



CALIFORNIA STATE BOARD OF
OPTOMETRY

Board Meeting

Friday, March 2, 2012

Western University of Health Sciences
College of Optometry
Pomona, CA





Governor Edmund G. Brown Jr.
State of California

Denise D. Brown, Director
Department of Consumer Affairs



Lee Goldstein, OD, MPA
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Alejandro Arredondo, OD
Vice President

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Secretary

Donna Burke
Member

Alexander Kim, MBA
Member

Kenneth Lawenda, OD
Member

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Dillon Christensen
Cheree Kimball
Jessica Sieferman

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, Ca 95834
(916) 575-7170 Office
(916) 575-7292 Fax

CALIFORNIA STATE BOARD OF OPTOMETRY

Board Meeting Notice

Friday, March 2, 2012

Western University of Health Sciences, College of Optometry
309 E. Second Street
Health Education Center (HEC)
Vision Science Lab, Second Floor, Room 2207
Pomona, CA 91766
(909) 469.8477

9:30 a.m.

FULL BOARD OPEN SESSION

1. Call to Order – Roll Call – Establishment of a Quorum
2. Petition for Reinstatement of License
 - A. Dr. Larry Franklin Thornton, O.D.
 - B. Dr. Lawrence Edwin Young, O.D.
3. Petition for Reduction of Penalty and Early Termination of Probation
 - A. Dr. Edward Rabb Nell, O.D., License Number OPT 6522
 - B. Dr. Huyen Nguyen, O.D. License Number OPT10148

FULL BOARD CLOSED SESSION

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

FULL BOARD OPEN SESSION

5. President's Report
6. Approval of the December 2, 2011 Board Meeting Minutes
7. Executive Officer's Report
8. Regulations
 - A. Discussion and Possible Action Pertaining to the Comments Received During the 45-day Comment Period of California Code of Regulations (CCR) §1575. Disciplinary Guidelines
 - B. Discussion and Possible Action Pertaining to the Comments Received During the 15-day Comment Period of CCR §1525.1. Fingerprint Requirements, §1513. Registered Name Only, and §1514. Renting Space from and Practicing on Premises of Commercial (Mercantile) Concern
 - C. Discussion and Possible Action to Amend CCR §1536 to Allow Therapeutic Pharmaceutical Agent (TPA) Certified Optometrists to Earn 50% of their Continuing Optometric Education (CE) from Internet or Correspondence (Independent Study) Courses
 - D. Discussion and Possible Action to Initiate a Rulemaking to Adopt CCR, Article 2.1 Sponsored Free Health Care Events – Requirements for Exemption:
 - CCR §1508. Definitions
 - CCR §1508.1. Sponsoring Entity Registration & Recordkeeping
 - CCR §1508.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event
 - CCR §1508.3. Termination of Authorization and Appeal
9. Legislation
 - A. Discussion and Consideration of Pending Legislation that May Impact the Practice of Optometry or the Functions of the Board of Optometry
 - B. Update on Legislative Proposals for 2012 Session

The Board of Optometry's mission is to serve the public and optometrists by promoting and enforcing laws and regulations which protect the health and safety of California's consumers, and to ensure high quality care.

10. Revised Board Member Administrative Procedures Handbook
 11. Strategic Plan Update
 12. Public Affairs
 - A. Review and Possible Approval of Outreach Materials - Pamphlets
 - B. Social Media Update
 - C. Other
 13. Examination/Licensing Programs Report
 - A. Continuing Education Program
 - B. Statistics and Performance Measures
 - C. Other
 14. Enforcement Program Report
 - A. Unlicensed Activity
 - B. Expert Witnesses
 - C. Probation Program
 - D. Statistics/Performance Measures
 - E. Other
 15. 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)]
 16. Suggestions for Future Agenda Items
- FULL BOARD OPEN SESSION**
17. Adjournment

Public Comments:

Public comments will 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. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

NOTICE:

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

2420 Del Paso Road, Suite 255
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Dr. Lee Goldstein, O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 1 – Call to Order

Dr. Lee Goldstein, O.D., MPA, Board President, will call the meeting to order and will call roll to establish a quorum of the Board.

Dr. Lee Goldstein, O.D. MPA, Board President

Alejandro Arredondo, O.D., Board Vice President

Monica Johnson, Board Secretary

Donna Burke

Alexander Kim, MBA

Kenneth Lawenda, O.D.

Fred Naranjo, MBA

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To: Board Members

Date: March 2, 2012

From: Enforcement Staff

Telephone: (916) 575-7170

**Subject: Agenda Item 2A. In the Matter of the Petition for Reinstatement of
Revoked License No. OPT 6369 – Larry Franklin Thornton**

Dr. Larry Franklin Thornton, Petitioner, was issued Optometrist License Number 6369 by the Board on October 3, 1977. On December 31, 2002, the Board filed an Accusation against Petitioner charging him with violations of laws and regulations based on disciplinary action taken against Petitioner by the Kentucky Board of Optometric Examiners. Petitioner did not file a Notice of Defense and his license was revoked by a Default Decision on July 14, 2003.

This is Petitioner's third Petition for Reinstatement of his revoked license. The first was filed in 2006. On February 17, 2007, the Board denied his Petition for Reinstatement after a hearing before the Board on November 16, 2006. The denial was based upon the Board's finding that Petitioner failed to establish cause for the Board to grant the Petition for Reinstatement of his revoked license.

The second Petition for Reinstatement was filed in 2008. On October 10, 2008, the Board denied his Petition for Reinstatement after a hearing before the Board on September 3, 2008. The denial was based upon the Board's finding that Petitioner failed to establish cause for the Board to grant the Petition for Reinstatement of his revoked license.

The Petitioner is requesting the Board to reinstate his Optometrist License. He is not represented by an attorney.

Attached are the following documents submitted for the Board's consideration in the above referenced matter:

1. Petition for Reinstatement with Attachments
2. Copies of Decisions and Orders, Default Decision and Accusation
3. Certification of Non-Licensure
4. California Codes and Regulations Section 1516 – Criteria for Rehabilitation



STATE BOARD OF OPTOMETRY

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CALIFORNIA STATE BOARD OF
OPTOMETRY

2011 DEC 20 AM 7:40

PETITION FOR REINSTATEMENT

A person whose certificate of registration has been revoked or suspended for more than one year may petition the Board to reinstate the certificate of registration after a period of not less than one year has elapsed from the date of the revocation or suspension. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board may investigate and consider all activities of the petitioner since the disciplinary action was taken; the offense for which discipline was imposed; activity during the time the certificate of registration was in good standing and the petitioner's general reputation for truth, professional ability and good character.

PLEASE TYPE OR PRINT LEGIBLY

1. NAME (FIRST) (MIDDLE) (LAST)		CERTIFICATE OF REGISTRATION NO.		
LARRY FRANKLIN THORNTON		6369		
2. ADDRESS (NUMBER) (STREET)		DATE OF BIRTH		
1023 S. BONNIE BRAE STREET		6-20-53		
(CITY) (STATE) (ZIP CODE)		TELEPHONE - CELL		
LOS ANGELES CA 90006		(310) 650-5463		
3. PHYSICAL DESCRIPTION (HEIGHT) (WEIGHT) (EYE COLOR) (HAIR COLOR)				
5' 2" 169 LBS Brown DARK BROWN				
4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGES OF OPTOMETRY ATTENDED				
NAME OF SCHOOL				
Indiana University School of Optometry				
ADDRESS (NUMBER) (STREET)				
Bloomington INDIANA 47401				
(CITY) (STATE) (ZIP CODE)				
5. ARE YOU CURRENTLY LICENSED IN ANY OTHER STATE? <input checked="" type="radio"/> YES <input type="radio"/> NO				
STATE	LICENSE NO.	ISSUE DATE	EXPIRATION DATE	LICENSE STATUS
Kentucky	860 BT	1977-FEB		INACTIVE

6. List locations, dates, and types of practice for 5 years prior to discipline of your California license.

PLEASE LOCATIONS: N/A License Reduced Since 2002

LOCATION	DATE FROM	DATE TO	TYPE OF PRACTICE

39M-13

7. Are you or have you ever been addicted to the use of narcotics or alcohol? YES ☒ NO

8. Are you or have you ever suffered from a contagious disease? YES ☒ NO

9. Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction? YES ☒ NO

10. Have you ever been arrested, convicted or pled no contest to a violation of any law of a foreign country, the United States, any state, or a local ordinance? you must include all convictions, including those that have been set aside under Penal Code Section 1203.4 (which includes diversion programs) YES ☒ NO

11. Are you now on probation or parole for any criminal or administrative violations in this state or any other state? (Attach certified copies of all disciplinary or court documents) YES ☒ NO

12. Have you ever had disciplinary action taken against your optometric license in this state or any other state? YES ☒ NO

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, YOU MUST ATTACHMENT A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

ON A SEPARATE SHEET OF PAPER PROVIDE THE FOLLOWING INFORMATION

13. List the date of disciplinary action taken against your license and explain fully the cause of the disciplinary action: *2002 - WORKED WITH OPTICIAN - 1 day / EVERY TWO WEEKS LICENSE REVIEWED FOR 16 WEEKS*

14. Explain fully why you feel your license should be restored, or the disciplinary penalty reduced. *HAVE A BIG RED BQ. DEMANDS BY THE BOARD OF ALL CE REQUIREMENTS*

15. Describe in detail your activities and occupation since the date of the disciplinary action; include dates, employers and locations. *OCCUPATIONS: E-LEARNING DESIGNER FROM 3/1/03 WITH OPTICIAN FROM HIS RESIDENCE IN THE FIELD; HOME-CARE OR NO PRESENT*

16. Describe any rehabilitative or corrective measures you have taken since your license was disciplined to support your petition. *SEE PREVIOUS APPLICATION COMING OUT OF STATE OF MANY HOURS*

17. List all post-graduate or refresher courses, with dates, location and type of course, you have taken since your license was disciplined. *SEE ATTACHED PRINT-OUT OF NO CE HOURS 0 TRANSFER POST*

18. List all optometric literature you have studied during the last year. *OPTOMETRIC JOURNALS 2 SEE ATTACHED CE*

19. List all continuing education courses you have completed since your license was disciplined.

20. List names, addresses and telephone numbers of persons submitting letters of recommendation accompanying this petition.

I declare under penalty of perjury under the laws of the State of California that the answers and information given by me in completing this petition, and any attachments, are true and I understand and agree that any misstatements of material facts will be cause for the rejection of this petition.

Date 12-14-20 L

Signature

D. J. White # 6769

WE MAY I PLEASE HAVE MY LICENSE REINSTATED ??

All items of information requested in this petition are mandatory. Failure to provide any of the requested information will result in the petition being rejected as incomplete. The information will be used to determine qualifications for reinstatement, reduction of penalty or early termination of probation. The person responsible for information maintenance is the Executive Officer of the Board of Optometry at 2420 Del Paso Road, Suite 255, Sacramento, California, 95834. This information may be transferred to another governmental agency such as a law enforcement agency, if necessary to perform its duties. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified confidential information and exempted by Section 1798.3 of the Civil Code.

CALIFORNIA STATE BOARD OF
OPTOMETRY

STATE BOARD OF OPTOMETRY

2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P. (916) 575-7170 F. (916) 575-7292 www.optometry.ca.govSTANDARDS FOR REINSTATEMENT
OR REDUCTION OF PENALTY

CALIFORNIA STATE BOARD OF OPTOMETRY

In petitioning for reinstatement or reduction of penalty under Government Code Section 11522, the petitioner has the burden of proof demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of optometry within the scope of Current law and accepted standards of practice. In reaching its determination the Board may, but is not limited to, consider the following:

- A. The original violation(s) for which action was taken against the petitioner's license, including:
 1. The type, severity, number and length of violation(s).
 2. Whether the violation involved intent, negligent or other unprofessional conduct.
 3. Actual or potential harm to the public, patients or others.
 4. The length of time since the violation(s) was committed.
 5. Petitioner's cooperation or lack thereof in the investigation of the original offense.
- B. Prior actions by the Board, any state, local or federal agency or court including:
 1. Compliance with all terms of probation, parole, previous discipline or other lawfully imposed sanctions including any order of restitution.
 2. Whether the petitioner is currently on or has been terminated from probation or other lawfully imposed sanction.
 3. The petitioner's legal and regulatory history prior to and since the violation(s).
- C. The petitioner's attitude toward his or her commission of the original violation(s) and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts.
- D. The petitioner's documented rehabilitative efforts including:
 1. Efforts to maintain and/or update professional skills and knowledge through continuing education or other methods.
 2. Efforts to establish safeguards to prevent repetition of the original violation(s) including changes or modifications in policies, structure, systems, or methods of behavior applicable to the petitioner's optometric practice.

3. Service to the community or charitable groups, non-profit organizations or public agencies.
4. Voluntary restitution to those affected by the original violation(s).
5. Use of appropriate professional medical or psychotherapeutic treatment.
6. Participation in appropriate self-help and/or rehabilitation groups.
7. Use of appropriate peer review mechanisms.
8. Participation in professional optometric organizations or associations.

E. Assessment of the petitioner's rehabilitative and corrective efforts including:

1. Whether the efforts relate to the original violation(s).
2. The date rehabilitative efforts were initiated.
3. The length, time and expense associated with rehabilitative efforts or corrective actions.
4. The assessment and recommendations of qualified professionals directly involved in the petitioner's rehabilitative efforts or acting at the request of the Board, including their description of the petitioner's progress and their prognosis of the petitioner's current ability to practice optometry.
5. Whether the rehabilitative efforts were voluntary and self-motivated, or imposed by order of a government agency or court of competent jurisdiction and complied with as a condition or term of probation.
6. The petitioner's reputation for truth, professional ability and good character since the commission of the original violation(s).
7. The nature and status of ongoing and continuing rehabilitative efforts.
8. The petitioner's compliance or non-compliance with all laws and regulations since the date of the original violation(s).
9. The petitioner's cooperation or non-cooperation in the Board's investigation of petitioner's Petition for Reinstatement or Reduction of Penalty and the facts surrounding that petition.

Nothing in these guidelines shall be construed to prevent the Board from considering any other appropriate and relevant material not within these guidelines in order to assess the Petition for Reinstatement or Reduction of Penalty.

Any statement which petitioner intends to support his or her petition and all witness statements either party intends to introduce at hearing are preferred by the Board to be in the form of an affidavit or declaration rather than merely a letter or unsworn statement.

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2011 NOV 21 AM 11:47

Kentucky Black Optometrist



Dr. Larry Franklin Thornton

Dr. Larry Franklin Thornton, the son of Rev. and Mrs. George Washington Thornton, Jr. is being acknowledged for completing the study of optometry at Indiana University School of Optometry. He was anointed with a Doctor of Optometry degree May 9, 1976 at the age of 22. He is the youngest black optometrist to graduate in his class and in Kentucky, the only one of his race. He is the nation's youngest Doctor of Optometry.

Dr. Thornton's wife, Imogene Bankston Thornton, attended Eastern Kentucky University and is making plans to work with her husband in private practice in the near future.

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STATE BOARD OF OPTOMETRY

Attention: Director of Continuing Education
California Board of Optometry

2011 NOV 21 AM 11:47

RE: License No. 6369

It has been a while since I had a meeting with the California Board of Optometry. The last date was in June 2009.

I am a victim of a hit-and-run. It happened while I was riding my bicycle. The doctor told me I had less than a fifty percent chance to survive, I had severe head and body trauma. The neurologist suggested brain surgery but I refused.

It has taken a lot of physical and mental rehabilitation to regroup. I wanted to have a meeting with the Board approximately a year ago. I have \$70,000.00 in hospital bills I wish to bring to the meeting to substantiate the accident.

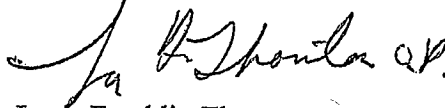
I really need my license to exist in this rigid economy. My retirement funds are almost depleted. I want to attempt to back my bill I owe to California Hospital and UCLA, Los Angeles. The doctors at both hospitals saved my life!

I have done everything you demanded to have my license reinstated. Please understand I am a qualified optometrist with teaching experience and practical experience exceeding thirty-six years.

After ten years with a license revocation for a light penalty, I hope there are no additional demands or requirements to be reinstated.

Thank you.

Sincerely,



Larry Franklin Thornton
Optometrist
License No. 6369

Attachment

Ps: I would appreciate it if you would give me a letter showing the 100 hours I took at Pennsylvania College of Optometry. I need it to help count toward my certification when I take the exam for the Southern California Board of Optometry and to qualify me to use the therapeutic pharmaceuticals in the State of California.


HOURS	COURSE TITLE	DATE
1	Providing optimal optics for your astigmatic cataract patients	08/24/2010
2	Imaging and instrumentation in contact lens practice	10/27/2008
2	Preventing contact lens changes for presbyopes	12/01/2004
2	Prescribing soft contact lens (toxic)	03/31/2005
2	Examining the contact lens patient	01/20/2005
2	Current trends in daily disposable contact lens	09/28/2005
1	New approaches for reducing risk macular degeneration	05/05/2009
1	Concurrent treatment for glaucoma and ocular surface disease	05/28/2009
1	"Seizing Profitable Opportunities in the Treatment and Management of Ocular Allergy"	08/03/2009
1	Educating patients about ultraviolet radiation	04/06/2009
6	Ocular Disease – Part I	03/06/2006
1	"Successful Manager of Complicated Glaucoma Cases"	07/28/2009
7	Cornea and Cataract C.E. Program and Optometric Boot Camp	04/18/2010
7	Celebration of The Lifetime Achievements of Dr. Michael Rouse C.E. Program	02/14/2010
12	Current Concepts in Refractive Surgery	08/21/1994
Total Of 28 Hours	SCCC at South Bay (Torrance Marriott)	07/07/2005
	(3 hours) SCCC	05/10/2004
	(7 hours) SCCC	05/13/2004\
	(4 hours) SCCC	05/14/2004
	(7 hours) SCCC	07/12/2004
	(7 hours) SCCC	08/2005
2	Lens Program – Look at the Lids	01/11/2009
2	A New Generation of Contact Lens Care	04/13/2004
2	Avoiding Contact Lens Dropouts	09/20/2004
1	Get the Full Picture With Ultra U. of E. Field Imaging	11/03/2004
2	Expanding Refractive Options	02/01/2005
7	Potpourri of C.E. With a Focus on Primary Care	08/22/2010
4	Ocular Disease – Part II	07/10/2011
Total 110 Hours	Dermatology: General and Neoplastic Disease – 2010-2011 V.A. Optical Grand Rounds	
	Evaluation, management of patients with special needs, examining the pediatric population, low vision, rehabilitation modal contact lens update --- optical prescribing for pregnant or lactating patients, machetin techniques to boost practice during recession times.	

California State University
Los Angeles
College of Arts and Letters
Department of Philosophy
5151 State University Drive
Los Angeles, CA 90032-8114

March 12, 2009

Dr. Larry Franklin Thornton audited sessions of Philosophy Course 429, Section #1,
Call #17507, Bio-Ethics class held on Tuesday and Thursday 9:50 – 11:30 a.m., Room
#ET 126, Instructor Ann Gary.

Signature of Instructor
For verification:


Ann Gary

Phone Number: 323-343-4176

Student:

Larry F. Thornton

Winter 2009 Class Schedule

Course	Sec#	Class #	Title	Days/Time	Room #	Instructor	Units	ST	Miscellaneous Information
PHIL 151	1	10337	PHIL IDEA: Know-Real	MW 1:30-3:10	KH B2006	Kaiser	4	60	LL
PHIL 151	2	10338	PHIL IDEA: Know-Real	TR 1:30-3:10	KH B2006	Pitt	4	60	
PHIL 152	1	10339	PHIL IDEA: Human Values	MW 9:50-11:30	KH B2009	Albergate	4	35	Room change from KH B4019
PHIL 152	2	10340	PHIL IDEA: Human Values	MW 4:20-6:00	KH B4019	Tallfar	4	35	
PHIL 152	3	12071	PHIL IDEA: Human Values	TR 11:40-1:20	KH B2006	Price	4	35	
PHIL 160	1	10341	CRITICAL THINKING	MW 9:50-11:30	BIOS 144	Atta	4	150	LL
PHIL 160	2	10342	CRITICAL THINKING	MW 11:40-1:20	KH B2006	Kaiser	4	60	
PHIL 160	3	10343	CRITICAL THINKING	MW 1:30-3:10	KH B4019	Conway	4	35	
PHIL 160	4	10344	CRITICAL THINKING	MW 6:10-7:50	KH B2007	Atta	4	35	
PHIL 160	5	10345	CRITICAL THINKING	TR 9:50-11:30	KH LH1	Houts	4	150	LL
PHIL 160	6	10346	CRITICAL THINKING	TR 11:40-1:20	KH B4019	Levy	4	35	
PHIL 160	7	12072	CRITICAL THINKING	TR 1:30-3:10	KH B4019	Gomez	4	35	
PHIL 160	8	17292	CRITICAL THINKING	TR 4:20-6:00	KH B2006	Gomez	4	35	
PHIL 200	1	10347	Intro to Comparative Religions	TR 8:00-9:40	FA 244	Price	4	75	Crosslisted with RELS 200-1
PHIL 200	2	10348	Intro to Comparative Religions	TR 11:40-1:20	KH B4015	Faculty	4	10	RELS
PHIL 220	1	10349	Honors: Moral Social Issues Multicul Soc	MW 9:50-11:30	ET A126	Vernallils	4	35	Honors permit required
PHIL 220	2	10350	Moral Social Issues Multicul Soc	MW 11:40-1:20	ET A126	Vernallils	4	35	
PHIL 230	1	10351	Meaning of Human Life	TR 11:40-1:20	KH B2014	Jarrett	4	35	
PHIL 250	1	10352	Intro Symbolic Logic	MW 11:40-1:20	KH B3020	Houts	4	30	Room change from KH D3068
PHIL 250	2	10354	Intro Symbolic Logic	TR 9:50-11:30	KH B3020	Levy	4	30	Room change from KH B3007
PHIL 250	3	11838	Intro Symbolic Logic	TR 4:20-6:00	KH B4019	Levy	4	35	
PHIL 300	1	10417	Philosophical Research and Writing	TR 4:20-6:00	KH B2007	Bertcher	4	35	
PHIL 313	1	10355	History of Modern Philosophy	MW 9:50-11:30	KH B2006	Shim	4	35	
PHIL 321	1	10356	Ancient Thought & Mod Legacy	TR 11:40-1:20	KH B2007	Ferner	4	35	
PHIL 323	1	10357	Human Diversity & Justice	MW 9:50-11:30	KH D2072	Tallfar	4	75	LL
PHIL 323	2	10418	Human Diversity & Justice	MW 4:20-6:00	KH B2007	Albergate	4	35	
PHIL 325	1	10358	Violence and Ethics	TR 11:40-1:20	ET A126	Abed	4	60	
PHIL 327	1	10359	Philosophy, Gender & Culture	MW 11:40-1:20	SH E184	Conway	4	150	
PHIL 327	2	10360	Philosophy, Gender, Culture	TR 4:20-6:00	SH E184	Conway	4	75	LL
PHIL 372	1	10381	Philosophy & the Emotions	TR 9:50-11:30	KH D2072	Ferner	4	75	LL
PHIL 372	2	18115	Philosophy & the Emotions	TR 1:30-3:10	KH B2007	Jarrett	4	35	
PHIL 373	1	10382	Themes of Adult Life	MW 1:30-3:10	KH D2072	Munoz	4	75	LL
PHIL 380	1	10383	Ancient & Modern Science	MW 4:20-6:00	PS 155	Thomas	4	10	Cross w/Hist 280 & Chem 380N
PHIL 385	1	11843	Measurement of Human Difference	TR 11:40-1:20	KH D2072	Atta	4	75	LL Crosslisted w/Anth 385-01
PHIL 385	2	12089	Measurement of Human Difference	TR 1:30-3:10	SH C264	Faculty	4	10	
PHIL 395	1	17526	Phil In Practice: Interns & Serv Lrn	TBA			1	10	Dept. permit required
PHIL 395	2	17527	Phil In Practice: Interns & Serv Lrn	TBA			2	10	Dept. permit required
PHIL 395	3	17528	Phil In Practice: Interns & Serv Lrn	TBA			3	10	Dept. permit required
PHIL 410	1	16116	Social & Political Philosophy	MW 1:30-3:10	KH B2007	Bishop	4	30	
PHIL 413	1	17506	Issues in Feminist Philosophy	TR 1:30-3:10	ET A126	Garry	4	30	Crosslisted with WOMN 413-01
PHIL 429	1	17507	Bioethics	TR 9:50-11:30	ET A126	Garry	4	30	Student
PHIL 445	1	17540	Existentialism	MW 11:40-1:20	KH B4019	Shim	4	30	
PHIL 450	1	17530	Plato	MW 9:50-11:30	KH B2006	Mendell	4	30	
PHIL 470	1	12100	Theory of Knowledge	TR 11:40-1:20	KH B3020	Talbot	4	30	
PHIL 480	1	12108	Philosophy of Language	W 6:10-10:00	ET A126	Balaguer	4	30	
PHIL 495	1	17508	Special Topic: Film	M 6:10-10:00	ET A126	Vernallils	4	30	
PHIL 495	2	17529	Seminar: Philosophy of Mind	TR 4:20-6:00	SH C338	Pitt	4	30	PHIL533
PHIL 495	3	17680	ST: Ancient Greek: The Language	MW 4:20-6:00	ET C154	Mendell	4	15	
PHIL 499	1	16124	UNDERGRAD DIR STUDY	TBA			1	10	Dept. permit required
PHIL 499	2	17514	UNDERGRAD DIR STUDY	TBA			2	10	Dept. permit required
PHIL 499	3	17515	UNDERGRAD DIR STUDY	TBA			3	10	Dept. permit required
PHIL 499	4	17583	UNDERGRAD DIR STUDY	TBA			4	10	Dept. permit required
PHIL 525	1	18118	Seminar: Philosophy of Science	R 6:10-10:00	KH B2008	Gomez	4	20	
PHIL 533	1		Philosophy of Mind	TR 4:20-6:00	SH C338	Pitt	4	15	Not yet on GET: Students should register for 485-2
PHIL 544	1	17510	Sem: Anarchism & State Legitimacy	T 6:10-10:00	KH B2007	Abed	4	20	
PHIL 581	1	16120	Profr. In Teaching Philosophy	TBA			1	10	Dept. permit required
PHIL 581	2	17591	Profr. In Teaching Philosophy	TBA			2	10	Dept. permit required
PHIL 581	3	17532	Profr. In Teaching Philosophy	TBA			3	10	Dept. permit required
PHIL 581	4	17533	Profr. In Teaching Philosophy	TBA			4	10	Dept. permit required
PHIL 586	1	16125	Comprehensive Exam	TBA			0	10	Dept. permit required
PHIL 590	1	16121	Grad Direct Study	TBA			1	10	Dept. permit required
PHIL 590	2	10384	Grad Direct Study	TBA			2	10	Dept. permit required
PHIL 590	3	17536	Grad Direct Study	TBA			3	10	Dept. permit required
PHIL 590	4	17537	Grad Direct Study	TBA			4	10	Dept. permit required
PHIL 599	1	16122	Thesis	TBA			1	10	Dept. permit required
PHIL 599	2	16123	Thesis	TBA			2	10	Dept. permit required
PHIL 599	3	12107	Thesis	TBA			3	10	Dept. permit required
PHIL 599	4	17538	Thesis	TBA			4	10	Dept. permit required
PHIL 599	5	17539	Thesis	TBA			5	10	Dept. permit required
PHIL 599	6	17540	Thesis	TBA			6	10	Dept. permit required
PHIL 900	1	17541	Graduate Studies	TBA			0	10	Students must be advised from Dept. for fee purposes only.



SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

Office of Continuing Education
2575 Yorba Linda Boulevard • Fullerton, CA 92831-1699
714/449-7442 • Fax 714/992-7809 • email: satkinson@scco.edu

Larry Thornton, O.D.
4074 Leimert Blvd.
Los Angeles CA 90008

CERTIFICATION OF CONTINUING EDUCATION CREDIT

This will certify that: **Larry Thornton, O.D.** Opt. License No: 6369

Attended: Fall Optometry Update

Date: Sunday, November 14, 2010

Instructor(s) & Lecture Information:

Morning Presentations

The Older Driver - J. Lee, O.D.

Evaluation & Management of Patients with Special Needs - C. Heyman, O.D.

A Survival Handbook: Examining the Pediatric Population - R. Chu, O.D., M.S.

Afternoon Presentations

Highlights of the OD/OT Low Vision Rehabilitation Model - S. Dang, O.D. & R. Kammer, O.D.

Contact Lens Update - B. Larson, O.D.

Optometrist Prescribing for Pregnant or Lactating Patients - R. Jankowski, Pharm.D.

99 Marketing Ideas to Boost Your Practice in a Recession - P. Shaw-McMinn, O.D.

Sponsored and Administered by: The Department of Continuing Education
Southern California College of Optometry

Total Continuing Education Credits Earned: 7

A handwritten signature in cursive script, reading "Susan J. Atkinson".

Susan Atkinson
Director, Department of Continuing Education
Southern California College of Optometry



SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

Continuing Education Department

2575 Yorba Linda Boulevard

Fullerton, CA 92831-1699

714/449-7442 • FAX 714/992-7809

Email: satkinson@scco.edu

Larry Thornton, O.D.

4074 Leimert Blvd.

Los Angeles CA 90008

CE Registration Confirmation Receipt

Title: Fall Optometry Update

Date & Time: Sunday, November 14th, 2010 - 8:30 am - 5:00 pm

Location: Southern California College of Optometry
Richard L. Hopping Academic Center
2575 Yorba Linda Blvd
Fullerton, CA 92831

CE Credit/s: 7

License #: 6369

Course Fee: \$87.50

Amount Rec'd: \$87.50

Balance Due: \$0.00

Thank you!

Please visit our website www.scco.edu/ce/ to view our CE Course Schedule

Security Meeting



SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

Office of Continuing Education
2575 Yorba Linda Boulevard • Fullerton, CA 92831-1699
714/449-7442 • Fax 714/992-7809 • email: satkinson@sccco.edu

Larry Thornton, O.D.
8920 Pico Blvd Suite B
Los Angeles CA 90035

CERTIFICATION OF CONTINUING EDUCATION CREDIT

This will certify that: Larry Thornton, O.D.

OPT. LICENSE NO: 6369

Attended: SCCO at South Bay

Instructor(s) George Comer, O.D., Long Tran, O.D., Loretta Ng, O.D., John Maher, O.D.
August 7, 2005
Torrance Marriott
3635 Fehson Way
Torrance, CA 90503

Sponsored and Administered by:

The Department of Continuing Education
Southern California College of Optometry

Total Continuing Education Credits Earned: 3

A handwritten signature in cursive script, reading "Sue Atkinson".

Sue Atkinson

Director, Department of Continuing Education
Southern California College of Optometry

For those who are TPA certified optometrists, this program provides 5 hours in the diagnosis, treatment & management of ocular disease, & 2 hours of Other as per AB2464 effective January 1, 2005

1904-2004: A PROUD PAST, A VISIONARY FUTURE

Susan J. Atkinson
Director, Continuing Education

714-449-7442

Fax 714-992-7809

satkinson@scco.edu

Southern California College of Optometry

August 18, 2005

Larry Thornton, O.D.
8920 Pico Blvd., Suite B
Los Angeles, Ca 90035

RE: CA License No. 6369 Credit for courses attended in 2004 and 2005

Dear Dr. Thornton:

You have attended 28 hours of continuing education hour here at SCCO in 2004 and 2005. We have received payment of \$180.00 toward these course credits. In view of your special circumstances, and your desire to retain your license, the college is willing to take this into consideration and will waive the balance of fees. Please understand that if you attend any future courses, we will require full payment in order to give you credit and add to your transcript.

We have attached the credit letters for the courses that are supported by your signature on the daily roster. After we input this information into our transcription system, we will send you a current transcript at no charge.

If you have any questions, please do not hesitate to contact me.

Course Attendance

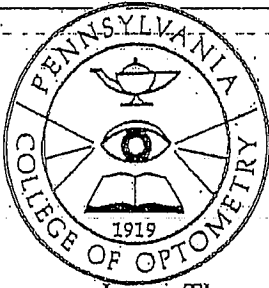
May 10, 2004	3 CE Credits
May 13, 2004	7 CE Credits
May 14, 2004	4 CE Credits
July 12, 2004	7 CE Credits
August 7, 2005	7 CE Credits

Sincerely,

Susan Atkinson
Director Continuing Education

Enclosures

Resent 2/1/06 Also sent via fax (310) 276-6811



Pennsylvania College of Optometry

IRVING BENNETT BUSINESS & PRACTICE MANAGEMENT CENTER
8360 OLD YORK ROAD • ELKINS PARK, PA 19027 • (215) 780-1235

Larry Thornton, OD
1555 W. Sepulveda Blvd #R-2
Torrance, CA 90501

To be completed by O.D.

O.D. License Number:

#6369

If required by your appropriate State Agency, please fill out before mailing this certified form to your State to earn your CE credits. Feel free to make a copy for your records.

NOTE TO AGENCIES REQUIRING CERTIFICATION

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To be completed by Bennett Center

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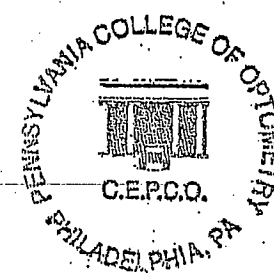
Course Title: "Lens Problem? Look at the Lids"

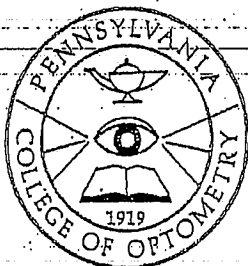
(COPE ID #10884-CL

by Neil A. Pence, OD, FAAO and Dean A. VanNasdale, OD

OPTOMETRIC
Management

Date: February 2004
Test Graded: November 11, 2004





Pennsylvania College of Optometry

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8360 OLD YORK ROAD • ELKINS PARK, PA 19027 • (215) 780-1235

Larry Thornton, OD
1555 W. Sepulifida Blvd #R-2
Torrance, CA 90501

To be completed by O.D.

O.D. License Number:

116769

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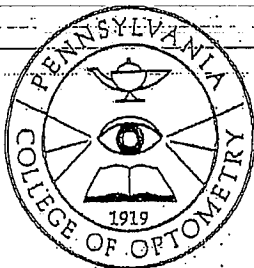
Course Title: "A New Generation of Contact Lens Care."
(COPE ID #13145-CL)

By Jennifer Smythe, OD, MS, FAAO

OPTOMETRIC
Management



Date: March 2005 Issue (CIBA)
Test Graded: April 13, 2005



Pennsylvania College of Optometry

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Larry Thornton
1555 W. Sepulifida Blvd #R-2
Torrance, CA 90501

To be completed by O.D.

O.D. License Number:

46369

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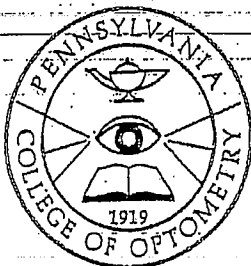
To be completed by Bennett Center

This is to certify that the above-named individual has attained **two (2)** clock hours of Continuing Education Course Work offered by the Center through the special supplement correspondence course in Optometric Management magazine.

Course Title: "Avoiding Contact Lens Dropouts"
By Heidi Wagner, OD
COPE ID #11158-CL

OPTOMETRIC
Management

Date: April 2004
Test Graded: September 20, 2004



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Larry Thornton
1555 Sepulveda Blvd, R #2
Torrance, CA 90501

To be completed by O.D.

O.D. License Number:

116369

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To be completed by Bennett Center

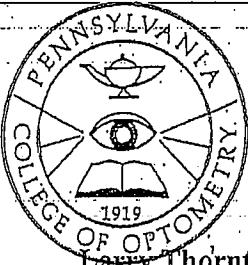
This is to certify that the above-named individual has attained **one (1)** clock hours of Continuing Education Course Work offered by the Center through the special supplement correspondence course in Optometric Management magazine.

Course Title: "Get the Full Picture With Ultra Widefield Imaging"
By William L. Jones, OD, FAAO
COPE ID # 11534-GO

OPTOMETRIC
Management

Date: May 2004
Test Graded: November 3, 2004





Pennsylvania College of Optometry

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Larry Thornton, OD
8920 W Pico Blvd, Ste. B
Los Angeles, CA 90035

To be completed by O.D.

O.D. License Number:

#6369

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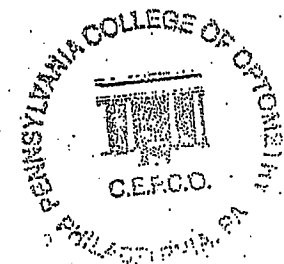
To be completed by Bennett Center

This is to certify that the above-named individual has attained two (2) clock hours of Continuing Education Course Work offered by the Center through the special supplement correspondence course in Optometric Management magazine.

Course Title: "Expanding Refractive Options"
(COPE ID #13723-GO)
by Kirk L. Smick, OD, FAAO

OPTOMETRIC
Management

Date: May 2005 (Advanced Medical Optics, Inc)
Test Graded: July 1, 2005





SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

Office of Continuing Education
2575 Yorba Linda Boulevard • Fullerton, CA 92831-1699
714/449-7442 • Fax 714/992-7809 • email: satkinson@scco.edu

Larry F. Thornton, O.D.
4074 Leimert Blvd.
Los Angeles CA 90008

CERTIFICATION OF CONTINUING EDUCATION CREDIT

This will certify that: **Larry F. Thornton, O.D.** Opt. License No: 6369

Attended: Potpourri of CE with A Focus on Primary Care

Date: Sunday, August 22nd, 2010

Instructor(s) & Lecture Information:

Morning Presentations

Innovations in Contact Lens Design and Prescribing - Mathew Lampa, O.D.
The Who, What, When, Where and Why of Custom Soft Contact Lens Prescribing - Mathew Lampa, O.D.
CL Compliance in the Primary Care Practice - Eunice Myung Lee, O.D.
Impact of Medications in Geriatric Eye Care - John Lee, O.D.

Afternoon Presentations

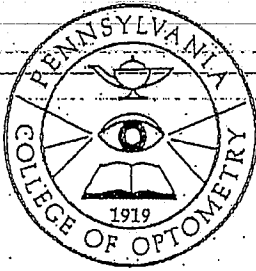
The Eye: The Good, the Bad and the Ugly from 0-100 "What It is and What to do With It" - Lance Siegel, M.D.
Corneal Dysgenesis and Degenerations - Franklin "Skip" Lusby, M.D.

Sponsored and Administered by: The Department of Continuing Education
Southern California College of Optometry

Total Continuing Education Credits Earned: 7

A handwritten signature in cursive script, reading "Susan Atkinson".

Susan Atkinson
Director, Department of Continuing Education
Southern California College of Optometry



Pennsylvania College of Optometry at Salus University

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8360 OLD YORK ROAD • ELKINS PARK, PA 19027 • (215) 780-1235

Larry Thornton, OD
4074 Leimert Blvd.
Los Angeles, CA 90008

To be completed by O.D.

O.D. License Number: _____

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To be completed by Bennett Center

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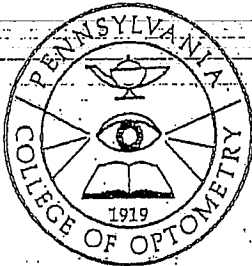
Course Title: "New Approaches for Reducing Risk Macular Degeneration"
(COPE #23778-PS)

By: Lloyd I. Snider, OD

OPTOMETRIC
Management

Date: November 2008 MARCO
Test Graded: May 5, 2009





Pennsylvania College of Optometry at Salus University

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Larry Thornton, OD
4074 Leimert Blvd.
Los Angeles, CA 90008

To be completed by O.D.

O.D. License Number:

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To be completed by Bennett Center

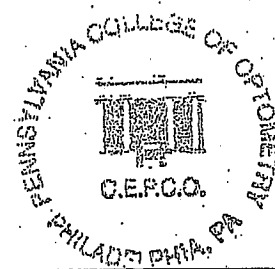
This is to certify that the above-named individual has attained **One (1)** clock hour of Continuing Education Course Work offered by the Center through the correspondence course in Optometric Management magazine.

Course Title: "Seizing Profitable Opportunities in the Treatment and
Management of Ocular Allergy"
(COPE #24362-AS)

By Arthur B. Epstein, OD, John M. B. Rumpakis, OD

OPTOMETRIC
Management

Date: February 2009
Test Graded: August 3, 2009





SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

Office of Continuing Education
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Larry F. Thornton, O.D.
4074 Leimert Blvd.
Los Angeles CA 90008

CERTIFICATION OF CONTINUING EDUCATION CREDIT

This will certify that: **Larry F. Thornton, O.D.** Opt. License No: 6369

Attended: Celebration of The Lifetime Achievements of Dr. Michael Rouse CE Program

Date: Sunday, February 14th, 2010

Instructor(s) & COPE Information:

R. London, M.A., O.D. - Functional Vision Loss - 22957-GO
R. London, M.A., O.D. - Binocular Vision for \$200 Please! - 27612-FV
S. Cotter, O.D., M.S. - Evolving Eye Care for Children - 19765-NO
M. Scheiman, O.D. - Evidence-Based Treatment of Convergence Insufficiency - 27527-FV
L. Siegel, M.D. - Treating Common Eye Diseases in Children - 27524-FV
D. Sendrowski, O.D. - Rouse House Jeopardy - 21618-AS
T. Edrington, O.D., M.S. - Monovision Meets Binocular Vision - 27531-CL

Sponsored and Administered by: The Department of Continuing Education
Southern California College of Optometry

Total Continuing Education Credits Earned: 7

A handwritten signature in cursive script, reading "Susan Atkinson".

Susan Atkinson
Director, Department of Continuing Education
Southern California College of Optometry



SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

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Larry Thornton, O.D.
4074 Leimert Blvd.
Los Angeles CA 90008

CERTIFICATION OF CONTINUING EDUCATION CREDIT

This will certify that: **Larry Thornton, O.D.** Opt. License No: 6369

Attended: Cornea & Cataract CE Program and Optometric Boot Camp

Date: Sunday, April 18th, 2010

Instructor(s) & Lecture Information:

Drs. Pirnazar and D. Tran - Cataract Panel Discussion: What Every Commanding Officer Needs to Know About Cataracts!

Dr. L. Tran - Corneal Dystrophies and Degenerations

Drs. Carver & Hua - In the Trenches of Co-managing Cataracts

Dr. Kersten - ICL's and the Optometric Patient

Dr. Kao - Cataracts and Beyond: What You Need to Know About IOLs, Intacs and RLEs

Dr. Weissman - Corneal Infiltrates, the Soldiers in the Eye

Sponsored and Administered by: The Department of Continuing Education
Southern California College of Optometry

Total Continuing Education Credits Earned: 7

A handwritten signature in cursive script, reading "Susan J. Atkinson".

Susan Atkinson
Director, Department of Continuing Education
Southern California College of Optometry



Pennsylvania College of Optometry

at Salus University

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8360 OLD YORK ROAD • ELKINS PARK, PA 19027 • (215) 780-1235

Larry Thornton, OD
4074 Leimert Blvd.
Los Angeles, CA 90008

To be completed by O.D.

O.D. License Number:

If required by your appropriate State Agency, please fill out before mailing this certified form to your State to earn your CE credits. Feel free to make a copy for your records.

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To be completed by Bennett Center

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Course Title: "Successful Management of Complicated Glaucoma Cases"
(COPE #24760-GL)

By G. Richard Bennett, MS, OD, FAAO

OPTOMETRIC
Management

DATE: April 2009
Test Graded: July 28, 2009





SOUTHERN CALIFORNIA COLLEGE OF OPTOMETRY

Office of Continuing Education
2575 Yorba Linda Boulevard • Fullerton, CA 92831-1699
714/449-7442 • Fax 714/992-7809 • email: satkinson@scco.edu

Larry Thornton, OD
8920 Pico Blvd
Los Angeles CA 90035

CERTIFICATION OF CONTINUING EDUCATION CREDIT

This will certify that: Larry Thornton, OD

OPT. LICENSE NO: 6369

Attended: Ocular Disease, Part 1

Instructor(s): Drs. of Optometry: S. Ferrucci, D. Sendrowski, M. Sawamura, J. Tong, R. Kammer, P. Kwok., and A. Pilon, with John Maher, M.D., Lesley L. Walls, O.D., M.D., Mark Sherman, M.D. and Bruce Onofrey, OD., R.Ph.
Saturday - Sunday, March 4 & 5, 2006
Southern California College of Optometry
Fullerton, California
Course No: COE 1831

Sponsored and Administered by:

The Department of Continuing Education
Southern California College of Optometry

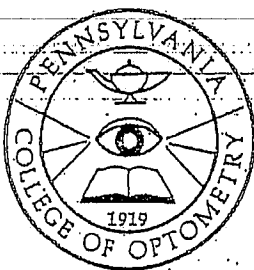
Total Continuing Education Credits Earned:

6

A handwritten signature in cursive script, reading 'Susan J. Atkinson', is written over a horizontal line.

Susan Atkinson
Director, Department of Continuing Education
Southern California College of Optometry

For those who are TPA certified optometrists, this program provides 17 hours in the diagnosis, treatment and management of ocular disease, as per AB 2464 effective January 1, 2005



Pennsylvania College of Optometry

at Salus University

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4074 Leimert Blvd.
Los Angeles, CA 90008

To be completed by O.D.

O.D. License Number: _____

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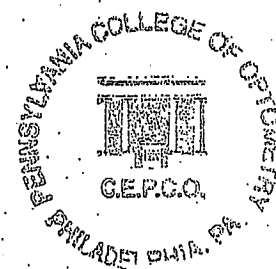
To be completed by Bennett Center

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Course Title: "Concurrent Treatment for Glaucoma and Ocular Surface Disease"
(COPE #23776-AS)
By Robert Wooldridge, OD, FAAO

OPTOMETRIC
Management

Date: November 2008 ALCON
Test Graded: May 28, 2009



Thornton Larry OD
2146 W Sunset Blvd
Los Angeles, CA 90026

Southern California College of Optometry
2575 Yorba Linda Boulevard
Fullerton, CA 92631-1699

License#: CA6369

Report date: 06-Jan-06

Page 2 of 2

COURSE	DATE	TITLE	INSTRUCTOR	HOURS	GRADE	LOCATION
COE1805 16-May-04		Continuing Education 2004				
Graduate	HOURS					
Current Term	4.00	Residents Case Presentation Forum	Shen, Tradup, etc	4.00	P	SCCO
Cumulative	98.00					
COE1816 07-Aug-05		Continuing Education 2005				
Graduate	HOURS					
Current Term	3.00	SCCO at South Bay Annual Forum	Comer, Tran, Ng, e	3.00	P	Torrain
Cumulative	101.00					

END OF TRANSCRIPT

Date

Registrar



University of Alabama School of Optometry

Office of Continuing Education
1716 University Boulevard
Birmingham, AL 35294-0010
(205) 934-5701

COPE approval is granted for this course. This course is COPE-qualified for 1.00 hours of CE credit.

This course is joint-sponsored by Review of Optometry, a publication of Jobson Publishing LLC.

Course Title: Providing Optimal Optics For Your Astigmatic Cataract Patients

COPE ID: 26852-PO

Date: 08/24/2010

Score: 100%

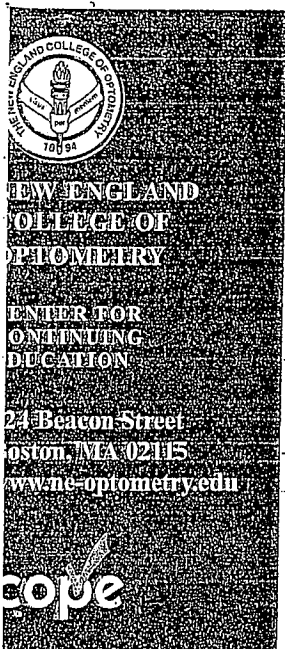
Your Answers: CDADDDCCBDAAAAA

Correct Answers: CDADDDCCBD***** (* = evaluation questions)



LARRY THORNTON
4074 LEIMERT BLVD
LOS ANGELES, CA 90008
USA

Tony P. Than
Tammy P. Than, M.S., O.D.
Director, Continuing Education
UAB School of Optometry



SHIPPED MAR 31 2005

Contact Lens Spectrum - February 2005
"Prescribing Soft Toric Contact Lenses"
Peter D. Bergenske, OD, FAAO
COPE: 13030-CL CE Credits: 2 Hours

Dear Doctor,

This certifies that you have received the above continuing education credits.

Requests for additional copies of this continuing education credit slip must be in writing, and there is a \$15.00 service charge per copy.

Thank you for your interest in the programs offered through the Center for Continuing Education.

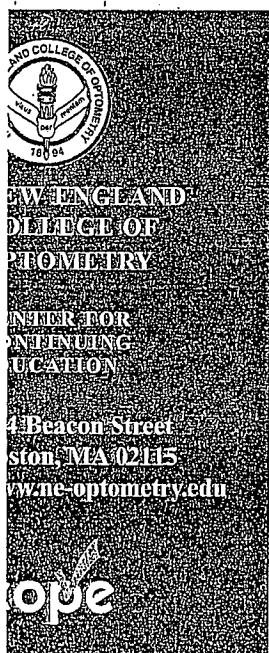
Sincerely,

Clifford Scott, OD

Clifford Scott, OD, MPH
Interim Director, Continuing Education

Validation requires
your signature:

[Signature]



SHIPPED DEC 01 2004

Contact Lens Spectrum - August 2004
Preventing Contact Lens Challenges For Presbyopes
Susan Gromacki, OD, MS, FAAO
COPE: 12009-CL CE Credits: 2 Hours

Dear Doctor

This certifies that you have received the above continuing education credits.

Requests for additional copies of this continuing education credit slip must be in writing, and there is a \$15.00 service charge per copy.

Thank you for your interest in the programs offered through the Center for Continuing Education.

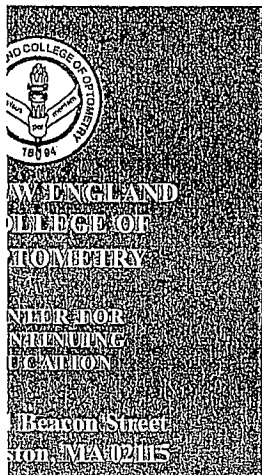
Sincerely,

Clifford Scott, OD

Clifford Scott, OD, MPH
Interim Director, Continuing Education

Validation requires
your signature:

[Signature]



Contact Lens Spectrum May 2008
Imaging and Instrumentation in Contact Lens Practice
David Berntsen, OD, MS, FAAO
COPE # 21936-CL 2 credit hours

SENT
OCT 27 2008

Dear Doctor

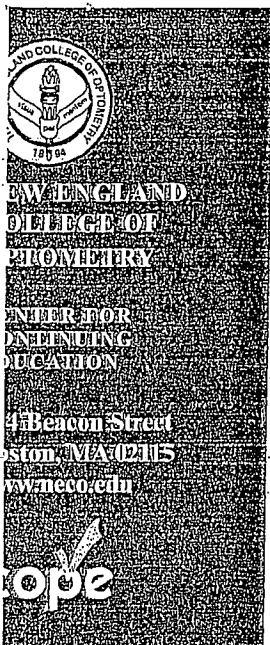
This certifies that you have received the above continuing education credits.

Requests for additional copies of this continuing education credit slip must be in writing, and there is a \$15.00 service charge per copy.

Thank you for your interest in the programs offered through the Center for Continuing Education.

Sincerely,

Clifford Scott, OD



Contact Lens Spectrum August 2008
Educating Patients About Ultraviolet Radiation
Dr. Stephen Cohen
COPE # 22751-60 2 Credit Hours

SENT

APR 06 2009

Dear Doctor

This certifies that you have received the above continuing education credits.

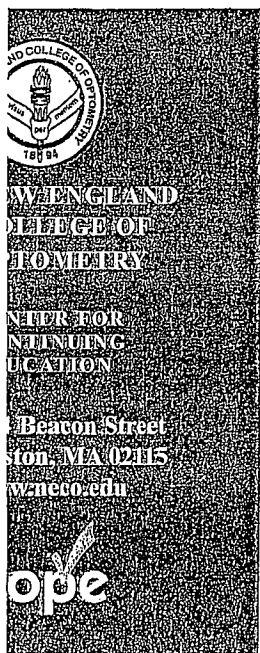
Requests for additional copies of this continuing education credit slip must be in writing, and there is a \$15.00 service charge per copy.

Thank you for your interest in the programs offered through the Center for Continuing Education.

Sincerely,

Alan L. Lewis, O.D., Ph.D.
Director, Continuing Education

Validation requires
your signature: _____



Optometric Management September 2008
Current Trends in Daily Disposable Contact Lenses
Dr. Carmen F. Castellano
COPE # 23117-CL 2 Credit Hours

Dear Doctor

This certifies that you have received the above continuing education credits.

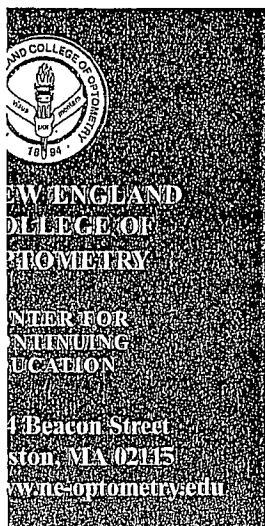
Requests for additional copies of this continuing education credit slip must be in writing, and there is a \$15.00 service charge per copy.

Thank you for your interest in the programs offered through the Center for Continuing Education.

Sincerely,

Alan L. Lewis, O.D., Ph.D.
Director, Continuing Education

Validation requires
your signature: _____



SHIPPED JAN 20 2005

Contact Lens Spectrum - November 2004
Examining the Contact Lens Patient
Douglas Benoit, OD, FAAO
COPE: 12412-CL CE Credits: 2 Hours

Dear Doctor

This certifies that you have received the above continuing education credits.

Requests for additional copies of this continuing education credit slip must be in writing, and there is a \$15.00 service charge per copy.

Thank you for your interest in the programs offered through the Center for Continuing Education.

Sincerely,

Clifford Scott OD MPH

Validation requires

NEW ENGLAND
COLLEGE OF
OPTOMETRY

CENTER FOR
CONTINUING
EDUCATION

Larry Thornton
4074 Leimert Blvd
Los Angeles, CA 90008
USA

NEW ENGLAND
COLLEGE OF
OPTOMETRY

CENTER FOR
CONTINUING
EDUCATION

Dr. Larry Thornton
1555 W. Sepulveda Blvd.
Torrance, CA 90501

NEW ENGLAND
COLLEGE OF
OPTOMETRY

CENTER FOR
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EDUCATION

NEW ENGLAND
COLLEGE OF
PODIATRY

CENTER FOR
CONTINUING
EDUCATION

Larry Thorton
4074 Leimert Blvd
Los Angeles, CA 90008

NEW ENGLAND
COLLEGE OF
PODIATRY

CENTER FOR
CONTINUING
EDUCATION

Dr. Larry Thornton
1555 W. Sepulveda Blvd. #R2
Torrance, CA 90501

NEW ENGLAND
COLLEGE OF
PODIATRY

CENTER FOR
CONTINUING
EDUCATION

Larry Thorton
4074 Leimert Blvd
Los Angeles, CA 90008

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition
for Reinstatement Regarding:

OAH No. L2008080180

LARRY FRANKLIN THORNTON,

Optometrist License No. OPT 6369,

Petitioner:

DECISION

A quorum of the Board of Optometry (the California Board) heard this matter on September 3, 2008, in Pomona, California. The members of the Board present were Lee A. Goldstein, O.D., President; Susy Yu, O.D., Vice President; Alex M. Arredondo, O.D.; Fred Naranjo; Richard K. Simonds, O.D.; Monica Johnson; Ken Lawenda, O.D.; Martha Burnett-Collins, O.D.; and Katrina Semmes.

Margie McGavin, the Board's Enforcement Manager, was also present during the proceedings.

Daniel Juárez, Administrative Law Judge with the Office of Administrative Hearings was present at the hearing and during the consideration of the case, in accordance with Government Code section 11517.

Larry Franklin Thornton (Petitioner) represented himself.

Char Sachson, Deputy Attorney General, represented the Attorney General of the State of California, pursuant to Government Code Section 11522.

The parties submitted the matter for decision, and the Board decided the case in executive session on September 3, 2008.

Certified to be a true and correct
copy of the original on file with
the Board.

Diana A. Christy
2/7/12

FACTUAL FINDINGS

1. On July 28, 2008, Petitioner filed the Petition for Reinstatement, his second such petition (Factual Finding 5 describes the first petition). Petitioner seeks the reinstatement of his revoked optometrist license; he contends it is appropriate to reinstate his license because he is sufficiently rehabilitated from earlier transgressions he committed in another state.

2. The California Attorney General contends the public would be unsafe if the Board were to reinstate Petitioner's license.

3. The California Board licensed Petitioner (optometrist license number OPT 6369) on October 3, 1977. At the time of his original licensure by the California Board, Petitioner already possessed an optometrist license, issued by the Kentucky Board of Optometric Examiners (the Kentucky Board), in February 1977.

4(a). On or about January 15, 2003, the California Board's then-Executive Officer filed an Accusation against Petitioner, alleging cause to revoke or otherwise discipline Petitioner's California optometrist license (*In the Matter of the Accusation Against Larry Franklin Thornton, O.D.*, case number CC 2001 142). The Complainant in that case alleged that Petitioner was subject to disciplinary action because, in March 2000, the Kentucky Board had suspended Petitioner's Kentucky optometrist license for six years.¹ The Kentucky Board took disciplinary action against Petitioner because it concluded that Petitioner had violated Kentucky statutes and administrative regulations, committing the following acts: "grossly unprofessional or dishonorable conduct;" "obtaining fees by fraud or misrepresentation;" "conduct likely to deceive or defraud the public;" receipt of fees for services not rendered;" "knowingly making a false statement regarding a prescription;" "presenting a prescription for a controlled substance in violation of the law;" "failing to give visual care to patients who sought care, paid for that care, and had every expectation of receiving that care;" and "associated or shared an office or fees with a person engaged in the unauthorized practice of optometry."

4(b). The Kentucky Board's findings were generally described in the underlying (California) Accusation as follows:

[Petitioner's] clients came to him expecting to receive professional and fair treatment with resulting proper vision care. Instead [Petitioner] took their money and did nothing to improve or care for their vision . . . The failure to provide paid-for services deceived the public who expected eyeglasses or contacts in exchange for the money they paid, and damaged the profession by smudging its reputation for honest service. [Petitioner] took the money from

¹ Despite the six-year suspension ending in March 2006, Petitioner still does not have his Kentucky optometrist license reinstated; he believes he will be eligible for reinstatement in that state sometime in 2009.

too many patients without providing glasses or contacts for his malfeasance to be a mistake, negligence, or oversight. Further he has put himself outside the reach of these patients who have no means of being reimbursed. [¶] [¶] [Petitioner] simply abandoned those patients who depended upon him.

4(c). Based on the Kentucky Board's conclusions and ultimate suspension, the Complainant in the California Board's underlying Accusation cited Business and Professions Code sections 3090, subdivision (b) and 141, subdivision (a) (unprofessional conduct and disciplinary action by another state) as the bases to discipline Petitioner's California optometrist license.

4(d). Petitioner failed to file a notice of defense within 15 days after service of the Accusation, and thus waived his right to a hearing on the merits. The Board issued a Default Decision and Order, effective July 14, 2003, revoking Petitioner's optometrist license.

5. On October 12, 2006, Petitioner filed an earlier Petition for Reinstatement (*In the Matter of the Petition for the Reinstatement of the Revoked License of Larry Franklin Thornton*, case number CC 2005 117). On November 16, 2006, a quorum of the Board convened to hear Petitioner's case. The Deputy Attorney General in the instant matter represented the Office of the Attorney General in the first petition for reinstatement. Neither Petitioner nor anyone representing Petitioner appeared at the hearing. Nevertheless, the Board heard the matter and denied the petition. Among other things, the Board noted a significant inconsistency in Petitioner's assertions. The Board cited Petitioner's denial of any drug or alcohol problems, on the one hand, but noted Petitioner's reference to having taken steps toward drug and alcohol rehabilitation, on the other hand. Additionally, the Board found that, in September 2006, Petitioner had been cited for practicing optometry without a license.

6. At the instant hearing, in response to a direct question from the Board, Petitioner asserted he did not have a drug or alcohol addiction or problem. However, as part of the Petition for Reinstatement, Petitioner submitted an informational document regarding the Crenshaw Christian Center Alcohol and Drug Abuse Program. He initially told the Board that he attended the program solely to attend a bible study component that is offered as a part of the rehabilitation program. However, upon further questioning by the Board, Petitioner admitted that he attends and intends on continuing to participate in the drug rehabilitation program and that he has taken drugs before.

7. In his Petition for Reinstatement, Petitioner described his optometric work as consisting of a solo practice from March 2001 to April 2002, and a group practice between June 2003 and approximately April 2004. He also admitted that since losing his license, he practiced optometry without a license for approximately one year (though the evidence did not conclusively establish the time period in which this occurred). In his Petition documents, he wrote, "[s]ince my license has been revoked, I worked at an optometry office at 8920 West Pico Boulevard, Los Angeles.

However, I was cited for practicing without a license." He acknowledged that his actions were contrary to the laws governing the practice of optometry.

8. Currently, according to Petitioner, he receives public assistance (welfare) in the form of subsistence level monthly monetary payments through the County General Relief program. He provided no evidence to support that assertion. Petitioner also claimed to be current in continuing education course requirements, but provided no evidence to support that assertion.

9. Petitioner completed 22 hours of community service time, working for the Salvation Army, between August 2007 and June 2008. He provided no evidence explaining any imposed community service requirement.

LEGAL CONCLUSIONS

1. Cause exists to deny Petitioner's Petition for Reinstatement, pursuant to Business and Professions Code section 11522, as set forth in Factual Findings 1-9, and Legal Conclusions 2-6.

2. Petitioner bears the burden to prove, by clear and convincing evidence to a reasonable certainty, that the Board should grant his petition for reinstatement. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398; *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

3. Government Code section 11522 states in pertinent part:

A person whose license has been revoked or suspended may petition the agency for reinstatement . . . after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement.

4. California Code of Regulations, title 16, section 1516, states in pertinent part:

[1] . . . [1]

(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b).

5. Petitioner did not prove, by clear and convincing evidence to a reasonable certainty, that reinstatement of his license is warranted. Petitioner provided little, if any, evidence of rehabilitation. He failed to express genuine remorse for his earlier transgressions, transgressions that were serious in nature. Saliently, he was not forthright with the Board, first asserting no problems with drugs, then admitting to using drugs and participating in a rehabilitation program. Significantly, Petitioner provided similarly contradictory evidence at the last petition for reinstatement. (See Factual Finding 5.) This, together with his admitted unlicensed practice of optometry provided evidence of dishonesty and unprofessional behavior. There was no evidence establishing Petitioner's honesty or integrity, nor was there evidence of any effort by Petitioner to repair his tarnished professional reputation. Petitioner's overall fitness to practice optometry remains questionable; thus, the public's safety cannot be assured if the Board were to reinstate him.


6. In the future, if Petitioner chooses to seek reinstatement, the Board would likely require two psychological evaluations of Petitioner (by psychologists chosen by the Board), the completion of 100 hours of continuing education (completed within the last two years prior to a new petition), on-going drug testing, and the completion of an ethics course. Furthermore, to consider possible reinstatement in the future, the Board would expect to see no additional instances evidencing Petitioner's dishonesty, any violations of law, or a lack of professional judgment and discretion.

ORDER

Larry Franklin Thornton's Petition for Reinstatement of his optometrist license, number 6369, is denied.

Dated:

10/10/2008


Lee A. Goldstein, O.D., President
California Board of Optometry

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for the
Reinstatement of the Revoked License of:

LARRY FRANKLIN THORNTON, O.D.
4074 Leimert Blvd.
Los Angeles, CA 90008

Respondent.

Case No. CC 2005 117

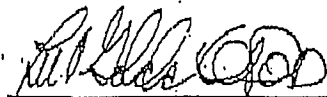
OAH No. L2006100659

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted
by the Board of Optometry as its Decision in the above-entitled matter.

This Decision shall become effective February 17, 2007.

It is so ORDERED January 17, 2007.



LEE GOLDSTEIN, O.D.
PRESIDENT
BOARD OF OPTOMETRY

~~BEFORE THE~~
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for the
Reinstatement of the Revoked License of:

Case No. CC 2005 117

OAH No. L2006100659

LARRY FRANKLIN THORNTON,

Petitioner.

DECISION

On November 16, 2006, in San Diego, California, a quorum of the California Board of Optometry, Department of Consumer Affairs, State of California heard and decided the Petition for Reinstatement of the Revoked License of Larry Franklin Thornton.

Present at the hearing were Board President Lee Goldstein, O.D., Board Vice President Susy Yu, O.D., and Board Members Monica Johnson, Daniel Pollack, O.D., Mary Rosas, Richard Simonds, O.D., and Roberto Valleriowith.

Administrative Law Judge Donald P. Cole, Office of Administrative Hearings, State of California, conducted the administrative proceeding.

Deputy Attorney General Char Sachson appeared on behalf of the Office of the Attorney General, State of California.

Neither petitioner nor any individual representing petitioner appeared at the hearing.

Following the receipt into evidence of the petition for reinstatement and supporting documentation, the matter was submitted and decided by the Board in Executive Session.

FACTUAL FINDINGS

1. On or about October 3, 1977, the Board of Optometry issued Optometry License No. OPT 6369 to petitioner Larry Franklin Thornton. The license was in full force

and effect as of December 31, 2002, and was then due to expire on June 30, 2003, unless renewed.

2. On December 31, 2002, the accusation in Board Case No. CC 2001 142 was filed against petitioner. The accusation alleged unprofessional conduct, in connection with discipline that had been imposed by the Kentucky Board of Optometric Examiners in March 2000 against petitioner's Kentucky optometrist's license, based on the Kentucky Board's findings that respondent took money from clients "and did nothing to improve or care for their vision," and that his "failure to provide paid-for services . . . handicapped the clients in the conduct of their daily activities, deceived the public who expected eyeglasses or contacts in exchange for the money they paid, and damaged the profession by smudging its reputation for honest service. [Petitioner] took the money from too many patients without providing glasses or contacts for his malfeasance to be a mistake, negligence, or oversight. Further he has put himself outside the reach of these patients who have no means of being reimbursed. . . [Petitioner] simply abandoned those patients who depended upon him."

3. Petitioner did not file a notice of defense within 15 days after service on him of the accusation. Accordingly, on June 14, 2003, the Board issued a default decision and order, which became effective July 14, 2003, in which, pursuant to Government Code section 11520, the Board found petitioner in default, deemed petitioner's default to constitute express admissions of the accusation's allegations, and revoked petitioner's license.

4. On October 12, 2006, petitioner filed with the Board under penalty of perjury a Petition for Reinstatement.

5. In the petition, petitioner responded to a number of questions that appeared on the petition form. Question 9 asked, "Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction?" Petitioner answered "no" to this question.

6. Petitioner submitted a one-page handwritten statement dated September 9, 2006, in support of the petition, in which he wrote that he had maintained professional skills and knowledge through continuing education, that he was "working within an optical establishment, if 'off limits' is understood," that beginning later that month, he planned to attend and complete a 40-hour Red Cross blood donor program and 20 hours of "alcohol and drug rehabilitative efforts," and that "unfortunately the petitioner did not comply with all law and regulations and was cited in September 2006 for filling in for an ill 80-year-old optometrist," who "returned the following week after I was cited."

7. The petition was accompanied by: an American Red Cross certificate, which stated that petitioner had completed the requirements of adult, infant and child CPR training on August 11, 2005; three reference letters (two from professional colleagues), recommending that petitioner's license be reinstated; continuing education course certificates and related documentation issued to petitioner by the Pennsylvania College of Optometry, the New England College of Optometry, the Southern California College of Optometry

reflecting course work undertaken between February 2004 and August 2005; and a criminal action report reflecting that petitioner received a citation on September 22, 2006 for the unlicensed practice of optometry.

LEGAL CONCLUSIONS

1. In a proceeding to restore a revoked license, the burden rests on the petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.)

An individual seeking reinstatement must present strong proof of rehabilitation which must be sufficient to overcome the former adverse determination. The standard of proof is clear and convincing evidence. (*Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.)

2. Government Code section 11520 provides in pertinent part:

"A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty."

3. California Code of Regulations, title 16, section 1516 provides in pertinent part:

"(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b)."

4. There are "[t]wo purposes for the Legislature mandating a statement of reasons for the decision of an agency proceeding under section 11522 *First*, a statement of reasons enables a reviewing court to determine *why* [it] did what it did and, in that light, examine the administrative record to ascertain whether there is substantial evidence to support the decision. *Second*, a statement of reasons advises the rejected petitioner for reinstatement what his deficiencies are and, therefore, tells him what he should do to make a subsequent petition meritorious." (*Crandell v. Fox* (1978) 86 Cal.App.3d 760, 765.)

5. Based on Factual Findings 1 through 7 and Legal Conclusions 1 through 4, cause was not established under the applicable burden and standard of proof to grant the petition to reinstate petitioner's license. In particular, petitioner's response to question nine of the petition that he had not been under observation or treatment for mental disorders, alcoholism, or narcotic addiction seemed inconsistent with the reference in his handwritten statement to drug and alcohol rehabilitative efforts. Further, petitioner was cited on September 22, 2006, for practicing without a license. Petitioner in fact admitted, in an apparent reference to this citation, that he "did not comply with all law and regulations." It is noted as well that petitioner's handwritten statement appears to end with a subheading (E)(1), which raises a question as to whether there were other matters that were intended to be part of the statement, but which for some reason were not submitted to the Board. Ultimately, the petition raises important questions as to petitioner's suitability for reinstatement. Yet, since petitioner neither appeared at the hearing nor notified the Board as to the reason for his non-appearance, these questions cannot be answered. In light of these factors, the letters of reference submitted in petitioner's behalf and the other documents submitted with the petition were insufficient to meet petitioner's burden of proof by clear and convincing evidence that his license should be reinstated.

ORDER

Petitioner Larry Franklin Thornton's Petition for Reinstatement of Revoked
Optometry License No. OPT 6369 is denied.

Dated: January 17, 2007



LEE GOLDSTEIN, O.D., President
California Board of Optometry
Department of Consumer Affairs
State of California

1 ~~BILL LOCKYER~~, Attorney General
of the State of California

2 DESIREE A. PHILLIPS, State Bar No. 157464
3 Deputy Attorney General
4 California Department of Justice
5 300 So. Spring Street, Suite 1702
6 Los Angeles, CA 90013
7 Telephone: (213) 897-2578
8 Facsimile: (213) 897-2804

9 Attorneys for Complainant

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**BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LARRY FRANKLIN THORNTON, O.D.
2146 W. Sunset Boulevard
Los Angeles, California 90026

Optometrist License Number OPT 639

Respondent.

Case No. CC 2001 142.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 15, 2003, Complainant Lucinda Ehnes, in her official capacity as the Interim Executive Officer of the Board of Optometry, Department of Consumer Affairs, filed Accusation No. CC 2001 142 against Larry Franklin Thornton (Respondent) before the Board of Optometry.

2. On or about October 3, 1977, the Board of Optometry (Board) issued Optometrist License Number OPT 6369 to Respondent. The license was in full force and effect at all times relevant to the charges herein, and will expire on June 30, 2003, unless renewed.

3. On or about January 15, 2003, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. CC 2001 142, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 2146 W. Sunset Boulevard, Los Angeles, California 90026. A copy of the Accusation, the

1 related documents, and Declaration of Service are attached as Exhibit "A", and are incorporated
2 herein by reference.

3 3. Service of the Accusation was effective as a matter of law under the
4 provisions of Government Code section 11505, subdivision (c).

5 4. On or about February 2003, the aforementioned certified mailing
6 documents were returned by the U.S. Postal Service marked "Undeliverable as Addressed.
7 Forwarding Order Expired." A copy of the postal returned documents is attached hereto as
8 exhibit B, and are incorporated herein by reference.

9 5. Government Code section 11506 states, in pertinent part:

10 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
12 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
13 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

14 6. Respondent failed to file a Notice of Defense within 15 days after service
15 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
16 Accusation No. CC 2001 142.

17 7. California Government Code section 11520 states, in pertinent part:

18 "(a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions or
20 upon other evidence and affidavits may be used as evidence without any notice to
21 respondent."

22 8. Pursuant to its authority under Government Code section 11520, the Board
23 finds Respondent is in default. The Board will take action without further hearing and, based on
24 Respondent's express admissions by way of default and the evidence before it, contained in
25 exhibits A and B finds that the allegations in Accusation No. CC 2001 142 are true.

26 9. The total costs for investigation and enforcement are \$2,653.75 as of
27 March 26, 2003.

28 ///

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Larry Franklin
3 Thornton has subjected his Optometrist License Number OPT 6369 to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of
5 Service are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Board of Optometry is authorized to revoke Respondent's Optometrist
8 License Number OPT 6369 based upon the following violations alleged in the Accusation:

9 a. Business and Professions Code sections 3090(b) and 141(a):
10 Unprofessional conduct - disciplinary action by another state.


11 ORDER

12 IT IS SO ORDERED that Optometrist License Number OPT 6369, heretofore
13 issued to Respondent Larry Franklin Thornton, is revoked.

14 Pursuant to Government Code section 11520, subdivision (c), Respondent may
15 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
16 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
17 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
18 statute.

19 This Decision shall become effective on July 14, 2003

20 It is so ORDERED June 14, 2003

21 
22
23 FOR THE BOARD OF OPTOMETRY
24 DEPARTMENT OF CONSUMER AFFAIRS

24 Attachments:

25 Exhibit A: Accusation No. CC 2001 142; Related Documents, and Declaration of Service
26 Exhibit B: Postal Return Documents

1 BILL LOCKYER, Attorney General
of the State of California
2 ANNE HUNTER, State Bar No. 136982
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2114
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF OPTOMETRY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. CC 2001 142

12 **LARRY FRANKLIN THORNTON, O.D.**
2146 W. Sunset Boulevard
13 Los Angeles, California 90026

A C C U S A T I O N

14 Optometrist License No. OPT 6369

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Karen L. Ollinger (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Optometry, Department of Consumer
21 Affairs.

22 2. On or about October 3, 1977, the Board of Optometry issued Optometrist
23 License No. OPT 6369 to Larry Franklin Thornton, O.D. (Respondent). The Optometrist
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on June 30, 2003, unless renewed.

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28 ///

JURISDICTION

3. This Accusation is brought before the Board of Optometry (Board), under the authority of the following sections of the Business and Professions Code (Code).

4. Section 3090 of the Code states:

The certificate of registration of any person registered under this chapter, or any former act relating to the practice of optometry, may be revoked or suspended for a fixed period by the board for any of the following:

....
“(b) Unprofessional conduct.”

5. Section 141(a) of the Code states:

“(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.”

6. Section 118(b) of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Disciplinary Action by Another State)

8. Respondent is subject to disciplinary action under Code sections 3090(b) and 141(a) of the Code, on the grounds of unprofessional conduct, in that Respondent's Kentucky optometrist's license was disciplined by the Kentucky Board of Optometric Examiners

(hereinafter "Kentucky Board"). On March 21, 2000, the Kentucky Board, in a case entitled, "Kentucky Board of Optometric Examiners v. Larry Thornton," Administrative Action No. 99-KBOE-0672, in its Findings of Fact, Conclusions of Law, Final Order, and Notice of Appeal Rights (hereinafter "Kentucky Findings of Fact"), suspended Respondent's Kentucky optometry license for six years (until March 21, 2006). The Kentucky Board found Respondent to be in violation of the following Kentucky Revised Statutes ("KRS") and Kentucky Administrative Regulation ("KAR"):

- a. KRS 320.310(1)(f) (grossly unprofessional or dishonorable conduct);
- b. KRS 320.310(1)(g) (obtaining fees by fraud or misrepresentation);
- c. KRS 320.310(1)(n) (conduct likely to deceive or defraud the public);
- d. KRS 320.310(1)(r) (receipt of fees for services not rendered);
- e. KRS 218A.140 (1)(d) (knowingly making a false statement regarding a prescription);
- f. KRS 218A.140(f) (presenting a prescription for a controlled substance in violation of the law);
- g. 201 KAR 5:040, Section 5 (failing to give visual care to patients who sought care, paid for that care, and had every expectation of receiving that care); and
- h. 201 KAR 5:040, Section 3(2) (associated or shared an office or fees with a person engaged in the unauthorized practice of optometry).

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1 The Kentucky Board made the following findings in support of the discipline:

2 "Thornton's clients came to him expecting to receive
3 professional and fair treatment with resulting proper vision care.
4 Instead Thornton took their money and did nothing to improve or
5 care for their vision. The failure to provide paid-for services
6 ... handicapped the clients in the conduct of their daily activities,
7 deceived the public who expected eyeglasses or contacts in
8 exchange for the money they paid, and damaged the profession by
9 smudging its reputation for honest service. Thornton took the
10 money from too many patients without providing glasses or
11 contacts for his malfeasance to be a mistake, negligence, or
12 oversight. Further he has put himself outside the reach of these
13 patients who have no means of being reimbursed. [¶] [¶] ...
14 Thornton simply abandoned those patients who depended upon
15 him." (Kentucky Findings of Fact, p. 9.)

16 A copy of the Kentucky Board's Findings of Fact, Conclusions of Law, Final
17 Order, and Notice of Appeal Rights is attached to this Accusation as exhibit A, and is
18 incorporated herein by reference.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Board of Optometry issue a decision:

- 22 1. Revoking or suspending Optometrist License No. OPT 6369, issued to
23 Larry Franklin Thornton, O.D.;
- 24 2. Ordering Larry Franklin Thornton, O.D. to pay the Board of Optometry
25 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3;
- 27 3. Taking such other and further action as deemed necessary and proper.

28 DATED: December 31, 2002



KAREN L. OLLINGER
Executive Officer
Board of Optometry
Department of Consumer Affairs
State of California
Complainant

03581110-LA2002AD1481



STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



Certification of Licensure

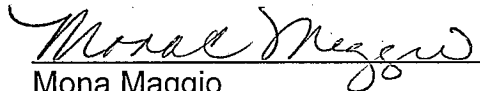
The undersigned, Mona Maggio, hereby certifies as follows:

That she is the duly appointed, acting and qualified Executive Officer of the Board of Optometry of the State of California, and that in such capacity she has custody of the official records of said board.

On this 21st day of February, 2012, the Executive Officer examined said official records of said Board of Optometry and found that **LARRY FRANKLIN THORNTON** graduated from the Indiana University College of Optometry in 1976, and was the holder of Certificate of Registration to Practice Optometry No. 6369 which was granted to him effective October 3, 1977.

Said records further reveal that, effective July 14, 2003, as the result of disciplinary action taken in Case number CC 2001-142, the Board of Optometry revoked Certificate of Registration to Practice Optometry No. 6369.

Given under my hand and the seal of the State Board of Optometry, at Sacramento, California, this 21st day of February, 2012.


Mona Maggio
Executive Officer

§ 1516. Criteria for Rehabilitation.

(a) When considering the denial of a certificate of registration under Section 480 of the Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a certificate of registration, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b).

Note: Authority cited: Sections 3023, 3023.1 and 3025, Business and Professions Code.
Reference: Sections 475, 480, 481 and 482, Business and Professions Code; and Section 11522, Government Code.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Enforcement Staff

Telephone: (916) 575-7170

**Subject: Agenda Item 2B. In the Matter of the Petition for Reinstatement of
Revoked License No. OPT 8618 – Lawrence Edwin Young**

Dr. Lawrence Edwin Young, Petitioner, was issued Optometrist License Number 8618 by the Board on October 2, 1986. On March 26, 2007, the Board filed an Accusation against Petitioner charging him with violations of laws and regulations based on allegations that Petitioner altered his certificate of registration to appear as if it had been renewed, and then presented this falsified certificate to an agency that he contracted with for services. In a stipulated settlement agreed to by Petitioner, on April 3, 2008, Petitioner's license was revoked, the revocation stayed and the license placed on probation for three (3) years, subject to certain terms and conditions.

On January 27, 2010, the Board filed an Accusation and Petition to Revoke Probation against Petitioner, charging him with violations of the terms and conditions of his probation. Petitioner's case was heard by Julie Cabos-Owen, Administrative Law Judge, on December 1, 2010, and on February 12, 2011, Petitioner's license was revoked as the result of said hearing.

The Petitioner is requesting the Board to reinstate his Optometrist License. He is not represented by an attorney.

