some of these courses and found the quality to be superb. The courses were no less interactive for her than if she had attended a live CE course.

Ms. Murphy clarified that the current regulations today allow these platforms to deliver a live, participatory, attendance-checked CE course. The regulatory package that the Board approved on February 28, 2020, included the phrase “in-person” which seemed to say that the Board no longer supported the use of these live participatory delivery-checked platforms for delivery of continuing education. Ms. Murphy directed Members’ attention to page 108 of their materials which contained the form that providers use to apply for approval of their continuing education courses. She pointed out where clarification was needed and where additions were added. Additionally, language was added that would clarify whether the course is self-study or live, and what type of supporting information is needed. She explained that what the Board is trying to do today is roll back the “in-person” language that was approved in February that give the impression that the Board does not support the delivery of live participatory attendance checked courses via platforms such as Zoom and WebEx.

Ms. Garcia is hoping these processes will assist the Practice and Education Committee to review and approve these applications much more quickly. Additionally, she asked if the presentation material will still be required. Ms. Murphy confirmed that all the same requirements are in place. Additionally, the provider needs to explain how they will track and ensure attendance and participation. Dr. Kawaguchi cautioned against using anecdotal information from personal experiences to ensure the protection of consumers. He does believe there is value in online interactive courses. Nevertheless, he feels the Board would be remiss to allow practitioners to gain all their education online. Dr. Kawaguchi is interested in hearing the opinions of some optometry schools. Until society gets to a point where educators are telling us that there is less or no value in in-person education, he questions moving to a format that allows a practitioner to only obtain CE remotely.

Dr. Turetsky responded that he and Dr. Wang have attended a number of these remote learning courses, and felt every single one has been as good as or better than an in-person experience. He noted that with remote learning he can take courses that are directly geared towards his areas of interest and practice needs and it is far less expensive. Ms. Brandvein encouraged members to view COVID as a catalyst and not a destination; the Board is looking at a more permanent shift moving forward. Moving people to a physical location where they are all together is going to increasingly become a personal decision. She noted that limiting education to physical in-person learning in the future with this COVID disruption is causing the Board to take a step back and not a step forward. Specific to the amendment on page 104 and throughout, Ms. Brandvein suggested referring to this as data-enabled instead of referring to it as technology-enabled. Data is very specific to a form of content versus the total delivery. Mr. Morodomi commented that he would like included (for clarification under self-study) that someone who writes a scholarly article would obtain credit for self-study.

Ms. Michelin stated that she agrees with Dr. Chawla regarding changing the definitions from tech to data and she is all for using technology, but when talking about consumer protection, she believes there is some value in being in-person in a room together. She noted that she has watched her kids use distance learning for the past two months, and she can attest that the quality they are receiving from distance learning is not the same quality they receive while sitting in a classroom. While she agrees with trying to make courses user-friendly for licensees,

the Board's job is to protect consumers. Dr. Chawla addressed the comments that were made, stating that she very clearly remembers and has not forgotten that the Board exists for consumer protection. She also noted that much of the online education is Council on Optometry Practitioner Education (COPE) approved; and the Board accepts COPE as a quality educator and administrator of CE.

Dr. Chawla does not anticipate that online CE is something that will destroy in-person CE and believes the larger presentations where folks meet from all over the country and desire to mingle with their colleagues will continue. Ms. Brandvein stated that schools were caught completely off-guard with the work-from-home declarations shifting kids from school to home education. Schools had limited time to respond and react. Now they are catching up; therefore, if the Board chooses to adopt a blended approach of physical in-person and virtual in-person courses, it will be putting the universities, the education providers etc. on notice providing ample time for them to pull together quality experience with enough lead and preparation time.

Public comments:

- Dr. Steve Silverberg. Dr. Silverberg explained that he is an active speaker locally, regionally, and nationally. When he speaks at lectures, he does see people not listening (i.e. on cell phones, reading newspapers) and there is not any way to ensure they are receiving any of the information. He stated that they obtain COPE approval for all lectures and there are three categories of COPE approved courses (live, live-interactive, and enduring). Live-interactive means the speaker is present and the presentation can be a webinar in which they can interact with one another via text. The Board referenced a Zoom type platform where the speaker must present the lecture live. Dr. Silverberg is confused by this designation. If a course is COPE approved as live-interactive, which their lectures have always been, now COPE has changed that designation to be live as the state Board is assuming. He asked for clarification on these two issues.

- Ms. Shultz noted COA supports online interactive CE for all 50 hours but has a few clarifying issues to bring up. There is a question about the case in which there is interactive CE that is recorded and then re-broadcast with a live Q&A at the end. Would this qualify? Or does the entire presentation need to be live and interactive? The other issue is the Board may wish to clarify the COPE approval part. Historically, COPE courses (on their own) are not accepted by the Board. To obtain credit, the attendee must have a certificate of completion and the activity must be approved by COPE. Consequently, the regulations under subdivision (e)(3) should probably read "CE courses approved by COPE which have been registered with a COPE accredited activity"; this clarification may be needed.

- Dr. Susy Yu. Dr. Yu commented that she applauds the Board's discussion on the quality of CE and felt the format and method of delivery of educational content becomes less critical if the appropriate standards are in place to ensure quality and to measure outcomes of the educational activity. The accreditation criteria for CE are ideally based on standards that support improvement in knowledge, performance, and patient outcomes beyond just a cursory review of presenter slides and background. The criteria

for CE accreditation in medicine, nursing, pharmacy, and optometry nationally via COPE include three key elements that are based on adult learning theory. The first, education purpose, is based on knowledge gaps asking, “Is this content interesting and applicable to my practice”? The second is education planning; managing to ensure the content is free of commercial bias and financial interest that may be counter to the educational content. Also, in this section, the selection of the educational format, the format should drive the desired outcomes that are a result of the educational activity. Thirdly, the educational assessment requires some analysis, learning, and plans for improvement. Was the learning effective for the attendees? She encouraged the Board to consider updating the CE regulation to adopt professional accreditation standards for CE, focusing more on quality and outcomes and less on delivery format.

- Steve Faith asked about making the 45-day prior registration period 90 days. He is not certain why that would be necessary. Addressing Ms. Michelin’s concerns, he explained that his office of nine doctors has been involved in CE education for a long time and believes that it may be helpful if Ms. Michelin were able to sit in and witness the dynamic nature and interaction between the expert presenter (as well as staff) and the attendees she would find they are much more dynamic than the typical physical in-person courses.

- Ms. De La Torre commented that the interactive webinar is very much needed; as horrible as COVID is, it is accelerating the move to a more innovative way of providing education. She hopes the Board may decide today to approve all the webinars through 2020 at least allowing folks to plan what they wish to do in the future.

- Tiffany Witherspoon pointed out that through Zoom there is an area where attendees can see the participation level of their peers and attentiveness level can be observed. Additionally, surveys and testing may be submitted. Her specific comment is this: When live interactive CE is occurring (unless she removes access to the internet) some attendees are distracted (using phones or laptops for personal means). Therefore, she does not believe the attentiveness level changes. Those attendees who are passionate about topics and learning remain that way; and those who come just to obtain credit requirements do as they like. She stated that methods such as Zoom and others for presenting live interactive CE would be a fantastic way to move forward.

- Dr. Julie Tyler inquired about glaucoma and lacrimal irrigation and dilation certifications. She requested that the Board allow optometrists to have access to this resource of education and to enhance their license capabilities.

- Dr. Ann Tasaki noted that the Zoom online live capability has been amazing for their students, as well as for folks in their community who have been asking for CE to be presented in this type of format. Not only are they able to monitor when students’ login and log out, and their level of attentiveness, but additionally, it allows us to be interactive in terms of the chat function and online poll system to ensure students are engaged.

Regarding Ms. De La Torres' concern about glaucoma grand rounds and Dr. Tyler's concerns about glaucoma and lacrimal certifications, Ms. Murphy explained that she would prefer to move this to the PEC June 18th meeting. Ms. Murphy also stated she believes there are conversations to be had regarding the taped presentation with live Q&A. Dr. Chawla confirmed that these are relevant topics and can be considered at the next PEC meeting on June 19th.

Mr. Morodomi explained that he intends to narrow the questions down so the regulatory package may be moved forward. Mr. Morodomi asked if the current regulatory package needs to be amended to address the COPE issue raised by the public? Ms. Murphy responded that she believes this is how COPE is accepted, however, it may if there needs to be recognition of the two-step process. She clarified that before acceptance of a COPE approved course, staff ensures both the acceptance of the course and the acceptance of the activity has been completed.

Dr. Chawla asked Dr. Yu if the presenters of the COPE courses must first complete the process and have these courses certified? Dr. Yu confirmed this and pointed out the activity must be registered with COPE in addition to the course. Ms. Murphy assured that she will look into the Board's current regulation and see if a word or two may be changed to ensure there is clarity about which COPE courses the Board accepts without further review; then decide whether staff will suggest some changes to the language. Ms. Murphy believes the next two questions to consider here are (1) Whether a test should be a requirement for self-study and (2) discussion around how to clarify that a taped session with Q&A at the end either does or does not constitute a live course.

