



ISSUE MEMORANDUM

DATE	February 1, 2019
TO	California State Board of Optometry (CSBO)
FROM	ORIGINAL SIGNATURE ON FILE Committee Chair Mark Morodomi prepared by Evan Gage, Assistant Executive Officer
SUBJECT	Agenda Item #9C – Consumer Protection Committee Report from January 11, 2019

The Consumer Protection Committee met on January 11, 2019 by teleconference and discussed the following items:

1. [Disciplinary Guidelines: 16 CCR § 1575](#)

DCA Legal Affairs informed the CPC that the Optometry Disciplinary Guidelines will not be ready for approval at the February 1, 2019 Board Meeting. Upcoming revisions to term number four (and potentially other terms of the Uniform Standards Relating to Substance-Abusing Licensees) are expected to be announced by DCA in approximately the third week of January 2019. Staff would need to understand the implications of these revisions before recommending the adoption of the Guidelines.

Staff anticipates that it will take three to six months to formulate language that addresses these revisions and to incorporate them into the separate versions of the Guidelines that the Dispensing Optician Committee and CPC will submit to the full Board for consideration and adoption. On staff's recommendation, CPC was willing to wait three to six months for these revisions to be concluded.

Committee provided guidance to staff, who will formulate proposals based on the suggestions.

Implementation of Assembly Bill 2138 (Chiu Chapter 995, Statutes of 2018)

Staff continues to work with Legal Affairs to evaluate the impact AB 2138 will have upon our disciplinary process and to redefine what acts are substantially related to the practice of Optometry. Legal Affairs is expected to provide language from DCA to guide staff in drafting regulatory language to address the implementation of AB 2138.

The Committee directed staff to draft language as recommended by DCA. In the interest of time, this language will not go to CPC for initial review, but will potentially go before the full Board in February 2019 at its regular meeting.

2. Strategic Plan and Enforcement Guidelines

Staff requested that the Board clarify its priorities regarding consumer protection initiatives that are either not started or are not actively being implemented.

Strategic Plan Initiative 4.5

The Committee considered whether it was an appropriate or effective use of staff time and resources to enforce or regulate online sales of contact lenses, in that many such providers are offshore or otherwise outside of the Board's jurisdiction.

The Committee recognized that outreach and education of potential consumers of these providers could be very effective in mitigating the risk presented by unregulated contact lens dispensing, where quality control is uncertain. One suggestion for reaching these consumers was to launch the outreach and education at times of year or surrounding events where many contact lens consumers might gather, such as at cosplay events (e.g. ComicCon), and during the Halloween season.

There was concern that if the Board no longer sought to aggressively enforce or regulate the online dispensing of contact lenses, the Board would be failing in its primary mission of consumer protection. The Committee considered whether outreach might include conducting a stakeholder meeting to solicit suggestions that reflect a broader enforcement authority and view of the issue.

Committee provided guidance to staff, who will formulate proposals based on the suggestions.

Strategic Plan Initiatives 4.1 and 4.3

Staff clarified some of the factors that might cause a long delay between a licensee's conviction and notification of the record to staff. Staff noted that many times the delay arises from involving other agencies in the field investigation and adjudication of cases, as well as a lack of up-to-date fingerprint records, or failure of third-parties, such as insurance companies, medical facilities, the FBI and DOJ, among others, to timely notify staff of the conviction.

The Committee determined that timelines could improve in the reporting of action by other boards, agencies or states. Staff was instructed to research and draft renewal language for certifying such actions, similarly to what is in use by other boards.

3. Future Agenda Items

There were no future agenda items proposed.