Attached are the following documents submitted for the Board's consideration in the above referenced matter:

1. Petition for Reinstatement with Attachments
2. Copies of Decision and Order, Accusation and Petition to Revoke Probation, Stipulated Settlement and Disciplinary Order, Accusation
3. Certification of Non-Licensure
4. California Codes and Regulations Section 1516 – Criteria for Rehabilitation

RECEIVED BY
STATE BOARD OF OPTOMETRY

2012 FEB -3 PM 4:01

Lawrence E. Young, OD
13657 Palmetto Place
Chino Hills, CA 91709
February 2, 2012

California State Board of Optometry
2420 Del Paso Road, Suite 255
Sacramento, CA, 95834

Dear Board Members,

On Feb. 12, 2011 my optometric license (8618T) was revoked as a result of my inability to properly comply with the probationary conditions that were imposed in June 2008. The probation requirements involved, following all laws, providing quarterly reports, participate in 120 hours of continuing education over the 3 year period, including an approved ethics course, a \$10,000.00 cost recovery repayment, function as an optometrist, and provide 400 hours of non-optometric community service. I take full and unconditional responsibility for not fulfilling these requirements. The repercussion of my inaction was severe and profound. In the course of 3 months, Dec. 2010-Feb, 2011, I basically lost everything. I permanently closed my optometric practice located at 10004 Sierra Ave., Fontana, CA 92335. Two weeks later I lost my home to foreclosure. One month later I lost my optometric license. Finally, in November 2011 my wife and I were forced to file a Chapter 7 bankruptcy. I spent 9 months of 2011 unemployed. In spite of applying for 100's of jobs in a wide array of occupations, including opticianry and optometric assistant, I sadly found that I was perceived as "too old and too educated" and therefore over-qualified for just about any work at all. I considered a career change to the education field. I thought it would be fulfilling to teach math or science to middle school students. I did apply and was accepted to Cal Poly Pomona's Education/Credentialing program. However, I was unable to enroll in the first required set of courses as it was well past the annual deadline to file a FASFA form to become eligible for financial aid. I am filing that form this year. In the fall of 2011 I was hired by the Rowland USD as a substitute teacher. I passed the Live Scan fingerprinting and background check with both the FBI and the Department of Justice. In October I finally was hired at a local fast food restaurant at \$10/hr. I have been working in that job since. It is incredibly humbling to go from Doctor of Optometry to cashier at Chick-fil-A. I have now had a full year to reflect upon my past shortcomings and the their effects. I fully realize that it is a privilege, not a right, to practice optometry.

During this past year, as a result of my obvious desperate financial condition, I was unable to take any continuing education classes, as I had no ability to pay for them. I did however, utilize the power of the Internet and subscribed to free sources of educational materials, which I have been reading continuously. These sources include, Vision Monday, Review of Optometry online, Optometric Physician, New England Journal of

Medicine, Eyefinity Advisor, Vmail and COAlists. In addition I have been studying my textbooks and my ample supply of back issues of journals.

During 2011 I did continue on with my commitments to community service. I successfully completed my second term as President of the Diamond Bar High School Boosters (a 501.c.3 non-profit) in June. This concluded 9 consecutive years of volunteer service to Diamond Bar High School. I also participated in coordinating and running two different fundraisers, one for the Diamond Bar High School football team and the other for Walnut High School. The two events collectively raised well over \$40,000. I have been invited by both organizations to return for this year's events as well. In May of 2011 I finished my 9th year as a Mentor for the Pathways Communication Academy at Diamond Bar High School. The message here is that in spite of my personal crisis, I followed through with my commitments to the local community.

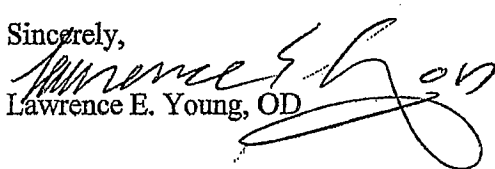
I desire to have my optometric license reinstated, even if it is under a continued probationary period with requirements set forth by the Board. I am submitting for approval from the Board a list of courses that I will be attending at the Optowest program in April. I expect to attend at least 15 hours of TPA approved courses. I will also be submitting for prior approval for additional continuing education courses that will be offered at Vision Expo in October. I will be reapplying for membership with the COA, AOA and my local optometric society so that I can participate in their monthly education programs as well. If it is permissible by the Board I will also sign up for and take online CE. I will proceed, with Board approval, in taking the Ethics course at SCCO. I will be submitting to the Board a request for approval of qualified community service that I can begin doing it immediately.

I do ask that the cost recovery assessment be set aside as I was required to list it as a debt in my Chapter 7 bankruptcy filing. The Bankruptcy discharge should take place in early March according to my attorney.

I will be able to provide whatever quarterly monitoring reports that the Board may require. Please do keep in mind that I will not be in a solo private practice during the extended time of probation. I wish to work in the capacity as an employed doctor in another OD's office or perhaps in an ophthalmology office. My forte has always been in patient care and not in the running of the business. I will avoid the mistakes of the past by working as an employed OD.

In summary, I fully regret my actions of the past, but I have learned valuable lessons from the consequences of those actions. I strive to rebuild trust and confidence with the Board and the public at large as a qualified and competent Optometrist. I am willing to do whatever is required of me by the Board to re-establish my place as a fully licensed Doctor of Optometry in the state of California. I eagerly look forward to returning to the exam room!

Sincerely,


Lawrence E. Young, OD



STATE BOARD OF OPTOMETRY

 2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
 P (916) 575-7170-F (916) 575-7292 www.optometry.ca.gov
CALIFORNIA STATE BOARD OF
OPTOMETRY

PETITION FOR REINSTATEMENT

A person whose certificate of registration has been revoked or suspended for more than one year may petition the Board to reinstate the certificate of registration after a period of not less than one year has elapsed from the date of the revocation or suspension. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board may investigate and consider all activities of the petitioner since the disciplinary action was taken, the offense for which discipline was imposed, activity during the time the certificate of registration was in good standing and the petitioner's general reputation for truth, professional ability and good character.

PLEASE TYPE OR PRINT LIGIBLY

1. NAME (FIRST) (MIDDLE) (LAST)			CERTIFICATE OF REGISTRATION NO.
Lawrence Edwin Young			8618T
2. ADDRESS (NUMBER) (STREET)			DATE OF BIRTH
13657 Palmetto Place			03-22-1959
(CITY)	(STATE)	(ZIP CODE)	TELEPHONE
Chino Hills	CA	91709	(909) 964-6958
3. PHYSICAL DESCRIPTION		(HEIGHT)	(WEIGHT)
		5'9 1/2"	195
		(EYE COLOR)	(HAIR COLOR)
		hazel	grey
4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGES) OF OPTOMETRY ATTENDED			
NAME OF SCHOOL			
University of Houston, College of Optometry			
ADDRESS (NUMBER)		(STREET)	
4901		Calhoun Rd	
(CITY)	(STATE)	(ZIP CODE)	
Houston	TX	77204	
5. ARE YOU CURRENTLY LICENSED IN ANY OTHER STATE? YES <input type="radio"/> NO <input checked="" type="radio"/>			
STATE	LICENSE NO.	ISSUE DATE	EXPIRATION DATE

6. List locations, dates, and types of practice for 5 years prior to discipline of your California license.

LOCATION	DATE FROM	DATE TO	TYPE OF PRACTICE
10004 Sierra Ave Fontana, CA 92335	01/1989 - Present	12/2010	Solo private practice

- 39M-13

7. Are you or have you ever been addicted to the use of narcotics or alcohol? YES ☒ NO

8. Are you or have you ever suffered from a contagious disease? YES ☒ NO

9. Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction? YES ☒ NO

10. Have you ever been arrested, convicted or pled no contest to a violation of any law of a foreign country, the United States, any state, or a local ordinance? you must include all convictions, including those that have been set aside under Penal Code Section 1203.4 (which includes diversion programs) YES ☒ NO

11. Are you now on probation or parole for any criminal or administrative violations in this state or any other state? (Attach certified copies of all disciplinary or court documents) YES ☒ NO

12. Have you ever had disciplinary action taken against your optometric license in this state or any other state? ☒ YES NO

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, YOU MUST ATTACHMENT A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

ON A SEPARATE SHEET OF PAPER PROVIDE THE FOLLOWING INFORMATION

- List the date of disciplinary action taken against your license and explain fully the cause of the disciplinary action.
- Explain fully why you feel your license should be restored, or the disciplinary penalty reduced.
- Describe in detail your activities and occupation since the date of the disciplinary action; include dates, employers and locations.
- Describe any rehabilitative or corrective measures you have taken since your license was disciplined to support your petition.
- List all post-graduate or refresher courses, with dates, location and type of course, you have taken since your license was disciplined.
- List all optometric literature you have studied during the last year.

19. List all continuing education courses you have completed since your license was disciplined.

20. List names, addresses and telephone numbers of persons submitting letters of recommendation accompanying this petition.

I declare under penalty of perjury under the laws of the State of California that the answers and information given by me in completing this petition, and any attachments, are true and I understand and agree that any misstatements of material facts will be cause for the rejection of this petition.

Date 02-02-2012

Signature Lawrence E. [Signature]

All items of information requested in this petition are mandatory. Failure to provide any of the requested information will result in the petition being rejected as incomplete. The information will be used to determine qualifications for reinstatement, reduction of penalty or early termination of probation. The person responsible for information maintenance is the Executive Officer of the Board of Optometry at 2420 Del Paso Road, Suite 255, Sacramento, California, 95834. This information may be transferred to another governmental agency such as a law enforcement agency, if necessary to perform its duties. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified confidential information and exempted by Section 1798.3 of the Civil Code.

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation/Petition to
Revoke Probation Against:

LAWRENCE EDWIN YOUNG,

Respondent.

No. CC 2004-59

OAH No. 2010060231

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Optometry, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective February 12, 2011.

IT IS SO ORDERED January 13, 2011.

By 

TR.

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and
Petition to Revoke Probation Against:

LAWRENCE EDWIN YOUNG, O.D.

Optometrist Certificate No. OPT 8618,

Respondent.

Case No. CC 2004-59

OAH No. 2010060231

PROPOSED DECISION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on December 1, 2010, in Los Angeles, California. Complainant was represented by Randy Mailman, Deputy Attorney General. Lawrence Edwin Young, O.D. (Respondent), was present and represented himself.

At the hearing, the Administrative Law Judge (ALJ) was provided with Respondent's Exhibit D, which contained the names of numerous patients and was too lengthy to redact. On her own motion, the ALJ ordered that, following the use of the document in preparation of the Proposed Decision, Respondent's Exhibit D would be placed under seal. Exhibit D shall remain under seal and shall not be opened, except by order of the Office of Administrative Hearings, the Board of Optometry or by a reviewing court.

Oral and documentary evidence was received, and argument was heard. The record was closed, and the matter was submitted for decision on December 1, 2010.

FACTUAL FINDINGS

1. On January 27, 2010, Complainant Mona Maggio filed the Accusation and Petition to Revoke Probation while acting in her official capacity as the Executive Officer of the State Board of Optometry (Board), Department of Consumer Affairs, State of California. On February 10, 2010, the Accusation and Petition to Revoke Probation was served on Respondent.

2. On October 2, 1986, the Board issued Optometrist Certificate Number OPT 8618 to Respondent. That certificate is in full force and effect and will expire on March 31, 2012, unless renewed.

3. In a Decision and Order, effective April 3, 2008, in Case No. CC 2004-59 (Prior Decision) adopting a Stipulated Settlement and Disciplinary Order, the Board revoked Respondent's certificate, stayed the revocation and placed Respondent on probation for three years on specified terms and conditions, which included the following:

[¶] ... [¶]

2. **Obey all Laws.** Respondent shall obey all federal, state and local laws, and all rules governing the practice of optometry in California.

3. **Comply With The Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program.

Respondent shall, at his own expense, report in person to the Board's headquarters in Sacramento within three (3) months of the effective date of the Board's decision, and as the Board deems necessary if it is determined that Respondent may not be compliant with any of the terms or conditions of his probation.

Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Respondent shall comply with the Board's probation surveillance program; including, but not limited to, allowing access to the probationer's optometric practice(s) and patient records upon request of the Board or its agent.

Respondent shall pay the monitoring cost associated with the Board's probation surveillance program each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Board and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

Upon successful completion of probation, Respondent's license shall be fully restored.

[¶] ... [¶]

6. **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives. Respondent shall provide a copy of this decision to the optometric regulatory agency in every state and territory in which he has an optometry license.

7. **Function as an Optometrist.** Respondent, during the period of probation, shall engage in the practice of optometry in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board. For the purposes of compliance with this section, "engage in the practice of optometry" may include, when approved by the Board, volunteer work as an optometrist, or work in any non-direct patient care position that requires licensure as an optometrist. If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

[¶] ... [¶]

11. **Complete Optometry Course.** Respondent, at his own expense, shall enroll and successfully complete courses relevant to the practice of optometry, including, but not limited to, a course in ethics. Respondent shall obtain approval from the Board before enrolling in the ethics course. These courses shall be in addition to the courses required for license renewal. Respondent shall complete forty (40) hours of course work per year for each year of probation.

12. **Community Services—Free Services.** Within 60 days of the effective date of this decision, Respondent shall submit to the Board for its prior approval a community service program in which Respondent shall provide free non-optometric services on a regular basis to a community or charitable facility or agency for at least 400 hours over the course of the period of probation.

13. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$10,000. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

[9] ... [9]

15. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

4(a). When Respondent was placed on probation in April 2008, he was required to meet in person with a Board representative in Sacramento to go over the terms and conditions of his probation. However, due to his medical issues, the Board allowed him to conduct his initial probation interview by phone. In July 2008, Respondent and a Board representative spoke by telephone and discussed all of the terms and conditions of his probation.

4(b). On that date, Respondent signed a written acknowledgment indicating that he understood and would abide by the terms of his probation. This acknowledgment was forwarded to the Board.

4(c). On that date, Respondent also signed a Cost Recovery Payment Plan, wherein he agreed to pay the \$10,000 in costs in monthly payments as follows: one payment of \$357.22 by July 30, 2008, and 27 payments \$357.14 on the 30th of each month thereafter, until paid in full. The executed Cost Recovery Payment Plan was forwarded to the Board.

5. In August 2009, the Board received a complaint from one of Respondent's patients. On August 25, 2009, the Board sent a letter to Respondent requesting that, within 14 days, he provide the Board with a copy of the patient's records. The Board's request was

accompanied by the patient's written authorization for release of records to the Board. Respondent received the request, but did not send a reply.

6. On September 25, 2009, the Board sent Respondent another letter, requesting that, within 14 days, he provide the Board with a copy of the patient's records. Respondent received the request, but did not send a reply.

7. To date, Respondent has failed to provide the Board with the requested patient records. This is a violation of Business and Professions Code section 3110, subdivision (x).

8. Respondent's violation of Business and Professions Code section 3110 constitutes a violation of his probationary term number 2 (Obey all Laws).

9. To date, Respondent has failed to submit any written quarterly probation reports. This constitutes a violation of his probationary term number 6 (Submit Written Reports).

10(a). To date, Respondent has failed to provide evidence to the Board that he has functioned as an optometrist for a minimum of 24 hours per week for six consecutive months.

10(b). At the administrative hearing, Respondent attempted to establish that he had functioned as an optometrist as required. However, despite his assertions that he had been seeing patients regularly, the totality of the evidence failed to demonstrate that Respondent's practice had been operating at the number of hours required. Respondent acknowledged that, due to the probation, he "lost numerous vision care contracts . . . for a majority of programs that provide [his] livelihood." He also admitted that his office telephone line had been disconnected for an unspecified period of time, and that it had been difficult for patients to call in to make appointments. However, he "was able to scrape together enough money to reconnect [the phone line] in January 2010." He also admitted that the office electricity had been turned off for "at least 24 hours." Furthermore, at one point, he had to layoff all of his employees, and it took some time to settle all payroll amounts in arrears.

10(c). Respondent has failed to establish that he functioned as an optometrist for a minimum of 24 hours per week for six consecutive months. This constitutes a violation of his probationary term number 7 (Function as an Optometrist).

11. Respondent failed to complete 40 hours per year of optometry courses, in addition to the courses required for license renewal. This constitutes a violation of his probationary term number 11 (Complete Optometry Course).

12(a). Respondent has failed to obtain prior approval for any community service program providing 400 hours of non-optometric services.

12(b). Respondent did inform the Board that he volunteers for a high school booster club. He was instructed by the Board to submit confirmation from the booster club's program coordinator in order to obtain Board pre-approval. Respondent agreed several times to do so, but failed to submit confirmation from the program coordinator for pre-approval.

12(c). Respondent's failure to obtain pre-approval for his community service program constitutes a violation of probationary term number 12 (Community Service).

13. Respondent has failed to pay any portion of the cost recovery, and has made no effort to do so. This is a violation of probationary term number 13 (Cost Recovery).

14. On August 28, 2009, the Board sent Respondent a Notification of Non-Compliance of Terms and Conditions of Probation, informing him of his failure to comply with probationary terms numbers 3, 6, 7, 11, 12 and 13. The Board enclosed a blank copy of a Quarterly Report of Compliance for him to complete and submit. Respondent did not respond to the letter or submit any quarterly report.

15. At the administrative hearing, Respondent stated that he understood everything that was addressed at the hearing and apologized for the time and effort expended by the Board. Although he blamed the failure to pay costs or complete coursework on financial woes, he had no explanation for his failure to submit quarterly reports or failure to provide requested patient records. He stated, "You have gotten my attention. These things will never happen again." However, this assertion was implausible, given Respondent's failure to attempt any compliance during his two years, eight months of probation, particularly after written requests for compliance and the service of an Accusation 10 months ago.

LEGAL CONCLUSIONS

1. Cause exists to revoke Respondent's Optometrist Certificate, pursuant to Business and Professions Code sections 3090 and 3110, subdivision (x), for unprofessional conduct in failing to comply with the Board's requests for patient records, as set forth in Factual Findings 5 through 7.

2. Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's Optometrist Certificate for failure to comply with Condition 2 of his probation, by failing to obey all laws, specifically by reason of his violation of Business and Professions Code section 3110, subdivision (x), as set forth in Factual Findings 3 through 8.

3. Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's Optometrist Certificate for failure to comply with Condition 6 of his probation, by failing to provide written quarterly reports, as set forth in Factual Findings 3, 4 and 9.

4. Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's Optometrist Certificate for failure to comply with Condition 7 of his probation, by failing to function as an optometrist for the minimum required hours, as set forth in Factual Findings 3, 4 and 10.

5. Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's Optometrist Certificate for failure to comply with Condition 11 of his probation, by failing to complete the required 40 hours of optometry courses per year, as set forth in Factual Findings 3, 4 and 11.

6. Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's Optometrist Certificate for failure to comply with Condition 12 of his probation, by failing to obtain Board pre-approval for community service, as set forth in Factual Findings 3, 4 and 12.

7. Cause exists to revoke Respondent's probation and impose the stayed revocation of Respondent's Optometrist Certificate for failure to comply with Condition 13 of his probation, by failing to pay any costs, as set forth in Factual Findings 3, 4 and 13.

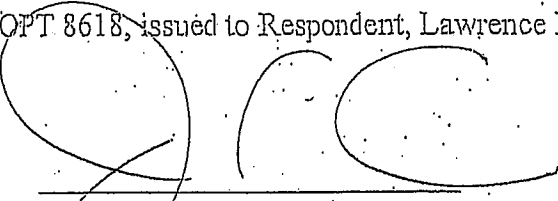
8. Respondent knowingly stipulated to the discipline imposed on his optometrist certificate. He again agreed to abide by the probationary terms and conditions when they were explained to him in July 2008. Nevertheless, Respondent unreasonably failed to comply with numerous probationary terms for over two years, eight months of his three year probation. This failure to comply persisted, despite written requests for compliance and the service of an Accusation 10 months ago. Although Respondent now insists he will comply with his probationary terms, his past actions bode poorly for the likelihood of his future compliance. Furthermore, other than this hollow assurance, Respondent has failed to take any action which would demonstrate his willingness to begin complying with his probationary terms. Respondent has been given more than ample time and opportunities to demonstrate that he was serious about compliance, but has made no effort to do so. Given the foregoing, the public health, safety and welfare cannot be protected by any discipline short of revocation.

ORDER

WHEREFORE, THE FOLLOWING ORDER is made:

Optometrist Certificate Number OPT 8618, issued to Respondent, Lawrence Edwin Young, is hereby revoked.

DATED: December 22, 2010


JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 SCOTT J. HARRIS
Deputy Attorney General
4 State Bar No. 238437
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 BEFORE THE
9 STATE BOARD OF OPTOMETRY
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against,

Case No. CC 2004-59

13 LAWRENCE EDWIN YOUNG
10004 Sierra Avenue
14 Fontana, CA 92335

ACCUSATION

15 Optometrist Certificate No. OPT 8618

AND

16 Respondent.

PETITION TO REVOKE PROBATION

17
18 Complainant alleges:

19 PARTIES

20 1. Mona Maggio (Complainant) brings this Accusation and Petition to Revoke Probation
21 solely in her official capacity as the Executive Officer of the State Board of Optometry,
22 Department of Consumer Affairs (Board).

23 2. On or about October 2, 1986, the Board issued Optometrist Certificate No. OPT 8618
24 to Lawrence Edwin Young (Respondent). The Optometrist Certificate was in effect at all times
25 relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Lawrence
27 Edwin Young," Case No. CC 2004-59, the Board issued a decision, effective April 3, 2008, in
28 which Respondent's Optometrist Certificate was revoked. However, the revocation was stayed

1 and Respondent was placed on probation for a period of three (3) years with certain terms and
2 conditions, as more fully outlined below. A copy of the Board's Decision and Order in Case
3 No. CC 2004-59 is attached as Exhibit A and incorporated herein by reference.

4 JURISDICTION

5 4. This Accusation and Petition to Revoke Probation are brought before the Board,
6 Department of Consumer Affairs, under the authority of the following laws. All section
7 references are to the Business and Professions Code unless otherwise indicated.

8 STATUTORY PROVISIONS

9 5. Section 3070, subdivision (a), states:

10 "Before engaging in the practice of optometry, each licensed optometrist shall notify the
11 board in writing of the address or addresses where he or she is to engage, or intends to engage, in
12 the practice of optometry and, also, of any changes in his or her place of practice. The practice of
13 optometry is the performing or the controlling of any of the acts set forth in Section 3041."

14 6. Section 3090 states:

15 "Except as otherwise provided by law, the board may take action against all persons guilty
16 of violating this chapter or any of the regulations adopted by the board. The board shall enforce
17 and administer this article as to licenseholders, and the board shall have all the powers granted in
18 this chapter for these purposes, including, but not limited to, investigating complaints from the
19 public, other licensees, health care facilities, other licensing agencies, or any other source
20 suggesting that an optometrist may be guilty of violating this chapter or any of the regulations
21 adopted by the board."

22 7. Section 3110 states, in pertinent part:

23 "The board may take action against any licensee who is charged with unprofessional
24 conduct, and may deny an application for a license if the applicant has committed unprofessional
25 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
26 limited to, the following:

27 ///

28 ///

1 "(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the
2 ~~violation of, or conspiring to violate any provision of this chapter or any of the rules and~~
3 regulations adopted by the board pursuant to this chapter.

4
5 "(x) Failure or refusal to comply with a request for the clinical records of a patient, that is
6 accompanied by that patient's written authorization for release of records to the board, within 15
7 days of receiving the request and authorization, unless the licensee is unable to provide the
8 documents within this time period for good cause."

9 **COST RECOVERY**

10 8. Section 125.3 provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licensee found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 **ACCUSATION**

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Provide Patient Records to the Board)**

17 9. Respondent is subject to discipline pursuant to Code sections 3090 and 3110,
18 subdivision (x), on the grounds of unprofessional conduct, in that Respondent failed to comply
19 with the Board's August 25, 2009, and/or, September 25, 2009, request for clinical records of a
20 patient in regard to Complaint No. CC 2009-11. The Board's requests were accompanied by the
21 patient's written authorization for release of records to the board.

22 **PETITION TO REVOKE PROBATION**

23 10. Effective April 3, 2009, pursuant to the Board's Decision and Order in Case No. CC
24 2004-59, Respondent was placed on three (3) years probation, and subject to terms and conditions
25 of probation, including, but not limited to the following:

26 2. **Obey All Laws.** Respondent shall obey all federal, state and local laws,
27 and all rules governing the practice of optometry in California.
28

1 3. **Comply With The Board's Probation Program.** Respondent shall fully
2 comply with the conditions of the Probation Program established by the Board and
3 cooperate with representatives of the Board in its monitoring and investigation of the
4 Respondent's compliance with the Board's Probation Program.

5 Respondent shall, at his own expense, report in person to the Board's
6 headquarters in Sacramento within three (3) months of the effective date of the Board's
7 decision, and as the Board deems necessary if it is determined that Respondent may not be
8 compliant with any of the terms or conditions of his probation.

9 Respondent shall inform the Board in writing within no more than 15
10 days of any address change and shall at all times maintain an active, current license status
11 with the Board, including during any period of suspension.

12 Respondent shall comply with the Board's probation surveillance
13 program; including, but not limited to, allowing access to the probationer's optometric
14 practice(s) and patient records upon request of the board or its agent.

15 Respondent shall pay the monitoring cost associated with the Board's
16 probation surveillance program each and every year of probation, as designated by the
17 Board, which may be adjusted on an annual basis. Such costs shall be payable to the Board
18 of Optometry and delivered to the Board or its designee no later than January 31 of each
19 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of
20 probation.

21 Upon successful completion of probation, respondent's license shall be
22 fully restored.

23 6. **Submit Written Reports.** Respondent, during the period of probation,
24 shall submit or cause to be submitted such written reports/declarations and verification of
25 actions under penalty of perjury, as required by the Board. These reports/declarations shall
26 contain statements relative to Respondent's compliance with all the conditions of the
27 Board's Probation Program. Respondent shall immediately execute all release of
28 information forms as may be required by the Board or its representatives. Respondent
29 shall provide a copy of this decision to the optometric regulatory agency in every state and
30 territory in which he has an optometry license.

31 7. **Function as an Optometrist.** Respondent, during the period of
32 probation, shall engage in the practice of optometry in California for a minimum of 24
33 hours per week for 6 consecutive months or as determined by the Board. For purposes of
34 compliance with the section, "engage in the practice of optometry" may include, when
35 approved by the Board, volunteer work as an optometrist, or work in any non-direct patient
36 care position that requires licensure as an optometrist. If Respondent has not complied
37 with this condition during the probationary term, and the Respondent has presented
38 sufficient documentation of his good faith efforts to comply with this condition, and if no
39 other conditions have been violated, the Board, in its discretion, may grant an extension of
40 the Respondent's probation period up to one year without further hearing in order to
41 comply with this condition. During the one year extension, all original conditions of
42 probation shall apply.

43 11. **Complete Optometry Course.** Respondent, at his own expense, shall
44 enroll and successfully complete courses relevant to the practice of optometry, including,
45 but not limited to, a course in ethics. Respondent shall obtain approval from the Board
46 before enrolling in the ethics course. These courses shall be in addition to the courses

required for license renewal. Respondent shall complete forty (40) hours of course work per year for each year of probation.

12. Community Services - Free Services. Within 60 days of the effective date of this decision, Respondent shall submit to the Board for its prior approval a community service program in which Respondent shall provide free non-optometric services on a regular basis to a community or charitable facility or agency for at least 400 hours over the course of the period of probation.

13. Cost Recovery. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$10,000.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

15. Violation of Probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

11. Respondent's probation is subject to revocation pursuant to Probation Condition No. 2 (Obey All Laws), in that Respondent failed to obey all laws by violating provisions of the Optometry Practice Act, as more fully discussed in paragraph 9, above, which is herein incorporated by reference as set forth in whole.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Provide Written Quarterly Reports)

12. Respondent's probation is subject to revocation pursuant to Probation Conditions No. 3 (Comply with Probation Program), and No. 6 (Submit Written Reports), in that during the course of his probation, Respondent has failed to provide Quarterly Compliance Reports to the Board.

///

THIRD CAUSE TO REVOKE PROBATION

(Failure to Function as an Optometrist)

13. Respondent's probation is subject to revocation under Probation Conditions No. 3 (Comply with Probation Program), and No. 7 (Function as an Optometrist), in that Respondent has failed to evidence a minimum of twenty-four (24) practice hours per week during a six (6) consecutive month period. On or about August 28, 2009, the Board sent Respondent a letter regarding his non-compliance with probation, requesting that he provide the Board with evidence of his practice hours. Respondent has failed to provide any patient records or other documentation to support the requirements of his minimum practice hours.

FOURTH CAUSE TO REVOKE PROBATION

(Failure to Complete Optometry Course)

14. Respondent's probation is subject to revocation under Probation Conditions No. 3 (Comply with Probation Program), and No. 11 (Complete Optometry Course), in that Respondent failed to complete forty (40) hours of optometry courses, in addition to courses required for license renewal, in or between April 3, 2008 and April 3, 2009. In addition, Respondent has failed to provide evidence of enrollment and successful completion of any of the forty (40) hours of education courses related to the practice of optometry for the April 3, 2009 to April 3, 2010 probation year, and/or, a Board pre-approved ethics course.

FIFTH CAUSE TO REVOKE PROBATION

(Failure to Comply with Community Services' Provision)

15. Respondent's probation is subject to revocation under Probation Conditions No. 3 (Comply with Probation Program), and No. 12 (Community Services - Free Services), in that Respondent failed to submit a community service program and Community Service Verification Form to the Board for pre-approval, and has not evidenced completion of any hours of Community Service - Free Services to the Board during the course of his probation.

III

III

III

1 SIXTH CAUSE TO REVOKE PROBATION

2 ~~(Failure to Comply with Cost Recovery Agreement)~~

3 16. Respondent's probation is subject to revocation under Probation Conditions No. 3.
4 ~~(Comply with Probation Program), and No. 13 (Cost Recovery), in that Respondent has failed to~~
5 pay any of the \$10,000 cost recovery ordered by the Board. Respondent signed an agreement for
6 a payment plan, consisting of an initial month's payment of \$357.22, due July 30, 2008, and 27
7 subsequent monthly payments of \$357.14. Respondent failed to make his initial payment and all
8 other payments thereafter.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

12 1. Revoking the probation that was granted by the Board in Case No. CC 2004-59 and
13 imposing the disciplinary order that was stayed, thereby revoking Optometrist Certificate
14 No. OPT 8618, issued to Respondent Lawrence Edwin Young;

15 2. Revoking or suspending Optometrist Certificate No. OPT 8618, issued to Respondent
16 Lawrence Edwin Young;

17 3. Ordering Respondent Lawrence Edwin Young to pay the State Board of Optometry
18 the reasonable costs of the investigation and enforcement of this case pursuant to section 125.3;
19 and

20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 01/27/2010

23 Monica Maggio
24 MONA MAGGIO
25 Executive Officer
26 State Board of Optometry
27 Department of Consumer Affairs
28 State of California
Complainant

27 LA2009604462
28 11/10/09 dnm
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BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. CC 2004-59

LAWRENCE EDWIN YOUNG

10004 Sierra Avenue

Fontana, CA 92335

Optometrist Certificate No. OPT 8618

Branch Office License No. 6397

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by
the State Board of Optometry, as its Decision in this matter.

This Decision shall become effective on April 3, 2008.

It is so ORDERED March 3, 2008.



FOR THE STATE BOARD OF OPTOMETRY

2008 FEB 28 PM 4:25

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 GLORIA A. BARRIOS

Supervising Deputy Attorney General

3 SCOTT J. HARRIS, State Bar No. 238437

Deputy Attorney General

4 300 So. Spring Street, Suite 1702

Los Angeles, CA. 90013

5 Telephone: (213) 897-2554

6 Facsimile: (213) 897-2804

Attorneys for Complainant

7
8 BEFORE THE
9 BOARD OF OPTOMETRY
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. CC 2004-59

13 LAWRENCE EDWIN YOUNG

10004 Sierra Avenue

Fontana, CA. 92335

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 Optometrist Certificate No. OPT 8618

Branch Office License No. 6397

Respondent.

15
16
17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the State Board of Optometry (Board) the parties hereby
20 agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to
21 the Board for approval and adoption as the final disposition of the Accusation.

22 PARTIES

23 1. Taryn Smith (Complainant) is the Executive Officer of the Board. She
24 brought this action solely in her official capacity and is represented in this matter by Edmund G.
25 Brown Jr., Attorney General of the State of California, by Scott J. Harris, Deputy Attorney
26 General.

27 ///

28 ///

1 2. Respondent Lawrence Edwin Young is represented in this proceeding by
2 attorney Steven J. Cote, whose address is 19138 Walnut Drive, Suite 100, Rowland Heights,
3 California, 91748.

4 3. On or about October 2, 1986, the Board issued Optometrist Certificate
5 Number OPT 8618 (Certificate) to Respondent. The Certificate expired on or about March 31,
6 2004. On or about June 2, 2004 the Certificate was renewed. The Certificate will expire on
7 March 31, 2008, unless renewed.

8 4. On or about February 17, 2004, the Board issued Branch Office License
9 No. 6397 to Respondent. The License expired on February 1, 2006, and has not been renewed.

10 JURISDICTION

11 5. Accusation No. CC 2004-59 was filed before the Board, and is currently
12 pending against Respondent. The Accusation and all other statutorily required documents were
13 properly served on Respondent on April 12, 2007. Respondent was found to be in default by the
14 Board on or about May 17, 2007, for failure to timely file a Notice of Defense, which was to
15 become effective on or about June 18, 2007. On or about August 17, 2007, the Board issued an
16 Order Vacating Default Decision after Respondent submitted a motion seeking to vacate the
17 original Default Decision and Order and a Notice of Defense contesting the Accusation. A copy
18 of Accusation No. CC 2004-59 is attached as Exhibit A and incorporated herein by reference.

19 ADVISEMENT AND WAIVERS

20 6. Respondent has carefully read, fully discussed with counsel, and
21 understands the charges and allegations in Accusation No. CC 2004-59. Respondent has also
22 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
23 Settlement and Disciplinary Order.

24 7. Respondent is fully aware of his legal rights in this matter, including the
25 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
26 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
27 the right to present evidence and to testify on his own behalf; the right to the issuance of
28 subpoenas to compel the attendance of witnesses and the production of documents; the right to

1 reconsideration and court review of an adverse decision; and all other rights accorded by the
2 California Administrative Procedure Act and other applicable laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up
4 each and every right set forth above.

5 CULPABILITY

6 9. Respondent admits the truth of each and every charge and allegation in
7 Accusation No. CC 2004-59, except for the allegation and charge of his unlicensed practice of
8 optometry between June 25, 2004 and December 17, 2004, as more fully discussed in paragraph
9 18, lines 22-23, on page 6 of Accusation No. CC 2004-59, which herein is withdrawn by the
10 Board.

11 10. Respondent agrees that his Optometrist Certificate is subject to discipline
12 and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
13 Order below.

14 CONTINGENCY

15 11. This stipulation shall be subject to approval by the State Board of
16 Optometry. Respondent understands and agrees that counsel for Complainant and the staff of the
17 State Board of Optometry may communicate directly with the Board regarding this stipulation
18 and settlement, without notice to or participation by Respondent. By signing the stipulation,
19 Respondent understands and agrees that he may not withdraw from this agreement or seek to
20 rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to
21 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order
22 shall be of no force or effect, and, except for this paragraph, it shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 12. The parties understand and agree that facsimile copies of this Stipulated
26 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
27 force and effect as the originals.

28 \\\

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Optometrist Certificate No. OPT 8618, issued to Respondent Lawrence Edwin Young, is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years pursuant to the terms and conditions of probation contained below.

SEVERABILITY CLAUSE. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Actual Suspension.** Optometrist Certificate No. OPT 8618, issued to Respondent Lawrence Edwin Young, is suspended for a period of fifteen (15) days.

2. **Obey All Laws.** Respondent shall obey all federal, state and local laws, and all rules governing the practice of optometry in California.

3. **Comply With The Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program.

Respondent shall, at his own expense, report in person to the Board's headquarters in Sacramento within three (3) months of the effective date of the Board's decision, and as the Board deems necessary if it is determined that Respondent may not be compliant with any of the terms or conditions of his probation.

Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

1 Respondent shall comply with the Board's probation surveillance program;
2 including, but not limited to, allowing access to the probationer's optometric practice(s) and
3 patient records upon request of the board or its agent.

4 Respondent shall pay the monitoring cost associated with the Board's probation
5 surveillance program each and every year of probation, as designated by the Board, which may be
6 adjusted on an annual basis. Such costs shall be payable to the Board of Optometry and delivered
7 to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs
8 within 30 calendar days of the due date is a violation of probation.

9 Upon successful completion of probation, respondent's license shall be fully
10 restored.

11 4. **Report in Person.** Respondent, during the period of probation, shall
12 appear in person at interviews/meetings as directed by the Board or its designated
13 representatives.

14 5. **Residency, Practice, or Outside of State.** Any period of residency or
15 practice as an optometrist outside of the State of California shall not apply toward a reduction of
16 this probation time period. Respondent's probation is tolled any time he resides outside of
17 California. Respondent must provide written notice to the Board within 15 days of any change of
18 residency or practice outside California, and within 30 days prior to re-establishing residency or
19 returning to practice in California. Respondent shall provide a list of all states and territories
20 where he has ever been licensed as an optometrist. Respondent shall further provide information
21 regarding the status of each license and any changes in such license status during the term of
22 probation. Respondent shall inform the Board if he applies for or obtains a new optometry
23 license during the term of probation. Within 30 days of the Board's Decision, Respondent shall
24 provide a copy of the Board's Decision and Order to the Optometry Board of any other state
25 where he is currently licensed or becomes licensed to practice optometry.

26 6. **Submit Written Reports.** Respondent, during the period of probation,
27 shall submit or cause to be submitted such written reports/declarations and verification of actions
28 under penalty of perjury, as required by the Board. These reports/declarations shall contain

1 statements relative to Respondent's compliance with all the conditions of the Board's Probation
2 Program. Respondent shall immediately execute all release of information forms as may be
3 required by the Board or its representatives. Respondent shall provide a copy of this decision to
4 the optometric regulatory agency in every state and territory in which he has an optometry
5 license.

6 7. **Function as an Optometrist.** Respondent, during the period of
7 probation, shall engage in the practice of optometry in California for a minimum of 24 hours per
8 week for 6 consecutive months or as determined by the Board. For purposes of compliance with
9 the section, "engage in the practice of optometry" may include, when approved by the Board,
10 volunteer work as an optometrist, or work in any non-direct patient care position that requires
11 licensure as an optometrist. If Respondent has not complied with this condition during the
12 probationary term, and the Respondent has presented sufficient documentation of his good faith
13 efforts to comply with this condition, and if no other conditions have been violated, the Board, in
14 its discretion, may grant an extension of the Respondent's probation period up to one year
15 without further hearing in order to comply with this condition. During the one year extension, all
16 original conditions of probation shall apply.

17 8. **Employment Approval and Reporting Requirements.** Respondent
18 shall obtain prior approval from the Board before commencing or continuing any employment,
19 paid or voluntary, as an optometrist. Respondent shall cause to be submitted to the Board all
20 performance evaluations and other employment related reports as an optometrist upon request of
21 the Board.

22 If working as an employee, Respondent shall provide a copy of this decision to his
23 employer and immediate supervisors prior to commencement of any optometric or other health
24 care related employment. In addition to the above, Respondent shall notify the Board in writing
25 within seventy-two (72) hours after he obtains any optometric or other health care related
26 employment. Respondent shall notify the Board in writing within seventy-two (72) hours after
27 he is terminated or separated, regardless of cause, from any optometric, or other health care

28 \\\

1 related employment with a full explanation of the circumstances surrounding the termination or
2 separation.

3 9. **Supervised Environment.** Within 60 days of the effective date of this
4 decision, Respondent shall submit to the Board, for its prior approval, the name and
5 qualifications of one or more proposed supervisors and a plan for each such supervisor by which
6 Respondent's practice would be supervised. Respondent shall not practice until receiving
7 notification of Board approval of Respondent's choice of a supervisor. The plan of supervision
8 shall be general and not require the physical presence of the supervising optometrist during the
9 time optometric procedures are performed, but does require an occasional random check of the
10 work performed on the patient. Additionally, the supervisor shall have full and random access to
11 all patient records of Respondent. Each proposed supervisor shall be a California licensed
12 optometrist who shall submit written reports to the Board on a quarterly basis verifying that
13 supervision has taken place as required and include an evaluation of Respondent's performance.
14 It shall be Respondent's responsibility to assure that the required reports are filed in a timely
15 manner. The supervisor shall be independent, with no prior business or professional relationship
16 with Respondent and the supervisor shall not be in a familial relationship with or be an
17 employee, (including independent contractor) partner or associate of Respondent. If the
18 supervisor terminates or is otherwise no longer available, Respondent shall not practice until a
19 new supervisor has been approved by the Board. All costs of the supervision shall be borne by
20 the Respondent.

21 10. **Employment Limitations.** Respondent shall not work in any health care
22 setting as a supervisor of optometrists. The Board may additionally restrict Respondent from
23 supervising technicians and/or unlicensed assistive personnel on a case-by-case basis.
24 Respondent shall not work as a faculty member in an approved school of optometry or as an
25 instructor in a Board approved continuing education program. Respondent shall work only on a
26 regularly assigned, identified and predetermined worksite and shall not work in a float capacity.
27 If the respondent is working or intends to work in excess of 40 hours per week, the Board may
28 request documentation to determine whether there should be restrictions on the hours of work.

1 11. **Complete Optometry Course.** Respondent, at his own expense, shall
2 enroll and successfully complete courses relevant to the practice of optometry, including, but not
3 limited to, a course in ethics. Respondent shall obtain approval from the Board before enrolling
4 in the ethics course. These courses shall be in addition to the courses required for license
5 renewal. Respondent shall complete forty (40) hours of course work per year for each year of
6 probation.

7 12. **Community Services - Free Services.** Within 60 days of the
8 effective date of this decision, Respondent shall submit to the Board for its prior approval a
9 community service program in which Respondent shall provide free non-optometric services on
10 a regular basis to a community or charitable facility or agency for at least 400 hours over the
11 course of the period of probation.

12 13. **Cost Recovery.** Respondent shall pay to the Board costs associated with
13 its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the
14 amount of \$10,000.00. Respondent shall be permitted to pay these costs in a payment plan
15 approved by the Board, with payments to be completed no later than six months prior to the end
16 of the probation term.

17 If Respondent has not complied with this condition during the probationary term,
18 and Respondent has presented sufficient documentation of his or her good faith efforts to comply
19 with this condition, and if no other conditions have been violated, the Board, in its discretion,
20 may grant an extension of the Respondent's probation period up to one year without further
21 hearing in order to comply with this condition. During the one year extension, all original
22 conditions of probation will apply.

23 14. **License Surrender.** During Respondent's term of probation, if
24 Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy
25 the conditions of probation, Respondent may surrender his license to the Board. The Board
26 reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to
27 grant the request, or to take any other action deemed appropriate and reasonable under the
28 circumstances, without further hearing. Upon formal acceptance of the tendered license and wall

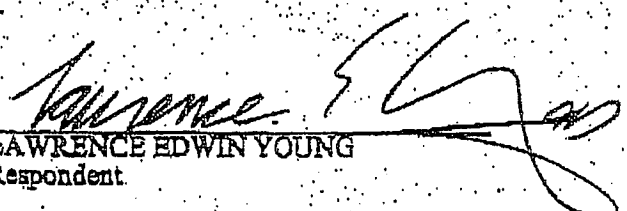
1 certificate, Respondent will no longer be subject to the conditions of probation, except he may be
2 subject to reimbursing the Board for its costs of investigation and prosecution upon a petition for
3 reinstatement.

4 15. Violation of Probation. If Respondent violates probation in any respect,
5 the Board, after giving Respondent notice and opportunity to be heard, may revoke probation and
6 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation
7 is filed against Respondent during probation, the Board shall have continuing jurisdiction until
8 the matter is final, and the period of probation shall be extended until the matter is final.

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and
11 have fully discussed it with my attorney, Steven J. Cote. I understand the stipulation and the
12 effect it will have on my Optometrist Certificate. I enter into this Stipulated Settlement and
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
14 Decision and Order of the State Board of Optometry.

15 DATED: 2-8-08

16
17 
18 LAWRENCE EDWIN YOUNG
Respondent.

19 I have read and fully discussed with Respondent Lawrence Edwin Young the
20 terms and conditions and other matters contained in the above Stipulated Settlement and
21 Disciplinary Order. I approve its form and content.

22
23 DATED: 2-18-08

24
25 
26 STEVEN J. COTE
Attorney for Respondent

27 ///

28 ///


1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the State Board of Optometry.

4
5 DATED: 2/22/08

6 EDMUND G. BROWN JR., Attorney General
of the State of California

7 GLORIA A. BARRIOS
8 Supervising Deputy Attorney General

9
10 
11 SCOTT J. HARRIS
12 Deputy Attorney General

13 Attorneys for Complainant

14 DOJ Matter ID: LA2007600189
15 60256940.wpd
16
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Exhibit A

Accusation No. CC 2004-59

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 GLORIA A. BARRIOS

Supervising Deputy Attorney General

3 SCOTT J. HARRIS, State Bar No. 238437

Deputy Attorney General

4 California Department of Justice

300 So. Spring Street, Suite 1702

5 Los Angeles, CA 90013

Telephone: (213) 897-2554

6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 BEFORE THE
9 BOARD OF OPTOMETRY
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. CC 2004-59

13 LAWRENCE EDWIN YOUNG

10004 Sierra Avenue

Fontana, CA 92335

ACCUSATION

14 Optometrist Certificate No. OPT 8618

Branch Office License No. 6397

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Taryn Smith (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Optometry (Board).

21 2. On or about October 2, 1986, the Board issued Optometrist Certificate
22 Number OPT 8618 (Certificate) to Lawrence Edwin Young (Respondent). The Certificate
23 expired on or about March 31, 2004. On or about June 2, 2004 the Certificate was renewed. On
24 or about June 25, 2004, the Board deemed the renewal invalid. On or about December 17, 2004,
25 the Board renewed the Certificate. The Certificate will expire on March 31, 2008, unless
26 renewed.

27 \\\

28 \\\

3. On or about February 17, 2004, the Board issued Branch Office License Number 6397 to Respondent. The Branch Office License expired on February 1, 2006, and has not been renewed.

JURISDICTION

4. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 3090¹ of the Code states:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to license holders, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board."

6. Section 3078 of the Code states, in pertinent part:

"(c) A permit issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit.

"(d) If the board revokes or suspends the license to practice optometry of an individual optometrist...to whom a permit has been issued under this section, the revocation or suspension shall also constitute revocation or suspension, as the case may be, of the permit."

7. Code section 119, subdivision (a)(2), states, in pertinent part,

"Any person who does any of the following is guilty of a misdemeanor:

"(a) Displays or causes or permits to be displayed or has in his or her possession either of the following:

1. Code section 3090 was repealed and [re]added by Stats.2005, c. 393 (A.B.488), § 4.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license."

8 Section 3040 of the Code states:

"It is unlawful for a person to engage in the practice of optometry or to display a sign or in any other way to advertise or hold himself or herself out as an optometrist without having first obtained a certificate of registration from the board under the provisions of this chapter or under the provisions of any former act relating to the practice of optometry."

9 Code section 3106^{2/} states that, "knowingly making or signing any certificate or other document directly or indirectly related to the practice of optometry that falsely represents the existence or nonexistence of a state of facts constitutes unprofessional conduct."

10 10. Code section 3107^{3/} states: "It is unlawful to use or attempt to use any license issued by the board that has been purchased, fraudulently issued, counterfeited, or issued by mistake, as a valid license."

11 11. Code section 3110^{4/} states, in pertinent part: "The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

12 ...

13 ...

14 2. Former Code section 9096.6 was renumbered Code section 3106 and amended by Stats.2005, c. 393 (A.B.488). §12.

15 3. Former Code section 3124 was renumbered Code section 3107 and amended by Stats.2005, c. 393 (A.B.488), § 30. Former Code section 3124 stated that it was unlawful to use any certificate that was *materially altered*.

16 4. Former Code section 3090, subdivision (b), was renumbered Code section 3110 and amended by Stats.2005, c. 393 (A.B.488), § 28. Former Code section 3090, subdivision (b), allowed the Board to discipline a licensee for *general unprofessional conduct*.

1 “(e) The commission of fraud, misrepresentation, or any act involving
2 dishonesty or corruption, that is substantially related to the qualifications, functions, or duties of
3 an optometrist;

4 “(f) Any action or conduct which would have warranted the denial of a license.

5
6 “(s) The practice of optometry without a valid, unrevoked, unexpired license^{5/};

7
8 “(v) Altering with fraudulent intent a license issued by the board, or using a
9 fraudulently altered license, permit certification or any registration issued by the board.”

10 12. Code section 480, states, in pertinent part:

11 “(a) A board may deny a license regulated by this code on the
12 grounds that the applicant has one of the following:

13 “(2) Done any act involving dishonesty, fraud or deceit with the intent to
14 substantially benefit himself or another, or substantially injure another; or

15 “(3) Done any act which if done by a licentiate of the business or profession in
16 question, would be grounds for suspension or revocation of license.”

17 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
18 request the administrative law judge to direct a licentiate found to have committed a violation or
19 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
20 and enforcement of the case.

21 14. Section 118, subdivision (b) of the Code provides, in pertinent part, that
22 the expiration, or forfeiture by operation of law, of a license issued by a board...or its surrender
23 without the written consent of the board, shall not, during any period in which it may be renewed,
24

25 5. Code section 3127 was repealed by Stats.2005, c. 393 (A.B.488), § 33, and renumbered
26 Code section 3110, subdivision (s).

27 6. Code section 3123 was repealed by Stats.2005, c. 393 (A.B.488), § 29, and renumbered
28 Code section 3110, subdivision (v). Former Code section 3123 required that the alteration be
material, but did not require fraudulent intent.

1 restored, reissued, or reinstated, deprive the board of its authority to institute or continue a
2 disciplinary proceeding against the licensee upon any ground provided by law or to enter an order
3 suspending or revoking the license or otherwise taking disciplinary action against the licensee.

4 FIRST CAUSE FOR DISCIPLINE

5 (Material Alteration of Certificate of Registration)

6 15. Respondent's Optometrist Registration and Branch Office License are
7 subject to discipline pursuant to Code sections 3078, subdivisions (c) and (d), 3090, 3106, 3110,
8 subdivisions (e) and (f), and 480, (a)(2) and (a)(3), in that Respondent committed unprofessional
9 conduct by knowingly altering a certificate of registration issued by the Board in a material
10 respect. The circumstances are as follows:

11 a. On or about March 31, 2004, Respondent's Certificate of Registration,
12 with Receipt No. 07400002 expired. On or about December 1, 2004, a complaint was filed with
13 the Board by Med Advantage/Epic Management, which is affiliated with Pinnacle Medical
14 Group, with whom Respondent once provided contracted optometry services. On or about April
15 27, 2004, Epic Management's Credentialing Department received a facsimile from Respondent
16 for credentialing purposes containing a falsified certificate of registration. The certificate of
17 registration contained the following information: Respondent's License No. OPT 8618;
18 Respondent's name and address of record; an expiration date of March 31, 2006; and, Receipt
19 No. 07401882.

20 b. A review of the Board's records indicated that Respondent was never
21 issued a Certificate of Registration with Receipt No. 07401882; and, in fact, no such receipt
22 number exists. A further review of the Board's records indicated that the Respondent was not
23 validly licensed in the State of California in or between March 31, 2004 and June 10, 2004, and
24 June 25, 2004 and December 17, 2004; as more fully discussed in paragraph 18, below.

25 c. On or about January 31, 2005, a Senior Investigator with the Department
26 of Consumer Affairs (Investigator) interviewed the Respondent regarding the allegations that he
27 had fraudulently altered the renewal certificate and submitted it to a health care provider as proof

28 ///

1. of active status. Respondent stated that, "I may have done something for insurance company
2. purposes, pending my license renewal. I had a lot of problems during this period of time."

3. **SECOND CAUSE FOR DISCIPLINE**

4. (Use of Counterfeited or Materially Altered Certificate of Registration)

5. 16. Respondent's Optometrist Registration and Branch Office License are
6. subject to discipline pursuant to Code sections 119, subdivision (a)(2), 3078, subdivisions (c) and
7. (d), 3090, 3110, subdivision (e) and (f), 3107 and 480, subdivisions (a)(2) and (a)(3), in that
8. Respondent committed unprofessional conduct by using and submitting a materially altered
9. certificate of registration to Epic Management's Credentialing Department, as more fully
10. discussed in paragraph 15, above.

11. **THIRD CAUSE FOR DISCIPLINE**

12. (Acts of Dishonesty)

13. 17. Respondent's Optometrist Registration and Branch Office License are
14. subject to discipline pursuant to Code sections 3078, subdivisions (c) and (d), 3090, 3110,
15. subdivision (e) and (f), and 480, subdivisions (a)(2) and (a)(3), in that Respondent committed
16. unprofessional conduct and acts of dishonesty, as more fully discussed in paragraph 15, above.

17. **FOURTH CAUSE FOR DISCIPLINE**

18. (Unlicensed Practice of Optometry)

19. 18. Respondent's Optometrist Registration and Branch Office License are
20. subject to discipline pursuant to Code sections 3078, subdivision (c) and (d), 3090 and 3110,
21. subdivision (s), and 3040, in that Respondent committed unprofessional conduct by engaging in
22. the unlawful practice of optometry in or between March 31, 2004 and June 10, 2004; and, in or
23. between June 25, 2004 and December 17, 2004. The circumstances are as follows:

24. a. On or about March 31, 2004, Respondent's Certificate of Registration
25. expired. On or about June 2, 2004, Respondent's renewal payment was received, and was
26. processed by the Board on or about June 10, 2004, on which date the Board issued Respondent
27. Renewal Certificate Receipt No. 00001425. However, on or about June 24, 2005, Respondent's
28. renewal payment check was dishonored. On or about June 25, 2004, the Board notified

Respondent that Renewal Certificate Receipt No. 00001425 was no longer valid. On or about October 27, 2004 the Board sent a cease and desist letter to Respondent as a result of Respondent's failure to pay renewal fees, and his failure to prove completion of his continuing education requirements. On or about November 22, 2004, the Board received a cashiers check from Respondent for his renewal fees. On or about December 17, 2004, the Board reinstated Respondent's Certificate of Registration with Receipt No. 00000533.

FIFTH CAUSE FOR DISCIPLINE

(Act of Dishonesty, Misrepresentation - Continuing Education)

19. Respondent's Optometrist Registration and Branch Office License are subject to discipline pursuant to Code sections 3078, subdivisions (c) and (d), 3090, 3106, 3110, subdivisions (e) and (f), and 480, subdivisions (a)(2) and (a)(3), in that Respondent committed unprofessional conduct and an act of dishonesty by knowingly misrepresenting and submitting a forged letter to the Board in connection with the certification of his continuing education requirements. The circumstances are as follows:

a. On or about December 13, 2004, the Board received a letter dated December 10, 2004, via facsimile from the Respondent, indicating that he had met all of his continuing education requirements. Included in the facsimile was a letter from Dr. Curtis Hoggarth, President of the Inland Empire Optometric Society, which certified that Respondent had completed twenty-eight hours of continuing education.

b. On or about February 8, 2005, the Investigator interviewed Dr. Curtis Hoggarth. Dr. Hoggarth indicated that he had not drafted or signed the letter in question. Dr. Hoggarth further stated that he signs his name with his middle initial 'C' and, that his last name is spelled with two 'G's.' The signature on the December 10, 2004 letter submitted by Respondent does not include a middle initial 'C', and, Dr. Hoggarth's last name is incorrectly spelled with only one 'G'.

c. On or about February 25, 2005, the Investigator interviewed Respondent. Respondent admitted that Dr. Hoggarth provided him with a list of continuing education courses he had completed. Respondent further admitted that he had, in fact, drafted and signed the

December 10, 2004 letter; and, that he had not obtained permission from Dr. Hoggarth to draft, and/or, sign a letter addressed to the Board. At that time, the Investigator had Respondent initial and date the December 10, 2004 letter next to the signature in order to verify that Respondent had prepared and signed the letter without Dr. Hoggarth's approval.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)


20. Respondent's Optometrist Registration and Branch Office License are subject to discipline pursuant to Code sections 3078, subdivisions (c) and (d), 3090 and 3110, in that Respondent committed unprofessional conduct through his acts as more fully discussed in paragraphs 15, 18 and 19, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged; and that following the hearing, the Board of Optometry issue a decision:

1. Revoking or suspending Optometrist Certificate Number OPT 8618, issued to Respondent Lawrence Edwin Young.
2. Revoking or suspending Branch Office License Number 6397, issued to Respondent Lawrence Edwin Young.
3. Ordering Respondent Lawrence Edwin Young to pay the Board of Optometry the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: 3/26/07


TARYN SMITH
Executive Officer
Board of Optometry
State of California
Complainant



STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



Certification of Non-Licensure

The undersigned, Mona Maggio, hereby certifies as follows:

That she is the duly appointed, acting and qualified Executive Officer of the Board of Optometry of the State of California, and that in such capacity she has custody of the official records of said board.

On this 21st day of February, 2012, the Executive Officer examined said official records of said Board of Optometry and found that that **LAWRENCE EDWIN YOUNG** graduated from the University of Houston, School of Optometry in 1986, and is the holder of Certificate of Registration to Practice Optometry No. 8618, which was granted to him effective October 2, 1986.

Said records further reveal that, effective February 12, 2011, as the result of disciplinary action taken in Case number CC 2004-59, the Board of Optometry revoked Certificate of Registration to Practice Optometry No. 8618.

Given under my hand and the seal of the State Board of Optometry, at Sacramento, California, this 21st day of February, 2012.

Mona Maggio
Executive Officer

§ 1516. Criteria for Rehabilitation.

(a) When considering the denial of a certificate of registration under Section 480 of the Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a certificate of registration, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b).

Note: Authority cited: Sections 3023, 3023.1 and 3025, Business and Professions Code.
Reference: Sections 475, 480, 481 and 482, Business and Professions Code; and Section 11522, Government Code.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Enforcement Staff

Telephone: (916) 575-7170

Subject: Agenda Item 3A. In the Matter of the Petition for Reduction of Penalty and Early Termination of Probation

Dr. Edward Rabb Nell, Petitioner, was issued Optometrist License Number 6522 by the Board on September 11, 1978. On August 11, 2010, the Board filed an Accusation against Petitioner charging him with violations of laws and regulations based on allegations of criminal convictions based on alcohol use. In a stipulated settlement agreed to by Petitioner, on February 18, 2011, Petitioner's license was revoked, the revocation stayed and the license placed on probation for five (5) years, subject to certain terms and conditions.

The Petitioner is requesting the Board to grant his Petition for Reduction of Penalty and Early Termination of Probation. He is not represented by an attorney.

Attached are the following documents submitted for the Board's consideration in the above referenced matter:

1. Petition for Reduction of Penalty and Early Termination of Probation
2. Copies of Stipulated Settlement and Disciplinary Order, Accusation
3. Probation Compliance Report
4. Certification of Licensure
5. California Codes and Regulations Section 1516 – Criteria for Rehabilitation

Edward R. Nell, O.D.

**179 Burns Avenue
Atherton, CA 94027**

January 11, 2012

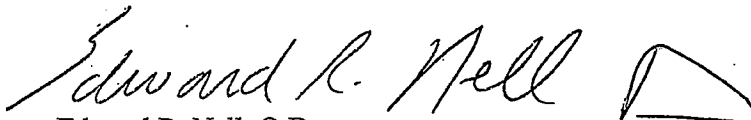
State Board of Optometry
2450 Del Paso Road Suite 105
Sacramento, CA 95834

Dear State Board.

I formally request an opportunity to appear before you at your earliest convenience. I have included the required documents for your review. I will be submitting letters of recommendation in the next few weeks. Please let me know if you have any questions or need any further documentation.

Thanks you for your consideration.

Sincerely,


Edward R. Nell, O.D.



Board of Optometry
 2420 Del Paso Road, Suite 255
 Sacramento, CA 95834
 (916) 575-7170/(866) 585-2666
www.optometry.ca.gov



**PETITION FOR REDUCTION OF PENALTY
 OR EARLY TERMINATION OF PROBATION**

No petition for reduction of penalty or early termination of probation will be entertained until one year after the effective date of the Board's disciplinary action. The decision of the petition will be made by the full Board and in accordance with the attached standards for reinstatement or reduction of penalty. Early release from probation or a modification of the terms of probation will be provided only in exceptional circumstances, such as when the Board determines that the penalty or probationary terms imposed have been excessive, considering both the violation of law charged and the supporting evidence, or when there is substantive evidence that there is no more need for the degree of probationary supervision as set forth in the original terms and conditions. As a rule, no reduction of penalty or early termination of probation will be granted unless the probationer has at all times been in compliance with the terms of probation.

PLEASE TYPE OR PRINT LEGIBLY

1. NAME (FIRST) (MIDDLE) (LAST)	Edward Rabb Nell	CERTIFICATE OF REGISTRATION NO.	OP6522T
2. ADDRESS (NUMBER) (STREET)	179 Burns Ave.	DATE OF BIRTH	03-07-1948
(CITY) (STATE) (ZIP CODE)	Atherton CA 94027	TELEPHONE	408 489 7400
3. PHYSICAL DESCRIPTION (HEIGHT) (WEIGHT) (EYE COLOR) (HAIR COLOR)	Average 6'1" 200 lbs. Brn. Grey		
4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGE(S) OF OPTOMETRY ATTENDED			
NAME OF SCHOOL University of California			
ADDRESS (NUMBER) (STREET) School of Optometry			
(CITY) (STATE) (ZIP CODE) Berkeley CA 94720			
5. ARE YOU CURRENTLY LICENSED IN ANY OTHER STATE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
STATE	LICENSE NO.	ISSUE DATE	EXPIRATION DATE

6. List locations, dates, and types of practice for 5 years prior to discipline of your California license.

LOCATION	DATE FROM	DATE TO	TYPE OF PRACTICE
110 Boyer Ln. Los Gatos, CA 95030	January 2006	February 2010	private practice / leave of absence
2603 S. Park Ln Santa Clara, CA 95051	March 2010	February 2011	leave of absence
179 Burns Avenue Atherton, CA 94027	February 2011	present	leave of absence

7. Are you or have you ever been addicted to the use of narcotics or alcohol? ☒ YES ☐ NO
8. Are you or have you ever suffered from a contagious disease? ☐ YES ☒ NO
9. Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction? ☒ YES ☐ NO
10. Have you ever been arrested, convicted or pled no contest to a violation of any law of a foreign country, the United States, any state, or a local ordinance? you must include all convictions, including those that have been set aside under Penal Code Section 1203.4 (which includes diversion programs) ☒ YES ☐ NO
11. Are you now on probation or parole for any criminal or administrative violations in this state or any other state? (Attach certified copies of all disciplinary or court documents) ☒ YES ☐ NO
12. Have you ever had disciplinary action taken against your optometric license in this state or any other state? *Only this action. Jan 1/11/2012* ☐ YES ☒ NO

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, YOU MUST ATTACHMENT A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

ON A SEPARATE SHEET OF PAPER PROVIDE THE FOLLOWING INFORMATION

13. List the date of disciplinary action taken against your license and explain fully the cause of the disciplinary action.
14. Explain fully why you feel your license should be restored, or the disciplinary penalty reduced.
15. Describe in detail your activities and occupation since the date of the disciplinary action; include dates, employers and locations.
16. Describe any rehabilitative or corrective measures you have taken since your license was disciplined to support your petition.
17. List all post-graduate or refresher courses, with dates, location and type of course, you have taken since your license was disciplined.
18. List all optometric literature you have studied during the last year.
19. List all continuing education courses you have completed since your license was disciplined.
20. List names, addresses and telephone numbers of persons submitting letters of recommendation accompanying this petition.

I declare under penalty of perjury under the laws of the State of California that the answers and information given by me in completing this petition, and any attachments, are true and I understand and agree that any misstatements of material facts will be cause for the rejection of this petition.

Date January 11, 2012 Signature Edward Lobb Pell

All items of information requested in this petition are mandatory. Failure to provide any of the requested information will result in the petition being rejected as incomplete. The information will be used to determine qualifications for reinstatement, reduction of penalty or early termination of probation. The person responsible for information maintenance is the Executive Officer of the Board of Optometry at 2420 Del Paso Road, Suite 255, Sacramento, California, 95834. This information may be transferred to another governmental agency such as a law enforcement agency, if necessary to perform its duties. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified confidential information and exempted by Section 1798.3 of the Civil Code.

ANSWERS TO QUESTIONS AND REQUESTS 7 - 20.

7. In June of 2008 it became clear to me that I was abusing alcohol. I started drinking heavily almost every day and became very reclusive. I took a leave of absence from private practice at that time. My drinking continued until December 2008 when I entered treatment; which continues to present. I have been sober since October 2009.

9. My inpatient treatment for alcoholism and PTSD are as follows:

I completed The Camp (Scotts Valley, Ca) drug and alcohol rehabilitation program January 16, 2009. At the VA, Menlo Park, Ca, I completed Foundation of Recovery Program, April 27, 2009, First Step Residential Rehabilitation Program, December 22, 2009, The Homeless Veterans Rehabilitation Program, November 8, 2010 and The National Center for the Treatment of PTSD, December 22, 2010.

My outpatient treatment is ongoing at the Mental Health Facility, Menlo Park VA.

10. My convictions/no contest pleas are as follows:

Santa Clara County Superior, Court Case No. CC930791
April 16, 2009

San Mateo County Superior Court, Case No. SM363900A
January 13, 2010

Santa Cruz County Superior Court, Docket N. W901090
June 15, 2000

11. I'm on court probation in Santa Clara County until April 16, 2012 and San Mateo County until January 13, 2013. I am in good standing in both cases. Both are documented in:

Case No. CC-2008-116
Mater of Accusation
State Board of Optometry/DCA vs. Edward Nell
August 11, 2010

13. Disciplinary action was initiated against my license on August 11, 2010. A Settlement and Disciplinary Order was ordered January 19, 2011 and became effective February 18, 2011.

The action was taken in response to DUI-misdemeanor convictions for two incidents. The first incident was December 17, 2008, the second, May 1, 2009. The first conviction date was April 16, 2009 and the second January 13, 2010.

In both cases, I was a grave danger to the public and to myself. Fortunately, I caused no harm to people or property.

I was guilty of unprofessional conduct and was a danger to the public in both of these instances. I was a potential danger to the public, had I been drinking or intoxicated while practicing Optometry. By my own admission, I was unfit to practice Optometry six months before the first incident and took a leave of absence from private practice.

14. I believe that I am no longer a danger to the public and fit to resume practicing Optometry without probationary restrictions. I have undergone 14 months of Inpatient treatment and 23 months of Outpatient treatment in the 37 months since the 12/17/08 DUI incident. I have been provably sober from alcohol and controlled substances since October 2009. I have undergone 37 months of individual and group counseling and taken hundreds of hours of classes regarding substance abuse and behavior modification. My individual work has centered on CBT (Cognitive Behavioral Therapy) and Mindfulness Treatment and Training. I will continue to attend support groups in the future and have access to individual counseling as needed.

15. Since the Disciplinary Action was effective (February 18, 2011), I have been doing volunteer work at the VA Menlo Park and the VA Palo Alto. I have assisted patients in the Long Term Care Facility with chaperoning to Hospital appointments, church activities and personal activities (reading, computer, movies, etc.). I assist current Inpatients at the HVRP (Homeless Veterans Rehabilitation Program) Facility regarding finding jobs, housing and benefits to help them transition back into mainstream life. I belong to the Menlo Park Mental Health Veterans Advisory Committee, the HVRP Alumni Association and am a founding member of the Peninsula Veterans Lions Club. I also belong to the Menlo Park Presbyterian Church where I volunteer and attend support groups.

16. I completed The Camp (Scotts Valley, Ca) drug and alcohol rehabilitation program January 16, 2009. At the VA Menlo Park, Ca, I completed Foundation of Recovery Program, April 27, 2009, First Step Residential Rehabilitation Program, December 22, 2009, The Homeless Veterans Rehabilitation Program, November 8, 2010 and The National Center for the Treatment of PTSD, December 22, 2010.

17/19. I have attended the following symposia/continuing education courses:

Berkeley Practicum, January 8 – 10, 2011 20 Hrs

Double Tree Hotel
Berkeley Marina
200 Marina Boulevard
Berkeley, Ca

Differential Diagnosis of Eyelid Lesions
Robert Kersten, MD

Research in Wellness and Longevity
John Swartzberg, MD

Making the Correct Diagnosis in Glaucoma
Joseph Sowka, OD

Glaucoma Grand Rounds
Joseph Sowka, OD

Glaucoma Treatment Decisions and Medication Considerations
Ben Gaddie, OD

Retina Grand Rounds
Arthur Fu, MD

Diagnosing and Treating Red Eye
Lee Schwartz, MD

Uveitis, Episcleritis and Systemic Diseases
Brian Kaye, MD

Diabetes and Ocular Complication
Bernard Dolan, OD, MS

Morgan/Sarver Symposium, April 29 – May 1, 2011 · 20 Hrs

~~Double-Tree Hotel~~
Berkeley Marina
200 Marina Boulevard
Berkeley, Ca

Glaucoma Updates and Cases
Ron Melton, OD and Randall Thomas, OD, MPH

E.N.T. and the Eye
Lorre Henderson, OD, MD

Glaucoma Treatment and Cases
Todd Severin, MD

Systemic and Ocular Allergies
Harry Green, OD, PhD
Optic Nerve Head Evaluation
Ronald Guiley, OD, MPH

Normal Tension Glaucoma
Ronald Guiley, OD, MPH

Intriguing Ocular Diseases and New Treatments
Harvey Fishman, MD, PhD

Brain Plasticity
Michael Merzenich, PhD

Familial Exudative Vitreoretinopathy
Tuschar Ranchod, MD

Berkeley Practicum, January 7 – 9, 2012 20 Hrs

Double Tree Hotel

Berkeley Marina

200 Marina Boulevard

Berkeley, Ca

Advances in Cateract and Corneal Surgeries

Bernd Kutzscher, MD

The Optic Nerve in Glaucoma

Douglas Anderson, MD

Most Challenging Cases

Les Walls, OD, MD, DOS

Age Related Macular Degeneration

Jay Haynie, OD

Glaucoma Updates

Richard Lewis, MD

Corneal Ulcers

Nisha Acharya, MD, MS

Retinal Diseases and OTC

Brandon Lujan, MD

Pain Management

Mika Moy, OD

Cristina Wilmer, OD

18. Literature as follows:

Journal of the American Optometric Association

2011 Clinical Guide to Ophthalmic Drugs

Drs. Melton and Thomas

Review of Optometry

Scientific American

Journal of Clinical Optometry

Journal of the American Academy of Optometry

20. Recommendations:

Susan Anderson, PhD
Clinical Psychologist
Homeless Veterans Rehabilitation Program
VA Palo Alto Health Care System
Menlo Park Division
795 Willow Road
Menlo Park, Ca 94025
650 493 5000

Ed Bridges
Chairperson: Menlo Park VA Mental Health Volunteer Committee
1496 West Bayshore Road Ste 3
East Palo alto, Ca 94303
650 630 0978

Al Russell
Past District President
Lions Club International
Address to come
650 2082648

Rose Marie Geiser, RN, MSN
VA Palo Alto Health Care System
Menlo Park Division
Mental Health Clinic
795 Willow Road
Menlo Park, Ca 94025
650 493 5000



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PROBATION COMPLIANCE REPORT

Name of Optometrist: Dr. Edward Nell, O.D.
Case #: CC 2008-116
OPT License: #6522

Probation Monitor: Jessica Sieferman

Jurisdictional Document: Stipulated Settlement and Disciplinary Order

Term of Probation: February 18, 2011 – February 18, 2016

Disclaimer: This report was prepared on February 8, 2012 and reflects compliance up to this date. Compliance is based upon documentation contained in Dr. Nell's complete probation file. The complete probation file (100+ pages) can be made available to Board members upon request.

1. Obey All Laws

Compliant. The Board has not received any subsequent arrest notifications or any indication of breaking any federal, state, or local laws. In addition, Dr. Nell has been compliant with all rules governing the practice of optometry.

2. Cooperate with Probation Surveillance

Compliant. Dr. Nell has been fully cooperative and compliant with the probation program.

3. Tolling of Probation if Respondent Moves Out-of-State.

Compliant. Dr. Nell has not reported ever moving out of state during his probation.

4. Completion of Probation

Upon successful completion of Probation, Dr. Nell's license will be fully restored.

5. Violation of Probation

The Board has not filed any Accusations or a Petition to Revoke Probation during Dr. Nell's probation. Should the Board file an Accusation or Petition to Revoke during Dr. Nell's probationary term, the Board shall have continuing jurisdiction or the period of probation shall be extended until the matter is final.

6. Drugs – Abstain From Use

Compliant. Dr. Nell has abstained from all controlled substances, except when legally prescribed by a licensed health care professional.

7. Drugs – Exception for Personal Illness

Exception Used. Dr. Nell provided the Board with a list of lawfully prescribed medications at the commencement of his probation and continually updates his list for the Board. The medications can be

made available to Board members upon request. Two medications are listed as part of Dr. Joyce Nash's report in Attachment #1 described under condition #14.

8. Lens Prescriptions – Maintain Records

Currently Not Applicable. Dr. Nell has not practiced optometry since the commencement of his probation. Therefore, he has no medical records to maintain.

9. Alcohol – Abstain From Use

Compliant. As indicated by random drug testing through Phamatech, Dr. Nell has fully abstained from alcohol consumption.

10. Biological Fluid Testing

Compliant. Dr. Nell has submitted to biological fluid testing since the commencement of his probation. He has not tested positive for any alcohol or drugs that were not prescribed by a health care professional.

11. Community Services – Free Services

Compliant. Dr. Nell provides free non-optometric services to the Menlo Park VA. Dr. Nell's community service coordinator has provided the Board with quarterly Verification of Community Service reports verifying Dr. Nell has consistently volunteered over the 20 hours per month required by his Order.

12. Education Course (in the areas of alcohol and substance abuse)

Compliant. Dr. Nell has completed several alcohol and substance abuse courses through the VA.

13. Reexamination

Compliant. Dr. Nell passed the California Laws and Regulations Exam on his second attempt.

14. Psychiatric or Psychological Evaluation

Compliant. While his Order required Dr. Nell to complete his evaluation within 30 days, the Board agreed to let Dr. Nell undergo his evaluation when he starts considering returning to practice and/or before he petitions for modification or early termination of probation. Dr. Nell completed a psychiatric evaluation on January 5, 2012. Dr. Joyce D. Nash, Ph.D. provided her evaluation report for the Board members; the evaluation of Dr. Nell is not included in the public portion of this report (**Attachment #1**).

15. Psychotherapy

Compliant. Dr. Nell continues to attend psychotherapeutic sessions at the Palo Alto VA. The Board receives periodic reports on Dr. Nell's therapy sessions from the VA. The reports are included for the Board members (**Attachment #2**).

16. Monitoring

Currently Not Applicable. As previously stated under Condition #8, Dr. Nell has not practiced optometry since the commencement of his probation. In a letter from Dr. Nell, dated March 12, 2011, Dr. Nell stated he will continue to take a leave of absence from optometry "until at least March 7, 2011." Until Dr. Nell returns to practice, he will not have a practice to monitor.

17. Drug, Alcohol, or Other Chemical Abuse Counseling and Treatment

Compliant. Dr. Nell has completed the following counseling and treatment programs through the VA:

- Foundations of Recovery (3/30/09-4/27/09)
- First Step (10/20/09-12/24/09)
- The Camp Recovery Center (12/18/09-1/17/09) (**Attachment #3**)

- Homeless Veterans Rehabilitation Program (6/7/10-11/08/10) (Attachment #4).
- Men's Trauma Recovery Program (11/08/10-12/29/10)



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Certification of Licensure

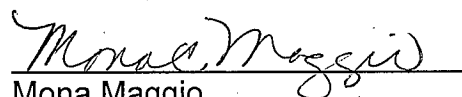
The undersigned, Mona Maggio, hereby certifies as follows:

That she is the duly appointed, acting and qualified Executive Officer of the Board of Optometry of the State of California, and that in such capacity she has custody of the official records of said board.

On this 21st day of February, 2012, the Executive Officer examined said official records of said Board of Optometry and found that **Edward Rabb Nell** graduated from the University of California, School of Optometry in 1978, and is the holder of Certificate of Registration to Practice Optometry No. 6522, which was granted to him effective September 22, 1978. Said Certificate of Registration is currently in full force and effect and will expire on March 31, 2012 unless renewed. The current address of record for said Certificate of Registration is 179 Burns Ave, Atherton CA 94027.

Said records further reveal that, effective February 18, 2011, as the result of disciplinary action taken in Case number CC 2008-116, the Board of Optometry revoked Certificate of Registration to Practice Optometry No. 6522. However, the revocation was stayed and the Certificate was placed on probation for a period of five (5) years.

Given under my hand and the seal of the State Board of Optometry, at Sacramento, California, this 21st day of February, 2012.


Mona Maggio
Executive Officer

§ 1516. Criteria for Rehabilitation.

(a) When considering the denial of a certificate of registration under Section 480 of the Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a certificate of registration, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b).

Note: Authority cited: Sections 3023, 3023.1 and 3025, Business and Professions Code.
Reference: Sections 475, 480, 481 and 482, Business and Professions Code; and Section 11522, Government Code.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Enforcement Staff

Telephone: (916) 575-7170

Subject: Agenda Item 4 – Full Board Closed Session

Pursuant to Government Code Section 1126(c)(3), the Board will meet in closed session for discussion and possible action on disciplinary matters.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Dr. Lee Goldstein, O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 5– President’s Report

- A. Welcome and Introductions
- B. Other

2420 Del Paso Road, Suite 255
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Dr. Lee Goldstein, O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 6 – Approval of Board Meeting Minutes

Review and possible approval of the December 2, 2011 Board Meeting Minutes.



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Meeting Minutes

Friday, December 2, 2011
Southern California College of Optometry
TVCI Conference Room
2575 Yorba Linda Boulevard
Fullerton, CA 92831

Members Present

Lee Goldstein, OD, MPA
Board President
Alejandro (Alex) Arredondo, OD
Board Vice President
Fred Naranjo, MBA, Public Member
Kenneth (Ken) Lawenda, OD
Alexander (Alex) Kim, MBA, Public Member
Donna Burke, Public Member

Staff Present

Mona Maggio, Executive Officer
Andrea Leiva, Policy Analyst
Jeff Robinson, Licensing Analyst
Michael Santiago, Senior Staff Counsel
Anahita Crawford, Deputy Attorney General

Guest List

On File

Members Absent (Excused)

Monica Johnson
Board Secretary

Friday

9:00 a.m.

FULL BOARD OPEN SESSION

Call to Order – Establishment of a Quorum

Board President, Lee Goldstein, O.D. called the meeting to order at 9:12 a.m. Dr. Goldstein called roll and a quorum was established.

1. President's Report

A. Welcome and Introductions

Dr. Goldstein welcomed everyone in attendance. He asked the Board members and members of the public to introduce themselves.

B. Update on Glaucoma Certification Courses from the California Schools and Colleges of Optometry

Dr. Goldstein announced that this is an informational item. Updates on the courses will be provided by members of the schools of optometry.

The Southern California College of Optometry (SCCO), Associate Professor, Dr. George Comer explained that SCCO is involved with providing the two course formats for individuals desiring to become glaucoma certified (Grand Rounds and Case Management). He reported that they have provided two clinical Grand Rounds Courses to date. SCCO has four glaucoma certified faculty providing education via the co-management of live patients Every applicant/student treats 16 patients under the co-

management of the glaucoma certified faculty by completion of the course. An overview of present patient care is initially provided, followed by step-by-step discussions regarding major clinical factors in patient management and decision making (i.e. when to decide to prescribe another medication, when to decide to go to cataract surgery, etc.). This entire process is highly interactive. The Case Management course (which is a lecture course) follows the same format, but without the live patients. It is presented in a classroom with all slides, yet maintains the same strategy of involving the attendees in the process of analyzing a case step-by-step throughout the entire process.

SCCO Director of Continuing Education, Susan Atkinson explained that the last hour of the Case Management Course is dedicated to an examination. She noted that SCCO provided a course in May, August and October and SCCO was the administrator for the 16-Hour Case Management Course given at the Monterey Symposium. All-in-all SCCO had about 702 attendees with a 98 percent pass rate.

Dr. Atkinson opened the floor to questions.

Dr. Goldstein and Dr. Comer discussed the “hands on” process of the Grand Rounds Course.

The question was asked and Ms. Atkinson explained that SCCO prefers and strongly encourages optometrists to complete the 24 Hour Didactic Course prior to taking the Grand Rounds and Case Management courses. The didactic course provides necessary foundational education and nobody is allowed to take the SB 1406 newer courses until they have taken the 24-Hour Didactic Course.

Dr. Goldstein opened the floor to further comments and there were none.

Western University of Health Sciences College of Optometry’s Founding Dean, Elizabeth Hoppe, provided an overview of their course programs. She stated that their approach is very similar to SCCO’s. Western University has provided one 24-Hour Didactic Course, two 6-hour Case Management Courses, and two Grand Rounds Courses to date. They have had 20 to 40 participants per class.

Dr. Hoppe added that in their first Grand Rounds delivery they had 17 live patients present. The format is similar to that presented by Dr. Comer with hands-on learning and an emphasis on higher level critical thinking and decision making applied. In their second Grand Rounds offering they had 22 live patients present.

Dr. Goldstein opened the floor to questions or comments and there were none.

Policy Analyst, Andrea Leiva distributed to the Board Members written reports provided by Dr. Ed Revelli, O.D. and Dr. Patsy Harvey, O.D. from the University of California Berkeley, School of Optometry (who were not present). Dr. Goldstein provided an overview of Berkeley’s program. Their Case Management Course is conducted online. They do not yet have data on the number of course attendees or passage rate as the full online course has only been in effect for less than one month. However Dr. Goldstein noted that he believes everyone who has taken the course has passed. Dr. Goldstein

explained the course utilizes 50 cases of varying types of glaucoma and degrees of severity.

Dr. Goldstein reported that he and Dr. Ken Lawenda attended the Berkeley Grand Rounds Course at the end of October. They found the course to be very robust and consistent with the other schools programs. Dr. Goldstein stated his opinion that they are all quite good, thorough, robust programs and all of the schools have met the intentions of the Board.