Dr. Wang stated that one of the benefits of sitting in on live CE courses is the ability to interact during the presentation. She is not certain if listening to the entire presentation, then asking questions at the end would provide the same quality of feedback and interaction. She would not consider this live CE. Dr. Turetsky stated that Vision Services Plan (VSP) has had an ongoing, reoccurring diabetic optometric practice live CE, and it has been a recorded CE; however, the presenters are available during the entire recording. Consequently, live chatting is occurring throughout the presentation, not at the end; it is a recorded presentation with real-time participation.

Dr. Kawaguchi added that having heard from four large CE providers (the three optometry schools in California and the California Optometric Association) he is open to the changes. He felt the Board has never addressed this with regards to providing a CE course and the Board has relied more on the integrity of the Providers. He added that Dr. Turetsky has just provided an example of a new format that may or may not be addressed in the new regulations. Therefore, the Board needs to be very careful while making changes to the regulations that they are also future-proofed. This way, as education and how it is delivered evolves, some latitude is provided allowing future changes to occur without the regulations becoming ambiguous again. He concluded that he is not certain that the proposed regulations are allowing for future interpretations.

Ms. Brandvein asked if there is anything the Board can address now to unblock live interactive CE platforms, in the short-term; then take a more thoughtful second look at the language or

turn it back to the Committee for scrutinization? Ms. Murphy replied that the Board needs to remember that this is a proposed regulatory package. The current enacted regulation does not limit these interactive participatory CE courses from being applied only to the alternative method of fulfillment. Therefore, the current regulations in law are broader than the proposed package that was approved in February. Mr. Morodomi expressed some urgency stating he hopes the Board can get this passed and also noted that none of the Board language will be future proof because new technology that has not been considered will emerge and evolve. The fix would be a provision that says "any other technology that the Board chooses to adopt as adequate" or give the discretion to the CE Committee to approve other technologies.

Ms. Murphy directed Members' attention to section 1536 section (e)(3); (e) which states "continuing optometric education programs which are approved as meeting the required standards of the Board, include discussion of our optometry schools impression of other larger organizations"; (3) states "Continuing optometric education courses approved by the Association of Regulatory Boards of Optometry committee known as COPE". She believes staff can simply change "education courses" to "education activities approved by the Association of Regulatory Boards of Optometry Committee", which would ensure that the activity has been approved. Dr. Kawaguchi commented that one area the Board has not been discussed is continuing medical education (CME). He believes the Board may need to look at this to ensure the regulatory changes the Board is proposing will include a pathway for CME.

Dr. Turetsky asked if the live interactive webinars will continue to be counted as live CE over the next year, or will it end when the Governor's emergency order ends? Ms. Murphy responded that there will not be any change to the regulation at the end of the Governor's emergency order. The emergency order on continuing education extends for all licensees from all boards and bureaus and commissions the necessity to complete continuing education. Dr. Turetsky asked if by February of next year, there is still no vaccine, COVID is still around and citizens are no longer required to abide by the Governor's Executive Order; will this necessitate that licensees accrue 20, 25, or 30 (whatever it would be at this point) live hours of CE in-person versus online live CE. Dr. Chawla explained that whatever the Board currently has in law (regardless of proposed changes) allows the Board to use the Zoom or similar type of interactive platform.

Dr. McIntyre questioned the glaucoma grand rounds which are CE for purposes of certification and asked how this will be interpreted with regards to that class of education? Dr. Wang stated she thought this was an issue the PEC will evaluate.

Glenn Kawaguchi moved to take the proposed regulatory changes to section 1536 back to the Practice and Education Committee for amendments related to the discussions having occurred during this meeting and bring it back to the next Board meeting. Rachel Michelin seconded. The Board voted unanimously (9-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Mr. Morodomi	X				
Dr. Kawaguchi	X				

Dr. McIntyre	X				
Ms. Brandvein	X				
Dr. Chawla	X				
Ms. Garcia	X				
Ms. Michelin	X				
Ms. Salazar-Sperber				X	
Dr. Turetsky	X				
Dr. Wang	X				

Recess was taken at 1:23 p.m. Meeting resumed at 2:00 p.m.

Public comment made:

- Ms. De La Torre echoed Dr. Turetsky's comments regarding taped lectures. She had a March program and when the pandemic hit, she quickly taped all the lectures to be presented online. She added they have 29 hours taped for June 1st through the 4th. They are put together very professionally so they look more like a television presentation. Presenters will be available for Q&A during the entire lectures. Attendees will receive more education then they would at a live course.

13. (MOVED UP) Update, Discussion and Possible Action on 2020 Legislation

A. Assembly Bill 896 (Low)
B. Assembly Bill 1263 (Low)
C. Assembly Bill 2028 (Aguiar-Curry)
D. Assembly Bill 2185 (Patterson)
E. Assembly Bill 1263 (Low)

Audio of Discussion: 6:10 / 2:34:13

Ms. Murphy stated that the Governor asked the Legislature to prioritize budget and COVID related bills and staff has not received any indication that these bills will move quickly. She stated it would be helpful for the workgroup to provide an update on AB 896 on the discussions and determinations. However, regarding AB 2028 (Aguiar-Curry) - State agencies: meetings and AB 2185 (Patterson) – Professions and vocations: applicants licensed in other states: reciprocity, it is not known whether these bills will move but the Board does not have an official position. Mr. Johnson interjected that he just now double-checked on the bills and AB 2028 is moving and did pass out of the Assembly Appropriations Committee a few days ago and AB 2185 appears to be moving. It was amended on May 13th. AB 1263 is still in the Senate Rules Committee, so it is unclear whether it is moving.

Mr. Johnson provided an update on AB 896. He reported that staff is continuing conversations with the Author's office and the Senate. The workgroup met with staff last week and had

decided on a couple of changes that would continue to allow the bill to be supported by the Board. It would not require a change in the Board's position. Areas of concern are (1) making certain all optometrists subject to this bill would be Therapeutic Pharmaceutical Agent (TPA) certified; (2) that the mobile optometric clinics would provide a constantly updated list of optometrists available for follow-up care; (3) that businesses listed under 3070.1 are not subject to the requirements of the bill; (4) to have an exemption for federally qualified health clinics or community or faith-based organizations.

Dr. Turetsky expressed his concern that this bill was targeted to a specific entity providing vision care services to schools. However, the way the bill was worded would make it impossible for certain entities like Federally Qualified Health Clinics (FQHCs), faith-based groups, and charity-based organizations who wish to provide eye examinations. They would not be able to operate the way the bill is written. Dr. Kawaguchi noted that when the Board last discussed AB 896, there was hope that this bill would be a catalyst for possible future action. He advised that should the Board be unable to get the proposed amendments in when the bill rolls off according to the time limit, the Board will need to be diligent about using this experience to move those additions forward. Ms. Michelin made the recommendation for the Board to not waste time working with these bills right now because she believes they will not move. Board agrees.

Public comment:

- John Valencia representing Vision Service Plan. Mr. Valencia alerted members that VSP made a recommendation for an amendment to AB 896. The amendment is an accommodation so that the bill does not inadvertently function to discontinue VSP's charitable work.

12. (MOVED UP) Presentation and Discussion of Research on Telemedicine

A. Discussion of Additional Sources of Information

Audio of Discussion: 23:39 / 2:34:13

Mr. Johnson opened the discussion by providing a brief history of the telemedicine issue. In 2019, staff met with Assembly Member Evan Low, who encouraged the Board to monitor the issue closely. At the August 2, 2019 Board Meeting members and staff had a presentation from Drs. Melissa Bailey and Jorge Quadros and a workgroup was created with Drs. Chawla and McIntyre to begin research. Mr. Johnson directed the members' attention to a summary of the issues that Drs. Chawla and McIntyre considered important to move forward; (1) both identified the need to focus on overall eye health as part of telehealth care; they consider refraction to be a small part of a comprehensive eye exam; (2) many patients do not understand the full scope of practice for optometrists and may discount the need for an eye health assessment; (3) the existing technology to perform telemedicine may not be robust enough; (4) the need for guidelines for the use of telemedicine under the current Practice Act.

Dr. McIntyre explained that they determined that telemedicine (in its current incarnation) does not adequately provide care that is considered the standard of care for optometry. With

telehealth, optometrists cannot perform a comprehensive exam or evaluate ocular health. They cannot perform a standardized refractive exam for determining the spectacle or contact lens prescriptions. When procedures are performed in an office, doctors have specific instrumentation that meets a certain standard (a controlled environment to obtain those measurements). There is no way of controlling that environment when performing exams online or via audio. Additionally, an optometrist cannot see the internal health of the eye. Dr. McIntyre pointed out that they see how telemedicine can fit in as more of a consultative aspect, wherein the patients are established, and their history is known. The patient is not being met for the first time. Telehealth is only useable in a consultative mode and not for complete ocular health exams nor for refractive exams.