C. Other

Dr. Goldstein summarized the monthly conference calls that the Department of Consumer Affairs (DCA) has with the various health care boards on the second Tuesday of each month. Topics discussed during these calls include the BreEZe project, enforcement statistics from the various boards, and financial troubles of the State of California.

He announced that he and Dr. Alex Arredondo attended the Legislative Committee meeting on November 18, 2011. Dr. Goldstein recommends that Dr. Arredondo continue to participate in the legislative committee.

Dr. Goldstein opened the floor to discussion of issues not on the agenda and there were none.

2. Approval of the September 16, 2011 Board Meeting Minutes

Board members were asked to review and approve the draft minutes from the September 16, 2011 meeting.

Ken Lawenda moved to approve the minutes. Fred Naranjo seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

3. Executive Officer's Report

Executive Officer, Mona Maggio reported on the following:

Accreditation Council on Optometric Education (ACOE)

Ms. Maggio presented for Board members review the report of the ACOE's fall meeting held October 21-23, 2011 in St. Louis Missouri updating the recent actions of the Council.

Assembly Bill 1424

This relates to delinquent tax list(s) from the Franchise Tax Board and Board of Equalization. The DCA is working on a centralized process similar to how family support matters are dealt with including suspending professional licenses until defaults are

cleared. DCA legislation unit and legal office are working to develop the language for insertion into renewal notifications.

Board Meeting Dates for 2012

Board members were asked to review a calendar provided and schedule meeting dates for the 2012 calendar year. The dates were scheduled as follows:

- May 18, 2012 in Bay area
- November 24, 2012

Board Members

Ms. Maggio announced that there are currently three professional member vacancies. She has been contacted by the Appointment's Office of the Governor regarding applicants. It is anticipated that appointments will be made for DCA in January and February 2012.

BreEZe

Ms. Maggio reported that the BreEZe Project Launch Event was held on October 26, 2011. The purpose of this event was to celebrate the signing of the contract and to launch the beginning of the project's analysis and design phases. She noted that this is the third attempt the department has had (that she's aware of) in twenty five years to change the databases that the department has been using. The benefits of this replacement database system include:

- Applicants and licensees will be able to create their own accounts
- Applicants will be able to complete and send their applications online
- Applicants will be able to change their user profile details (e.g. address, email changes)
- Licensees will be able to apply for various certifications online
- Licensees will be able to make online renewal payments with their credit cards

Next Steps

Town Hall meetings will be scheduled with all DCA staff to keep employees informed and up-to-date on the system. Ms. Maggio stated that three staff are very dedicated to this project. Andrea Leiva serves as a member of the Forms Workgroup. Jessica Siefertman serves as a member of the Project Business Team and Reports Work Group. Ms. Siefertman spends two to three days a week working on the BreEZe project. Cheree Kimball provides knowledge and experience on statistics and reports.

Budget

Ms. Maggio presented current budget figures for Board member review. She stated that the budget office is performing mid-year revisions so the numbers may change slightly however the Board's budget looks good. Ms. Maggio reported that she submitted two Budget Change Proposals (BCPs) to the Department of Finance this year. The department had 23 BCPs and 17 were rejected. One of the Board's BCPs was approved. Ms Maggio is appealing the one that was not approved.

Executive Orders

Ms. Maggio reported that Executive Order B-06-11, issued on April 26, 2011, by Governor Brown which restricts in-state and out-of-state travel, remains in effect. Specifically, no travel will be permitted unless it is mission critical or at no cost to the

state. This is the first time in a number of years that staff was unable to attend the Monterey Symposium Conference.

Another Executive Order B-03-11, issued on February 15, 2011 placed a restriction on hiring. Ms. Maggio reported that the DCA has been relieved from the hiring freeze. Hiring may resume for mission critical positions. Ms Maggio has four positions that she has been seeking to fill. Only the Staff Services Manager position has been approved. In a week or two she will be advertising and recruiting to fill that position.

Sunset Review

Ms. Maggio reported that although the Board is not up for Sunset Review until 2014, staff is monitoring the reports that have been filed by boards currently going through the legislative review process.

Dr. Goldstein opened the floor to questions.

Dr. Lawenda asked, regarding AB 1424 (suspension of license for delinquent child support, taxes, etc.), if other states are doing the same. Ms. Maggio replied that she does not know that answer, however the family support issue has been in place with the department for about 10-15 years.

Board member, Alex Kim noted the lack of logic in suspending a license so the licensee cannot practice and make money to pay their delinquent tax or child support.

4. Legislation and Regulation

A. Report of November 18, 2011 Committee Meeting

Ms. Leiva provided a summary of what was discussed at the November 18, 2011 Legislation and Regulation Committee Meeting. The committee is composed of Dr. Goldstein and Dr. Arredondo.

B. Regulation Update

1. Status of California Code of Regulations (CCR) §1575. Disciplinary Guidelines

Ms. Leiva reported that this regulation was sent to the Office of Administrative Law (OAL) on October 21, 2011 and is almost at the close of the 45-day public comment period. No comments have been received at this time. A regulatory hearing is being held on December 6, 2011.

Dr. Goldstein opened the floor to questions or comments and there were none.

2. Discussion of Comments Received During the 45-day Comment Period of CCR §1525.1. Fingerprint Requirements, 1513 Registered Name Only, and 1514 Renting Space from and Practicing on Premises of Commercial (Mercantile) Concern

Ms. Leiva provided an overview. The issue came about because upon review of various optometrist websites, signage and advertising, it was found that it has become a common practice for optometrists to alter their names, without notifying the Board, by either using a nickname, using a new married name, or using a completely different name because their name is too long, or ethnic (i.e., Nguyen Anh-Hong Hoang).

The proposed Modified Text provides two options for the optometrist: 1) use their name as registered with the Board, or 2) or use their name of preference (without too much deviation from the registered name) and their license number.

The Board approved the proposed regulatory language at its April 11, 2011 meeting. The proposed regulatory language was noticed on the Board's website and mailed to interested parties on May 27, 2011 initiating the 45-day public comment period. The comment period began on May 27, 2011 and ended on July 11, 2011. A regulatory hearing was held on July 11, 2011, in which there were no attendees or additional comments received. One comment was received via e-mail from Craig Steinberg, OD, JD pertaining to CCR §1513 and §1514.

At its September 16, 2011 meeting, the Board partially reviewed the comment received during the 45-day comment period. The Board voted to discuss the comment received further at its next public meeting on December 2, 2011. The deadline to submit the final rulemaking to the OAL is May 27, 2012.

Dr. Goldstein believes this will not apply to a subset of optometrists, rather nearly every optometrist will be affected.

Ms. Leiva stated that other healthcare professions give their licensees the option of using their full registered name or their license number for their advertising methods. Staff has used these healthcare professions as a model for the language. Ms. Leiva also noted that the primary issue is consumer concern. Staff must be able to locate the optometrists.

Public member, Fred Naranjo added that, from his (public) perspective, it is very important for consumers to have the professional's license number information.

Dr. Stephen Langsford, O.D., public guest, had concerns about this issue. He stated that making optometrists use their full given name is unreasonably burdensome and confusing to the public. It also creates an undo financial burden on the practitioners (e.g. changing signs, cards, stationary, etc.).

Harue Marsden, Associate Professor at SCCO responded by stating she would have originally agreed with Dr. Langsford. However, the duplication of student names is becoming increasingly difficult to differentiate. An email address may require searching through multiple middle initials and spelling out the name for differentiation. The duplicity of names is becoming more cumbersome from a regulatory stand point .

Ms. Leiva and Ms. Maggio explained the complaint process to further emphasize that this proposed regulation will reduce confusion among licensees, and the amount of staff time spent on complaints related to name confusions, which are oftentimes considered "unlicensed activity". Board members and staff discussed this issue.

Mr. Naranjo asked if it is easier to search for an optometrist on the Board's License Look-Up Tool if they include their license number. Ms. Leiva responded that yes, it is easier because only one specific optometrist is the final search result, not multiple.

Dr. Goldstein shared that this is becoming a greater issue now that optometrists are practicing at multiple locations. The doctors do not have signs on the door with their name on it if they are just filling in. That topic will be dealt with in a later agenda item. Given the Board's current capabilities, this proposed regulation is the best way to deal with this issue.

Dr. Langsford suggested that the regulation include some language that permits for the implementation time of the regulation and making optometrists aware of the new requirements. He would like to see some sort of advertising campaign that makes consumers aware to look for a license number accepting treatment from an optometrist. Staff assured that outreach efforts would definitely be undertaken at least six months in advance of the regulation's effective date, and upon its effective date, some sort of campaign to increase public awareness.

Mr. Naranjo shared his own experience when he was required to include his license number in his advertisements. At first he felt like Dr. Langsford because of the cost, but it was a one time thing, and now it's no big deal. He later understood, and hopes Dr. Langsford will understand as well, that this type of requirement is meant to help the consumer and allow the Board to efficiently do their job. The number will follow the optometrist wherever they go, and while their name may have variations, the number will always remain the same. That is the basis of this regulation.

Public Member Alex Kim also concurred that including the license number is important. Coming from the Asian/Pacific Islander Community, the name issue can be very confusing. He also shared that it is good for the Board to be consistent with other Boards, and he wouldn't be surprised if in the near future, an Assembly Member or Senator proposed legislation that would require all professions to include their license number in advertising.

Professional Member Alex Arredondo, O.D. shared that in the Hispanic community where he practices, there is a lot of unlicensed activity when it comes to vision services. It is upsetting, especially because the public doesn't know that these people are unlicensed, and how to get help. He hopes this proposed regulation will help prevent this illegal activity.

Donna Burke moved to approve the modified text of CCR §1513 and begin the 15-day comment period. Fred Naranjo seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

Donna Burke moved to approve the modified text of CCR §1514 and begin the 15-day comment period. Fred Naranjo seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

Donna Burke moved to approve the proposed responses to the comment received during the 45-day comment period and to delegate authority to the Executive Officer to adopt the modified text of sections 1513, 1514 and 1525.1 at the expiration of the 15-day comment period provided no adverse comments are received. Ken Lawenda seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

C. Discussion and consideration of Pending Legislation that May Impact the Practice of Optometry or the Functions of the Board of Optometry

Assembly Bill (AB) 778, LensCrafters

Dr. Goldstein announced that in previous discussions of this agenda item, Dr. Lawenda had recused himself. It is the recommendation of counsel and staff that Dr. Lawenda recuse himself again due to a possible conflict of interest.

Dr. Lawenda responded by explaining his function as mediator and emphasizing that protection of the public is imperative. He stated that regardless of what happens with AB 778 protection of the public comes first.

After a brief discussion between Drs. Goldstein, and Lawenda, Dr. Lawenda decided to remain for the discussion and not recuse himself.

Dr. Goldstein announced that the current position of the Board on this issue is an opposed position. He added that the Attorney General's Office is still in an opposed position. On January 23, 2012 this case will be going back to court where the oral arguments will be heard. A meeting for January 18 has been set for the Board to discuss concerns with the bill's author, Assemblymember Toni Atkins..

Deputy Attorney General (and Legal Counsel to the Board) Annahita Crawford

provided a legal background.

Dr. Goldstein opened the floor to questions or comments.

A representative of Lenscrafters reported on concerns of the Board and Attorney General's (AG's) Office and how Assembly Bill (AB) 778 is addressing those concerns.

Dr. Goldstein invited representative for Lenscrafters, Kathryn Austin Scott to comment.

Ms. Scott commented by relating board concerns and sections of the AB 778 that she believes addresses them. She noted that their goal is to create a statutory firewall between Lenscrafters and Eyexam of California to ensure that the clinical judgement of the optometrist isn't affected in any way.

Chairman of the Board of Directors for Eyexam of California, Wally Lovejoy, Ms. Scott & Dr. Goldstein discussed various scenarios of the business relationship.

Dr. Goldstein opened the floor to Board members and members of the public.

Dr. Turetsky related his past experience as Clinical Director of Pearl Vision Care of California. His job was to be the "fire wall" that ensured Pearl Vision (Optical) did not interact with Pearl Vision Care (doctor group) and have any undue influence. Dr. Turetsky stated that he has a number of friends and several employees who currently work or have worked for Lenscrafters. He reported that Lenscrafters does perform a secret shopper audit to make certain the doctors are asking certain questions or informing the patient of information that would lead the patient to want to purchase certain products and/or services from Lenscrafters. He noted that Lenscrafter's claims that there is no undue influence are not true. Dr. Turetsky also reported on activities that occur (at a store level) between the store manager and the optometrists.

Mr. Naranjo reported that he didn't see or experience any of this kind of behavior when he had his eyes checked at Lenscrafters. He noted that he never mentioned that he is on the Board.

The attorney for Lenscrafters reported that he has never received complaints along these lines but if he did, action would be taken because his job is to protect the company. He denied that Lenscrafters has secret shoppers and would be happy to provide an affidavit.

Dr. Goldstein announced that this is a continuous matter and will appear on the next agenda. He thanked the representatives for attending today's meeting.

D. Discussion and Consideration of Legislative Proposals for 2012 Legislative Session

Temporary Practice

Ms. Leiva provided an overview of Business & Professions Code (BPC) §3070.

BPC §3070 requires optometrists to notify the Board of every practice location. Additionally, BPC §3075 requires optometrists to post evidence of licensure at every

practice location. BPC §3070 (b)(1-4) establish exemptions to this rule for optometrists working in certain, defined, “temporary practice” settings. “Temporary practice” is currently not defined and pursuant to BPC §3070 (e), it is the Board’s responsibility to define it.

Initially, staff believed that the requirement to define temporary practice signified defining each subsection in (b)(1-4). However, upon further investigation and discussion in 2009 with the previous Director of Government and External Affairs from the California Optometric Association (COA), subsections (b)(1-4) are completely exempt from the notification requirement. Subsection (b)(5) already has its own definition for temporary practice, but this section only applies to situations when an optometrist is ill or on temporary leave, such as vacation.

Ms. Leiva explained that despite the exemptions in BPC §3070 (b)(1-5), there continues to be confusion among optometrists on how they must notify the Board of their practice location.

Ms. Leiva summarized the concerns leading up to staff’s proposed language (examples of current optometric practice and confusion in interpretations of BPC §3070 (b)(1-5).

Dr. Goldstein noted the challenges in defining “temporary practice”. He added that staff’s proposed language seems reasonable.

Board member, Donna Burke asked why the language doesn’t state “temporary practice is defined as for those who are ill or taking short term vacation. Ms. Maggio explained that temporary practice could be for something else outside their normal practice (e.g. attending conference, jury duty etc.).

Representative of the California Optometric Association (COA), Kristine Shultz expressed her concern as to how this issue may impact volunteer work. Ms. Maggio explained that there is a whole other volunteer designation and it will be addressed at the next meeting.

Dr. David Turetsky expressed his concern about how the modified language would affect a completely mobile arrangement such as his own. Ms. Leiva assured him that it would not affect his mobile structure because he has a brick and mortar location and a statement of licensure (SOL). Furthermore, BPC §3070.1 addresses his type of practice. He suggested that in practices such as his own, it may be a good idea to have and SOL that directs the consumer to the Board. Additionally he noted that mobile optometrists should be providing the Board with a list of every facility they service.

Ken Lawenda moved to go forward with possible legislation of the amended language of B&P § 3070 as the starting position. Fred Naranjo seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		

Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

Retired License Status

Ms. Maggio provided an overview.

The Board receives numerous inquiries and requests from licensees regarding a retired license for optometrists retiring from practice. Currently, the Board does not have a retired license status available to its licensees. If a licensee retires from practice he or she can do one of the following:

- 1) Request that the license be placed on inactive status and pay a biennial renewal fee of \$425. A licensee in inactive status may not engage in practice and is exempt from continuing education requirements. The license may be reactivated to active status by paying the license renewal fee, if due, and delinquent fees, if any, and submitting proof of completion of continuing education.
- 2) Allow the license to expire. This means the licensee has decided to not pay the renewal fee and complete the required number of Continuing Education (CE) hours for the license type. A license that is in delinquent status for three years will require numerous steps to reactivate the license which may include back-paying all of the delinquent renewal and penalty fees and retaking the California Laws and Regulations Exam (CLRE). If a license remains in expired status for 120 months the Consumer Affairs Systems (CAS) database cancels the license and it can no longer be renewed. The optometrist must then comply with the requirements for reinstatement as defined in BPC section 3147.6, Restoration of Certificate Following Failure to Renew Within Specified Period.

The two primary complaints from licensees with respect to the license status options available to them upon retirement are:

- Renewing with an inactive status requires paying an inactive renewal fee every two years when the optometrist does not intend to ever practice again; and,
- If a licensee allows the license to expire, the Licensee Look-Up Tool on the Board's website labels the license status as "Delinquent" until the license is cancelled after 120 months, at which time the license status is "Cancelled".

Staff brought proposed language to the Legislation and Regulation Committee Meeting and discussed this issue with Members and members of the public who were present.

The retired status allows an optometrist to cease from practicing optometry, not participate in CE, and not pay the biennial renewal fee without canceling the license. The license would reflect "retired" as opposed to "delinquent" or "expired".

Donna Burke moved to move forward with potential legislation. Alex Kim seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		

Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

Retired License Status and Volunteer Designation

Ms. Maggio provided an overview of this legislative proposal. She explained that staff has received a couple of inquiries about the possibility of an optometrist retiring yet maintaining some kind of license allowing him/her to perform volunteer services without compensation. The Medical Board has this type of designation so staff looked at their requirements while developing this proposal.

Ms. Maggio outlined the requirements necessary to allow an optometrist to apply for this designation.

Dr. Goldstein emphasized that continuing education would be required of optometrists who are retired but wish to volunteer services.

Board members, staff and members of the public discussed the volunteer designation, certifying continuing education versus sending proof, possible confusing wording of the proposed language, type of ocular testing volunteers may perform, reinstatement of license, and liability.

Alex Arredondo moved to move forward with the proposed language of §3151.1. Fred Naranjo seconded. The Board voted (5-Aye; 0-No; 1-Abstention) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda			X
Mr. Kim	X		
Ms. Burke	X		

Potential Omnibus Bill Statutes

Ms. Leiva reported that the changes to this bill are minor, non-controversial and for clarity and clean-up purposes only. If approved, these proposed amendments will be submitted to the Business, Professions and Economic Development Committee by December 12, 2011, so that they may be included in the omnibus bills when they are introduced in early January 2012.

BPC 3057.5 – Eligibility of Graduates from Foreign Universities

Ms. Leiva explained that this change is simply staff preference to make the language more specific. Requirements of foreign graduates are not being changed.

BPC 3147.6 – Restoration of Certificate Following Failure to Renew Within a Specific Time Period

Ms. Leiva reported that all of the other provisions require that the holder of the expired license submit proof of completion of having completed the required number of

continuing education hours within the previous two years. This language is missing from BPC 3147.6 which was an oversight of last year's omnibus bill.

BPC 3147.7 – Applicability of Provisions to Out-of-State Licensees

Staff wishes to add the requirement that they also submit verification of current license status from the Board of Optometry of the state from which they are currently practicing. This is already a requirement but staff wishes to give it a force of law by adding the language.

Alex Arredondo moved to recommend the Board include amendments to omnibus bill. Ken Lawenda seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda			X
Mr. Kim	X		
Ms. Burke	X		

E. Discussion Pertaining to American Board of Optometry (ABO) Board Certification Program

Ms. Leiva reported that this was discussed at the Legislation and Regulation Committee meeting. The ABO has developed a computer-based Board Certification Examination to assess the ongoing competence of optometrists state-wide so that they can become ABO Board Certified. The centers for Medicare/Medicade accept the certification and provide an increase in reimbursement.

The ending result of the committee meeting and the recommendation of the Board is to keep this issue in a "watch" status. Further development is needed. Additionally, while the committee supports continued competency, it will not mandate it for the Board's purposes at this time. Board staff recommended that a workgroup be developed to explore this issue further and the committee, and the Board, accepted that suggestion.

Dr. Goldstein opened the floor to questions or comments.

Drs. Lawenda and Goldstein, and Ms. Maggio discussed obtaining input from the Board Certification Program from the Association of Regulatory Board of Optometry (ARBO).

Dr. Goldstein noted that this issue is potentially problematic for initiating confrontations between the Board and members of the profession and requires further study.

Dr. Goldstein, Members, and members of the public discussed the importance of continued competency and improving what is required of the Board to ensure that this occurs.

F. Discussion and Possible Action Pertaining to Final Administration of Therapeutic Pharmaceutical Agents Didactic Course

Licensing Analyst, Jeff Robinson reported that there has been a renewed interest from a number of optometrists who have not received therapeutic pharmaceutical agent (TPA) certification seeking to become TPA certified. This renewed interest along with the fact that California schools/colleges of optometry no longer provide a TPA Didactic Course, have influenced staff to recommend to the Board and California's schools/colleges of optometry the possibility of once again providing the TPA Didactic Course to the approximately 700 currently-licensed or recently expired licensees listed without TPA certification.

G. Discussion and Possible Action to Amend California Code of Regulations (CCR) §1536 to Allow Therapeutic Pharmaceutical Agents (TPA) Certified Optometrists to Earn 50% of Continuing Education Credits by Internet or Correspondence Courses

Mr. Robinson reported that since the discussion of this subject matter at the September 16, 2011, Board meeting, staff has reviewed the continuing optometric education (CE) requirements of the other 49 US states and the District of Columbia. Based upon the findings, it appears that the Board can and should accept whatever method of completion of CE they deem to be suitable for California's licensed optometrists.

Board members, staff, and members of the public discussed allowing 25 hours of correspondence education versus the 20 hours currently allowed.

H. Discussion and Possible Action to Amend CCR§1568 TPA Certification Requirements Pertaining to Optometrists Licensed in Another State

Mr. Robinson reported that after further review of this item, it was found by staff that no amendments are necessary. Staff can continue to follow already established procedures as usual.

5. Review and Possible Approval of Revised Board Member Administrative Procedures Handbook

Board members agreed that the handbook has been very helpful and that staff did a great job.

Donna Burke moved to approve the revised handbook. Ken Lawenda seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

6. Discussion and Possible Action Pertaining to the National Practitioners Data Bank Continuous Query

This agenda item was pulled from this meeting because Probation Monitor, Jessica Sieferman is currently on maternity leave.

7. Public Affairs

A. Report of October 18, 2011 Public Affairs Committee Meeting

Ms. Maggio reported that the Public Affairs Committee (which consists of Mr. Kim, Ms. Maggio, Enforcement Analyst, Brianna Miller and DCA Public Affairs Office representatives, Russ Heimerich and June Vargas) held its first meeting on October 18, 2011.

Ms. Maggio explained that the Committee began its discussion with an overview of the Board's history of outreach and current outreach goals. The meeting was open for Mrs. Burke and Mr. Kim to offer their recommendations for outreach. Primarily, it was decided that the Board will continue its outreach efforts toward licensees, but pay considerable focus toward increasing outreach with the public. Some of the outreach recommendations are as follows:

- Brochures/Pamphlets
- Facebook and Twitter accounts

B. Review and Possible Approval of Outreach Materials – Pamphlets

Ms. Maggio presented the three brochures which staff created for Board member review. They are as follows:

1. Cosmetic Contact Lenses
2. Focus on Your Eyes: What to Expect from Your Optometrist
3. Focus on Consumer Protection

Dr. Goldstein & Dr. Turetsky noted some concerns regarding some of the content in the brochures. He advised staff of recommended omissions, additions and revisions. Editing suggestions were provided to staff.

Ms. Maggio volunteered to have Enforcement Analyst, Brianna Miller consult with the three professional Members (as well as Ms. Burke and Mr. Kim) during the editing of the brochures. Dr. Goldstein agreed. Board members and staff discussed this and offered recommendations.

C. Adopting Social Media

Based on the Committee recommendations, staff created Facebook and Twitter accounts which Ms. Leiva presented for the Board. Staff is currently working on gathering more Facebook "friends" and Twitter "followers" in order to effectively use these mediums for outreach purposes for optometrists and the public.

D. Other

Board members and staff discussed other possible methods of outreach such as attendance at health fairs, and the use of celebrity spokespeople.

8. Examination/Licensing Programs Report

A. CAS to ATS Conversion

Mr. Robinson reported that Board staff has been informed that the CAS to ATS conversion is still in process but should be completed before the end of the calendar year.

B. Continuing Education Program

Staff has received many inquiries regarding University of California Berkeley's (UCB's) online lectures and demonstrations (BOLD) glaucoma courses as to whether they could receive full CE credit for completing them. Mr. Robinson announced that it has been decided that they should receive full credit and they are being handled on a case by case basis. Mr. Robinson stated that he has been receiving calls lately regarding the Neuro-Optometry course (which is listed as a related systemic disease category). Optometrists taking the course are sometimes confused as to whether it can be interpreted as a course that is in the diagnosis, treatment, and management of ocular disease.

Dr. Goldstein noted that most neuro-optometry conditions are disease related conditions; therefore, it is Dr. Goldstein's opinion that, in general, these are therapeutic courses. The other professional Members agreed.

Mr. Robinson concurred and explained that whenever there exists any doubt, he requests a detailed description of the course. If the detailed description proves to be related to the diagnosis, treatment, and management of ocular disease, the optometrist is given credit for the course.

C. Statistics and Performance Measures

Mr. Robinson provided a Licensing Program Statistical Overview for Members.

License Type	07/2011	08/2011	09/2011	10/2011	11/2011
OPTOMETRIST					
Applications Received	17	15	30	12	8
Applications Pending	325*	340*	278*	290*	298*
Licenses Issued	70	29	17	7	5
STATEMENTS OF LICENSURE					
Applications Received	22	22	20	15	8
Applications Pending	37*	33*	35*	30*	12*
Licenses Issued	10	6	0	6	27
BRANCH OFFICE					
Applications Received	9	4	2	4	3
Applications Pending					10
Licenses Issued	8	6	0	9	12
FICTITIOUS NAME PERMITS					
Applications Received	9	9	0	0	0
Applications Pending					30#
Permits Issued	13#	14#	5	12	2

Dr. Goldstein inquired and Mr. Robinson confirmed that a large portion of the approximately 288 pending applications are from applicants who are completing their residencies. For various reasons (usually cost) these applicants have decided to wait and pick up their application process when they return to the states.

Mr. Robinson explained that another reason they hold off is because they know their expiration date will be the last day of their birth month. They often delay the application process so they can receive a full year before the renewal of their license.

The applications that are actually invalid (not going to be completed) will be cleaned out quickly.

D. Other: Outreach to California Schools and Colleges of Optometry

Mr. Robinson reported that staff is still in the process of receiving meeting dates from the three schools of Optometry (UCB, SCCO and Western University of Health Sciences' College of Optometry). Exact dates to meet with third year students should be provided at the next meeting. The projected meeting dates are expected to take place in the 2012 spring quarter (March – May).

UC Berkeley and SCCO would like Board staff to meet with their fourth year students as well. Dr. Goldstein and professional Members agreed.

9. Enforcement Program Report

A. Data Clean-up Project

Ms. Maggio reported that enforcement staff has purged old case files per the retention schedule approved by the Board on September 16, 2011. Currently the remaining closed cases and Disciplinary Records are being sorted through to be re-filed and corrected in the CAS system to facilitate a smooth conversion to BreEZe.

B. Enforcement Academy / Regulatory Investigative Techniques Training

Ms. Maggio announced that Enforcement Technician, Dillon Christensen attended the September 19-23, 2011 Enforcement Academy. The academy provides a detailed overview of the enforcement process as it relates to Administrative Law and is essential to the development of any DCA enforcement staff.

C. Expert Witnesses

Ms. Maggio reported that Board staff has received ten applications for Expert Witness/Consultant and have finalized four contracts. Enforcement staff may now send cases to the Expert Witnesses/Consultants for review. There are 10 cases needing review.

D. Probation Program

Ms. Maggio explained that Probation Monitor, Jessica Sieferman continues to monitor all active probationers while on maternity leave.

Ms. Sieferman and Ms. Maggio share a concern about the vendor who performs the drug testing for the department. The department has very strict guidelines which have been lagging. Ms. Maggio and Ms. Sieferman will research who oversees the vendor to find out why enforcement staff are not receiving timely results to the test.

She reported that two probationers have taken the California Laws and Regulations Exam since the Board's last meeting. The current pass rate for first time takers is 33%. There's a six month waiting period between tests. Passing this test is a condition of probation.

Dr. Goldstein and Ms. Leiva discussed revoking probation when a probationer fails to pass the California Laws and Regulations Exam. Ms. Leiva explained that once the disciplinary guidelines become effective (approximately a year) probationers will no longer be able to practice if they fail the exam. Probationers are provided with all necessary materials and guided on how to study for the exam.

Dr. Goldstein noted that probationers need to be informed of the new regulations coming into effect and the impact if they fail to pass the exam.

Mr. Naranjo made an inquiry which led to him, other Members, Ms. Maggio, Ms. Leiva, and Deputy Attorney General, Anahita Crawford, to discuss the terms of probation as follows:

- It is currently up to the probation monitor whether a probationer is suspended from practice or allowed to practice.
- When suspended from practice, the terms state that the probationer is suspended from practice until such time that he/she passes the law exam.
- From a public perspective it's very disturbing to have probationers disciplined for not following the laws and regulations, not pass the law and regulations exam and continue practicing. How can this happen? What can be done to stop it?
- According to information provided by Ms. Crawford, the Board does have discretionary authority to revoke a license for violation of probation if a probationer fails to pass the law exam. The probationer would not be able to petition for reinstatement of licensure for a year following revocation.
- The burden to pass the exam should be on the probationer. The consequences should be the motivation to study and pass the exam.

Fred Naranjo moved to authorize staff to research the means for revoking the licenses of probationers who fail to pass the California Laws and Regulations Exam, which is a requirement of probation. Donna Burke seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

E. Statistics/Performance Measures

Ms. Maggio provided statistics for the Probation Program as of November 30, 2011.

Enforcement Statistical Overview

Fiscal Year	2008/2009	2009/2010	2010/2011	2011/2012*
Complaints				
Complaints Received	227	194	259	96
Complaints Pending	130	62	96**	111
Complaints Closed	182	262	226	66
Subsequent Arrest Reports Rec'd	31	21	21	9
Cases Referred to Division of Investigation (DOI)	0	3	38	16
Cases Pending at DOI	3	2	20	33
Cases Referred to Expert	4	14	6	0
Cases Referred to the Office of the Attorney General (AG)	3	10	8	2
Cases Pending at the AG's Office		13	13	9
** Case Reopened				
Citations Issued	5	5	2	1
Accusations Filed	4	9	8	0
Statement of Issues Filed	0	1	0	0
Interim Suspension Orders (PC 23)	0	1	0	0
Notice of Warnings Issued	18	0	0	0
Disciplinary Decision Outcomes				
Revoked	0	0	4	0
Revoked, Stayed, Suspension & Probation	0	1	0	0
Probation Revoked	0	0	0	0
Revoked, Stayed & Probation	4	4	4	2
Surrender of License	0	1	1	0
License Issued on Probation	0	0	0	0
Public Reprimand	0	0	0	0
Other Decision		0	0	0
Decisions by Violation Type				
Fraud	2	0	0	0
Gross Negligence/Incompetence	1	1	1	0
Sexual Misconduct	0	0	0	0
Personal Conduct (Alcohol – Substance Abuse)	1	2	4	2
Unprofessional Conduct	0	1	0	0
Probation Violation	0	2	4	0
Other			0	0

Ms. Maggio presented the Performance Measures for Member's Review.

Ms. Burke asked why we are averaging 570 days on Formal Discipline when the target is 365 days. Ms Maggio explained that many of these cases go to investigation. We are affected by the length of time it takes at the Division of Investigation (DOI). Then when the case goes to the Attorney General's (AG's) Office, the AG's Office is affected by the time it takes the Office of Administrative Hearings to schedule a hearing date. Hearing dates are being schedule for June for cases submitted now.

10. Public Comment for Items Not on the Agenda

No comments were received.

11. Suggestions for Future Agenda Items

Ms. Maggio and Dr. Goldstein discussed briefly having the strategic plan updated in-house and the cost savings. This will be discussed further at the next Board meeting.

FULL BOARD CLOSED SESSION

12. The Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

The Board convened to close session to deliberate on the following disciplinary matter:

- Dr. Arnold Milton Vollmer, O.D., License Number OPT 6375
Agency Case Number: CC 2009-111

FULL BOARD OPEN SESSION

13. Adjournment

Ken Lawenda moved to adjourn the meeting. Donna Burke seconded. The Board voted unanimously (6-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Dr. Arredondo	X		
Mr. Naranjo	X		
Dr. Lawenda	X		
Mr. Kim	X		
Ms. Burke	X		

The meeting was adjourned at 1:50 p.m.

Monica Johnson, Board Secretary

Date

2420 Del Paso Road, Suite 255
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Mona Maggio.
Executive Officer

Telephone: (916) 575-7176

Subject: Agenda Item 7 – Executive Officer's Report

Board Members

On February 7, 2012, Mona Maggio met with Terry Holloman, Deputy Director of Appointments, Office of the Governor to discuss the current and pending vacancies on the Board. Seventeen applications for appointment to the Board have been received and a number of first round interviews have been held. Second round interviews will be held at the end of February/first part of March. The Appointments Office is focusing on state departments/boards/commissions that are without a quorum. There is not an urgency to fill our vacancies since the Board does have a quorum and has been able to hold meetings.

Board Staffing

In November 2011, the Board was notified it was no longer subject to the provisions of the hiring freeze. The Board currently has two vacancies. A staff services analyst position became available on January 23, 2011 when Brianna Miller transferred to the Bureau of Automotive Repair. The Board is attempting to fill the Staff Services Manager I position that was established via a budget change proposal.

Budget

The Board's budget for fiscal year 2011-12 is \$1,554,425. Expenditures as of January 31, 2012 are \$794,342, or 51% of the budget. The projected fiscal year end surplus is \$121,248 or 7.8%. The analysis of the Board's fund condition reveals 4.3 months reserve in the current year and 3.9 months in Fiscal Year 2012-13.

In response to California's budget shortfalls, loans from special fund agencies to the General Fund (GF) have been part of the solution. In 2010/2011 the Board loaned the GF \$1 million dollars. In order to be repaid, the Board would have to request repayment and show a need for the funds to be repaid. Ms. Maggio is in discussions with the Department of Consumer Affairs (DCA) Budget Office on the repayment process.

Governor's Budget for 2012/2013

Every January, as part of the budget process, the Governor releases the budget for the upcoming fiscal year. This year the Governor released his budget on January 5, 2012. The proposed budget provides \$1,720,000 in authorized spending for the Board, a slight increase from the Board's current year spending.

The Governor's budget also included a series of proposals to improve government efficiency and pay down California's debts. The proposals include re-organization of state government to make it more efficient by consolidating functions. The proposals are discussed in the summary entitled *Making Government More*

Efficient which is included for your review. A full copy of the Governor's budget can be obtained from the Department of Finance website at www.dof.ca.gov.

Although it appears that the Board will not be directly impacted by the re-organization proposal, changes proposed to DCA and the State and Consumer Services Agency could result in some indirect changes. Board staff will continue to monitor developments and will provide reports to the Board as more information is obtained.

BreEZe

The BreEZe Project will allow DCA licensees to apply for, renew, pay, and track their licensing requests online. Additionally, it will dramatically increase the capabilities of the DCA boards, bureaus, and oversight programs to isolate unscrupulous practitioners and empower California consumers to make more informed decisions when they hire licensees.

Sarah Walton, with the DCA Organizational Change Management Team is the Board's Organizational Readiness Coach. Sarah is here to assist staff in the department's transition to the new system by holding town hall meetings, and identifying training needs. The first town hall meeting for Optometry was held February 29, 2012. We look forward to working with Sarah over the coming two years. Ms. Walton will attend a future meeting to provide Members with an update and answer questions.

In an effort to be prepared for the Board's conversion to the BreEZe system, the Enforcement Unit has been working on a data clean-up project. Using the recently adopted Records Retention Schedule, Enforcement staff have been purging records and cleaning up data in files that will be carried over to the BreEZe system. Data clean-up is recommended by the BreEZe Project Team to ease the transition to the new system and ensure that no "junk" data is converted. The Enforcement Unit plans to be done with their clean-up project by this summer, well ahead of the projected BreEZe conversion.

The Board's Licensing program has also begun a data clean-up project, starting with corporation files. Krista Eklund and Nancy Day determined that this project must be completed in two phases. Phase I is to review the contents of each corporation file, identify what historical documentation should be kept, and relate the corporation to the optometrist license records so that when the records are transitioned to BreEZe all the licenses are transferred together, at the same time. Certifications, permits, etc. held by an optometrist will also be related to the doctor's optometry license. As staff goes through the corporation files, they are determining if the optometrist(s) are deficient in any other permits, licenses, i.e. business needs a fictitious name permit. Phase II will be to contact the optometrists, notify them of deficiencies and bring them into compliance.

California Optometric Association

Jeff Robinson, Andrea Leiva and Ms. Maggio attended the California Optometric Association's (COA) House of Delegates on February 10, 2012 at the Hyatt Hotel in Sacramento. This was a great opportunity for staff to interact with licensees and COA staff, and listen to the achievements of the association. Staff will attend the COA Legislative Day on March 20 2012.

Department of Consumer Affairs (DCA)

On January 9, 2012, Governor Edmund G. Brown Jr. announced the following appointments as the new leadership at DCA:

Denise Brown, 60, of Fair Oaks, has been appointed director of the California Department of Consumer Affairs. Brown was an advisor to the executive officer and staff of the California Air Resources Board from 2009 to 2011. She served in the Department of Consumer Affairs in multiple positions from 1977 to 2009, including chief deputy director. Brown was chief deputy registrar at the Contractors State License Board from 2004 to 2009, chief deputy director at the Department of Consumer Affairs from 1999 to 2004 and a program administrator at the California Architects Board from 1998 to 1999. She worked in multiple positions at the California State Board of Barbering and Cosmetology from 1994 to 1998 and from 1987 to 1991, including executive officer of the board. She was deputy chief of the Division of Consumer Affairs

from 1981 to 1983 and a legislative aide from 1977 to 1981. This position requires Senate confirmation and the compensation is \$144,504. Brown is a Democrat.

Awet Kidane, 35, of Elk Grove, has been appointed chief deputy director at the California Department of Consumer Affairs. Kidane has been chief of staff to Assemblymember Steven Bradford since 2009. He was senior advisor to Speaker of the Assembly Karen Bass from 2008 to 2009, a legislative consultant for the California State Assembly from 2003 to 2009 and an associate consultant for the California State Assembly from 2002 to 2003. This position does not require Senate confirmation and the compensation is \$122,496. Kidane is a Democrat.

Reichel Everhart, 42, of Sacramento, has been appointed deputy director for board and bureau relations at the California Department of Consumer Affairs. Everhart has been senior advisor to the director at the Department of Consumer Affairs since 2011. She was chief of staff to Assemblymember Cathleen Galgiani from 2006 to 2011, legislative director to Assemblymember Sally Lieber from 2003 to 2005, legislative assistant to Assemblymember Leland Yee from 2001 to 2003 and legislative aide to Assemblymember Patricia Wiggins from 2000 to 2001. Everhart was a legislative aide to Assemblymember Elaine Alquist from 1999 to 2000 and a field representative for Assemblymember Michael Machado from 1995 to 1999. This position does not require Senate confirmation and the compensation is \$103,308. Everhart is a Democrat.

On December 29, 2011, DCA said farewell to Director Brian Stiger, who resigned to accept the position of Director of the Los Angeles County Department of Consumer Affairs. Brian is the perfect example of hard work and dedication leading to great things. He began his career 21 years ago and in that time worked his way up from an Associate Printing Plant Supervisor with the Office of State Publishing to the top leadership position within DCA. Between August 2009, when he was brought in to head the department, and December of 2011, Brian got to know many of us by name and always seemed to have at least a few minutes to talk with us and get to know us. We will miss him. We wish him well in his new endeavor.

Attachments

- 1) Board of Optometry Expenditure Report
- 2) Board of Optometry Analysis of Fund Condition
- 3) Making Government More Efficient
- 4) Life Cycle of the BreEZe Project

**BOARD OF OPTOMETRY - 0763
BUDGET REPORT
FY 2011-12 EXPENDITURE PROJECTION**

January 31, 2012

OBJECT DESCRIPTION	FY 2010-11		FY 2011-12				
	ACTUAL	PRIOR YEAR	BUDGET	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES (MONTH 13)	EXPENDITURES 1/31/2011	STONE 2011-12	EXPENDITURES 1/31/2012	SPENT	TO YEAR END	BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	369,139	216,090	459,572	203,560	44%	394,115	65,457
Statutory Exempt (EO)	76,385	43,903	80,347	46,418	58%	80,473	(126)
Temp Help Reg (Seasonals)	53,541	29,587	3,628	22,582	622%	42,720	(39,092)
Temp Help (Exam Proctors)							0
Board Member Per Diem	4,800	2,300	7,353	1,100	15%	3,200	4,153
Committee Members (DEC)							0
Overtime							0
Staff Benefits	203,802	117,505	255,446	108,489	42%	176,203	79,243
Salary Savings		0	(17,974)	0	0%		(17,974)
TOTALS, PERSONNEL SVC	707,667	409,385	788,372	382,149	48%	696,711	91,661
OPERATING EXPENSE AND EQUIPMENT							
General Expense	11,041	7,839	418	9,271	2218%	11,000	(10,582)
Fingerprint Reports	6,451	2,320	5,306	4,029	76%	9,600	(4,294)
Minor Equipment	707	707	1,800	0	0%	800	1,000
Printing	7,783	3,047	7,852	3,709	47%	7,400	452
Communication	5,016	2,125	6,116	2,133	35%	4,300	1,816
Postage	16,289	6,226	16,381	8,238	50%	17,000	(619)
Insurance			0				0
Travel In State	18,842	6,878	27,314	9,993	37%	20,000	7,314
Travel, Out-of-State			0				0
Training	1,210	140	1,099	1,039	95%	2,000	(901)
Facilities Operations	62,591	62,039	58,676	112,449	192%	112,449	(53,773)
Utilities			0				0
C & P Services - Interdept.	9,576	0	2,943	12	0%	50	2,893
C & P Services - External			0	46,955		46,955	(46,955)
DEPARTMENTAL SERVICES:							0
Departmental Pro Rata	78,415	46,646	87,958	52,261	59%	87,958	0
Admin/Exec	99,951	58,254	101,357	56,863	56%	101,357	0
Interagency Services	0	0	146	0	0%	0	146
IA w/ OER	21,864	21,864	0	27,720		27,720	(27,720)
DOI-ProRata Internal	3,397	2,217	4,017	2,344	58%	4,017	0
Public Affairs Office	7,221	4,501	6,821	3,979	58%	6,821	0
CCED	4,695	2,737	4,871	4,152	85%	4,871	0
INTERAGENCY SERVICES:							0
Consolidated Data Center	1,356	7,000	31,639	505	2%	1,000	30,639
DP Maintenance & Supply	4,983	98	1,009	115	11%	1,000	9
Central Admin Svc-ProRata	60,194	30,097	77,237	38,619	50%	77,237	0
EXAM EXPENSES:							0
Exam Supplies			0				0
Exam Freight	0	0	484	0	0%	0	484
Exam Site Rental							0
C/P Svcs-External Expert Administrative		150		150		150	(150)
C/P Svcs-External Expert Examiners	0	0	25,703	0	0%		25,703
C/P Svcs-External Subject Matter	15,354	4,475		8,781		8,781	(8,781)
ENFORCEMENT:							0
Attorney General	209,968	88,535	229,055	45,208	20%	154,000	75,055
Office Admin. Hearings	27,050	11,450	37,930	8,566	23%	28,000	9,930
Court Reporters	1,158	373		436		1,000	(1,000)
Evidence/Witness Fees	17,234	12,529	35,921	2,178	6%	7,000	28,921
DOI - Investigations		0	0			0	0
Major Equipment	0	0	0			0	0
Special Items of Expense							0
Other (Vehicle Operations)							0
TOTALS, OE&E	692,346	382,247	772,053	449,705	58%	742,466	29,587
TOTAL EXPENSE	1,400,013	791,632	1,560,425	831,854	107%	1,439,177	121,248
Sched. Reimb. - Fingerprints	(6,834)	(6,834)	(6,000)	(5,049)	84%	(6,000)	0
Sched. Reimb. - Other	(4,780)	(4,780)		(3,085)			0
Unsched. Reimb. - Investigative Cost Recover	(31,332)	(31,332)		(28,132)			0
Unsched. Reimb. - ICR - Prob Monitor	(100)	(100)		(1,247)			0
NET APPROPRIATION	1,356,967	748,586	1,554,425	794,342	51%	1,433,177	121,248
SURPLUS/(DEFICIT):							7.8%

0763 - State Board of Optometry

Analysis of Fund Condition

Prepared 12/10/11

(Dollars in Thousands)

NOTE: \$1 Million Dollar General Fund Repayment Outstanding

BY 12-13 Governor's Budget

	Actual 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY+1 2013-14	BY+2 2014-15
BEGINNING BALANCE	\$ 1,218	\$ 1,514	\$ 615	\$ 572	\$ 494
Prior Year Adjustment	\$ 8	\$ -			
Adjusted Beginning Balance	\$ 1,226	\$ 1,514	\$ 615	\$ 572	\$ 494
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	\$ 17	\$ 20	\$ 20	\$ 20	\$ 20
125700 Other regulatory licenses and permits	\$ 115	\$ 120	\$ 131	\$ 131	\$ 131
125800 Renewal fees	\$ 1,497	\$ 1,496	\$ 1,501	\$ 1,501	\$ 1,501
125900 Delinquent fees	\$ 9	\$ 9	\$ 10	\$ 10	\$ 10
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 7	\$ 16	\$ 6	\$ 5	\$ 4
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ -	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3
Totals, Revenues	\$ 1,648	\$ 1,664	\$ 1,671	\$ 1,670	\$ 1,669
Transfers from Other Funds					
Proposed GF Loan Repayment	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds					
Proposed GF Loan	\$ -	\$ -1,000	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 1,648	\$ 664	\$ 1,671	\$ 1,670	\$ 1,669
Totals, Resources	\$ 2,874	\$ 2,178	\$ 2,286	\$ 2,242	\$ 2,163
EXPENDITURES					
Disbursements:					
0840 State Controller (State Operations)	\$ 2	\$ 2			
8880 Financial Information System for CA (State Operations)	\$ 1	\$ 7			
1110 Program Expenditures (State Operations)	\$ 1,357	\$ 1,554	\$ 1,714	\$ 1,748	\$ 1,783
Total Disbursements	\$ 1,360	\$ 1,563	\$ 1,714	\$ 1,748	\$ 1,783
FUND BALANCE					
Reserve for economic uncertainties	\$ 1,514	\$ 615	\$ 572	\$ 494	\$ 380
Months in Reserve	11.6	4.3	3.9	3.3	2.5

NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN FY 11-12
- ASSUMES INTEREST RATE AT 1% IN FY 11-12
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR IN 12-13

Governor Brown Proposes Merger of State Agencies To Save Millions of Taxpayer Dollars

5-10-2011

SACRAMENTO – Taking action to trim government bureaucracy and save California taxpayers millions of dollars, Governor Edmund G. Brown, Jr. today announced a long overdue plan to merge the state's two personnel agencies – the State Personnel Board (SPB) and the Department of Personnel Administration (DPA) – into a single California Department of Human Resources (CalHR).

“Study after study has called for consolidating the state's redundant and disjointed personnel systems. It's time to make those recommendations a reality,” Brown said. “As a unified, streamlined department, CalHR will save taxpayers millions of dollars and make government more efficient.”

Since 1995, more than half a dozen reports and studies have been issued by the Little Hoover Commission, Legislative Analyst's Office, California Performance Review and California Research Bureau, calling for a comprehensive reorganization of the state's personnel management system. The state's increasingly complex and outmoded structure and processes have made it difficult to effectively recruit, hire, promote, classify and discipline state employees.

A department planning a reorganization of internal programs, for example, must consult with both DPA and SPB on classification, status and layoff issues; with DPA on pay, labor relations and all terms and conditions of employment; and with SPB on selection, promotional relationships and transfer determinations.

By unifying the SPB and DPA into CalHR, Brown's plan will reduce positions by 15 to 20 percent, saving up to \$5.8 million. Further savings will be achieved as CalHR streamlines operations and replaces outmoded personnel practices. The reorganization, which would take effect July 1, 2012, also calls for a new director to head CalHR and office space to be consolidated.

“The Administration's goal is to provide top-notch personnel services to departments and employees more efficiently and effectively. This plan will accomplish that goal,” said Labor and Workforce Development Agency Secretary Marty Morgenstern, who is also a former DPA director.

“Unifying our two personnel organizations will improve access to services for personnel staff, state employees and future job-seekers. We're committed to making this work,” said current DPA Director Ronald Yank.

“Joining forces strengthens our leadership role and allows us to focus on high-level issues such as workforce planning and developing the next generation of state employees,” said SPB executive officer Suzanne Ambrose.

Brown’s plan was submitted today, along with letters, to the Little Hoover Commission ([click here](#)) and the Office of the Legislative Counsel ([click here](#)), as required by law. The Little Hoover Commission’s role is to review the plan and report its recommendations to the Governor and Legislature and the Office of the Legislative Counsel works to draft bill language.

After the plan is submitted to the Legislature, lawmakers have 60 days to consider the plan. The plan goes into effect unless rejected by a majority vote of either house during the 60-day period.

As required by Article VII of the State Constitution, the five-member State Personnel Board will continue to serve as an independent appellate body overseeing the merit principle.

Since taking office, Governor Brown has slashed spending in own office by more than 25 percent and ordered state agencies and departments to:

- Halt all non-essential state employee travel;
- Recover millions of dollars in uncollected salary and travel advances;
- Stop spending taxpayer dollars on free giveaway and gift items;
- Cut state cell phones and the passenger vehicle fleet in half; and
- Freeze hiring across state government.

This plan is part of the Governor’s efforts to cut millions in operational costs in state government.

Governor's Reorganization Plan

Number One

May 2011

TO UNIFY AND STREAMLINE THE CALIFORNIA STATE PERSONNEL SYSTEM



Reorganization of the
State Personnel Board and the
Department of Personnel Administration

Governor's Reorganization Plan Number One

REORGANIZATION OF THE STATE PERSONNEL BOARD AND THE DEPARTMENT OF PERSONNEL ADMINISTRATION

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III	The California Government Reorganization Process	3
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V	Making the Case for Reorganization	9
VI	The New Organization	12
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The California Department of Human Resources (CalHR)

INTRODUCTION

California state government could not operate without hard-working employees. Unfortunately, due to the bifurcated personnel system, our own bureaucracy makes it difficult to recruit, hire, promote, classify, discipline, train, and reward those employees. It is time to remedy the procedural and organizational problems that confound our system and create one unified state Department of Human Resources.

We currently have two personnel organizations, the State Personnel Board (SPB) and the Department of Personnel Administration (DPA), with overlapping jurisdictions that cause the human resource system to be increasingly complex and dysfunctional. SPB has authority under Article VII of the State Constitution to oversee the merit principle. Its responsibilities currently include civil service examinations, probationary periods, the formal establishment of job classifications, and discipline. DPA is responsible for all other personnel management functions including pay, day-to-day administration of the classification plan, training, benefits, all other conditions of employment, and collective bargaining.

Study after study point out that the state's personnel management system with its redundant responsibilities is outmoded, inefficient, unresponsive, and lacks the organizational focus necessary for the management of an effective public service.¹ It wastes money and is a bureaucratic impediment to implementing reforms that would make all state agencies more effective in serving the public. The State of California can no longer afford disjointed, duplicate, and wasteful programs. It is in the public's interest for economy and efficiency in government to consolidate the human resource management functions performed by SPB and DPA into one Department of Human Resources (CalHR).

It is also in the public interest to accomplish this reorganization while preserving the merit principle in state government as required by Article VII of the State constitution.

¹ In 1995 and 1999, the Little Hoover Commission urged that management authority over the personnel system be organized under a single entity. In 1995 the Legislative Analyst highlighted urgent changes necessary to reform the state's civil service system. In 2005 the California Performance review further recommended that the operations of the State Personnel Board and the Department of Personnel Administration be combined.

A UNIFIED HUMAN RESOURCE DEPARTMENT

By consolidating DPA and SPB into one Department of Human Resources, the state personnel system will be streamlined into functionally integrated programs that will end duplicative and disjointed processes which are neither efficient nor cost effective.

Currently, departments are forced to ping pong between DPA and SPB in a number of areas, which frustrates and complicates efforts to operate efficiently. For example, a department planning a reorganization of internal programs must consult with both DPA and SPB on classification, status, and layoff issues; with DPA on pay, labor relations, and all terms and conditions of employment; and with SPB on selection, promotional relationships, and transfer determinations. A unified personnel department would provide "one stop" assistance for departments, eliminating the laborious process of being shuffled between two different departments.

But more importantly, consolidating all day to day operational personnel management jobs in one agency will create an organization with the resources that can begin to exercise leadership to accomplish long overdue reforms necessary to restore quality to public service. Some of these, as recommended by both the Legislative Analyst and the Little Hoover Commission, include:

- more delegated decision-making to line agencies under a system of unified oversight, transparency and accountability;
- creating more effective programs to recruit, conduct examinations and select qualified employees;
- a re-emphasis on basic skills training, employee development and better supervisory training to improve the quality of public service; and
- improved employer-employee relations and processes to resolve disputes and discipline.

THE CALIFORNIA GOVERNMENT REORGANIZATION PROCESS

In 1967 the Legislature statutorily recognized the Governor's authority to reorganize the executive branch by using the "executive reorganization" process. That process is spelled out in Government Code sections 12080 - 12081 and begins with the Governor's submittal of a reorganization plan to the Legislative Counsel for drafting into bill language, and to the Little Hoover Commission, which examines the plan and reports its recommendations to the Legislature. Thirty days after submission to the Little Hoover Commission, the Governor may submit the plan to the Legislature.

The plan becomes effective on the 61st calendar day of continuous session of the legislature after the date on which the plan is submitted to the Legislature or at a later date identified by the plan. The plan goes into effect unless either house passes a resolution disapproving the reorganization plan within the 60-day calendar period. Actual statutory language to enact the reorganization is processed in the following year, but the reorganization is effective even without the statutes being on the books.

Under Government Code Section 12080.1, the Governor from time to time shall examine the organization of all agencies and determine what changes are necessary to accomplish one or more of the following purposes:

- a) To promote the better execution of the laws, the more effective management of the executive and administrative branch of the state government and of its agencies and functions and the expeditious administration of the public business;
- b) To reduce expenditures and promote economy to the fullest extent practicable consistent with the efficient operation of the state government;
- c) To increase the efficiency of the operation of the state government to the fullest extent practicable;
- d) To group, consolidate and coordinate agencies and functions thereof as nearly as possible according to major purposes;
- e) To reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient operation of the state government; and
- f) To eliminate overlapping and duplication of effort.

Consolidating the State Personnel Board and the Department of Personnel Administration will achieve the above purposes.

Under Government Code Section 12080.3, the plan may change the name of any agency affected by the reorganization and provide for the appointment of a department head. This plan will change the name of the Department of Personnel Administration to the Department of Human Resources. Statutes which apply to the Department of Personnel Administration will continue to be administered unchanged.

The California Constitution, Article VII, Sections 2 and 3, provide for a State Personnel Board. Under this reorganization plan, the State Personnel Board will retain its constitutional role as an independent and objective merit oversight organization to ensure that the values and principles upon which state civil service was founded are upheld. Except for staff necessary to hear discipline and perform necessary policy and oversight work for the Board itself, staff doing day-to-day administrative staff work will be transferred to the new Department of Human Resources.

An important element of this reorganization plan, which is required to achieve the projected savings, is to combine DPA and SPB by co-locating the two departments. This has already been approved by the Legislature and can be found in the bill passed for the FY10/11 Budget, SB 699:

The DGS, with the consent of the DPA and SPB, may enter into a lease, lease-purchase agreement, or lease with an option to purchase for a build-to-suit facility for the co-location of DPA and SPB in the Sacramento area subject to DOF approval of the terms and conditions of the agreement.

The executive reorganization plan process was established for instances like this – when there is a need for rapid executive action and for general agreement on key issues.

EXISTING ORGANIZATIONS

The State Personnel Board

The State Personnel Board was constitutionally created in 1934 to administer the civil service system and ensure that state employment is based on merit and free of political patronage. Article VII of the California Constitution created the SPB and grants it authority to "enforce civil service statutes." It also provides for a 5-member board to be appointed by the Governor and approved by the Senate for 10-year terms. Additionally, the Constitution states that the board shall appoint an executive officer.

Article VII of the California Constitution states:

Section 1:

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination.

Section 3:

(a) The board shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under rules of the board.

Following enactment of the Dills Act, the governor reorganized the State's personnel system in 1981 by creating the Department of Personnel Administration. This transferred to DPA the SPB functions related to the administration of salaries, hours, training, performance evaluations, layoffs, grievances, and other personnel matters related to terms and conditions of employment. A subsequent reorganization act in 1984 transferred operational responsibility for managing the Classification Plan to DPA because of the interdependence of classification and compensation issues. SPB retained its constitutional role of approving classes and prescribing probationary periods.

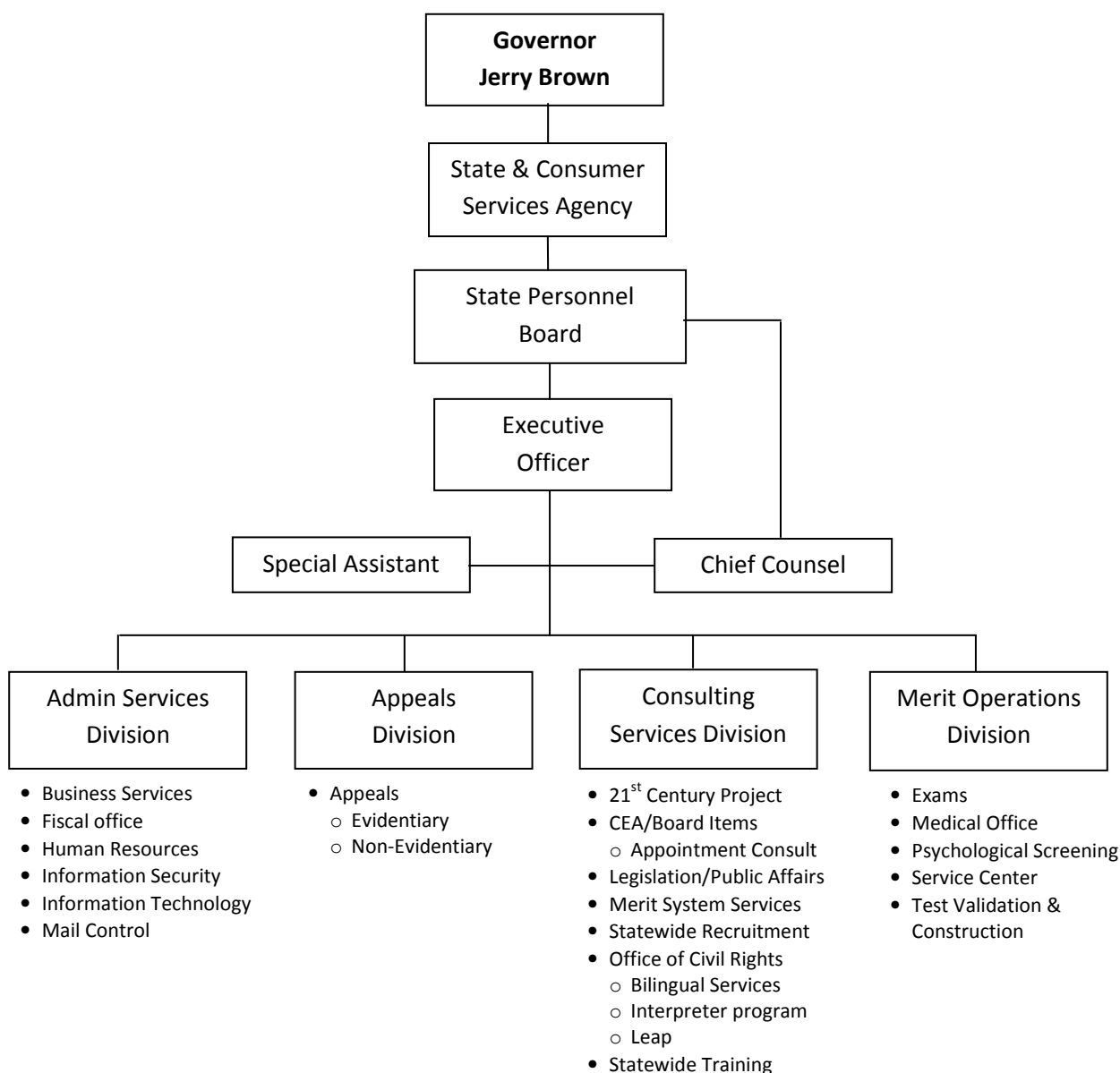
While SPB has independent constitutional authority, it is now administratively under the umbrella of the State and Consumer Services Agency. It does the following:

- establishes civil service job classifications;
- determines minimum qualifications and probationary periods;
- provides leadership on statewide recruitment and ensures selection is by competitive examination;
- reviews cases of employee discipline, merit issue appeals, whistleblower retaliation complaints, and personal services contracts;
- provides consultation services to state departments on merit system issues;

- hears complaints of discrimination in state employment;
- administers statutory requirements under the Dymally-Alatorre bilingual services program, the state interpreter program, and merit system services program for counties receiving federal health and human services funding;
- administers medical and other psychological screening of new hires; and
- provides leadership and support to departments on equal employment opportunity.

SPB's proposed budget for FY 11/12 includes 181 authorized positions. It is located at 801 Capitol Mall in Sacramento. This building is overdue for a retrofit but plans are currently suspended due to the budget shortfall.

Current Organizational Chart



The Department of Personnel Administration

Governor's Reorganization Plan No. 1 of 1981 established DPA to represent management in the collective bargaining relationship and to administer all salary and non-merit aspects of the personnel management function.

Governor's Reorganization Plan No. 1 of 1984 transferred the day-to-day administration of the position classification and position allocation functions from SPB to DPA.

DPA administers all terms and conditions of employment for state employees and represents the Governor as the "employer" in all matters pertaining to California State employer-employee relations and collective bargaining. DPA reports directly to the Governor's Office. It is responsible for:

- formulating human resources policy and advising the Governor on statewide HR issues;
- the administration of salaries, wages, and other compensation;
- the administration of employee leave programs;
- contracting and administration of dental, vision, and other benefit programs;
- the administration of the classification plan and allocation of positions;
- administering the Savings Plus (457 and 401k plans), Alternate Retirement, and Part-time, Seasonal and Temporary retirement programs;
- employee training, performance, and development;
- negotiating labor agreements with state employee unions, implementing their terms, and adjusting employee grievances; and
- providing for supervisory employer-employee relations.

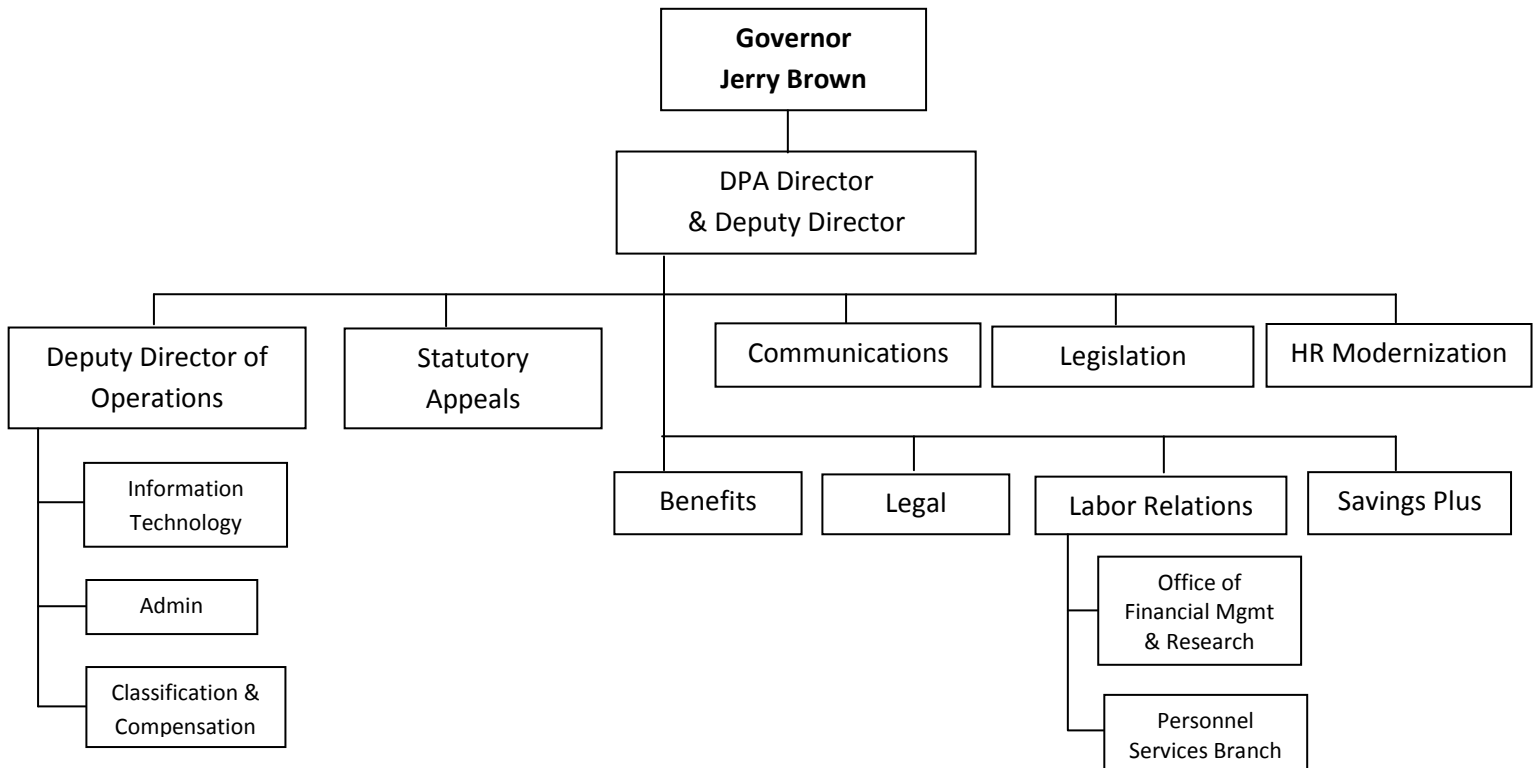
DPA operates under the following laws and regulations:

- Govt. Code sections 19815 through 19999.7 (established DPA and describes most of its functions)
- Govt. Code sections 3512 through 3524 (known as "Ralph C. Dills Act," governs collective bargaining in State government's executive branch)
- California Code of Regulations, Title 2, sections 599.600 through 599.995 (provides regulatory detail on DPA programs).

The current location for DPA is at 1515 S Street, North Building, in Sacramento. DPA also leases space across the street (on the other side of 15th) for the Benefits and Savings Plus divisions. The FY 10/11 Budget (SB 699) provides for the Department of General Services to enter into a lease for a facility for the co-location of DPA and SPB, subject to legislative approval. The proposed budget for FY 11/12 includes 246 authorized positions.

The Department of Personnel Administration

Current Organizational Chart



MAKING THE CASE FOR REORGANIZATION

The idea of a unified human resource organization is not new. This reorganization plan is consistent with numerous recommendations of other studies on organizational personnel management and the need for civil service reform in California.

In 1995 the Little Hoover Commission made recommendations to streamline and improve the State's personnel functions². The Commission came to the conclusion that significant reforms were needed if California government was going to "respond effectively and efficiently to the changing needs of a growing population." It offered eight findings and recommendations to improve the civil service system. The first was to eliminate the overlap and redundancy between SPB and DPA, and consolidate personnel management authority to one entity.

Again in 1995³ the Legislative Analyst's office stated, "The Legislature should begin fundamental rethinking or reinvention of the state civil service system in order to make it again serve the state, its employees and the public," and made numerous recommendations that would affect the programs of both the SPB and DPA.

In 1997 the California Research Bureau issued a report⁴ stating, "The Department of Personnel Administration and the State Personnel Board (SPB) have overlapping responsibilities... Reengineering the state's management functions might be a place to start 'reinventing' California state government."

In 1999 the Little Hoover Commission again came out with a report recommending civil service reform⁵. Here are several excerpts from that report:

California's executive branch departments are laboring under a personnel system that is increasingly complex and dysfunctional. Public agencies do not have the capacity to recruit, select, train and manage the workforce needed to transform good policy into good programs.

The costs are high: in resources consumed by the internal machinations of a sluggish personnel bureaucracy, and more importantly, in the lost opportunities to efficiently provide high-quality public services.

The Little Hoover Commission still believes that reforming the State's human resource infrastructure is a bedrock concern. In virtually every program reviewed by this Commission in recent years, progress has been muted by the limited

² See *Too Many Agencies, Too Many Rules: Reforming California's Civil Service*, Little Hoover Commission, Report #133, April 2005.

³ See *Analysis of the 1995-96 Budget Bill: Reinventing the State Civil Service*, Legislative Analyst's Office, February 22, 1995

⁴ See *Flattening organizations; Practices and Standards*, California Research Bureau, California State Library, September 1997.

⁵ See *Of the People, By the People: Principles for Cooperative Civil Service Reform*, Little Hoover Commission, Report #150, January 1999

ability of state managers to get the right people in the right place, with the right skills and incentives to do the job.

The State needs a coordinated personnel infrastructure.

But the two-tiered personnel paradigm has not functioned as smoothly as policy makers had intended... the procedures for accomplishing routine personnel tasks have become convoluted. The roles and responsibilities of personnel agencies have become confused.

At a time when public organizations need to adapt to changing demographics and public priorities, new technologies and economies of scale, the State's system for providing and managing human resources has proven to be antiquated and intransigent.

In 2005 the California Performance Review⁶ made various recommendations to improve the State's personnel system. Some of them were:

- Consolidate the functions of DPA and the non-constitutionally mandated functions and staff of SPB into a single entity.
- Plan for and manage the workforce requirements on an enterprise-wide basis.
- Reestablish college recruitment programs.
- Create a central online training portal for state employees.

Again, in 2005 the Little Hoover Commission issued another report⁷ urging changes be made to improve the ability of state departments to recruit, hire, develop, manage and compensate state employees. It cited "calcified personnel practices" and "training and development that are afterthoughts" as reasons why the system is engineered for failure. Finally in March 2011, the Little Hoover Commission recommended that this Administration consider abolishing the State Personnel Board completely.

The reorganization does not propose to abolish the State Personnel Board. It is created by the Constitution, and a Governor's Reorganization Plan may not change the Constitution. But it does recognize that California's system has become burdened with excessive rules and processes that work against the original objectives of efficiency and merit. During these tough budget times the State must do everything possible to become more efficient, effective and competitive.

And that was the goal of a joint project started in 2008. After years of discord between the two organizations, DPA and SPB joined forces, with the support of the Legislature, to create the Human Resource Modernization project (HR Mod). The HR Mod project has made some

⁶ See *California Performance Review Report*, 2005 (www.cpr.ca.gov).

⁷ See *Managing the State Workforce to Improve Outcomes*, Little Hoover Commission, Report #181, June 2005.

improvements to the personnel system already, especially in the areas of exams and training. However, this project was a stop gap measure and some of the same coordination problems between the agencies still exist, with some departments complaining that there is now yet a third entity overseeing the state's personnel management system.

It is time to implement the obvious and consolidate the state's two personnel agencies, streamline the functions, reorient the objectives and create a modern, fully functional human resource organization.

THE NEW ORGANIZATION

Effective July 1, 2012, the Department of Personnel Administration and the State Personnel Board will be merged to create a new organization named the California Department of Human Resources (CalHR). It will be created by transferring the day-to-day staff operations of SPB and DPA into one consolidated agency. The new organizational structure will result in the transfer of all functions and the authority associated with them to the new department, except for the limited constitutional responsibilities of the State Personnel Board. This means:

- The Department of Personnel Administration will cease to exist and all 246 positions will be transferred to the Department of Human Resources (CalHR).
- There will be a Director of Human Resources appointed by the Governor and confirmed by the Senate. The authority of the DPA director is transferred to the CalHR director. The new department will report to the Governor.
- State Personnel Board staff -- except the staff necessary to hear appeals of employee discipline, other merit appeals, whistleblower retaliation and personal services contract appeals, advise the Board on merit policy, and perform necessary audits of merit system compliance in the line agencies -- will be transferred to the Department of Human Resources (CalHR).
- The State Personnel Board (Board) will continue as an independent 5-member Board within CalHR appointed by the Governor and serving 10-year terms to hear merit system appeals and focus its programs on oversight of the merit principle. It will retain its constitutional role of approving classes, prescribing probationary periods, hearing merit system and disciplinary appeals and performing other duties associated with upholding the merit principle. In addition, it will retain authority to appoint an Executive Officer. CalHR will provide administrative and staff support to enable SPB to accomplish its mission.
- Employees of CalHR will retain all their previous civil service status and seniority earned in their previous agencies.
- Appeals of discrimination in state employment that are not based on violations of the merit principle will be transferred to the Department of Fair Employment and Housing. (For example, general complaints of discrimination would go to DFEH; appeals of an examination result based upon gender, race, etc. would continue to be heard by the SPB.) Statutes of both DPA and SPB will be revised to reflect the new organization.
- Staff consolidated under this proposal will be located at one site. Following adoption of this reorganization plan, DPA and SPB will work with the Department of General

Services under authority specified above and begin the process of moving staff to one location, with a goal of co-location by July 1, 2013.

- The Department of Finance will designate a new department code for the Department of Human Resources (CalHR). All budget items from DPA and SPB will be transferred to the new department effective July 1, 2012. The Board will have a designated program number under CalHR for its independent budget items, including staff.
- This reorganization shall have NO effect on the Legislature, its employees, its personnel management practices, compensation, benefits, retirement, or other conditions of legislative employment.
- The Department of Finance will assist CalHR to review the staffing needs of the new organization to eliminate duplicate functions, excess levels of management, supervisory, and administrative staff following the consolidation. The goal will be to reduce staff following the consolidation by 15-20% provided that sufficient staff resources remain in place to allow major reforms that will create savings in the line departments.
- The Department of Finance will ensure that savings anticipated by this reorganization are realized by reducing the number of authorized personnel through a new PY cap for both organizations to reflect anticipated staff reductions achieved through efficiencies. Since many of the savings cannot be realized until both agencies are co-located, these savings may be spread out between FY 2012/13 and 2013/14.
- For budgetary and accounting purposes, the provisions of this act shall become effective on July 1, 2012. All appropriations of the Department of Personnel Administration and the State Personnel Board established prior to the effective date of this act shall continue in existence until reverted, and all transactions attributable to these appropriations shall be treated as activities of the Department of Personnel Administration and the State Personnel Board respectively. In the event of any uncertainty or disagreement, the Department of Finance shall make the final determination of the budgetary and accounting transactions that are required to carry out the provisions of this act.

What Stays the Same

Functional units from within DPA that will stay intact for the most part include: the Labor Relations Division to negotiate and administer labor agreements with the employee unions; the Benefits Division, which administers employee benefits and allowances; the Savings Plus Program (401k and 457 programs), and the Legal Division, which represents the State as an

employer in litigation, arbitration, and other employment disputes. Executive staff support functions such as Legislative Analysis and Communications shall also be retained.

Functional units within SPB that will remain as staff under the Board itself are the Executive Officer, Appeals Division, and Legal Division. The Board will also retain a policy support staff and an audit function over the merit system, which will review items such as how departments conduct civil service examinations. The size of audit staff shall be determined following a review by the Office of Statewide Audits and Evaluation of the Department of Finance which shall analyze the workload and audit needs for both the State Personnel Board as well as the new Department of Human Resources and make recommendations on appropriate staffing levels and the assignment of personnel years to each entity.

Further internal and organizational consolidations may also occur in order to achieve greater efficiencies once this Governor's reorganization plan is implemented.

Summary of What Will Change

- The Administration Division staff and IT staff of both DPA and SPB will be transferred to CalHR. These groups will provide staff support for both CalHR and the Board. Duplicate functions will be eliminated.
- A new division within CalHR will be created with the working title of "Personnel Management" and the following functions will be transferred to this division:
 - Classification and Compensation, currently a DPA division, as well as staff from SPB who perform similar functions for the Board to exercise its constitutional oversight role.
 - Personnel Services Branch, currently a unit under the Labor Relations Division, that provides consulting services on the administration of salary, overtime and other payroll statutes and regulations.
 - Compensation Research, currently part of a unit under the Labor Relations Division, which conducts salary and benefit surveys.
 - Recruitment, Selection, and day-to-day examination consultation issues currently done by staff of SPB.
 - Appointment issues, such as appointment legality, limited term, temporary and emergency appointments, and hiring above minimum, that are currently shared between both agencies.
- A new division within CalHR will be created, with the working title "Statewide Services" and the following functions will be transferred to this division:

- Benefits, currently a DPA division, will continue to administer dental, vision, workers compensation, employee assistance, travel and per diem rules, and other employee benefit programs.
 - Savings Plus (457 and 401k plans), Alternate Retirement, and Part-time, Seasonal and Temporary retirement programs, currently a DPA division.
 - Training and Employee Development, previously under SPB and HR Modernization.
 - Workforce Planning, previously under DPA.
 - Management and Supervisory Programs, including administration of the CEA program.
- Consulting Services, a division of SPB: Staff will be transferred to the appropriate divisions of Statewide Services and Personnel Management based on function. This program includes civil rights, training, LEAP, bilingual, interpreter program, and merit system services.
 - Merit Operations, currently a division at SPB: Staff will be transferred to Statewide Services and the Personnel Management divisions based on function, except for staff necessary to audit departmental compliance with the merit system. This is primarily the examination services staff who administer statewide exams and exams on behalf of line agencies.
 - Appeals of discrimination in state employment that are not based on violations of the merit principle will be transferred to the Department of Fair Employment and Housing.
 - HR Modernization will be abolished as a separate program or division and its management and supervisory staff will be reduced, but its general goals and objectives will remain, refocused to reflect current needs, and incorporated into CalHR as part of its overall operating mission.

Further Explanation of New Divisions

Personnel Management Division

This division will house and combine units from DPA and SPB. Under this new division, previously bifurcated units dealing with classification, compensation, selection and testing will be integrated and become responsible for streamlining the processes to improve services to departments related to these functions. The major responsibilities of this division will be to:

- Establish performance measures and “best practices” for personnel offices and programs in the line agencies, standards for delegation of authority to the line

agencies, and review departmental personnel performance and compliance with best practices and standards.

- Work with the line agencies to establish, modify, and abolish classifications. This will include all staff work necessary to support the Board in the exercise of its constitutional responsibilities. In particular, the objectives of the classification plan will be to continue to abolish redundant classifications, consolidate and streamline existing classifications and update them to reflect new skills, knowledge, abilities, and competencies.
- Provide consultation and direction to line agencies on human resources management issues such as performance evaluation, training and development assignments, and establish uniform discipline procedures and requirements consistent with the State Personnel Board's constitutional authority, and other personnel management practices and regulations.
- Establish a more formal delegation system for the personnel offices of the line agencies to implement "best practices;" allocate positions to classifications; administer salary, pay rules, overtime, and other working-condition issues and oversee their implementation; and audit and report results to ensure compliance and quality.
- Perform salary, benefit, and other compensation surveys to be used in collective bargaining negotiations to determine competitive levels of compensation with both public and private industry.
- Administer all discretionary salary statutes, rules and labor contract provisions governing specialty pay differentials, overtime, and other allowances.
- Administer statutes and collective bargaining provisions governing leave accounting, overtime, and hours of work.
- Administer the layoff process including seniority determinations, demotional patterns, restrictions of appointment, and reinstatement.
- Oversee the development of examination plans under policy direction of the State Personnel Board, administer statewide or other departmental exams as requested under standards established by the SPB, including the performance of staff work necessary for the Board to carry out its constitutional responsibilities in setting selection policies.
- Develop and administer formal recruitment programs integrated with examinations, workforce planning and compensation determinations.

- Administer transfer and personnel management rules as established by the State Personnel Board.
- Exercise leadership to eliminate outmoded or redundant personnel rules, streamline processes and give management the skills necessary to carry out their missions.

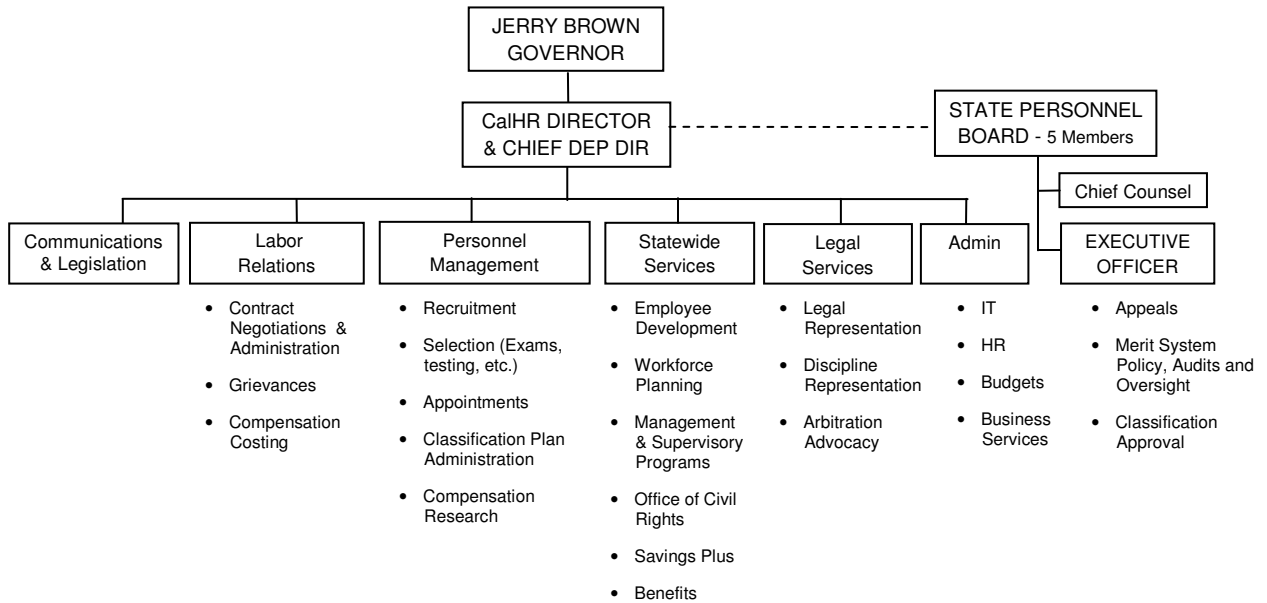
Statewide Services Division

This division will be responsible for overseeing statewide services and support programs that apply across the board to all departments and all state employees. The major responsibilities of this division will be to:

- Establish and administer dental, vision, insurance, employee assistance and other benefit programs for state employees.
- Administer Savings Plus (401k and 457), Part-Time, Seasonal and Temporary (PST), and Alternate Retirement programs.
- Administer medical and dependent reimbursement accounts (Flex-Elect) under IRS regulations.
- Administer travel, relocation, and per diem rules for state employees.
- Administer medical and drug screening and drug testing programs for applicants and existing employees.
- Provide policy research and advice on health benefit administration and retirement programs.
- Revitalize the state's employee development program by combining training personnel from both the State Personnel Board and Human Resources Modernization Project to standardize and modernize the delivery of core training through automation and partnerships with local community colleges.
- Provide statewide consulting services to departments to assist in succession planning and forecasting employee vacancies, and determine recruitment and employee development strategies to address issues created by increased retirements and the need to recruit new qualified staff.
- Provide a greater focus on personnel issues related to the recruitment, selection and compensation for executives, CEAs, managers and supervisors. In particular, combining the two departments will eliminate the need for line agencies to secure two separate approvals from two different agencies for high-level management and CEA allocations.

Proposed Organization Chart

The proposed organization chart for the new Department is as follows:



Retaining the Merit System

This reorganization does not propose to eliminate any aspect of the merit system nor the State Personnel Board. The SPB and its role is established by the Constitution and this reorganization does not – cannot – change that. Rather, it is designed to permit the State Personnel Board to focus on the policies necessary to implement the merit principle and carry out the specific requirements of the Constitution while allowing one agency to concentrate on implementing the day-to-day personnel management activities in a coordinated manner. The State Personnel Board will continue to:

- Have the final authority in the establishment of all job classifications.
- Have the final authority in determining the minimum qualifications to perform a job in a classification.
- Have the final authority in establishing policies for civil service examinations to select qualified employees for a classification.
- Prescribe the probationary period for a classification.
- Determine the conditions under which jobs may be contracted out and hear all appeals of departmental decisions.
- Oversee statutes and regulations that govern employee discipline and render final administrative decisions.
- Hear all whistleblower retaliation complaints.
- Hear all other merit system appeals that deal with selection and appointment.

Consequently the Board will retain its existing Appeals Division and legal staff, as well as sufficient staff to advise the Board on policy and perform merit system audits to ensure departmental compliance with Board policies.

The Department of Finance, Office of State Audit and Evaluation (OSAE), shall determine the appropriate level of audit staff necessary to remain at the State Personnel Board to assure appropriate audit levels of the state merit system, and the number of staff to be transferred to CalHR to carry out the purposes of this reorganization.

Staffing Issues and Employee Considerations

Employees of the Department of Personnel Administration will be transferred to CalHR. They will retain all existing civil service status and shall secure the ability to transfer or be transferred

to vacant jobs for which they are qualified that remain at the State Personnel Board in order to accomplish staff reductions or achieve efficiencies required by this reorganization.

Employees of the State Personnel Board, except as noted, will transfer to CalHR and shall also retain all existing civil service status and shall also retain the ability to transfer or be transferred to any vacant job for which they are qualified that remain at the State Personnel Board in order to accomplish staff reductions or achieve efficiencies required by this reorganization.

To the extent feasible given the existing conditions of the state budget, there will be no layoffs, and positions abolished or reduced under this reorganization shall be done through attrition, provided they are accomplished prior to July 1, 2013. This may require employees to accept voluntary transfers to other classifications in lieu of layoff, voluntary or involuntary transfers to other jobs in existing classifications, placement on the State Restrictions of Appointments List, or other administrative actions. Personnel in "surplus" positions as a result of the reorganization will be given first call on vacancies within the new organization.

Incumbents in CEA positions eliminated as part of this reorganization may be given a 20-day notice of termination and retain the right of return to their former civil service status.

This does not preclude other reductions directed by the administration or authorized by the Legislature to achieve budget reductions necessary to balance the state budget.

All personnel working for the Department of Human Resources shall be excluded from collective bargaining under the Ralph C. Dills Act.

Estimated Initial Positions Savings from the Reorganization

The proposed consolidation is estimated to result in a 15-20% reduction of staff between SPB and DPA. Initial savings will be derived from the following efficiencies:

- Eliminate duplicate administrative functions such as budgets, personnel, facilities and information technology personnel.
- Eliminate, reduce, or reclassify redundant levels of management and supervisory staff and "flatten" the organization to increase span of supervision.
- Eliminate or combine communication, legislation and clerical support functions.
- Streamline, re-prioritize, and eliminate redundant processes as a result of the consolidation (for example, consolidating the CEA review process at one agency or automating processes such as seniority calculations).

- Further efficiencies are anticipated and will be obtained as a result of the co-location of staff and future program changes which will reduce the administrative burden to line departments.

The Department of Finance will assist in reviewing the staffing needs of both the Department of Human Resources and the State Personnel Board as this reorganization plan is implemented. To ensure efficiencies and savings are realized, the Department of Finance will reduce the number of authorized personnel (establish a new PY cap) for both organizations to reflect anticipated staff reductions due to efficiencies. Since many of the savings cannot be realized until both agencies are co-located, these savings may be spread out between FY 2012 and 2013. The Director of CalHR and Executive Officer of the State Personnel Board will determine how to achieve these reductions.

A full 20% PY reduction would yield savings of approximately \$5.8 million using the \$90,000 average cost per PY used by the Department of Finance.

Future Savings and Program Direction

Once in place, it is anticipated that further savings and efficiencies can be achieved in the line agencies.

Many states and the federal government have a merit oversight board to oversee the merit principle and ensure positions in the civil service are not filled by political patronage. However, California's bifurcated organization of day-to-day administration of human resources activities is out of the ordinary for states of similar size and complexity. This reorganization addresses the dual approach, creates a single body with authority over the state's HR governance and administration, while retaining the actual State Personnel Board to ensure merit oversight.

Providing a single HR Department will open the door for California to reap the benefits of a single state employer; providing more exact governance, with a goal to improve services for all departments. It is this simple formula that will accomplish the biggest HR cost savings to the state – in all of the more than 195 state departments, agencies, boards and commissions:

- Create clear, easy to follow, less bureaucratic rules and processes that should reduce workload in the line agencies or provide for more efficient use of resources.
- Maximize the creation and use of web-based systems to provide information to line agencies and reduce paperwork.
- Create uniform statewide training for basic skills and mandatory training delivered electronically over the Web or through web-based applications.
- Improve management flexibility through creation of mandatory placement system of staff during economic downturn and program reductions, and abolish unnecessary positions while preserving priority public services.

- Automate and improve the grievance procedures and review levels and distribution of Labor Relations staff statewide.
- Establish systems to control payroll costs by better tracking of position allocations to identify the fiscal impact of misallocations and correct them.
- In short, there will no longer be two bureaucracies with conflicting rules, sometimes conflicting advice, and often redundant requirements that should yield significant if yet unquantifiable savings or efficiencies.

Key to achieving savings – as recommended by the Little Hoover Commission and the Legislative Analyst – will be to delegate appropriate responsibility to the line agencies to speed decision making and make the system more adaptable. The missions of CalHR and the State Personnel Board would be refocused to establish clear policies; provide consultation, assistance and greater oversight; and hold agencies more accountable in the process. Delegation would be withdrawn for agencies that do not adhere to policy goals.

The new Department of Human Resources created by this reorganization will be charged with identifying and implementing efficiencies to be achieved in the line agencies that will contribute toward meeting statewide budgetary reductions and reporting these achievements to the Department of Finance and the Legislature.

There are more than 2,900 positions performing personnel, labor relations and training services at all departments. Each 1% of savings would result in \$2.6 million in improved efficiencies or reduction in staff.

Effect on Collective Bargaining and Labor-Management Cooperation

This reorganization will neither expand nor diminish current rights held by both labor and management under the Ralph C. Dills Act. That Act already prohibits any negotiations that contravene the merit principle.

Office Space

The new department will require sufficient space for consolidation of all staff of the current DPA and all staff of the SPB. Under the current FY 10/11 budget, the Department of General Services has been authorized to explore alternatives for co-locating the two agencies. Among various options, the most cost effective is to relocate all staff not associated with the constitutional mandates of the SPB to the current location of DPA. This option will require that the Department of Corrections and Rehabilitation vacate two floors at 1515 S Street, where DPA now uses approximately one floor. This option is in line with anticipated reductions at CDCR which should free up some space at this location. This will allow the appropriate SPB staff to move into the new CalHR location and provide sufficient space for DPA staff currently residing across the street from the main office in a small building now leased by DPA at 1800

15th Street to move in. Additionally, this will give sufficient square footage for CalHR to provide statewide training resources to all departments.

Initial moving costs to accommodate this consolidation will be ONE TIME costs that would easily be recovered within a year or two by efficiencies created by the consolidation.

The Department of Finance and the Department of General Services will be charged with assisting in developing the most cost-effective relocation that will provide for this consolidation.

Conclusion and Next Steps

This reorganization is long overdue. The benefits are manifest and will result in greater value delivered to the public and line agencies. The organizational plan outlined above should be viewed as a first, but significant, step toward making government more efficient and better able to serve the public.

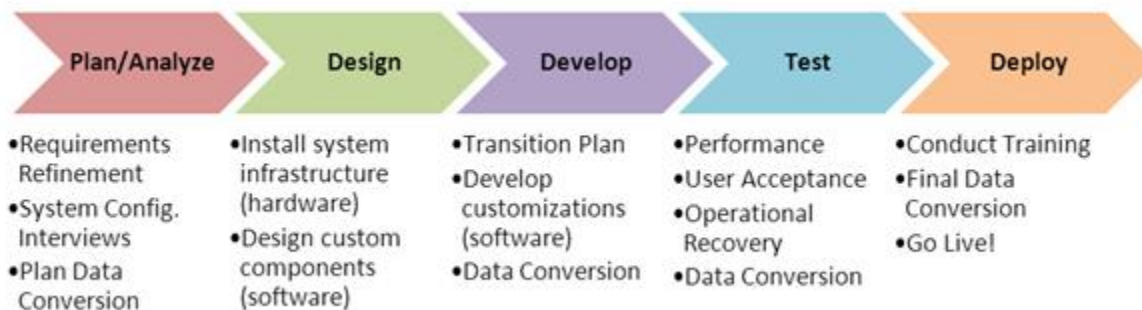
Upon acceptance by the Little Hoover Commission and the Legislature, the two agencies will begin to:

- Work with the Department of General Services to identify office space solutions.
- Work with the Legislative Counsel to draft the statutory language necessary to give full statutory effect to this reorganization.
- Identify an "Implementation Team" consisting of DPA and SPB staff to oversee the implementation of this reorganization plan.
- Create a "users group" of department personnel staff to assist the Implementation Team with issues arising from this plan.
- Work with the Department of Finance and the State Controller's Office to resolve the staffing, budgetary, and accounting issues identified in this plan.
- Provide periodic updates to the Administration as may be required for successful implementation.

The Administration urges the Little Hoover Commission and the Legislature to accept this plan under the statutes permitting such reorganizations.

Life Cycle of the BreEze Project

In each release, the BreEze project follows a standard IT project cycle:



The steps in this process are sequential, but there is a lot of overlap. For example, system configuration interviews for the licensing functions in Release 1 boards were completed in December and configuration interviews began this month for enforcement functions. All still in the plan/analyze phase, right? However, the vendor has also moved into the *next* phase by beginning to design the customization of the software for licensing functions. Another example: when Release 1 is deployed, analyze and design tasks for Release 2 boards/bureaus (I hope you know who you are!) will have already begun. But in case you've forgotten/spaced out/never knew which release you are in, here's the plan so far...

System Configuration:

In the system configuration interviews, the vendor learns detailed information about business processes to customize the system to meet board/bureau needs.

Release 1: The Pioneers	Release 2: The Beneficiaries of Experience (Smooth as butter!)	Release 3: The Heavy Hitters
Board of Registered Nursing Medical Board of California Board of Behavioral Sciences Board of Psychology Osteopathic Medical Board Board of Podiatric Medicine Respiratory Care Board Naturopathic Medicine Committee Physician Assistant Committee Board of Barbering & Cosmetology DCA Internal Support: CIC, Cashiering, OIS Division of Investigation	Pharmacy Board Board of Vocational Nursing and Psychiatric Technicians Dental Board Board of Chiropractic Examiners Physical Therapy Board Veterinary Medical Board and Veterinary Technician Examining Committee Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board Dental Hygiene Committee Board of Occupational Therapy Board of Optometry Acupuncture Board Telephone Medical Advice Services Bureau of Security & Investigative Services	Bureau of Automotive Repair Board of Accountancy Bureau of Electronic, Appliance Repair, Home Furnishings and Thermal Insulation Cemetery and Funeral Board Court Reports Board Athletic Commission Bureau of Private Postsecondary Education Professional Fiduciaries Bureau Board of Guide Dogs for the Blind Contractors State License Board Board for Professional Engineers, Land Surveyors, and Geologists Architects Board Landscape Architect Technical Committee Structural Pest Control Board

Here's Some of What's Happening Now...

- Development, testing and production servers (infrastructure hardware) are due to be delivered.
- System configuration interviews for enforcement functions in Release 1 boards are on-going.
- Existing data from Release 1 boards' work-around databases has been loaded and is being tested to see if the data will convert into the new system accurately.
- Training needs have been assessed and a training plan is being developed, as well as training materials.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Andrea Leiva and Jeff Robinson
Policy Analyst Licensing Analyst

Telephone: (916) 575-7182
(916) 575-7171

Subject: Agenda Item 8: Regulations

A. Discussion and Possible Action Pertaining to Comments Received During the 45-Day Comment Period of California Code of Regulations (CCR) §1575. Disciplinary Guidelines

Presented by Andrea Leiva, Policy Analyst

Action Requested: Staff would like to request that the Board agree to move this regulatory package to the next Board meeting for further discussion.

Issue/Discussion:

On February 22, 2012, staff learned that the Department of Consumer Affairs (Department) received a legal opinion from the Attorney General pertaining to the Uniform Standards Related to Substance Abuse pursuant to Senate Bill (SB) 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008). The Attorney General's legal opinion defers from the Legislative Counsel's legal opinion, thus the Department has requested that all Boards implementing SB 1441 hold off on taking anymore action until the opinions can be reviewed.

Background: This rulemaking package updates the Board's disciplinary guidelines to reflect the current enforcement and probationary environment, and adds the mandatory Uniform Standards Related to Substance Abuse. These two documents are incorporated by reference in CCR §1575. The Board approved proposed regulatory language at its September 16, 2011 meeting. The proposed regulatory language was noticed on the Board's website and mailed to interested parties on October 21, 2011, initiating the 45-day public comment period. The comment period began on October 21, 2011 and ended on December 6, 2011. The Board received two comments at the regulatory hearing held on December 6, 2011 for this rulemaking package.

The Board has until October 21, 2012 to complete this regulatory package and submit it to the Office of Administrative Law.

B. Discussion and Possible Action Pertaining to Comments Submitted During the 15-Day Comment Period of the Proposed Rulemaking for CCR § 1513. Registered Name Only, §1514. Renting Space from and Practicing on Premises of Commercial (Mercantile) Concern, and §1525.1 Fingerprint Requirements

Presented by Andrea Leiva, Policy Analyst

Action Requested: First, staff requests that the Board review and fully consider the comments received during the 15-day comment period pertaining to this rulemaking package. A proper response will show adequate consideration of the comments and will thoroughly describe why the comments are being accepted or rejected. Staff has provided proposed responses to the comments for review and approval.

Second, staff requests that the Board review, make any edits necessary and approve the proposed second modified text (revisions to the first modified text prompted by the comments received) to initiate a 15-day comment period to allow the public to address the modified text.

Third, if the Board decides to accept the proposed second modified text, staff recommends that the Board make a motion to delegate to the Executive Officer the authority to adopt the modified text at the expiration of the second 15-day comment period, provided the Board does not receive any adverse comments directed at the modified text.

Background: The Board approved proposed regulatory language at its April 11, 2011 meeting. The proposed regulatory language was noticed on the Board's website and mailed to interested parties on May 27, 2011 initiating the 45-day public comment period. The comment period began on May 27, 2011 and ended on July 11, 2011. A regulatory hearing was held on July 11, 2011. One comment of opposition was received pertaining to CCR §1513 and §1514.

At its December 2, 2011 meeting, the Board considered the comment received during the 45-day comment period and approved modified text in order to address the comment. The required 15-day comment period for the modified text began on December 8, 2011 and ended on December 23, 2011. Three comments in opposition and one comment in support were received pertaining to CCR §1513. The deadline to submit the final rulemaking to the Office of Administrative Law (OAL) is May 27, 2012 .

Issue/Discussion:

Comments Received During the 15-day Comment Period and Proposed Responses from Staff:

SUPPORT

Comment 1: Adolphus Lages, O.D., comments that as an individual who has worked as Medical Director of Vision Plan of America, and someone who has audited hundreds of optometrists, he agrees with the Board's proposed CCR §1513 as written. He agrees that all items that contain an optometrist's name should contain the full name, including business/appointment cards, receipts, etc.

He also comments that many Fictitious Name Permits that he has seen are almost always altered, and this should be restricted as well.

Staff Recommended Response: Accept. The Board acknowledges Dr. Lages' comment of support pertaining to CCR §1513. The Board will consider his comment regarding Fictitious Name Permits at a future meeting, as it is not related to the modified text, or this regulatory package.

OPPOSITION

Comments were received from Donald Wes Wheadon, O.D., Alexander Lyle Baker, O.D. and Scott Phillip Feldman, O.D. These optometrists oppose CCR §1513 as written for the following reasons:

Comment 2: All commentors believe the regulation would present a great personal and professional problem because optometrists would have to change all their professional identification to long, registered names. For example, Dr. Wheadon has been using the alternate name of D. Wes Wheadon for his entire life for all purposes, including optometric advertising.

Staff Recommended Response: Reject. This comment only describes the inconvenience that this proposed regulation will present to one optometrist personally, and the Board's main concern is the protection of thousands of California consumers. From 1936 to 1982, CCR §1513 read that an optometrist could not use, in connection with his practice any name other than the one for which he is licensed to practice. It also required that signs, cards, stationary or other advertising had to clearly identify the individual optometrist or optometrists, and had to be free of any ambiguity or possibility of misrepresentation. In 1983, CCR §1513 was amended to read as it does today, but still had the explicit title of "Registered Name Only" and continued to require that optometrists prominently identify themselves.

After further consideration, in order to maintain uniformity, reduce confusion that could be caused by two options, and prevent the misconception that how an optometrist advertises is dependant on the type of name they have, a second version of modified text has been drafted that will require all optometrists to include their license number on all signs, cards, stationary or other advertising. This will make it easier to ensure that consumers will be able to identify their optometrist.

This regulation is intended to provide information to consumers and increase ease of advertising for optometrists not just now, but in the future. The Board cannot deviate from its mission to hold consumer protection above all other matters because one optometrist will be inconvenienced by a regulation that improves access of information to thousands of patients.

Comment 3: All commentors believe the regulation as written would be a huge expense and an unbelievable burden, especially in a down economy.

Staff Recommended Response: Reject. All licensees are expected, as professional health practitioners and business owners, to be in compliance with all laws before even considering investing in any sort of advertising. In regards to the comment about this proposal being presented in a down economy, the Board must continue protecting consumers regardless of the state of the economy because that is the priority of the Board pursuant to Business and Professions Code (BPC) §3010.1.

Comment 4: All opposed commentors believe that the purpose of this regulation is to standardize the Board's business procedures so they are easier to manage. They also believe that this regulation is unnecessary, does not make sense, would force optometrists to jump through more hoops, and would make more work for the Board.

Staff Recommended Response: Reject. The amendments to this regulation are not for the purposes of standardizing the Board's business procedures. Further, this regulation is necessary, would not require optometrists to jump through hoops, and would not make more work for the Board. The purpose of this regulation is to increase consumer protection and allow patients to easily access information about who is treating them. Education is the first line of defense against fraud and deception and helps consumers make well-informed decisions before they choose an optometrist to continue examining their eyes.

This regulation would allow the Board and licensees to work in a more efficient manner. As a state licensing agency, whose primary objective is to protect the public, it is only logical that it be possible to easily identify optometrists if a disciplinary action is warranted. Also, as a consumer right, people should be able to use an optometrist's name, license number or address to learn more about who's treating them. The current regulation does not allow this. Clarifying what is required will make this regulation easier to enforce on the Board's end, and add some flexibility and understanding to licensees.

Comment 5: Dr. Wheadon and Dr. Baker propose a solution, so that those under the Board's jurisdiction will be allowed to keep their listings as they are. Their solution would require that upon renewal of a license, the Board ask optometrists to list the alternate names they use so they can be included in a database. Once on file, they assume the Board will be able to easily find the alternate name and match it to the optometrist.

Staff Recommended Response: Reject. This suggestion is not reasonable and is beyond the Board's capabilities. Allowing licensees to have multiple names on file, whether electronically or on paper, would increase confusion instead of remedy the problem. The License Look-up tool on the Board website already has multiple ways for a consumer to search for an optometrist (first name, last name, address, license number, county, city, or business name). It would not benefit the consumer if a laundry list of alternative names appeared every time they tried to find an optometrist. In addition to confusing the public (which is restricted pursuant to BPC §651), making this recommendation available would be more work for the optometrist because they would constantly have to update their information. If the information was not up to date, this may lead to a new form of violation in law. This in turn would create more work for the Board's staff and may lead to errors when it comes to printing a renewed license, or verifying a license for the optometrist with other professional associations.

Furthermore, the Board's licensing and enforcement computer-based database does not have the capability to support multiple names for one licensee. After further consideration, in order to maintain uniformity, reduce confusion that could be caused by two options, and prevent the misconception that how an optometrist advertises is dependant on the type of name they have, a second version of modified text has been drafted that will require all optometrists to include their license number on every sign, card, stationary or other advertisement. This will decrease all confusion and increase efficiency for consumers, the licensee and Board staff.

Comment 6: Dr. Baker and Dr. Feldman ask how many cases of mistaken identity have occurred during past complaints over a five year period? They cannot believe there are that many confusing issues. Dr. Baker inquires how many of these mistaken complaints could not be sorted out relatively easily? Presumably, if someone is filing a complaint they have been to the doctor's office and can easily provide an address or phone number. Even if they have not been to the doctor's office and are basing a complaint solely on an advertisement, it would be very poor advertising to not include contact information for the doctor's office, which again would provide an easy means of accurate identification. Dr. Baker cannot imagine many instances where a valid complaint would not be supported by other identification besides the name or nickname of a doctor.

Staff Recommended Response: Reject. The statistical information being requested is not subject to disclosure to the public, and the Board cannot comment on enforcement cases open for investigation (See Government Code §6254 (f)). However, it is common for the Board to receive complaints regarding mistaken identity, which could be considered unlicensed practice initially. Someone who is not familiar with the Board's enforcement process may think that these types of issues are easy to solve, but the reality is that it still requires the Board's time, and is costly not only for the Board, but all California licensed optometrists because their licensing fees fund the Board.

Furthermore, many consumers, unfortunately, are not as savvy as Dr. Baker and Dr. Feldman assume, and it is the Board's responsibility to protect these individuals. The reality is that many consumers do not even know they are being treated by an optometrist, and oftentimes Board staff has to direct them to the Medical Board because they were dealing with an ophthalmologist or optician and vice versa.

As unbelievable as it may seem to the commentators that mistaken identity issues arise solely from a complaint on an advertisement, it does happen, and can become a much bigger issue that is separate from this regulation's jurisdiction and this rulemaking package.

The practice of optometry is changing. Many optometrists are now contracting with multiple health organizations to provide their services, and may not have a principal place of practice where consumers can follow-up if they have questions, a complaint, or need to obtain a prescription or patient records. Or, an optometrist will fill in for a fellow optometrist, and then a patient will have a complaint regarding the fill-in optometrist and they won't remember his or her name. To further emphasize this point, many consumers with complaints will be elderly and again, they will not remember the address of where they went or the name of the optometrist. The same applies to licensees who get married, change their name, and then do not notify the Board about the change.

Also, illustrative of the need for this regulatory change, the Board is finding that there are many optometrists of the same ethnic descent who have the exact same name (e.g., Nguyen). The Board spoke with one of the schools of optometry in California regarding this issue at its public legislation and regulation committee meeting on November 18, 2011, and they shared that they too had issues identifying students who had the same name. As the practice of optometry evolves, and the types of populations that become optometrists changes, it is the Board's duty to adapt and ensure that consumers have an easy way to identify their optometrist. If a licensee does not consider their name "attractive" when it comes to advertising their practice, the licensee can officially change their name with the Board, but legal documentation will be required. This regulation will benefit everyone in the long run, and will not be a detriment as the commentators short sightedly suggest.

Comment 8: A vague definition of advertising can result in new penalties where none should exist, e.g., if Dr. Baker were to write a letter to an editor extolling his participation in a recent vision screening and the paper did not print his full name or license number, would he be penalized for improper advertising?

Staff Recommended Response: Reject. The definition of advertising is not addressed in this regulation, or the first modified text, and the Board is not trying to create a definition, so this comment is irrelevant for the purposes of this rulemaking. Further, the Board would need to review each particular circumstance to see if something is considered "advertising."

Thus, if this proposal were to become law, Dr. Baker's example regarding a printed article that does not have his full registered name or a license number if needed would have to be reviewed as described above. But, the question arises as to why Dr. Baker would not ensure that the newspaper would print his information in compliance with the law? Again, all licensees are expected, as professional health practitioners and business owners, to be in compliance with all laws before even considering investing in any sort of advertising or free media. This proposal is only clarifying advertising requirements to ensure the public can easily find their optometrist.

Attachments:

- 1) Comments Received During the first 15-day comment period
- 2) Modified Text
- 3) Proposed Second Modified Text

Leiva, Andrea@DCA

From: Wheado@aol.com
Sent: Thursday, December 08, 2011 5:08 PM
To: Leiva, Andrea@DCA
Subject: Comment on proposed law regarding Registered Name Change regulations
Follow Up Flag: Follow up
Flag Status: Red

Dear State Board Members.

I have been licensed since 1972 and am still practicing in a private practice in West Hollywood Ca. I am now 66 years old and I don't know how many more years I will choose to continue in practice.

My state license and my diplomas list me as my full formal name: **Donald Westbrook Wheadon**. However my professional stationery, sign title, professional societies, insurance, corporate title and so many other names attached to my business life, including the name that people call me and the name I have been known by since childhood, along with my phone listings which is listed as **D. Wes Wheadon, OD**. This is how people look me up to do business with me.

At this point in time it would be a great personal and professional problem and a huge expense as well as an unbelievable burden to change all my professional identification to that long registered name in order to comply with your proposed regulation change.

I realize you probably don't care about my difficulties, and I imagine you need some type of standardization to keep all of the board's business easier to manage, but I figured I would at least make a suggestion that could work for your needs, and allow those in your jurisdiction to keep their listings as they are.

Suggestion: Perhaps on re licensure you could request the applicant to list the names they use so you could include them in a data base in your files so you could easily find the alternate name and match it to a license holder.

I am sure all who need to go through elaborate name and sign changes for their business would be willing to pay a fee to you so the name they use could be added to their license name as a DBA.

After all in such simple cases where a person licensed as John uses Jack, his titles and all signs and headings would need changing, and be a great burden for even such a simple change. That is just a crazy waste of money in a down economy!

I realize you are not speaking about fictitious names or DBAs or corporations in this proposed change, but I implore you to consider not imposing this proposed change for doctors who have spent a lifetime using a name than now needs to be changed.

Respectfully

D. Wes Wheadon, OD
Lic # 5481T

12/9/2011

Leiva, Andrea@DCA**From:** Adolphus Lages [optlages@yahoo.com]**Sent:** Tuesday, December 13, 2011 8:00 AM**To:** Leiva, Andrea@DCA**Subject:** Fullname**Follow Up Flag:** Follow up**Flag Status:** Red

For the past 5 years I have worked as the Medical Director of Vision Plan of America. In this capacity I have audited hundreds of optometrist offices.

1. I totally agree that all items that contain the optometrist name contain their full name. This would include business/appointment cards, receipts, etc.

Also it should be added, Fictitious Name usage. I continually see on signs, business/appointment cards the following. FNP states "Garden City Eyecare Optometry" as an example. But when I go to the office I see "Garden City Eyecare", with the Optometry missing and other changes.

On receipts I see the FNP also modified, no OD name nor license number.

Adolphus W Lages, O.D.

12/13/2011

Leiva, Andrea@DCA

From: alexlylebaker@gmail.com on behalf of Alex Baker OD [drbaker@helmusoptometry.com]

Sent: Thursday, December 15, 2011 8:05 PM

To: Leiva, Andrea@DCA

Subject: Proposed Regulation to Require ODs to Use Full Name or License Number in Advertising
Hi Andrea,

Hope you're doing well. I'm writing in regard to the proposal to require the full name or license number of an optometrist in all advertising so as to prevent mistaken identity if a complaint is filed. I am in opposition to this regulation on the grounds that it appears unnecessary and costly. First, how many cases of mistaken identity have occurred during past complaints over a 5 year period? How many of these mistaken complaints could not be sorted out relatively easily? Presumably, if someone is filing a complaint they have been to that doctor's office and can easily provide an address or phone number. Even if they have not been to the doctor's office and are basing a complaint solely on an advertisement, it would be very poor advertising to not include contact information for that doctor's office, which again would provide an easy means of accurate identification. I cannot imagine many instances where a valid complaint would not be supported by any other identification besides the name or nickname of a doctor.

The cost and time to reprint all business cards, signage, flyers, and other miscellaneous materials is not insignificant, and I do not believe it is necessitated. Another concern is that a vague definition of advertising can result in new penalties where none should exist. For example, if I were to write a letter to the editor extolling my participation in a recent vision screening and the paper did not print my full name or license number, could I be penalized for improper advertising?

Please express my concern to the board that this is an unnecessary and costly regulation, and I am opposed to it. However, so as not to leave you with any other options, I am in full support of requiring optometrists to register alternate names with the board if they will not be using their full name at all times. This is commonplace when applying for insurance panel participation, and you could alter the license renewal form to include a space to write in any alternate names used in advertising.

Many Thanks,

Alex Baker

(a.k.a. Dr. Alexander Lyle Baker, OD; CA License # 13792 TLG) See how long that is! Yuck!

Leiva, Andrea@DCA

From: scott feldman [scottfeldman@hotmail.com]

Sent: Monday, December 19, 2011 11:35 AM

To: Leiva, Andrea@DCA

Cc: Keith Chow

Subject: Full name advertising

COA Board Members,

Really? Another thing for the Board to have to enforce? I do not understand why this is a necessary rule. Granted that a name might be modified slightly from its formal name on a license. There can't be that many confusing issues! Each complaint is going to come from someone in a city or town and all advertising will have associated with it an address or a phone number. I can't believe there is any question who is advertising if someone wants to know that information. This new rule would force some people to change possibly expensive campaigns (I don't have one) and would just be one more hoop we have to jump through and the Board would have to try to enforce. You now have too much for you to keep up with, why add another headache to your lives?

My name is Scott Feldman, I practice in San Jose, Ca and despite the fact that I didn't give you my middle name as it appears on my license I'll bet you can figure out who I am. Please, rules that make sense only. Peace

12/21/2011

BOARD OF OPTOMETRY

MODIFIED TEXT

Changes to the originally proposed language are shown by double underline for new text and underline with strikeout for deleted text.

Amend sections 1513, 1514 and 1525.1 in Division 15 of Title 16 of the California Code of Regulations to read as follows:

§1513. REGISTERED NAME ONLY AND USE OF LICENSE NUMBER IN ADVERTISEMENTS

Any All signs, cards, stationary, ~~or other advertising~~ advertisement must clearly and prominently identify the full name of the individual optometrist or optometrists ~~as listed on their registration or certification, registered with the Board, unless the license or registration number is included in the sign, card, stationary, or advertisement.~~

Note: Authority cited: Sections 137, 651 and 3025, Business and Professions Code.
Reference: Sections 651 and ~~3125~~ 3078, Business and Professions Code.

§1514. RENTING SPACE FROM AND PRACTICING ON PREMISES OF COMMERCIAL (MERCANTILE) CONCERN

Where an optometrist rents or leases space from and practices optometry on the premises of a commercial (mercantile) concern, all of the following conditions shall be met:

(a) The practice shall be owned by the optometrist and in every phase be under his/her exclusive control. The patient records shall be the sole property of the optometrist and free from any involvement with a person unlicensed to practice optometry. The optometrist shall make every effort to provide for emergency referrals.

(b) The rented space shall be definite and apart from space occupied by other occupants of the premises and shall have a sign designating that the rented space is occupied by an optometrist or optometrists.

(c) ~~The practice shall contain~~ All Any signs, ~~and advertisement~~ advertising, ~~or, and that~~ display shall likewise be ~~shall likewise be the practice as~~ 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.

(d) There shall be no legends as "Optical Department," "Optometrical Department," "Optical Shoppe," or others of similar import, displayed on any part of the premises or in any advertising.

(e) There shall be no linking of the optometrist's name, or practice, in advertising or in any other manner with that of the commercial (mercantile) concern from whom he/she is leasing space.

Note: Authority cited: Sections 3025 and 3025.5, Business and Professions Code.
Reference: Sections 651 and 3025, Business and Professions Code.

§ 1525.1, FINGERPRINT REQUIREMENTS

(a) As a condition of renewal for a licensee who was initially licensed prior to ~~January 1, 1998~~ April 1, 2007, ~~or for whom an electronic record of the submission of fingerprints no longer exists,~~ such licensee shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal criminal offender record information search conducted through the Department of Justice.

(1) The licensee shall pay any costs for furnishing the fingerprints to the Department of Justice and conducting the searches.

(2) A licensee shall certify when applying for renewal whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(3) This requirement is waived if the license is renewed in an inactive status, or if the licensee is actively serving in the military outside the country. The board shall not return a license to active status until the licensee has complied with subsection (a).

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been convicted of any violation of the law in this or any other state and, the United States, and its territories, military court, or other country, omitting traffic infractions under §300 not involving alcohol, dangerous drugs, or controlled substances.

(c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(d) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(e) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

(f) As a condition of petitioning the board for reinstatement of a revoked or surrendered license or registration, an applicant shall comply with subsection (a).

Note: Authority cited: Sections 144, 3010.1, 3010.5, 3024 and 3025, Business and Professions Code.

Reference: Section 3110, Business and Professions Code; and Section 11105, Penal Code.

BOARD OF OPTOMETRY

SECOND MODIFIED TEXT

Changes to the originally proposed language are shown by double underline for new text and underline with strikeout for deleted text.

§1513. LICENSEE REGISTERED NAME ONLY AND USE OF LICENSE NUMBER IN ALL FORMS OF ADVERTISEMENTS

Any All signs, cards, stationary, or other advertising advertisement must clearly and prominently identify the full name of the individual optometrist or optometrists and include each optometrist's license number. ~~as listed on their registration or certification, registered with the Board, unless the license or registration number is included in the sign, card, stationary, or advertisement.~~

Note: Authority cited: Sections 137, 651 and 3025, Business and Professions Code.

Reference: Sections 651 and ~~3125~~ 3078, Business and Professions Code.

C. Discussion and Possible Action to Amend CCR §1536 to Allow Therapeutic Pharmaceutical Agent (TPA) Certified Optometrists to Earn 50% of their Continuing Optometric Education (CE) from Internet or Correspondence (Independent Study) Courses

Presented by Jeff Robinson, Licensing Analyst

Background:

This subject was initially introduced to the Board at the September 16, 2011 Board meeting. Board members requested that staff do an analysis of the CE requirements of other states to provide them with a better sense of whether or not this matter should be considered and present what was learned to the Legislative Committee.

Board staff completed an analysis of five (5) states recognized as having the largest concentration of licensed optometrists outside of the State of California (New York, Illinois, Texas, Pennsylvania, and Florida) and learned that only one of the five states allowed the completion of 50% of the CE hours required through independent study courses. This information was presented at the Legislation and Regulation Committee meeting held on November 18, 2011. The committee elected to have this matter reintroduced to the Board members at the next Board meeting for further consideration and, possibly, put to a vote.

Action Requested:

With the continuing improvement in the CE curriculum demonstrated by accredited schools/colleges of optometry and CE providers, it is the opinion of Board staff that it seems unfair to allow less-than-TPA certified optometrists to earn up to 50% of their CE through independent study and not provide those that are TPA certified same. Therefore, staff requests that Board members revisit CCR section 1536(c) for possible revision of the CE hours granted for the completion of documented and accredited independent study courses.

Attachment:

1) CCR section 1536(c)(1-2)

§ 1536. Continuing Optometric Education; Purpose and Requirements.

(a) Except as otherwise provided in Section 1536(b), each licensee shall complete 40 hours of formal continuing optometric education course work within the two years immediately preceding the license expiration date. Such course work shall be subject to Board approval. Up to eight hours of course work may be in the area of patient care management or ethics in the practice of optometry. Business management courses are not accepted by the Board.

(b) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Business and Professions Code Section 3041.3 shall complete a total of 50 hours of continuing optometric education every two years in order to renew his or her license. Thirty-five of the required 50 hours of continuing optometric education shall be on the diagnosis, treatment and management of ocular disease and consistent with Business and Professions Code section 3059, subdivision (e).

(c) Up to 20 hours of required biennial course work may be accomplished by using any or all of the following alternative methods:

(1) Documented and accredited self study through correspondence or an electronic medium.

(2) Teaching of continuing optometric education courses if attendance at such course would also qualify for such credit, providing none are duplicate courses within the two-year period.

(3) Writing articles that have been published in optometric journals, magazines or newspapers, pertaining to the practice of optometry (or in other scientific, learned, refereed journals on topics pertinent to optometry), providing no articles are duplicates. One hour of credit will be granted for each full page of printing or the equivalent thereof.

(4) A full day's attendance at a California State Board of Optometry Board meeting. Up to two credit hours shall be granted for a full day.

(5) Completion of a course to receive certification in cardiopulmonary resuscitation (CPR) from the American Red Cross, the American Heart Association, or other association approved by the Board. Up to four credit hours shall be granted for this course.

(d) A credit hour is defined as one classroom hour, usually a 50-minute period, but no less than that.

(e) Continuing optometric education programs which are approved as meeting the required standards of the Board include the following:

(1) Continuing optometric education courses officially sponsored or recognized by any accredited school or college of optometry.

(2) Continuing optometric education courses provided by any national or state affiliate of the American Optometric Association, the American Academy of Optometry, or the Optometric Extension Program.

(3) Continuing optometric education courses approved by the Association of Regulatory Boards of Optometry committee known as COPE (Council on Optometric Practitioner Education).

(f) Other continuing optometric education courses approved by the Board as meeting the criteria set forth in paragraph (g) below, after submission of a course, schedule, topical outline of subject matter, and curriculum vitae of all instructors or lecturers involved, to the Board not less than 45 days prior to the date of the program. The Board may, upon application of any licensee and for good cause shown, waive the requirement for submission of advance information and request for prior approval. Nothing herein shall permit the Board to approve a continuing optometric education course which has not complied with the criteria set forth in paragraph (g) below.

(g) The criteria for judging and approving continuing education courses by the Board for continuing optometric education credit will be determined on the following basis:

(1) Whether the program is likely to contribute to the advancement of professional skill and knowledge in the practice of optometry.

(2) Whether the instructors, lecturers, and others participating in the presentation are recognized by the Board as being qualified in their field.

(3) Whether the proposed course is open to all optometrists licensed in this State.

(4) Whether the provider of any mandatory continuing optometric education course agrees to maintain and furnish to the Board and/or attending licensee such records of course content and attendance as the Board requires, for a period of at least three years from the date of course presentation.

(h) Proof of continuing optometric education course attendance shall be provided in a form and manner specified in writing by the Board and distributed to all licensed optometrists in this State. Certification of continuing optometric education course attendance shall be submitted by the licensee to the Board upon request, and shall contain the following minimal information:

(1) Name of the sponsoring organization.

(2) Name, signature, practice address, and license number of the attending licensee.

(3) Subject or title of the course.

(4) Number of continuing optometric education hours provided for attending the course.

(5) Date the course was provided.

(6) Location where the course was provided.

(7) Name(s) and signatures of the course instructor(s).

(8) Such other evidence of course content or attendance as the Board may deem necessary.

Use of a certificate of course completion provided by the Board is recommended for any continuing optometric education course approved by the Board pursuant to the above. Such forms will be furnished by the Board upon request.

The Board will also recognize and utilize the Association of Regulatory Boards in Optometry's online Optometric Education (OE) Tracker system as proof of continuing education course attendance.

(i) The following licensees shall be exempt from the requirements of this section:

(1) Any licensee serving in the regular armed forces of the United States during any part of the two years immediately preceding the license expiration date.

(2) Those licensees as the Board, in its discretion, determines were unable to complete sufficient hours of continuing optometric education courses due to illness, incapacity, or other unavoidable circumstances. An extension may be granted if the Board, in its discretion, determines that good cause exists for the licensee's failure to complete the requisite hours of continuing optometric education.

(3) Any licensee who is renewing an active license for the first time, if he or she graduated from an accredited school or college of optometry less than one year from the date of initial licensure.

(j) The Board may conduct an audit of any licensee's attendance of a continuing optometric education course as a means of verifying compliance with this section.

Note: Authority cited: Section 3059, Business and Professions Code. Reference: Section 3059, Business and Professions Code.

D. Discussion and Possible Action to Initiate a Rulemaking to Adopt CCR, Article 2.1 Sponsored Free Health Care Events – Requirements for Exemption

Presented by Andrea Leiva, Policy Analyst

Action Requested: First, staff requests that the Board review the proposed language and forms, and make edits if necessary. Second, if this regulatory proposal is to the members' satisfaction, staff requests that the Board approve the proposed language and forms so that staff can begin the regulatory process.

Background: Assembly Bill 2699 (Bass, Ch. 270, 2011) added Business and Professions Code (BPC) §901 which requires an out-of-state optometrist to obtain authorization from the Board prior to participating in a sponsored free health care event in California. Care can only be provided free of charge to uninsured/underinsured persons, on a short-term voluntary basis, and in association with a sponsoring entity registered with the Board and the county health department in which the health care services will be provided.

This law can only be implemented with the development of regulations. With the assistance of the Department of Consumer Affairs, the Board has prepared proposed regulations, the registration form for the sponsoring entity and the authorization request form for the out-of-state optometrist.

This proposal will add the following article and regulations to Division 15 of Title 16 of the California Code of Regulations:

Article 2.1 Sponsored Free Health Care Events – Requirements for Exemption

1508. Definitions

1508.1. Sponsoring Entity Registration and Recordkeeping

1508.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event

1508.3. Termination of Authorization and Appeal

Please see Attachment 1 for the proposed language, Attachment 2 for the sponsoring entity registration form, and Attachment 3 for the out-of-state optometrist authorization request form.

Attachments:

- 1) Proposed Language
- 2) Sponsoring Entity Registration Form
- 4) Out-of-State Optometrist Authorization Request Form

**BOARD OF OPTOMETRY
PROPOSED LANGUAGE
DRAFT 2**

Highlighted text are topics of discussion.

Add Article 2.5 and Sections 1508, 1508.1, 1508.2, 1508.3 and 1508.4 to Division 15 of Title 16 of the California Code of Regulations to read as follows:

Article 2.5 Sponsored Free Health Care Events - Requirements for Exemption

§1508. Definitions

For the purposes of Section 901 of the Code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of optometry but who holds a current valid license or certificate in good standing in another state, district, or territory of the United States to practice optometry.

(c) "In good standing" means that a person:

- (1) Is not currently the subject of any investigation by any governmental entity or has not been charged with an offense for any act substantially related to the practice of optometry by any public agency.
- (2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon the person's professional conduct or practice, including any voluntary surrender of license; or,
- (3) Has not been the subject of an adverse judgment resulting from the practice of optometry that the Board determines constitutes evidence of a pattern of incompetence or negligence.

Note: Authority cited: Sections 901 and 3025, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§1508.1. Sponsoring Entity Registration and Recordkeeping Requirements.

(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Code shall register with the Board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the Board by submitting to the Board a completed Form OPT901-A (01/2012), which is hereby incorporated by reference.

(b) Determination of Completeness of Form. The Board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process Form 901-A on behalf of

the Board. The Board or its delegatee shall inform the sponsoring entity within 15 calendar days of receipt of Form OPT901-A (01/2012) in writing that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The Board or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.

(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by Section 901 as well as a copy of the authorization for participation issued by the Board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the Board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by Section 901(g) of the Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Board. In addition, the sponsoring entity shall provide copies of any record required to be maintained by Section 901 of the Code to any representative of the Board within 15 calendar days of the request.

(d) Notice. A sponsoring entity shall place a notice visible to patients at every station where patients are being seen by an optometrist. The notice shall be in at least 48-point type in Arial font and shall include the following statement and information:

NOTICE

Optometrists providing health care services at this health fair are either licensed and regulated by the California Board of Optometry or hold a current valid license from another state and have been authorized to provide health care services in California only at this specific health fair.

For more information, or if you have a complaint or concern please contact the California Board of Optometry at 1-916-575-7170; www.optometry.ca.gov

(e) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the Board.

(f) Report. Within 15 calendar days following the provision of health care services, the sponsoring entity shall file a report with the Board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:

- (1) The date(s) of the sponsored event;
- (2) The location(s) of the sponsored event;
- (3) The type(s) and general description of all health care services provided at the sponsored event; and

- (4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

Note: Authority cited: Sections 901 and 3025, Business and Professions Code. Reference: Section 901, Business and Professions Code.

§1508.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event

(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the Board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Board to provide those services. Authorization must be obtained for each sponsored event in which the applicant seeks to participate. (Not specific in statute.)

(1) An applicant shall request authorization by submitting to the Board a completed Form OPT901-B (01/2012), which is hereby incorporated by reference, accompanied by a non-refundable and non-transferable processing fee of \$50.

(2) The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the Board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history check. This requirement shall apply only to the first application for authorization that is submitted by the applicant.

(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the Board shall notify the sponsoring entity and the applicant whether that request is approved or denied.

(c) Denial of Request for Authorization to Participate.

(1) The Board shall deny a request for authorization to participate if:

(A) The submitted Form OPT901-B (01/2012) is incomplete and the applicant has not responded within seven calendar days to the Board's request for additional information; or

(B) The applicant has not graduated from an accredited school or college of optometry approved or recognized by the Board; or

(C) The applicant does not possess a current valid license in good standing; or

(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial under Section 480 of the Code of an application for licensure by the Board; or

(E) The Board has been unable to obtain a timely report of the results of the criminal history check.

(2) The Board may deny a request for authorization to participate if:

- (A) The request is received less than 20 calendars days before the date on which the sponsored event will begin.
- (B) The applicant has been previously denied a request for authorization by the Board to participate in a sponsored event.
- (C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Board.
- (D) The applicant has participated in **three** or more sponsored events during the 12 month period immediately preceding the current application. **Do we want to restrict the # of times per year? Medical Board does not restrict.**

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 1508.3.

(e) Notice. An out-of-state practitioner who receives authorization to practice optometry at a sponsored event shall place a notice visible to patients at every station at which that person will be seeing patients. The notice shall be in at least 48-point type in Arial font and shall include the following statement and information:

NOTICE

I hold a current valid license to practice optometry in a state other than California. I have been authorized by the California Board of Optometry to provide health care services in California only at this specific health fair.

California Board of Optometry
916-575-7170
www.optometry.ca.gov

Note: Authority cited: Sections 144, 901, and 3025, Business and Professions Code.

Reference: Sections 144, 480 and 901, Business and Professions Code.

§1508.3. Termination of Authorization and Appeal.

(a) Grounds for Termination. The Board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:

- (1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the Board.
- (2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the Board.
- (3) The Board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.

(b) Notice of Termination. The Board shall provide both the sponsoring entity or local government entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the Board may provide the notice to any representative of the sponsored event on the premises of the event.

(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

(d) Appeal of Termination. An out-of-state practitioner may appeal the Board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.

(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the Executive Officer regarding the reasons for the termination of authorization to participate. The Executive Officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the Executive Officer or his or her designee may affirm or dismiss the termination of authorization to participate. The Executive Officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

Note: Authority cited: Sections 901, and 3025, Business and Professions Code. Reference: Section 901, Business and Professions Code.



STATE BOARD OF OPTOMETRY
 2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
 P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code §901(d), a non-government organization administering an event to provide health care services to uninsured and underinsured individuals at no cost may include participation by certain health care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event.** *Note that the information required by BPC §901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

[Only one form (per event) should be completed and submitted to the Department of Consumer Affairs. The Department of Consumer Affairs will forward a copy of the completed registration form to each of the licensing authorities indicated on this form.]

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1 _____

Phone Number of Principal Office _____

Address Line 2 _____

Alternate Phone _____

City, State, Zip _____

Website _____

County _____

Organization Contact Information in California (*if different*):

Address Line 1 _____

Phone Number of Principal Office _____

Address Line 2 _____

Alternate Phone _____

City, State, Zip _____

Website _____

County _____

3. Type of Organization:

Is the organization organized pursuant to Section 501(c)(3) of the Internal Revenue Code?

_____ Yes _____ No

If not, is the organization a community-based organization*?

_____ Yes _____ No

Organization's Tax Identification Number: _____

Please describe the mission, goals and activities of the organization (*attach separate sheet(s) if necessary*): _____

* A "community based organization" means a public or private nonprofit (including a church or religious entity) that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZING OFFICIALS

Please list the following information for each of the principal individual(s) who are the officers or officials of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 2:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 3:

Name

Address Line 1

Address Line 2

Title

Phone

Alternate Phone

City, State, Zip

E-mail address

County

(Attach additional sheets to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

5. Attach a list of all out-of-state health care practitioners intending to apply for authorization to participate in the event, as known by the organization at the time of submittal of this form. The list should include the name, profession, and state of licensure of each identified individual.

___ ***Check here to indicate that list is attached.***

6. Please check each licensing authority that will have jurisdiction over an out-of-state licensed health practitioner that intends to participate in the event:

___ Acupuncture Board
___ Board of Behavioral Sciences
___ Board of Chiropractic Examiners
___ Dental Board
___ Dental Hygiene Committee
___ Medical Board
___ Naturopathic Medicine Committee
___ Board of Occupational Therapy
___ Board of Optometry
___ Osteopathic Medical Board
___ Board of Pharmacy
___ Physician Assistant Committee

___ Physical Therapy Board
___ Board of Podiatric Medicine
___ Board of Psychology
___ Board of Registered Nursing
___ Respiratory Care Board
___ Speech-Language Pathology,
Audiology & Hearing Aid Dispensers
Board
___ Veterinary Medical Board
___ Board of Vocational Nursing &
Psychiatric Technicians
___ Other

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application (Form OPT901-B 01/2012) to the Board.
- The organization and the applicant will be notified in writing by the Board whether authorization for an individual out-of-state practitioner has been granted.

This form, and any attachments, and all related questions shall be submitted to:

California Board of Optometry
Attn: Sponsored Free Health Care Events
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

Phone: 916-575-7170
E-mail: optometry@dca.ca.gov

- I understand the organization must maintain copies of the following records at the event, and for a period of five years following the provision of health care services, which shall be provided to the Board upon request:
 - a list of all practitioners providing health care services at the sponsored event;
 - an attestation in writing by each practitioner, signed by that practitioner prior to providing services at the sponsored event, that his or her license to practice optometry has not been suspended or revoked pursuant to disciplinary proceedings in any jurisdiction; and
 - copies of all authorizations for participation by out-of-state practitioners issued by the Board to the sponsoring entity.
- I understand that our organization must file a report with the Board within fifteen (15) calendar days following the provision of health care services that includes:
 - the date(s) of the sponsored event;
 - the location(s) of the sponsored event;
 - the type(s) and general description of all health care services provided at the sponsored event; and
 - a list of all practitioners, licensed by the Board or granted authorization

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachment is true and current and that I am authorized to sign this form on behalf of the organization:

Name Printed

Title

Signature

Date



STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



REQUEST FOR AUTHORIZATION TO PRACTICE WITHOUT A CALIFORNIA LICENSE AT A SPONSORED FREE HEALTH CARE EVENT

In accordance with California Business and Professions Code Section 901 any optometrist licensed and in good standing in another state, district, or territory in the United States may request authorization from the California Board of Optometry (Board) to participate in a free health care event offered by a local government entity or a sponsoring entity, registered with the Board pursuant to Section 901, for a period not to exceed ten (10) days.

PART 1 - APPLICATION INSTRUCTIONS

Applicants must complete all parts of this form and enclose the following:

- A processing fee of \$50, made payable to the California Board of Optometry.
Note: If submitting fingerprint cards instead of using Live Scan, please submit an additional \$51 fee, payable to the California Board of Optometry, to process your fingerprint cards for a total fee of \$101. The applicant must pay any costs for furnishing the fingerprints and conducting the criminal history record check. See additional information below.
- A copy of all valid and active licenses and/or certificates authorizing the applicant to practice optometry issued by any state, district, or territory of the United States.
- A letter of verification of license status from each state's Board of Optometry where the applicant is currently practicing.
- A copy of a valid photo identification of the applicant issued by one of the jurisdictions in which the applicant holds a license or certificate to practice.
- A copy of a valid transcript to prove you graduated from an accredited school or college of optometry that is approved or recognized by the Board.
- A full set of fingerprints or a Live Scan inquiry. This will be used to establish your identity and to conduct a criminal history record check. However, this requirement shall apply only to the first application for authorization that you submit.

Live Scan is only available in California for residents or visitors. A listing of California Live Scan sites can be found at <http://ag.ca.gov/fingerprints/publications/contact.htm>. Only Live Scan fingerprints completed in California can be accepted. You must fill out a *Request for Live Scan Service* form, which can be obtained from the Board's website at www.optometry.ca.gov.

Procedure: You must take the completed form to the service location, pay a fee and your fingerprints will be taken on a glass without ink. The fingerprints will then be transmitted electronically to the DOJ, who then forwards a report to the Board. There is a low rate of rejection with this method and it will take two days to complete.

Ink on Fingerprint Cards (hard cards). If you are unable to get your fingerprints completed in California via Live Scan, you may contact the Board in writing to obtain an "8X8" fingerprint card (FD-258). Other States' resident hard cards will not be accepted. **Be sure to type or print legibly in black ink in all the areas on the card asking for personal information, that the card is dated and signed by the official taking the fingerprints, and that your signature is on the card.**

Procedure: You must take the hard card to a qualified fingerprint office, e.g., law enforcement, where they will roll your prints, and pay a fee. From the Board's website,

obtain a *Fingerprint Certification Form*, complete the form, sign and date it. Include the completed card and certification in your application to participate in a sponsored free health care event with a \$51 non-refundable processing fee. Reports from the DOJ on some hard cards are received within a month after submission. If you need to repeat the fingerprinting process because of unreadable prints or factors beyond the Board's control, this process may take multiple months, so please plan accordingly.

The Board shall not grant authorization until this form has:

- (1) been completed in its entirety,
- (2) all required enclosures have been received by the Board,
- (3) any additional information requested by the Board has been provided by the applicant and received by the Board; and
- (4) the Board has reviewed the form and all required enclosures/requested information.

The Board shall process this request and notify the sponsoring entity listed in this form whether the request is approved or denied within 20 calendar days of receipt. If the Board requires additional or clarifying information, the Board will contact the applicant directly. Written approval or denial of requests will be provided directly to the sponsoring entity and to the applicant..

PART 2 – GENERAL INFORMATION

1. Applicant Name: _____
First Middle Last

2. Social Security Number: ____ - ____ - ____ **Date of Birth:** _____

Note: The applicant's social security number shall be kept confidential in accordance with all applicable California and federal law.

3. Applicant's Contact Information*:

Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address

(*If an authorization is issued, this address information will be considered your "address of record" with the Board and will be made available to the public upon request.)

4. Applicant's Employer: _____

Employer's Contact Information:

Address Line 1	Phone
Address Line 2	Facsimile
City, State, Zip	E-mail address (if available)

5. Name and Location of school/college of optometry from which Applicant Graduated:

PART 3 – LICENSURE INFORMATION

1. Do you hold a valid current active license, in good standing issued by a state, district, or territory of the United States authorizing the unrestricted practice of optometry in your jurisdiction(s)? The term “good standing” means you:

- Are not currently the subject of any investigation by any governmental entity or have not been charged with an offense for any act substantially related to the practice of for which you are licensed by any public agency;
- Have not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon your professional conduct or practice, including any voluntary surrender of license; and
- Have not been the subject of an adverse judgment resulting from the practice for which you are licensed that the Board determines constitutes evidence of a pattern of negligence or incompetence.

No ☐ If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes ☐ If yes, list all current licenses, certificates, and registrations authorizing the practice of optometry in the following table. If there are not enough boxes to include all the relevant information please attach an addendum to this form.
Please also attach a copy of each of your current licenses, certificates, and registrations.

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Have you ever had a license or certification to practice optometry revoked or suspended?
___ Yes ___ No

3. Have you ever been subject to any disciplinary action or proceeding by an applicable licensing body?
___ Yes ___ No

4. Have you ever allowed any license or certification to practice optometry expire without renewal?
___ Yes ___ No

5. Have you ever committed any act or been convicted of a crime constituting ground for denial of licensure?
___ Yes ___ No

6. If you answered "Yes" to any of questions 2-5, please explain (*attach additional page(s) if necessary*): _____

PART 4 – SPONSORED EVENT

1. Name and address of local government entity, non-profit, or community-based organization hosting the free healthcare event (the "sponsoring entity"): _____

2. Name of event: _____

3. Date(s) & Location(s) of the event: _____

4. Date(s) & Location(s) Applicant will be performing healthcare services (if different):

5. Please specify the healthcare services you intend to provide: _____

6. Name and phone number of contact person with sponsoring entity or local government entity:

PART 5 – ACKNOWLEDGMENT/CERTIFICATION

I, the undersigned, certify and acknowledge that:

- I have not committed any act or been convicted of a crime constituting grounds for denial of licensure by the Board.
- I am in good standing with the licensing authority or authorities of all jurisdictions in which I hold licensure and/or certification to practice optometry.
- I am responsible for knowing and complying with all applicable practice requirements and standards required of licensed optometrists by the California Business and Professions Code and all regulations of the Board while participating in a sponsored event located in California.
- In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of my licensure and/or certification and within the scope of practice for California-licensed optometrists.

- I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.
- I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity or local government entity listed herein and only on the dates and at the locations listed herein for a period not to exceed 10 calendar days.
- Practice of a regulated profession in California without proper licensure and/or authorization will subject the practitioner to potential administrative, civil and/or criminal penalties.
- The Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.
- All information provided by me in this application is true and complete to the best of my knowledge and the Board may, at its discretion, audit and/or verify any information provided by me. By submitting this application and signing below, I am granting permission to the Board to perform such verification and background investigation pertaining to the information I have provided as the Board deems necessary.

My signature on this application, or copy thereof, authorizes the National Practitioner Data Bank and the Federal Drug Enforcement Agency to release any and all information required by the California State Board of Optometry.

Signature

Date

Name Printed: _____

Note: Authorization will not be issued until clearance has been received from the California Department of Justice and the Federal Bureau of Investigation.

NOTICE OF COLLECTION OF PERSONAL INFORMATION

Disclosure of your personal information is mandatory. The information on this application is required pursuant to Title 16, California Code of Regulations Section 1508.3 and Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete or denied. The information provided will be used to determine compliance with Article 2.5 of Division 15 of Title 16 of the California Code of Regulations (beginning at Section 1508). The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the Board, unless the records are exempted from disclosure by Section 1798.40 of the Civil Code. Individuals may obtain information regarding the location of his or her records by contacting the Executive Officer at the Board at the address and telephone number listed above.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Andrea Leiva
Policy Analyst

Telephone: (916) 575-7182

Subject: Agenda Item 9: Legislation

A. Discussion and Consideration of Pending Legislation that May Impact the Practice of Optometry

Action Requested: Staff requests that the Board members review pending legislation that may impact the Board and the practice of optometry. If the members would like to participate in the legislative process, staff requests that the members authorize staff to send either letters of support, or opposition. Members can also choose to remain neutral, and no action will be taken by staff.

Discussion: Below is a summary of relevant bills to the practice of optometry that staff is following, and actions taken so far.

Assembly Bill 761 (R. Hernandez)

Sponsor: California Optometric Association

Status: Passed the Assembly and referred to the Senate Business, Professions and Economic Development Committee. Amendments were accepted by Senator Hernandez from the California Academy of Eye Physicians and Surgeons (CAEPS) limiting the kinds of tests optometrists can perform to those that diagnose conditions related to the eye. CAEPS is now in support of this bill.

Board Position: Support. Letter sent on December 16, 2011 to Assembly Committee on Business, Professions and Consumer Protection.

What this bill does: This bill would expand the category of persons who may perform clinical laboratory tests or examinations that are classified as waived to include licensed optometrists if the results of the tests can be lawfully utilized within their practice, and would provide that a laboratory director may include a licensed optometrist serving as the director of a laboratory which only performs specified clinical laboratory testing, for purposes of waived examinations. The bill would authorize a licensed optometrist certified to use therapeutic pharmaceutical agents to additionally perform specified clinical laboratory tests or examinations classified as waived that are necessary for the diagnosis of conditions and diseases of the eye or adnexa, which the bill would define to mean ocular adnexa.

Assembly Bill 778 (Atkins)

Sponsor: LensCrafters, Californians for Healthy Vision

Status: Opposition. Letter sent June 2011. Dr. Lee Goldstein and staff met with Assembly Member Atkins to discuss this legislation. Dr. Goldstein will provide an update.

What this bill does: This bill would authorize a registered dispensing optician, an optical company, a manufacturer or distributor of optical goods, or a non-optometric corporation to own a specialized health care service plan that provides or arranges for the provision of vision care services, share profits with the

specialized health care service plan, contract for specified business services with the specialized health care service plan, and jointly advertise vision care services with the specialized health care service plan. The bill would prohibit those persons or entities from engaging in conduct that would influence or interfere with the clinical decisions of an optometrist, as specified , and would set forth provisions that apply to medical records. This bill contains other related provisions and other existing laws.

Senate Bill 690 (E. Hernandez)

Sponsor: California Optometric Association

Status: Passed the Senate, but “held at desk” in the Assembly. This means the bill has not had a committee referral or floor action.

Board Position: No Board position at this time.

What this bill does: Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits certain discriminatory acts by health care service plans and health insurers. Existing federal law, beginning January 1, 2014, prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from discriminating with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable state law. This bill would provide that no reimbursement is required by this act for a specified reason. This bill contains other existing laws.

Attachments:

- 1) AB 761 – Language
- 2) AB 778 – Language
- 3) SB 690 – Language

AMENDED IN ASSEMBLY JANUARY 23, 2012

AMENDED IN ASSEMBLY JANUARY 12, 2012

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 761

Introduced by Assembly Member Roger Hernández

February 17, 2011

An act to amend Sections 1206.5, 1209, and 3041 of the Business and Professions Code, relating to optometrists.

LEGISLATIVE COUNSEL'S DIGEST

AB 761, as amended, Roger Hernández. Optometrists.

Existing law provides for the regulation and licensure of clinical laboratories and clinical laboratory personnel by the State Department of Public Health. Existing law prohibits the performance of a clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 unless the test or examination is performed under the overall operation and administration of a laboratory director, as defined, and is performed by specified persons, including certain health care personnel. Existing law provides for the licensure and regulation of optometrists by the State Board of Optometry, and requires certification by the board for a licensed optometrist to use therapeutic pharmaceutical agents. Existing law authorizes a licensed optometrist certified to use therapeutic pharmaceutical agents to diagnose and treat specified conditions.

This bill would expand the category of persons who may perform clinical laboratory tests or examinations that are classified as waived to include licensed optometrists if the results of the tests can be lawfully

utilized within their practice, and would provide that a laboratory director may include a licensed optometrist serving as the director of a laboratory which only performs specified clinical laboratory testing, for purposes of waived examinations. The bill would authorize a licensed optometrist certified to use therapeutic pharmaceutical agents to additionally perform specified clinical laboratory tests or examinations classified as waived that are necessary for the diagnosis of conditions and diseases of the eye or adnexa, which the bill would define to mean ocular adnexa.

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

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

- 1 SECTION 1. Section 1206.5 of the Business and Professions
- 2 Code is amended to read:
- 3 1206.5. (a) Notwithstanding subdivision (b) of Section 1206
- 4 and except as otherwise provided in Section 1241, no person shall
- 5 perform a clinical laboratory test or examination classified as
- 6 waived under CLIA unless the clinical laboratory test or
- 7 examination is performed under the overall operation and
- 8 administration of the laboratory director, as described in Section
- 9 1209, including, but not limited to, documentation by the laboratory
- 10 director of the adequacy of the qualifications and competency of
- 11 the personnel, and the test is performed by any of the following
- 12 persons:
- 13 (1) A licensed physician and surgeon holding a M.D. or D.O.
- 14 degree.
- 15 (2) A licensed podiatrist, a licensed dentist, or a licensed
- 16 naturopathic doctor, if the results of the tests can be lawfully
- 17 utilized within his or her practice.
- 18 (3) A person licensed under this chapter to engage in clinical
- 19 laboratory practice or to direct a clinical laboratory.
- 20 (4) A person authorized to perform tests pursuant to a certificate
- 21 issued under Article 5 (commencing with Section 101150) of
- 22 Chapter 2 of Part 3 of Division 101 of the Health and Safety Code.
- 23 (5) A licensed physician assistant if authorized by a supervising
- 24 physician and surgeon in accordance with Section 3502 or 3535.
- 25 (6) A person licensed under Chapter 6 (commencing with
- 26 Section 2700).

1 (7) A person licensed under Chapter 6.5 (commencing with
2 Section 2840).

3 (8) A perfusionist if authorized by and performed in compliance
4 with Section 2590.

5 (9) A respiratory care practitioner if authorized by and
6 performed in compliance with Chapter 8.3 (commencing with
7 Section 3700).

8 (10) A medical assistant, as defined in Section 2069, if the
9 waived test is performed pursuant to a specific authorization
10 meeting the requirements of Section 2069.

11 (11) A pharmacist, as defined in Section 4036, if ordering drug
12 therapy-related laboratory tests in compliance with clause (ii) of
13 subparagraph (A) of paragraph (5) of, or subparagraph (B) of
14 paragraph (4) of, subdivision (a) of Section 4052, or if performing
15 skin puncture in the course of performing routine patient
16 assessment procedures in compliance with Section 4052.1.

17 (12) A naturopathic assistant, as defined in Sections 3613 and
18 3640.2, if the waived test is performed pursuant to a specific
19 authorization meeting the requirements of Sections 3613 and
20 3640.2.

21 (13) A licensed optometrist as authorized under Chapter 7
22 (commencing with Section 3000).

23 (14) Other health care personnel providing direct patient care.

24 (15) Any other person performing nondiagnostic testing pursuant
25 to Section 1244.

26 (b) Notwithstanding subdivision (b) of Section 1206, no person
27 shall perform clinical laboratory tests or examinations classified
28 as of moderate complexity under CLIA unless the clinical
29 laboratory test or examination is performed under the overall
30 operation and administration of the laboratory director, as described
31 in Section 1209, including, but not limited to, documentation by
32 the laboratory director of the adequacy of the qualifications and
33 competency of the personnel, and the test is performed by any of
34 the following persons:

35 (1) A licensed physician and surgeon holding a M.D. or D.O.
36 degree.

37 (2) A licensed podiatrist or a licensed dentist if the results of
38 the tests can be lawfully utilized within his or her practice.

39 (3) A person licensed under this chapter to engage in clinical
40 laboratory practice or to direct a clinical laboratory.

1 (4) A person authorized to perform tests pursuant to a certificate
2 issued under Article 5 (commencing with Section 101150) of
3 Chapter 2 of Part 3 of Division 101 of the Health and Safety Code.

4 (5) A licensed physician assistant if authorized by a supervising
5 physician and surgeon in accordance with Section 3502 or 3535.

6 (6) A person licensed under Chapter 6 (commencing with
7 Section 2700).

8 (7) A perfusionist if authorized by and performed in compliance
9 with Section 2590.

10 (8) A respiratory care practitioner if authorized by and
11 performed in compliance with Chapter 8.3 (commencing with
12 Section 3700).

13 (9) A person performing nuclear medicine technology if
14 authorized by and performed in compliance with Article 6
15 (commencing with Section 107150) of Chapter 4 of Part 1 of
16 Division 104 of the Health and Safety Code.

17 (10) Any person if performing blood gas analysis in compliance
18 with Section 1245.

19 (11) (A) A person certified or licensed as an “Emergency
20 Medical Technician II” or paramedic pursuant to Division 2.5
21 (commencing with Section 1797) of the Health and Safety Code
22 while providing prehospital medical care, a person licensed as a
23 psychiatric technician under Chapter 10 (commencing with Section
24 4500) of Division 2, as a vocational nurse pursuant to Chapter 6.5
25 (commencing with Section 2840), or as a midwife licensed pursuant
26 to Article 24 (commencing with Section 2505) of Chapter 5, or
27 certified by the department pursuant to Division 5 (commencing
28 with Section 70001) of Title 22 of the California Code of
29 Regulations as a nurse assistant or a home health aide, who
30 provides direct patient care, if the person is performing the test as
31 an adjunct to the provision of direct patient care by the person, is
32 utilizing a point-of-care laboratory testing device at a site for which
33 a laboratory license or registration has been issued, meets the
34 minimum clinical laboratory education, training, and experience
35 requirements set forth in regulations adopted by the department,
36 and has demonstrated to the satisfaction of the laboratory director
37 that he or she is competent in the operation of the point-of-care
38 laboratory testing device for each analyte to be reported.

39 (B) Prior to being authorized by the laboratory director to
40 perform laboratory tests or examinations, testing personnel

1 identified in subparagraph (A) shall participate in a preceptor
2 program until they are able to perform the clinical laboratory tests
3 or examinations authorized in this section with results that are
4 deemed accurate and skills that are deemed competent by the
5 preceptor. For the purposes of this section, a “preceptor program”
6 means an organized system that meets regulatory requirements in
7 which a preceptor provides and documents personal observation
8 and critical evaluation, including review of accuracy, reliability,
9 and validity, of laboratory testing performed.

10 (12) Any other person within a physician office laboratory if
11 the test is performed under the supervision of the patient’s
12 physician and surgeon or podiatrist who shall be accessible to the
13 laboratory to provide onsite, telephone, or electronic consultation
14 as needed, and shall: (A) ensure that the person is performing test
15 methods as required for accurate and reliable tests; and (B) have
16 personal knowledge of the results of the clinical laboratory testing
17 or examination performed by that person before the test results are
18 reported from the laboratory.

19 (13) A pharmacist, if ordering drug therapy-related laboratory
20 tests in compliance with clause (ii) of subparagraph (A) of
21 paragraph (5) of, or subparagraph (B) of paragraph (4) of,
22 subdivision (a) of Section 4052.

23 (c) Notwithstanding subdivision (b) of Section 1206, no person
24 shall perform clinical laboratory tests or examinations classified
25 as of high complexity under CLIA unless the clinical laboratory
26 test or examination is performed under the overall operation and
27 administration of the laboratory director, as described in Section
28 1209, including, but not limited to, documentation by the laboratory
29 director of the adequacy of the qualifications and competency of
30 the personnel, and the test is performed by any of the following
31 persons:

32 (1) A licensed physician and surgeon holding a M.D. or D.O.
33 degree.

34 (2) A licensed podiatrist or a licensed dentist if the results of
35 the tests can be lawfully utilized within his or her practice.

36 (3) A person licensed under this chapter to engage in clinical
37 laboratory practice or to direct a clinical laboratory if the test or
38 examination is within a specialty or subspecialty authorized by
39 the person’s licensure.

1 (4) A person authorized to perform tests pursuant to a certificate
2 issued under Article 5 (commencing with Section 101150) of
3 Chapter 2 of Part 3 of Division 101 of the Health and Safety Code
4 if the test or examination is within a specialty or subspecialty
5 authorized by the person's certification.

6 (5) A licensed physician assistant if authorized by a supervising
7 physician and surgeon in accordance with Section 3502 or 3535.

8 (6) A perfusionist if authorized by and performed in compliance
9 with Section 2590.

10 (7) A respiratory care practitioner if authorized by and
11 performed in compliance with Chapter 8.3 (commencing with
12 Section 3700).

13 (8) A person performing nuclear medicine technology if
14 authorized by and performed in compliance with Article 6
15 (commencing with Section 107150) of Chapter 4 of Part 1 of
16 Division 104 of the Health and Safety Code.

17 (9) Any person if performing blood gas analysis in compliance
18 with Section 1245.

19 (10) Any other person within a physician office laboratory if
20 the test is performed under the onsite supervision of the patient's
21 physician and surgeon or podiatrist who shall: (A) ensure that the
22 person is performing test methods as required for accurate and
23 reliable tests; and (B) have personal knowledge of the results of
24 clinical laboratory testing or examination performed by that person
25 before the test results are reported from the laboratory.

26 (d) Clinical laboratory examinations classified as
27 provider-performed microscopy under CLIA may be personally
28 performed using a brightfield or phase/contrast microscope by one
29 of the following practitioners:

30 (1) A licensed physician and surgeon using the microscope
31 during the patient's visit on a specimen obtained from his or her
32 own patient or from a patient of a group medical practice of which
33 the physician is a member or employee.

34 (2) A nurse midwife holding a certificate as specified by Section
35 2746.5, a licensed nurse practitioner as specified in Section 2835.5,
36 or a licensed physician assistant acting under the supervision of a
37 physician pursuant to Section 3502 using the microscope during
38 the patient's visit on a specimen obtained from his or her own
39 patient or from the patient of a clinic, group medical practice, or
40 other health care provider of which the certified nurse midwife,

1 licensed nurse practitioner, or licensed physician assistant is an
2 employee.

3 (3) A licensed dentist using the microscope during the patient's
4 visit on a specimen obtained from his or her own patient or from
5 a patient of a group dental practice of which the dentist is a member
6 or an employee.

7 SEC. 2. Section 1209 of the Business and Professions Code is
8 amended to read:

9 1209. (a) As used in this chapter, "laboratory director" means
10 any person who is a duly licensed physician and surgeon, or, only
11 for purposes of a clinical laboratory test or examination classified
12 as waived, is a duly licensed naturopathic doctor, or a duly licensed
13 optometrist serving as the director of a laboratory which only
14 performs clinical laboratory testing authorized in paragraph ~~(9)~~
15 ~~(10)~~ of subdivision (e) of Section 3041, or is licensed to direct a
16 clinical laboratory under this chapter and who substantially meets
17 the laboratory director qualifications under CLIA for the type and
18 complexity of tests being offered by the laboratory. The laboratory
19 director, if qualified under CLIA, may perform the duties of the
20 technical consultant, technical supervisor, clinical consultant,
21 general supervisor, and testing personnel, or delegate these
22 responsibilities to persons qualified under CLIA. If the laboratory
23 director reappropriates performance of those responsibilities or
24 duties, he or she shall remain responsible for ensuring that all those
25 duties and responsibilities are properly performed.

26 (b) (1) The laboratory director is responsible for the overall
27 operation and administration of the clinical laboratory, including
28 administering the technical and scientific operation of a clinical
29 laboratory, the selection and supervision of procedures, the
30 reporting of results, and active participation in its operations to
31 the extent necessary to ensure compliance with this act and CLIA.
32 He or she shall be responsible for the proper performance of all
33 laboratory work of all subordinates and shall employ a sufficient
34 number of laboratory personnel with the appropriate education
35 and either experience or training to provide appropriate
36 consultation, properly supervise and accurately perform tests, and
37 report test results in accordance with the personnel qualifications,
38 duties, and responsibilities described in CLIA and this chapter.

39 (2) Where a point-of-care laboratory testing device is utilized
40 and provides results for more than one analyte, the testing

1 personnel may perform and report the results of all tests ordered
2 for each analyte for which he or she has been found by the
3 laboratory director to be competent to perform and report.

4 (c) As part of the overall operation and administration, the
5 laboratory director of a registered laboratory shall document the
6 adequacy of the qualifications (educational background, training,
7 and experience) of the personnel directing and supervising the
8 laboratory and performing the laboratory test procedures and
9 examinations. In determining the adequacy of qualifications, the
10 laboratory director shall comply with any regulations adopted by
11 the department that specify the minimum qualifications for
12 personnel, in addition to any CLIA requirements relative to the
13 education or training of personnel.

14 (d) As part of the overall operation and administration, the
15 laboratory director of a licensed laboratory shall do all of the
16 following:

17 (1) Ensure that all personnel, prior to testing biological
18 specimens, have the appropriate education and experience, receive
19 the appropriate training for the type and complexity of the services
20 offered, and have demonstrated that they can perform all testing
21 operations reliably to provide and report accurate results. In
22 determining the adequacy of qualifications, the laboratory director
23 shall comply with any regulations adopted by the department that
24 specify the minimum qualifications for, and the type of procedures
25 that may be performed by, personnel in addition to any CLIA
26 requirements relative to the education or training of personnel.
27 Any regulations adopted pursuant to this section that specify the
28 type of procedure that may be performed by testing personnel shall
29 be based on the skills, knowledge, and tasks required to perform
30 the type of procedure in question.

31 (2) Ensure that policies and procedures are established for
32 monitoring individuals who conduct preanalytical, analytical, and
33 postanalytical phases of testing to ensure that they are competent
34 and maintain their competency to process biological specimens,
35 perform test procedures, and report test results promptly and
36 proficiently, and, whenever necessary, identify needs for remedial
37 training or continuing education to improve skills.

38 (3) Specify in writing the responsibilities and duties of each
39 individual engaged in the performance of the preanalytic, analytic,
40 and postanalytic phases of clinical laboratory tests or examinations,

1 including which clinical laboratory tests or examinations the
2 individual is authorized to perform, whether supervision is required
3 for the individual to perform specimen processing, test
4 performance, or results reporting, and whether consultant,
5 supervisor, or director review is required prior to the individual
6 reporting patient test results.

7 (e) The competency and performance of staff of a licensed
8 laboratory shall be evaluated and documented by the laboratory
9 director, or by a person who qualifies as a technical consultant or
10 a technical supervisor under CLIA depending on the type and
11 complexity of tests being offered by the laboratory.

12 (1) The procedures for evaluating the competency of the staff
13 shall include, but are not limited to, all of the following:

14 (A) Direct observations of routine patient test performance,
15 including patient preparation, if applicable, and specimen handling,
16 processing, and testing.

17 (B) Monitoring the recording and reporting of test results.

18 (C) Review of intermediate test results or worksheets, quality
19 control records, proficiency testing results, and preventive
20 maintenance records.

21 (D) Direct observation of performance of instrument
22 maintenance and function checks.

23 (E) Assessment of test performance through testing previously
24 analyzed specimens, internal blind testing samples, or external
25 proficiency testing samples.

26 (F) Assessment of problem solving skills.

27 (2) Evaluation and documentation of staff competency and
28 performance shall occur at least semiannually during the first year
29 an individual tests biological specimens. Thereafter, evaluations
30 shall be performed at least annually unless test methodology or
31 instrumentation changes, in which case, prior to reporting patient
32 test results, the individual's performance shall be reevaluated to
33 include the use of the new test methodology or instrumentation.

34 (f) The laboratory director of each clinical laboratory of an acute
35 care hospital shall be a physician and surgeon who is a qualified
36 pathologist, except as follows:

37 (1) If a qualified pathologist is not available, a physician and
38 surgeon or a clinical laboratory bioanalyst qualified as a laboratory
39 director under subdivision (a) may direct the laboratory. However,

1 a qualified pathologist shall be available for consultation at suitable
2 intervals to ensure high quality service.

3 (2) If there are two or more clinical laboratories of an acute care
4 hospital, those additional clinical laboratories that are limited to
5 the performance of blood gas analysis, blood electrolyte analysis,
6 or both, may be directed by a physician and surgeon qualified as
7 a laboratory director under subdivision (a), irrespective of whether
8 a pathologist is available.

9 As used in this subdivision, a qualified pathologist is a physician
10 and surgeon certified or eligible for certification in clinical or
11 anatomical pathology by the American Board of Pathology or the
12 American Osteopathic Board of Pathology.

13 (g) Subdivision (f) does not apply to any director of a clinical
14 laboratory of an acute care hospital acting in that capacity on or
15 before January 1, 1988.

16 (h) A laboratory director may serve as the director of up to the
17 maximum number of laboratories stipulated by CLIA, as defined
18 under Section 1202.5.