Dr. Chawla stated that whenever members discuss telemedicine, they get wrapped up in the discussion about refraction because that is the technology that people keep bringing to them. She noted that most people she knows do not think this technology is ready yet for a proper exam. The overarching concern from her perspective is that the patients understand what they are receiving, that refractions do not represent a complete eye exam; they need to understand that they may still need to come into the office. She believes the Board can be impactful by providing guidelines. Mr. Morodomi asked if any rules, regulations, or laws are currently in place that prevents the type of consultations Dr. Chawla provides. Ms. Murphy interjected explaining that the Board's current Practice Act refers to the Medical Practice Act, and its permission states that telemedicine cannot occur unless the patient signs a waiver. The Governor's Executive Order (early on) was to waive that necessity for consent so that doctors could contact patients to continue the continuity of care. Otherwise, no law or regulation would prevent a consultative means of care. It is simply the patient's consent that has been waived with the Governor's order as a response to COVID.

Dr. Turetsky responded describing a modified way of performing a comprehensive eye exam with telemedicine. Some physicians have partially reopened in other parts of the country and they do not want to have direct contact with patients. Therefore, they are having assistants do everything for that patient while they are observing through a video, which is a modified method of telemedicine where you do have the physician involved, but not in the location. He noted that California laws are not set up to allow optometrists to do this, but he believes it is something to consider.

Dr. Kawaguchi proposed that the Board view telemedicine as a project and advised performing as much research as possible to understand what current laws exist and what current practices exist within California. Dr. Wang agreed with Dr. Kawaguchi; she stated that telemedicine is developing and with COVID-19 things have changed considerably. Where patients before may not have been as accepting of telemedicine, many patients have adapted to it very quickly. At Berkeley, she explained, telemedicine is being used more from a consultative approach as previously discussed. They use it to triage patients with red eyes or similar issues. With regards to refractions, she does not believe telemedicine technology is quite there yet; however, when it is, the Board needs to investigate and then give its opinion.

Ms. Garcia did some brief research about her concerns because opticians are becoming involved as well. She explained that opticians are looking at privacy, documentation, and

obtaining consent from patients. She believes the Board needs to perform more research (and specifically about the units that are being used), how it will be tracked, stored for the future, and documented. Additionally, Ms. Garcia is concerned about training - opticians in California are not required to go through school; it is an individual choice. Therefore, the question needs to be addressed about where the training is coming from. How can opticians get closer in alignment to what optometrists expect from them? Ms. Salazar Sperber agrees with Ms. Garcia's comments and emphasized that telehealth is being used statewide in the medical profession. She asserted that if other medical communities are finding a way to use telehealth, this Board should look at it very seriously.

Ms. Brandvein commented that the use of telehealth is increasing and questioned how does the Board move forward, with the right training, without making it the primary vehicle for diagnosing eye health? She agrees with Dr. Turetsky that we cannot assume that people will allow us into their homes for a comprehensive eye exam. Dr. McIntyre clarified that if a patient has a vision issue, it matters why. The Board's regulations already make a provision where if someone has an expired spectacle prescription, they can in an emergency get that prescription filled with the understanding that they will seek a full exam at the earliest opportunity. She believes the Board needs to define what telemedicine means to us. For example, telehealth and telemedicine are being used interchangeably but they are not the same thing. There are different forms to telemedicine (remote, synchronous, and asynchronous); all of which has not been defined for our Board yet. Therefore, definitions are the first thing the Board needs to do.

Mr. Morodomi questions whether the Board, as a regulatory agency, is getting in the way; or if telemedicine is something the Board wishes to support or is this something the Board must regulate due to consumer protection issues. Dr. Chawla acknowledged that the Board must do all these things; and she believes there is an avenue for both not getting in the way and providing consumer protection.

Public comments:

- Dr. Chad Overman stated he has been a consultant for the last five years and has worked a lot with telemedicine. Much like technology for CE there is technology out there for comprehensive eye exams now. It is a method for providing quality, affordable, accessible eye exams. As an optometrist, he wants patients to see the doctors as well; however, there is a place for this technology. His concern is that if it is regulated out, ophthalmology will take it away from us and we will lose it as a profession.

- Ms. Schultz stated that the California Optometric Association's (COAs) position on online refraction is identical to the American Optometric Association's (AOAs). The current technology, that she is aware of, does not allow for all the tests required by the current standard of care. Regulation should be simple; you require the standard of care to be followed and discipline optometrists who approve prescriptions without meeting the standard. COA strongly supports telehealth. Online refraction (as it is being used now) is only a workaround, and it does not bring patients and doctors together which is the intention of telehealth.

B. Discussion of Focus Areas for Next Stage of Research

Audio of Discussion: 1:01:31 / 2:34 :13

Mr. Morodomi commented that he would be interested in knowing what current regulations hinder telehealth. Ms. Salazar Sperber noted that the privacy of patients and the sharing of information needs to be vetted. She recommended consulting with the Medical and Dental Boards, as well as other health boards to see how they have developed their telehealth protocols through COVID. Probably the best next step would be to investigate what roadblocks they have encountered and what worked for overcoming them; what works and what does not work; then begin from there. Ms. Murphy agreed. The data that has been collected over the last six to eight weeks could be very informative. She referred members back to the staff research materials in their packets, which began in August (when the workgroup was created) and continued until March just before the outbreak of COVID. With this research, staff did look at the previous publications and actions of the Medical and Dental Boards. However, she believes there are additional conversations to be had now.

Dr. Kawaguchi stated that the workgroup should perform their research from the standpoint of three overarching categories of next steps: (1) Interpretation of current California optometry laws as it applies to optometry practice; (2) clearly understanding definitions of terms to prevent intertwining terms incorrectly, and achieve consensus in how the terms will be used and defined; (3) address current urgencies and problems that may have easy fixes. He noted that this subject (as a whole) is very deep and broad, and the Board should avoid overwhelming itself in trying to accomplish more than members can handle all at once. He advised that members are at risk of losing focus if there are not clearly defined goals from the workgroup. Ms. Garcia expressed concern, stating she does not want the workgroup to feel they must handle the entire task themselves.

Ms. Brandvein announced that ironically, she just received a breaking report on the future of healthcare, etc. regarding the acceleration of the online-offline integration. She advised that perhaps the Board can extract some of the forward-leaning data from articles written by the leaders of the industry.

8. (Moved Up) Update, Discussion and Possible Action on Changes to Title 16, California Code of Regulation, section 1399.270, 1399.271, 1399.272, 1516 and 1517 (Implementation of Assembly Bill 2138)

Audio of Discussion: 1:15:12 / 2:34:13

Ms. Rogers announced that text changes to the regulations are informed by previous experience with the Office of Administrative Law (OAL) on another regulation package. The changes highlighted in yellow represent changes considered to be substantial, and if adopted today would require an additional 15-day public comment period; after which time the Legal Office would review and finalize the package for submission to the OAL. She added that the portion devoted to responses to comments are detailed at length in the Memorandum.

Ms. Murphy noted one comment on the letter staff received, which addresses the spirit of 2138 and argues the systematic injustice in allowing people to improve their lives through licensure. She noted the Board has dealt with this issue head-on and has taken extra steps to enact the spirit of the law. Therefore, although the Board has chosen to not take the suggestions provided in the comment letter, she wants to ensure that folks understand that steps have been taken, and gone beyond just the implementation of the requirements, to consider how the Board is allowing potential applicants to demonstrate their rehabilitation. One of the comments was a desire to have certain sources of information, documentation, or attestations listed out that may be used to substantiate a rehabilitation claim. The Board chose not to take on that list because the current regulation language does not specify; and thus, allows for a broader variety of substantiation to rehabilitation.

Mr. Morodomi noted an interesting comment within the letter that stated the Board should reproduce the rules in the statute within the regulation. He has worked in regulatory agencies that have done that, and it makes the regulations "10-miles long". He argued that real people do not read regulations; lawyers and bureaucrats do but not typical folks. To the extent that the Board wants all rules and guidance in one place, staff can work with this organization to create a cheat sheet FAQ with guidelines that speak in English; and will help typical folks navigate through the laws and regulations.

There were no public comments.

Glenn Kawaguchi moved direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text presented here today with these changes for an additional 15-day public comment period. If after the 15-day public comment period, no further comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulation, and adopt the proposed regulations as described in the modified text notice. Lillian Wang seconded. The Board voted unanimously (10-0) and the motion passed.

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

Mr. Morodomi made a statement for the record, clarifying that the exact motion below was just approved with a typographical error in the date. Therefore, the first motion was rescinded then restated with the correct date. By voting, the Members vote to rescind the first version and to adopt this correct written version.

Debra McIntyre directed staff to reject the proposed comments, respond to the comments as indicated in the meeting materials, and complete the regulatory process as authorized by motion at the Board's May 15, 2020 meeting. Lillian Wang seconded. The Board voted unanimously (10-0) and the motion passed.