19 SEC. 3. Section 3041 of the Business and Professions Code is
20 amended to read:

21 3041. (a) The practice of optometry includes the prevention
22 and diagnosis of disorders and dysfunctions of the visual system,
23 and the treatment and management of certain disorders and
24 dysfunctions of the visual system, as well as the provision of
25 rehabilitative optometric services, and is the doing of any or all of
26 the following:

27 (1) The examination of the human eye or eyes, or its or their
28 appendages, and the analysis of the human vision system, either
29 subjectively or objectively.

30 (2) The determination of the powers or range of human vision
31 and the accommodative and refractive states of the human eye or
32 eyes, including the scope of its or their functions and general
33 condition.

34 (3) The prescribing or directing the use of, or using, any optical
35 device in connection with ocular exercises, visual training, vision
36 training, or orthoptics.

37 (4) The prescribing of contact and spectacle lenses for, or the
38 fitting or adaptation of contact and spectacle lenses to, the human
39 eye, including lenses that may be classified as drugs or devices by
40 any law of the United States or of this state.

1 (5) The use of topical pharmaceutical agents for the purpose of
2 the examination of the human eye or eyes for any disease or
3 pathological condition.

4 (b) (1) An optometrist who is certified to use therapeutic
5 pharmaceutical agents, pursuant to Section 3041.3, may also
6 diagnose and treat the human eye or eyes, or any of its or their
7 appendages, for all of the following conditions:

8 (A) Through medical treatment, infections of the anterior
9 segment and adnexa, excluding the lacrimal gland, the lacrimal
10 drainage system, and the sclera in patients under 12 years of age.

11 (B) Ocular allergies of the anterior segment and adnexa.

12 (C) Ocular inflammation, nonsurgical in cause except when
13 comanaged with the treating physician and surgeon, limited to
14 inflammation resulting from traumatic iritis, peripheral corneal
15 inflammatory keratitis, episcleritis, and unilateral nonrecurrent
16 nongranulomatous idiopathic iritis in patients over 18 years of age.
17 Unilateral nongranulomatous idiopathic iritis recurring within one
18 year of the initial occurrence shall be referred to an
19 ophthalmologist. An optometrist shall consult with an
20 ophthalmologist or appropriate physician and surgeon if a patient
21 has a recurrent case of episcleritis within one year of the initial
22 occurrence. An optometrist shall consult with an ophthalmologist
23 or appropriate physician and surgeon if a patient has a recurrent
24 case of peripheral corneal inflammatory keratitis within one year
25 of the initial occurrence.

26 (D) Traumatic or recurrent conjunctival or corneal abrasions
27 and erosions.

28 (E) Corneal surface disease and dry eyes.

29 (F) Ocular pain, nonsurgical in cause except when comanaged
30 with the treating physician and surgeon, associated with conditions
31 optometrists are authorized to treat.

32 (G) Pursuant to subdivision (f), glaucoma in patients over 18
33 years of age, as described in subdivision (j).

34 (2) For purposes of this section, “treat” means the use of
35 therapeutic pharmaceutical agents, as described in subdivision (c),
36 and the procedures described in subdivision (e).

37 (c) In diagnosing and treating the conditions listed in subdivision
38 (b), an optometrist certified to use therapeutic pharmaceutical
39 agents pursuant to Section 3041.3 may use all of the following
40 therapeutic pharmaceutical agents:

- 1 (1) Pharmaceutical agents as described in paragraph (5) of
2 subdivision (a), as well as topical miotics.
- 3 (2) Topical lubricants.
- 4 (3) Antiallergy agents. In using topical steroid medication for
5 the treatment of ocular allergies, an optometrist shall consult with
6 an ophthalmologist if the patient's condition worsens 21 days after
7 diagnosis.
- 8 (4) Topical and oral anti-inflammatories. In using steroid
9 medication for:
 - 10 (A) Unilateral nonrecurrent nongranulomatous idiopathic iritis
11 or episcleritis, an optometrist shall consult with an ophthalmologist
12 or appropriate physician and surgeon if the patient's condition
13 worsens 72 hours after the diagnosis, or if the patient's condition
14 has not resolved three weeks after diagnosis. If the patient is still
15 receiving medication for these conditions six weeks after diagnosis,
16 the optometrist shall refer the patient to an ophthalmologist or
17 appropriate physician and surgeon.
 - 18 (B) Peripheral corneal inflammatory keratitis, excluding
19 Moorens and Terriens diseases, an optometrist shall consult with
20 an ophthalmologist or appropriate physician and surgeon if the
21 patient's condition worsens 72 hours after diagnosis.
 - 22 (C) Traumatic iritis, an optometrist shall consult with an
23 ophthalmologist or appropriate physician and surgeon if the
24 patient's condition worsens 72 hours after diagnosis and shall refer
25 the patient to an ophthalmologist or appropriate physician and
26 surgeon if the patient's condition has not resolved one week after
27 diagnosis.
- 28 (5) Topical antibiotic agents.
- 29 (6) Topical hyperosmotics.
- 30 (7) Topical and oral antiglaucoma agents pursuant to the
31 certification process defined in subdivision (f).
 - 32 (A) The optometrist shall refer the patient to an ophthalmologist
33 if requested by the patient or if angle closure glaucoma develops.
 - 34 (B) If the glaucoma patient also has diabetes, the optometrist
35 shall consult with the physician treating the patient's diabetes in
36 developing the glaucoma treatment plan and shall inform the
37 physician in writing of any changes in the patient's glaucoma
38 medication.
- 39 (8) Nonprescription medications used for the rational treatment
40 of an ocular disorder.

1 (9) Oral antihistamines.

2 (10) Prescription oral nonsteroidal anti-inflammatory agents.

3 (11) Oral antibiotics for medical treatment of ocular disease.

4 (A) If the patient has been diagnosed with a central corneal ulcer
5 and the central corneal ulcer has not improved 48 hours after
6 diagnosis, the optometrist shall refer the patient to an
7 ophthalmologist.

8 (B) If the patient has been diagnosed with preseptal cellulitis
9 or dacryocystitis and the condition has not improved 48 hours after
10 diagnosis, the optometrist shall refer the patient to an
11 ophthalmologist.

12 (12) Topical and oral antiviral medication for the medical
13 treatment of the following: herpes simplex viral keratitis, herpes
14 simplex viral conjunctivitis, and periocular herpes simplex viral
15 dermatitis; and varicella zoster viral keratitis, varicella zoster viral
16 conjunctivitis, and periocular varicella zoster viral dermatitis.

17 (A) If the patient has been diagnosed with herpes simplex
18 keratitis or varicella zoster viral keratitis and the patient's condition
19 has not improved seven days after diagnosis, the optometrist shall
20 refer the patient to an ophthalmologist. If a patient's condition has
21 not resolved three weeks after diagnosis, the optometrist shall refer
22 the patient to an ophthalmologist.

23 (B) If the patient has been diagnosed with herpes simplex viral
24 conjunctivitis, herpes simplex viral dermatitis, varicella zoster
25 viral conjunctivitis, or varicella zoster viral dermatitis, and if the
26 patient's condition worsens seven days after diagnosis, the
27 optometrist shall consult with an ophthalmologist. If the patient's
28 condition has not resolved three weeks after diagnosis, the
29 optometrist shall refer the patient to an ophthalmologist.

30 (13) Oral analgesics that are not controlled substances.

31 (14) Codeine with compounds and hydrocodone with
32 compounds as listed in the California Uniform Controlled
33 Substances Act (Division 10 (commencing with Section 11000)
34 of the Health and Safety Code) and the United States Uniform
35 Controlled Substances Act (21 U.S.C. Sec. 801 et seq.). The use
36 of these agents shall be limited to three days, with a referral to an
37 ophthalmologist if the pain persists.

38 (d) In any case where this chapter requires that an optometrist
39 consult with an ophthalmologist, the optometrist shall maintain a
40 written record in the patient's file of the information provided to

1 the ophthalmologist, the ophthalmologist's response, and any other
2 relevant information. Upon the consulting ophthalmologist's
3 request and with the patient's consent, the optometrist shall furnish
4 a copy of the record to the ophthalmologist.

5 (e) An optometrist who is certified to use therapeutic
6 pharmaceutical agents pursuant to Section 3041.3 may also perform
7 all of the following:

8 (1) Corneal scraping with cultures.

9 (2) Debridement of corneal epithelia.

10 (3) Mechanical epilation.

11 (4) Venipuncture for testing patients suspected of having
12 diabetes.

13 (5) Suture removal, with prior consultation with the treating
14 physician and surgeon.

15 (6) Treatment or removal of sebaceous cysts by expression.

16 (7) Administration of oral fluorescein to patients suspected as
17 having diabetic retinopathy.

18 (8) Use of an auto-injector to counter anaphylaxis.

19 (9) Ordering of smears, cultures, sensitivities, complete blood
20 count, mycobacterial culture, acid fast stain, urinalysis, and X-rays
21 necessary for the diagnosis of conditions or diseases of the eye or
22 adnexa. An optometrist may order other types of images subject
23 to prior consultation with an ophthalmologist or appropriate
24 physician and surgeon.

25 (10) A clinical laboratory test or examination classified as
26 waived under CLIA and as designated in paragraph (9) necessary
27 for the diagnosis of conditions and diseases of the eye or adnexa,
28 or if otherwise specifically authorized by this chapter.

29 (11) Punctal occlusion by plugs, excluding laser, diathermy,
30 cryotherapy, or other means constituting surgery as defined in this
31 chapter.

32 (12) The prescription of therapeutic contact lenses, including
33 lenses or devices that incorporate a medication or therapy the
34 optometrist is certified to prescribe or provide.

35 (13) Removal of foreign bodies from the cornea, eyelid, and
36 conjunctiva with any appropriate instrument other than a scalpel
37 or needle. Corneal foreign bodies shall be nonperforating, be no
38 deeper than the midstroma, and require no surgical repair upon
39 removal.

1 (14) For patients over 12 years of age, lacrimal irrigation and
2 dilation, excluding probing of the nasal lacrimal tract. The board
3 shall certify any optometrist who graduated from an accredited
4 school of optometry before May 1, 2000, to perform this procedure
5 after submitting proof of satisfactory completion of 10 procedures
6 under the supervision of an ophthalmologist as confirmed by the
7 ophthalmologist. Any optometrist who graduated from an
8 accredited school of optometry on or after May 1, 2000, shall be
9 exempt from the certification requirement contained in this
10 paragraph.

11 (f) The board shall grant a certificate to an optometrist certified
12 pursuant to Section 3041.3 for the treatment of glaucoma, as
13 described in subdivision (j), in patients over 18 years of age after
14 the optometrist meets the following applicable requirements:

15 (1) For licensees who graduated from an accredited school of
16 optometry on or after May 1, 2008, submission of proof of
17 graduation from that institution.

18 (2) For licensees who were certified to treat glaucoma under
19 this section prior to January 1, 2009, submission of proof of
20 completion of that certification program.

21 (3) For licensees who have substantially completed the
22 certification requirements pursuant to this section in effect between
23 January 1, 2001, and December 31, 2008, submission of proof of
24 completion of those requirements on or before December 31, 2009.
25 “Substantially completed” means both of the following:

26 (A) Satisfactory completion of a didactic course of not less than
27 24 hours in the diagnosis, pharmacological, and other treatment
28 and management of glaucoma.

29 (B) Treatment of 50 glaucoma patients with a collaborating
30 ophthalmologist for a period of two years for each patient that will
31 conclude on or before December 31, 2009.

32 (4) For licensees who completed a didactic course of not less
33 than 24 hours in the diagnosis, pharmacological, and other
34 treatment and management of glaucoma, submission of proof of
35 satisfactory completion of the case management requirements for
36 certification established by the board pursuant to Section 3041.10.

37 (5) For licensees who graduated from an accredited school of
38 optometry on or before May 1, 2008, and not described in
39 paragraph (2), (3), or (4), submission of proof of satisfactory

1 completion of the requirements for certification established by the
2 board pursuant to Section 3041.10.

3 (g) Other than for prescription ophthalmic devices described in
4 subdivision (b) of Section 2541, any dispensing of a therapeutic
5 pharmaceutical agent by an optometrist shall be without charge.

6 (h) The practice of optometry does not include performing
7 surgery. "Surgery" means any procedure in which human tissue
8 is cut, altered, or otherwise infiltrated by mechanical or laser
9 means. "Surgery" does not include those procedures specified in
10 subdivision (e). Nothing in this section shall limit an optometrist's
11 authority to utilize diagnostic laser and ultrasound technology
12 within his or her scope of practice.

13 (i) An optometrist licensed under this chapter is subject to the
14 provisions of Section 2290.5 for purposes of practicing
15 telemedicine.

16 (j) For purposes of this chapter, "glaucoma" means either of the
17 following:

18 (1) All primary open-angle glaucoma.

19 (2) Exfoliation and pigmentary glaucoma.

20 (k) For purposes of this chapter, "adnexa" means ocular adnexa.

21 (l) In an emergency, an optometrist shall stabilize, if possible,
22 and immediately refer any patient who has an acute attack of angle
23 closure to an ophthalmologist.

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY APRIL 12, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 778

Introduced by Assembly Member Atkins

February 17, 2011

An act to ~~add Sections 1395.3 and 1395.4 to~~ amend Section 1380 of, and to add Sections 1395.3, 1395.4, and 1395.45 to, the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 778, as amended, Atkins. Health care service plans: vision care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides that health care service plans shall not be deemed to be engaged in the practice of a profession, and may employ, or contract with, any licensed health care professional to deliver professional services, and may directly own, and may directly operate through its professional employees or contracted licensed professionals, offices and subsidiary corporations. Existing law provides that those professionals may not own or control offices or branch offices unless otherwise expressly authorized.

This bill would authorize a registered dispensing optician, an optical company, a manufacturer or distributor of optical goods, or a

nonoptometric corporation to own a *specialized* health care service plan that provides *or arranges for the provision of* vision care services, share profits with the *specialized* health care service plan, contract for specified business services with the *specialized* health care service plan, and jointly advertise vision care services with the *specialized* health care service plan. The bill would prohibit those persons or entities from engaging in conduct ~~designed to~~ *that would* influence or interfere with the clinical decisions of an optometrist, as specified, *and would set forth provisions that apply to medical records*. Because a willful violation of ~~that provision~~ *these provisions* would be a crime under the Knox-Keene Act, the bill would impose a state-mandated local program.

Existing law requires the Department of Managed Health Care to conduct periodic onsite medical surveys of the health delivery system of each health care service plan. Survey results are publicly reported and subject to public inspection. Existing law requires the Director of the Department of Managed Health Care to notify a health care service plan of any deficiencies found by a survey.

This bill would require the director to provide to a health care service plan and to the executive officer of the State Board of Optometry or the Medical Board of California a copy of information relating to the quality of care of any licensed optometrist or optician contained in any survey report that, in the judgment of the director, indicates incompetent or negligent treatment, as specified.

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

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

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

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

- 1 SECTION 1. The Legislature hereby finds and declares the
- 2 following:
- 3 (a) Health care service plans, including specialized health care
- 4 service plans, are regulated by the Department of Managed Health
- 5 Care.

(b) To ensure that quality care and coverage are provided to enrollees, a health care service plan, including a specialized health care service plan, is required to do all of the following:

(1) Establish a department-approved quality assurance program to ensure that enrollees are continuously provided the appropriate level of services covered by the health care service plan.

(2) Ensure that a separation of fiscal and administrative management from medical services exists within the health care service plan.

(3) Periodically submit information to the department to demonstrate delivery of quality care, accessibility of services to enrollees, and prompt resolution of complaints.

(4) Establish procedures meeting specified requirements for reviewing the utilization of services and facilities.

(5) Participate in comprehensive medical and financial audits conducted by the department.

(c) Existing law prohibits an optometrist from engaging in certain business relationships with a registered optical dispenser.

(d) Existing law allows a health care service plan to hire and contract with licensed professionals and to engage in a business relationship with any entity. However, existing law is unclear about the relationships between *specialized* health care service plans that provide ~~vision~~ or arrange for the provision of vision care services and optical companies.

(e) Providing statutory clarity regarding permissible business relationships between a *specialized* health care service plan providing ~~vision~~ or arranging for the provision of vision care services and optical companies will provide certainty and allow regulating entities to ensure that health care service plans are engaged in appropriate business relationships.

SEC. 2. Section 1380 of the Health and Safety Code is amended to read:

1380. (a) The department shall conduct periodically an onsite medical survey of the health delivery system of each plan. The survey shall include a review of the procedures for obtaining health services, the procedures for regulating utilization, peer review mechanisms, internal procedures for assuring quality of care, and the overall performance of the plan in providing health care benefits and meeting the health needs of the subscribers and enrollees.

(b) The survey shall be conducted by a panel of qualified health professionals experienced in evaluating the delivery of prepaid health care. The department shall be authorized to contract with professional organizations or outside personnel to conduct medical surveys and these contracts shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. These organizations or personnel shall have demonstrated the ability to objectively evaluate the delivery of health care by plans or health maintenance organizations.

(c) Surveys performed pursuant to this section shall be conducted as often as deemed necessary by the director to assure the protection of subscribers and enrollees, but not less frequently than once every three years. Nothing in this section shall be construed to require the survey team to visit each clinic, hospital office, or facility of the plan. To avoid duplication, the director shall employ, but is not bound by, the following:

(1) For hospital-based health care service plans, to the extent necessary to satisfy the requirements of this section, the findings of inspections conducted pursuant to Section 1279.

(2) For health care service plans contracting with the State Department of Health Services pursuant to the Waxman-Duffy Prepaid Health Plan Act, the findings of reviews conducted pursuant to Section 14456 of the Welfare and Institutions Code.

(3) To the extent feasible, reviews of providers conducted by professional standards review organizations, and surveys and audits conducted by other governmental entities.

(d) Nothing in this section shall be construed to require the medical survey team to review peer review proceedings and records conducted and compiled under Section 1370 or medical records. However, the director shall be authorized to require onsite review of these peer review proceedings and records or medical records where necessary to determine that quality health care is being delivered to subscribers and enrollees. Where medical record review is authorized, the survey team shall insure that the confidentiality of physician-patient relationship is safeguarded in accordance with existing law and neither the survey team nor the director or the director's staff may be compelled to disclose this information except in accordance with the physician-patient relationship. The director shall ensure that the confidentiality of

1 the peer review proceedings and records is maintained. The
2 disclosure of the peer review proceedings and records to the
3 director or the medical survey team shall not alter the status of the
4 proceedings or records as privileged and confidential
5 communications pursuant to Sections 1370 and 1370.1.

6 (e) The procedures and standards utilized by the survey team
7 shall be made available to the plans prior to the conducting of
8 medical surveys.

9 (f) During the survey the members of the survey team shall
10 examine the complaint files kept by the plan pursuant to Section
11 1368. The survey report issued pursuant to subdivision (i) shall
12 include a discussion of the plan's record for handling complaints.

13 (g) During the survey the members of the survey team shall
14 offer such advice and assistance to the plan as deemed appropriate.

15 (h) (1) Survey results shall be publicly reported by the director
16 as quickly as possible but no later than 180 days following the
17 completion of the survey unless the director determines, in his or
18 her discretion, that additional time is reasonably necessary to fully
19 and fairly report the survey results. The director shall provide the
20 plan with an overview of survey findings and notify the plan of
21 deficiencies found by the survey team at least 90 days prior to the
22 release of the public report.

23 (2) Reports on all surveys, deficiencies, and correction plans
24 shall be open to public inspection except that no surveys,
25 deficiencies, or correction plans shall be made public unless the
26 plan has had an opportunity to review the report and file a response
27 within 45 days of the date that the department provided the report
28 to the plan. After reviewing the plan's response, the director shall
29 issue a final report that excludes any survey information and legal
30 findings and conclusions determined by the director to be in error,
31 describes compliance efforts, identifies deficiencies that have been
32 corrected by the plan by the time of the director's receipt of the
33 plan's 45-day response, and describes remedial actions for
34 deficiencies requiring longer periods to the remedy required by
35 the director or proposed by the plan.

36 (3) The final report shall not include a description of
37 "acceptable" or of "compliance" for any uncorrected deficiency.

38 (4) Upon making the final report available to the public, a single
39 copy of a summary of the final report's findings shall be made
40 available free of charge by the department to members of the

1 public, upon request. Additional copies of the summary may be
2 provided at the department's cost. The summary shall include a
3 discussion of compliance efforts, corrected deficiencies, and
4 proposed remedial actions.

5 (5) If requested by the plan, the director shall append the plan's
6 response to the final report issued pursuant to paragraph (2), and
7 shall append to the summary issued pursuant to paragraph (4) a
8 brief statement provided by the plan summarizing its response to
9 the report. The plan may modify its response or statement at any
10 time and provide modified copies to the department for public
11 distribution no later than 10 days from the date of notification from
12 the department that the final report will be made available to the
13 public. The plan may file an addendum to its response or statement
14 at any time after the final report has been made available to the
15 public. The addendum to the response or statement shall also be
16 made available to the public.

17 (6) Any information determined by the director to be
18 confidential pursuant to statutes relating to the disclosure of
19 records, including the California Public Records Act (Chapter 3.5
20 (commencing with Section 6250) of Division 7 of Title 1 of the
21 Government Code), shall not be made public.

22 (i) (1) The director shall give the plan a reasonable time to
23 correct deficiencies. Failure on the part of the plan to comply to
24 the director's satisfaction shall constitute cause for disciplinary
25 action against the plan.

26 (2) No later than 18 months following release of the final report
27 required by subdivision (h), the department shall conduct a
28 follow-up review to determine and report on the status of the plan's
29 efforts to correct deficiencies. The department's follow-up report
30 shall identify any deficiencies reported pursuant to subdivision (h)
31 that have not been corrected to the satisfaction of the director.

32 (3) If requested by the plan, the director shall append the plan's
33 response to the follow-up report issued pursuant to paragraph (2).
34 The plan may modify its response at any time and provide modified
35 copies to the department for public distribution no later than 10
36 days from the date of notification from the department that the
37 follow-up report will be made available to the public. The plan
38 may file an addendum to its response at any time after the
39 follow-up report has been made available to the public. The

1 addendum to the response or statement shall also be made available
2 to the public.

3 (j) The director shall provide to the plan and to the executive
4 officer of the Board of Dental Examiners a copy of information
5 relating to the quality of care of any licensed dental provider
6 contained in any report described in subdivisions (h) and (i) that,
7 in the judgment of the director, indicates clearly excessive
8 treatment, incompetent treatment, grossly negligent treatment,
9 repeated negligent acts, or unnecessary treatment. Any confidential
10 information provided by the director shall not be made public
11 pursuant to this subdivision. Notwithstanding any other provision
12 of law, the disclosure of this information to the plan and to the
13 executive officer shall not operate as a waiver of confidentiality.
14 There shall be no liability on the part of, and no cause of action of
15 any nature shall arise against, the State of California, the
16 Department of Managed Health Care, the Director of the
17 Department of Managed Health Care, the Board of Dental
18 Examiners, or any officer, agent, employee, consultant, or
19 contractor of the state or the department or the board for the release
20 of any false or unauthorized information pursuant to this section,
21 unless the release of that information is made with knowledge and
22 malice.

23 (k) *The director shall provide to the plan and to the executive*
24 *officer of the State Board of Optometry or the Medical Board of*
25 *California a copy of information relating to the quality of care of*
26 *any licensed optometrist or optician contained in any report*
27 *described in subdivisions (h) and (i) that, in the judgment of the*
28 *director, indicates clearly excessive treatment, incompetent*
29 *treatment, grossly negligent treatment, repeated negligent acts,*
30 *or unnecessary treatment. Any confidential information provided*
31 *by the director shall not be made public pursuant to this*
32 *subdivision. Notwithstanding any other provision of law, the*
33 *disclosure of this information to the plan and to the executive*
34 *officer shall not operate as a waiver of confidentiality. There shall*
35 *be no liability on the part of, and no cause of action of any nature*
36 *shall arise against, the State of California, the Department of*
37 *Managed Health Care, the Director of the Department of Managed*
38 *Health Care, the State Board of Optometry, the Medical Board of*
39 *California, or any officer, agent, employee, consultant, or*
40 *contractor of the state or the department or the boards for the*

1 *release of any false or unauthorized information pursuant to this*
2 *section, unless the release of that information is made with*
3 *knowledge and malice.*

4 ~~(k)~~

5 *(l) Nothing in this section shall be construed as affecting the*
6 *director's authority pursuant to Article 7 (commencing with Section*
7 *1386) or Article 8 (commencing with Section 1390) of this chapter.*

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 1395.3 is added to the Health and Safety Code,
10 to read:

11 1395.3. Notwithstanding any other provision of law, a
12 registered dispensing optician, an optical company, a manufacturer
13 or distributor of optical goods, or a nonoptometric corporation
14 may do all of the following:

15 (a) Own a *specialized* health care service plan that provides *or*
16 *arranges for the provision of* vision care services and share its
17 profits.

18 (b) Contract for business services with, lease office space or
19 equipment to or from, or share office space with, a *specialized*
20 health care service plan that provides *or arranges for the provision*
21 *of* vision care services.

22 (c) Jointly advertise vision care services with a *specialized* health
23 care service plan that provides *or arranges for the provision of*
24 vision care services.

25 ~~SEC. 3.~~

26 *SEC. 4.* Section 1395.4 is added to the Health and Safety Code,
27 to read:

28 1395.4. (a) A registered dispensing optician, an optical
29 company, a manufacturer or distributor of optical goods, or a
30 nonoptometric corporation shall not engage in conduct ~~designed~~
31 ~~to~~ *that would* influence or interfere with the clinical decisions of
32 an optometrist employed by, or who has contracted with, a
33 specialized vision care ~~service~~ plan for fiscal or administrative
34 reasons, *including, but not limited to, the following:*

35 (1) *Holding an optometrist responsible for the sale of, or*
36 *requiring an optometrist to sell, the eyewear of a registered*
37 *dispensing optician affiliated with the specialized vision care plan.*

38 (2) *Providing compensation to an optometrist for the sale of*
39 *the eyewear of a registered dispensing optician affiliated with the*
40 *specialized vision care plan.*

1 ~~(b) Pursuant to subdivision (g) of Section 1367, the~~

2 *(b) The clinical decisions of an optometrist who is employed*
3 *by, or who has contracted with, a specialized vision care service*
4 *plan shall be unhindered by fiscal and administrative management*
5 *of the plan and any affiliate of the plan.*

6 *(c) An optometrist who has contracted with, or is employed by,*
7 *a specialized vision care plan shall not be required by the plan to*
8 *sell the eyewear of a registered dispensing optician affiliated with*
9 *the specialized vision care plan.*

10 *(d) An optometrist who has contracted with, or is employed by,*
11 *a specialized vision care plan shall not receive any compensation*
12 *from the sale of eyewear by a registered dispensing optician*
13 *affiliated with the specialized vision care plan.*

14 *(e) Notwithstanding any protocol established by a specialized*
15 *vision care plan to meet patient and network access requirements,*
16 *the specialized vision care plan may not set fixed quotas for the*
17 *number of patients that a practitioner must treat in a particular*
18 *time period.*

19 *(f) Any violation of this section shall subject the specialized*
20 *vision care plan to the penalties that apply to health care service*
21 *plans under this article.*

22 *(g) For purposes of this section, a “specialized vision care plan”*
23 *shall mean a specialized health care service plan that provides or*
24 *arranges for the provision of vision care services and that operates*
25 *pursuant to Section 1395.3.*

26 *SEC. 5. Section 1395.45 is added to the Health and Safety*
27 *Code, to read:*

28 *1395.45. (a) A specialized vision care plan affiliated with a*
29 *registered dispensing optician shall not provide the registered*
30 *dispensing optician with a copy of the patient record of any patient,*
31 *except as permitted by applicable law.*

32 *(b) A specialized vision care plan affiliated with a registered*
33 *dispensing optician shall, following receipt of the written*
34 *authorization of a patient to release medical records, provide to*
35 *a requesting optometrist formerly employed by the specialized*
36 *vision care plan a copy of the medical record of the patient within*
37 *15 days of the request.*

38 *(c) A specialized vision care plan in violation of this section*
39 *shall be subject to the fines and penalties set forth in Sections*
40 *56.35 and 56.36 of the Civil Code.*

1 (d) *For purposes of this section, a “specialized vision care plan”*
2 *shall mean a specialized health care service plan that provides or*
3 *arranges for the provision of vision care services and that operates*
4 *pursuant to Section 1395.3.*

5 ~~SEC. 4.~~

6 SEC. 6. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

AMENDED IN SENATE JANUARY 10, 2012

AMENDED IN SENATE MAY 10, 2011

SENATE BILL

No. 690

Introduced by Senator Hernandez

February 18, 2011

An act to add Section 1373.15 to the Health and Safety Code, and to add Section 10177.15 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 690, as amended, Hernandez. Health care coverage: discrimination.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits certain discriminatory acts by health care service plans and health insurers. Existing federal law, beginning January 1, 2014, prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from discriminating with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable state law.

Beginning January 1, 2014, this bill would prohibit a health care service plan or health insurer from discriminating against any health care provider who is acting within the scope of that provider's license, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 1373.15 is added to the Health and Safety
2 Code, to read:

3 1373.15. (a) Beginning January 1, 2014, no health care service
4 plan shall discriminate with respect to provider participation or
5 coverage under the plan against any health care provider who is
6 acting within the scope of that provider's license or certification.

7 (b) Notwithstanding subdivision (a), this section shall not be
8 construed to require that a health care service plan contract with
9 any health care provider willing to abide by the terms and
10 conditions for participation established by the plan or issuer.

11 (c) Nothing in this section shall be construed as preventing a
12 health care service plan from establishing varying reimbursement
13 rates based on quality or performance measures.

14 (d) This section shall be implemented ~~pursuant~~ *only to the extent*
15 *required by the* provider nondiscrimination provisions established
16 in Section 2706 of the federal Public Health Service Act (42 U.S.C.
17 Sec. 300gg-5), and any federal rules or regulations issued under
18 that section.

19 SEC. 2. Section 10177.15 is added to the Insurance Code, to
20 read:

21 10177.15. (a) Beginning January 1, 2014, no health insurer
22 shall discriminate with respect to provider participation or coverage
23 under the policy against any health care provider who is acting
24 within the scope of that provider's license or certification.

25 (b) Notwithstanding subdivision (a), this section shall not be
26 construed to require that a health insurer contract with any health

1 care provider willing to abide by the terms and conditions for
2 participation established by the insurer or issuer.

3 (c) Nothing in this section shall be construed as preventing a
4 health insurer from establishing varying reimbursement rates based
5 on quality or performance measures.

6 (d) This section shall be implemented ~~pursuant~~ *only to the extent*
7 *required by the* provider nondiscrimination provisions established
8 in Section 2706 of the federal Public Health Service Act (42 U.S.C.
9 Sec. 300gg-5), and any federal rules or regulations issued under
10 that section.

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

B. Update on Legislative Proposals for 2012 Session

Action Requested: None. This is only an update.

Background:

Board Legislative Proposals

Senator Bill Emmerson (R), Vice Chair of the Senate Business and Professions Committee will be carrying the Board's bills below:

Retired License Status

Would permit an optometrist to obtain a retired license status.

- \$25 one time fee;
- No continuing education; and
- Optometrist earns the designation of "retired" versus "inactive", "cancelled" or "delinquent"

Retired License Status with a Volunteer Designation

Would permit an optometrist to obtain a retired license status with a volunteer designation.

- \$50 initial fee; \$50 renewal fee biennially;
- Continuing education, dependant on their certification type, required with renewal;
- Can only practice optometry as a volunteer who provides free services;
- Optometrist earns the designation of "retired volunteer" versus "inactive", "cancelled" or "delinquent"

Temporary Practice

Would define temporary practice for optometrists and clarify when an optometrists needs to notify the board of their practice location.

- Defines temporary practice; and
- Clarifies when an optometrist needs to notify the board of their practice location in order to increase consumer protection.

Board staff would like to thank Senator Ed Hernandez and their staff for all their assistance and guidance in the search for an author.

Omnibus Bill

Business and Professions Code (BPC) §3057.5. Eligibility of Graduates from Foreign Universities, §3147.6. Restoration of Certificate Following Failure to Renew Within Specified Period, and §3147.7. Applicability of Provisions to Out-of-State Licensees were submitted to the Senate Business and Professions and Economic Development Committee for their yearly health board/bureau omnibus bill. An omnibus bill contains various measures from different boards/bureaus that are typically non-controversial and for clean-up purposes only.

Only BPC §3057.5 was accepted by the committee. §3147.6 was considered to be too substantive since it was adding a new requirement (continuing education) for reactivation of a license for licensees who have not renewed their license within three years. §3147.7 was considered to be unnecessary and staff is in agreement. The amendments to §3147.7 were made to explicitly state that a letter of verification was to be submitted by out-of-state optometrists as proof that they were actively practicing. But, §3147.7 as currently written already permits the Board to request that information.

Attachments:

- 1) Language Drafted by Legislative Counsel – all bills (excluding omnibus proposals)
- 2) Retired License/Volunteer Proposal submitted to legislators
- 3) Temporary Practice Proposal submitted to legislators
- 4) Omnibus Bill Proposals submitted to committee

Introduced by Senator Emmerson

February 22, 2012

An act to amend Sections 3070, 3147, 3147.6, and 3152 of, and to add Sections 3151 and 3151.1 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1215, as introduced, Emmerson. Optometry.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of the practice of optometry by the State Board of Optometry. A violation of the act is a crime.

This bill would require the board to issue, upon application and payment of a specified fee not to exceed \$25, a retired license to an optometrist with a current and active license. The bill would prohibit the holder of a retired license from engaging in the practice of optometry. The bill would authorize the holder of a retired license to use only certain titles and would also authorize the holder of such a license to reactivate the license to active status if certain requirements have been met, including the payment of a reactivation fee to be determined by the board. The bill would also require the board to issue, upon application certifying the completion of specified continuing education hours and the payment of a fee not to exceed \$50, a retired license with a volunteer service designation to an optometrist with a retired or current and active license. The bill would make a retired license with a volunteer service designation subject to biennial renewal requirements including the payment of a fee not to exceed \$50 and the certification of, among other things, completion of the required continuing education hours. Because the bill would direct the deposit

of these fees into the Optometry Fund, a continuously appropriated fund, the bill would make an appropriation.

Under existing law, a licensed optometrist is required to notify the board of, among other things, the address or addresses where he or she is to engage or intends to engage in the practice of optometry. Existing law imposes specified issuance, biennial renewal, and delinquency fees concerning a statement of licensure. Existing law exempts a licensed optometrist from this address notification requirement if he or she engages in the temporary practice of optometry, as defined by the board, in certain specified settings.

This bill would eliminate the requirement that a licensed optometrist provide that notification with respect to where he or she intends to engage in the practice of optometry. The bill would also require a licensed optometrist, except as specified, to obtain a statement of licensure from the board to be placed in specified practice locations. The bill would define temporary practice as the practice of optometry at locations other than the optometrist's principal place of practice for limited periods, as specified, and would require a licensed optometrist in temporary practice to submit an application for a statement of licensure if the time period for that practice needs to be extended, as specified.

The bill would make other nonsubstantive, technical and conforming changes.

Because the bill would specify additional requirements under the Optometry Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

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

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

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 3070 of the Business and Professions
- 2 Code is amended to read:
- 3 3070. (a) Before engaging in the practice of optometry, each
- 4 licensed optometrist shall notify the board in writing of the address

1 or addresses where he or she is to engage, ~~or intends to engage,~~ in
2 the practice of optometry and, also, of any changes in his or her
3 place of practice. *After providing this address and place of practice*
4 *information to the board, a licensed optometrist shall obtain a*
5 *statement of licensure from the board to be placed in all practice*
6 *locations other than an optometrist's principal place of practice.*
7 *Any licensed optometrist who holds a branch office license is not*
8 *required to obtain a statement of licensure to practice at that*
9 *branch office.* The practice of optometry is the performing or the
10 controlling of any of the acts set forth in Section 3041.

11 (b) A licensed optometrist is not required to provide the
12 notification described in subdivision (a) if he or she engages in
13 the temporary practice of optometry ~~in any of the following~~
14 ~~settings.~~ *“Temporary practice” is defined as the practice of*
15 *optometry at locations other than the optometrist's principal place*
16 *of practice for not more than five calendar days during a 30-day*
17 *period, and not more than 36 days within a calendar year. This*
18 *limitation shall apply to all practice locations where the licensed*
19 *optometrist is engaging in temporary practice, not to each practice*
20 *location individually. If the time period of the temporary practice*
21 *needs to be extended for any reason, the licensed optometrist shall*
22 *submit an application for a statement of licensure to the board*
23 *pursuant to Section 1506 of Title 16 of the California Code of*
24 *Regulations.*

25 ~~(1) A facility licensed by the State Department of Public Health.~~

26 ~~(2) A public institution, including, but not limited to, a school,~~
27 ~~a community college, and federal, state, and local penal and~~
28 ~~correctional facilities.~~

29 ~~(3) A mobile unit that is operated by a governmental agency or~~
30 ~~by a nonprofit or charitable organization.~~

31 ~~(4) The home of a patient who is not ambulatory.~~

32 ~~(5) The practice location of another optometrist that has been~~
33 ~~reported to the board pursuant to this section if the other~~
34 ~~optometrist is ill or on a temporary leave or for any other reason~~
35 ~~approved by the board. The exception under this paragraph is~~
36 ~~limited to a total period at all temporary practice locations of seven~~
37 ~~calendar days during a 30-day period and 84 days during a calendar~~
38 ~~year.~~

39 (c) Notwithstanding Section 3075, an optometrist engaging in
40 the temporary practice of optometry at a location described in

subdivision (b) shall carry and present upon demand evidence of his or her licensure but shall not be required to post his or her current license or other evidence of current license status issued by the board.

(d) In addition to the information required by Section 3076, a receipt issued to a patient by an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall contain the address of the optometrist's primary practice location and the temporary practice location where the services were provided.

~~(e) "Temporary practice" shall be defined by the board for purposes of this section.~~

SEC. 2. Section 3147 of the Business and Professions Code is amended to read:

3147. Except as otherwise provided by Section 114, an expired license may be renewed at any time within three years after its expiration, *and a retired license issued for less than three years may be reactivated to active status*, by filing an application for renewal *or reactivation* on a form prescribed by the board, paying all accrued and unpaid renewal fees *or reactivation fees determined by the board*, paying any delinquency fees prescribed by the board, and submitting proof of completion of the required number of hours of continuing education for the last two years, as prescribed by the board pursuant to Section ~~3159~~ 3059. Renewal *or reactivation to active status* under this section shall be effective on the date on which all of those requirements are satisfied. If so renewed *or reactivated to active status*, the license shall continue as provided in Sections 3146 and 3147.5.

SEC. 3. Section 3147.6 of the Business and Professions Code is amended to read:

3147.6. Except as otherwise provided by Section 114, a license that is not renewed within three years after its expiration may be restored ~~thereafter~~, *and a retired license issued for more than three years may be reactivated to active status*, if no fact, circumstance, or condition exists that, if the license were restored, would justify its revocation or suspension, provided all of the following conditions are met:

(a) The holder of the expired license *or retired license* is not subject to denial of a license under Section 480.

1 (b) The holder of the expired license *or retired license* applies
2 in writing for its restoration *or reactivation* on a form prescribed
3 by the board.

4 (c) The holder of the expired license *or retired license* pays the
5 fee or fees as would be required of him or her if he or she were
6 then applying for a license for the first time.

7 (d) The holder of the expired license *or retired license*
8 satisfactorily passes both of the following examinations:

9 (1) The National Board of Examiners in Optometry's Clinical
10 Skills examination or other clinical examination approved by the
11 board.

12 (2) The board's jurisprudence examination.

13 (e) After taking and satisfactorily passing the examinations
14 identified in subdivision (d), the holder of the expired license or
15 retired license pays a restoration fee equal to the sum of the license
16 renewal fee in effect on the last regular renewal date for licenses
17 *or a reactivation fee determined by the board*, and any delinquency
18 fees prescribed by the board.

19 SEC. 4. Section 3151 is added to the Business and Professions
20 Code, to read:

21 3151. (a) The board shall issue, upon application and payment
22 of the fee described in Section 3152, a retired license to an
23 optometrist who holds a license that is current and active.

24 (b) A licensee who has been issued a retired license is exempt
25 from continuing education requirements pursuant to Section 3059.
26 The holder of a retired license shall not be required to renew that
27 license.

28 (c) The holder of a retired license shall not engage in the practice
29 of optometry.

30 (d) An optometrist holding a retired license shall only be
31 permitted to use the titles "retired optometrist" or "optometrist,
32 retired."

33 (e) The holder of a retired license issued for less than three years
34 may reactivate the license to active status if he or she meets the
35 requirements of Section 3147.

36 (f) The holder of a retired license issued for more than three
37 years may reactive the license to active status if he or she satisfies
38 the requirements in Section 3147.6.

39 SEC. 5. Section 3151.1 is added to the Business and Professions
40 Code, to read:

1 3151.1. (a) The board shall issue, upon application and
2 payment of the fee described in Section 3152, a license with retired
3 volunteer service designation to an optometrist who holds a retired
4 license or a license that is current and active.

5 (b) The applicant shall certify on the application that he or she
6 has completed the required number of continuing education hours
7 pursuant to Section 3059.

8 (c) The applicant shall certify on the application that the sole
9 purpose of the license with retired volunteer service designation
10 is to provide voluntary, unpaid optometric services at health fairs,
11 vision screenings, and public service eye programs.

12 (d) The holder of the retired license with volunteer service
13 designation shall submit a biennial renewal application, with a fee
14 fixed by this chapter and certify on each renewal that the required
15 number of continuing education hours pursuant to Section 3059
16 were completed, and certify that the sole purpose of the retired
17 license with volunteer service designation is to provide voluntary,
18 unpaid services as described in subdivision (c).

19 SEC. 6. Section 3152 of the Business and Professions Code is
20 amended to read:

21 3152. The amounts of fees and penalties prescribed by this
22 chapter shall be established by the board in amounts not greater
23 than those specified in the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 SEC. 7. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

BOARD OF OPTOMETRY

2012 LEGISLATIVE PROPOSAL CONCEPT PAPER

REQUESTOR & CONTACT INFORMATION

Mona Maggio, Executive Officer
Department of Consumer Affairs, Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 9583
Phone: 916-575-7176
Fax: 916-575-7292
Email: mona.maggio@dca.ca.gov

Andrea Leiva, Policy Analyst
Email: andrea.leiva@dca.ca.gov
Phone: 916-575-7182

DATE SUBMITTED

January 10, 2012

TITLE(S)

§ 3151. Retired License

§ 3151.1. Retired License with Volunteer Designation

§ 3152. Fee Schedule

SUMMARY

§ 3151. Retired License

The Board of Optometry (hereafter Board) does not have a retired license status. Optometrists should be allowed to apply for this license status so that they may be permitted to maintain a license that they worked hard to obtain. Retired optometrists should also be able to return to an active license status easily, so that they may continue to provide optometric services if they choose to.

§ 3151.1. Retired License with Volunteer Designation

In addition to not being able to obtain a retired license status with the Board, optometrists cannot obtain a retired volunteer designation in order to provide voluntary, unpaid optometric services at events such as health fairs, vision screenings, and public service eye programs. Optometrists should be allowed to obtain this type of designation to help their community and consumers in general.

§ 3152. Fee Schedule

The amendments to this section establish the fees required in order to obtain a retired license status and/or a retired volunteer license status with the Board.

IDENTIFICATION OF PROBLEM

§ 3151. Retired License

The Board receives numerous inquiries and requests from licensees regarding a retired license for optometrists retiring from practice. Currently, the Board does not have a retired license status available for its licensees. If a licensee retires from practice, he or she can do one of the following:

1. Request that the license be placed in an inactive status and pay a biennial renewal fee of \$425 to maintain it. An inactive status exempts a licensee from continuing education (CE) requirements, and restricts the licensee from engaging in the practice of optometry (Business and Professions Code (BPC) §700-704, Inactive License). A licensee may reactivate the license to an active status by paying the current license renewal fee, if due, delinquent fees, if any, and submitting proof of completion of CE hours specific to their license type (BPC §3147, Renewal of Expired Certificates).
2. Allow the license to expire. Allowing a license to expire means that the licensee has decided not to pay the renewal fee and complete the required number of CE to maintain that license type. A licensee that is in a delinquent status for up to three years will be cancelled. During the time the license is in a delinquent status, the license may be renewed to an active status by following the process identified in bullet #1 above. Licenses that become cancelled cannot be renewed. The optometrist must comply with the requirements for reinstatement as defined in BPC §3147.6, Restoration of Certificate Following Failure to Renew Within Specific Period.

The two primary complaints from licensees with respect to the license status options available to them upon retirement are as follows:

1. Renewing with an inactive status requires paying an inactive renewal fee every two years when the licensee does not intend to ever practice again; and,
2. If a licensee allows the license to expire, the Board's online License Look-up Tool will display them as "delinquent" until the license is cancelled after three years, at which time the license status changes to "cancelled." This does not bode well for the public's perception of the optometrist.

§ 3151.1. Retired License with Volunteer Designation

The Board has recently received requests for creation of a "volunteer service" license status to permit optometrists who want to provide optometric services without compensation at health fairs, vision screenings, and public service eye programs (see Attachment 1 – Request Letters). All requests are based on these services being offered by retired optometrists.

Retired optometrists who provide volunteer services are needed for many charitable programs, especially since they have many years of experience to offer. Further, many charitable organizations need optometric volunteers on a permanent and temporary basis, and this license status would make it easier for these organizations to obtain them. Making it easier for retired optometrists to obtain this status will encourage them to volunteer, increasing access to care for many underserved populations.

§ 3152. Fee Schedule

This proposal establishes the fees required in order to obtain a retired license status and/or a retired volunteer license status with the Board. The fee being proposed for the retired license status is a one-time \$25 fee, similar to the current Medical Board of California (MBC) fee for a retired license. The fee being proposed for the retired volunteer license status is \$50. This fee is a combination of the retired license fee and a \$25 volunteer fee. The licensee is getting two designation, thus the fee should be \$50. Also, they are being required to renew the license biennially. That's \$25 per year.

PROPOSED SOLUTION**§ 3151. Retired License**

The Board is proposing to create a retired license status in place of the current alternatives, which include requiring a license to be placed to an inactive status, or letting the licenses lapse to a delinquent, then cancelled status. This proposal will also create a way for the retired licensee to easily reactivate their license if they choose to return to practice.

§ 3151.1. Retired License with Volunteer Designation

The Board is proposing to create a retired license status with a volunteer designation. Once retired, many health practitioners become volunteers in order to provide their invaluable services to underserved communities. Optometrists should be allowed to do the same.

§ 3152. Fee Schedule

The Board is proposing to create fees so that optometrists may obtain a retired license or a retired volunteer license.

JUSTIFICATION**§ 3151. Retired License**

Currently, there is no opportunity for optometrists to apply for and receive a retired license. When an optometrist retires he or she can choose to continue paying their renewal fees and fulfilling CE to keep their license in an active status, choose to go into an inactive status where they are prohibited from practicing and are exempt from CE, but continue to pay the regular biennial renewal fee, or they can decide not to jump through the hoops necessary to maintain a license. If they choose the latter option their license becomes delinquent and ultimately gets cancelled. Being forced to have a delinquent or cancelled status posted publicly on the Board's on-line Licensee Look-up Tool causes two main problems in addition to the problems described above:

- 1) Public perception issues on the status of the optometrist's license, which they worked so hard to obtain and maintain for all the years they professionally practiced; and,
- 2) Bureaucratic impediments caused by the preceding delinquency and/or cancellation if the licensee decides that they want to return to practice.

By allowing optometrists to apply for and receive a retired license, the optometrist is permitted to maintain a license which they value and obtained through hard work and dedication. This proposal also makes the conversion from retirement to active status a much smoother transition if the optometrist decides to practice again.

MBC allows physicians and surgeons to apply for a similar retirement license. A retired licensee is exempt from paying the renewal fee and CE requirements, and may not engage in medical practice. The Board's proposal is modeled after retired license status language for California licensed pharmacists, architects, professional engineers, and land surveyors. The Board of Behavioral Sciences sponsored AB 2191 to create a retired license status for its licensees as well, and that law become effective on January 1, 2011.

In February 2008, AB 2848 was introduced by then Assemblymember Ed Hernandez during the California Legislature 2007-2008 Regular Session to add §3151 to the BPC. This section created a retired license status for optometrists. The bill died in the Senate's inactive file. An analysis prepared by the Senate Committee on Business, Professions and Economic Development (SCBPED) recommended two amendments that should be considered for the proposed bill:

1. License renewal. Clarify that the retired license is not required to be renewed by adding: "The holder of the retired license shall not be required to renew that license."
2. Reinstatement to active license status. The bill proposed in 2008 did not define a means for a retired license to return to active status.

This proposal addresses the above concerns.

§ 3151.1. Retired License with Volunteer Designation

Permitting retired licensees to obtain a volunteer designation to provide services without compensation will be beneficial to thousands of low-income children, families, and individuals who are uninsured or underinsured and do not receive basic vision care. The lack of basic services and preventative care may lead to more serious and costly vision problems. The ability for retired optometrists to easily become volunteers, and be recognized as such by a designated license status, will increase the number of optometrists providing these types of services. This proposal would only require retired volunteer optometrists to pay a biennial renewal fee of only \$50 instead of \$425. They would still have to complete the amount of CE required by their license type.

The MBC already offers a volunteer service designation. This designation is for retired physicians and surgeons (MDs) who possess a valid, current license and wish to go into retirement. The MDs complete an application, certify that all CE requirements have been met and certify that they wish to provide voluntary, unpaid services only. The MDs pay no renewal license fee, however, a \$25 mandatory fee is collected and deposited in the physician Loan Repayment Program account under the Office of Statewide Health Planning and Development (OSHDP).

The Board is modeling this proposal after the model of the MBC, as optometric vision services are also valuable and much needed by consumers. Optometrists are usually the first and only health care providers that most people will see when it comes to their vision. Given that there are about 8,000 optometrists (actively licensed, and in a “retired” status, or out of state) and there are less than 3,000 ophthalmologists, it is only logical to make use of their numbers and geographic distribution to reach the people that need primary care services most.

The creation of a retired volunteer license status is another way to increase access to care so that retired optometrists, who have a lifetime of experience, can provide their services without additional hurdles.

§ 3152. Fee Schedule

This proposal establishes the fees required in order to obtain a retired license status and/or a retired volunteer license status with the Board. The fee being proposed for the retired license status is a one-time \$25 fee, similar to the current Medical Board of California (MBC) fee for a retired license. The fee being proposed for the retired volunteer license status is \$50. This fee is a combination of the retired license fee and a \$25 volunteer fee. The licensee is getting two designations, thus the fee should be \$50. Also, they are being required to renew the license biennially. That’s \$25 per year.

PROGRAM BACKGROUND/LEGISLATIVE HISTORY

The Board of Optometry was created via legislation in 1913 to safeguard the public’s health, safety and welfare through regulation of the practice of optometry. Per BPC §3010.1, protection of the public is the highest priority for the Board when exercising its licensing, regulatory and disciplinary functions.

The mission of the Board is to assure that Californians have access to appropriate high quality eye and vision care and to implement and promote fair and just laws and regulations protecting the health and safety of consumers.

ARGUMENTS PRO AND CON

Pro:

§ 3151. Retired License

Allows optometrists to obtain a retired license designation instead of their license becoming inactive, delinquent, or cancelled. This will improve the perception of an optometrist who is no longer practicing to the public.

§ 3151.1. Retired License with Volunteer Designation

Allowing optometrists to obtain a retired volunteer designation will increase the amount of optometrists who volunteer at charitable organizations. The fee for renewal of a retired license with a volunteer designation will be only \$50, a substantial reduction from the regular renewal fee of \$425. Though CE will still be required, the optometrist will have to jump through less hoops to maintain their license, and enrich their lives as retirees doing volunteer work and helping their community and underserved populations.

§ 3152. Fee Schedule

The fees being proposed are minimal for the two license statuses that are much sought after by the optometric community. The fees cover administrative costs for the evaluation and processing of the applications, including the issuance of the license by the Employee Development Department (EDD) and updating the license look-up feature on the Board's website.

Con:

§ 3151. Retired License

None identified.

§ 3151.1. Retired License with Volunteer Designation

None identified.

§ 3152. Fee Schedule

None identified.

PROBABLE SUPPORT AND OPPOSITION

Support: California Optometric Association

Opposition: None identified.

FISCAL IMPACT

Costs associated with issuing retired licenses are minor and absorbable within existing resources.

ECONOMIC IMPACT

None identified.

FINDINGS FROM OTHER STATES

Most states have an inactive license designation that can be used if the optometrist wants to be considered retired, similar to the way California law is now.

Those states with specific laws permitting optometrists to obtain a retired license status and/or a retired volunteer designation are provided in Attachments 2 and 3. Some of these states include: Alaska, Arkansas, Texas, Washington, Oregon and Tennessee.

PROPOSED LANGUAGE (use underline and strikethrough)**§ 3151. Retired License**

(a) The Board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to an optometrist who holds a license that is current and active.

(b) A licensee who has been issued a retired license is exempt from continuing education requirements and payment of the biennial renewal fee. The holder of a retired license shall not be required to renew that license.

(c) The holder of a retired license may not engage in the practice of optometry.

(d) An optometrist holding a retired license shall be permitted to use the titles "retired optometrist" or "optometrist, retired."

(e) The holder of retired license issued for less than three years, may reactivate the license to active status if he or she meets the provisions of Business and Professions Code section 3147.

(f) The holder of a retired license issued for more than three years, may reactive the license to active status if he or she meets the provisions of Business and Professions Code section 3147.6.

§ 3151.1. Retired License with Volunteer Designation

(a) The Board shall issue, upon application and payment of the fee fixed by this chapter, a license with retired volunteer service designation to an optometrist who holds a retired license or a license that is current and active.

(b) The applicant shall certify on the application that he or she has completed the required number of continuing education (CE) hours.

(c) The applicant shall certify on the application that the sole purpose of the license with retired volunteer service designation is to provide voluntary, unpaid optometric services at health fairs, vision screenings, and public service eye programs.

(d) The holder of the license with volunteer service designation shall submit a biennial renewal application, with a fee fixed by this chapter and certify on each renewal that the required number of CE hours were completed and certify that the sole purpose of the license with volunteer service designation is to provide voluntary, unpaid services.

§ 3152. Fee Schedule

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

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

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

- (c) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars (\$75).
- (d) The fee for a branch office license shall not exceed seventy-five dollars (\$75).
- (e) The penalty for failure to pay the annual fee for renewal of a branch office license shall not exceed twenty-five dollars (\$25).
- (f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars (\$25).
- (g) The delinquency fee for renewal of an optometric license shall not exceed fifty dollars (\$50).
- (h) The application fee for a certificate to perform lacrimal irrigation and dilation shall not exceed fifty dollars (\$50).
- (i) The application fee for a certificate to treat glaucoma shall not exceed fifty dollars (\$50).
- (j) The fee for approval of a continuing education course shall not exceed one hundred dollars (\$100).
- (k) The fee for issuance of a statement of licensure shall not exceed forty dollars (\$40).
- (l) The fee for biennial renewal of a statement of licensure shall not exceed forty dollars (\$40).
- (m) The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars (\$20).
- (n) The application fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- (o) The renewal fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- (p) The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars (\$25).
- (q) The fee for a retired license shall not exceed twenty –five dollars (\$25).
- (r) The fee for a retired license with volunteer designation shall not exceed fifty dollars (\$50).



October 11, 2011

BRADLEY R. STRAATSMA, M.D., J.D.
JULES STEIN EYE INSTITUTE
DEPARTMENT OF OPHTHALMOLOGY
DAVID GEFKEN SCHOOL OF MEDICINE AT UCLA
100 STEIN PLAZA
LOS ANGELES, CALIFORNIA 90095-7000

PHONE: (310) 825-5051
FAX: (310) 206-4293
E-MAIL: straatsma@jsei.ucla.edu

Lee Goldstein, O.D., M.P.A.
President, California Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

Dear Dr. Goldstein:

The Department of Ophthalmology and the Jules Stein Eye Institute at the University of California, Los Angeles (UCLA) have benefited from the skilled participation of retired optometrists who serve without compensation as examiners in the Jules Stein Eye Institute's Affiliates Preschool Vision Screening Program. For a number of years, these optometrists have taken part in the regular scheduled sessions of the preschool screening program at schools and public venues throughout the Los Angeles area.

Recognizing the public service performed by retired optometrists, this letter is written to recommend that the California Board of Optometry establish a category of license that permits continued licensure without payment of a fee for optometrists who:

1. Have retired from professional practice and compensated professional employment,
2. Participate without compensation as volunteers in public service eye care programs, and
3. Fulfill the continuing education requirements established by the California Board of Optometry.

Your consideration of this recommendation is greatly appreciated.

Sincerely yours,

A handwritten signature in cursive script that reads "Bradley R. Straatsma".

Bradley R. Straatsma, M.D., J.D.
Professor and Chairman Emeritus, Department of Ophthalmology
Director Emeritus, Jules Stein Eye Institute
David Geffen School of Medicine at UCLA

Cc: Jule Lamm, O.D.

September 24, 2011

RECEIVED

SEP 2011

TO: Members of the State Board of Optometry
Board of Directors of the California Optometric Association
Sen. Ed Hernandez

In talking to Jule Lamm, O.D. last week at a volunteer program at UCLA's Jules Stein Eye Institute, we both wondered why the Board of Optometry does not have a classification of "Volunteer" license. Usually when optometrists retire they go "inactive" or "delinquent" status.

My brother is a retired M D and the Medical Board has this classification of Voluntary Service.

These retired optometrists are needed for many programs and they have years of experience.

I do not know who is responsible for the process of setting this up, State Board of Optometry, a resolution from the California Optometric Association or with the passage of a law.

There are many venues out there who need volunteer optometrists on a permanent and temporary basis.

At the present time I volunteer at the MEND poverty center in Pacoima and the Jules Stein Eye Institute at UCLA. Plus through the years many other venues including dozens of trips to Mexico with LIGA.

And also a volunteer officer with the COA, AOA, LACOS and VSP (CVS).

So let's do it.

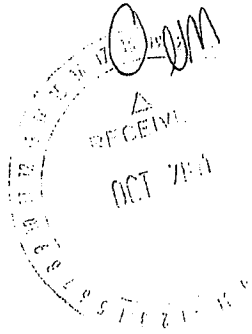
Thanks for your time and interest.

Sincerely yours

Adolphus W Lages, O.D.
Optlages@yahoo.com
213-248-4198
Enclosures 2

Jule D. Lamm, O.D.
212 16th Street
Santa Monica, Ca 90402
(310) 394 2324
julelamm@yahoo.com

October 7, 2011

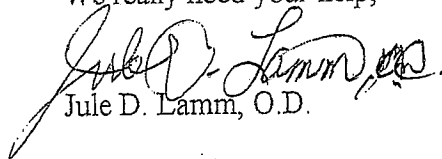


Mona Maggio Executive
Board of Optometry

I would like to suggest that the Board of Optometry establish a licensing arrangement for Optometrists to practice as volunteers without compensation.

We have a great need for volunteer Optometrists, and I feel that this would encourage retired practitioners to volunteer.

We really need your help,


Jule D. Lamm, O.D.

State	Retired License Offered	Volunteer/Limited License Offered
Alabama	Renewal fee waived as long as OD is retired from the practice of optometry.	n/a
Alaska	Yes (see attachment 2)	n/a
Arizona	n/a	n/a
Arkansas	No - CE required if wants to be considered by the Board as retired.	n/a
California	No - Can only go to an inactive status, delinquent, or cancelled.	n/a
Colorado	No - only have inactive license status.	n/a
Connecticut	n/a	n/a
Delaware	n/a	n/a
Florida	Yes	Public School Volunteer Health Care Practitioner Program. Need to provide 400 hours if retired.
Georgia	Yes - but must go into inactive status.	Have a volunteers in health care specialties provision that allows retired optometrists to provide services free of charge for charity situations.
Hawaii	No - only have inactive license status.	n/a
Idaho	n/a	n/a
Illinois	No - only have inactive license status.	n/a
Indiana	No - only have inactive license status.	n/a
Iowa	No - only have inactive license status.	n/a
Kansas	No - only have inactive license status.	n/a
Kentucky	n/a	n/a
Louisiana	n/a	n/a
Maine	No - only have non-active license status.	n/a
Maryland	No - only have inactive license status.	n/a
Massachusetts	Yes (see attachment 2)	n/a
Michigan	n/a	n/a
Minnesota	Yes (see attachment 2)	n/a
Mississippi	Yes (see attachment 2)	n/a
Missouri	n/a	n/a
Montana	n/a	n/a
Nebraska	No - only have inactive license status.	n/a
Nevada	n/a	n/a
New Hampshire	No - Had a non-active certificate of registration, but the rule was repealed in 2000.	n/a
New Jersey	No - only have inactive license status.	n/a
New Mexico	Yes (see attachment 2)	n/a
New York	No - only have inactive license status.	n/a
North Carolina	n/a	n/a
North Dakota	n/a	n/a
Ohio	No - only have inactive license, but use the term retired.	n/a
Oklahoma	No - only have inactive license, but use the term retired.	n/a
Oregon	No - only have inactive license, but use the term retired.	n/a

Pennsylvania	Yes	Yes (see attachment 2)
Rhode Island	Yes (see attachment 2)	n/a
South Carolina	n/a	n/a
South Dakota	n/a	n/a
Tennessee	Yes (see attachment 2)	Yes - inactive volunteers
Texas	Yes - only to volunteers. Regular retirees who are not going to practice must go into inactive status.	Yes - only give retired license to volunteers
Utah	Yes	Yes - Retired Volunteer Health Practitioner
Vermont	No - only inactive license.	n/a
Virginia	Use terms retired, and inactive, but a licensee who has not completed CE requirements for renewal hold a "lapsed" license and may not practice.	n/a
Washington	Yes - Retired Active Credential can only practice in emergency situation, or intermittent practice.	See Retired Active Credential.
West Virginia	No - only have inactive license, but use the term retired.	Yes (see attachment 2)
Wisconsin	n/a	n/a
Wyoming	Yes	Yes (see attachment 2)

NOTE:

The majority of states state-wide have an inactive license designation that can be used to designate one is retired. There is a way to go from inactive back to active most states as well.

n/a: Unable to find any related laws in this state.

Statewide Retired and Volunteer License Status Laws/Regulations

Alaska

Sec. 08.72.185. Retired license status. (a) On retiring from practice and on payment of an appropriate one-time fee, a licensee in good standing with the board may apply for the conversion of an active or inactive license to a retired status license. A person holding a retired status license may not practice optometry in the state. A retired status license is valid for the life of the license holder and does not require renewal. A person holding a retired status license is exempt from license renewal requirements of AS 08.72.181. (b) A person with a retired status license may apply for active licensure. Before issuing an active license under this subsection, the board may require the applicant to meet reasonable criteria, as determined under regulations of the board.

12 AAC 48.026. RETIRED STATUS LICENSE. (a) If the licensee holds an optometry license that is not restricted, the licensee may apply for a retired status license by submitting (1) a completed application on a form provided by the department; (2) the applicable fee established in 12 AAC 02.300. (b) A person holding a retired status license may apply for an active license by showing documentation of satisfying the continuing education requirements under AS 08.72 and this chapter that would have been required to maintain an active license during the period the person held the retired status license. **Authority:** AS 08.72.050 AS 08.72.150 AS 08.72.181 AS 08.72.110 AS 08.72.170

Arkansas

If any licensee desires to be considered by the Board as retired, and not practicing optometry, then the licensee may renew his or her license without complying with the continuing education requirements.

Texas

RULE §273.7 Inactive Licenses and Retired License for Volunteer Charity Care

(a) Placing a license on inactive status. A person who is licensed by the board to practice optometry but who is not engaged in the practice of optometry in this state may

place the license on inactive status at the time of license renewal or during a license year as follows.

(1) To place a license on inactive status at the time of renewal, the licensee shall:

(A) complete and submit before the expiration date of January 1 of each year a license renewal application provided by the board;

(B) state on the renewal application that the license is to be placed on inactive status and that the licensee shall not practice optometry in Texas while the license is inactive;

(C) pay the fee for renewal of license as specified in §273.4 of this title (relating to Optometry Fees). The fee for renewal of license shall not be subject to the Section 351.153 of the Texas Optometry Act. Penalty fees as provided by Section 351.304 of the Act, will apply to those received after December 31 of the applicable renewal period.

(2) To place a license on inactive status at a time other than the time of license renewal, the licensee shall:

(A) return the current renewal certificate to the board office;

(B) submit a signed statement stating that the licensee shall not practice optometry in Texas while the license is inactive, and the date the license is to be placed on inactive status;

(C) pay the fee for issuance of an amended renewal certificate as specified in §273.4 of this title (relating to Optometry Fees).

(b) Reactivation of an Inactive License.

(1) A holder of a license that is on inactive status may return the license to active status by:

(A) applying for active status on a form prescribed by the board;

(B) providing proof of completion certificates from approved continuing education programs as specified in Chapter 275 of this title (relating to Continuing Education Requirements) for the number of hours that would otherwise have been required for the renewal of the license. Approved continuing education earned within the calendar year prior to the licensee applying for the return to active status may be applied toward the continuing education requirement;

(C) paying the fee for issuance of an amended renewal certificate as specified in §273.4 of this title (relating to Optometry Fees);

(D) paying the fee imposed by Section 351.153 of the Act, if the licensee begins practice within the state.

(2) If the application for reactivation of the license is made at the time of license renewal, the applicant shall pay the license renewal fee specified in §273.4 of this title (relating to Optometry Fees). If the application for reactivation of the license is made at a time other than the time of license renewal, the applicant shall pay the license renewal fee as well as a fee for issuance of an amended certificate to practice optometry as specified in §273.4 of this title.

(c) Prohibition against practicing optometry in Texas. A holder of a license that is on inactive status shall not practice optometry in this state. The practice of optometry by a holder of a license that is on inactive status constitutes the practice of optometry without a license.

(d) Retired License. The Board may issue a Retired License to optometrists or therapeutic optometrists whose only practice is volunteer charity care pursuant to subsections (d) - (k) of this section.

(e) Application. An applicant holding a current license may apply for a Retired License by submitting to the Board a completed application with the license fee required by §273.4 of this title (relating to Fees (Not Refundable)). There is no charge to apply. A Retired License will not be issued to applicants subject to current or pending disciplinary action. In determining whether to grant retired status, the board shall consider the age,

years of practice, and status of the license holder at the time of the application. Applicants must supply proof that the continuing education requirements for a Retired License have been met in §275.1(g)(1) of this title (relating to General Requirements) (Rule 275.1).

(f) Application by Expired Licensee. A former licensee whose license has expired for one year or more may apply for a Retired License by submitting to the Board a completed application with the license fee required by §273.4 of this title. There is no charge to apply. A Retired License will not be issued to applicants subject to current or pending disciplinary action. Applicants must supply proof of having met the continuing education requirements of §275.1(g)(2) of this title. An applicant for a therapeutic Retired License must have been licensed by the Board as a therapeutic optometrist. An applicant for a therapeutic Retired License whose license has been expired for five years or more must supply proof of a passing score on the jurisprudence examination taken within the one year period prior to the submission of the application. In determining whether to grant retired status, the Board shall consider the age, years of practice, and status of the license holder at the time of the application.

(g) Scope of License. The holder of a Retired License may practice optometry or therapeutic optometry in the same manner as an active licensee of the Board, subject to the restrictions contained in this section. A holder of a Retired License may only practice optometry or therapeutic optometry when such practice is without compensation or expectation of compensation (except for the reimbursement of travel and supply expenses) as a direct service volunteer of a charitable organization.

(h) Charitable Organization. A charitable organization includes any bona fide charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, or educational organization (excluding fraternities, sororities, and secret societies), or other organization organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community, including these types of organizations with a §501(c)(3) or (4) exemption from federal income tax, some chambers of commerce, and volunteer centers certified by the Department of Public Safety.

(i) Renewal. A Retired License expires on the same date as a regular license. Prior to renewing the license, the licensee must supply proof that the continuing education requirements for a Retired License have been met. The license renewal fee is set in §273.4 of this title.

(j) Penalty. The holder of a Retired License shall not receive compensation for the practice of optometry. To do so constitutes the practice of optometry without a license and subjects the optometrist or therapeutic optometrist to the penalties imposed for this violation.

(k) Reinstatement of an Active License by a Holder of a Retired License. The Board may reinstate an active license to applicants who hold a Retired License pursuant to the requirements of this subsection. Applicants may apply for reinstatement by submitting to the Board a completed application with the application fee required by §273.4 of this title. Applicants must supply proof that the continuing education requirements for an active license have been met. If the Board approves the application to reinstate the active license, the Board may issue the license once the requirements of subsection (b)(1)(C) and (D) have been met. An active license will not be issued to a holder of a Retired License who applied for that license under subsection (f) of this section.

Washington

How to Obtain a Retired Active Credential

A practitioner may obtain a retired active status credential if authorized by the regulatory entity. Refer to the profession rules to determine if this status is available.

(1) To obtain a retired active credential the practitioner must submit a letter notifying the department of health of the intent to practice only on an intermittent or emergency basis.

(2) A practitioner may apply for a retired active credential (refer to RCW [18.130.250](#)) if he or she meets the following criteria:

(a) Holds an active Washington state credential;

(b) Is in good standing; and either

(c) Will practice no more than ninety days each year in Washington state; or

(d) Will practice only in emergency circumstances such as earthquakes, floods, times of declared war or other states of emergency.

(3) The practitioner may obtain a retired active credential at any time the criteria in subsection (2) of this section are met. The fee for the initial retired active credential will be due when the active credential expires. Portions of the current renewal fee will not be prorated or refunded for the remaining active renewal cycle.

(4) The profession may define specific practice settings in which services may be provided. Refer to the laws and rules of the profession to determine if specific practice settings are identified.

Oregon

(1) All persons practicing optometry in the state of Oregon must possess a valid, unrevoked, active license EXCEPT those licensees who are:

(a) Retired;

(b) Disabled; or

(c) Non-resident and not practicing in the state of Oregon.

(2) Retired, disabled, or non-resident licensees may hold an inactive license.

(3) Definitions of this rule:

(a) "Retired" means a licensee who is a resident of the state of Oregon, but is not practicing optometry.

(b) "Disabled" means a licensee who has ceased to practice, or is prevented from practicing, optometry by illness, disease or disability.

(c) "Non-resident" means a licensee who no longer resides in the state of Oregon or is on active duty with the uniformed services of the United States. (reference other residency).

(4) Those who have been granted an inactive license by the Board are exempt from ORS 683.270(g) and OAR 852-50-016 which require the licensee to report each place of business to the Board:

(a) Inactive licensees are still required to maintain a current mailing address with the Board.

(b) Inactive licensees failing to notify the Board in writing of address changes prior to moving may be subject to a fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure.

Georgia

430-2-.05 Requirements for Inactive License Status. Amended.

Doctors of Optometry who have reached their sixty-fifth (65th) birthday or who can provide certification of disability to practice Optometry may request that their license be placed on inactive status under the following provisions:

(a) In the event that a Doctor of Optometry who holds a valid license to practice Optometry in the State of Georgia notifies the Board that he chooses to retire from active

practice of the profession, his license shall be considered to be inactive;

(b) Doctors holding an inactive license shall not engage in the practice of Optometry and

shall not hold themselves out to the public as being available to provide optometric services;

(c) A Doctor of Optometry holding an inactive license shall not be required to obtain the necessary continuing education credits and no renewal fee shall be assessed.

Authority O.C.G.A. Secs. 43-30-5. **History.** Original Rule entitled "Requirements: Approval of Education

Programs" was filed on January 8, 1974; effective January 28, 1974. **Amended:** Rule repealed. Filed

January 15, 1980; effective February 4, 1980. **Amended.** New Rule entitled "Requirements for Inactive

License Status" adopted. Filed June 20, 1986; effective July 10, 1986.

§ 43-1-28. Volunteers in health care specialties

(a) This Code section shall be known and may be cited as the "Georgia Volunteers in Health Care Specialties Act."

(b) As used in this Code section, the term:

(1) "Health care board" means that professional licensing board which licenses a health care practitioner under this title.

(2) "Health care practitioner" means a chiropractor, registered professional nurse, podiatrist, optometrist, professional counselor, social worker, marriage and family

therapist, occupational therapist, physical therapist, physician's assistant, licensed practical nurse, or certified nurse midwife.

(3) "Health care specialty" means the practice of chiropractic, nursing, podiatry, optometry, professional counseling, social work, marriage and family therapy, occupational therapy, physical therapy, physician assistance, or midwifery.

(c) Notwithstanding any other provision of law, each health care board may issue a special license to qualifying health care practitioners whose health care specialty is licensed by that board under the terms and conditions set forth in this Code section. The special license may only be issued to a person who:

(1) Is currently licensed to practice the applicable health care specialty in any health care specialty licensing jurisdiction in the United States and whose license is in good standing; or

(2) Is retired from the practice of the health care specialty or, in the case of a physician's assistant, has an inactive license and is not currently engaged in such practice either full time or part time and has, prior to retirement or attaining inactive status, maintained full licensure in good standing in the applicable health care specialty licensing jurisdiction in the United States.

(d) The special licensee shall be permitted to practice the health care specialty only in the noncompensated employ of public agencies or institutions, not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide health care specialty services only to indigent patients in areas which are underserved by that specialty or critical need population areas of the state, as determined by the board which licenses that specialty, or pursuant to Article 8 of Chapter 8 of Title 31.

(e) The person applying for the special license under this Code section shall submit to the appropriate health care board a copy of his or her health care specialty degree, a copy of his or her health care specialty license in his or her current or previous licensing and regulating jurisdiction, and a notarized statement from the employing agency, institution, corporation, association, or health care program on a form prescribed by that board, whereby he or she agrees unequivocally not to receive compensation for any health care specialty services he or she may render while in possession of the special license.

(f) Examinations by the health care board, any application fees, and all licensure and renewal fees may be waived for the holder of the special license under this Code section.

(g) If, at the time application is made for the special license, the health care practitioner is not in compliance with the continuing education requirements established by the health

care board for the applicable health care specialty, the health care practitioner shall be issued a nonrenewable temporary license to practice for six months provided the applicant is otherwise qualified for such license.

(h)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons practicing a health care specialty under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by Code Section 51-1-29.1, except that a podiatrist engaged in such practice and an employer thereof shall have the same immunity from liability as provided other health care practitioners under Code Section 51-1-29.1.

(2) The liability of persons practicing a health care specialty pursuant to Article 8 of Chapter 8 of Title 31 under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by

the provisions of such article.

(i) This Code section, being in derogation of the common law, shall be strictly construed.

HISTORY: Code 1981, § 43-1-28, enacted by Ga. L. 2000, p. 1406, § 1; Ga. L. 2002, p. 639, § 1; Ga. L. 2005, p. 1493, § 2/HB 166.

Massachusetts

(5) **Temporary Retirement.** An Optometrist may temporarily retire from practice upon first notifying the Board in writing of such retirement.

(a) **Retirement of Five Years or Less.** When the Optometrist is ready to return to optometric practice, provided the period of retirement is five years or less, he or she may submit a request to the Board for reinstatement. The request for reinstatement shall include:

1. Payment of the lapsed annual License fees;
2. An affidavit as to the facts of his or her temporary retirement from practice;
3. Evidence satisfactory to the Board of having completed 18 hours of continuing education credit in courses or programs approved by the Board or an entity approved by the Board for each year the Optometrist has been in temporary retirement; and
4. Any other information or documentation as requested by the Board.

(b) **Retirement of More Than Five Years.** Where the period of temporary retirement exceeds five years, the Optometrist may submit a request to the Board for reinstatement. The request for reinstatement shall include:

1. Payment of past annual licensing fees;
2. An affidavit as to the facts of the temporary retirement from practice;
3. Evidence satisfactory to the Board of having completed 18 hours of continuing education credit in courses or programs approved by the Board or an entity approved by the Board for each year the Optometrist has been in temporary retirement;
4. Evidence of having successfully sat for a clinical proficiency examination, or satisfactory written proof to the Board that he or she has been licensed in good standing and actively practicing Optometry continuously in another jurisdiction recognized by the Association of Regulatory Boards of Optometry; and
5. Any other information or documentation as requested by the Board.

Minnesota

6500.2700 OPTOMETRIST EMERITUS REGISTRATION.

Subpart 1.

Application.

Any optometrist duly licensed to practice optometry in Minnesota pursuant to Minnesota Statutes, sections [148.52](#) to [148.62](#), who declares that he or she is retired from active practice of optometry may apply to the board for emeritus registration on the annual license renewal form. To qualify, the optometrist must be retired and must not be subject to any disciplinary action or be subject to an order of the board imposing a suspended, conditional, or restricted license to practice optometry.

Subp. 2.

Status of registrant.

The emeritus registration is not a license which permits the registrant to practice optometry as defined in Minnesota Statutes, sections [148.52](#) to [148.62](#), and the rules of the board.

Subp. 3.

Continuing education.

The continuing education requirements of part [6500.0900](#) are not applicable to emeritus registration.

Subp. 4.

Change to active status.

The emeritus optometrist must:

A.

apply to the board for reinstatement of his or her active license; and

B.

comply with the continuing education requirements for the time period in which the license was in emeritus status. This requirement must be fulfilled prior to petitioning the board for reinstatement of license.

Subp. 5.

Renewal cycle or fees.

Being registered as an emeritus optometrist will not subject the person to the annual license renewal cycle or renewal fee.

Each applicant who meets all requirements for registration as emeritus optometrist shall be issued a certificate. The fee for this certificate is \$10. A replacement certificate may be issued by the board.

Statutory Authority:

MS s [16A.128](#); [148.53](#); [214.06](#)

History:

11 SR 1793; 12 SR 1775

Posted:

June 11, 2008

Mississippi

Failure to Renew, Retired Optometrist Renewal.

In the case of failure to obtain continuing education hours or to neglect to pay the renewal registration fee herein specified, the board may revoke any certificate granted and the holder thereof may be reinstated by complying with the conditions specified in Section 73-19-21 of the Mississippi Code of 1972 as amended and related Code sections. However, no certificate or permit shall be revoked without giving 60 days notice to the delinquent, who, within such period, shall have the right of renewal of such certificate on payment of a renewal fee of \$325.00 together with a penalty of \$15.00, provided, that retirement from practice for a period not exceeding five (5) years shall not deprive the holder of a certificate of the right to renew his certificate on the payment of all lapsed fees and meeting any applicable continuing education requirements. An optometrist shall not be deemed retired unless he in good faith so advises the board in writing prior to his certificate being revoked for failure to pay the fees required by law. Retired individuals seeking to return to the active practice of optometry under this provision shall pay a renewal fee based on \$325.00 per year for the period of his retirement and shall not have the benefit of the reduced fee for restricted practice provided in this rule but he may, upon payment of the above provided fees, apply for a restricted certificate if he is otherwise qualified.

10.9. Proper use of the title Doctor and O.D. degree designation.

No registered optometrist when using the doctor title shall qualify it in any other way than by the use of the "Optometrist" or "Therapeutic Optometrist". He may, however, when not using the prefix, use after his/her name the "O.D." degree designation.

(a) In the event of the death or retirement of an optometrist who was practicing optometry in a partnership, or with a professional corporation or professional association, the surviving members of the

professional corporation or association, may, with the written permission of the retiring optometrist, or the deceased optometrist's legal representative, continue to use the name of the deceased or retired optometrist.

(b) The fact that such optometrist is retired or deceased shall clearly be displayed in such manner that such facts will be clearly visible to the public prior to entry of the optometrist's office or reception area. By way of example, an appropriate professional identifying sign might be as follows:

SMITH, JONES & BROWN, INC. OPTOMETRISTS
Jim Smith, O.D. (1912-1981)
Jim Jones, O.D., Retired
Paul Brown, O.D.

New Mexico

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 16 OPTOMETRIC PRACTITIONERS

PART 12 RETIREMENT AND REINSTATEMENT OF OPTOMETRY LICENSE

16.16.12.1 ISSUING AGENCY: New Mexico Board of Examiners in Optometry.

[10-14-95; 16.16.12.1 NMAC - Rn, 16 NMAC 16.12.1, 03-15-2001; A, 03-15-2004]

16.16.12.2 SCOPE: Part 12 of Chapter 16 applies to all optometrists who wish to place their New Mexico licenses in retirement status.

[10-14-95; 16.16.12.2 NMAC - Rn, 16 NMAC 16.12.2, 03-15-2001]

16.16.12.3 STATUTORY AUTHORITY: The authority for Part 12 of Chapter 16 is NMSA 1978 Section 61-2-12 and 61-2-6.D. (2) (1995 Repl. Pamp.).

[11-20-73; 3-31-91; 8-21-92; 6-24-94; 10-14-95; 16.16.12.3 NMAC - Rn, 16 NMAC 16.12.3, 03-15-2001]

16.16.12.4 DURATION: Permanent.

[10-14-95; 16.16.12.4 NMAC - Rn, 16 NMAC 16.12.4, 03-15-2001]

16.16.12.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.

[8-21-92...10-14-95, 10-15-97; 16.16.12.5 NMAC - Rn, 16 NMAC 16.12.5, 03-15-2001; A, 03-15-2004]

16.16.12.6 OBJECTIVE: The objective of Part 11 of Chapter 16 is to set forth the requirements and procedures for placing a New Mexico optometry license in retirement status and having it reinstated from retirement status.

[10-14-95; 16.16.12.6 NMAC - Rn, 16 NMAC 16.12.6, 03-15-2001]

16.16.12.7 DEFINITIONS: "Retired status" means a license that has been withdrawn from active status at the request of the licensee due to retirement provided the licensee is not practicing optometry in another jurisdiction. Such license is still subject to the board authority for five (5) years from the date the license is placed on retired status as specified in 16.16.12.15 NMAC.

[10-14-95; 16.16.12.7 NMAC - Rn, 16 NMAC 16.12.7, 03-15-2001, A, 03-15-2004; A 03-22-2008]

16.16.12.8 RETIREMENT OF LICENSE: Any optometrist who wishes to retire from practice shall notify the board, **in writing, prior to** the expiration date of his or her license, and provide proof of completion of continuing education renewal requirement as provided in 16.16.13 NMAC.

A. If the licensee meets the time frame and continuing education requirements set forth in 16.16.12.8 NMAC, the license will be retired. The licensee's date of retirement will be recorded as the expiration date of that year in the minutes of the next regularly scheduled board meeting.

B. The optometrist shall be exempt from payment of the yearly renewal fees during the period of retirement.

[8-21-92; 6-24-94; 10-14-95; 10-15-97; 16.16.12.8 NMAC - Rn, 16 NMAC 16.12.8, 03-15-2001; A, 03-15-2004]

16.16.12.9 PRACTICE PROHIBITED: During the period of retirement, the optometrist is prohibited from practicing optometry in the state of New Mexico.

[8-21-92; 6-24-94; 10-14-95; 16.16.12.9 NMAC - Rn, 16 NMAC 16.12.9, 03-15-2001]

16.16.12.10 NOTIFICATION OF INTENT TO REINSTATE LICENSE: Any optometrist who has retired as provided in 16.16.12.8 NMAC may, within five years from the date

his/her license was retired, notify the board in writing of his/her desire to resume active practice. The applicant shall provide the following information.

- A. The license number of the former license;
- B. The applicant's full name;
- C. The applicant's home address and phone number;
- D. The date the applicant's license was originally issued; and
- E. The date of the applicant's retirement.

[8- 21-92; 6-24-94; 10-14-95; 16.16.12.10 NMAC - Rn, 16 NMAC 16.12.10, 03-15-2001]

16.16.12.11 REINSTATEMENT PROCESS: Upon receipt of the written request required in 16.16.12.10 NMAC, the board shall mail the applicant a reinstatement form stipulating the fees and the number of board-approved continuing education hours required for reactivation of his or her license.

A. The reactivation fee shall be the total of the renewal fees for each year the license was in retired status.

B. Continuing education shall be at the current requirement of board approved continuing education taken for each year during the retirement period, and the provisions set forth in Subsection A of 16.16.13.8 NMAC related to optometrists holding certification in ocular therapeutics will apply for each year in retired status;

C. Twenty-two (22) of those hours shall be taken during the year immediately preceding reactivation of the license.

[8-21-92; 6-24-94; 10-14-95; 10-15-97; 16.16.12.11 NMAC - Rn, 16 NMAC 16.12.11, 03-15-2001; A 03-22-2008]

16.16.12.12 REINSTATEMENT APPLICATION REVIEW: The optometrist shall return the completed, signed, and notarized reinstatement form, the required fee, and copies of the continuing education proofs of attendance certificates to the board office.

[8-21-92; 6-24-94; 10-14-95; 10-15-97; 16.16.12.12 NMAC - Rn, 16 NMAC 16.12.12, 03-15-2001]

16.16.12.13 REINSTATEMENT APPROVED:

A. If the board finds the application in order and is satisfied that the applicant has fulfilled the requirements as specified, the board shall reinstate the applicant's license.

B. The retiree may not resume the practice of optometry until the reactivated license has been received from the board.

[8-21-92; 6-24-94; 10-14-95; 10-15-97; 16.16.12.13 NMAC - Rn, 16 NMAC 16.12.13, 03-15-2001]

16.16.12.14 INELIGIBILITY FOR REINSTATEMENT:

A. The retired optometrist will be ineligible for reinstatement if he or she is under investigation, is facing disciplinary proceedings, or has had a disciplinary action taken against his or her license in any jurisdiction while on retired status in New Mexico.

B. A retired optometrist whose application for reinstatement has been denied shall be afforded an opportunity for a hearing under Section 61-1-4 of the Uniform Licensing Act.

[8-21-92; 6-24-94; 10-14-95; 10-15-97; 16.16.12.14 NMAC - Rn, 16 NMAC 16.12.14, 03-15-2001]

16.16.12.15 TIME LIMITATIONS ON RETIREMENT STATUS: If application for reinstatement of the license is not made before the end of the five-year retirement or reinstatement period, the optometrist's New Mexico license shall Lapse. The optometrist must reapply to the board for licensure by examination. All application requirements as stated in Part 3 of 16.16 NMAC must be met.

[6-24-94; 10-14-95; 10-15-97; 16.16.12.15 NMAC - Rn, 16 NMAC 16.12.15, 03-15-2001]

HISTORY of 16.16.12 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMBO Rule 21, Board Rule No. 21 - Retirement And Reinstatement, filed 7-22-92.

NMBO Rule 21, Board Rule No. 21 - Retirement And Reinstatement, filed, 5-25-94.

Pennsylvania

§ 23.26. Volunteer license.

(a) *Purpose and definitions.*

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as

a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Approved clinic—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

Unrestricted license—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License*. A volunteer license may be issued to a licensee of the Board who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license as an optometrist in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from the active practice of optometry in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it. A retired licensee shall meet the requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications*. An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice optometry exclusively:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license*. A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the licensee shall notify the Board of any change in clinic or volunteer status within 30 days of the date of a change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal*. A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from payment of the biennial renewal fee of § 23.91 (relating to fees).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act (35 P. S. § § 449.41—449.50) or this section may also constitute grounds for disciplinary action.

Authority

The provisions of this § 23.26 issued under section 5 of the Volunteer Health Services Act (35 P. S. § 449.45); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.26 adopted November 28, 1997, effective November 28, 1997, 27 Pa.B. 6214.

Rhode Island

Section 6.0 *Issuance and Renewal of License and Fee*

6.1 Upon completion of the aforementioned requirements, the Director may issue a license to those applicants found to have satisfactorily met all the requirements herein. Said license and/or

certification shall expire annually on the 31st day of January, unless sooner suspended or revoked.

6.2 On or before the 31st day of December of each year, the Department shall mail an application for renewal of license to each person to whom a license has been issued or renewed during the current year. Every person licensed who intends to practice optometry during the ensuing year shall file a renewal application duly executed together with the renewal fee for licensure of one hundred seventy dollars (\$170.00) (non-refundable/non-returnable) made payable to the General Treasurer, state of Rhode Island on or before the 31st day of January in each year.

6.3 Upon receipt of a renewal application accompanied by evidence of completion of the prescribed continuing education program requirements as set forth in section 7.0 herein, including payment of fee, the accuracy of the application shall be verified and license shall be granted effective 1 February of that year.

6.4 In case of neglect or refusal to pay, said Department may revoke or suspend such license provided, however, that no license shall be so suspended or revoked without first giving sixty

(60) days notice in each such case of neglect or refusal and within such period any such optometrist shall have the right to receive a renewal of such license on payment of the renewal fee, together with an added penalty of seventy dollars (\$70.00) (non-refundable/non-returnable).

6.5 Retirement from practice for a period not exceeding five (5) years shall not deprive the holder of a license of the right to renew such license upon payment of all annual renewal fees remaining unpaid, and a further fee of fifty dollars (\$50.00) (non-refundable/non-returnable).

Tennessee

1045-02-.01 FEES.

(1) The fees authorized by the Optometry Practice Act (T.C.A. §63-8-101, et seq.) and other applicable statutes to be established in amount by the Board are established as follows:

- (a) Application Fee - A non-refundable fee to be paid each time an application for initial licensure is filed. \$300.00
- (b) Reinstatement Fee - A non-refundable fee to be paid each time an application for reinstating an expired \$200.00 license is filed.
- (c) Duplicate Licensure \$25.00
- (d) Licensure Renewal Fee – A non-refundable fee to be \$330.00 paid biennially by all licensees except Inactive Volunteers. This fee also applies to licensees who reactivate a retired license or who reactivate an inactive license.
- (e) Biennial State Regulatory Fee \$10.00
- (f) **Inactive Volunteer Licensure Renewal Fee \$0.00**

(2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Board of Optometry.

Authority: T.C.A. §§4-3-1011(b), 4-5-202, 4-5-204, 63-8-111, 63-8-112, 63-8-112(1), 63-8-115, 63-8-119, and 63-8-133. **Administrative History:** Original rule filed May 15, 1981; effective July 22, 1981. Amendment filed October 13, 1983; effective November 14, 1983. Repeal and new rule filed November 30, 1990; effective January 14, 1991. Amendment filed August 2, 1995; effective October 16, 1995. Amendment filed December 11, 1998; effective February 23, 1999. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed June 10, 2004; effective August 24, 2004. Amendment filed October 18, 2004; effective January 1, 2005.

§ 23.81. Coverage.

(a) This section and § § 23.82—23.89 apply to all optometrists who are required to be licensed under the act; however, any applicant, upon successful completion of the optometric examination for licensure, shall be exempt from the requirements of continuing education for only the biennial period during which the applicant successfully completed such examination if the applicant takes such examination within two years from his graduation from an accredited college or school of optometry.

(b) Any individual who is in an inactive status or is a retired practitioner is not required to meet the continuing education requirements as outlined in this section § § 23.82—23.89 except to the extent that, upon application for reactivation, such individual shall be required to show proof of continuing education for the biennial period immediately preceding such request for reactivation.

§ 23.26. Volunteer license.

(a) *Purpose and definitions.*

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. § § 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Approved clinic—An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas. The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

Unrestricted license—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License.* A volunteer license may be issued to a licensee of the Board who documents to the satisfaction of the Board that the applicant will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license as an optometrist in this Commonwealth and retires from active practice at the time the applicant applies for a volunteer license.

(2) Retires from the active practice of optometry in this Commonwealth in possession of an unrestricted license which was allowed to lapse by not renewing it. A retired licensee shall meet the requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications.* An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice optometry exclusively:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license.* A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the licensee shall notify the Board of any change in clinic or volunteer status within 30 days of the date of a change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal.* A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from payment of the biennial renewal fee of § 23.91 (relating to fees).

(f) *Return to active practice.* A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions.* A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act (35 P. S. § § 449.41—449.50) or this section may also constitute grounds for disciplinary action.

Authority

The provisions of this § 23.26 issued under section 5 of the Volunteer Health Services Act (35 P. S. § 449.45); and section 3(b)(14) of the Optometric Practice and Licensure Act (63 P. S. § 244.3(b)(14)).

Source

The provisions of this § 23.26 adopted November 28, 1997, effective November 28, 1997, 27 Pa.B. 6214.

West Virginia

§14-1-11. Special Volunteer License.

11.1. A Special Volunteer License shall

be issued by the Board using the provisions listed in W. Va. Code §30-8-16.

11.2. The applicant for a special volunteer license must submit the prescribed application.

11.3. The applicant for a special volunteer license shall provide proof of completion of the required continuing education hours listed in the Board's rule, W.Va. Code of Rules, §14-10.

Wyoming

Section 9. Volunteer's Certificate.

(a) Scope. A Volunteer's Certificate issued to a retired optometrist shall be used only for volunteer services and not for compensation.

(b) Qualifications. To qualify for a Volunteer's Certificate, an optometrist shall:

(i) For at least ten (10) years immediately prior to retirement, either have maintained full licensure in good standing in any jurisdiction in the United States that licenses persons to practice as an optometrist or have practiced in good standing as an optometrist in one (1) or more branches of the United States armed services;

(ii) Otherwise qualify for an active general license, except that the clinical board examination requirement is waived;

(iii) Provide proof of completion of required continuing education.

(c) Application for a Volunteer's Certificate. To apply for a Volunteer's Certificate an optometrist shall:

(i) Submit a completed application form provided by the Board and attach:

(A) A copy of the applicant's optometry degree from an accredited optometric school;

(B) One of the following, as applicable:

(I) A copy of the applicant's most recent license authorizing the practice of optometry; or

(II) A copy of the applicant's most recent license, or a license equivalent to practice optometry in one (1) or more branches of the United States armed services issued by the United States government.

(C) Evidence of one (1) of the following, as applicable:

(I) That the applicant has maintained, for at least ten (10) years immediately prior to retirement, full licensure in good standing in any jurisdiction in the United States that licenses persons to practice as an optometrist; or

(II) That the applicant has practiced for at least ten (10) years immediately prior to retirement in good standing as an optometrist in one (1) or more of the branches of the United States armed services; and

(D) A notarized statement from the applicant, on a form prescribed by the Board, that the applicant;

(I) Will not accept any form of remuneration for any optometric services rendered while in possession of a Volunteer's Certificate;

(II) Will devote his/her practice exclusively and totally to providing optometry services to low income, uninsured persons at a non-profit health care facility in this state; and

(III) Will provide any other documentation that the Board may reasonably require.

(d) Expiration Date of Certificate. A Volunteer's Certificate to practice optometry shall expire on December 31 of the year of the effective date of Certificate.

(e) Renewal of Certificate. A Volunteer's Certificate to practice optometry may be renewed if:

(i) A completed renewal form provided by the Board is submitted;

(ii) Continuing education requirements for an active general license to practice optometry in the state have been completed; and

(iii) The applicant has conformed to the standards set forth in Chapter 5, Section 1.

(f) Violations. Violations of this Chapter pertaining to a Volunteer's Certificate shall constitute unprofessional conduct and may result in a suspension or revocation of the Certificate.

BOARD OF OPTOMETRY

2012 LEGISLATIVE PROPOSAL CONCEPT PAPER

REQUESTOR & CONTACT INFORMATION

Mona Maggio, Executive Officer
Department of Consumer Affairs, Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 9583
Phone: 916-575-7176
Fax: 916-575-7292
Email: mona.maggio@dca.ca.gov

Andrea Leiva, Policy Analyst
Email: andrea.leiva@dca.ca.gov
Phone: 916-575-7182

DATE SUBMITTED

January 10, 2012

TITLE

§3070. Notice of Address for Practice of Optometry; Statement of Licensure; Exemptions

SUMMARY

The definition of “temporary practice” is not defined in the optometry practice act. Pursuant to Business and Professions Code (BPC) §3070, it is the Board of Optometry’s (hereafter Board) responsibility to define it in a way that will protect consumers and increase access to care.

IDENTIFICATION OF PROBLEM

BPC §3070 requires optometrists to notify the Board of every practice location. BPC §3070 (b)(1-4) establishes exemptions to this rule for optometrists working in certain, defined temporary practice settings. BPC §3070 (b)(5) has its own definition of temporary practice, but this section only applies to situations when an optometrist is ill or on temporary leave, such as vacation. Many optometrists believe that the definition for (b)(5) applies to subsections (b)(1-4), but this is not the case. Currently, “temporary practice” is not defined, and pursuant to BPC §3070, it is the Board’s responsibility to define it.

The Board has been attempting to define temporary practice since 2007, without resolution. The current exemptions in §3070 (b)(1-5) were put in place by the California Optometric Association (COA) in 2007 (Assembly Bill 986, Eng, Chapter 276) in order to bypass the Board’s lengthy notification process. Currently it takes up to five weeks to obtain a Statement of Licensure (SOL), which is the license issued to work at a specific location other than the optometrist’s principal place of practice. This is not conducive to the current practice of optometry which involves licensees practicing at multiple locations, or on an on-call basis.

PROPOSED SOLUTION

The Board is proposing to amend BPC §3070 by introducing a definition for temporary practice, explicitly stating an SOL is required for all practice locations other than an optometrist's principal place of practice, and deleting all exceptions to the notification requirement. A regulatory solution was also considered, but the Board does not see a need for exceptions if there is a definition for temporary practice.

JUSTIFICATION

The following issues have surfaced throughout the years which demonstrate the need to define temporary practice:

- The practice of optometry is changing. Optometrists are now contracting with multiple health organizations to provide their services, and may not have a principal place of practice where patients can follow-up if they have questions, a complaint, or need to obtain a copy of their prescription or patient records. BPC §3070.1 (Assembly Bill 2683, Hernandez, Chapter 604, Stats. 2010) only addresses the practice of optometry in health facilities.
- Optometrists on probation with the Board and their legal advisors are incorrectly interpreting BPC §3070 (b)(5) to mean that they can practice at multiple locations. The time period in this exception applies to all temporary practice locations total, not each one separately. Also, the probationers are doing fill-in work as contracted employees, not for a sick or vacationing optometrist in a temporary capacity.
- The exemptions in §3070 (b)(1-2) are all locations that employ optometrists permanently, or through contract work. Optometrists working in these locations should be required to notify the Board. The exemptions in subsections (b)(3-4) are typically not locations in which an optometrist will work for more than a few days, and most likely only one day.
- California Code of Regulations (CCR) §1506 is confusing. The requirements to obtain an SOL are not clearly articulated, allowing for multiple interpretations, which makes the regulation difficult to enforce.
- The Board will be transitioning to the new BreEZe licensing and enforcement system in 2013. BreEZe combines the Department of Consumer Affairs' (DCA) licensing and enforcement databases to create an efficient system that will be intuitive and easy-to-use for licensees, DCA staff and consumers. BreEZe will allow optometrists to perform many licensing functions independently, online. The Board must take this massive change into account when considering solutions for the definition of temporary practice so that the law will not interfere with the benefits of this much anticipated improvement in the DCA's functions.

PROGRAM BACKGROUND/LEGISLATIVE HISTORY

The Board of Optometry was created via legislation in 1913 to safeguard the public's health, safety and welfare through regulation of the practice of optometry. Per BPC §3010.1, protection of the public is the highest priority for the Board when exercising its

licensing, regulatory and disciplinary functions.

The mission of the Board is to assure that Californians have access to appropriate high quality eye and vision care and to implement and promote fair and just laws and regulations protecting the health and safety of consumers.

ARGUMENTS PRO AND CON

Pro: Defines temporary practice in order to ensure that optometrists are not practicing at multiple locations without notifying the Board.

Defining temporary practice eliminates all ambiguity regarding this type of practice and allows the Board to better enforce BPC §3070 and CCR §1506.

When an optometrist does not notify the Board of every practice location, consumers suffer. It can be difficult for a consumer to locate who treated them if the optometrist was doing fill-in work or is not an actual employee of the practice. Requiring an SOL for any location that the optometrist practices that is not their principal place of practice will make more information available for consumers.

Requiring optometrists to obtain an SOL for every practice location that is not their principal place of practice, whether it is temporary or not, will ensure that the information that the Board receives is current. It was also considered to require optometrists to send a list to the Board of all the locations where they practice once a year, upon renewal of the SOL. This solution proved to be unreasonable, as it is often unknown a year in advance where the optometrist will do fill-in or contract work, as it may be on an on-call basis. Requiring optometrists to obtain an SOL for every location as they come up will reduce confusion for the licensee and the Board and ensure that all locations are accounted for, because a pre-submitted list could change at any time and it would be tedious to constantly have to submit amendments to the Board.

Con: Possible backlash from the optometric community regarding the cost of the SOL (\$40 biennial) if the optometrist does not fall under the jurisdiction of BPC §3070.1.

Continued non-compliance by optometrists due to the Board's lack of inspection authority.

PROBABLE SUPPORT AND OPPOSITION

Support: California Optometric Association

Opposition: None identified.

FISCAL IMPACT

An SOL costs \$40 and must be renewed biennially also at the cost of \$40. The majority of optometrists have one principal place of practice, and perform fill-in work one or twice a year, thus they will be less likely to be affected by this statutory change.

Optometrists that work primarily as contractors and do not fall under the jurisdiction of BPC §3070.1 will be affected, for example:

In addition to their principal place of practice, they have contracted to do fill-in work with 20 different optometric offices within the newly established limitation of a total period of five calendar days during a 30 day period, not to exceed 36 days within a calendar year. Twenty SOLs multiplied by \$40 equals \$800 to initially obtain the SOL. The biennial renewal would also be \$800.

The above is only one example, as every optometrist will have a different situation when it comes to their practice. At this time, the Board does not have statistical information of how many optometrists contract with multiple practice locations, as this type of practice is usually performed under the radar, or under the misinterpretation of BPC §3070.

The Board had 237 SOLs in Fiscal Year 2010-11. There are approximately 8,000 licensees in California.

Optometry businesses, small businesses, and private optometrists who are in violation of BPC §3070 will face fines by the Board ranging from \$250 to \$2,500 per violation. The Board estimates 3-4 violations per year.

FY 11-12 (mid-yr.)	Costs = \$500 → (4 @ \$250) divided by 2
FY 12-13 & ongoing	Costs = \$1,000 → 4 @ \$250

ECONOMIC IMPACT

None identified.

FINDINGS FROM OTHER STATES

Most states require an optometrist to establish a branch office license if they are planning to practice at another location that is not their principal place of practice. If they are not establishing a branch office, then they must notify the board of each location in which they plan to practice, including for relief purposes (See Attachment 1 - AOA State-Wide Branch Office requirements document). There are few exceptions, some of them being practicing temporarily for a charitable purpose.

Also, many other states consider constant temporary practice at other practice locations other than a principal place of practice “peddling” and a cause for revocation of a license if the licensee has not cleared it with their respective Board.

PROPOSED LANGUAGE

3070. NOTICE OF ADDRESS FOR PRACTICE OF OPTOMETRY; STATEMENT OF LICENSURE; EXEMPTIONS

(a) Before engaging in the practice of optometry, each licensed optometrist shall notify the Board in writing of the address or addresses where he or she is to engage, ~~or intends to engage,~~ in the practice of optometry and, also, of any changes in his or her

place of practice. A Statement of Licensure shall be obtained from the Board for all practice locations other than an optometrist's principal place of practice. Any licensed optometrist who holds a branch office license is not required to obtain an SOL to practice at such branch office. The practice of optometry is the performing or the controlling of any of the acts set forth in Section 3041.

(b) A licensed optometrist is not required to provide the notification described in subdivision (a) if he or she engages in the temporary practice of optometry. Temporary practice is defined as the practice of optometry at any location other than the optometrist's principal place of practice. Such practice is limited to a total period of five calendar days during a 30 day period, not to exceed 36 days within a calendar year. This limit shall apply to all practice locations where the optometrist is engaging in temporary practice, not each practice location individually. ~~in any of the following settings:~~

~~(1) A facility licensed by the State Department of Public Health.~~

~~(2) A public institution, including, but not limited to, a school, a community college, and federal, state, and local penal and correctional facilities.~~

~~(3) A mobile unit that is operated by a governmental agency or by a nonprofit or charitable organization.~~

~~(4) The home of a patient who is not ambulatory.~~

If the time period of the temporary practice must be extended for any reason, an application for Statement of Licensure must be submitted to the Board pursuant to California Code of Regulations section 1506.

~~(5) The practice location of another optometrist that has been reported to the board pursuant to this section if the other optometrist is ill or on a temporary leave or for any other reason approved by the board. The exception under this paragraph is limited to a total period at all temporary practice locations of seven calendar days during a 30-day period and 84 days during a calendar year.~~

(c) Notwithstanding Section 3075, an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall carry and present upon demand evidence of his or her licensure but shall not be required to post his or her current license or other evidence of current license status issued by the board.

(d) In addition to the information required by Section 3076, a receipt issued to a patient by an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall contain the address of the optometrist's primary practice location and the temporary practice location where the services were provided.

~~(e) "Temporary practice" shall be defined by the board for purposes of this section.~~

Last Revised August 16, 2011

WHAT CONSTITUTES A BRANCH OFFICE/RESTRICTIONS ON BRANCH OFFICES

ALABAMA

**CODE OF ALABAMA
TITLE 34. PROFESSIONS AND BUSINESSES.
CHAPTER 22. OPTOMETRISTS.
ARTICLE 2. LICENSES.**

§34-22-23 Grounds for revocation or suspension.

Any of the following shall constitute grounds for revocation of license or suspension of license for a definite period of time, for a private or public reprimand, for probation, for the levying and collection of an administrative fine not to exceed one thousand dollars (\$1,000) per violation, for the institution of any legal proceedings necessary to enforce the provisions of this chapter:

(15) Practicing optometry in any temporary office, apart from a regularly established office; provided, that a licensed optometrist may establish a branch office if the branch office is duly equipped with the instruments necessary, according to rules and regulations promulgated by the board, to make complete optometric examination; provided further, that the branch office is in personal and direct charge of the optometrist establishing it or a licensed associate.

ALASKA

**WEST'S ALASKA STATUTES ANNOTATED
TITLE 8. BUSINESS AND PROFESSIONS
CHAPTER 72. OPTOMETRISTS
ARTICLE 2. LICENSING**

§ 08.72.270. Practice not at place of business

(a) A licensed optometrist who temporarily practices optometry away from the optometrist's regular place of business shall display a license and deliver to each patient or person fitted or supplied with glasses or contact lenses a receipt showing the optometrist's permanent place of business or post office address and the amount charged.

(b) This section may not be construed as permitting peddling or canvassing by licensed optometrists.

ARIZONA

**ARIZONA REVISED STATUTES ANNOTATED
TITLE 32. PROFESSIONS AND OCCUPATIONS
CHAPTER 16--OPTOMETRY
ARTICLE 3. REGULATIONS**

§ 32-1742. Registering with board; public registry file; current information

A. Each licensee shall provide the board in writing the addresses of all permanent and extended temporary locations in which the licensee practices and the licensee's office telephone numbers, mailing address and residence address. Any notice required to be given by the board to a licensee shall be sent by mail to the licensee's most current mailing

address shown on the records of the board. The board may attempt to give or serve notice at any other address or location on file with the board if service to the mailing address is unsuccessful. Service of a required notice is complete on the date of mailing to the licensee's mailing address.

B. The board shall maintain a current registry of each licensee's name, office locations and mailing address. The registry is open to the public.

C. Each licensee shall give written notice to the board within ten days following each change in the licensee's residence address, mailing address, office location or office telephone number.

**ARIZONA ADMINISTRATIVE CODE
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 21. BOARD OF OPTOMETRY
ARTICLE 3. STANDARDS; RECORDKEEPING; REHEARING OR REVIEW OF BOARD
DECISION**

R4-21-301. Display of License; Surrender of License

A. License display. A licensee shall display the Board-issued license at each location at which the licensee practices the profession of optometry and in a manner that makes the license visible to the public.

ARKANSAS

**CHAPTER I
ARKANSAS STATE BOARD OF OPTOMETRY
RULES AND REGULATIONS**

CHAPTER I, ARTICLE V - Renewals

Section 3 -

License and current certificate of renewal of license to practice optometry, will always be displayed in a conspicuous place in the office of the holder thereof, and whenever requested the license and current certificate of renewal will be exhibited or produced before the Arkansas State Board of Optometry, or to its authorized agents. Any optometrist who performs any of the acts constituting the practice of optometry, or any part thereof, as described in the Arkansas Optometry Law (A.C.A. 17-90-101 et. seq.), or who employs others to perform any or all of the same, shall specify to the State Board of Optometry a designation for each location where full or partial practice takes place. Recognizing that modes of practice vary from location to location, and such modes of practice may include the utilization of a primary office only, a rotation between branch offices, or the combination of a primary office and one or more branch offices, the Board does hereby set forth rules and regulations governing both the definition of office designations and the requirements and restrictions pertaining to the same. It is the express intent of these rules and regulations to ensure that all offices, whether primary offices or branch offices, are regulated in a like manner. The requirements for primary offices must be no less than those for branch offices.

A. A primary office is defined as: the permanent location at which a licensed optometrist practices full-time, or if practicing in more than one location, the office at which he or she practices the greatest percentage of time, or if practicing with a mobile branch office, that

office the licensee utilizes for record storage, equipment maintenance, and patient availability in conjunction with the mobile operations.

B. A branch office is defined as any office, other than the primary office, at which a licensed optometrist or employee or agent of a licensed optometrist solicits patients either directly or indirectly and in a premeditated fashion for the purpose of rendering any type of optometric services, including the measuring, repairing, ordering, dispensing, verifying, or adjusting of ophthalmic materials or spectacle lens prescriptions.

1. A fixed branch office is a branch office as defined above is located in a permanent location.

2. A mobile branch office is a mobile operation utilized for the practice of optometry at multiple locations.

C. Availability is the reasonable ability to ensure provision of optometric care in a timely manner as warranted by patient needs, including, but not limited to, emergencies.

A licensee who practices in more than one (1) office location shall make application to the Board for a duplicate license for each branch office for display as required by this section. In issuing a duplicate license, the address of the branch office location and the original certificate number shall be included. At the time of an annual renewal of the license, those optometrists who have been issued a duplicate license for a branch office shall make application to the Arkansas State Board of Optometry on a form provided by the Board for the renewal of the license. The holder of a certificate for a branch office may cancel it by returning the certificate to the Secretary of the Board.

The fee for a duplicate license for each branch office, be it fixed or mobile, shall be \$50.00, to be renewed annually, and will expire at 12:00 midnight February 1 of each year.

A licensed optometrist practicing in more than one (1) office shall provide information to patients as to how he or she, or another licensed optometrist, may be contacted during regular business hours.

Section 4 -

Each licensed optometrist must comply with the following:

A. Each licensed optometrist shall have on file with the Board his current business address and telephone number.

B. If a licensed optometrist changes the physical location of where he or she practices optometry, be it the primary office, fixed branch office, or physical location of the mobile branch office, he or she must first notify the Executive Director of the Arkansas State Board of Optometry by mail, fax, or electronic communications, on a form as provided by the Board Office, of the address and phone number of the intended location of practice and pay an administrative fee of \$30.00, all prior to resuming practice.

C. Any correspondence from the State Board of Optometry, of any nature, which is mailed to a listed permanent address of a licensed optometrist, which requires response or action, must be taken care of within the time specified in the notice, or if no time is stated in the notice, within thirty (30) days of the receipt of said notice.

D. In case of absence or disability, each licensed optometrist shall designate a responsible party (secretary, attorney, or a relative) with appropriate address, to serve as his agent. The designated person will have authority to respond in his behalf to any correspondence

received from the Board under © above.

E. The name, address, and phone number of the person designated as agent for the licensed optometrist shall be listed with the Board at each license renewal time, or in the event of any change, as required above.

F. Every licensed optometrist shall, within ten (10) days of receipt of written notification of the filing of a claim or lawsuit alleging malpractice against him or her, notify the Arkansas State Board of Optometry by registered letter of the lawsuit and provide the information on a form provided by the Board. All such information and reports shall be exempt from the Freedom of Information Act, and shall be released only upon the order of a court of competent jurisdiction.

G. Failure to comply with any of the above requirements shall be grounds for suspension or revocation of the licensed optometrist to practice and/or fines.

Section 5 -

Requirements and restrictions for primary offices:

Each licensed optometrist owning or using a primary office only shall:

A. Report to the Board the street address and telephone number of the office designated as the primary office.

B. Maintain reasonable access to all patient records at the primary office location for each patient examined or treated at that location.

C. Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in the primary office location.

D. Maintain in good working order the equipment necessary to provide a routine eye examination which shall include, but not be limited to, the following minimum equipment: a device for the accurate measurement of visual acuity, a lensometer, a direct ophthalmoscope, a binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only), a retinoscope, an instrument for the measurement of intra-ocular pressure, a refracting instrument, an instrument for measurement of corneal curvature, an instrument for the measurement of visual fields, and a biomicroscope.

E. Ensure that a licensed optometrist be in personal attendance at least twenty percent (20%) of the time, per month, the primary office is open, seeing patients.

F. Meet all the requirements of the Arkansas Optometry Law, Act 397 of the Acts of Arkansas-1991 (A.C.A.17-90-303).

Section 6 -

Requirements and restrictions for fixed branch offices:

Each licensed optometrist owning or using one or more fixed branch offices shall:

A. Report to the Board each fixed branch office location other than a primary office at which he or she is practicing optometry.

B. Maintain reasonable access to all patient records at each fixed branch office location for each patient examined or treated at that location.

C. Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in the fixed branch office location.

D. Maintain in good working order the equipment necessary to provide a routine eye examination which shall include, but not be limited to, the following minimum equipment: a device for the accurate measurement of visual acuity, a lensometer, a direct ophthalmoscope, a binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only), a retinoscope, an instrument for the measurement of intra-ocular pressure, a refracting instrument, an instrument for measurement of corneal curvature, an instrument for the measurement of visual fields, and a biomicroscope.

E. Ensure that a licensed optometrist be in personal attendance at least twenty percent (20%) of the time, per month, the fixed branch office is open.

F. Meet all the requirements of the Arkansas Optometry Law, Act 397 of the Acts of Arkansas-1991 (A.C.A. 17-90-303).

Section 7 -

Requirements and restrictions for mobile branch offices:

A. Report to the Board, the office at which all patient records are maintained.

B. Provide every patient with the telephone number and address of the office used in conjunction with the mobile operations.

C. Maintain reasonable access to all patient records at the office.

D. Ensure personal availability via the use of a beeper, mobile telephone, radio, or other modality that is capable of receiving calls from the office while the licensed practitioner is practicing at one of the various locations served by the mobile operation.

E. Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in every location served by the mobile operation.

F. Maintain and use appropriate facilities for the storage and transit of all pharmaceutical agents used by the licensed practitioner or certified optometrist that will ensure the safety and condition of such agents when they are in transit or being stored.

G. Maintain in good working order the equipment necessary to provide a routine eye examination which shall include, but not be limited to, the following minimum equipment: A device for the accurate measurement of visual acuity, a lensometer, a direct ophthalmoscope, a binocular indirect ophthalmoscope (DPA, TPA, or optometric physician, certified practitioners only), a retinoscope, an instrument for the measurement of intra-ocular pressure, a refracting instrument, an instrument for measurement of corneal curvature, an instrument for the measurement of visual field, and a biomicroscope.

H. Ensure that a licensed optometrist be in personal attendance at least twenty percent (20%) of the time, per month, the mobile branch office is open.

I. Meet all the requirements of the Arkansas Optometry Law, Act 397 of the Acts of

Arkansas - 1991 (A.C.A. 17-90-303).

Section 8 -

Any licensed optometrist who owns, operates, or leases to or from another person any type of office (practice) or optical dispensary as described in Section 3 (a) and/or (b) of the Rules and Regulations of the Arkansas State Board of Optometry, or who employs others to do the same, shall include his or her full name, displayed in a prominent fashion, on or near, the entrance of the office or optical dispensary, and in any written advertisement, concerning such operation, so that the public is properly informed as to the licensed optometrist responsible for the materials and services offered at such locations.

In addition, at each location, the full name of the licensed optometrist physically present and responsible for the provision of optical goods and/or services on each particular day shall be displayed in a prominent fashion, on or near, the entrance of the office or optical dispensary.

**CHAPTER III
ARKANSAS STATE BOARD OF OPTOMETRY
RULES AND REGULATIONS
GOVERNING THE EDUCATIONAL QUALIFICATIONS
FOR OPTOMETRISTS WHO POSSESS, ADMINISTER, AND PRESCRIBE
PHARMACEUTICAL AGENTS**

CHAPTER III, ARTICLE IV - Issue and Renewal of Therapeutic Drug Certificate

Section 6 -

Duplicate TPA or DPA certificates must be displayed in a branch office. The fee for the duplicate certificate for each branch office shall be fifteen dollars (\$15.00) per three-year period. All renewal fees shall be paid to the Secretary of the Board on or before the first day of February of the year of renewal. Failure to renew shall be cause for suspension or revocation of the certificate.

**CHAPTER V
ARKANSAS STATE BOARD OF OPTOMETRY
RULES, REGULATIONS AND EDUCATIONAL QUALIFICATIONS
GOVERNING OPTOMETRISTS CERTIFIED AS OPTOMETRIC PHYSICIANS PURSUANT
TO ACTS 176/186 OF 1997**

CHAPTER V, ARTICLE V - Issue and Renewal of Optometric Physician Certificate

Section 6 -

Duplicate optometric physician certificates must be displayed in a branch office. The fee for the duplicate certificate for each branch office shall be twenty-five dollars (\$25.00) per twelve (12) month period. Renewal of the optometric physician duplicate certificate will be twenty-five dollars (\$25.00). All renewal fees shall be paid to the Secretary of the Board on or before midnight the first (1st) day of February of the year of renewal. Failure to renew shall be grounds for suspension or revocation of the certificate and/or fines. The Certificate will expire at 12:00 midnight, February 1 of each year.

CALIFORNIA

**WEST'S ANNOTATED CALIFORNIA CODES
BUSINESS AND PROFESSIONS CODE
DIVISION 2. HEALING ARTS
CHAPTER 7. OPTOMETRY
ARTICLE 1. GENERAL PROVISIONS**

§ 3005. Place of practice

As used in this chapter, "place of practice" means any location where optometry is practiced.

ARTICLE 4. REGISTRATION

§ 3070. Address of optometrist; notice by mail; temporary practice

(a) Before engaging in the practice of optometry, each licensed optometrist shall notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of optometry and, also, of any changes in his or her place of practice. The practice of optometry is the performing or the controlling of any of the acts set forth in Section 3041.

(b) A licensed optometrist is not required to provide the notification described in subdivision (a) if he or she engages in the temporary practice of optometry in any of the following settings:

- (1) A facility licensed by the State Department of Public Health.
- (2) A public institution, including, but not limited to, a school, a community college, and federal, state, and local penal and correctional facilities.
- (3) A mobile unit that is operated by a governmental agency or by a nonprofit or charitable organization.
- (4) The home of a patient who is not ambulatory.
- (5) The practice location of another optometrist that has been reported to the board pursuant to this section if the other optometrist is ill or on a temporary leave or for any other reason approved by the board. The exception under this paragraph is limited to a total period at all temporary practice locations of seven calendar days during a 30-day period and 84 days during a calendar year.

(c) Notwithstanding Section 3075, an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall carry and present upon demand evidence of his or her licensure but shall not be required to post his or her current license or other evidence of current license status issued by the board.

(d) In addition to the information required by Section 3076, a receipt issued to a patient by an optometrist engaging in the temporary practice of optometry at a location described in subdivision (b) shall contain the address of the optometrist's primary practice location and the temporary practice location where the services were provided.

(e) "Temporary practice" shall be defined by the board for purposes of this section.

§ 3070.1 [pending]

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

- (1) "Health facility" means a health facility as defined in Section 1250 of the Health and Safety Code, exclusive of a hospital defined in subdivision (a) or (b) of that section.
- (2) "Residential care facility" means a residential facility, as defined in paragraph (1) of

subdivision (a) of Section 1502 of the Health and Safety Code, licensed by the State Department of Social Services, including, but not limited to, the following:

- (A) Adult residential facilities.
- (B) Adult residential facilities for persons with special health care needs.
- (C) Residential care facilities for the chronically ill.
- (D) Residential care facilities for the elderly.
- (E) Continuing care retirement communities.
- (F) Social rehabilitation facilities.

(b) An optometrist may engage in the practice of optometry at any health facility or residential care facility provided that all of the following requirements are satisfied:

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

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

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

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

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

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

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

(A) 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 in paragraph (1).

(B) The optometrist 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).

(C) Pursuant to Section 3007, the optometrist 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 optometrist as being true, accurate, and complete.

(D) 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:

(i) Name.

(ii) Optometrist license number.

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

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

(E) A copy of any referral or order requesting optometric services for a patient from the health facility's or residential care facility's administrator, director of social services, the attending physician and surgeon, the patient, or a family member shall be kept in the patient's medical record.

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

(c) An optometrist who satisfies all of the requirements in this section for the practice of optometry at a health facility or residential care facility shall not be required to comply with Section 3070 with regard to providing notification to the board of each facility or residential care facility at which he or she practices.

§ 3075. Display of evidence of license; fee for issuance

An optometrist shall post in each location where he or she practices optometry, in an area that is likely to be seen by all patients who use the office, his or her current license or other evidence of current license status issued by the board. The board may charge a fee as specified in Section 3152 for each issuance of evidence of current licensure.

§ 3076. Receipts to patients; required contents

A licensed optometrist shall deliver to each patient that makes a payment to the practice, excluding insurance copayments and deductibles, a receipt that contains all of the following information:

- (a) His or her name.
- (b) The number of his or her optometrist license.
- (c) His or her place of practice.
- (d) A description of the goods and services for which the patient is charged and the amount charged.

§ 3077. Office, branch offices; rules and regulations

As used in this section "office" means any office or other place for the practice of optometry.

(a) No person, singly or in combination with others, may have an office unless he or she is registered to practice optometry under this chapter.

(b) An optometrist, or two or more optometrists jointly, may have one office without obtaining a further license from the board.

(c) On and after October 1, 1959, no optometrist, and no two or more optometrists jointly, may have more than one office unless he or she or they comply with the provisions of this chapter as to an additional office. The additional office, for the purposes of this chapter, constitutes a branch office.

(d) Any optometrist who has, or any two or more optometrists, jointly, who have, a branch office prior to January 1, 1957, and who desire to continue the branch office on or after that date shall notify the board in writing of that desire in a manner prescribed by the board.

(e) On and after January 1, 1957, any optometrist, or any two or more optometrists, jointly, who desire to open a branch office shall notify the board in writing in a manner prescribed by the board.

(f) On and after January 1, 1957, no branch office may be opened or operated without a branch office license. Branch office licenses shall be valid for the calendar year in or for which they are issued and shall be renewable on January 1st of each year thereafter. Branch office licenses shall be issued or renewed only upon the payment of the fee therefor prescribed by this chapter.

On or after October 1, 1959, no more than one branch office license shall be issued to any optometrist or to any two or more optometrists, jointly.

(g) Any failure to comply with the provisions of this chapter relating to branch offices or branch office licenses as to any branch office shall work the suspension of the certificate of registration of each optometrist who, individually or with others, has a branch office. A certificate of registration 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 certificate of registration after suspension for failure to comply with the provisions of this chapter relating to branch offices.

(h) The holder or holders of a branch office license shall pay the annual renewal fee therefor in the amount required by this chapter between the first day of January and the first day of February of each year. The failure to pay the fee in advance on or before February 1st of each year during the time it is in force shall ipso facto work the suspension of the branch office license. The license shall not be restored except upon written application and the payment of the penalty prescribed by this chapter, and, in addition, all delinquent branch office fees.

(i) Nothing in this chapter shall limit or authorize the board to limit the number of branch offices that are in operation on October 1, 1959, and that conform to this chapter, nor prevent an optometrist from acquiring any branch office or offices of his or her parent. The sale after October 1, 1959, of any branch office shall terminate the privilege of operating the branch office, and no new branch office license shall be issued in place of the license issued for the branch office, unless the branch office is the only one operated by the optometrist or by two or more optometrists jointly.

Nothing in this chapter shall prevent an optometrist from owning, maintaining, or operating more than one branch office if he or she is in personal attendance at each of his or her offices 50 percent of the time during which the office is open for the practice of optometry.

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

(k) 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.

Nothing in this subdivision shall be construed to exempt an optometrist who is a member of an individual practice association and who practices optometry in more than one physical location, from the requirement of obtaining a branch office license for each of those locations, as required by this section. However, an optometrist shall not be required to obtain a branch office license solely as a result of his or her participation in an individual practice association in which the members of the individual practice association practice optometry in a number of different locations, and each optometrist is listed as a member of that individual practice association.

§3078. Practice under false or assumed name; authorization by written permit

(a) It is unlawful to practice optometry under a false or assumed name, or to use a false or assumed name in connection with the practice of optometry, or to make use of any false or assumed name in connection with the name of a person licensed pursuant to this chapter.

However, the board may issue written permits authorizing an individual optometrist or an optometric group or optometric corporation to use a name specified in the permit in connection with its practice if, and only if, the board finds to its satisfaction all of the following:

(1) The place or establishment, or the portion thereof, in which the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at that place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants. However, if the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply.

(2) The name under which the applicant or applicants propose to operate is in the judgment of the board not deceptive or inimical to enabling a rational choice for the consumer public and contains at least one of the following designations: "optometry" or "optometric." However, if the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply. In no case shall the name under which the applicant or applicants propose to operate contain the name or names of any of the optometrists practicing in the community clinic.

(3) The names of all optometrists practicing at the location designated in the application are displayed in a conspicuous place for the public to see, not only at the location, but also in any advertising permitted by law.

(4) No charges that could result in revocation or suspension of an optometrist's license to practice optometry are pending against any optometrist practicing at the location.

(b) Permits issued under this section by the board shall expire and become invalid unless renewed at the times and in the manner provided in Article 7 (commencing with Section 3145) for the renewal of licenses issued under this chapter.

(c) A permit issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit, other than under paragraph (4) of subdivision (a), is no longer being fulfilled by the individual optometrist, optometric corporation, or optometric group to whom the permit was issued. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(d) If the board revokes or suspends the license to practice optometry of an individual optometrist or any member of a corporation or group to whom a permit has been issued under this section, the revocation or suspension shall also constitute revocation or suspension, as the case may be, of the permit.

**BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 15. STATE BOARD OF OPTOMETRY
ARTICLE 2. LOCATION OF PRACTICE**

§ 1506. Certificates -Posting.

(c) The principal place of practice of an optometrist shall be deemed by the Board to be that office, other than his/her branch office or offices, wherein he/she owns, singly or jointly with any others, the practice of optometry, provided however:

(1) Where the optometrist does not own a practice, singly or jointly with any others, but practices optometry in a single office as an employee, that office shall be his/her principal place of practice.

(2) Where the optometrist does not own a practice, singly or jointly with any others, but

practices optometry in two or more offices as an employee, he/she shall inform the Board in writing as to which of such offices shall be deemed his/her principal place of practice.

(d) When the optometrist owns, singly or jointly with any others, the practice of optometry in more than one office or is employed to practice optometry in more than one office and it is infeasible to have his/her certificate posted in more than one of such offices, he/she shall have a numbered statement of licensure issued by the Board and signed by its executive officer conspicuously posted in each of such additional offices wherein he/she owns, singly or jointly with any others, the practice of optometry or wherein he/she practices optometry as an employee, provided that:

(1) He/she shall first send a written request to the Board for such statement of licensure or statements of licensure and shall include in such request the exact location of the office wherein it or each of them is to be posted in lieu of his/her certificate.

(2) He/she shall not have a statement of licensure posted in any office other than as authorized by such statement of licensure.

(3) A statement of licensure shall not be altered or assigned.

(4) A statement of licensure is to be immediately surrendered to the Board by the optometrist to whom it is issued upon the occurrence of any of the following:

(A) His/her certificate becomes expired, is suspended or is revoked.

(B) He/she terminates ownership of the practice or his/her employment to practice optometry in the office wherein he/she is authorized by such statement of licensure to post the same in lieu of his/her certificate.

(C) The office wherein he/she is authorized by such statement of licensure to post the same becomes the only office wherein he/she has ownership of the practice and/or practices optometry as an employee.

§ 1507. Extended Optometric Clinical Facilities.

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

ARTICLE 7. OPTOMETRIC CORPORATIONS

§ 1550. Branch Offices.

An optometric corporation is subject to the provisions of Section 3077 of the Code. When any optometric corporation duly registered hereunder desires to have a branch office within the meaning of that code section, it shall, prior to the opening of any branch office, make application there for to the Board and receive permission in writing from the Board to have such branch office.

COLORADO

WEST'S COLORADO REVISED STATUTES ANNOTATED

TITLE 12. PROFESSIONS AND OCCUPATIONS

HEALTH CARE

ARTICLE 40. OPTOMETRISTS

§ 12-40-115. Licenses to be displayed

Every practitioner of optometry shall post and keep conspicuously displayed his or her license in the office wherein he or she practices. If an optometrist practices at several locations in the state, the optometrist shall display his or her license number and name in a manner that can be easily recognized by his or her patients. Each association of persons

who engage in the practice of optometry under the name of a partnership, association, or any other title shall cause to be displayed and kept in a conspicuous place at the entrance of its place of business the name of each person engaged or employed in said partnership or association in the practice of optometry.

CONNECTICUT

CONNECTICUT GENERAL STATUTES ANNOTATED TITLE 20. PROFESSIONAL AND OCCUPATIONAL LICENSING, CERTIFICATION, TITLE PROTECTION AND REGISTRATION. EXAMINING BOARDS CHAPTER 380. OPTOMETRY

§ 20-133. Disciplinary action. Grounds

The board may take any of the actions set forth in section 19a-17 after notice and hearing, for any of the following reasons: (1) Conviction in a court of competent jurisdiction, either within or without this state, of any crime in the practice of optometry; (2) illegal or incompetent or negligent conduct in the practice of optometry; (3) publication or circulation of any fraudulent or misleading statement; (4) aiding or abetting the practice of optometry by an unlicensed person or a person whose license has been suspended or revoked; (5) presentation to the department of any diploma, license or certificate illegally or fraudulently obtained, or from an unrecognized or irregular institution or state board, or obtained by the practice of any fraud or deception; (6) violation of any provision of this chapter or any regulation adopted hereunder; (7) the effects of physical or mental illness, emotional disorder or loss of motor skill, including but not limited to, deterioration through the aging process, upon the practitioner; (8) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; or (9) failure to maintain professional liability insurance or other indemnity against liability for professional malpractice as required by section 20-133b. The Commissioner of Public Health may order a license holder to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is the subject of an investigation. Said commissioner may petition the superior court for the judicial district of Hartford to enforce such order or any action taken pursuant to section 19a-17. **The license of any optometrist who peddles optical goods, or solicits orders therefor, from door to door, or who establishes a temporary office, may be revoked, and said department may refuse to renew such license. The license of any optometrist who employs solicitors or obtains money by fraud or misrepresentation in connection with the conduct of the profession of optometry shall be revoked, and said department shall not renew such license. The violation of any of the provisions of this chapter by any unlicensed employee in the employ of an optometrist, with the knowledge of his employer, shall be deemed to be a violation thereof by his employer; and continued violation by such an unlicensed employee shall be deemed prima facie knowledge on the part of such employer. Nothing herein contained shall be construed as prohibiting the conducting of clinics or visual surveys when they are conducted without profit.**

DELAWARE

DELAWARE CODE ANNOTATED TITLE 24. PROFESSIONS AND OCCUPATIONS CHAPTER 21. OPTOMETRY

§2115. Display of certificate; notice of address change.

Every person to whom a certificate of examination or registration is granted shall display the same in a conspicuous part of his office wherein the practice of optometry is conducted.

The word "optometrist" shall appear on his sign together with his name.
All optometrists shall inform the Board within 30 days after establishing or moving a main or branch office of the current address of the office. All main branch office addresses maintained by an optometrist in this State shall be on file with the Secretary of the Board.

CODE OF DELAWARE REGULATIONS
24. DEPARTMENT OF STATE; DIVISION OF PROFESSIONAL REGULATION
2100. BOARD OF EXAMINERS IN OPTOMETRY RULES AND REGULATIONS

Section 8.0 Ethics.

8.13 Since the law states that a certificate must be displayed in every office where the profession of optometry is practiced, and since no certificate for branch offices has previously been issued, the State Board shall issue branch office certificates with the words "Branch Office" thereon emblazoned under the registry number, with the certificate being a duplicate of that originally issued.

FLORIDA

WEST'S FLORIDA STATUTES ANNOTATED
TITLE XXXII. REGULATION OF PROFESSIONS AND OCCUPATIONS
(CHAPTERS 454-493)
CHAPTER 463. OPTOMETRY

§463.011. Exhibition of license

Each person to whom a license or branch office license is issued by the department shall keep said license conspicuously displayed in the appropriate office and shall, whenever required, exhibit said license to any authorized representative of the department.

FLORIDA ADMINISTRATIVE CODE ANNOTATED
TITLE 64. DEPARTMENT OF HEALTH
SUBTITLE 64B13. BOARD OF OPTOMETRY
CHAPTER 64B13-3. STANDARDS OF PRACTICE

64B13-3.006. Licenses and Signs in Office.

(1) Every licensed practitioner shall keep the Board office advised of each office from which he or she practices optometry. If a licensed practitioner or certified optometrist engages in the practice of optometry at more than one location, he or she shall obtain a branch office license. Every licensed practitioner or certified optometrist shall keep his or her current license or branch office license conspicuously displayed at the location where he or she is practicing at all times and shall, whenever required, exhibit the license to any authorized representative of the Department.

64B13-3.009. False, Fraudulent, Deceptive and Misleading Advertising Prohibited; Policy; Definitions; Affirmative Disclosure.

(6) All advertisements which advertise services available at branch office locations shall state the hours that a licensed practitioner is practicing at each location mentioned in the advertisement, or shall advise the reader to secure information as to the availability of the licensed practitioner. Excepted from this requirement are:

- (a) White page telephone book listings;
- (b) Yellow page telephone book advertising which lists only the name, address(es) and

phone number(s) of the licensed practitioner;

(c) Advertising such as business cards, which are distributed by the licensed practitioner personally or at her or his premises; and

(d) Advertising posted at or in the immediate vicinity of the office advertised.

CHAPTER 64B13-16. BRANCH OFFICES

64B13-16.001. Definitions.

For purposes of interpreting this rule chapter, the following terms are defined as stated below:

(1) Branch Office is any office, other than the primary office, at which the licensed practitioner or certified optometrist solicits patients either directly or indirectly and in a premeditated fashion for the purpose of rendering optometric services.

(a) Fixed Branch Office is a branch office as defined above which is at a permanent location.

(b) Mobile Branch Office is a mobile operation utilized for the practice of Optometry which is an adjunct to the licensee's primary office.

(2) Branch Office License is defined as the certificate issued pursuant to Rule 64B13-16.002, Florida Administrative Code, to a licensed practitioner or certified optometrist, which authorizes the practice of optometry by that individual at more than one location.

(3) Mobile Operation is defined as the transport and use of optometric equipment for the purpose of practicing optometry at multiple locations.

(4) Primary Office is defined as the permanent location reported to the Board of Optometry at which the licensed practitioner or certified optometrist practices optometry at all times or if practicing in more than one location, at which he or she practices optometry for the greatest percentage of time, or if practicing with a mobile branch office, that office the licensee utilizes for record storage, equipment maintenance, and patient availability in conjunction with the mobile operation.

(5) Availability is the reasonable ability to ensure provision of optometric care in a timely manner as warranted by patient needs, including but not limited to emergencies.

64B13-16.002. Branch Office License.

Each Branch Office must be licensed. The Department shall issue a Branch Office License for a specified location to each licensed practitioner or a certified optometrist in good standing who submits to the Board of Optometry a Branch Office Application, Form No. DH-MQA1135, (8/08) or a Secondary Branch Office Application, Form No. DH-MQA1136, (8/08) and the fee required by subsection 64B13-6.001(6), F.A.C., for each location. The application forms are incorporated by reference herein and available from the Board office or the Board website: <http://www.doh.state.fl.us/mqa/optometry/index.html>.

64B13-16.003. Requirements and Restrictions for Mobile Branch Offices.

Each licensed practitioner or certified optometrist using a mobile operation to practice optometry shall:

(1) Report to the Board the primary office at which he or she is keeping all patient records;

- (2) Provide every patient with the telephone number and address of the primary office used in conjunction with the mobile operation;
- (3) Maintain reasonable access to all patient records at the primary office;
- (4) Ensure personal availability via the use of a beeper, mobile telephone, radio, or other modality that is capable of receiving calls from the primary office while the licensed practitioner or certified optometrist is traveling to or practicing at one of the various locations served by the mobile operation;
- (5) Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in every location served by the mobile operation;
- (6) Maintain and use appropriate facilities for the storage and transit of all pharmaceutical agents used by the licensed practitioner or certified optometrist which will ensure the safety and condition of such agents when they are in transit or being stored;
- (7) Meet all the requirements of Sections 463.0135 and 463.014, Florida Statutes, and Rule Chapter 64B13-3, Florida Administrative Code.

64B13-16.004. Requirements and Restrictions for Fixed Branch Offices.

Each licensed practitioner or certified optometrist using one or more fixed branch offices to practice optometry shall:

- (1) Maintain reasonable access to all patient records at each fixed branch office location for each patient examined or treated at that location;
- (2) Ensure the provision of appropriate follow-up care, continuity of care, and availability for his or her patients in every fixed branch office location;
- (3) Meet all the requirements of Section 463.0135, Florida Statutes, and Rule 64B13-3, Florida Administrative Code.

64B13-16.005. Exceptions to Branch Office License Requirements.

- (1) Nothing within this rule shall be read to prohibit a licensed practitioner or certified optometrist from responding directly to an emergency.
- (2) Nothing within this rule shall be read to prohibit a licensed practitioner or certified optometrist from performing optometric services in a hospital setting. However, if the licensed practitioner or certified optometrist in response to a non-emergency performs optometric services beyond those required to stabilize the patient's optometric conditions, he or she is required to meet the requirements of this rule.
- (3) Nothing within this rule shall be read to prohibit a licensed practitioner or certified optometrist from employing, or from forming partnerships or professional associations with other licensed practitioner or certified optometrist at various locations. However, if the licensed practitioner or certified optometrist practices at more than one location, he or she shall be in compliance with the requirements of this rule.

GEORGIA

CODE OF GEORGIA

**TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 30. OPTOMETRISTS**

§43-30-6.1. Display of license or certificate of registration.

Persons holding a license or certificate of registration issued by the board shall display that license or certificate in a conspicuous place in that person's principal place of practice.

IDAHO

**WEST'S IDAHO CODE ANNOTATED
TITLE 54. PROFESSIONS, VOCATIONS, AND BUSINESSES
CHAPTER 15. OPTOMETRISTS**

§ 54-1509. State board of optometry--Powers and duties

In order to protect the public in the practice of optometry, better enable members of the public to fix professional responsibility and further safeguard the doctor-patient relationship, the state board of optometry shall have the following powers and duties:

(9) To make, prescribe and promulgate rules regarding the establishment of "branch offices" in the state of Idaho by persons licensed to practice optometry.

ILLINOIS

**WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED
CHAPTER 225. PROFESSIONS AND OCCUPATIONS HEALTH
ACT 80. ILLINOIS OPTOMETRIC PRACTICE ACT**

80/7. Additional licenses

§7. Additional practice locations. Every holder of a license under this Act shall report to the Department every additional location where the licensee engages in the practice of optometry. Such reports shall be made prior to practicing at the location and shall be done in a manner prescribed by the Department. Failure to report a practice location or to maintain evidence of such a report at the practice location shall be a violation of this Act and shall be considered the unlicensed practice of optometry. Registering a location where a licensee does not practice shall also be a violation of this Act. Nothing contained herein, however, shall be construed to require a licensed optometrist in active practice to report a location to the Department when serving on the staff of a hospital or an institution that receives no fees (other than entrance registration fees) for the services rendered by the optometrist and for which the optometrist receives no fees or compensation directly or indirectly for such services rendered. Nothing contained herein shall be construed to require a licensed optometrist to report a location to the Department when rendering necessary optometric services for his or her patients confined to their homes, hospitals or institutions, or to act in an advisory capacity, with or without remuneration, in any industry, school or institution.

**WEST'S ILLINOIS ADMINISTRATIVE CODE
TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII (2): DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
PART 1320: OPTOMETRIC PRACTICE ACT OF 1987
SUBPART A: OPTOMETRY**

1320.95 Minimum Equipment List

Each office in which the practice of optometry is conducted shall contain, in good working condition, the following minimum equipment:

- a) Ophthalmoscope - Direct and Indirect
- b) Retinoscope or its equivalent
- c) Tonometer
- d) Automated Threshold Visual Field Testing Device
- e) Color Vision Testing Device
- f) Keratometer or its equivalent
- g) Biomicroscope
- h) Lenses for subjective testing
- i) Blood Pressure Measuring Device

1320.100 Practice of Optometry

g) When the practice of optometry is conducted at a mobile or non-permanent location, the following shall apply:

- 1) Notice shall be given to the Division of the locations of such mobile examinations and the times they will be given. Notices shall be postmarked no later than 15 days prior to the examination.
- 2) Notice shall be given to the Division and the patient of the location where examination records are to be maintained in accordance with Section 1320.90 and the name and address of the individual or office where the patient can access and obtain copies of his or her records.
- 3) Notice shall be given to the Division and the patient of the name and address of the examining optometrists and the location where follow-up services will be provided. A protocol shall be established for each mobile location to provide for the follow-up and referral of the patient to appropriate permanent optometric or healthcare locations when needed.
- 4) If the patient is a minor child, parental approval shall be obtained prior to any examination and the case history as required by Section 1320.90 shall be obtained from the parent or guardian.
- 5) All equipment, as required by Section 1320.95, shall be present, operable and available for use.
- 6) All ancillary licenses shall be displayed in plain view of the patient. An optometrist shall obtain an ancillary license prior to providing services at the mobile location.
- 7) Vision screenings conducted in conjunction with a mobile location shall be done in accordance with subsection (b).
- 8) Mobile locations must meet all other requirements of the Act and this Part and any other State or federal requirements.
- 9) Mobile locations do not include homes, hospitals or institutions at which a licensee is entitled to practice under Section 1320.410(d) or Section 7 of the Act.

SUBPART D: GENERAL

1320.410 Ancillary Licenses

- a) Ancillary license, as used in this Part, shall mean an optometry license that is issued pursuant to Section 7 of the Act to a licensed optometrist who is engaged in the practice of optometry at more than one address.
- b) Each ancillary license shall be displayed in accordance with Section 6 of the Act.
- c) An ancillary license shall be issued to a licensed optometrist upon submitting a completed

application to the Division, on forms provided by the Division, and the required fee set forth in Section 1320.400(a)(2) of this Part. The application shall include the address of the branch office location for which the license will be issued.

d) An optometrist shall be required to obtain an ancillary license for each additional location and to display the appropriate ancillary licenses at each location. Licensees may examine one new patient at facilities licensed by the Illinois Department of Public Health or their residence per address per month without an ancillary license.

e) Fees may be waived by the Division for an optometrist applying for an ancillary license to substitute for a licensee who has been called to active military duty. Applicants for such an ancillary license shall include a copy of the orders calling the licensee to active duty in addition to any other requirements.

f) Fees shall be waived by the Division for an optometrist applying for an ancillary license to practice as a volunteer for a charitable organization organized under section 501(c)(3) of the U.S. Internal Revenue Code at a location not otherwise licensed for the practice of optometry. All examinations performed under this license shall be done without remuneration to the licensee or the charitable organization and shall comply with Section 1320.100(g).

INDIANA

INDIANA ADMINISTRATIVE CODE TITLE 852. INDIANA OPTOMETRY BOARD ARTICLE 1. GENERAL PROVISIONS RULE 15. NOTIFICATION OF PRACTICE LOCATION

852 IAC 1-15-1 Professional sign; notification of public; facility requirements

Sec. 1. (a) A practitioner has a duty and responsibility in the establishment of an office for the practice of optometry to maintain a sign clearly visible to the public indicating the name or names of all practitioner(s) practicing at that location. The minimum requirements on the sign are practitioner's name and O.D. or optometrist. The sign may contain information to identify the area of practice within optometry, including low vision, contact lenses, family practice optometry, pediatric optometry, geriatric optometry, sports vision, industrial vision or other optometric specialties. A sign may not be misleading to the public as to the practitioner actually present and performing the services.

852 IAC 1-15-2 Notification to board of practice location

Sec. 2. (a) A practitioner has a duty and responsibility to notify the board within thirty (30) days of the establishment or discontinuation of an office for the practice of optometry. An office will be considered any location where the practitioner regularly provides optometric services or any location where his name is presented to the public as practicing optometry.

(b) A practitioner may practice optometry in a hospital, health maintenance organization, licensed health care facility, public health clinic, clinic affiliated with a school of optometry or as a consultant to industry or educational facilities without the display of a professional sign, provided the practitioner has notified the board within thirty (30) days of initiating such services.

(c) A practitioner may provide optometric services outside his office or other location reported to the board whenever the best interests of the patient require services which

cannot be delivered at a previously designated location. When services are regularly delivered at the same location, it must be reported to the board as a practice location.

852 IAC 1-15-3 Corporate practice; out of office

Sec. 3. A practitioner may not be employed by a nonprofessional corporation for the purpose of practicing optometry but may contract with a hospital, school of optometry, health maintenance organization, licensed health care facility, public health clinic, industry, educational facility or insurance company to provide independent optometric services.

KANSAS

KANSAS STATUTES ANNOTATED CHAPTER 65. PUBLIC HEALTH ARTICLE 15. REGULATION OF OPTOMETRISTS

§65-1509. Notification of registered location of practice; annual renewal, fee; expiration of license, notice; cancellation of license; reinstatement, fee.

(a) Before engaging in the practice of optometry in this state, it shall be the duty of each licensed optometrist to notify the board in writing of the address of the office or offices where such licensee is to engage or intends to engage in the practice of optometry and of any changes in the licensee's location of practice. Any notice required to be given by the board to any licensed optometrist may be given by mailing to such address through the United States mail, postpaid.

§65-1522. Professional corporations, associations, sole practitioners; practice locations, limitation, franchise agreements.

(d) A licensee shall not be limited in the number of locations from which the licensee may engage in the practice of optometry pursuant to subsections (a), (b) and (c) except when practicing in governmental institutions.

(e) In all office locations a licensee shall:

(1) Provide adequate staff during the hours of its operation and shall provide the necessary optometric equipment to enable a licensee to provide adequate optometric care on the premises; and

(2) provide that there shall be present at the office location a person licensed by optometry law when optometric practice acts requiring a license are performed at the office location.

(f) Nothing herein contained shall be construed to permit the franchised practice of optometry except that a licensee may purchase a franchise to engage in the business of optical dispensing separate and apart from any of the licensee's offices for the practice of optometry so long as the terms of the franchise agreement do not violate the optometry law.

KANSAS ADMINISTRATIVE REGULATIONS AGENCY 65. STATE BOARD OF EXAMINERS IN OPTOMETRY ARTICLE 4. GENERAL PROVISIONS

65-4-1 Definitions.

For the purpose of these rules and regulations the following terms shall have the meanings

respectively ascribed to them.

(m) "Office or practice location" means that address, building, or location, including each location of a mobile facility, where any optometric services or the practice acts are performed and from which a licensee has, maintains, or derives a financial benefit or interest either directly or indirectly.

ARTICLE 9. TRADE NAMES

65-9-1 Use.

No licensee, including any licensee who practices in a partnership, association, professional corporation, limited liability company, or other group practice, shall engage in the practice of optometry under a trade or assumed name until an application to use that name at a specific location or locations has been approved by the board.

ARTICLE 10. MAINTAINING AN OFFICE

65-10-1 Practice locations.

(a) No licensee shall perform any optometric services at any office or practice location unless the licensee has displayed at that office or practice location an original license issued to the licensee by the board. A licensee shall display a separate original license at each office or practice location.

(b) Practice in a governmental institution shall not be considered an office or practice location, but practice in a medical facility or medical care facility shall be considered an office or practice location.

(c) No licensee shall maintain an office or practice location in a manner that indicates or implies either of the following.

(1) An unlicensed person is engaged in or maintains an office for the practice of optometry.

(2) The licensee's practice is being carried on as part of or in association with the business enterprise of the unlicensed person.

65-10-2 Unlawfully maintaining an office.

Except as authorized by the Kansas professional corporation act or the Kansas limited liability company act or through the lawful functioning of a professional partnership or association with other health care providers, an unlicensed person shall be deemed to be maintaining an office for the practice of optometry if either of the following conditions is met:

(a) That person bears any expense for this office by having entered into any rental arrangement, lease arrangement, or debt arrangement with a licensee regarding the licensee's practice whereby the cost or terms allow the unlicensed person to exert influence on the professional judgment or practice of the licensee.

(b) The licensee's office, location, or place of practice indicates or implies, by location, advertising, or otherwise, that the licensee is practicing as a part of or in association with the business of an unlicensed person.

65-10-3 Licensee ownership of franchised business of optical dispensing.

(a) If a licensee obtains any beneficial interest in a franchise or equivalent relationship to

engage in the business of marketing ophthalmic goods or contact lenses, all operations of that franchise or equivalent relationship shall be separate and apart from any and all offices or locations at which the licensee, or any entity in which the licensee has a beneficial interest, provides optometric services.

(b) For the purposes of this section, "separate and apart" shall include:

- (1) being physically separated; and
- (2) the totally independent functioning of the franchise business of optical dispensing and any optometric office or practice location.

KENTUCKY

KENTUCKY REVISED STATUTES ANNOTATED TITLE XXVI. OCCUPATIONS AND PROFESSIONS CHAPTER 320. OPTOMETRISTS

§320.310 Causes for refusal, limitation, revocation, or suspension of licenses; restitution or fines; branch offices; expungement

(1) The board may refuse to issue, refuse to renew, limit or restrict, revoke, or suspend a license, may place on probation, or reprimand a licensee, may order restitution, may impose a fine not to exceed one thousand dollars (\$1,000) for each violation of this chapter or the corresponding administrative regulations, or may impose any combination of these penalties if it finds that an applicant or a licensee has:

(f) Practiced as an itinerant, peddled from door to door, established a temporary office, or practiced optometry outside of or away from his or her regular office or place of practice, except that the board may promulgate administrative regulations to authorize the practice of optometry outside of the licensee's regular office for a charitable purpose as defined by the board;

(2) Nothing in this section shall prevent an optometrist from establishing branch offices if each office contains minimum equipment as required by administrative regulation of the board, ensures patient care as necessary, and has a Kentucky licensed optometrist in charge of the office.

KENTUCKY ADMINISTRATIVE REGULATIONS TITLE 201. GENERAL GOVERNMENT CABINET CHAPTER 5. BOARD OF OPTOMETRIC EXAMINERS

201 KAR 5:050. Office locations

Section 1. An optometrist shall inform the board of the change in location, mailing address, and telephone number of each office he works in within thirty (30) days of any change.

201 KAR 5:120. Practice of optometry outside of regular office for a charitable purpose

Section 1. Definitions. (1) "Charitable organization" means a nonprofit entity accepted by the Internal Revenue Service and organized for benevolent, educational, philanthropic, humane, social welfare, or public health purposes.

(2) "Charitable purpose" means a purpose that holds itself out to be benevolent, educational, philanthropic, humane, or for social welfare or public health.

Section 2. In order for a Kentucky licensed optometrist to provide optometric services outside the optometrist's regular office for a charitable purpose, a charitable organization shall provide to the board:

- (1) A written request to include the services of Kentucky licensed optometrists at least thirty (30) days before the optometric services are to be offered;
- (2) Proof of its nonprofit status;
- (3) Assurance that the participating optometrist shall not be compensated or remunerated in any manner;
- (4) The names of all participating optometrists;
- (5) The address of the location where the optometric services will be offered;
- (6) The dates and times the optometric services will be offered, which shall not exceed seven (7) days per event;
- (7) A statement of the nature of the optometric services to be provided and the class of individuals who are intended to be the recipients of the optometric services;
- (8) A statement that the charitable organization shall require every participating optometrist to develop and maintain a permanent patient record for each individual treated by that optometrist; and
- (9) A statement that the charitable organization shall require every participating optometrist to comply with the minimum eye examination requirements of 201 KAR 5:040, Section 7.

Section 3. The board or its acting president may waive the thirty (30) day requirement based on exigent circumstances that prevented the charitable organization from complying with the thirty (30) day requirement.

Section 4. The board or its acting president shall notify the charitable organization in writing if its request has been approved within ten (10) business days of receipt of the completed request.

Section 5. A written request may include multiple events on different dates if the events are scheduled within twelve (12) months of the date the completed request is received by the board.

Section 6. Requirements for Eyeglasses Provided. (1) If eyeglasses are provided as part of the charitable service, all materials shall be new, first quality and free from defects.

(2) Lenses shall be:

- (a) First quality and meet the requirements of inspection, tolerance, and testing procedures as outlined in the American Standard Prescription Requirements; and
- (b) Made to meet the individual recipient's personal prescription.

Section 7. Failure to comply with the terms of this administrative regulation may result in denial or withdrawal of approval.

MAINE

MAINE REVISED STATUTES ANNOTATED TITLE 32. PROFESSIONS AND OCCUPATIONS CHAPTER 34-A. OPTOMETRISTS

SUBCHAPTER 4. REVOCATION, REFUSAL OR SUSPENSION OF LICENSE

§ 2431-A. Disciplinary actions

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5,

section 10004. The following are grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of an optometrist licensed under this chapter:

N. Maintaining more than three offices for the practice of optometry without the prior written approval of the board;

MARYLAND

ANNOTATED CODE OF MARYLAND HEALTH OCCUPATIONS. TITLE 11. OPTOMETRISTS. SUBTITLE 2. STATE BOARD OF EXAMINERS IN OPTOMETRY.

s 11-208. Minimum optometric examination.

(c) Instrumentation and equipment. -- A licensed optometrist shall have on hand all instrumentation and equipment, in good working condition, required to carry out the procedures for the minimum examination under this section.

CODE OF MARYLAND REGULATIONS TITLE 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE SUBTITLE 28 BOARD OF EXAMINERS IN OPTOMETRY CHAPTER 03 EXAMINATION AND LICENSING OF OPTOMETRISTS

.08 Office Location.

A. An optometrist shall notify the Board of the address of the optometrist's primary place of business in Maryland.

B. An optometrist shall report a change of address within 30 days of beginning a practice in a new location.

CHAPTER 06 EXAMINATION OF PATIENTS BY OPTOMETRISTS, MAINTENANCE OF RECORDS, AND KEEPING OF CERTAIN INSTRUMENTATION AND EQUIPMENT

.05 Equipment.

A licensed optometrist shall have on hand all necessary equipment in good working condition to perform the procedures as required in Regulations .03 and .04 of this chapter.

CHAPTER 12 THERAPEUTIC PHARMACEUTICAL AGENTS

.04 Standards of Quality for Therapeutically Certified Optometrists and Optometric Care.

H. The therapeutically certified optometrist shall have a medical kit for treating anaphylactic emergencies available at each location where patients are seen.

MASSACHUSETTS

CODE OF MASSACHUSETTS REGULATIONS TITLE 246: BOARD OF REGISTRATION IN OPTOMETRY CHAPTER 3.00: PRACTICE OF OPTOMETRY; DISCIPLINARY ACTIONS

3.04: Establishment of Offices

(1) Principal Office.

(a) Prior to engaging or re-engaging in the practice of Optometry, each Optometrist shall notify the Board, in writing, of the address of his or her "principal office."

(b) The principal office shall be:

1. The office at which he or she conducts the majority of his or her professional practice;
or

2. For an Optometrist whose practice consists exclusively of visits to hospitals, nursing homes, and/or private residences for the examination and treatment of patients at such locations, the principal office shall be the address at which said Optometrist maintains his or her equipment and case records. Said Optometrist shall, upon request of the Board, provide satisfactory proof of his or her ability to provide adequate professional care and the availability of appropriate equipment.

(c) Said principal office shall be subject to inspection by a duly-authorized representative of the Board, in accordance with 246 CMR 3.05.

(3) Branch Offices.

(a) An Optometrist may establish one or more "branch offices" in addition to his or her principal office.

(b) Branch Certificate Required.

1. Prior to the establishment of any such branch office, the Optometrist shall submit an office location form and payment to the the Board.

2. The Optometrist may provisionally begin treating patients at the branch office after the Optometrist receives confirmation from the Board of its receipt of the office location form and payment. Such provisional permission is subject to subsequently passing inspection pursuant to 246 CMR 3.04(3)(b)3.

3. A duly-authorized representative of the Board will inspect the branch office, pursuant to 246 CMR 3.05, after the form and payment are received by the Board.

4. After determining by inspection that the branch office meets regulatory requirements, the Board shall issue a branch office certificate for the location in question. Said certificate shall not be transferable and shall be conspicuously displayed at the location.

3.05: Required Equipment: Office Inspections

(1) Each office maintained for the practice of Optometry, whether classified as a principal office or as a branch office, shall have, at a minimum, all of the following equipment, which shall be in proper working order:

- (a) A business telephone number;
- (b) A refractor, or its equivalent;
- (c) A trial frame and lens set;
- (d) A keratometer or ophthalmometer, or other suitable instrument for measuring the radius of curvature of the cornea;
- (e) An ophthalmoscope;
- (f) A retinoscope;
- (g) A lensometer, or other suitable instrument for measuring the power of ophthalmic and contact lenses;
- (h) A lens clock or other suitable instrument for measuring the curvature of the surface of ophthalmic lenses;
- (i) Lens calipers or other suitable instruments for measuring the thickness of ophthalmic lenses;
- (j) Projected distance or direct reading chart(s);
- (k) A near reading chart;
- (l) A tonometer or other suitable instrument for measuring intraocular pressure;
- (m) A slit lamp biomicroscope or other suitable equivalent instrument for magnified

inspection of the anterior segment of the human eye;

(n) A visual field testing device which will measure a minimum of 30° of central field;

(o) A suitable stereo vision testing device;

(p) A color vision testing device of Ishihara type or equivalent type; and

(q) A sink with hot and cold running water in or immediately adjacent to the main examining room, and in or immediately adjacent to any additional room where contact lenses are handled. Any deviation from this arrangement must be approved by the Board in writing.

(2) A duly authorized representative of the Board may inspect any principal or branch office at any time during regular business hours, and without prior notice, for the purpose of verifying that the office is clean and sanitary, that the office has all of the equipment required by CMR 3.05(1), and that patient records are being maintained as required by 246 CMR 3.02.

MINNESOTA

MINNESOTA STATUTES ANNOTATED HEALTH (CH. 144-159) CHAPTER 148. PUBLIC HEALTH OCCUPATIONS OPTOMETRISTS

§148.57. License

Subd. 4. Peddling or canvassing forbidden. Every licensed optometrist who shall temporarily practice optometry outside or away from the regular registered place of business shall display the license and deliver to each customer or person there fitted or supplied with glasses a receipt or record which shall contain the signature, permanent registered place of business or post office address, and number of license of the optometrist, together with the amount charged therefor, but nothing contained in this section shall be construed as to permit peddling or canvassing by licensed optometrists.

MINNESOTA RULES CHAPTER 6500 BOARD OF OPTOMETRY OPTOMETRISTS

6500.0400 PROFESSIONAL CONDUCT.

Subp. 3. **Employment of cappers or steerers.** Any optometrist employing or engaging for a salary, fee, or commission any person, firm, or corporation to steer, solicit, lure, or entice any person to come to the optometrist's office or branch office for optometric service is considered as employing ""cappers"" or ""steerers"" to obtain business and this constitutes unprofessional conduct.

6500.0500 DISPLAY AND DISCLOSURE OF NAME.

The name of the optometrist shall be displayed prominently at any office or establishment where such person examines eyes.

MISSISSIPPI

CODE OF MISSISSIPPI RULES 50. REGULATORY AGENCIES

**017. STATE BOARD OF OPTOMETRY
001. RULES AND REGULATIONS
CHAPTER 10.
PROFESSIONAL RESPONSIBILITY.**

Section 10.11 Signs on Office Doors, Windows and Buildings.

The name of each optometrist practicing at each main or branch office shall be clearly posted in public view on or near each entrance used by the public or in each public waiting facility of such location.

Section 10.12 Incorporating Under Professional Corporation Laws.

An optometrist may incorporate under current Mississippi Professional Corporation Laws. Any optometrist so incorporated or employed by a Professional Corporation shall abide by all of the optometry laws and the rules, regulations and orders of the Mississippi State board of Optometry.

Section 10.15 Notice of Address and Telephone Number Changes Required to be Given to State Board.

Any person licensed to practice optometry in this State shall, and at least fourteen (14) days prior to the change, send written notice to the board of any change in floor plan his/her office telephone number, his/her business street address, and/or mailing address for any office (including branch office) in which he practices and the effective date of such change.

**CHAPTER 11.
STANDARDS.**

Section 11.3 Designation of Main and Branch Office Location for Board Records.

Every optometrist in active practice in this State shall designate in writing on his license application or renewal form one fixed location as his main office and shall identify any branch office location then existing. A branch office is defined as any fixed location where the optometrist may practice other than his main office. Any change in office location or new opening of any office (main or branch) shall be reported in writing to the board, including the starting of a practice in the same physical location where any other optometrist is already in practice. The provisions of this Rule shall apply without regard to the optometrist's ownership interest, or lack thereof, in the office facility or the practice located where any licensed optometrist may practice under his license granted by this board.

Section 11.4 Registration of Main and Branch Offices.

Each office shall be registered with the Mississippi State Board of Optometry. Such registration shall be renewed biannually with the optometrists license renewal. The registration certificate must be displayed in each office location and shall be furnished by the board at a fee to be determined by the board.

Section 11.5 Timely Notice to Board of Opening of Office or Branch Office, Inspection of Newly Opened Office or Branch Office.

No optometrist shall open an office or branch office for the practice of optometry in this

State without first providing the board with a scale drawing of the floor plan of such proposed office showing the location of instruments and equipment and a dated certificate signed by the optometrist that the proposed office conforms to the rules of the board related to equipment, instruments and configuration required for such office. Such certificate and floor plan shall be delivered to the board in person or by registered mail no less than 14 days prior to the scheduled opening of the office. This Rule is in addition to all other rules governing establishment of an office or branch office and in no way restricts the power of the board or its designated agent to inspect at any purpose of determining that the office and licensed individual conform to the rules of the board and the laws of this State.

MISSOURI

VERNON'S ANNOTATED MISSOURI STATUTES TITLE XXII. OCCUPATIONS AND PROFESSIONS CHAPTER 336. OPTOMETRISTS

§336.070. Display of license

Every holder of an optometry license shall display the license in a conspicuous place in his or her principal office, place of business or employment. Whenever a licensed optometrist practices optometry away from his or her principal office, the licensee shall obtain a duplicate renewal license from the board and display it in clear view of the public.

MISSOURI CODE OF STATE REGULATIONS TITLE 20 - DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION DIVISION 2210 - STATE BOARD OF OPTOMETRY CHAPTER 2 - GENERAL RULES

20 CSR 2210-2.030 License Renewal

(2) Every licensed optometrist shall prominently display his/her renewal license in his/her principal place of practice.