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

10. (MOVED UP) Update, Discussion and Possible Action on Possible Changes to Title 16, California Code of Regulations, sections 1524 and 1572 (Implementation of Assembly Bill 443)

Audio of Discussion: 1:31:31 / 2:34:13

Ms. Rogers provided an update to the implementation of AB 443; she discovered some tweaks which needed to be added and it just needs the Board's approval on the proposed language revisions. Ms. Rogers explained that the first set of changes relates to the regulatory language in section 1572(a)(5). The point of this new subdivision was to add a declaration by the applicant that attests they will comply with state and federal record-keeping and recording requirements. Business and Professions Code (BPC) section (g)(1)(c) has this requirement. The second category of changes in the form is non-substantive.

Mr. Morodomi stated that at some point he would like the Legislature to change the law on immunizations to allow optometrists to administer immunizations for COVID-19. When the Board moves forward with those changes, he asked, will these regulations need to be amended? Or will these regulations be effective as they stand currently? Ms. Rogers answered stating the current statutory language does not support the administration of immunizations for COVID-19. The Legislature could act and add the category of immunization that may be administered. Ms. Murphy added that the immunization authority that is currently in the statute was hard fought for. The Pharmacy Board has a schedule of immunizations optometrists may administer rather than particular immunizations. Very in-depth and intense conversations with stakeholders occurred; therefore, it would be upon the will of the Legislature and the willingness of other stakeholders in other healthcare professions to allow this extended scope for optometry.

Dr. Turetsky commented that considering nobody knows much about the Novel Coronavirus and what will be necessary to arrive at a vaccine immunization; it might be a multi-step process and may require a monitoring period. Therefore, Dr. Turetsky believes that it would be premature to begin the process of getting this introduced into Legislation. He also noted that other immunizations are well-known vaccines. If the Board tries to introduce something now there will be pushback from a lot of other entities; it may be overstepping our bounds until this immunization is better understood. Dr. Turetsky recommended not pushing anything related to COVID-19.

There were no public comments.

Glenn Kawaguchi moved to approve the form incorporated by reference in section 1572, Title 16 of the California Code of Regulations with the edits discussed here today as well as approve the proposed edits to the text of Section 1572, Title 16 of the California Code of Regulations as discussed here today; and direct staff to re-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 make any non-substantive changes to the rulemaking package and set the matter for hearing. Madhu Chawla seconded. The Board voted unanimously (10-0) and the motion passed.

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

11. (Taken out of order) Update, Discussion and Possible Action on Changes to Chapters 5.4, 5.45 and 5.5 of the Business and Professions Code (Optician Program Statutes)

Audio of Discussion: 1:42:51 / 2:34:13

Mr. Johnson reported that discussions the Dispensing Optician Committee (DOC) has had in the last year on optician program statutes have been an ongoing project for the DOC. Public feedback is just now beginning to be received (letter from the National Association of Optometrists and Opticians as well as other feedback). Mr. Johnson asked if the Board would give this matter back to the DOC for another look at issues relating to supervision requirements, fines, and some different definitions and when completed staff may bring it back to the full Board.

Ms. Brandvein wondered if the Board should also define registered assistant and also noted section 2252 where the Board addresses electronic mail. Does the Board need to update the optometry statutes as well to enable electronic mail for our optometrists? Dr. Kawaguchi stated that via the LRC he was able to review this current draft, and he had provided several points of feedback that the DOC will be able to see at their next meeting; he wants to ensure that there is a format for providing his feedback. Ms. Garcia replied that perhaps he can provide those comments to staff.

Dr. McIntyre pointed out two areas where she thinks the verbiage needs clarification. She directed Members' attention to page 131, subsection 2550 (f); *"ophthalmic lens or ophthalmic device means any prescription lenses, spectacle eyeglasses, contact lens, Plano contact lens and other ophthalmic devices ordered by a physician and surgeon or optometrists that alters or changes the visual powers of the human eye."* Dr. McIntyre's issue with this text is the use of Plano contact lens which inherently does not change the power of the human eye; therefore something needs to be added referring to if it comes into contact with the ocular tissue such that vision or the eye power can be affected. Next, Dr. McIntyre directed Members' attention to page 146 section 2564.76 subsection (2)(c) and explained that the text can be easily misinterpreted. *"A seller shall not alter any of the specifications of an ophthalmic lens prescription other than the color or substitute a different manufacturer brand or other physical property of the lens".* She explained that grammatically it can be misinterpreted that the color or the manufacturer brand or other physical property of the lens can be altered.

Dr. Kawaguchi stated there is a broader comment related to unregistered spectacle dispensers. The Board is currently undergoing an Occupational Analysis (OA) and making potential suggestions to the wording of regulations before the finalization of the OA. He asks that the DOC be mindful of decisions to make changes while the OA is not yet completed. Ms. Murphy explained the distinction within these optician statutes: there are technician programs, invidivuals who may be overseen by opticians, and these are a different set of people with different responsibilities from those who are unlicensed assistants to optometrists. She pointed out that within the optician statutes they are not discussing those people who will be a part of the OA next fiscal year, which pertains solely to those who are unlicensed assistants for optometry.

Public Comment:

- Ms. Schultz expressed concerns related to the unprofessional conduct provisions. In section 2555 (u), which states: *"failure to refer to an optometrist or a physician if an examination of the eye indicates a problem"*. Ms. Schultz noted that since an unlicensed individual is not performing an exam, the term "observation" would be more appropriate. Additionally, she strongly supports the increase in the cost of fines. She explained that the Board cannot enact a lot of enforcement in this area, because larger companies can just ignore any fine that they receive.

- Joe Neville who stated that he just wanted to introduce the National Association of optometrists and opticians, and he will follow up later.

7. (Taken out of order) Discussion and Possible Action on February 28, 2020 Board Meeting Minutes

Audio of Discussion: 2:02:00 / 2:34:13

Dr. McIntyre noted that the Board had a guest at the February 28th meeting (Mr. Sumner). She noted that in some areas of the minutes his name was misspelled.

There were no public comments.

David Turetsky moved to adopt the minutes as corrected by the previous Board comments. Lillian Wang seconded. The Board voted (8-Aye; 2-Abstain) and the motion passed.

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

6. (Taken out of order) Discussion and Possible Action on Enforcement Policy Change to Toll Public-Facing Probation Conditions Impacted by COVID-19 and the Governor's resulting Stay-at-Home Order

Audio of Discussion: 2:08:15 / 2:34:13

Enforcement Analyst Mr. Matt McKinney provided information on how the Board has been responding to some specific terms which are challenging due to the Governor's stay-at-home order. Terms staff found to be problematic include: "community service", "biological fluid testing", and "hours worked per month" as a requirement within the scope of the profession. Probationers have been contacting staff to explain their hardships and cost recovery and probation monitoring fees since they are currently unable to work due to the order. Therefore, staff worked with Legal Counsel on current probation orders; and what discretion the Board has in the Disciplinary Guidelines for finding options for complying with their terms; and use some of the discretion to consider the Governor's stay-at-home order due to COVID-19 when deciding whether to seek further disciplinary action based on a probationer's inability to comply with specific terms of probation.

Dr. Kawaguchi and Mr. Morodomi asked if probationers are required to complete community service; however, because of the pandemic and stay-at-home orders they are not able to complete their required community service, how is the Board handling this? Mr. McGuire explained that the stay-at-home order does not allow the boards to extend the length of the probation term. Therefore, the focus is on alternative means of compliance. Ms. Murphy directed everyone's attention to bullet 5 of the PowerPoint screen and she read it as well. It states: *"Board staff has the discretion authorized by the Disciplinary Guidelines to consider the Governor's stay-at-home order during COVID when deciding whether to seek further disciplinary action based on a probationers inability to comply with specific terms of probation".* She explained that particularly with fluid testing, there have been some modifications offered by the vendors. They are oral testing which is the least comprehensive or long-term testing. It is performed via an online platform whereby the probationer would scan the room to demonstrate that nobody is in the room with them; they would then take the swab and place it into a container (sealed and watched by the vendor's agent); and finally mail the sample in a closed sealed envelope. However, staff are determining on a case-by-case basis if there is a strict need for there to be at least some sort of testing for individual probationers.

Dr. Kawaguchi commented that as a Board member he would need to see every specific probationer example. He believes that at a future meeting, it would be good for the Board to know what is being done in a summary report. How many types of exceptions have been made? What kind of categories they have been in? Ms. Murphy assured it will be provided during the Board's next session.

Mr. Morodomi stated that although he has great confidence in staff, he wants to ensure that staff are not being too harsh in these situations. If a probationer misses a requirement, what happens next? Does that probationer have any recourse? Ms. Murphy responded explaining that as an example of staff intention of working with each individual probationer, as stated previously we have the possibility for action on this agenda. Staff is being very thoughtful about the terms for each individual probationer and how those terms fit within their individual situation during this COVID pandemic. She added that staff is certainly using that discussion to not pursue additional enforcement action when we know that probationers are making a good faith effort to continue to improve within the profession and provide the standard of care for consumers.

There were no public comments.

5. (Taken out of order) Presentation and Discussion of Executive Officer's Report

Ms. Murphy announced that Items 5.b and c have not yet been addressed; however, unless there are questions or comments from the Board regarding the enforcement report and statistics or the licensing report and statistics, the information may be submitted to the Board and made available to the public; we will have sufficiently addressed those two items.

Mr. Morodomi opened the floor to questions or comments on these two agenda items.

Dr. Kawaguchi noted that in the licensing reports, the number of applicants we have at this point is lower than what the Board typically expects. In the past, the Board has had the luxury of providing a presentation at the California schools to help the (soon to be graduating) students understand the process and to encourage students to begin the process as quickly as possible. Assuming, that the Board did not have that opportunity this year, he asked if staff submitted any alternative communications via the schools? Ms. Murphy responded that the staff did have the opportunity at Berkeley. This ensures they have multiple opportunities to re-take the exam if necessary. Mr. Morodomi asked if staff posted an FAQ to the front page of the Board's website? Ms. Murphy replied stating there is an FAQ on our website, but staff can have it placed more prominently on the front home page, along with the other COVID alerts and communications.

Ms. Murphy announced for the public members present that due to the current situation and an inability to monitor attentiveness and participation, the Board will not be able to provide CE credits to those in attendance at today's meeting. With gratitude, she stated that the public comments received on each of these items have been incredibly valuable to the Board. Staff tried to find ways to meet the attendance monitoring standard for this meeting and were not able to. Ms. Murphy assured the public members that staff will continue to find ways to provide this standard for future teleconferences and video conferences for our licensees.

There were no public comments.

14. Future Agenda Items

Audio of Discussion: 2:27:35 / 2:34:13

Mr. Morodomi was reminded that the Board is due for elections however due to the crisis, he has not been able to get to that. He asked Ms. Murphy if elections will be on the next agenda? Ms. Murphy confirmed this is the intention. Additionally, staff has been very considerate of the fact that several of our appointments are in their grace period. The Board has its Assembly appointed Member and three gubernatorial appointments that ended their term last June; have now come to the end of the grace period, and we are not receiving any indication from the Governor's Office or Agency as to what their intention is. We are also still vacant for the Senate appointment. Ms. Murphy explained that she wants to allow some discussion among Board Members about the need for the potential new Board Members to be a part of the accountability and the elevation of executive offices.

Dr. Kawaguchi advised that during the previous Board meeting, members heard stories from a doctor regarding her trials and tribulations of an expired license that was extremely difficult to reactivate. He recalled that Members decided to have the issue as a future agenda item. He wants to ensure the Board keeps this issue on the table as a discussion point. Ms. Murphy assured that the Board has not forgotten about it. Staff continues to review this doctor's file and review staff processes to enable recommendations to be made to ensure these types of impediments do not occur again. However, progress has been stymied on this particular initiative as we have had to address COVID-19 and the questions regarding continuing educations.

There were no public comments.

9. Adjournment

Meeting adjourned at 4:35 p.m.

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry
FROM	Shara Murphy, Executive Officer *prepared by Marc Johnson, Policy Analyst*
SUBJECT	Agenda Item #9: Update, Discussion and Possible Action on Assembly Bill 896 (Low)

The 2019 - 2020 Legislative session is scheduled to end on August 31, 2020. Due to the impacts of the novel coronavirus, the Legislature has not met on a regular schedule, and bills relating to the coronavirus, budget, and fiscal matters are being prioritized.

Please note: Text, location, and analysis of a bill may change rapidly; as a result, links to the bill text and committee analyses are provided in the meeting packet rather than possibly outdated hard copies.

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

AB 896 was heard in the Senate Business, Professions and Economic Development Committee on August 8, 2020. Due to posting deadlines, staff will verbally update the status of the bill after the hearing.

Based on comments made by the workgroup and the Board, the following amendments to AB 896 have been accepted by the author:

1. Global Changes:
   - "Mobile optometric clinic" was changed to "mobile optometric office". As Robby Sumner noted during the 2/28 board meeting, "clinic" was probably left in from the original version. This ties in a mobile unit better with the Board's ability to regulate an optometrist's place of practice.
   - "Owner and operator" was added throughout to clarify the role and responsibility of a charitable organization that will be managing and scheduling the mobile optometric office.

2. 3070.2(a): The word "premise" was added to better define a situation where a van or trailer might not be used – such as a licensee using their vehicle to transport the necessary equipment.

3. 3070.2 (b): Several changes were made to exempt groups with established mobile visision programs, such as Lion's Club, VSP, religious or community-based organizations from the requirements of the bill:
   - A Federally Qualified Health Center.
   - A non-profit or charitable organization exempt from taxation pursuant to 501(c)(3), 501(c)(4) or 501(c)(6), who uses volunteer optometrists engaging in the temporary practice of optometry.
   - A free clinic, as defined by Health and Safety Code Section 1204(a)(1), which is operated by clinic corporation as defined by HSC 1200(b)(4).
   - A specialized vision health care service plan, as defined in line 11 subdivision (f) of Section 1345 of the Health and Safety Code, line 12 formed and existing pursuant to the provisions of the Nonprofit line 13 Corporation Law.

4. 3070.2(e)(3): Addition of text to further clarify the reporting requirements of any optometrists who have provided care since the last reporting period.

5. 3070.2(g)(1)(D): Added of text requiring the follow-up list of optometrists provided to patients must be updated every 6 months.

6. 3070.2(n): Added requirement of TPA certification for all optometrists.

7. 3077: Text was added to align the meaning of "office" to include mobile equipment, not just a trailer or van.

AMENDED IN SENATE AUGUST 6, 2020

AMENDED IN SENATE JULY 22, 2020

AMENDED IN SENATE FEBRUARY 25, 2020

AMENDED IN SENATE AUGUST 30, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL No. 896

Introduced by Assembly Member Low
(Coauthors: Assembly Members Arambula, Bonta, Carrillo, and Gipson)

February 20, 2019

An act to amend Sections 205, 655, 2545, 2546.9, 2556.2, 2567, 2568, and 3077 of, to add Section 205.3 to, and to add and repeal Section 3070.2 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 896, as amended, Low. Registered Dispensing Opticians: Dispensing Opticians Fund: Optometry Fund: mobile optometric offices.

Existing law provides for the registration and regulation of dispensing opticians, spectacle lens dispensers, nonresident contact lens sellers, and contact lens dispensers by the State Board of Optometry and requires certain fees and fines in connection therewith to be paid to the board. Existing law establishes the Dispensing Opticians Fund and requires that these fees and fines be paid into that fund, and provides that the funds be available, upon appropriation, to the board for specified purposes.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the board and requires certain fees and fines in connection therewith to be paid to the board. The act establishes the Optometry Fund and requires that these fees and fines be paid into that fund, and provides that the funds, unless otherwise provided, be available, upon appropriation, to the board in order to carry out the purposes of the act.

This bill would abolish the Dispensing Opticians Fund on July 1, 2022, and would require that any moneys in that fund be transferred to the Optometry Fund before July 1, 2022. The bill would make various related conforming changes.

Existing law provides that specified provisions of the Medical Practice Act that are not inconsistent or in conflict with certain provisions of law relating to the registration and regulation of dispensing opticians apply to the issuance, and govern the expiration and renewal, of certificates of registration issued to dispensing opticians.

This bill would delete that provision.

The Optometry Practice Act requires each licensed optometrist, before engaging in the practice of optometry, to notify the board in writing of the address or addresses where the optometrist is to engage in the practice of optometry and of any changes in their place of practice. A violation of the act is a crime.

This bill would define "mobile optometric office" to mean any premise in which the practice of optometry is performed and which is not affiliated with an approved optometry school in California. The bill would limit ownership of a mobile optometric office to a tax-exempt nonprofit or charitable organization that provides optometric services to patients regardless of the patient's ability to pay. The bill would require the owner and operator of a mobile optometric office to register with the board and to provide specified information on registering. The bill would prohibit the owner and operator of a mobile optometric office from accepting payment for services other than those provided to Medi-Cal beneficiaries. The bill would require the owner and operator of a mobile optometric office to file a quarterly report with the board and to provide a consumer notice prescribed by the board to patients.

The bill would require the board, by January 1, 2022, to adopt regulations establishing a registry for mobile optometric offices and to set a registration fee at an amount not to exceed the costs of administration. The bill would authorize the board to adopt regulations

to conduct quality assurance reviews for optometrists engaging in the practice of optometry at a mobile optometric office.

The bill would prohibit the board from bringing an enforcement action against an owner and operator of a mobile optometric office based solely on its affiliation status with an approved optometry school in California for remotely providing optometric service before January 1, 2022.

The bill would require the owner and operator of a mobile optometric office to maintain records, as prescribed, to be made available to the board upon request for inspection. The bill would require a licensed optometrist who provides patient care in conjunction with a mobile optometric office to obtain a statement of licensure with the mobile optometric office's address as registered with the board. The bill would require, if the licensee is not practicing optometry at a location other than with the owner and operator of the mobile optometric office, that the licensee list as their primary address of record the owner and operator of the mobile optometric office's address as registered with the board.