(3) Whenever a licensed optometrist has additional offices, he/she, in lieu of delivering a certificate of identification to each patient in his/her care pursuant to section 336.070, RSMo, may prominently display a duplicate renewal license in each additional office.

20 CSR 2210-2.060 Professional Conduct Rules

(10) Every licensed optometrist providing optometric services prominently shall display his/her name at the entrance of his/her office(s) any times during which these services are offered. The licensed optometrist so displaying his/her name shall identify his/her profession by including the word optometrist, doctor of optometry or O.D. following his/her name.

MONTANA

ADMINISTRATIVE RULES OF MONTANA TITLE 24. DEPARTMENT OF LABOR AND INDUSTRY CHAPTER 168. BOARD OF OPTOMETRY SUB-CHAPTER 4. GENERAL PROVISIONS

24.168.411. GENERAL PRACTICE REQUIREMENTS

(1) Optometrists may conduct a practice in or at any desired location, under the following conditions:

(a) the practice must be owned and under the direct supervision of an optometrist with valid Montana certificate of registration, except that a duly licensed optometrist is not prohibited from associating with other duly licensed optometrists and/or medical doctors for the purpose of practicing optometry in the following manners:

- (i) a professional partnership;
- (ii) a professional corporation, pursuant to 35-4-101, et seq., MCA;
- (iii) a professional limited liability company, pursuant to 35-8-1301, et seq., MCA, in which all managers or shareholders are licensed to practice optometry or medicine; or
- (iv) a trust in which both the trustor and any trustees are licensed to practice optometry or medicine; and

(b) all professional signs and advertising, etc., must include the optometrist's name and the title "Optometrist," "Doctor of Optometry," or initials "O.D."

NEBRASKA

NEBRASKA ADMINISTRATIVE CODE HEALTH AND HUMAN SERVICES SYSTEM TITLE 172: PROFESSIONAL AND OCCUPATIONAL LICENSURE CHAPTER 120 - PRACTICE OF OPTOMETRY

010 UNPROFESSIONAL CONDUCT:

In addition to the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§ 71-147 through 71-148, the following conduct will be considered unprofessional acts as defined by the Board pursuant to Neb. Rev. Stat. § 71-147(10):

11. Failure to report to the Department the relocation of any or all of his/her office(s) or place(s) of practice, in or out of the jurisdiction, within 90 days of the relocation;

NEVADA

NEVADA REVISED STATUTES TITLE 54. PROFESSIONS, OCCUPATIONS AND BUSINESSES. CHAPTER 636. OPTOMETRY. RIGHTS, DUTIES AND PROTECTION OF LICENSEES

§636.365. Issuance of duplicate license and renewal card.

The board or the secretary may issue a duplicate license and renewal card in case a licensee maintains more than one place of practice.

§636.370. Licensee to give board notice of place of practice.

Each licensee shall notify the board of the place or places where he intends to engage in practice, or where he is practicing, and of any change in his place or places of practice.

NEVADA ADMINISTRATIVE CODE CHAPTER 636. OPTOMETRY ADVERTISING

NAC 636.130 Posting of signs. (NRS 636.125, 636.302, 636.380)

1. A licensee shall post a sign at the entrance to his office that specifies his full name, professional designation and the hours during which the office is open.
2. A sign posted at a location which is remote from the office must specify the full name of the licensee and his professional designation.

PROFESSIONAL CONDUCT

NAC 636.210 Restrictions on use of name and place of practice; required display of license; representation as specialist without certification; employer responsible for unprofessional conduct of employee. (NRS 636.125, 636.360)

2. Except as otherwise provided by subsection 3, an optometrist shall display in a conspicuous place his license or a duplicate of his license to practice optometry and a current renewal card in a conspicuous manner at each office in which he practices optometry or has an ownership interest.
3. An optometrist may practice optometry outside his office without displaying his license or a duplicate of his license to practice optometry at that location for not more than 14 working days during the period from March 1 to February 29 if the optometrist notifies the Board in writing of the day and place of such practice. The notice must be given to the Board at least 24 hours before he practices optometry at any such place. If the optometrist is not able to notify the Board within the prescribed period because of an emergency, he shall notify the Board as soon as possible.

NEW HAMPSHIRE

NEW HAMPSHIRE STATUTES ANNOTATED TITLE XXX. OCCUPATIONS AND PROFESSIONS CHAPTER 327. OPTOMETRY REGULATIONS AND PENALTIES

§327:16 Display of License and License Renewal

The original or a copy of the license renewal must be displayed in a conspicuous place in every office wherein the holder practices optometry; and, whenever required, the holder shall exhibit such license to the board or its authorized representatives.

STATE OF NEW HAMPSHIRE OFFICE OF LEGISLATIVE SERVICES DIVISION OF ADMINISTRATIVE RULES BOARD OF REGISTRATION IN OPTOMETRY CHAPTER OPT 500. ETHICAL STANDARDS AND DISCIPLINARY MATTERS PART OPT 502. ETHICAL STANDARDS

Opt 502.02 Standards of Conduct.

A licensee shall:

- (b) Inform the board of a principal business address to which all official board communications should be directed, and also of all addresses where she or he is practicing. Licensees shall notify the board of a business address establishment or change, or abandonment of a business address with 30 days of such establishment, change or abandonment.

NEW JERSEY

**NEW JERSEY STATUTES ANNOTATED
TITLE 45. PROFESSIONS AND OCCUPATIONS
SUBTITLE 1. PROFESSIONS AND OCCUPATIONS REGULATED BY STATE BOARDS OF
REGISTRATION AND EXAMINATION
CHAPTER 12. OPTOMETRY**

§45:12-9. Annual registration renewal fee; nonactive renewal certificate; obtaining active certificate of registration after 5 years; branch office registration certificates; revocation

.... The board shall have the power to issue, upon proper application and payment of the prescribed fees, branch office registration certificates to active licensees when, in its discretion, and after a proper investigation, it determines that the new branch office complies with the provisions of this chapter and the rules and regulations of the board and that such action serves the public interest.

Every licensee holding an active registration renewal certificate who intends to practice at any place other than the address for which his active registration renewal certificate is issued shall be required to obtain from the secretary-treasurer for a fee a branch office registration certificate for each and every location wherein he practices; provided, that nothing herein contained shall be construed to require an active licensee to obtain a branch office certificate for the purpose of serving on the staff of a hospital or other health care facility licensed by the Department of Health or institution; and further provided, that nothing herein contained shall be construed to require an active licensee to obtain a branch office certificate for the purpose of rendering necessary optometric services to patients confined to their homes, hospitals or other health care facilities licensed by the Department of Health or institutions. Every licensee holding a branch office registration certificate or certificates shall, on such dates and times as the board may determine, pay to the secretary-treasurer a registration renewal fee for each branch office registration certificate he holds, for which he shall receive a branch office registration renewal certificate or certificates.

Branch office registration certificates and branch office registration renewal certificates shall be displayed in the offices for which they are issued as provided for in R.S. 45:12-8.

§45:12-19. Illegal practices; peddling eyeglasses; attending confined person; definition

b. No person shall peddle spectacles, eyeglasses or lenses or practice optometry from house to house or on the streets or highways notwithstanding any law providing for the licensing of peddlers. This shall not prohibit, however, an optometrist from attending, prescribing, and furnishing spectacles, eyeglasses or lenses to a person who by reason of an illness, or physical or mental infirmity is confined to his place of abode, or to a hospital or other institution. For the purposes of this section, "lenses" shall include contact lenses without power, sometimes referred to as "plano" lenses.

**NEW JERSEY ADMINISTRATIVE CODE
TITLE 13. LAW AND PUBLIC SAFETY
CHAPTER 38. NEW JERSEY STATE BOARD OF OPTOMETRISTS
SUBCHAPTER 3. GENERAL PROVISION**

13:38-3.7 Suspended or revoked licenses

(b) It shall be the duty and responsibility of any optometrist, before employing, engaging the services of, or accepting as an associate, another optometrist, to ascertain that the optometrist possesses an active registration renewal certificate or an active branch office certificate for the address at which the employee or associate will practice optometry.

13:38-3.8 Branch offices

(a) A branch office certificate issued for one address is transferable to a different address. A licensee desiring to transfer a branch office address shall file a change of address form together with the fee as set forth in N.J.A.C. 13:38-5.1 and shall return the branch office certificate previously issued.

(b) A licensee desiring an additional branch office certificate shall file an application for a new branch office certificate and submit the fee as set forth in N.J.A.C. 13:38-5.1.

NEW MEXICO

CODE OF NEW MEXICO RULES TITLE 16. OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 16. OPTOMETRIC PRACTITIONER PART 6. LICENSE ISSUANCE TO PRACTICE OPTOMETRY

16.16.6.9 DISPLAY OF LICENSE: The licensee must display the license to practice optometry in a conspicuous place in his principal office or place of business.

16.16.6.10 ADDRESS AND EMPLOYMENT PRACTICE CHANGES: It is the licensee's responsibility to provide immediate written notification to the Board of any changes in addresses, phone numbers, and practice location(s).

NORTH CAROLINA

NORTH CAROLINA ADMINISTRATIVE CODE TITLE 21. OCCUPATIONAL LICENSING BOARDS CHAPTER 42. BOARD OF EXAMINERS IN OPTOMETRY SUBCHAPTER 42B. LICENSE TO PRACTICE OPTOMETRY SECTION .0200. RESPONSIBILITY TO SUPPLY INFORMATION

.0201 BEGINNING PRACTICE; RELOCATING PRACTICE

Within 10 days of beginning practice, a licensee shall notify the Board in writing as to the full and complete mailing address, including the street address, of his office and the telephone number of such office. If at any time any office is relocated, the licensee involved shall notify the Board of his new office address and telephone number. The address so identified shall constitute his primary practice address and the address to which all information pertaining to his licensure shall be addressed.

.0202 BRANCH OFFICE

Before opening or beginning practice in a branch office, an optometrist must obtain a duplicate license to be displayed in the branch office. The application for a branch office license must be made on Form BEO-3, which can be acquired from the Board. If in the opinion of the Board Rules 42E .0102(2) and 42E .0102(5) of this Chapter are met, the

Board shall notify the optometrist making application of the approval of the request and upon receipt of the required fee such duplicate license shall be issued by the Board for the purpose of display in the branch office for which it is issued in compliance with G.S. 90-118.2 and 90-118.4. A duplicate license is not transferable from one practice location to another, nor from one practitioner to another. Within the meaning of this Rule a nursing home is considered a branch office when there is an agreement between the optometrist or his representative that he will provide optometric services on a scheduled basis within the nursing home; provided however, any optometrist who accepts a request to make emergency calls to patients at a nursing home within 20 miles of his practice location(s) as reflected in the Board records is not required to obtain a duplicate license for that location.

.0203 TEMPORARY OR RELIEF OPTOMETRIST

Before providing optometric services on a temporary or relief basis for which he will receive compensation, for any period of time, an optometrist must first obtain a duplicate license for each location at which he will provide such services. The identity of such temporary or relief optometrist shall clearly appear in the record of each patient to whom such optometrist renders optometric services.

NORTH DAKOTA

**NORTH DAKOTA ADMINISTRATIVE CODE
TITLE 56. OPTOMETRY, BOARD OF
ARTICLE 56-02. OPTOMETRIST LICENSURE
CHAPTER 56-02-01. OPTOMETRIST EXAMINATION AND LICENSURE**

56-02-01-04. Address of each optometric office.

Registered optometrists shall at all times keep the secretary of the North Dakota state board of optometry informed of the correct street addresses of each of their offices and their correct mailing addresses.

OHIO

**PAGE'S OHIO REVISED CODE ANNOTATED
TITLE 47: OCCUPATIONS--PROFESSIONS
CHAPTER 4725: OPTOMETRISTS; DISPENSING OPTICIANS**

§4725.09 Examination limitation; certificates; peddling prohibited.

.... Peddling from door to door, or the establishment of temporary offices, is specifically forbidden under penalty of revocation of the certificate of licensure. If any person practices optometry outside of or away from the location wherein his certificate of licensure is displayed, he shall deliver to each person, examined or fitted with glasses by him, a certificate signed by him wherein he shall set forth the amounts charged, his post office address, and the number of his certificate of licensure.

**BALDWIN'S OHIO ADMINISTRATIVE CODE ANNOTATED
4725 OPTOMETRY BOARD
CHAPTER 4725-5. UNPROFESSIONAL CONDUCT**

4725-5-15 Notification to board and others of primary practice location

Each optometrist who holds a current licensure certificate shall notify the board of the

primary address where the optometrist is in practice and wherein the certificate is displayed.

The holder of a licensure certificate shall notify the board of any change of address of primary practice wherein the certificate is displayed. The license holder will take whatever steps are necessary to see that patients are informed of the new location of the optometrist or the location of the patient's records.

OKLAHOMA

OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS CHAPTER 13--OPTOMETRY

§583. Rules and regulations--Administering oaths and taking testimony-Officers-Meetings-Quorum-Code of ethics-Branch offices

.... A licensed optometrist may establish a practice in not more than two office locations in accordance with rules and regulations established by the Board of Examiners in Optometry. Practice in a governmental institution shall not be counted as one of these locations. Each office shall be registered by the Board and shall maintain such equipment and personnel as required by the Board.

OKLAHOMA ADMINISTRATIVE CODE TITLE 505. BOARD OF EXAMINERS IN OPTOMETRY CHAPTER 10. LICENSURE AND REGULATION OF OPTOMETRISTS SUBCHAPTER 5. REGULATION OF LICENSEES

505:10-5-7. Practice in two locations

Any licensed optometrist in Oklahoma may practice in two, but not more than two, office locations; either one principal and one branch or two principal offices. Practice in a government institution shall not be counted as one of these locations. Practice in another doctor's office shall be considered as one of the optometrist's two locations.

(1) Registration of each office. Each office must be registered with the Board and such registration shall be renewed annually along with the Optometrist's license renewal. No less than a \$30.00 late renewal fee (for all renewals) shall be charged after June 30th of each year. The fee for initial and renewal registration for a secondary office will be determined by the Board. Each optometrist is responsible for notifying the Board and registering each office with the secretary of the Board on a form provided by the Board.

(2) Displaying license certificate. A license certificate must be displayed in each office location and duplicate licenses shall be furnished by the Board at a fee to be determined by the Board.

(3) Minimum equipment in second office. A second office is defined and construed by the Board as a secondary practice, at a fixed location and must be registered with the Board. The following minimum equipment is required in each office:

- (A) Phoropter
- (B) Projector
- (C) Auto Keratometer or Keratometer or Ophthalmometer
- (D) Slit Lamp or Biomicroscope
- (E) Tonometer

- (F) Ophthalmoscope
- (G) Retinoscope
- (H) Lensometer
- (I) Perimeter or other visual fields testing instrument
- (J) Color Vision Testing Device

(4) Required personnel. Each office must have such personnel present at all times the office is open which is necessary to assist the optometrist and to make appointments for patients.

**OKLAHOMA ADMINISTRATIVE CODE
TITLE 505. BOARD OF EXAMINERS IN OPTOMETRY
CHAPTER 10. LICENSURE AND REGULATION OF OPTOMETRISTS
SUBCHAPTER 5. REGULATION OF LICENSEES**

505:10-5-1. Minimum standard of sanitation, hygiene and professional surroundings

In order to establish a minimum standard of sanitation, hygiene and professional surroundings of and for Optometric offices in this State, the Board of Optometry of Oklahoma, acting under authority of Subdivision "E", Section 3, House Bill No. 307 of the Sixteenth Legislature of Oklahoma, does hereby prescribe the following rules and regulations, to-wit:

(3) Every optometrist practicing his profession in this state must have available in his office for examination of the human eye the following minimum equipment, to-wit: an Ophthalmoscope, a Retinoscope, an Ophthalmometer or Keratometer, a Phoropter or Refractor, and an instrument for recording visual fields. Every such examination must be made in an optometric office, such as is referred to in (1) and (2) of this Section, and in a room of such office used exclusively for the practice of optometry. Provided, that **if a person desiring optometric services informed an Optometrist that by reason of sickness, or other cause, he or she is confined to his or her place of abode**, said optometrist may make an examination at the place of abode of said person. Provided, further, that said optometrist must have available at said place of abode for said examination, the following minimum equipment, to-wit: an Ophthalmoscope, a Retinoscope, a reliable astigmatic test and a reliable trial frame suitable for muscular test.

OREGON

**OREGON REVISED STATUTES
TITLE 52. OCCUPATIONS AND PROFESSIONS
CHAPTER 683. OPTOMETRISTS
LICENSING**

683.100. Notice to board of place of practice; advertisements regarding services; notice, how given by board.

(1) Before engaging in the practice of optometry each optometrist shall notify the board in writing of the address of the place or places where the optometrist is to engage or intends to engage in the practice of optometry and the optometrist also shall notify the board of any change in place of practice. Each optometrist is responsible for any advertisement regarding services rendered at such location.

(2) The board shall keep a record showing the registered address of each optometrist.

683.110. Optometrist to give receipt when practicing away from regular place of

business.

Any optometrist who temporarily practices optometry outside or away from the regular registered place of business shall deliver to each customer or person there fitted or supplied with glasses a receipt which shall contain the signature and show the permanent registered place of business and the number of the license of the optometrist, together with a specification of the lenses furnished and amount charged therefor.

**OREGON ADMINISTRATIVE RULES COMPILATION
CHAPTER 852. BOARD OF OPTOMETRY
DIVISION 50. LICENSING**

852-050-0005 Certificate of Registration

(1) Upon becoming licensed to practice optometry in the state of Oregon, each licensee will receive an office license for the primary place of business. This original and current license must be posted conspicuously in the office. Each licensee shall be required to pay a license renewal fee on or before the license renewal date established by the Board. The licensee will be given written notification of the license renewal period at the time of licensure. The license renewal period will remain the same for the licensee once established.

(2) If a licensee engages in practice in more than one office or place of business, the licensee shall acquire and conspicuously display an original and current license for that specific location in each additional office or place of business. Upon written application of the licensee, the Board shall issue such number of licenses upon receipt of \$45 for each license. The licensee must renew each practice location on an annual basis during the license renewal period.

(3) In lieu of acquiring an additional office license for each practice location, any licensee who has acquired a license to practice optometry in Oregon may elect to acquire a multiple office license which allows the licensee to practice at an unlimited number of additional practice locations. Upon written application of the licensee and receipt of an additional \$90 fee, the Board shall issue a license for practicing at multiple locations. This original and current license shall be conspicuously displayed at each location prior to practicing there. It is the responsibility of the licensee to keep the Board informed of all practice locations. The licensee must renew this license to practice at multiple locations on an annual basis during the license renewal period.

852-050-0016 Notice of Place of Practice

(1) In accordance with ORS 683.100, each Doctor of Optometry shall notify the board in writing of place or places of practice before engaging in practice at that location, and immediately upon termination of the practice at that location.

(2) Failure to notify the Board in writing of address change(s) in accordance with (1) above may subject the licensee to a fee of \$50 for the first failure; \$100 for the second failure; \$200 for each subsequent failure.

PENNSYLVANIA

**PENNSYLVANIA ADMINISTRATIVE CODE
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 23. STATE BOARD OF OPTOMETRY
BUSINESS PRACTICES**

§ 23.32. Display of license.

(a) An optometrist shall prominently post his display license, or a certified duplicate of that license, at each location at which he practices optometry. This posted license or certified duplicate shall be the license issued for the current renewal period.

§ 23.33. Practice.

(a) An optometrist engaged in the active practice of optometry shall practice in a room used exclusively for the practice of optometry when practicing in the optometrist's office. A change in this address, or the addition of places of practice, shall comply with §§ 23.43 and 23.44 (relating to offices; and additional practice locations).

(b) In compliance with § 23.36 (relating to consultant, advisor, staff or employee optometry), an optometrist may arrange the professional practice to include service to a licensed health care service facility, including in-patient or out-patient hospitals and emergency rooms, nursing homes and long-term care facilities, or any facility with the need for optometric services.

(c) An optometrist may, as a professional courtesy, accept a request to attend the patients of another optometrist in the office of the other optometrist, during a temporary absence from practice, if consistent with other duties.

(d) An optometrist may provide services to a patient who is physically incapable of coming to the optometrist's office, at that patient's residence or location.

§ 23.44. Additional practice locations.

(a) No optometrist may establish an additional practice location for the practice of optometry until a notice of intention to do so, together with the fee specified at § 23.91 (relating to fees), has been submitted to the Board in compliance with § 23.33(a) (relating to practice), and a certified duplicate of the optometrist's license has been issued by the Board for permanent display at the new practice location. Separate notice and certification is required for each additional location.

(e) The notice to the Board shall specify persons who will be practicing optometry at the proposed new location, in addition to the optometrist filing the notice. If the new location will be owned by a professional corporation or established under a fictitious name, this notice shall certify compliance with the conditions specified at §§ 23.34 and 23.35 (relating to professional corporations; and fictitious names).

(k) The Board will maintain records noting the practice locations of each optometrist licensed in this Commonwealth.

RHODE ISLAND

**GENERAL LAWS OF RHODE ISLAND ANNOTATED
TITLE 5. BUSINESSES AND PROFESSIONS
CHAPTER 35.1 OPTOMETRISTS**

§5-35.1-6. Issuance, registration, and display of certificate of license to practice

optometry.

Every applicant who complies with the provisions of this chapter shall receive from the director under his or her seal a certificate of license entitling him or her to practice optometry in this state. Every person to whom a certificate or license is issued by the department shall keep that certificate displayed in a conspicuous place in the office or place of business where that person practices optometry and, whenever required, shall exhibit the certificate to any authorized representative of the department.

**RULES AND REGULATIONS
PERTAINING TO OPTOMETRISTS
(R5-35-OPT)
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PART II LICENSURE AND CERTIFICATION REQUIREMENTS FOR OPTOMETRISTS**

Section 8.0 *Practice of Optometry*

Minimum Equipment for Optometric Practice

8.5 At any location where an optometrist practices his or her profession, an optometrist shall have any equipment that a reasonable and prudent person practicing optometry would have available in order to meet the needs of his/her patients.

SOUTH CAROLINA

**CODE OF LAWS OF SOUTH CAROLINA ANNOTATED
TITLE 40. PROFESSIONS AND OCCUPATIONS
CHAPTER 37. OPTOMETRISTS**

§ 40-37-320. Publicizing office hours; mobile units; promulgation of regulations pertaining to optometry offices.

(A) An optometrist shall post in a conspicuous place the office hours that he or she will maintain. Office hours are those hours in which a licensed optometrist is actually present on the premises; however, this section does not prevent the office from being open for the purpose of accepting appointments or payments or performing other duties that by law do not require the presence of a licensed optometrist. Advertisements or any other public announcement of office hours must specify those hours in which a licensed optometrist is present on the premises.

(B) Mobile units may be used; however, the optometrist shall obtain a registration for the mobile unit from the board. A mobile unit must be limited to visiting and providing services to licensed health care facilities within this State.

(C) Notwithstanding the provisions of subsection (A), the board may promulgate regulations regarding optometrists' offices so as to provide for:

- (1) adequate and appropriate office facilities for the practice of optometry;
- (2) the proper handling of patient records; and
- (3) appropriate sanitation for office facilities.

§ 40-37-325. Multiple offices; display of license.

Nothing in this chapter may be construed to limit the number or to prescribe or restrict the location of offices an individual optometrist or group of optometrists may operate. Every

optometrist must display a separate certificate of licensure certified by the board in each location in which the optometrist practices. Duplicate certificates of licensure may be obtained from the board by filing an application on a form prescribed by the board and paying the prescribed fees.

SOUTH DAKOTA

SOUTH DAKOTA CODIFIED LAWS TITLE 36. PROFESSIONS AND OCCUPATIONS CHAPTER 36-7. OPTOMETRISTS

§36-7-18. Display of certificate in office -- Exhibition to state board -- Receipt delivered for practice outside office.

Every person practicing optometry must also display his certificate of registration or exemption in a conspicuous place in the principal office wherein he practices and, whenever required, exhibit such certificate to the state board of examiners or its authorized representative; and whenever practicing outside of, or away from his office he shall deliver to each patient a receipt for service rendered which shall contain his signature, home post-office address, and the number of his certificate of registration or exemption.

ADMINISTRATIVE RULES OF SOUTH DAKOTA DEPARTMENT OF HEALTH (ARTICLES 20:45 TO 20:52) ARTICLE 20:50 OPTOMETRY CHAPTER 20:50:06 OFFICE AND EQUIPMENT REQUIREMENTS

20:50:06:02. Inspection of office.

Within 60 days following the establishment of a practice of optometry in this state, a new licensee shall inform the secretary of the board. At least one member of the board shall conduct an inspection of the office facility and procedures. This section and §20:50:06:01 [NOTE: minimum equipment requirement] also apply to an optometrist admitted under endorsement provisions or a licensed optometrist who changes location or opens an additional office. The inspection of the office of an optometrist previously licensed in this state is at the option of the board.

TENNESSEE

WEST'S TENNESSEE CODE ANNOTATED TITLE 63. PROFESSIONS OF THE HEALING ARTS CHAPTER 8. OPTOMETRISTS

§ 63-8-102. Definitions; authorized procedures

As used in this chapter, unless the context otherwise requires:

(6) "Itinerant optometrist" means an optometrist who maintains an office at a location other than such optometrist's principal office;

(13) "Principal office" means the office location so designated by the optometrist involved; provided, that such office is the location at which the optometrist engages in the majority of the optometrist's practice;

§ 63-8-113. Unauthorized practices; advertising

(c) It is unlawful for any licensed optometrist to:

(7) Engage in practice in any temporary or mobile office except as authorized by the board, or any office that does not have the appropriate instrumentation for diagnosis and treatment for the practice of optometry as established by the board.

§ 63-8-120. Disciplinary proceedings; grounds

(a) The board may refuse to issue an annual renewal certificate, may suspend or revoke any certificate issued by it, censure, reprimand, place on probation and assess a civil penalty up to one thousand dollars (\$1,000) for each separate violation whenever the certificate holder is found guilty of any of the following acts or offenses:

(15) Peddle or sell ophthalmic materials as to render or attempt to render optometric services from house to house or door to door. This shall not prohibit, however, an optometrist from attending, prescribing and furnishing ophthalmic materials to a patient who, by reason of illness or physical or mental infirmity, is confined to the patient's place of abode or in a hospital or other institution;

TEXAS

**VERNON'S TEXAS STATUTES AND CODES ANNOTATED
OCCUPATIONS CODE (REFS & ANNOS)
TITLE 3. HEALTH PROFESSIONS
SUBTITLE F. PROFESSIONS RELATED TO EYES AND VISION
CHAPTER 351. OPTOMETRISTS AND THERAPEUTIC OPTOMETRISTS
SUBCHAPTER F. LICENSE REQUIREMENTS**

§ 351.261. Display of License or Certificate

A person practicing optometry or therapeutic optometry in this state shall:

- (1) display the person's license or certificate in a conspicuous place in the principal office in which the person practices optometry or therapeutic optometry; and
- (2) whenever required, exhibit the license or certificate to the board or the board's authorized representative.

§ 351.262. Information Presented to Patient

(b) Notwithstanding Subsection (a), a person practicing optometry or therapeutic optometry outside of the principal office in which the person practices optometry or therapeutic optometry shall deliver to a patient fitted with eyeglasses a specification of and the prices charged for the lenses and material provided to the patient, with a bill containing:

- (1) the person's signature;
- (2) the person's mailing address; and
- (3) the number of the person's license or certificate.

SUBCHAPTER H. PRACTICE BY LICENSE HOLDER

§ 351.351. License Holder Information

(a) A license holder shall file with the board:

- (1) the license holder's mailing address;
- (2) the address of the license holder's residence;
- (3) the mailing address of each office of the license holder; and
- (4) the address for the location of each office of the license holder that has an address different from the office's mailing address.

(b) Not later than the 10th day after the date of a change in the information required to be filed with the board under Subsection (a), the license holder shall file with the board a written notice of the change.

SUBCHAPTER J. PROHIBITED PRACTICES BY LICENSE HOLDER

§ 351.455. Practice Prohibited From House to House

(a) A person may not practice optometry or therapeutic optometry from house to house or on the streets or highways, notwithstanding any laws for the licensing of peddlers.

(b) Subsection (a) does not prohibit an optometrist, therapeutic optometrist, or licensed physician from attending, prescribing for, or providing eyeglasses or ophthalmic lenses to a person:

- (1) who, because of illness or physical or mental infirmity, is confined to the place the person resides; or
- (2) in response to an unsolicited request or call for those services.

§ 351.458. Professional Responsibility; Use of Name or Professional Identification

(a) An optometrist or therapeutic optometrist may not use, or cause or allow to be used, the optometrist's or therapeutic optometrist's name or professional identification, as authorized by Chapter 104, on or near the door, window, wall, directory, sign, or listing of an office or place of practice, unless the optometrist or therapeutic optometrist is actually present and practicing optometry or therapeutic optometry in that office or place during the hours it is open to the public for the practice of optometry or therapeutic optometry.

(b) An optometrist or therapeutic optometrist may not practice in an office or place where a name or professional identification on or near the door, window, wall, directory, sign, or listing of the office or place, or where a name or professional identification used in connection with the office or place, indicates that it is owned, operated, supervised, staffed, directed, or attended by a person not actually present and practicing optometry or therapeutic optometry in that office or place during the hours it is open to the public for the practice of optometry or therapeutic optometry.

(c) To be actually present for purposes of Subsections (a) and (b), the optometrist or therapeutic optometrist must be physically present in the office or place of practice:

- (1) for more than half of the total number of hours the office or place is open to the public for the practice of optometry or therapeutic optometry in each calendar month for at least nine months in each calendar year; or
- (2) for at least half of the time the optometrist or therapeutic optometrist conducts or supervises the practice of optometry or therapeutic optometry.

(d) To be practicing optometry or therapeutic optometry for purposes of Subsections (a) and (b), the optometrist or therapeutic optometrist must regularly and personally in the office or place of practice:

- (1) examine the eyes of some of the persons for whom prescriptions have been issued in that office or place; or
- (2) supervise those eye examinations.

(e) This section does not require the physical presence of a person who is ill, injured, or otherwise temporarily incapacitated.

(f) Section 351.361(c) applies to this section.

**TEXAS ADMINISTRATIVE CODE
TITLE 22. EXAMINING BOARDS
PART 14. TEXAS OPTOMETRY BOARD
CHAPTER 279. INTERPRETATIONS**

§ 279.13. Board Interpretation Number Thirteen

The Texas Optometry Act was enacted in part to safeguard the visual welfare of the public and the optometrist-patient relationship and to fix professional responsibility with respect to the patient. In order to comply with these objectives and to assure patients will have adequate follow-up care, licensed optometrists or therapeutic optometrists who practice optometry or therapeutic optometry, including the examination and prescribing or supplying of lenses to patients, at:

- (1) a nursing home or other abode to patients confined therein,
- (2) an industrial site, when requested to do so, or
- (3) a school site when requested to do so by the school administration, must have an office location or place of practice within 100 miles of such examination site, or, in the alternative must have made arrangements, confirmed in writing prior to offering or providing services, for continued care with a qualified eye health professional with an office location or place of practice within 100 miles of such examination site. Failure to comply with this rule shall be deemed as practicing from house-to-house and the improper solicitation of patients in violation of the Act, § 5.04(5). In addition, the optometrist must comply with the requirements of § 5.02 to maintain current information regarding practice locations with the board office.

VERMONT

**WEST'S VERMONT STATUTES ANNOTATED
TITLE TWENTY-SIX. PROFESSIONS AND OCCUPATIONS
CHAPTER 30. OPTOMETRY
SUBCHAPTER 2. STATE OPTOMETRY BOARD**

§ 1708. Powers and duties

- (c) The board shall not:
- (1) limit the ownership of optometric practices to licensed optometrists;
 - (2) limit the number of offices or sites at which an optometrist may practice; or
 - (3) limit the right of optometrists to practice in an association, partnership, corporation, or other lawful entity with anyone.

WASHINGTON

**WASHINGTON ADMINISTRATIVE CODE
TITLE 246. HEALTH, DEPARTMENT OF
CHAPTER 246-851. OPTOMETRISTS**

246-851-260. Mobile optometric units.

- (1) Doctors of optometry operating mobile units are required to maintain the minimum equipment requirements of WAC 246-851-250 in such units.
- (2) Before examining a patient or filling a prescription for a patient, the doctor of optometry must provide to the patient his complete name, his business phone number, the address of

his regular office, and his regular office hours. If such doctor of optometry does not maintain a business phone or regular office, he must provide this information to the patient, and must give him his personal phone number and address in place of his business number and address. If the practice of a mobile unit is owned in whole or in part by someone other than the doctor of optometry operating the mobile unit, such fact must also be provided to the patient, along with the names, phone numbers and addresses of all those who own an interest in the practice. The information required by this section may be provided to the patients by means of a sign on or near the mobile unit which the public may reasonably be expected to see and comprehend.

246-851-310. Proper identification of licensees.

Each person licensed under chapter 18.53 RCW must be clearly identified to the public as a doctor of optometry at all practice locations. The identification must include the name of the licensee and the term 'doctor of optometry' or 'independent doctor of optometry' or other similar phrase, at or near the entrance to the licensee's office.

WEST VIRGINIA

WEST VIRGINIA CODE OF STATE RULES TITLE 14. WEST VIRGINIA BOARD OF OPTOMETRY LEGISLATIVE RULE (SER. 1) SERIES 1. RULES OF THE WEST VIRGINIA BOARD OF OPTOMETRY

§ 14-1-6. Renewals.

6.6. Every optometrist shall display his or her renewal certificate in a conspicuous place in the principal office where he or she practices optometry. If an optometrist practices his or her profession in more than one (1) office (branch office) he or she shall have an additional renewal card for each office, obtained upon request to the secretary. Every optometrist shall notify the secretary of any branch office and address.

WISCONSIN

WISCONSIN ADMINISTRATIVE CODE OPTOMETRY EXAMINING BOARD CHAPTER OPT 5. UNPROFESSIONAL CONDUCT

Opt 5.05 Change of address.

An optometrist shall inform the board of any change in address or change in location of practice. It shall be unprofessional conduct to fail to comply with this section.

It shall be unprofessional conduct for an optometrist to fail to furnish to the board upon request information concerning the mode and location of practice. Every optometrist shall permit the board or a board representative to inspect his or her office, equipment and records during regular office hours.

WYOMING

WYOMING STATUTES TITLE 33. PROFESSIONS AND OCCUPATIONS CHAPTER 23. OPTOMETRISTS

§ 33-23-112. Copy of certificate to be filed in each county where practicing; failure to file; forfeiture; reissuance.

Recipients of certificates issued under this act, and all other persons holding certificates entitling them to practice optometry at the time of the passage of this act, shall file a certified copy thereof for record with the county clerk of the county in which they desire to practice, and any person practicing in two (2) or more counties in this state shall, before engaging in the practice of optometry in such other counties, file a certified copy of said certificate for record with the county clerks of said counties and pay the clerks thereof for the recording of the same in a book to be kept for that purpose. Provided, that any failure, neglect or refusal on the part of any person holding a certificate to practice optometry to present the first certified copy thereof which is required to be recorded, for recording, with the county clerk, as hereinbefore provided, for one (1) month after the issuance of his certificate, shall forfeit the certificate, and the board shall be entitled to a fee of one dollar (\$1.00) for issuing a certificate in lieu of the one (1) forfeited.

**WYOMING RULES AND REGULATIONS
DEPARTMENT OF ADMINISTRATION AND INFORMATION
OPTOMETRY, BOARD OF EXAMINERS IN
CHAPTER 3. LICENSE ISSUANCE AND RENEWAL**

Section 1. Issuance of License.

The Board shall issue a successful applicant a license bearing the full name of the Licensee, date of issuance, license number and appropriate seal.

(a) A Licensee shall notify the Board in writing of his/her business address prior to engaging in the practice of optometry.

CHAPTER 8. INFORMATION PRACTICES

Section 4. Change of Name and/or Address.

(b) A licensee shall notify the Board in writing of any change of home and/or professional mailing addresses and telephone numbers within thirty (30) days of the change.

Senate Business, Professions and Economic Development Committee
COMMITTEE BILL: PROPOSED LEGISLATION

REQUESTOR & CONTACT INFORMATION:

Mona Maggio, Executive Officer
Department of Consumer Affairs, Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

Phone: 916-575-7173

Fax: 916-575-7292

Email: mona.maggio@dca.ca.gov

Andrea Leiva, Policy Analyst

Email: andrea.leiva@dca.ca.gov

Phone: 916-575-7182

DATE SUBMITTED:

December 12, 2011

SUMMARY:

Business and Professions Code (BPC) Section 3057.5 defines the eligibility requirements for licensure in California for graduates of foreign universities. The proposed amendment is for consistency purposes only, and to ensure that it is clear that the statute is referring to graduates of foreign universities.

This proposal does not affect the current requirements. Staff is recommending that the law specifically refer to graduates from foreign universities within the actual text of the statute, not just in the title.

IDENTIFICATION OF PROBLEM:

This proposal clarifies further that the statute is referring to graduates of foreign universities. The amendment is for consistency purposes only, and does not affect the current requirements.

PROPOSED SOLUTION:

Amend BPC Section 3057.5 to explicitly state "graduate of a foreign university" instead of "person."

PROGRAM BACKGROUND & LEGISLATIVE HISTORY:

The Board of Optometry was created via legislation in 1913 to safeguard the public's health, safety and welfare through regulation of the practice of optometry. BPC Section 3010.1 states: Protection of the public shall be the highest priority for the Board of Optometry in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

This proposal is aligned with the Board's current mission: The mission of the California State Board of Optometry is to implement and promote just laws and regulations

protecting the health and safety of consumers and to assure that Californians have access to appropriate high quality eye and vision care.

JUSTIFICATION:

The Board must ensure that the law is clear to potential licensees, Board staff and the public. This proposal is only amending the language of BPC Section 3057.5 in order to explicitly state that the eligibility requirements for licensure described in this statute pertain to graduates of foreign universities.

ARGUMENTS PRO & CON:

Pro: Would clarify the language to ensure that is understood that this statute refers to graduates of foreign universities.

Con: None identified.

PROBABLE SUPPORT & OPPOSITION:

Support: The California Optometric Association

Opposition: None identified.

FISCAL IMPACT:

None.

ECONOMIC IMPACT:

None.

FINDINGS FROM OTHER STATES:

N/A

PROPOSED TEXT (use underline & strikeout):

3057.5. Eligibility of Graduates from Foreign Universities

Notwithstanding any other provision of this chapter, the board shall permit a ~~person~~ graduate of a foreign university who meets all of the following requirements to take the examinations for a certificate of registration as an optometrist:

- (a) Is over the age of 18 years.
- (b) Is not subject to denial of a certificate under Section 480.
- (c) Has a degree as a doctor of optometry issued by a university located outside of the United States.

Senate Business, Professions and Economic Development Committee
COMMITTEE BILL: PROPOSED LEGISLATION

REQUESTOR & CONTACT INFORMATION:

Mona Maggio, Executive Officer
Department of Consumer Affairs, Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Phone: 916-575-7173
Fax: 916-575-7292
Email: mona.maggio@dca.ca.gov

Andrea Leiva, Policy Analyst
Email: andrea.leiva@dca.ca.gov
Phone: 916-575-7182

DATE SUBMITTED:

December 12, 2011

SUMMARY:

Business and Professions Code (BPC) Section 3147.6 provides the process for the restoration of a California issued optometrist license that has been delinquent for three or more years. The Board is proposing to amend this section in order to add an additional requirement that further demonstrates continued knowledge and competence.

IDENTIFICATION OF PROBLEM:

For the restoration of a California issued optometrist license that has been delinquent for three or more years, an optometrist must: 1) Pay the fee(s) that would be required if he/she were applying for a license for the first time; 2) take and pass the clinical portion of the National Board of Examiners in Optometry (NBEO) Examination; 3) take and pass the California Law and Regulations Examination (CLRE); and 4) pay a restoration fee equal to the license renewal fee and delinquent fees in effect on the last regular renewal date. These requirements do not include that the optometrist show proof of completion of the required number of hours of continuing education (CE) for the last two years. CE is required in the following license renewal/restoration situations:

- Renewal of an Active License
Two years of CE required pursuant to BPC Sections 3055 and 3059.
- Renewal of an Expired License if Renewed Within Three Years of its Expiration
Two years of CE required pursuant to BPC Section 3147.
- Renewal of an Expired License if Proof Can be Provided by the Optometrist That They Have Been Practicing in Another State
Two years of CE required pursuant to BPC Section 3147.7.
- Restoration of an Inactive License
Two years of CE required pursuant to BPC Section 704.

All of the above require that the optometrist submit proof of completion of CE. In order to increase consumer protection, BPC Section 3147.6 should require the completion of CE as well.

PROPOSED SOLUTION:

Amend BPC Section 3147.6 to require optometrists renewing an expired license that has been delinquent for three or more years to complete the required number of hours of CE for the last two years, in order to be in line with the rest of the optometric practice act's licensing provisions.

PROGRAM BACKGROUND & LEGISLATIVE HISTORY:

The Board of Optometry was created via legislation in 1913 to safeguard the public's health, safety and welfare through regulation of the practice of optometry. BPC Section 3010.1 states: Protection of the public shall be the highest priority for the Board of Optometry in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

This proposal is aligned with the Board's current mission: The mission of the California State Board of Optometry is to implement and promote just laws and regulations protecting the health and safety of consumers and to assure that Californians have access to appropriate high quality eye and vision care.

JUSTIFICATION:

Licensees must maintain an active current license to practice optometry in the State of California. As part of the Board's duty to ensure consumer protection above all other concerns, CE is key in meeting this mission and should be required in any renewal of a license or restoration.

Optometrists who are Therapeutic Pharmaceutical Agents (TPA) certified are required to complete 50 hours of CE, every two years.

Optometrists who are Diagnostic Pharmaceutical Agents (DPA) certified are required to complete 40 hours of CE, every two years.

BPC Section 3059. States that it is the intent of the Legislature that the public health and safety would be served by requiring all holders of licenses to practice optometry granted under this chapter to continue their education after receiving their license. The Board shall adopt regulations that requires, as a condition to the renewal thereof, that all holders of licenses submit proof satisfactory to the Board that they have informed themselves of the developments in the practice of optometry occurring since the original issuance of their license by pursuing one or more courses of study satisfactory to the Board or by other means deemed equivalent by the Board.

BPC Section 3055. Requires the board to issue a license to an applicant who meets the requirements of this chapter, including the payment of the prescribed licensure, certification, or renewal fee, and who meets any other requirement in accordance with state law. A license or certificate issued under the chapter shall be subject to renewal as prescribed by the board and shall expire unless renewed in that manner. The board may provide for the late renewal of a license or certificate as provided for in Section 163.5.

BPC Sections 704., 3147., 3147.7. All of these Sections require CE.

An optometrist who has not renewed their license within three years after its expiration, and who cannot show proof that they hold an active license in another state should be required to show the maximum proof that they are competent to practice again. In this situation, there are two possible reasons as to why the optometrist did not renew their license:

1. They were not practicing at all; and
2. They were practicing without an active license, which would lead to other forms of discipline unrelated to this section.

Thus, in addition to the requirement in BPC Section 3147.6 that the optometrist must pass the NBEO Clinical Skills Examination, two years of CE should be also required. The practice of optometry is constantly changing. New medications and new procedures are always being developed. If, for example, an optometrist has not practiced for 10 years, they would not be appraised on the most current standards of care, and their skills will not have evolved with their profession. How will the optometrist be able to pass the clinical portion of the NBEO, if they have not kept up with the practice of optometry? If anything, requiring two years of CE will assist the optometrist in getting back up to speed with their profession.

ARGUMENTS PRO & CON:

Pro: Would increase consumer protection by allowing the Board to ensure that optometrists who have not renewed their license for over three years for whatever reason, are competent to practice in California.

Con: None identified.

PROBABLE SUPPORT & OPPOSITION:

Support: The California Optometric Association

Opposition: None identified.

FISCAL IMPACT:

None.

ECONOMIC IMPACT:

None.

FINDINGS FROM OTHER STATES:

New York

If Practicing in Another Jurisdiction:

To reactivate a New York State registration an optometrist must complete the amount of CE required for a normal triennial registration period (36 contact hours of CE in each three-year registration period). Since the optometrist is not actively practicing optometry, they will be able to count continuing education credits earned up to 36 months prior to the month in which they reactivate their registration.

If Not Practicing Optometry:

To reactivate a New York State registration an optometrist must complete the amount of CE required for a normal triennial registration period. Since they are not actively practicing optometry, the optometrist will only be able to count CE credits earned up to 12 months prior to the month in which they reactivate their registration.

Texas

If Practicing in Another Jurisdiction:

A licensee who holds a Texas license, but does not practice optometry in Texas; provided, however, that if at any time during the calendar year for which such exemption has been obtained such person desires to practice optometry, such person shall not be entitled to practice optometry in Texas until 16 hours of continuing education credits are obtained and the board has been notified of the completion of such continuing education requirements;

If License Expired One Year or More:

An applicant whose license has expired for one year or more shall obtain 16 hours of Board approved continuing education during the calendar year preceding the date of application. All of the hours may be obtained on the Internet or by correspondence. At least 8 of these hours must be diagnostic/therapeutic as approved by the Board and one hour must be professional responsibility.

Florida

All Certified Optometrists are required to complete 30 hours of CE each Biennium.

- o Two (2) hour course relating to prevention of medical errors
- o Two (2) hours in Florida laws and rules CE
- o Six (6) hours in Transcript Quality CE
- o 20 hours in general CE

PROPOSED TEXT (use underline & strikeout):

3147.6. Restoration of Certificate Following Failure to Renew Within a Specific Time Period

Except as otherwise provided by Section 114, a license that is not renewed within three years after its expiration may be restored thereafter, if no fact, circumstance, or condition exists that, if the license were restored, would justify its revocation or suspension, provided all of the following conditions are met:

- (a) The holder of the expired license is not subject to denial of a license under Section 480.
- (b) The holder of the expired license applies in writing for its restoration on a form prescribed by the board.

(c) The holder of the expired license pays the fee or fees as would be required of him or her if he or she were then applying for a license for the first time.

(d) The holder of the expired license submits proof of completion of the required number of hours of continuing education for the last two years.

~~(d)~~ (e) The holder of the expired license satisfactorily passes both of the following examinations:

(1) The National Board of Examiners in Optometry's Clinical Skills examination or other clinical examination approved by the board.

(2) The board's jurisprudence examination.

~~—(e)~~ (f) After taking and satisfactorily passing the examinations identified in subdivision

(d), the holder of the expired license pays a restoration fee equal to the sum of the license renewal fee in effect on the last regular renewal date for licenses and any delinquency fees prescribed by the board.

Senate Business, Professions and Economic Development Committee
COMMITTEE BILL: PROPOSED LEGISLATION

REQUESTOR & CONTACT INFORMATION:

Mona Maggio, Executive Officer
Department of Consumer Affairs, Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Phone: 916-575-7173
Fax: 916-575-7292
Email: mona.maggio@dca.ca.gov

Andrea Leiva, Policy Analyst
Email: andrea.leiva@dca.ca.gov
Phone: 916-575-7182

DATE SUBMITTED:

December 12, 2011

SUMMARY:

Business and Professions Code (BPC) Section 3147.7 provides the process for the restoration of a California issued optometrist license that has not been renewed within three years of expiration, specifically, if the optometrist provides satisfactory proof that he or she holds an active license from another state. The Board is proposing to amend this section in order to add an additional requirement that further demonstrates proof that the optometrist has been practicing in another state.

IDENTIFICATION OF PROBLEM:

For the restoration of a California issued optometrist license that has not been renewed within three years of expiration, specifically, if the optometrist has been actively practicing in another state, an optometrist must: 1) Not be subject to denial of a license under BPC Section 480; 2) Apply in writing for restoration of the license on a form prescribed by the Board; 3) pay all accrued and unpaid renewal fees and any delinquency fees prescribed by the Board; 4) Submit proof of completion of the required number of hours of continuing education (CE) for the last two years; and 5) Take and satisfactorily pass the Board's jurisprudence examination.

Although the language already states, "if the person provides satisfactory proof that he or she holds an active license from another state..." the Board wants to amend the language to include a specific form of documentation as proof. For clarity purposes, the Board would like to add the requirement that the optometrist submit a letter of verification of current license status from the Board of Optometry from the state in which they currently practice.

PROPOSED SOLUTION:

Amend BPC Section 3147.7 to require a California licensed optometrist with a delinquent license who is actively practicing out-of-state to submit a letter of verification of current license status from the Board of Optometry from the state in which they currently practice.

PROGRAM BACKGROUND & LEGISLATIVE HISTORY:

The Board of Optometry was created via legislation in 1913 to safeguard the public's health, safety and welfare through regulation of the practice of optometry. BPC Section 3010.1 states: Protection of the public shall be the highest priority for the Board of Optometry in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

This proposal is aligned with the Board's current mission: The mission of the California State Board of Optometry is to implement and promote just laws and regulations protecting the health and safety of consumers and to assure that Californians have access to appropriate high quality eye and vision care.

JUSTIFICATION:

Licensees must maintain an active current license to practice optometry in the State of California. As part of the Board's duty to ensure consumer protection above all other concerns, it will be beneficial to require that a California licensed optometrist with a delinquent license who is practicing out-of-state provide a letter of verification of current license status from their current Board in order to restore his or her license.

The Board has already been requesting this form of proof, since the current language is broad enough to allow for it. The Board has found that more guidance is necessary that requires the force of law.

Further, requiring a licensure verification letter to be completed by the regulatory agency where the applicant is currently licensed is standard practice between licensing boards. The Board receives requests for a verification of licensure from other state boards of optometry when a California licensed optometrist seeks licensure in another state.

ARGUMENTS PRO & CON:

Pro: Would increase consumer protection by allowing the Board to ensure that optometrists who have not renewed their license for over three years and are practicing in another state, are competent to return to practice in California.

Con: None identified.

PROBABLE SUPPORT & OPPOSITION:

Support: The California Optometric Association

Opposition: None identified.

FISCAL IMPACT:

None.

ECONOMIC IMPACT:

None.

FINDINGS FROM OTHER STATES:

N/A

PROPOSED TEXT (use underline & strikeout):

3147.7. Applicability of Provisions to Out-of-State Licensees

The provisions of Section 3147.6 shall not apply to a person holding a license that has not been renewed within three years of expiration, if the person provides satisfactory proof that he or she holds an active license from another state and meets all of the following conditions:

- (a) Is not subject to denial of a license under Section 480.
- (b) Applies in writing for restoration of the license on a form prescribed by the board.
- (c) Pays all accrued and unpaid renewal fees and any delinquency fees prescribed by the board.
- (d) Submits proof of completion of the required number of hours of continuing education for the last two years.
- (e) Takes and satisfactorily passes the board's jurisprudence examination.
- (f) Submit a letter of verification of current license status from the Board of Optometry from the state in which they currently practice.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Brianna Miller
Enforcement Analyst

Telephone: (916) 575-7170

Subject: **Agenda Item 10: Revised Board Member Handbook with Administrative Procedures Manual**

Action Requested:

None.

Background:

The Board Member Handbook, which includes the Administrative Procedures Manual, has been updated, approved by the members at the December 2, 2011 Board meeting, and created into a spiral bound notebook by the Department of Consumer Affairs Office of Publications, Design & Editing (PDE).

This reference tool is for current and future Board members, and offers guidance on the general processes involved with their position on the Board of Optometry

Attachments:

- 1) Final Board Member/Administrative Procedures Manual Handbook



CALIFORNIA STATE BOARD OF
OPTOMETRY

BOARD MEMBER HANDBOOK

Introduction:

The purpose of this handbook is to provide guidance to future and incumbent Board Members regarding the general processes involved with their position on the Board of Optometry (Board). As a Board Member, you are typically asked to create and review policy and administrative changes, make disciplinary decisions, and preside over regular and special meetings.

In addition to the Bagley-Keene Open Meeting Act and the attached Administrative Procedures Manual, which provide public meeting laws, this handbook serves as a referential guide to help you understand further meeting requirements and Board procedures.

Mission Statement:

The Board of Optometry's mission is to serve the public and optometrists by promoting and enforcing laws and regulations which protect the health and safety of California's consumers and to ensure high quality care.

Vision Statement:

The Board of Optometry's vision is to be the leading health care profession board that continuously provides consumers and optometrists with effective, collaborative, and proactive services.

Values Statement:

The Board of Optometry values:

Integrity

Competence Accountability Responsiveness Efficiency

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Getting Started as a Board Member

The following information serves to inform Board Members of mandatory training requirements as well as the Board of Optometry's (Board) essential functions. Newly appointed members are also advised in this section on how to engage with Board staff and of their relationship with the Executive Officer.

Training Requirements

Within one year of assuming office, newly appointed members shall complete the following training:

1. Board Member Orientation, which is provided by the Department of Consumer Affairs
2. Ethics Training Course, which shall be completed within the first 6 months of office
3. Sexual harassment prevention, within the first six months of office

Additional training:

1. Members shall attend an ethics training course every two years

Upon assuming office, members will also receive a copy of the Bagley-Keene Open Meeting Act, which lists public meeting laws that provide the guidelines for Board Meetings. The 2011 version of this Act can also be found at the following:

http://www.dca.ca.gov/publications/bagleykeene_meetingact.pdf

Board of Optometry's Essential Functions

The Board's essential functions are comprised of licensing, examinations, legal and regulatory, and enforcement. As such, the following provide a brief understanding of staff procedures to uphold each function.

1. Licensing: Staff is responsible for such tasks as evaluating applications for initial licensure, license renewals, providing certifications (see page 16 this list), issuing Fictitious Name Permits, monitoring continuing education, and providing license verifications to consumers and customer service to licensees accordingly.
2. Examinations: Staff regulates the law and licensing exams, which are necessary to ensure proficiency to practice. Staff also develops examination procedures.
3. Legal and Regulatory: Administrative staff is responsible for implementing administrative changes, primarily by revising or introducing regulations and statutes.
4. Enforcement: Staff is responsible for ensuring consumer protection predominantly by processing consumer complaints, monitoring probationers, and providing customer service to licensees and consumers by providing information related to Board law.

Interactions with Board Staff

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by

collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board members shall not intervene or become involved in specific day-to-day personnel transactions.

The Executive Officer

The Executive Officer serves at the pleasure of the Board Members as a whole. As such, your role as a Board Member is to direct the Executive Officer to implement program administration, budget, strategic planning, and coordination of meetings.

Meetings

All Healing Arts Boards under the Department of Consumer Affairs, including the Board of Optometry, must meet in accordance with the provisions set forth by the Bagley-Keene Open Meeting Act and the Brown Act. A copy of the Bagley-Keene Open Meeting Act should be provided to each newly appointed Board Member (see web address on page 1).

For more information on Administrative Procedures, you may reference the attached Administrative Procedure Manual.

Attendance at Board Meetings

The Board's policy is such that Members attend each meeting of the Board. If a Member is unable to attend, he or she must contact the Executive Officer and ask to be excused from the meeting for a specific reason.

Quorum

In order to conduct a full Board Meeting, there needs to be a quorum of six board members. Either having members in attendance or attending the meeting via teleconference can accomplish this.

General Rules of Conduct

The following rules of conduct are taken from the attached Administrative Procedures Manual to detail expectations of your conduct as a Member. Be mindful that the Board is comprised of both public and professional members with the intention that, together, you can protect the public and regulate the profession of Optometry.

- Board members shall not speak or act for the Board without proper authorization.
- Board members shall maintain the confidentiality of non-public documents and information.

- Board members shall adequately prepare for Board responsibilities.
- Board members shall recognize the equal role and responsibilities of all Board members.
- Board members shall act fairly, be nonpartisan, impartial and unbiased in their role of protecting the public.
- Board members shall treat all applicants and licensees in a fair and impartial manner.
- Board members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- Board members shall not use their positions on the Board for personal, familial or financial gain.

Meeting Requirements

Pursuant to Government Code Section, 11121.9, the following are requirements for the various meetings that you, as a Board Member, may attend.

Open Meeting Requirements:

Regularly scheduled meetings generally occur throughout the year and address the usual business of the Board. There are no restrictions on the purposes for which a regularly scheduled meeting may be held.

The Board is required to give at least 10 calendar days for written notice of each Board Meeting to be held.

The meeting notice must include the agenda, which may have a brief description of the item. Note that no changes can be made to the agenda unless the notice is amended accordingly. If this occurs, it must be posted for 10 calendar days prior to the meeting. More information about notice requirements can be found in the Administrative Procedures Manual.

Committee Meeting Requirements:

Notice requirements are mandatory for committee meetings if the committee consists of three or more persons. Those committees with fewer members do not need to submit meeting notices.

Should the committee post notice for a meeting, it must match the requirements for open meetings wherein the notice must be posted on the Internet at least 10 calendar days prior to the meeting and be provided to interested parties upon request.

Special Meeting Requirements:

Though the purposes and instructions for special meetings are found in Government Code Section 11125.4, one such reason is in the instance that a 10-day notice period to the public would impose a hardship to the Board. However, should this occur, the Board must provide notice of the meeting to each member and those persons who have requested notice of board meetings. This notice needs to specify the time, place and purpose of this special meeting.

At the commencement of this meeting, the Board must make a finding (in the open session) that providing a 10-day notice of the meeting poses a substantial hardship or that immediate action is required to protect public interest. This finding must then be adopted by two-thirds vote of members present or by a unanimous vote if less than the two-thirds of members are present. Failure to do so terminates the meeting.

Closed Session Requirements:

Closed Sessions may take place in the following instances:

1. Personnel matters (i.e. appointments, employment, performance evaluations, etc.)
2. To conduct administrative disciplinary proceedings
3. Examination matters, such as when the Board administers or approves an exam
4. Pending litigation
5. In response to confidential audit reports
6. When matters discussed would be an invasion of privacy if conducted in open session
7. As a response to a threat of criminal or terrorist activity against personnel, property, buildings, facilities, or equipment.

Should a closed session take place, the Board must disclose in the open meeting a general statement about the closed session items (i.e. by mentioning it on the agenda). Additionally, all closed sessions must take place in a regularly scheduled or special meeting.

All material discussed in closed sessions must remain confidential. When such a session takes place, a staff person will be present to record and make available to members the discussion topics and decisions made.

Making a Motion

A Board Member should make a motion to introduce a new piece of business or to propose a decision or action. All motions must reflect the content of the meeting's agenda – the Board cannot act on business that is not listed on the agenda.

Upon making a motion, it is important to remember to speak slowly and clearly; bear in mind that the motion is being recorded. Members who opt to second the motion must remember to repeat the motion in question. Additionally, it is important to remember that once a motion has been made, it is inappropriate to make a second motion until the initial one has been resolved.

The basic process of a motion is as follows:

1. An agenda item has been thoroughly discussed and reviewed. If it is a new piece of business, see step 2.
2. The Board President opens a forum for a Member to make a motion to adopt or reject the discussed item.
3. A Member makes a motion before the Board.
4. Another Member seconds this motion.
5. The Board President puts forth the motion to a vote.
6. If it is a voice vote, those in favor of the motion say "aye" and those opposed say "no".
7. If it is a rising vote, those in favor of the motion will rise from their seats.

8. Upon completion of the voting, the President will announce the result of the vote (e.g. “the ayes have it and the motion is adopted” or “the no’s have it and the motion fails”).

The adjournment of each meeting is done via motion, seconded motion, and majority vote.

Reviewing Disciplinary Decisions

As previously mentioned under the purposes for a closed-session meeting, you will be asked to make a disciplinary decision based on a hearing that has taken place with an Administrative Law Judge. To learn more about the complaint and disciplinary process, you may consult with the overview provided on page 14 of this handbook.

Deciding to Adopt or Non-adopt a Proposed Decision

Upon being presented with a proposed disciplinary decision from an Administrative Law Judge (ALJ), you, as a Board Member, are asked to either adopt or non-adopt the action. Accordingly, consider the following when making your decision:

A. Factors for adopting an ALJ’s proposed decision:

1. The summary of the evidence supports the findings of fact, and the findings support the conclusions of law.
2. The law and standards of practice are interpreted correctly.
3. In those cases in which witness credibility is crucial to the decision, the findings of fact include a determination based substantially on a witness’ credibility, and the determination identifies specific evidence of the observed demeanor, manner, or attitude of the witness that supports the credibility determination.
4. The penalty fits within the disciplinary guidelines or any deviation from those guidelines has been adequately explained.
5. If probation is granted, the terms and conditions of probation provide the necessary public protection.
6. The costs of proceeding with non-adoption far exceed the severity of the offense and the probability is high that respondent will be successful.

B. Factors for non-adopting an ALJ’s proposed decision:

1. The proposed decision reflects the ALJ clearly abused his/her discretion.
2. The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
3. The witness’s credibility is crucial to the decision and the findings of fact include a determination based substantially on a witness’ credibility; but, the determination does not identify specific evidence of the observed demeanor, manner, or attitude, of the witness that supports the credibility determination.
4. The ALJ made an error in interpreting the licensing law and/or regulations.
5. The ALJ made correct conclusions of law and properly applied the standards of practice but the penalty is substantially less than is appropriate to protect the public.

Reviewing the Record and Preparing to Discuss and Render a Decision after Non-adoption

Should you, as a Member, choose to non-adopt a proposed decision by the administrative law judge (ALJ), he or she must review the factual and legal findings to render a determination. The following suggestions are intended to assist in reviewing the case record:

A. Reviewing the Administrative Record

1. The Accusation:

- Make note of the code sections charged and brief description of the sections (e.g. B&P 3110(b) – gross negligence; B&P 3110 (d) – incompetence).
- Read the facts that are alleged as they stand to prove or disprove the code violations. The burden to prove the violations by “clear and convincing evidence to a reasonable certainty” rests on the Board.

2. The Proposed Decision:

- Factual Findings. Review the factual findings and determine if they and/or testimony prove violations. Note that expert testimony may be necessary to prove the violations.
- Legal conclusions (determination of issues). Determine if any proven facts constitute a violation of the code section.
- Order. Review the order and determine if the penalty is appropriate per the violations found and if it is consistent with the Disciplinary Guidelines. If not, determine if there is a basis for which the record deviated from the guidelines.

3. The Transcript

- Sufficiency of the Evidence. You must determine if the evidence introduced is clear and convincing to a reasonable certainty to prove *each* factual allegation.
- Lay Witnesses. You must determine if the testimony provided by witnesses prove factual allegations. In doing so, bear in mind the ALJ's credibility findings.
- Expert Witnesses. Which expert's testimony was given the most weight by the ALJ? If you do not agree with the ALJ's findings, you must determine which evidence in the record supports your own conclusion.

B. Preparing for an Oral Argument Hearing

1. Review written arguments and determine if the burden of proof has been met.

- The Deputy Attorney General's (DAG) argument will contend the facts are clearly proven and constitute a violation of the law.
- The Respondent's argument will likely focus on the weaknesses of the Board's case and strength of the Respondent's case. It will force you to

answer if (a) facts are proven, (b) the law was violated, and (c) the penalty is appropriate.

2. Review the proposed decision

- Note in the proposed decision where you agree and disagree with the ALJ in regards to factual findings, the legal conclusion, and proposed penalty. Also note the specific evidential findings which support your own conclusions.

3. Summary and Conclusion

- Remember, that if you maintain your focus on the code sections alleged to have been violated and the facts that were alleged to have occurred, your decision should be made more easily and this will help your decision withstand judicial scrutiny.

Background Information of Various Board Processes

As a member, you may be asked to review material which you are not closely acquainted with. Therefore, you may wish to reference the following guides to attain a comprehensive understanding of items brought forth in Board Meetings.

This section provides a guide to the Legislative Process, Regulatory Process, Complaint and Disciplinary Process, and the various licenses and certifications provided by the Board.

Overview of California's Legislative Process

For a graphic overview of California's legislative process, see the attached diagram on page 10.

The California State Legislature consists of two houses: the Senate and the Assembly. The Senate has 40 members and the Assembly has 80 members.

All legislation begins as an idea or concept. Should the Board take an idea to legislation, it will act as its sponsor.

Next, in order to move the idea toward legislation the Board must attain a Senator or Assembly Member to author it as a bill. Once a legislator has established himself or herself as an author, he or she will proceed to the Legislative Council where a bill is drafted; it is then returned to the legislator for introduction in a house (if a Senator authors a bill, it will be introduced to the Senate; if an Assembly Member authors a bill, it will be introduced to the Assembly). This house is called the House of Origin.

Once a bill is introduced on the floor of its house, it is sent to the office of State Printing. At this time, it may not be acted upon until 30 days after the date which it was introduced. After the allotted time has lapsed, the bill moves to the Rules Committee of its house to be assigned to a corresponding Policy Committee for hearing.

During committee hearing, the author presents his or her bill to the committee and witnesses provide testimony in support or opposition of the bill. At this time, amendments may be proposed and/or taken. Bills can be amended multiple times. Additionally, during these

hearings, a Board representative (Board Chair, Executive Officer, and/or staffer) may be called upon to testify in favor of the bill.

Following these proceedings, the committee votes to pass the bill, pass it as amended, or defeat it. A bill is passed in committee by a majority vote.

If the bill is passed by committee, it returns to the floor of its House of Origin and is read a second time. Next, the bill is placed on Third Reading and is eligible for consideration by the full house in a floor vote. Bill analyses are prepared prior to this reading. During the third reading, the author explains the bill and members discuss and cast their vote. Bills that require appropriation or, that take effect immediately, generally require 27 votes in the Senate and 41 votes in the Assembly to be passed. Other bills require majority vote. If a bill is defeated, its author may seek reconsiderations and another vote.

Once a bill has been approved by the House of Origin, it is submitted to the second house where the aforementioned process is repeated. Here, if an agreement is not reached, the bill dies or is sent to a two-house committee where members can come to a compromise. However, if an agreement is made, the bill is returned to both houses as a conference report to be voted upon.

Should both houses approve a bill, it proceeds to the governor who can either sign the bill to law, allow it to become law without signature, or veto it. If the legislation is in session, the governor must act within 12 days; otherwise, he has 30 days to do so. A two-thirds vote from both houses can override the governor's decision to veto a bill.

Bills that are passed by the legislature and approved by the governor are assigned a chapter number by the Secretary of State. Chaptered bills typically become part of the California Codes and the Board may enforce it as statute once it becomes effective. Most bills are effective on the first day of January the following year; however, matters of urgency take effect immediately.

Positions on Legislation

As a regulatory body, the Board can issue its own legislative proposals or take a position on a current piece of legislation.

At Board Meetings, staff may present current legislation that is of potential interest to the Board, and/or which may directly impact the Board and the practice of optometry. When the Board attains research on legislation, it can take a position on the matter.

Possible positions include:

Neutral: If a bill poses no problems or concerns to the Board, or its provisions fall outside of the Board's jurisdiction, the Board may opt to remain neutral. Should the Board take this stance, it cannot testify against the bill.

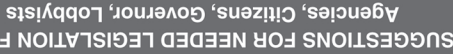
Neutral if Amended: The Board may take this position if there are minor problems with the bill but, providing they are amended, the intent of the legislation does not impede with Board processes.

Support: This position may be taken if the Board supports the legislation and has no recommended changes.

Oppose: The Board may opt to oppose a bill if it negatively impacts consumers or is against the Board's own objectives.

Oppose Unless Amended: The Board may take this position unless the objectionable language is removed. This is a more common and substantive stance than Neutral if Amended.

From Idea into Law



Overview of Regulations

Regulations are administratively enforceable. They, along with statutes, govern the Board and comprise the Board's Practice Act. Succinctly, regulations interpret or make specific laws that are enforced or administered by the Board.

Should the Board wish to implement an administrative change, it may do so via statute or regulation. There are pros and cons to each of these routes. However, should the Board decide to implement a regulatory (also referred to as rulemaking) change or introduce a new regulation, it must follow direct procedures.

In order to prepare a rulemaking action, the Board is required to: (1) express terms of proposed regulation (the proposed text), (2) determine fiscal impact, (3) create a statement of reasons for that regulation, and (4) post notice of proposed rulemaking.

The issuance of a notice of proposed regulation initiates a rule making action. To do this, the Board creates a notice to be published in the California Regulatory Notice Register and mailed to interested parties. It must also post the notice, proposed text, and statement of reasons for the rulemaking action on its website.

Once the notice has been posted, the Administrative Procedures Act (APA) requires a 45-day comment period from interested parties before the Board may proceed further with the proposed regulation. During this time the Board can also decide if it wants to hold a public hearing to discuss the proposed rulemaking action. However, if it opts against this, but an interested person requests a hearing at least 15 days prior to the end of the written comment period, the Board must offer notice of and hold a public hearing to satisfy public request.

Following the initial comment period, the Board will often decide to revise its proposal. If it chooses to do so, APA procedures require that the agency assess each change and categorize them as (a) nonsubstantial, (b) substantial and sufficiently related, or (c) substantial and not sufficiently related. Any change that has been categorized as substantial and sufficiently related must be available for public comment for at least 15 days before the change is adopted in the proposal. All comments must then be considered by the Board.

Additionally, if the Board cites new material that has not been available to the public while revising the proposal, these new references must be presented to the public for 15 days.

The Board is also responsible for summarizing and responding on record to public comments submitted during each allotted period. These are to be included as part of the final statement of reasons. By doing so, the agency demonstrates that it has understood and considered all relevant material presented to it before adopting, amending, or repealing a regulation.

After the Board has fulfilled this process, it must adopt a final version of the proposed rulemaking decision. Once this has been accomplished, the rulemaking action must be submitted to the Office of Administrative Law (OAL) for review within a year from the date which the notice was published. OAL has 30 days to review the action.

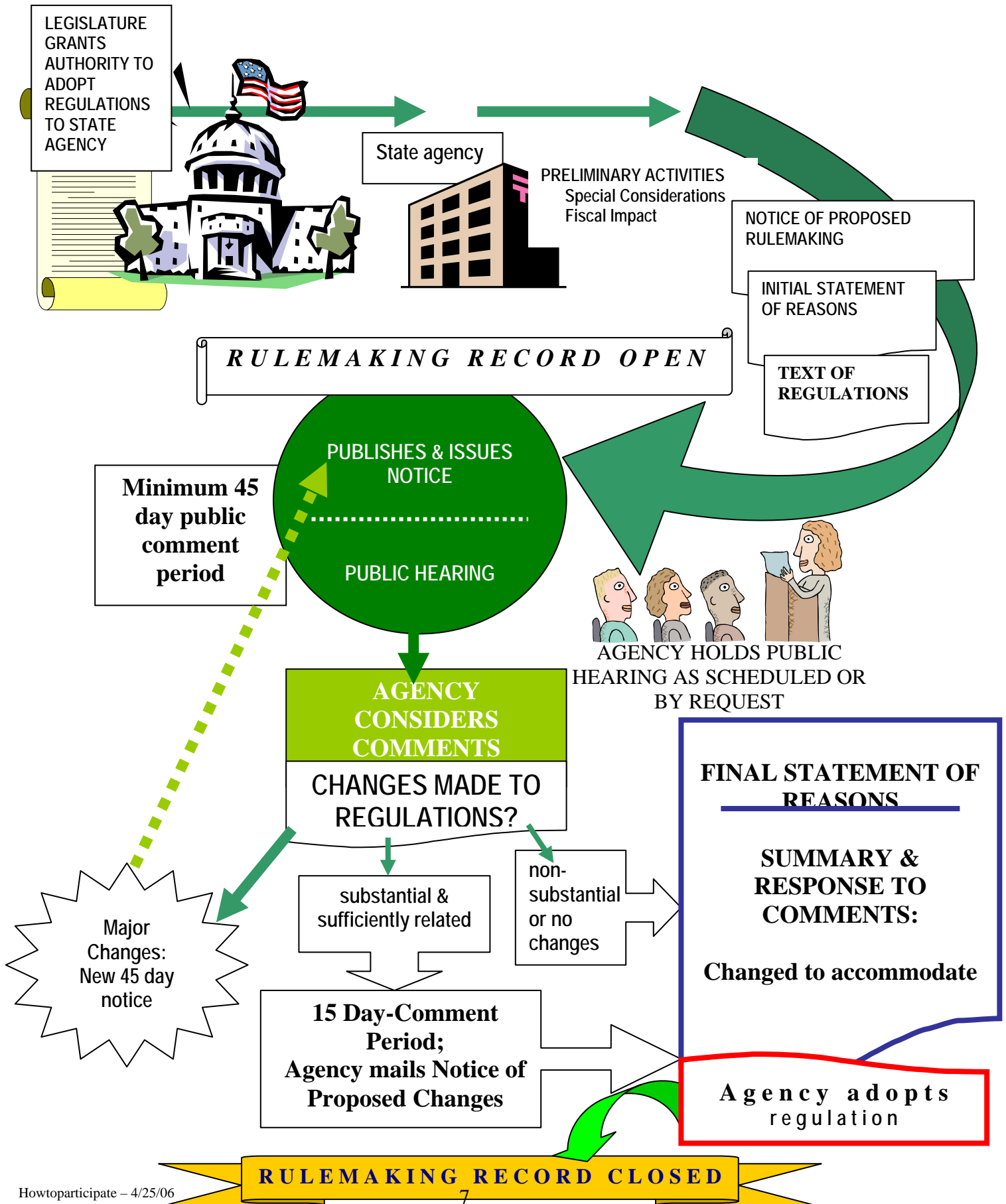
During its review, OAL must determine if the rulemaking action satisfies the standards set forth by APA. These standards are: necessity, authority, consistency, clarity, nonduplication, and reference. It must also have satisfied all procedural requirements governed by the APA.

If OAL deems that the rulemaking action satisfies the aforementioned standards, it files the regulation with the Secretary of State and it is generally effective within 30 days. The regulation is also printed in the California Code of Regulations.

If OAL, however, determines that the action does not satisfy these standards, it returns the regulation to the Board, which can revise the text, post notice of change for another comment period, and, finally, resubmit the proposed regulation to OAL for review; or, the Board may appeal to the governor.

Diagrams on pages 13 and 14 provide graphical overview of the rulemaking process.

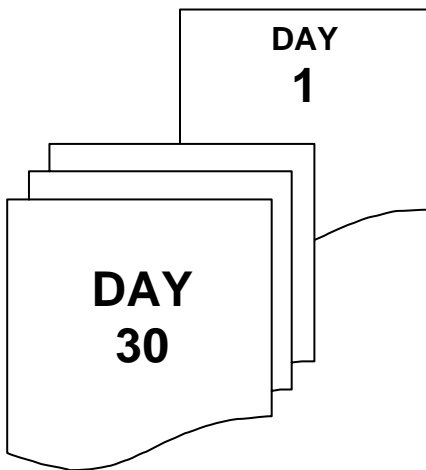
The Rulemaking Process



OAL REVIEW

State agency must submit rulemaking record within 1 year of notice publication

OAL has 30 WORKING days to review a regulation

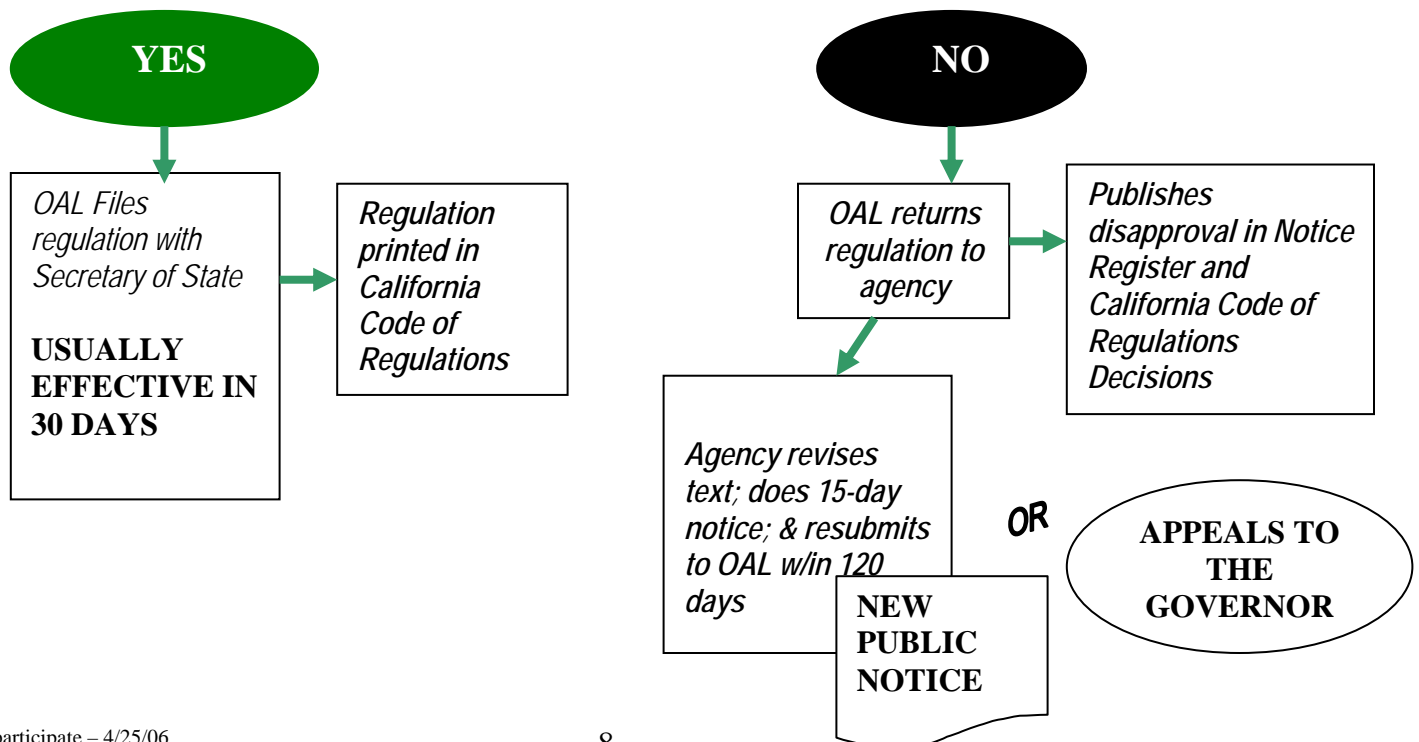


APA STANDARDS:

*AUTHORITY
REFERENCE
CONSISTENCY
CLARITY
NON-DUPLICATION
NECESSITY*

***& PROCEDURAL
REQUIREMENTS***

DOES THE RULEMAKING SATISFY THE APA?



Complaint and Disciplinary Process

Under the Department of Consumer Affairs, the California State Board of Optometry (Board) conducts disciplinary proceedings in accordance with the Administrative Procedure Act, Government Code Section 11370, and those sections that follow. The Board conducts investigations and hearings pursuant to Government Code Sections 11180 through 11191.

Typically, the disciplinary process begins with a complaint case. Complaints can come to the Board via consumers, optometrists, and other agencies. Under Business and Professions Code 800 et seq., civil judgments or settlement against a licensee that exceeds three thousand dollars (\$3,000) must be reported to the Board by an insurer or licensee. These will result in an enforcement investigation.

To begin an investigation, the Board's enforcement staff determines jurisdiction over a complaint case. If jurisdiction has been established, enforcement staff begins its investigation by requesting permission to review the patient's medical file (if this is pertinent to the complaint) and notifies the optometrist that a complaint has been made.

Enforcement staff determines if a violation of the Optometry Practice Act has occurred by verifying facts to validate a complaint allegation. This is generally done by gathering statements, patient records, billings, insurance claims, etc. The Board may also submit the case to the Division of Investigation (DOI) for further investigation as DOI investigators are given authority of peace officers by the Business and Professions Code while engaged in their duties. Therefore, these investigators are authorized more investigative privileges than Board staff.

The Board may also seek the aid of an expert witness when the enforcement team needs an expert opinion to determine if the licensee in question breached the standard of care.

If it is determined by enforcement staff, expert opinion, DOI, etc. that the subject's acts constitute a violation of law, the completed investigative report is submitted to the California Office of the Attorney General. The assigned Deputy Attorney General will review the case to determine if the evidence supports filing of an accusation against the subject for a violation of the law. If it is determined appropriate, an accusation is prepared and served upon the subject and he or she is given the opportunity to request a hearing to contest the charges.

Acts subject to disciplinary action – such as revocation, suspension, or probationary status of a license – include but are not limited to:

- Unprofessional conduct;
- Gross negligence;
- Sexual misconduct;
- Conviction of a substantially related crime;
- Substance abuse; and
- Insurance fraud.

After the Board files an accusation, the case may be resolved by a stipulated settlement: a written agreement between parties to which the person is charged admits to certain violations and agrees that a particular disciplinary order may be imposed.

Stipulations are subject to adoption by the Board. If a stipulated settlement cannot be negotiated, the Board holds a hearing before an Administrative Law Judge of the Office of Administrative Hearings. The hearing may last anywhere from one day to several months, depending on the complexity of the case and the defense. During the hearing, both sides may call expert witnesses

to support their views. After both sides have argued their case, the judge issues a proposed decision. This written proposal is submitted to the Board for adoption as its decision in the matter.

If the Board does not adopt the proposed decision, Board members obtain a transcript of the hearing, review the decision and decide the matter based upon the administrative record. If dissatisfied with the Board's decision, the respondent may petition for reconsideration or he or she may contest it by filing a writ of mandate in the appropriate superior court.

Licenses and Certification

The following chart provides an overview of the various licenses and certifications that the Board issues to its licensees.