The bill would repeal these mobile optometric office provisions on July 1, 2024.

Because this bill would expand the scope of an existing crime, it would therefore impose a state-mandated local program.

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

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

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

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 205 of the Business and Professions Code, as added by Section 3 of Chapter 865 of the Statutes of 2019, is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

(1) Accountancy Fund.

(2) California Architects Board Fund.

(3) Athletic Commission Fund.
(4) Barbering and Cosmetology Contingent Fund.
(5) Cemetery and Funeral Fund.
(6) Contractors' License Fund.
(7) State Dentistry Fund.
(8) Home Furnishings and Thermal Insulation Fund.
(9) California Architects Board-Landscape Architects Fund.
(10) Contingent Fund of the Medical Board of California.
(11) Optometry Fund.
(12) Pharmacy Board Contingent Fund.
(13) Physical Therapy Fund.
(14) Private Investigator Fund.
(15) Private Security Services Fund.
(16) Professional Engineer's, Land Surveyor's, and Geologist's Fund.
(17) Consumer Affairs Fund.
(18) Behavioral Sciences Fund.
(19) Licensed Midwifery Fund.
(20) Court Reporters' Fund.
(21) Veterinary Medical Board Contingent Fund.
(22) Vocational Nursing and Psychiatric Technicians Fund.
(23) Electronic and Appliance Repair Fund.
(24) Acupuncture Fund.
(25) Physician Assistant Fund.
(26) Board of Podiatric Medicine Fund.
(27) Psychology Fund.
(28) Respiratory Care Fund.
(29) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.
(30) Board of Registered Nursing Fund.
(31) Animal Health Technician Examining Committee Fund.
(32) State Dental Hygiene Fund.
(33) Structural Pest Control Fund.
(34) Structural Pest Control Eradication and Enforcement Fund.
(35) Structural Pest Control Research Fund.
(36) Household Movers Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and

Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) This section shall become operative on July 1, 2022.

SEC. 2. Section 205.3 is added to the Business and Professions Code, to read:

205.3. Whenever any reference is made in any provision of this code to the "Dispensing Opticians Fund," it means the Optometry Fund. All moneys within the Dispensing Opticians Fund shall be deposited into the Optometry Fund by July 1, 2022. On July 1, 2022, the Dispensing Opticians Fund shall be abolished.

SEC. 3. Section 655 of the Business and Professions Code is amended to read:

655. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Health plan" means a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(2) "Optical company" means a person or entity that is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, health plans, or dispensing opticians of lenses, frames, optical supplies, or optometric appliances or devices or kindred products.

(3) "Optometrist" means a person licensed pursuant to Chapter 7 (commencing with Section 3000) or an optometric corporation, as described in Section 3160.

(4) "Registered dispensing optician" means a person licensed pursuant to Chapter 5.5 (commencing with Section 2550).

(5) "Therapeutic ophthalmic product" means lenses or other products that provide direct treatment of eye disease or visual rehabilitation for diseased eyes.

(b) No optometrist may have any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any optical company, except as otherwise permitted under this section.

(c) (1) A registered dispensing optician or an optical company may operate, own, or have an ownership interest in a health plan so long as the health plan does not directly employ optometrists

to provide optometric services directly to enrollees of the health plan, and may directly or indirectly provide products and services to the health plan or its contracted providers or enrollees or to other optometrists. For purposes of this section, an optometrist may be employed by a health plan as a clinical director for the health plan pursuant to Section 1367.01 of the Health and Safety Code or to perform services related to utilization management or quality assurance or other similar related services that do not require the optometrist to directly provide health care services to enrollees. In addition, an optometrist serving as a clinical director may not employ optometrists to provide health care services to enrollees of the health plan for which the optometrist is serving as clinical director. For the purposes of this section, the health plan's utilization management and quality assurance programs that are consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) do not constitute providing health care services to enrollees.

(2) The registered dispensing optician or optical company shall not interfere with the professional judgment of the optometrist.

(3) The Department of Managed Health Care shall forward to the State Board of Optometry any complaints received from consumers that allege that an optometrist violated the Optometry Practice Act (Chapter 7 (commencing with Section 3000)). The Department of Managed Health Care and the State Board of Optometry shall enter into an Inter-Agency Agreement regarding the sharing of information related to the services provided by an optometrist that may be in violation of the Optometry Practice Act that the Department of Managed Health Care encounters in the course of the administration of the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(d) An optometrist, a registered dispensing optician, an optical company, or a health plan may execute a lease or other written agreement giving rise to a direct or indirect landlord-tenant relationship with an optometrist, if all of the following conditions are contained in a written agreement establishing the landlord-tenant relationship:

(1) (A) The practice shall be owned by the optometrist and in every phase be under the optometrist's exclusive control, including

the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, fees charged for optometric products and services, the examination procedures and treatment provided to patients and the optometrist's contracting with managed care organizations.

(B) Subparagraph (A) shall not preclude a lease from including commercially reasonable terms that: (i) require the provision of optometric services at the leased space during certain days and hours, (ii) restrict the leased space from being used for the sale or offer for sale of spectacles, frames, lenses, contact lenses, or other ophthalmic products, except that the optometrist shall be permitted to sell therapeutic ophthalmic products if the registered dispensing optician, health plan, or optical company located on or adjacent to the optometrist's leased space does not offer any substantially similar therapeutic ophthalmic products for sale, (iii) require the optometrist to contract with a health plan network, health plan, or health insurer, or (iv) permit the landlord to directly or indirectly provide furnishings and equipment in the leased space.

(2) The optometrist's records shall be the sole property of the optometrist. Only the optometrist and those persons with written authorization from the optometrist shall have access to the patient records and the examination room, except as otherwise provided by law.

(3) The optometrist's leased space shall be definite and distinct from space occupied by other occupants of the premises, have a sign designating that the leased space is occupied by an independent optometrist or optometrists and be accessible to the optometrist after hours or in the case of an emergency, subject to the facility's general accessibility. This paragraph shall not require a separate entrance to the optometrist's leased space.

(4) All signs and displays shall be separate and distinct from that of the other occupants and shall have the optometrist's name and the word "optometrist" prominently displayed in connection therewith. This paragraph shall not prohibit the optometrist from advertising the optometrist's practice location with reference to other occupants or prohibit the optometrist or registered dispensing optician from advertising their participation in any health plan's network or the health plan's products in which the optometrist or registered dispensing optician participates.

(5) There shall be no signs displayed on any part of the premises or in any advertising indicating that the optometrist is employed or controlled by the registered dispensing optician, health plan or optical company.

(6) Except for a statement that an independent doctor of optometry is located in the leased space, in-store pricing signs and as otherwise permitted by this subdivision, the registered dispensing optician or optical company shall not link its advertising with the optometrist's name, practice, or fees.

(7) Notwithstanding paragraphs (4) and (6), this subdivision shall not preclude a health plan from advertising its health plan products and associated premium costs and any copayments, coinsurance, deductibles, or other forms of cost sharing, or the names and locations of the health plan's providers, including any optometrists or registered dispensing opticians that provide professional services, in compliance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(8) A health plan that advertises its products and services in accordance with paragraph (7) shall not advertise the optometrist's fees for products and services that are not included in the health plan's contract with the optometrist.

(9) The optometrist shall not be precluded from collecting fees for services that are not included in a health plan's products and services, subject to any patient disclosure requirements contained in the health plan's provider agreement with the optometrist or that are not otherwise prohibited by the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(10) The term of the lease shall be no less than one year and shall not require the optometrist to contract exclusively with a health plan. The optometrist may terminate the lease according to the terms of the lease. The landlord may terminate the lease for the following reasons:

(A) The optometrist's failure to maintain a license to practice optometry or the imposition of restrictions, suspension or revocation of the optometrist's license or if the optometrist or the optometrist's employee is or becomes ineligible to participate in state or federal government-funded programs.

(B) Termination of any underlying lease where the optometrist has subleased space, or the optometrist's failure to comply with the underlying lease provisions that are made applicable to the optometrist.

(C) If the health plan is the landlord, the termination of the provider agreement between the health plan and the optometrist, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(D) Other reasons pursuant to the terms of the lease or permitted under the Civil Code.

(11) The landlord shall act in good faith in terminating the lease and in no case shall the landlord terminate the lease for reasons that constitute interference with the practice of optometry.

(12) Lease or rent terms and payments shall not be based on number of eye exams performed, prescriptions written, patient referrals or the sale or promotion of the products of a registered dispensing optician or an optical company.

(13) The landlord shall not terminate the lease solely because of a report, complaint, or allegation filed by the optometrist against the landlord, a registered dispensing optician or a health plan, to the State Board of Optometry or the Department of Managed Health Care or any law enforcement or regulatory agency.