TYPE	DESCRIPTION	Authority
Optometric License (OPT)	License to practice optometry in California at designated "principal place of practice." May be owner or an employee/independent contractor at the location.	B&P 3040
Statement of Licensure (SOL)	Required for every location where a licensee is employed or works as an independent contractor in addition to principal place of practice as designated by OPT license.	CCR 1506(d).
Branch Office License (BOL)	Required for each optometric practice owned by a licensed optometrist that is in addition to principal place of practice as designated by OPT license.	B&P 3077
Fictitious Name Permit (FNP)	Required if a fictitious name is used in conjunction with the practice of optometry.	B&P 3078 and CCR 1518
Therapeutic Pharmaceutical Agents (TPA) Certification	Required for optometrists who wish to treat patients with pharmaceutical agents as authorized by this category. To become TPA certified, an optometrist must meet one of seven category requirements.	B&P 3041.3 and CCR 1568
Glaucoma Certification	Effective January 8, 2011. In order to be certified to diagnose and treat Glaucoma, an optometrist must already be TPA certified.	B&P 3041(f)(5) and CCR 1571
Lacrimal Irrigation and Dilation Certification	Effective January 1, 2011. To be certified to perform these tasks, an optometrist must already be TPA certified.	B&P 3041(e)(6) and B&P 3041.3

State of California
State and Consumer Services Agency



Administrative Procedure Manual



California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
www.optometry.ca.gov

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Chapter 1. Introduction

Overview

The California State Board of Optometry (hereafter Board) was created by the California Legislature in 1973 under the Department of Professional and Vocational Standards to safeguard the public's health, safety, and welfare. In 1923, the Board promulgated the first rules for the practice of optometry and the State Legislature first required all applicants for licensure to be graduates of an accredited school or colleges of optometry. The Board is responsible for accrediting these schools. To assure competent and ethical practitioners and protect the public from harm, no person may engage in the practice of optometry in California unless he or she possesses a valid and unrevoked license from the Board.

Today, the Board is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the State and Consumer Services Agency under the aegis of the Governor. DCA is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While the DCA provides administrative oversight and support services, the Board has policy autonomy and sets its own policies, procedures, and initiates its own regulations.

Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (Business and Professions Code (BPC) Section 3010.1).

The Board is comprised of 11 members. By law, five must be public members and six must be optometry professionals (licensed optometrists of the State of California actually engaged in the practice of optometry at the time of appointment or faculty members of a school or college of optometry). No more than two faculty members may be on the Board at any one time and they may not serve as public members. No member of the Board shall have a financial interest in any purchase or contract under Board purview nor shall he/she have financial interest in the sale of any property or optical supplies to any prospective candidate for examination before the Board. The public members shall not be licensees of the Board or of any other Healing Arts Board. The Governor appoints three public members and the six professional members. The Senate Rules Committee and the Speaker of the Assembly each appoint one public member. Board members may serve up to two, four-year terms. Board members are paid \$100 for each day actually spent in the discharge of official duties and are reimbursed travel expenses.

Board Responsibilities

With approximately 7,000 practicing optometrists and 500 optometric corporations, the largest population of optometrists in the United States, the Board is charged with the following duties and responsibilities:

- Accrediting the schools and colleges providing optometric education.
- Establishing educational requirements for admission to the examination for certificates of registration as California licensed optometrists.

- Establishing examination requirements to ensure the competence of individuals licensed to practice optometry in California and administering the examination.
- Setting and enforcing standards for continued competency of existing licensees.
- Establishing educational and examination requirements for licensed optometrists seeking certification to use and prescribe authorized pharmaceutical agents.
- Issuing certification to diagnose and treat glaucoma for patients over the age of 18.
- Licensing branch offices and issuing fictitious name permits.
 - Effective January 1, 2007, the Board of Optometry no longer registers Optometric Corporations. However, the Board has maintained the authority to regulate those in existence.
- Promulgating regulations governing:
 - Procedures of the Board
 - Admission of applicants for examination for licensure as optometrists
 - Minimum standards governing the optometric services offered or performed, the equipment, or the sanitary conditions
- Providing for redress of grievances against licensees by investigating allegations of substance and patient abuse, unprofessional conduct, incompetence, fraudulent action, or unlawful activity.
- Instituting disciplinary action for violations of laws and regulations governing the practice of optometry when warranted.

This procedures manual is provided to Board members as a ready reference of important laws, regulations, DCA policies, and Board policies in order to guide the actions of the Board members and ensure Board effectiveness and efficiency.

Definitions

ALJ	Administrative Law Judge.
AOA	American Optometric Association
APA	Administrative Procedure Act
BPC	Business and Professions Code
CLEAR	Council on Licensure Enforcement and Regulations
COA	California Optometric Association
DCA	Department of Consumer Affairs

EO	Executive Officer
OAH	Office of Administrative Hearings. This state agency provides neutral judges to preside over administrative cases.
OAL	Office of Administrative Law. This state agency reviews regulation changes for compliance with the process and standards set out in law and either approves or disapproves those regulation changes.
Regulation	A standard that implements, interprets, or makes specific a statute enacted by a state agency. It is enforceable the same way as a statute.
SAM	State Administrative Manual
Statute	A law passed by the legislature.
Stipulation	A form of plea bargaining in which a disciplinary case is settled by negotiated agreement prior to hearing.
President	Where the term “President” is used in this manual, it will be assumed to include “his or her designee”

General Rules of Conduct

- Board members shall not speak or act for the Board without proper authorization.
- Board members shall maintain the confidentiality of non-public documents and information.
- Board members shall adequately prepare for Board responsibilities.
- Board members shall recognize the equal role and responsibilities of all Board members.
- Board members shall act fairly, be nonpartisan, impartial and unbiased in their role of protecting the public.
- Board members shall treat all applicants and licensees in a fair and impartial manner.
- Board members’ actions shall serve to uphold the principle that the Board’s primary mission is to protect the public.
- Board members shall not use their positions on the Board for personal, familial or financial gain.

Chapter 2. Board Meeting Procedures

Frequency of Meetings

(BPC Section 3017)

The Board shall hold regular meetings every calendar quarter.

Special meetings of the Board may be held upon request of a majority of the members of the Board or upon the call of the President.

Six members constitute a quorum at a Board meeting.

Notice of each meeting and the time and place thereof shall be given to each member in the manner provided by the Bagley-Keene Open Meeting Act.

Board Member Attendance at Board Meetings

(Board Policy)

Board members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Executive Officer and ask to be excused from the meeting for a specific reason.

Public Attendance at Board Meetings

(Government Code Section 11120 et seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of the state regulatory boards and meeting of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.

The Bagley-Keene act stipulates that the Board is to provide adequate notice of meetings to be held to the public as well as provide an opportunity for public comment. The meeting is to be conducted in an open session, except where closed session is specifically noted.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Closed Sessions at Board Meetings

(Government Code Section 11126 et seq.)

A Board may meet in a closed session to discuss: personnel matters (appointments, employment, evaluation of performances, etc.); examination matters wherein the Board prepares, approves, grades, or administers examinations; matters which would constitute an invasion of privacy if discussed in an open session; administrative disciplinary matters; pending litigation; as a response to confidential final draft audit report; and, as a response to threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment.

Closed Session Procedural Requirements

(Government Code Section 11126 et seq.)

The Board shall disclose in the open meeting a generalization of the items to be discussed in a closed session. This can be accomplished by those items on the agenda as a closed session item.

All closed sessions must be held during a regular or special meeting (section 11128). A staff person shall be designated to attend the closed session and record the discussion topics and decisions made, which will be available only to members.

All information discussed in the closed session is confidential and must not be disclosed to outside parties.

Quorum

(BPC Section 3010.1)

Six of the members of the Board constitute a quorum of the Board for the transaction of business. The concurrence of a majority of those members of the Board present and voting at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the Board.

Agenda Items

(Board Policy and Government Code Section 11125 et seq.)

Any Board member may submit items for a Board meeting agenda to the Executive Officer 15 days prior to the meeting.

No item shall be added to the agenda subsequent to the provision of the meeting notice. However, an agenda item may be amended and then posted on the Internet at least 10 calendar days prior to the meeting.

Items not included on the agenda may not be discussed.

Notice of Meetings

(Government Code Section 11120 et seq.)

According to the Opening Meeting Act, meeting notices (including agenda for Board meetings) shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include a staff person's name, work address, and work telephone number so that he or she can provide information prior to the meeting.

Notice of Meetings to be Posted on the Internet

(Government Code Section 11125 et seq.)

Notice shall be given and also made available on the Internet at least 10 calendar days in advance of the meeting and shall include the name, address, and telephone number of any person who can provide information prior to the meeting. However, it need not include a list of witnesses expected to appear at the meeting.

Written notices shall include the address of the Internet site where notices required by this article are available.

Special Meetings

(Government Code Section 11125 et seq.)

A special meeting may be held where compliance with a 10-day meeting notice would impose a hardship or when an immediate action would be required to protect the public interest.

Notice for a special meeting must be posted on the Internet at least 48 hours prior to the meeting. Upon commencement, the Board must state the specific facts which necessitate special meeting as a finding. This finding must be adopted by a two-thirds vote; failure to adopt the finding terminates the meeting.

Record of Meetings

(Board Policy)

The minutes are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board members before the next Board meeting. Board minutes shall be approved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting.

Tape Recording

(Board Policy)

The meetings may be tape-recorded if determined necessary for staff purposes. Tape recordings may be disposed of upon Board approval of the minutes.

Meeting by Teleconferencing

(Government Code Section 11123 et seq.)

Board Meetings held by a teleconference must comply with requirements applicable to all meetings.

The portion of the meeting that is open session must be made audible to the public present at the location specified in the meeting notice. Each teleconference meeting location must be identified in the meeting notice and agenda.

All votes taken during this meeting shall be by roll-call.

Use of Electronic Devices During Meetings

(Bagley-Keen Act)

Members should not text or email each other during an open meeting on any matter within the Board's jurisdiction.

Meeting Rules

(Board Policy)

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act), as a guide when conducting the meetings.

Chapter 3. Travel & Salary Policies & Procedures

Travel Approval

(DCA Memorandum 96-01)

Board members shall have Board President approval for travel except for regularly scheduled Board and committee meetings to which the Board member is assigned.

Travel Arrangements

(Board Policy)

Board members should attempt to make their own travel arrangements and are encouraged to coordinate with the Executive Officer's Assistant on lodging accommodations.

Out-of-State Travel

(State Administrative Manual Section 700 et seq.)

For out-of-state travel, Board members will be reimbursed for actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office.

Travel Claims

(State Administrative Manual Section 700 et seq. and DCA Travel Guidelines)

Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Executive Officer's Assistant maintains these forms and completes them as needed. It is advisable for Board members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, Board members shall follow the procedures contained in DCA Departmental Memoranda which are periodically disseminated by the Director and are provided to Board members.

Salary Per Diem

(BPC Section 103)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is regulated by BPC Section 103.

In relevant part, this section provides for the payment of salary per diem for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

(Board Policy)

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members except for attendance at official Board or committee meetings, unless a substantial official service is performed by the Board member. Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings in which a substantial official service is performed shall be approved in advance by the Board President. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President prior to the Board member's attendance.
2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board meeting or committee meeting to the conclusion of that meeting. Where it is necessary for a Board member to leave early

from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For Board-specified work, Board members will be compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences, and AOA or CLEAR committee work. That work does not include preparation time for Board or committee meetings. Board members cannot claim salary per diem for time spent traveling to and from a Board or committee meeting.

Chapter 4. Selection of Officers & Committees

Officers of the Board

(BPC Section 3014)

The Board shall elect from its members a President, Vice-President, and a Secretary to hold office for one year or until their successors are duly elected and qualified.

Election of Officers

(Board Policy)

The Board elects the officers at the last meeting of the fiscal year. Officers serve a term of one-year beginning July 1 of the next fiscal year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

Officer Vacancies

(Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice President shall assume the office of the President until the election for President is held. Elected officers shall then serve the remainder of the term.

Committee Appointments

(Board Policy)

The President shall establish committees, whether standing or special, as necessary. The composition of the committees and the appointment of the members shall be determined by the

Board President in consultation with the Vice President, Secretary and the Executive Officer. Appointment of non-Board members to a committee is subject to the approval of the Board.

Attendance of Committee Meetings

(Government Code Section 11122.5 (c)(6))

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person.

(2) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body. This paragraph is not intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, provided that the members of the state body who are not members of the standing committee attend only as observers.

Chapter 5. Board Administration and Staff

Appointment of Executive Officer

(BPC Section 3027)

The Board shall employ an Executive Officer and other necessary assistance in the carrying out of the provisions of the BPC, Chapter 7.

The executive officer shall perform the duties delegated by the Board and shall be responsible to it for the accomplishment of those duties. The executive officer shall not be a member of the Board. With the approval of the Director of Finance, the Board shall fix the salary of the Executive Officer. The Executive Officer shall be entitled to traveling and other necessary expenses in the performance of his duties.

Board Administration

(DCA Reference Manual)

Board Members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board Members to become involved in the details of program delivery. Strategies for the day-to-day management of programs, operations and staff shall be the responsibility of the Executive Officer. Board members should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

Legal Counsel

The Board's legal counsel acts represents the Board for litigation and accordingly for services rendered by the Office of the Attorney General. The Board's legal counsel provides "in-house" counsel.

Board Budget

(Board Policy)

The Secretary shall serve as the Board's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the Board. Staff will conduct an annual budget briefing with the Board with the assistance of the Secretary.

The Executive Officer or the Executive Officer's designee will attend and testify at legislative budget hearings and shall communicate al budget issues to the Administration and Legislation.

Press Releases

(Board Policy)

The Executive Officer may issue press releases with the approval of the Board President.

Strategic Planning

(Board Policy)

The Executive Committee shall have overall responsibility for the Board's strategic planning process. The Vice President shall serve as the Board's strategic planning liaison with staff and shall assist staff in the monitoring and reporting of the strategic plan to the Board. The Board will conduct an annual strategic planning session and may utilize a facilitator to conduct the strategic planning process.

Legislation

(Board Policy)

In the event time constraints preclude Board action, the Board delegates to the Executive Officer and the Board President the authority to take action on legislation that would affect the practice of optometry or responsibilities of the Board. The Board shall be notified of such action as soon as possible.

Communication with Other Organizations & Individuals

(Board Policy)

Any and all representations of the Board or Board policy must be made by the Executive Officer or Board President, unless approved otherwise. All correspondence shall be issued on the Board's standard letterhead and will be created and disseminated by the Executive Officer's Office.

Executive Officer Evaluation

(Board Policy)

Board members shall evaluate the performance of the Executive Officer on an annual basis.

Board Staff

(DCA Reference Manual)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board members shall not intervene or become involved in specific day-to-day personnel transactions.

Business Cards

(Board Policy)

Business cards will be provided to each Board member with the Board's name, address, telephone and fax number, and website address. A Board member's business address, telephone and fax number, and email address may be listed on the card at the member's request.

Chapter 6. Other Policies & Procedures

Board Member Orientation

(BPC section 453)

Newly appointed members shall complete a training and orientation program provided by DCA within one year of assuming office. This one-day class will discuss board member obligations and responsibilities.

Materials Provided to Incoming Board Members

(Government Code section 11121.9)

A copy of the Bagley-Keene Act must be provided to each new member upon his or her appointment.

Board Member Ethics Training

(Government Code sections 12950.1 and 11146.1)

Newly appointed board members shall attend an ethics training course within six months of assuming office and every two years thereafter.

Pursuant to Government Code section 12950.1, each member shall attend at least two hours of interactive training covering sexual harassment prevention within six months of his or her appointment.

Board Member Disciplinary Actions

(Board Policy)

The Board may censure a member if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner. The President of the Board shall sit as chair of the hearing unless the censure involves the President's own actions, in which case the Vice President of the Board shall sit as chair. In accordance with the Public Meetings Act, the censure hearing shall be conducted in open session.

Removal of Board Members

(BPC Sections 106 and 106.5)

The Governor has the power to remove from office at any time any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor may also remove from office a Board member who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Resignation of Board Members

(Government Code Section 1750)

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. State law requires written notification. A copy of this letter shall also be sent to the director of DCA, the Board President, and the Executive Officer.

Conflict of Interest

(Government Code Section 87100)

No Board member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Contact with Candidates, Applicants and Licensees

(Board Policy)

Board members shall not intervene on behalf of a candidate or an applicant for licensure for any reason. Nor shall they intervene on behalf of a licensee. All inquiries regarding licenses, applications and enforcement matters should be referred to the Executive Officer.

Gifts from Candidates

(Board Policy)

Gifts of any kind to Board members or the staff from candidates for licensure with the Board shall not be permitted.

Request for Records Access

(Board Policy)

No Board member may access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the office of the Board.

***Ex Parte* Communications**

(Government Code Section 11430.10 et seq.)

The Government Code contains provisions prohibiting *ex parte* communications. An *ex parte* communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board members are prohibited from an *ex parte* communication with Board enforcement staff while a proceeding is pending. Occasionally an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board members.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter. If the person insists on discussing the case, he or she should be told that the Board

member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board member believes that he or she has received an unlawful *ex parte* communication, he or she should contact the Executive Officer.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Andrea Leiva
Policy Analyst

Telephone: (916) 575-7182

Subject: Agenda Item 11: Strategic Plan Update

Action Requested: Staff would like the Board members to review the updates to the strategic plan and consider when the next strategic plan should be developed.

Discussion: The current plan was approved in March 2010. Typically, it is recommended that a strategic plan stay in effect for three to five years. Next year will be the Board's third year with this plan.

Staff recommends that the development of a new plan begin after the implementation of the BreEZe project June 2013. This will allow Board staff to complete the remaining items in the current plan, and evaluate the new possibilities that the BreEZe plan will bring to the Board.

Also, members should consider that the Board is up for Sunset Review January 1, 2014.

Attachments:

1) March 2, 2012 Strategic Plan Update

**STATE BOARD OF OPTOMETRY
STRATEGIC PLAN QUARTERLY REPORT
MARCH 2, 2012
(Last updated: April 11, 2011)**

GOAL 1 – LICENSING: Provide applicants and licensees a fast, accurate and cost effective process for obtaining and maintaining licensure registration and certifications required to practice optometry in the State of California.	
OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Develop and implement procedures for routine continuing education audits. Staff responsible: Cheree (Lead), Krista</p> <p>Cheree:</p> <ul style="list-style-type: none"> • The first continuing optometric education (CE) audits were conducted in December, 2009, March 2010, October 2010 and April 2011. • Additional departmental enforcement drills, reports and training classes have prevented more frequent auditing. • Challenges faced regarding the CE audits include misunderstandings regarding the specifics of the CE requirements and options for licensees who are not actively practicing due to illness, lack of employment or living out of state. • Cheree plans to address the most common misconceptions in an upcoming newsletter article. <p>Krista:</p> <ul style="list-style-type: none"> • Krista is responsible for conducting audits on a quarterly basis beginning March 1, 2012, auditing 15 randomly chosen licensees renewed as active in each month of the audited quarter. This process will be repeated each month for a total of 45 audits each quarter. • Krista is also responsible for sending out the initial (and secondarily certified) audit letters as well as tracking responses to the audit and sending follow-up letters to licensee who have not responded. 	<p>The development of the procedures has been completed.</p> <p>Staff has yet to fully implement this process. Audits have not been conducted since August 2011 to the present due to the office re-location.</p>
<p>Establish and clarify categories of licensure via legislation. Staff responsible: Mona, Andrea</p> <ul style="list-style-type: none"> • Assembly Bill 2683, Practice of Optometry in Healthcare Facilities effective January 1, 2011. • Senate Bill 1489 (Omnibus) effective January 1, 2011. The licensing provisions amended by this bill were §3046, §3057.5, §3147.6, and §3147.7. • Retired License: Introduced February 22, 2012 by Senator Bill Emmerson (R) • Retired License with a Volunteer Designation: Introduced February 22, 2012 by Senator Bill Emmerson (R) • 2012 Omnibus Bill to clean up licensing statutes authored by the Senate Business, Professions and Economic Development Committee: §3057.5 Eligibility of Graduates from Foreign Universities • Glaucoma Certification through reciprocity: Continues to be discussed. 	<p>If the 2012 bills pass through the legislature and are signed by the Governor, they will go into effect on Jan. 1, 2013</p> <p>Ongoing</p>

GOAL 1 – LICENSING CONTINUED OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Implement online license renewals. Staff responsible: Cheree, Jessica</p> <ul style="list-style-type: none"> • Online license renewals will be implemented June, 2013 through the BreEZe project. • Cheree and Jessica continue to work closely with the BreEZe project team to ensure the best possible outcome for the Board. • The initial planning phase of the Board's BreEZe implementation is scheduled to start in May 2012 and the project is still on schedule for implementation by June 2013. 	<p>Completion Date: June 2013</p>
<p>Establish an appropriate address of record, including a requirement for a valid E-mail address, for Board communications and consumer protection. Staff responsible: Jeff, Nancy, Andrea</p> <ul style="list-style-type: none"> • Adding a section on all applications and customer satisfaction surveys where licensees can provide their e-mail address. • Entering e-mail addresses into the Automated Tracking System (ATS) and Consumer Affairs System (CAS). • Entering new applicant's e-mail addresses to the Board's interested parties list so they will receive e-mail updates. • At Board meetings, encouraging attendees to provide e-mail addresses. 	<p>Completion Date: June 2012</p> <p>Staff has been working on this since the beginning of this plan in March 2010</p>
<p>Establish methods to deal more effectively with exceptions to the current licensure process. Staff responsible: Jeff, Nancy</p> <ul style="list-style-type: none"> • Identifying the most common instances where exceptions are necessary, such as: <ol style="list-style-type: none"> 1. Explore the reasons why Fictitious Name Permit (FNP) renewal applications still indicate a grace period of 30 days. 2. Requests to waive delinquent fees. • CAS and ATS are not able to accommodate exceptions. BreEZe configurations will hopefully deal with exceptions more efficiently. 	<p>Completion Date: June 2013</p> <p>Staff has been working on this since March 2010</p>
<p>Update forms to be more consistent, clear and user friendly. Staff responsible: All staff, Andrea coordinating</p> <ul style="list-style-type: none"> • Application created in 2011: Glaucoma Certification Application and Preceptorship Documentation Form. • Applications updated in 2012: Statement of License, Branch Office License, Fictitious Name Permit, Name Change. All of these applications have been posted on the Board website. • Andrea serves on the BreEZe Forms Workgroup to standardize all forms in preparation for the new system in 2013. 	<p>Completion Date: June 2013</p> <p>Staff has been working on this since March 2010</p>

GOAL 1 – LICENSING CONTINUED OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Improve efficiency in processing applications. Staff responsible: Jeff, Nancy, Elvia</p> <ul style="list-style-type: none"> • Working with the BreEZe team to explore automated licensing options. • Supporting DCA job creation initiative by streamlining licensing procedures. The initiative enables individuals and/or businesses to enter California's workforce and contribute to its job growth. Pending applications for licensure have been reduced by 50% department-wide allowing approximately 36,300 individuals to enter the workforce. (i.e., PSI, law exam testing vendor can communicate with the Board's current licensing databases to automatically e-mail eligibility invitations to applicants upon fulfillment of requirements.) • Running statistical reports to track the processing of applications to improve efficiency. • Working with BreEZe team to ensure the new database will efficiently process FNP and BOL applications, as the CAS and ATS databases were not compatible. In the meantime, a tracking log has been created to assist staff in monitoring the receipt and follow-up of FNP and BOL applications. • Since January 8, 2011, Elvia has been processing glaucoma certification applications efficiently and working with the applicants, and schools and colleges of optometry to ensure that the proper documentation is being provided by licensees. • Since Fall of 2011, Licensing staff has started meeting once a month to review applications and any licensing issue that require further investigation. • Jeff plans to create a fact sheet in order to process requests for Foreign Sponsorship more efficiently. • Nancy and Krista are relating all Corporation Files to optometrist license records. This is a data clean-up projected that will be completed in two phases in order to streamline the transition to BreEZe. 	<p>Completion Date: June 2013 and then as needed to stay up to date with law or departmental procedural changes</p>
<p>Review current accreditations and affirm and apply the accreditation process for new schools of optometry and clinics. Staff responsible: Mona, Jeff, Andrea</p> <ul style="list-style-type: none"> • Upon accreditation, plan to invite to 2013 Board meeting representatives from the following schools to receive an overview of their programs: Western University of Health Sciences College of Optometry (Pomona, CA), University of the Incarnate Word School of Optometry (San Antonio, TX), and Midwestern University Arizona College of Optometry (Glendale, AZ). • Monitor Accreditation Council on Optometric Education to ensure all schools and colleges of optometry currently accredited continue to be accredited. • Amend California Code of Regulations (CCR) §1570 to add the new schools upon the Board's approval of the new schools. 	<p>Completion Date: June 2013</p> <p>Staff has been working on this since March 2010</p>

GOAL 2 – EXAMINATIONS: Provide a fair, valid and legally defensible licensing exam process to ensure that only qualified and competent individuals are licensed to provide optometric services in the State of California.	
OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Successfully implement computer based testing for California Laws and Regulations Examination (CLRE). Staff responsible: Andrea, Jeff</p> <ul style="list-style-type: none"> • Effective April 1, 2010 • Andrea continues to monitor the contact with PSI and works with Jeff to troubleshoot any issues licensees may have with the vendor. 	Completed
<p>Perform ongoing exam development and validation workshops CLRE. Staff responsible: Andrea, Office of Professional Examination Services</p> <ul style="list-style-type: none"> • March 25-26, 2012 – Item Writing and Review Workshop • June 3-4, 2012 – Exam Construction and Passing Score • Pending schedule of workshops for end of 2012, beginning of 2013 exam cycle. 	Always Ongoing
<p>Expand subject matter expert pool. Staff responsible: Andrea</p> <ul style="list-style-type: none"> • Current # of Experts who have participated: 60 • Recruitment strategies: <ol style="list-style-type: none"> 1. Post workshops on website. 2. Send multiple e-mail blasts with workshop dates and information two to four months prior to start of workshops to interested parties list, schools and colleges of optometry, and California Optometric Associations state-wide. 3. Mail out invitations to 500 optometrists; specifically the graduating classes of 2000-2011. Must capture entry-level practice. • Preparing fact sheet to distribute at outreach events. 	Always Ongoing
<p>Outreach to schools and colleges regarding exam information. Staff responsible: Andrea, Jeff</p> <ul style="list-style-type: none"> • Laws/Regulations link on the Board's website updated when changes in law are made. • Offer students opportunity to speak with staff regarding effective study techniques for successful passage of the law exam. • E-mail information to schools and colleges' exam coordinators and deans to create awareness of any changes in the law exam as soon as they happen. • Provide information during Board's yearly presentation to schools and colleges of optometry. Presentations will now be held for the 3rd as well as the 4th year students. 	Always Ongoing

GOAL 3 – LEGAL AND REGULATORY: 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.	
OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Pursue legislation necessary to implement strategic goals and objectives. Staff responsible: Mona, Andrea</p> <ul style="list-style-type: none"> • Amend BPC §3070. Notice of Address for Practice of Optometry: Introduced February 22, 2012 by Senator Bill Emmerson (R) • Add Inspection Authority to BPC: Research being conducted. 	<p>January 2013</p> <p>January 2014</p>
<p>Pursue changes to California Code of Regulations to implement new laws affecting optometry. Staff responsible: Andrea</p> <ul style="list-style-type: none"> • In Progress: 1525.1. Fingerprint Requirements 1513. Registered Name Only 1514. Renting Space From & Practicing on Premises of Commercial (Mercantile) Concern 1508. Definitions for Sponsored Free Healthcare Events 1508.1. Sponsoring Entity Registration & Recordkeeping 1508.2. Out-State-Practitioner Authorization to Participate in Sponsored Event 1508.3. Termination of Authorization and Appeal 1575. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines • SB 1111 and SB 1441 (On hold until CCR 1575 completed) 1502. Delegation of Certain Functions 1523. Licensure and Examination Requirements 1575. Disciplinary Guidelines 1575.1. Required Actions Against Registered Sex Offenders 1575.2. Unprofessional Conduct • Approved 1536. Continuing Optometric Education 1518. Fictitious or Group Names 1520. Infection Control Guidelines 1523. Licensure Examination Requirements 1531. Licensure Examination 1532. Re-Examination 1533. Re-Scoring of Examination Papers 1561. Topical Pharmaceutical Agents Usage – Purpose and Requirements 1571. Requirements for Glaucoma Certification 	<p>October 2012</p> <p>February 2013</p> <p>June 2013</p> <p>Completed</p>
<p>Monitor and participate in all legislation that affects the practice of optometry, including new technologies and emerging trends. Staff responsible: Mona, Andrea</p> <ul style="list-style-type: none"> • In Progress: AB 761 Clinical Laboratory Test (CLIA) SB 690 Provider Anti-Discrimination AB 778 Co-location of optometrists and opticians 	<p>Always Ongoing</p>

GOAL 3 – LEGAL AND REGULATORY CONTINUED OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Successfully participate in Sunset Review process and extend the Board’s sunset date. Staff responsible: Mona, All staff</p> <ul style="list-style-type: none"> • Reviewing materials of other Boards who have already gone through sunset review to get a sense of the questions that the Sunset Review Committee will be asking. • The Board’s Sunset Review takes place January 1, 2014. 	January 1, 2014
<p>Establish process for assessing continuing competency of optometrists. Staff responsible: Mona, Board members</p> <ul style="list-style-type: none"> • Review current continuing education requirements. • Considerations - Should optometrists be required to re-examine after a certain amount of years in practice? Every 5 years, every 10 years? • Work with other state Boards to participate in development of a process. DCA recruited Executive Officers to participate in a workgroup to explore options. Mona was part of the workgroup, but with the change in administration, there has not been any follow-through to develop the workgroup. In February 2012, Mona inquired about the workgroup, but if no news is heard by May 2012, Mona plans create a group of Executive Officers independent of DCA to explore this issue further. • The Board will maintain a “watch” position until there are further developments. 	Ongoing
GOAL 4 – ENFORCEMENT: Protect 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 the State of California.	
OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Participate in the development and implementation of DCA’s new enforcement model. Staff responsible: All enforcement staff</p> <ul style="list-style-type: none"> • Summer 2010 to present – Cheree and Jessica are participating in the Department’s BreEZe Project, which includes the implementation of a new database that will satisfy both licensing and enforcement requirements, and track a wider variety of statistics with more accuracy. Cheree and Jessica are active members in workgroups developed as part of this project. These groups are: Data Conversion and Forms. • Ongoing – Jessica and Cheree participate in the Enforcement User’s Group meetings which meet quarterly to discuss enforcement statistics and case tracking. • February 28 – March 1, 2011 - Jessica and Mona served on the Probation Monitoring Workgroup that created a training program for DCA probation monitors. The outcome of the workgroup was a Probation Monitoring Manual. Likewise, Jessica created a forum for DCA probation monitors to share best practices. • In accordance with the Consumer Protection Enforcement Initiative, Cheree issues monthly statistical reports to DCA detailing complaint case activity. 	June 2013

GOAL 4 – ENFORCEMENT CONTINUED OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Train and augment enforcement staff on the implementation of the entire enforcement process. Staff responsible: All enforcement staff</p> <ul style="list-style-type: none"> • Ongoing – Staff holds weekly meetings to discuss enforcement processes and cases. • April 2010 to May 2010 and Spring 2011– Staff attended and graduated from the Department's Enforcement Academy training series. • Jessica and Cheree participate in the Enforcement Users Group, to discuss monitoring of statistics and case tracking. • February 1, 2011 – Brianna, Jessica, and Lydia attended the National Certified Investigator/Inspector Training. This two-day course discussed investigative report writing and how to properly and effectively conduct an interview and investigation. • February 24, 2011 – Brianna, Jessica, Lydia, and Cheree attended the California District Attorney Association (CDAA) training conference hosted by the Department. Here, Department representatives discussed their enforcement processes and District Attorneys presented exemplar cases to promote participation with them by Boards and Bureaus. • October 24-28, 2011 – Dillon completes Regulatory Investigative Techniques • Jessica plans to create Probation Monitoring Guidelines for enforcement staff. • Jessica plans to update the Worksite Monitoring Guidelines. 	<p>Always Ongoing</p>
<p>Develop and implement training program and retain subject matter experts. Staff responsible: Cheree, Lydia</p> <ul style="list-style-type: none"> • 2010-2011 recruitment link, advertisement and registration form posted on the Board's website and sent in Fall 2011 Newsletter. • Currently, the Board has four enforcement subject matter experts reviewing cases. One case has been closed and the other three are pending review. • Lydia is responsible for ensuring that each subject matter expert has a contract with the state in order to provide services. • Expert Witness Handbook – in development. 	<p>Recruitment process completed</p> <p>Handbook to be completed 2012-2013</p>
<p>Explore feasibility of gaining site inspection authority. Staff responsible: TBD</p> <ul style="list-style-type: none"> • Pending development. Due to the current fiscal climate, this issue has been in suspense. Legislation would be required and it is not feasible at this time. The Board will continue to do research and monitor possible support. 	<p>2013 or 2014</p>

GOAL 4 – ENFORCEMENT CONTINUED OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Explore further options for preventing unlicensed practice of optometry. Staff responsible: All enforcement staff</p> <ul style="list-style-type: none"> • June 2010 – Educational letter sent to businesses suspected of selling cosmetic contact lenses without a license requesting evidence of licensure or registration to dispense, and that they cease the sale of the lenses if they did not have a license. • June 24, 2010 – Unlicensed Activity Unit presents resources that are available to DCA Boards to fight unlicensed activity. • October 2010 – Flier distributed to teenagers regarding the dangers of cosmetic contact lenses without a prescription and press conference held at a costume store. • March 4, 2011 – Staff presents at the Northern California Consumer Protection Committee's roundtable about the Board's cosmetic contact lens unlicensed activity cases. The District Attorneys in attendance expressed interest in prosecuting these cases. • February 1, 2012 – Complaint from a consumer results in Napa man pleading no contest to selling and dispensing contact lenses without a license. An article in the Napa Valley Register is published. The Board's outreach has been effective. 	Ongoing
GOAL 5 – EDUCATION AND OUTREACH: Proactively educate, inform and engage consumers, licensees, optometry students and other stakeholders on the practice of optometry and the laws and regulations which govern it.	
OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Publish summaries of disciplinary actions. Staff responsible: Dillon</p> <ul style="list-style-type: none"> • March 2010 - Staff begins posting this information. • December 2010 – present: Dillon writes a summary and scans all public documents from disciplinary actions for web posting. Thus far, summaries for disciplinary cases from 2007 to present have been posted on the website. Summaries and public documents from disciplinary cases rendered prior to 2007 will be posted to the website by June 2012 as the Board's enforcement unit completes its reorganization of enforcement files to prepare for DCA's conversion to BreEZe. • October 2011- Present: Enforcement staff reviews all Closed Complaint, Citation, and Disciplinary records to purge files per the Board's approved Retention Schedule. Remaining files are reorganized and checked against Consumer Affairs System to ensure only correct data is transmitted into BreEZe. • March 2012- Present: Synopses and Public Documents from each Disciplinary Case to be posted to Board website upon individual file review and Consumer Affairs System data correction (if applicable). Entries for each Discipline Record will also be posted to the National Practitioner's Databank. • Disciplinary actions are included in the Board's bi-annual newsletter. 	Completion Date: January 2013

GOAL 5 – EDUCATION AND OUTREACH CONTINUED OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Develop and disseminate a “Your State Board Starter Kit for New Optometrists.” Staff responsible: All staff</p> <ul style="list-style-type: none"> • Pending development. 	<p>Completion: TBD</p>
<p>Continue the program for outreach to optometry students in California. Staff responsible: All staff</p> <ul style="list-style-type: none"> • Staff has requested and received preliminary approval from the University of CA, Berkeley, the Southern CA College of Optometry, and Western University of Health Sciences to hold three quarterly Board meetings on their campuses. This will be beneficial to the students and increase the Board's visibility. <p>Historically, staff has presented information to only the 4th years students. In Fall 2011, the schools and colleges requested that the Board presentation be held for 3rd year students as well. This will ensure that future licensees are aware of the Board requirements before it is too late.</p>	<p>Always Ongoing</p>
<p>Continue outreach to licensed optometrists at optometric events. Staff responsible: All staff</p> <ul style="list-style-type: none"> • Researching possibility of attending California Optometric Association (COA) Society meetings. • Continue to attend the Monterey Symposium. • Continue to request permission to attend ARBO meetings. • Continue participating at COA's Key Person day each year and House of Delegates. 	<p>Always Ongoing</p>
<p>Expand involvement in consumer outreach and health fairs. Staff responsible: All staff</p> <ul style="list-style-type: none"> • Work with the DCA Outreach Unit, Department of Health Services and COA societies to identify possible events for participation. 	<p>Ongoing</p>
<p>Develop regular PR opportunities that highlight timely and pertinent optometric information. Staff responsible: All staff, Board Public Affairs Committee</p> <ul style="list-style-type: none"> • 2010 and 2011 – Held press conference to create awareness about the dangers of using cosmetic contact lenses without a prescription at a local Halloween store. Received coverage from four Sacramento news stations. These were coordinated by Andrea (2010) and Brianna (2011). • March 4, 2011 – Cheree and Brianna did cosmetic contact lens outreach at the Northern California Consumer Protection Committee's roundtable discussion. • Fall 2011 – The Board launched Facebook and Twitter pages. Cheree is now responsible for the management of the pages. • DCA has offered to work with staff in the development of YouTube videos in order to share information with consumers in a more relevant manner. • The Board now has Public Affairs Committee composed of members Donna Burke and Alexander Kim. Their first meeting was held on October 18, 2011. 	<p>Ongoing</p>

GOAL 5 – EDUCATION AND OUTREACH CONTINUED OBJECTIVES AND TACTICS	STATUS/ COMPLETION DATE
<p>Develop and disseminate new publications and forms in multiple languages. Staff responsible: Andrea, All staff</p> <ul style="list-style-type: none"> • The Board of Optometry Newsletter is printed bi-annually. The Spring 2012 edition is being drafted, and upon completion, will be mailed to 2500 randomly chosen optometrists. • Department's Office of Publications, Design & Editing (PDE) has updated the following publications: Cosmetic Contact Lenses Focus on Consumer Protection Focus on Your Eyes 	<p>Always Ongoing</p> <p>Completed</p>
<p>Continue to leverage the Board website as a source of education and outreach to consumers and licensees. Staff responsible: Andrea</p> <ul style="list-style-type: none"> • Constant updates to Board's website to find the best and most user-friendly ways to provide information to licensees and consumers. No major changes have been made this year. • Prepare for DCA's website overhaul promoted by new administration. There is a push to re-design of all government websites so that they will be more user-friendly and visually appealing. http://www.gov.ca.gov/ 	<p>Ongoing</p> <p>Unknown</p>
<p>Develop and foster partnership with health care advocates and stakeholders. Staff responsible: All staff</p> <ul style="list-style-type: none"> • Continue relationships with the following organizations: <ol style="list-style-type: none"> 1. California Optometric Association 2. Department of Health Services 3. California Medical Board 4. Northern California District Attorneys 5. Office of Senator Ed Hernandez 6. Office of Senator Bill Emmerson 7. California Academy of Eye Physicians and Surgeons 8. Office of the Attorney General 9. Department of Managed Healthcare 10. Assembly and Senate Business and Professions, and Health Committees 11. The Department of Consumer Affairs 12. The American Optometric Association 13. The Office of Administrative Law 14. The California Medical Association 15. The Center for Public Interest Law 16. Citizen's Advocacy Group 17. All Schools and Colleges of Optometry 	<p>Always Ongoing</p>
<p>Proactively participate in DCA's disaster recovery efforts. Staff responsible: Lydia</p> <ul style="list-style-type: none"> • December 2011 – Continuity Plan Completed • Planning to create an internal emergency plan 	<p>Ongoing</p>

GOAL 6 – ORGANIZATIONAL EFFECTIVENESS: Develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve Board’s provision of programs and services.	
OBJECTIVES AND TACTICS	STATUS
Identify staff training needs and establish corresponding training plan. Staff responsible: All staff <ul style="list-style-type: none"> • Staff is proactive when it comes to their training needs. 	Always Ongoing
Solidify the Board’s national presence as a regulator of optometry. Staff responsible: All staff, Board members <ul style="list-style-type: none"> • Continue to request permission to attend national optometric meetings held by ARBO, AOA, COA and others. 	Always Ongoing
Implement new Board member orientation and training program. Staff responsible: Brianna Miller <ul style="list-style-type: none"> • Orientation and training information was incorporated into the Administrative Procedures Manual. Provided to members at March 2, 2012 Board meeting. 	Completed
Update and revise Administrative Procedures Manual. Staff responsible: Brianna <ul style="list-style-type: none"> • Published in the form of a handbook and includes referential material. Provided to members at March 2, 2012 Board meeting. 	Completed
Continually update and disseminate California Laws and Regulations Related to the Practice of Optometry. Staff responsible: Andrea <ul style="list-style-type: none"> • March 2011 – Last time law book was updated. Will be updated again in 2013. 	Completed until the next update January 2013
Develop and implement an online customer satisfaction survey. Staff responsible: Andrea <ul style="list-style-type: none"> • Update on results to be provided at a future Board meeting. 	Completed and waiting to provide update.
Continue to hold Board meetings in geographically diverse areas of state and invite local stakeholders. Staff responsible: Mona, Jeff, Board members <ul style="list-style-type: none"> • California schools and colleges of optometry 	Always Ongoing

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Brianna Miller
Enforcement Analyst

Telephone: (916) 575-7185

Subject: **Agenda Item 12 – Review and possible approval of revised Consumer Pamphlets**

Action Requested:

Staff requests that the Board review, edit, and approve the updated consumer pamphlets, which will serve as a measure of outreach taken by the Board.

Issue:

Staff presented the following consumer pamphlets to the Board at the December 2, 2011 meeting:

1. **Cosmetic Contact Lenses:** This pamphlet was assembled to notify the public about the health risks that purchasing cosmetic contact lenses without a prescription from an unlicensed vendor can pose. This pamphlet also serves to garner attention from licensees about this matter and promote our enforcement efforts. As such, the pamphlet asks that consumers and licensees notify the Board of vendors who are selling these lenses accordingly.
2. **What to Expect at an Eye Examination:** Because some consumers are not frequent visitors to an optometrist, this pamphlet was developed to give them an idea of what to expect when they do get their eyes examined. Some text in this pamphlet includes an overview of various eye-care providers, tests that a consumer might expect at an exam, as well as prescription requirements.
3. **Focus on Consumer Protection:** This pamphlet introduces the public to the Board as a consumer protection agency and offers a variety of services which the Board can provide, including the various types of certifications issued to optometrists and how a consumer may file a complaint. This pamphlet also offers Frequently Asked Questions as an informational guide to consumers.

Board Members requested several revisions to these pamphlets. Examples of such revisions include new text (e.g. What to Expect at an Eye Exam) and a new cover for the Cosmetic Contact Lenses pamphlet.

Should the Board vote to approve these revisions, these pamphlets will be posted on the website and distributed to various optometrists across the State.

Attachments:

- 1) Cosmetic Contact Lenses pamphlet
- 2) Focus on Your Eyes: What to Expect from Your Optometrist pamphlet
- 3) Focus on Consumer Protection

REPORT VIOLATORS

If you are aware of any business or individual selling cosmetic contact lenses without a license, please report the person or business to the California State Board of Optometry. The Board will investigate the matter. Fines for selling contact lenses without a license can range from \$1,000 to \$2,500 per incident.



2450 Del Paso Road, Suite 105
Sacramento, CA 95834

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(916) 575-7170
(866) 585-2666

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COSMETIC CONTACTS

CHANGE THE LOOK
OF YOUR EYES
SAFELY AND LEGALLY



Cosmetic contact lenses are a fun way to temporarily change your eye color to match an outfit or a mood. Cosmetic contacts can give you tiger eyes, bloodshot eyes, or other effects to make a Halloween costume scarier.

However, the real scare comes from buying cosmetic contacts without a prescription from an unlicensed dealer. You could end up with an eye infection, scratched cornea, impaired vision – or worse.

In California, cosmetic contacts, just like contacts to correct your vision, must be prescribed by a licensed optometrist or ophthalmologist. You must buy your lenses only from licensed optometrist or ophthalmologist or from a licensed contact lens dispenser.

You may find cosmetic contacts for sale at flea markets, beauty salons, or accessory stores, but that doesn't mean the sales are legal.

Selling cosmetic contact lenses without a State license is against the law.

WHAT ARE COSMETIC CONTACT LENSES?

Cosmetic contact lenses can be plano (zero-powered) lenses, meaning they have no prescriptive power, or they can be vision-correction lenses with added cosmetic touches. Both kinds are regulated medical devices under the U.S. Food and Drug Administration.

What if you just want zero-powered cosmetic contacts to wear once or twice?

You still need an eye exam and a prescription from an eye doctor, to be sure the lenses will fit you properly. The doctor or his or her assistant will show you how to handle and clean the lenses.

WHAT ABOUT ONLINE SALES?

Out-of-state companies that sell contacts on the Internet to California residents also must be licensed. These companies must verify your prescription with your eye doctor.

HOW DO YOU KNOW IF A COMPANY OR YOUR DOCTOR IS LICENSED?

VERIFY THE LICENSE

Optometrists are licensed by the Board of Optometry to conduct eye examinations, treat various eye conditions, and prescribe glasses and contact lenses. Optometrists provide the majority of Americans' eye care. Verify an optometrist's license at www.optometry.com.

Ophthalmologists (medical doctors who specialize in care and treatment of eyes) are licensed by the Medical Board of California. You may verify an ophthalmologist's license at www.mbc.ca.gov.

Registered Dispensing Opticians and/or optical shops are authorized to fill contact lens prescriptions and are registered by the Medical Board of California. To verify if someone is an optician, visit www.mbc.ca.gov.



REGULAR CHECK-UPS PROTECT YOUR VISION

Did you know that the leading cause of blindness for people under 65 is Diabetes? That cataracts and glaucoma can be treated and good vision maintained? Good eye health starts with going to your optometrist or ophthalmologist to ensure that your eyes are monitored and conditions detected early.

Some eye problems have few warning signs and no pain. Regular visits to an eye care professional (optometrist or ophthalmologist) can help ensure that any eye problem is found and treated early.

The California State Board of Optometry believes that routine eye exams are crucial for you to maintain good eye health.



FOCUS ON YOUR EYES

WHAT TO EXPECT AT AN EYE EXAMINATION



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Sacramento, CA 95834

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(866) 585-2666

EYE CARE PROVIDERS – THE FOUR O'S

Optometrists provide primary vision care. They conduct examinations to determine the overall health of the eyes and screen for disease such as glaucoma, cataracts, macular degeneration, hypertensive retinopathy, and diabetic retinopathy. They also prescribe corrective lenses (glasses and contact lenses) as needed. Some Optometrists with additional certifications can prescribe medications to treat common eye diseases such as red eye and conjunctivitis, even glaucoma. The Board of Optometry licenses and regulates these eye care professionals. Optometrists may use the letters O.D. after their names.

Ophthalmologists are medical doctors who perform eye surgeries for problems such as cataracts, glaucoma, and macular degeneration. Ophthalmologists can also treat eye diseases and prescribe corrective lenses. The Medical Board of California licenses ophthalmologists. They may use the letters M.D. after their names.

Opticians are individuals and businesses that fill prescriptions for eyeglasses and contact lenses. They are regulated by the Medical Board of California.

Optometric assistants take a patient's history and perform some simple vision tests, including automated tests and those that take digital images of the eye. They may also fit prescription lenses and administer certain topical medications under the supervision of an optometrist or ophthalmologist. Optometric assistants are not licensed or regulated.

WHAT TO EXPECT DURING YOUR EYE EXAM

In order to evaluate the health of your eyes, an optometrist (or ophthalmologist) may:

1. Obtain and assess your case history.
2. Conduct a thorough examination to determine the internal and external health of your eyes. For instance, to evaluate for glaucoma, an optometrist may conduct a visual field evaluation and check your eye pressure.
3. Conduct a thorough evaluation of your refractive status (how your eyes focus and coordinate) and determine a prescription, accordingly.

Your optometrist may dilate your eyes (by administering eye drops) and/or take pictures of your eye in order to diagnose and document any vision or eye health problems.

WHAT TO EXPECT AFTER YOUR EXAM

After your eye exam, your doctor will explain what he or she found. If an abnormality is detected, he or she will discuss treatment options.

Your doctor may also schedule a follow-up exam for you. If you need a prescription, he or she will give it to you after your exam and review your options for filling it.

WHAT YOUR PRESCRIPTION INCLUDES

Under Federal regulations, if glasses are prescribed, optometrists or ophthalmologists must give each patient a copy of his or her prescription immediately after an eye exam; or, if contact lenses are prescribed, at the completion of a contact lens fitting process.

Once obtained, your prescription should include the prescribing optometrist's name, license number, address, telephone number, and signature.

MAINTAINING GOOD EYE CARE IS NOT JUST FOR ADULTS

Nearly 25 percent of school-aged children have vision problems, which can cause them to struggle in school. Undetected and untreated vision problems can leave a child with permanent vision damage later in life.

Children should have their first comprehensive eye examination before they enter school.

The California State Board of Optometry is a consumer protection agency that licenses and regulates optometrists and the optometry profession. If you have questions about an optometrist, or would like to file a complaint, please contact the Board.

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170
(888) 585-2666 (toll free)

MISSION STATEMENT

The mission of the California State Board of Optometry is to serve the public and optometrists by promoting and enforcing laws and regulations which protect the health and safety of California's consumers and to ensure high quality care.

CALIFORNIA STATE BOARD OF OPTOMETRY

FOCUS ON CONSUMER PROTECTION



2450 Del Paso Road, Suite 105
Sacramento, CA 95834

www.optometry.ca.gov

(916) 575-7170

(866) 585-2666

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The California State Board of Optometry issues licenses to optometrists so that they may practice in the State of California. Essentially, a license means that the Board finds an optometrist fit to treat patients. The Board has ensured that the optometrist has completed the proper education and training and has passed both the State and National examinations.

An optometrist practicing in California may have special certifications, or additions, to his or her optometric license. Such certifications include:

- Therapeutic Pharmaceutical Agents (TPA)
- Glaucoma Certification (TPG)
- Lacrimal Irrigation and Dilation (TPL)
- TPA with Lacrimal and Glaucoma (TLG)

When considering an optometrist, you may want to contact the Board of Optometry to ensure that the person you selected holds an active license and to find out whether he or she has been disciplined by the Board. Call (916) 575-7170 or visit www.optometry.ca.gov.

Additionally, details on the laws and regulations related to the practice of optometry are available on the Board's Website at www.optometry.ca.gov/lawsregs/law.pdf.

TIPS FOR CONSUMERS

PRESCRIPTIONS

Under Federal regulations, optometrists and ophthalmologists must give each patient a copy of his or her prescription immediately after an eye exam or the completion of a contact lens fitting process.

Your prescription, once obtained, should include the prescribing optometrist's name, license number, address, telephone number, and signature.

MEDICAL RECORDS

You have the right to obtain a copy of your medical records from your optometrist. Once you submit your request in writing, the records must be provided within 15 days. The doctor may charge a fee to cover the cost of copying the documents.

ADDITIONAL FEES FOR CONTACT LENS WEARERS

Some doctors charge an additional fee for a contact lens fitting and evaluation, partially because this requires additional times. Ask about fees and office policies before making an appointment.

REIMBURSEMENTS

Fee disputes are often solved by contacting your provider or insurance company directly. However, should you choose to take this matter to the Board, be advised that the Board does not have the authority to require an optometrist to reimburse you for costs or services as well as dictate to the optometrist the fees that he or she charges. If you wish to pursue reimbursement through Small Claims Court, you may contact the Board for an informational packet.

EXPIRED PRESCRIPTIONS

An expired eyeglass prescription may be refilled only if your glasses are lost or broken. If you need a prescription refilled, the Board recommends that you return to your eye doctor for an exam, even if you don't think your prescription has changed.

COMPLAINTS ABOUT OPTOMETRISTS

You should contact the Board if you wish to file a complaint against an optometrist. The Board is responsible for investigating complaints and disciplining optometrists who violate the law.

Complaints against optometrists can include the following:

- Failure to provide appropriate medical care
- Dishonesty, including filing fraudulent insurance, Medicare, or Medi-Cal claims
- Gross negligence, incompetence, and unprofessional conduct
- Sexual misconduct
- Drug or alcohol abuse
- Conviction of certain crimes
- Unsanitary working conditions

If the allegations are proven to be true, the optometrist could face license revocation, suspension, or probation.



2420 Del Paso Road, Suite 255
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Jeff Robinson
Licensing Analyst

Telephone: (916) 575-7171

Subject: Agenda Item 13 – Examination/Licensing Programs Report

Presented by Jeff Robinson, Licensing Analyst

A. Continuing Education Program

On January 24, 2012, per the request of Tamalon Littlefield, the California Optometric Association's (COA) Meeting and Event Planner, the California State Board of Optometry's (Board) Executive Officer and licensing analyst met with Ms. Littlefield, COA Executive Director Bill Howe, and Education and Conference Coordinator Brenda Stewart to discuss the provisions of California Code of Regulations (CCR) section 1536 (Continuing Optometric Education; Purpose and Requirements).

COA was interested in learning about any limitations the regulation might have in regard to their interest in providing more self-study courses to their members, the Board's stance on the review and approval of continuing optometric education (CE) courses submitted by COA's local societies during "blackout" dates (dates when the COA has one of their annual CE symposiums scheduled), and assistance in providing them with the most up-to-date information that they could pass on to their members.

The COA contingent was reminded that the Board recognizes them as a CE provider whose courses are approved as meeting the required standards of the Board and that any self-study course they wanted to provide would be acceptable as long as it was likely to contribute to the advancement of professional skill and knowledge in the practice of optometry.

In regard to any concerns that their local societies had in submitting CE courses to them during the "blackout" periods, while the COA typically services their local societies by reviewing the CE courses they submit, those that seek more than two hours of CE credit during the "blackout" periods cannot be accommodated. Therefore, it has been COA's practice to refer their local societies to the Board who have in the past, and will continue to, process their requests for approval of CE courses.

Licensing staff was provided with a copy of COA's CE facts that is being reviewed. Suggestions are being made by staff for possible updates to the document, which will be provided for COA's members on the COA web site.

B. Statistics and Performance Measures

Please refer to Attachment 1 for the statistics and performance measures from the end of the last quarter and beginning of this quarter.

C. Forms/Applications Revised

Attachment 2 contains the revised "*Application for Statement of Licensure*" (SOL) and "*Application for Branch Office License*" (BOL) completed by Andrea Leiva and the licensing staff. These applications have been posted to the Board's website. Revisions to other license applications and forms are forthcoming.

Attachment(s)

- 1) Licensing statistics from 11/01/11 thru 02/17/12
- 2) Revised license applications

**LICENSING STATISTICS FROM 11/01/11 THROUGH 02/17/12 TO
BE PROVIDED AT THE MEETING**



STATE BOARD OF OPTOMETRY
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 P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



BOARD USE ONLY
 Cashiering # _____
 SOL # _____
FEE: \$40

APPLICATION FOR STATEMENT OF LICENSURE

Instructions: This application is to be completed by optometrists who are **employed or contracted** to practice optometry at a location that is not their principal place of practice. An optometrist's principal place of practice is the practice location to which the optometrist (OPT) license is issued. The Statement of Licensure must be conspicuously posted in the practice location to which it was issued.

***NOTE:** A Statement of Licensure is not transferable. This license must be renewed biennially on the same date as your optometrist license.

Please Print or Type

1.	Applicant Information:				
	Last	First	Middle I.	OPT License#	
	Principal Place of Practice Address		City	State	Zip Code
	Phone #	Cell #	E-mail		
2.	Practice Location to be Listed on Statement of Licensure:				
	Address	City	State	Zip Code	Phone #
3.	Employer(s) Information for Statement of Licensure Location:				
	If your employer is an individual (sole proprietor), please list their name. If your employer is an optometric practice, please list the business name.				
	Name of Employer		OD, MD, or DMHC License #		
	Name of Employer		OD, MD, or DMHC License #		
	Information provided on this application that differs from this Board's, the Medical Board or Department of Managed Health Care records will result in an application processing delay. Please provide an attachment to this application if there are more than two employers at the location of employment.				
4.	Declaration:				
	<i>I the undersigned hereby declare under penalty of perjury under the laws of the State of California that all statements made on this application are true and correct and that I have read, understand, are, and will be in compliance with the provisions of the California Business and Professions Code §655, 3070, 3075 and 3103, California Code of Regulation §1506, and other such laws, rules and regulations as may be relevant.</i>				
	Signature of Applicant:		Date Signed:		
	_____		_____		

Authority and Further Instructions to Complete the Application for Statement of Licensure

Business and Professions (BPC) Code §3070 requires licensed optometrists to notify the Board of every location at which they practice or intend to practice optometry on a regular basis.

BPC Code §3075 requires that optometrists post in each location where he or she practices optometry, in an area that is likely to be seen by all patients who use the office, his or her current license or other evidence of current license status issued by the board.

California Code of Regulations §1506 further requires that where a licensee does not own a practice but practices optometry in a single office as an employee or a contractor, that office shall be his/her principal place of practice and where a licensee does not own a practice, singly or jointly with any others, but practices in two or more offices as an employee or a contractor, he/she shall inform the Board in writing of such offices and shall have a statement of licensure issued by the Board and conspicuously posted in each of such additional offices wherein he/she practices optometry as an employee, provided that: (1) He/she shall first apply for a statement of licensure for the exact location of the office wherein it is to be posted in lieu of his/her certificate of licensure; (2) He/she shall not post a statement of licensure in any office other than that as authorized by such statement of licensure and; (3) A statement of licensure shall not be altered or assigned.

A statement of licensure is to be immediately surrendered to the Board by the licensee to whom it is issued upon the occurrence of any of the following: (1) His/her certificate becomes expired, is suspended or is revoked; (2) His/Her employer terminates ownership of the practice or his/her employment to practice optometry in the office wherein he/she is authorized by a statement of licensure and; (3) The office wherein he/she is authorized by a statement of licensure becomes the only office wherein he/she is employed to practice optometry.



STATE BOARD OF OPTOMETRY
 2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
 P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



APPLICATION FOR BRANCH OFFICE LICENSE

BOARD USE ONLY
 Cashiering # _____
 BOL # _____
FEE: \$75

Instructions: This application is to be completed by licensees establishing or acquiring an optometric practice in addition to the principal place of practice which is designated by the optometrist license. This application is not intended for licensees not owning a practice. In signing the declaration in section five, applicant(s) certify compliance with the laws stated on this application. Per Business and Professions Code (BPC) §3077, any optometrist, or any two or more optometrists with valid licenses to practice optometry in California may open a branch office providing a branch office license is first obtained from the Board. If any optometrist, or any two or more optometrists desire to open two or more branch offices, as a condition for the issuance of the branch office licenses, all optometrists shall be in attendance 50% of the time all of the optometrists' offices are open for the practice of optometry. Independent Practice Associations (IPA) are exempt from this condition.

* **NOTE:** Applicants intending to use a fictitious name at a branch office location, must also apply for a fictitious name permit. Fictitious name permit applications are available at www.optometry.ca.gov. Branch Office Licenses must be renewed annually if the Branch Office is to continue in operation.

Please Print or Type

1.	Applicant(s) Information			
	List all licensed optometrists who have financial interest in the business. Do not list employees.			
1a.	Applicant 1 (If you place your name here, you will be the primary contact)			
	Last	First	Middle	OPT License #
	Principal Place of Practice Address			
	Phone#	Cell#	E-mail	
1b.	Applicant 2			
	Last	First	Middle	OPT License #
	Principal Place of Practice Address			
	Phone#	Cell#	E-mail	
1c.	Applicant 3			
	Last	First	Middle	OPT License #
	Principal Place of Practice Address			
	Phone#	Cell#	E-mail	
2.	Branch Office Address:			
	Address	City	State	Zip Code
	Phone #	Fax#		
3.	The Type of Property Where the Branch Office is Located			
	<input type="checkbox"/> Applicant(s) wholly owned. (If you checked this box, a copy of the Title or Deed <u>must</u> be attached to complete this application.)			
	<input type="checkbox"/> Leased. Provide the Lessor's Name: _____ and Phone #: _____ (If you checked this box, a copy of the lease agreement <u>must</u> be attached to complete this application. If you hold a sub-lease, a copy of the Master Lease agreement <u>must</u> also be attached.)			
	<input type="checkbox"/> Rented. Provide the Landlord's Name: _____ and Phone #: _____ (If you checked this box, a copy of the rental agreement <u>must</u> be attached to complete this application.)			

4.	Schedule (Skip this section if this is only the second location you own) If this is your third location (second branch office), you must complete the attached schedule	
	A separate schedule must be submitted for each applicant listed in Box 1 who is in the position of this being a third location with ownership status. You may duplicate this page for this purpose. Each optometrist must be in personal attendance at each of his or her offices 50 percent of the time during which the office is open for the practice of optometry (BPC 3077(i)).	
5.	Certification	
	<i>I/We the undersigned hereby declare under penalty of perjury under the laws of the State of California that all statements made on this application are true and correct and that I/we have read, understand, are, and will be in compliance with the provisions of California Business and Professions Code §655, 3070, and 3077 as stated on pages 2-3 of this application and other such laws, rules and regulations as may be relevant, and that optometric practice conducted at the address in Box "2" is wholly owned and entirely controlled by the applicant(s).</i>	
NOTE: Signatures must be executed for each optometrist applying for this Branch Office License. If additional space is needed, please use an attachment to this application.	Signature: Licensee Listed in Box 1a	Date Executed
	Signature: Licensee Listed in Box 1b	Date Executed
	Signature: Licensee Listed in Box 1c	Date Executed

CALIFORNIA LAW PERTAINING TO OPTOMETRIC BRANCH OFFICES

BPC Code §655. Prohibition of Business Arrangements Between Optometrists and Opticians or Persons in Optical Product Business:

- (a) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with any person licensed under Chapter 5.5 (commencing with Section 2550) of this division.
 - (b) No person licensed under Chapter 5.5 (commencing with Section 2550) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit sharing arrangement in any form directly or indirectly with any person licensed under Chapter 7 (commencing with Section 3000) of this division.
 - (c) No person licensed under Chapter 7 (commencing with Section 3000) of this division may have any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products.
- 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.**
- (Added Stats 1969 ch 133 § 1. Amended Stats 1979 ch 975 § 1, operative January 1, 1983)**

BPC §3070. Controlling the Practice of Optometry Requires License to Practice

- (a) Before engaging in the practice of optometry, each licensed optometrist shall notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of optometry and, also, of any changes in his or her place of practice. The practice of optometry is the performing or the controlling of any of the acts set forth in Section 3041.
(Amended Stats 2007 ch 276 § 2 (AB 986), effective January 1, 2008)

BPC §3077. Branch Offices

As used in this section "office" means any office or other place for the practice of optometry.

- (a) No person, singly or in combination with others, may have an office unless he or she is registered to practice optometry under this chapter.
- (b) An optometrist, or two or more optometrists jointly, may have one office without obtaining a further license from the board.
- (c) On and after October 1, 1959, no optometrist, and no two or more optometrists jointly, may have more than one office unless he or she or they comply with the provisions of this chapter as to an additional office. The additional office, for the purposes of this chapter, constitutes a branch office.
- (d) Any optometrist who has, or any two or more optometrists, jointly, who have, a branch office prior to January 1, 1957, and who desire to continue the branch office on or after that date shall notify the board in writing of that desire in a manner prescribed by the board.
- (e) On and after January 1, 1957, any optometrist, or any two or more optometrists, jointly, who desire to open a branch office shall notify the board in writing in a manner prescribed by the board.

**Application for Branch Office License
California Law Pertaining to Optometric Branch Offices cont.**

- (f) On and after January 1, 1957, no branch office may be opened or operated without a branch office license. Branch office licenses shall be valid for the calendar year in or for which they are issued and shall be renewable on January 1st of each year thereafter. Branch office licenses shall be issued or renewed only upon the payment of the fee therefore prescribed by this chapter.
- On or after October 1, 1959, no more than one branch office license shall be issued to any optometrist or to any two or more optometrists, jointly.
- (g) Any failure to comply with the provisions of this chapter relating to branch offices or branch office licenses as to any branch office shall work the suspension of the certificate of registration of each optometrist who, individually or with others, has a branch office. A certificate of registration 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 certificate of registration after suspension for failure to comply with the provisions of this chapter relating to branch offices.
- (h) The holder or holders of a branch office license shall pay the annual renewal fee therefore in the amount required by this chapter between the first day of January and the first day of February of each year. The failure to pay the fee in advance on or before February 1st of each year during the time it is in force shall ipso facto work the suspension of the branch office license. The license shall not be restored except upon written application and the payment of the penalty prescribed by this chapter, and, in addition, all delinquent branch office fees.
- (i) Nothing in this chapter shall limit or authorize the board to limit the number of branch offices that are in operation on October 1, 1959, and that conform to this chapter, nor prevent an optometrist from acquiring any branch office or offices of his or her parent. The sale after October 1, 1959, of any branch office shall terminate the privilege of operating the branch office, and no new branch office license shall be issued in place of the license issued for the branch office, unless the branch office is the only one operated by the optometrist or by two or more optometrists jointly.
- Nothing in this chapter shall prevent an optometrist from owning, maintaining, or operating more than one branch office if he or she is in personal attendance at each of his or her offices 50 percent of the time during which the office is open for the practice of optometry.
- (j) The board shall have the power to adopt, amend, and repeal rules and regulations to carry out the provisions of this section.
- (k) 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.

Nothing in this subdivision shall be construed to exempt an optometrist who is a member of an individual practice association and who practices optometry in more than one physical location, from the requirement of obtaining a branch office license for each of those locations, as required by this section. However, an optometrist shall not be required to obtain a branch office license solely as a result of his or her participation in an individual practice association in which the members of the individual practice association practice optometry in a number of different locations, and each optometrist is listed as a member of that individual practice association.

(Amended Stats 2006 ch 564 § (AB 2256), effective January 1, 2007)

SCHEDULE
CONTINUATION OF BOX 4 OF BRANCH OFFICE LICENSE APPLICATION

NOTE: DO NOT FILL OUT THIS SCHEDULE IF THIS IS ONLY THE SECOND LOCATION YOU OWN!!
PLEASE TYPE OR PRINT CLEARLY

If this is your third location (second branch office), you must complete this schedule and attach it to your Branch Office Application								
A separate schedule must be submitted for each applicant listed in Box 1 who is in the position of this being a third location with ownership status. You may duplicate this page for this purpose. Each optometrist must be in personal attendance at each of his or her offices 50 percent of the time during which the office is open for the practice of optometry (BPC 3077(i)).								
Name of Applicant _____								
PRINCIPAL PLACE OF PRACTICE								
Address _____								
	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Office Use Only
Hours Open for the Practice of Optometry								
Hours of Personal Attendance								
BRANCH OFFICE NUMBER 1								
Address _____								
	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Office Use Only
Hours Open for the Practice of Optometry								
Hours of Personal Attendance								
BRANCH OFFICE NUMBER 2								
Address _____								
	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Office Use Only
Hours Open for the Practice of Optometry								
Hours of Personal Attendance								
The securing of any license or permit issued by the Board by willfully giving false information or making a false statement, in a material regard, or by fraud or deceit on any application of the Board, or by fraud or deceit practiced upon the Board, constitutes a cause to revoke or suspend the certificate of registration or any other license or permit (BPC 3095).								

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Enforcement Staff

Telephone: (916) 575-7170

Subject: Agenda Item 14 – Enforcement Program Report

A. Unlicensed Activity

Lydia Bracco, Fingerprint Coordinator/Enforcement Analyst

The Board, in cooperation with the California Department of Consumer Affairs' Division of Investigation conducted a "sting" operation at a store in Napa. A consumer complaint alleged that Ahmad Hussein Marini, who worked as General Manager of the "Doc of Rock" store was selling and dispensing cosmetic contact lenses without a license. He pled "no contest" to misdemeanor criminal charges and was placed on three years' probation. In addition, storeowner Najjar R. Sadeddin, was ordered to pay \$6,000 in fines, including nearly \$2,500 to the Board of Optometry to cover the cost of its investigation. Please see the press release in **Attachment #1**.

B. Expert Witnesses

Lydia Bracco, Fingerprint Coordinator/Enforcement Analyst

Four contracts have been approved and all optometrists have had cases assigned to them. Thus far, four cases have been sent to experts and one has been closed with a determination of no violation. The other three are pending review and should be completed by the end of the month.

C. Probation Program

Jessica Siefertman, Probation Monitor/Enforcement Analyst

Phamatech

On February 4, 2012, Jessica Siefertman participated in a teleconference with representatives from DCA's BreEZe technical team, Accenture (BreEZe Vendor), and Phamatech (the Board's drug testing vendor) in order to design the Phamatech interface within BreEZe. The goal for this interface is to have all drug testing results automatically entered into BreEZe, rather than having staff manually enter in each result, including whether or not a probationer failed to log into the system or failed to submit to drug testing. Currently, the Board receives daily notifications indicating selected probationers and any failed log-ins. In addition, the Board receives drug testing results via email within a week from the selection date.

The Board recently experienced some complications with Phamatech's reporting system. Specifically, the Board received three notifications that probationers had failed to submit to drug testing when selected. After receiving evidence to the contrary, Phamatech informed the Board the errors were due to the dates being incorrectly entered into Phamatech's system. Phamatech assured the Board they will do everything in their power to prevent this from happening in the future.

California Laws and Regulations Exam (CLRE)

The current pass rate for first time test takers remains at 33%. Currently, the Board is administering the CLRE via the pencil and scantron method with the presence of Ms. Sieferman. After receiving objections from a probationer, Board staff contacted PSI in order to explore the possibility of probationers taking the CLRE through PSI with other licensing candidates. After successful completion of a PSI exam, the Board may wish to continue taking the exam in this manner. However, this change will also need to be discussed with Accenture (BreZE vendor) to ensure the records are converted properly and there is a distinction between licensing candidates and probationers taking the CLRE.

Completions

After being granted their Petitions for Early Terminations, Doctors' Casey Finn, O.D. and Lisa Breen, O.D. returned to unrestricted practice on January 1, 2012. Dr. Breen remains in contact with Ms. Sieferman in order to participate in the Board presentations at SCCO and Berkeley.

Pending Petitions to Revoke Probation

The Board filed a Petition to Revoke Probation for Dr. Gregory Tom, O.D. on August 18, 2011. The Petition alleges six causes to revoke probation including failing to comply with the following conditions of his Order: Restricted Practice, Reporting, Co-operate with Probation Surveillance, Monitoring, Maintain Records, and Restitution. Dr. Tom had filed a Petition for Early Termination during the June 21, 2011 Board meeting. The Board denied his petition. The hearing for the Petition to Revoke Dr. Tom's probation is tentatively scheduled for the end of March.

Probation Program Statistics

Below are the statistics for the Probation Program as of February 14, 2012:

Probation Data	As of 12/2/11*	Completed	New	Total	% of Total
Male	25	1	0	24	92
Female	3	1	0	2	8
Pending AG	2	1	0	2	8
Active	13	2	0	11	42
Tolled	6	0	0	6	23
Surrendered	9	0	0	9	35
Total:	28	2		26	100%

*last reported data to the Board

D. Statistics/Performance Measures

Cheree Kimball, Enforcement Analyst

Please see the Enforcement Statistical Overview, prepared by Cheree Kimball, in **Attachment #2**. The Performance Measures, prepared by DCA, are in **Attachment #3**.



2450 Del Paso Road, Suite 105
Sacramento, CA 95834

NEWS RELEASE

February 1, 2012

Contact: Russ Heimerich
(916) 574-8171

NAPA MAN PLEADS NO CONTEST TO SELLING AND DISPENSING CONTACT LENSES WITHOUT A LICENSE

Arrest underscores California State Board of Optometry's efforts to halt unlicensed practice

NAPA – A Napa man has pleaded “no contest” to misdemeanor criminal charges for selling cosmetic contact lenses without a license. The plea comes as the result of a “sting” operation conducted by the California Department of Consumer Affairs’ Division of Investigation on behalf of the California Board of Optometry.

Ahmad Hussein Marini, who worked as General Manager of the “Doc of Rock” store in Napa, was placed on three years’ probation as a result of his plea. In addition, storeowner Najjar R. Sadeddin, was ordered to pay \$6,000 in fines, including nearly \$2,500 to the Board of Optometry to cover the cost of its investigation.

“This investigation should send a warning that the Department of Consumer Affairs and the Board of Optometry will not tolerate unlicensed activity in California,” said Department of Consumer Affairs Director Denise Brown. “Unlicensed activity undermines the credibility and undercuts the business of licensed professionals. More importantly, as in this case, there is potential for great consumer harm.” “People don’t realize just how dangerous it is to buy cosmetic contact lenses without a prescription,” said Board of Optometry Executive Officer Mona Maggio. “If contacts aren’t fitted properly, they can cause serious eye damage and, in extreme cases, blindness and eye loss.”

The investigation began as the result of a complaint from a consumer, who alleged Sadeddin was selling and dispensing cosmetic contact lenses without a license. Thirty days after informing him that was against the law, the Board sent out a representative acting as a consumer who found the shop was still operating illegally. The Division of Investigation then conducted its sting operation and arrested Sadeddin.

Decorative contact lenses are especially popular among teens and young adults, and come in a variety of colors and styles. However, like corrective contact lenses, decorative contact lenses may only be obtained with a prescription written by a licensed optometrist or ophthalmologist.

Non-prescription contact lenses that are not properly fitted can cause problems with the eyelid, the conjunctiva, the various layers of the cornea, and even the tear film that covers the outer surface of the eye. There have been reported cases of serious corneal ulcers and infections leading to more serious internal ocular infections. Uncontrolled infection can lead to corneal scarring, vision impairment, and even blindness and eye loss.

###

The Board of Optometry operates under the umbrella of the California Department of Consumer Affairs. Our mission is to serve the public and optometrists by promoting and enforcing laws and regulations which protect the health and safety of California's consumers and to ensure high quality care. Visit the Board's web site at www.optometry.ca.gov

Enforcement Statistical Overview

Fiscal Year	2008/2009	2009/2010	2010/2011	2011/2012*
Complaints				
Complaints Received	227	194	259	128
Complaints Pending	130	62	96**	119
Complaints Closed	182	262	226	103
Subsequent Arrest Reports Received	31	21	21	15
Cases Referred to Division of Investigation (DOI)	0	3	38	27
Cases Pending at DOI	3	2	20	43
Cases Referred to Expert	4	14	6	3
Cases referred to the Office of the Attorney General (AG)	3	10	8	3
Cases Pending at the AGs Office		13	13	8
** Case reopened				
Citations Issued	5	5	2	1
Accusations Filed	4	9	8	1
Statement of Issues Filed	0	1	0	0
Interim Suspension Orders (PC 23)	0	1	0	0
Notice of Warnings Issued	18	0	0	0
Disciplinary Decision Outcomes				
Revoked	0	0	4	1
Revoked, Stayed, Suspension & Probation	0	1	0	0
Probation Revoked	0	0	0	0
Revoked, Stayed & Probation	4	4	4	2
Surrender of License	0	1	1	1
License Issued on Probation	0	0	0	0
Public Reprimand	0	0	0	0
Other Decision		0	0	0
Decisions by Violation Type				
Fraud	2	0	0	0
Gross Negligence/Incompetence	1	1	1	1
Sexual Misconduct	0	0	0	0
Personal Conduct (Alcohol/Substance Abuse)	1	2	4	3
Unprofessional Conduct	0	1	0	0
Probation Violation	0	2	4	0
Other			0	0

*July 1, 2011 through January 31, 2012

Performance Measures

Q2 Report (October - December 2011)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

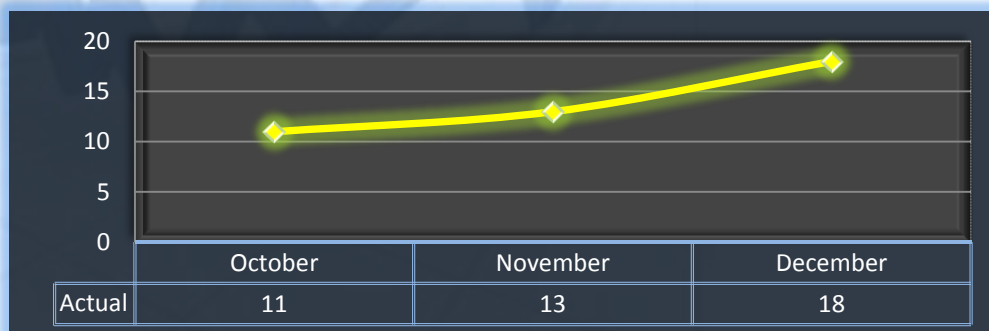
Volume

Number of complaints and convictions received.

Q2 Total: 42

Complaints: 37 Convictions: 5

Q2 Monthly Average: 28

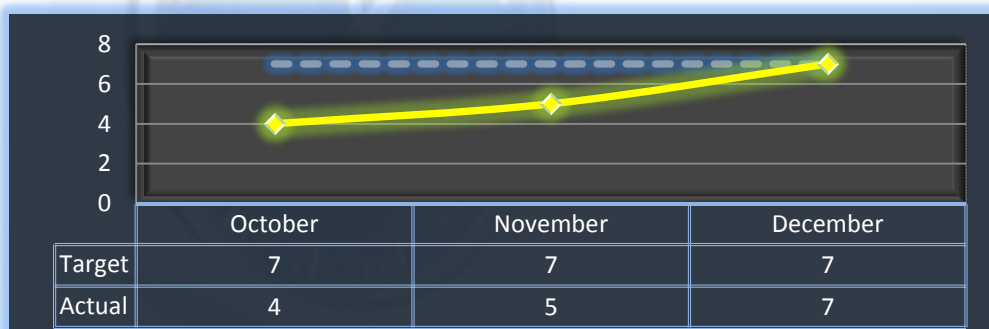


Intake

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

Target: 7 Days

Q2 Average: 5 Days

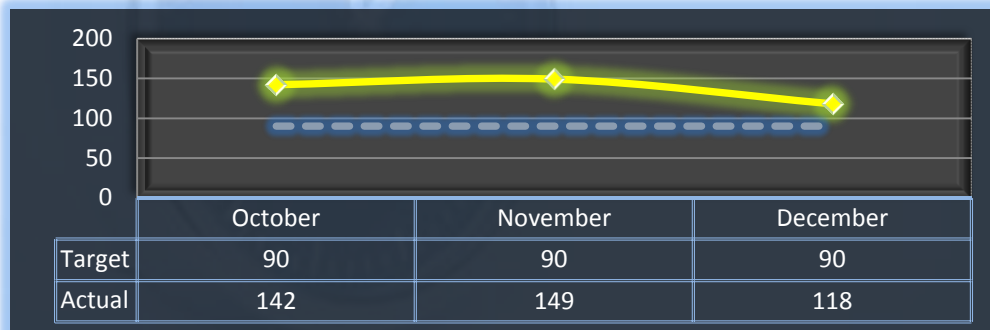


Intake & Investigation

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

Target: 90 Days

Q2 Average: 136 Days

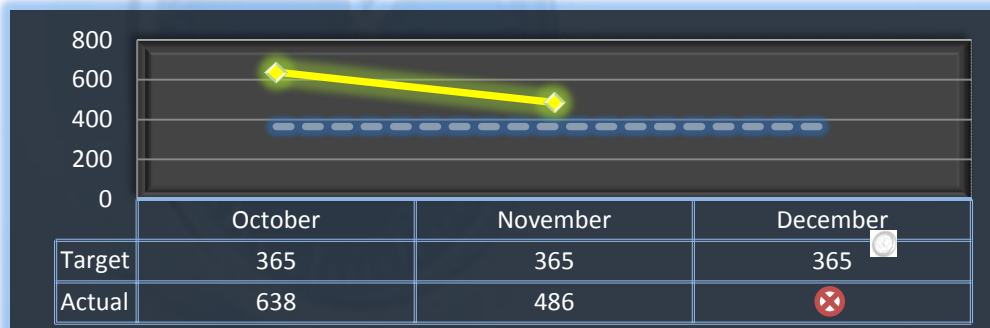


Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 365 Days

Q2 Average: 570 Days



Probation Intake

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

Target: 6 Days

Q2 Average: N/A

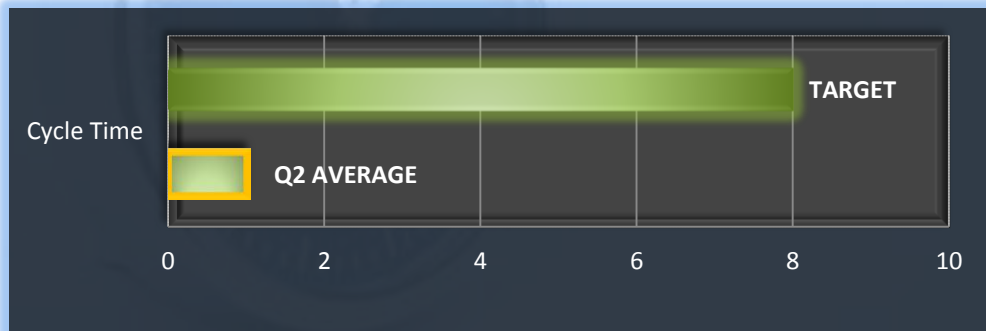
The Board did receive any new disciplinary cases this quarter.

Probation Violation Response

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

Target: 8 Days

Q2 Average: 1 Day



2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Dr. Lee Goldstein, O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 15 – Public Comment for Items Not on the Agenda

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)]

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Dr. Lee Goldstein, O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 16– Suggestions for Future Agenda Items

Members of the Board and the public may suggest items for staff research and discussion at future meetings.

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: March 2, 2012

From: Dr. Lee Goldstein, O.D.
Board President

Telephone: (916) 575-7170

Subject: Agenda Item 17 - Adjournment