(14) The landlord shall provide the optometrist with written notice of the scheduled expiration date of a lease at least 60 days prior to the scheduled expiration date. This notice obligation shall not affect the ability of either party to terminate the lease pursuant to this section. The landlord may not interfere with an outgoing optometrist's efforts to inform the optometrist's patients, in accordance with customary practice and professional obligations, of the relocation of the optometrist's practice.

(15) The State Board of Optometry may inspect, upon request, an individual lease agreement pursuant to its investigational authority, and if such a request is made, the landlord or tenant, as applicable, shall promptly comply with the request. Failure or refusal to comply with the request for lease agreements within 30 days of receiving the request constitutes unprofessional conduct and is grounds for disciplinary action by the appropriate regulatory agency. This section shall not affect the Department of Managed

Health Care's authority to inspect all books and records of a health plan pursuant to Section 1381 of the Health and Safety Code.

Any financial information contained in the lease submitted to a regulatory entity, pursuant to this paragraph, shall be considered confidential trade secret information that is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(16) This subdivision shall not be applicable to the relationship between any optometrist employee and the employer medical group, or the relationship between a medical group exclusively contracted with a health plan regulated by the Department of Managed Health Care and that health plan.

(e) No registered dispensing optician may have any membership, proprietary interest, coownership, or profit-sharing arrangement either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist, except as permitted under this section.

(f) Nothing in this section shall prohibit a person licensed under Chapter 5 (commencing with Section 2000) or its professional corporation from contracting with or employing optometrists, ophthalmologists, or optometric assistants and entering into a contract or landlord tenant relationship with a health plan, an optical company, or a registered dispensing optician, in accordance with Sections 650 and 654 of this code.

(g) Any violation of this section constitutes a misdemeanor as to such person licensed under Chapter 7 (commencing with Section 3000) of this division and as to any and all persons, whether or not so licensed under this division, who participate with such licensed person in a violation of any provision of this section.

(h) (1) Notwithstanding any other law and in addition to any action available to the State Board of Optometry, the State Board of Optometry may issue a citation containing an order of abatement, an order to pay an administrative fine, or both, to an optical company, an optometrist, or a registered dispensing optician for a violation of this section. The administrative fine shall not exceed fifty thousand dollars ($50,000) per investigation. In assessing the amount of the fine, the board shall give due consideration to all of the following:

(A) The gravity of the violation.

(B) The good faith of the cited person or entity.

(C) The history of previous violations of the same or similar nature.

(D) Evidence that the violation was or was not willful.

(E) The extent to which the cited person or entity has cooperated with the board's investigation.

(F) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

(G) Any other factors as justice may require.

(2) A citation or fine assessment issued pursuant to a citation shall inform the cited person or entity that if a hearing is desired to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The board shall adopt regulations to implement a system for the issuance of citations, administrative fines, and orders of abatement authorized by this section. The regulations shall include provisions for both of the following:

(A) The issuance of a citation without an administrative fine.

(B) The opportunity for a cited person or entity to have an informal conference with the executive officer of the board in addition to the hearing described in paragraph (2).

(4) The failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(5) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(i) Administrative fines collected pursuant to this section shall be deposited in the Optometry Fund. It is the intent of the

Legislature that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.

SEC. 4. Section 2545 of the Business and Professions Code is amended to read:

2545. (a) Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the State Board of Optometry, the Medical Board of California, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(b) (1) Any person who violates any of the provisions of this chapter shall be subject to a fine of not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) per violation. The fines collected pursuant to this section from licensed physicians and surgeons shall be available upon appropriation to the Medical Board of California for the purposes of administration and enforcement. The fines collected pursuant to this section from licensed optometrists and registered dispensing opticians shall be deposited into the Optometry Fund and shall be available upon appropriation to the State Board of Optometry for the purposes of administration and enforcement.

(2) The Medical Board of California and the State Board of Optometry shall adopt regulations implementing this section and shall consider the following factors, including, but not limited to, applicable enforcement penalties, prior conduct, gravity of the offense, and the manner in which complaints will be processed.

(3) The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 2546.9 of the Business and Professions Code is amended to read:

2546.9. The amount of fees prescribed in connection with the registration of nonresident contact lens sellers is that established by the following schedule:

(a) The application fee for a nonresident contact lens seller shall be a minimum of one hundred fifty dollars ($150) and shall not exceed two hundred dollars ($200).

(b) The initial registration fee shall be a minimum of two hundred dollars ($200) and shall not exceed three hundred dollars ($300).

(c) The renewal fee shall be a minimum of two hundred dollars ($200) and shall not exceed three hundred dollars ($300).

(d) The delinquency fee shall be a minimum of fifty dollars ($50) and shall not exceed seventy-five dollars ($75).

(e) The fee for replacement of a lost, stolen, or destroyed registration shall be twenty-five dollars ($25).

(f) The State Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d), and these revised fees shall not exceed the reasonable regulatory cost.

(g) The fees collected pursuant to this chapter shall be deposited in the Optometry Fund, and shall be available, upon appropriation, to the State Board of Optometry for the purposes of this chapter.

SEC. 6. Section 2556.2 of the Business and Professions Code is amended to read:

2556.2. (a) Notwithstanding any other law, subsequent to the effective date of this section and until January 1, 2019, any individual, corporation, or firm operating as a registered dispensing optician under this chapter before the effective date of this section, or an employee of such an entity, shall not be subject to any action for engaging in conduct prohibited by Section 2556 or Section 655 as those sections existed prior to the effective date of this bill, except that a registrant shall be subject to discipline for duplicating or changing lenses without a prescription or order from a person duly licensed to issue the same.

(b) Nothing in this section shall be construed to imply or suggest that a person registered under this chapter is in violation of or in compliance with the law.

(c) This section shall not apply to any business relationships prohibited by Section 2556 commencing registration or operations on or after the effective date of this section.

(d) Subsequent to the effective date of this section and until January 1, 2019, nothing in this section shall prohibit an individual, corporation, or firm operating as a registered dispensing optician from engaging in a business relationship with an optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) before the effective date of this section at locations registered with the Medical Board of California before the effective date of this section.

(e) This section does not apply to any administrative action pending, litigation pending, cause for discipline, or cause of action accruing prior to September 1, 2015.

(f) Any registered dispensing optician or optical company that owns a health plan that employs optometrists, subject to this section, shall comply with the following milestones:

(1) By January 1, 2017, 15 percent of its locations shall no longer employ an optometrist.

(2) By August 1, 2017, 45 percent of its locations shall no longer employ an optometrist.

(3) By January 1, 2019, 100 percent of its locations shall no longer employ an optometrist.

(g) Any registered dispensing optician or optical company that owns a health plan that employs optometrists shall report to the State Board of Optometry in writing as to whether it has met each of the milestones in subdivision (f) within 30 days of each milestone. The State Board of Optometry shall provide those reports as soon as it receives them to the director and the Legislature. The report to the Legislature shall be submitted in compliance with Section 9795 of the Government Code.

(h) (1) Notwithstanding any other law and in addition to any action available to the State Board of Optometry, the State Board of Optometry may issue a citation containing an order of abatement, an order to pay an administrative fine, or both, to an optical company, an optometrist, or a registered dispensing optician for a violation of this section. The administrative fine shall not exceed fifty thousand dollars ($50,000). In assessing the amount of the fine, the board shall give due consideration to all of the following:

(A) The gravity of the violation.

(B) The good faith of the cited person or entity.

(C) The history of previous violations of the same or similar nature.

(D) Evidence that the violation was or was not willful.

(E) The extent to which the cited person or entity has cooperated with the board's investigation.

(F) The extent to which the cited person or entity has mitigated or attempted to mitigate any damage or injury caused by the violation.

(G) Any other factors as justice may require.

(2) A citation or fine assessment issued pursuant to a citation shall inform the cited person or entity that if a hearing is desired to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The board shall adopt regulations to implement a system for the issuance of citations, administrative fines, and orders of abatement authorized by this section. The regulations shall include provisions for both of the following:

(A) The issuance of a citation without an administrative fine.

(B) The opportunity for a cited person or entity to have an informal conference with the executive officer of the board in addition to the hearing described in paragraph (2).

(4) The failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(5) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(i) Administrative fines collected pursuant to this section shall be deposited in the Optometry Fund. It is the intent of the

Legislature that moneys collected as fines and deposited in the fund be used by the board primarily for enforcement purposes.

SEC. 7. Section 2567 of the Business and Professions Code is amended to read:

2567. (a) All fees collected from persons registered or seeking registration under this chapter shall be paid into the Optometry Fund, and shall be available, upon appropriation, to the State Board of Optometry for the purposes of this chapter. Any moneys within the Contingent Fund of the Medical Board of California collected pursuant to this chapter shall be deposited in the Optometry Fund. Any moneys within the Dispensing Opticians Fund collected pursuant to this chapter shall be deposited in the Optometry Fund.

(b) The board may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this chapter.

SEC. 8. Section 2568 of the Business and Professions Code is amended to read:

2568. The board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit in the Optometry Fund.

SEC. 9. Section 3070.2 is added to the Business and Professions Code, to read:

3070.2. (a) As used in this section, "mobile optometric office" means any premise in which the practice of optometry, as defined in Section 3041, is performed and which is not affiliated with an approved optometry school in California.

(b) This section shall not apply to any of the following:

(1) Optometric services provided remotely by an approved optometry school in California that meets the requirements of Section 1507 of Title 16 of the California Code of Regulations.

(2) A licensee engaged in the practice of optometry at a facility defined in paragraph (1), (2), or (3) of subdivision (a) of Section 3070.1.

(3) A federally qualified health center, as defined in Section 1396d(*l*)(2)(B) of Title 42 of the United States Code.

(4) A nonprofit or charitable organization exempt from taxation pursuant to Section ~~501 (c)(3) or Section 501(c)(4)~~ *501(c)(3), 501(c)(4), or 501(c)(6)* of the Internal Revenue Code (26 U.S.C.

~~Sec. 501(c)(3) or (c)(4)),~~ *Sec. 501(c)(3), 501(c)(4), or 501(c)(6)),* which utilizes the volunteer services of licensees engaging in the temporary practice of optometry pursuant to subdivision (b) of Section 3070.

(5) A free clinic, as defined in subparagraph (B) of paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code, which is operated by a clinic corporation, as defined in paragraph (3) of subdivision (b) of Section 1200 of the Health and Safety Code.

(6) A specialized vision health care service plan, as defined in subdivision (f) of Section 1345 of the Health and Safety Code, formed and existing pursuant to the provisions of the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code).

(c) The ownership and operation of a mobile optometric office shall be limited to a nonprofit or charitable organization that is exempt from taxation pursuant to Section 501(c)(3) or Section 501(c)(4) of the United States Internal Revenue Code that provides optometric services to patients regardless of the patient's ability to pay. The owner and operator of a mobile optometric office shall register with the board. The owner and operator of a mobile optometric office and the optometrist providing services shall not accept payment for services other than those provided to Medi-Cal beneficiaries. The medical operations of the mobile optometric office shall be directed by a licensed optometrist and in every phase shall be under the exclusive control of the licensed optometrist, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, the fees charged for optometric products and services, the examination procedures, the treatment provided to patients, and the followup care pursuant to this section.

(d) The owner and operator of the mobile optometric office registering with the board pursuant to subdivision (c) shall provide the following information to the board:

(1) The description of services to be rendered within the mobile optometric office.

(2) The names and optometry license numbers of optometrists providing patient care. ~~All examinations performed at the mobile optometric office shall be performed by a licensed optometrist~~

~~who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3.~~

(3) The dates of operation and cities or counties served.

(4) A description of how followup care will be provided.

(5) A catalog of complaints, if any.

(e) The owner and operator of the mobile optometric office, on a form prescribed by the board, shall file a quarterly report containing the following information:

(1) A list of all visits made by the mobile optometric office, including dates of operation, address, care provided, and names and license numbers of optometrists who provided care.

(2) A summary of all complaints received by the mobile optometric office, the disposition of those complaints, and referral information.

(3) An updated and current list of licensed optometrists who have provided care within the mobile optometric office since the last reporting period.

(4) An updated and current list of licensed optometrists who are available for followup care as a result of a complaint on a volunteer basis or who accept Medi-Cal payments.

(f) The owner and operator of the mobile optometric office shall notify the board of any change to the information provided to the board pursuant to subdivision (d) within 14 days.

(g) (1) The owner and operator of the mobile optometric office shall provide each patient and, if applicable, the patient's caregiver or guardian, a consumer notice prescribed by the board that includes the following:

(A) The name, license number, and contact information for the optometrist.

(B) Optometrists providing services at a mobile optometric office are regulated by the board and the contact information for filing a complaint with the board.

(C) Information on how to obtain a copy of the patient's medical information.

(D) Information on followup care available for the patient, including a list of available Medi-Cal or volunteer optometrists. This list shall be updated every six months and is subject to the inspection by the board.

(E) Any other information the board deems appropriate to safeguard the public from substandard optometric care, fraud, or other violation of this chapter.

(2) The optometrist shall maintain a copy of the consumer notice described in paragraph (1) in the patient's medical record.

(3) Upon request by the patient's caregiver or guardian, a copy of the prescription made for the patient shall be provided.

(h) Any person who is employed by the owner and operator of the mobile optometric office to drive or transport the vehicle shall possess a valid driver's license.

(i) By January 1, 2022, the board shall adopt regulations establishing a registry for the owners and operators of mobile optometric offices and shall set a registration fee at an amount not to exceed the reasonable regulatory costs of administration.

(j) The board may adopt regulations to conduct quality assurance reviews for the owner and operator of a mobile optometric office and optometrists engaging in the practice of optometry at a mobile optometric office.

(k) The board shall not bring an enforcement action against an owner and operator of a mobile optometric office based solely on its affiliation status with an approved optometry school in California for remotely providing optometric service before January 1, 2022.

(*l*) The owner and operator of a mobile optometric office shall maintain records in the following manner, which shall be made available to the board upon request for inspection:

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

(2) The owner and operator of a mobile optometric office complies with all federal and state laws and regulations regarding the maintenance and protection of medical records, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(3) Pursuant to Section 3007, the owner and operator of the mobile optometric office keeps all necessary records for a minimum of seven years from the date of service in order to disclose fully the extent of services furnished to a patient. Any

information included on a printed copy of an original document to a patient shall be certified by the owner and operator of the mobile optometric office as being true, accurate, and complete.

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

(A) Name.

(B) Optometrist license number.

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

(D) Description of the goods and services for which the patient is charged and the amount charged. If no charge was made to the patient, a description of the goods and services provided.

(5) The owners and operators of a mobile optometric offices shall maintain accurate records of the mobile optometric offices, including vehicle registration numbers and the year, make, and model of each trailer or van.

(m) Any licensed optometrist who provides patient care in conjunction with a mobile optometric office shall obtain a statement of licensure pursuant to subdivision (a) of Section 3070 with the mobile optometric office's address as registered with the board. If the licensee is not practicing optometry at a location other than with the owner and operator of the mobile optometric office, then the licensee shall list as their primary address of record the owner and operator of the mobile optometric office's address as registered with the board.

(n) All examinations performed at the mobile optometric office shall be performed by a licensed optometrist who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3.

~~(n)~~

(o) This section does not apply to optometry services defined in Section 3070.1.

~~(o)~~

(p) This section shall remain in effect only until July 1, 2024, and as of that date is repealed.

SEC. 10. Section 3077 of the Business and Professions Code is amended to read:

3077. As used in this section, "office" means any office or other place for the practice of optometry, including but not limited to vans, trailers, or other mobile equipment.

(a) No person, singly or in combination with others, may have an office unless that person is licensed to practice optometry under this chapter or the registered owner and operator of a nonprofit mobile optometric office as set out in this chapter.

(b) No optometrist, and no two or more optometrists jointly, may have more than 11 offices.

(c) Any failure to comply with the provisions of this section shall result in the suspension of the optometrist license of each optometrist who, individually or with others, has an office. An optometrist license so suspended shall not be restored except upon compliance with those provisions and the payment of the fee prescribed by this chapter for restoration of a license after suspension for failure to comply with this section.

(d) The board shall have the power to adopt, amend, and repeal rules and regulations to carry out the provisions of this section.

(e) Notwithstanding any other provision of this section, neither an optometrist nor an individual practice association shall be deemed to have an additional office solely by reason of the optometrist's participation in an individual practice association or the individual practice association's creation or operation. As used in this subdivision, the term "individual practice association" means an entity that meets all of the following requirements:

(1) Complies with the definition of an optometric corporation in Section 3160.

(2) Operates primarily for the purpose of securing contracts with health care service plans or other third-party payers that make available eye/vision services to enrollees or subscribers through a panel of optometrists.

(3) Contracts with optometrists to serve on the panel of optometrists, but does not obtain an ownership interest in, or otherwise exercise control over, the respective optometric practices of those optometrists on the panel.

(f) For purposes of Section 3070.2, "office" shall include a van, trailer, or mobile equipment owned and operated by a mobile optometric office.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty

for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because it is necessary to make changes to the Optometry Fund and related provisions governing registered dispensing opticians and to ensure all Californians have access to necessary optometric services in order to preserve the public health and safety at the earliest possible time, it is imperative that this bill take effect immediately.

O

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry
FROM	Dr. Debra McIntyre, O.D., Secretary
SUBJECT	Agenda Item #10 – Future Agenda Items

The Board may wish to discuss items to be placed on a future agenda, as proposed by board members, staff, or the public.

ISSUE MEMORANDUM

DATE	August 13, 2020
TO	Members, California State Board of Optometry (CSBO)
FROM	Mark Morodomi, President
SUBJECT	Agenda Item #11 - Adjournment

If an adjournment is made, please note the time for the record.

Board is scheduled to reconvene on Friday, August 14, 2020, at 10 a.m. via WebEx teleconference.