

**Board of Optometry
Public Meeting
August 17, 2007
CalTrans District 12 Office
337 Michaelson Drive, Room C-117
Irvine, CA 9261**

1. Call to Order

The meeting was called to order by Dr. Goldstein, O.D. at 9:21 a.m. and a quorum was established. Board members present were public members Mary Galvan-Rosas, and Fred Naranjo; and Drs. Lee Goldstein, Susy Yu, Daniel Pollack, and Richard Simonds (all optometrists). Also present were the Executive Officer, Taryn Smith; Staff Counsel, Spencer Walker; Deputy Attorney General, Char Sachson; and staff members Margie McGavin and Jeff Robinson.

2. Petition for Reduction of Penalty or Reinstatement of Licensure

A hearing was conducted and the Board was asked to grant or deny the petition after considering the facts presented. Deputy Attorney General, Char Sachson, represented the interest of the public's health, safety and welfare, provided the petitioner's license history, as well as helped the Board obtain the information it needed to evaluate the petition to reduce penalties or terminate probation

A decision will be drafted by the ALJ and submitted to the Board for adoption within 30 days of the hearing.

3. Discuss and Possible Action on Disciplinary Matters - Closed Session

- The Board voted to vacate default decision in the matter of the accusation against Lawrence Edwin Young.
- The Board voted to adopt the proposed settlement and disciplinary order in the matter of the accusation against David Norman Cler, O.D.
- The Board voted to adopt the proposed decision in the matter of the accusation against Stephen Gary Bornfeld.

4. Open Session

5. Approval of Minutes

The Board was asked to approve the minutes of the May 17, 2007 board meeting.

Move to approve the minutes. M – Simonds; S – Rosas; MSP – Unanimous

6. President's Report

The President of the Board, Dr. Lee Goldstein, O.D. reported that applicants have been interviewed for vacant Board member positions. Process is on track and Board and staff members are looking forward to a fully subscribed Board in the near future.

7. Election of Officers

Business and Professions Code Section 3014 requires that the Board of Optometry elect a President, Vice-President, and Secretary. Each of which will serve a one-year term or until a qualified successor is elected. Any member of the Board may hold office.

The Board was asked to make nominations and vote for the following offices:

- ***Nominee for Board President***

Dr. Goldstein was nominated for this office

M – Yu; S – Pollack; MSP – Unanimous

- ***Nominee for Vice-President***

Dr. Susy Yu was nominated for this office

M – Naranjo; S – Rosas; MSP – Unanimous

- ***Nominee for Secretary***

Monica Johnson was nominated for this office

M – Naranjo; S – Rosas; MSP – Unanimous

8. Discussion of Committee Assignments

Dr. Goldstein lead a discussion regarding the current composition of the Board's committees.

The Board decided the Legislation and Regulations Committee, the Enforcement Committee, and the Continuing Education Committee should continue as assigned. The Exam Committee is not necessary at this time.

New or additional committees are as follows:

- Finance Committee – Review budget and new allocations.
- Outreach Committee - Public education and awareness.

Dr. Goldstein requested Board members to email their preferred committee assignments.

9. Review Strategic Plan

The Board conducted a strategic planning session on February 7, 2007. Board members, staff and other interested parties participated in the planning session. The Board adopted the plan, which consisted of mission statement, vision, values and objectives. Staff presented draft goals for each of the objectives. The Board accepted the goals and instructed staff to add target dates for each goal.

10. ARBO Annual Meeting

The Association of Regulatory Boards in Optometry (ARBO) is a national organization with members consisting of state regulatory boards throughout the United States. The mission of the Association of Regulatory Boards of Optometry is to represent and assist member licensing agencies in regulating the practice of optometry for the public welfare. The California State Board of Optometry is a member of ARBO but has not been actively participating ARBO since 2004 due to budget constraints.

Consistent with strategic objective to re-establish the Board's national presence as a regulator of optometry, staff has obtained approval from the Governor's office to send one representative to the ARBO annual conference in 2008.

The conference will take place in Seattle, Washington on June 22 – 24, 2008. The agenda for the conference has not been published. Agenda items typically include licensing, exam and enforcement issues.

The Board determined that staff should attend the ARBO meeting and staff will explore options for sending a board member.

11. Department of Health Care Services

A representative from the Department of Health Care Services, Dr. Cory Vu, OD, gave a presentation to the Board on the following subjects:

- Reorganization of the Department of Health Services
- Recent re-enrollment of optometrists in Medi-Cal
- Recent audits and site visit of optometric practices

Dr. Vu suggested the Board renew its efforts to formalize an agreement with DHCS regarding sharing information on disciplinary matters. The Board thanks Dr. Vu for his collaboration with Board staff.

12. Healthcare Surge

The Department of Health Care Services (DHCS) invited Board representatives to participate in a series of planning meetings for the purpose of developing statewide

standards and guidelines for a “healthcare surge” during extreme or prolonged emergencies.

Taryn Smith and Lee Goldstein participated in several workgroup discussions that focused on credentialing of licensees and “flexing” the scope of practice during an emergency.

Ms. Smith attended a meeting with DHCS and executives from other healthcare boards at DCA regarding healthcare surge. It was a helpful discussion that resulted in the following list of possible actions this board could take to help facilitate healthcare delivery in the event of a surge.

- Review language drafted by DHCS for state of emergency declaration with special attention to scope language with special interest in scope.
- Are there any telemedicine implications?
- Could/Should the Board suspend any supervision and/or reporting requirements?
- Implement mandatory disaster training for licensees
- Educate optometrists regarding disaster preparedness and response training
- Draft and publish policy statement regarding optometrists’ response in emergency situations

There was a discussion regarding the Board’s role in the event of an emergency. Board members had were questions regarding volunteer registration and the Board’s opportunity to participate in the registration process. Dr. Goldstein suggested that the Board has a role in education optometrists and facilitating their volunteerism in response to an emergency. Staff will continue working with DHCS and the Department of Consumer Affairs as appropriate.

Move to continue. M – Goldstein; S – Naranjo; MSP – Unanimous

13. Pending Legislation

Staff reported on the status of legislation as follows.

Assembly Bill 986 (Eng) – Regulation of Optometry

This is the Board sponsored legislation that proposes to allow the Board to increase fees, set retention requirements for optometrists’ patient records, and permit temporary practice without registering at a practice location. This bill has successfully passed through policy and fiscal committees in the Senate and Assembly. It is currently waiting a vote on the Senate floor. The Department of Consumer Affairs has advised that they have a “neutral” position on this bill.

Assembly Bill 1025 (Bass) – Denial of License

This bill would remove the Board’s authority to deny licensure or suspend or revoke a license based on a criminal conviction that has been dismissed on specified grounds. The Board has an “oppose” position for this bill because it

would have a negative impact on the protection of the public health, safety, and welfare, as well as individual privacy protection. A copy of the letter of opposition is attached. AB 1025 is set for hearing in Senate Appropriations on August 20, 2007.

Assembly Bill 1044 (Strickland) - Optometrists Regulation

Sponsored by Lenscrafters, this bill contains the same language as AB 986 regarding temporary practice locations. The sponsor has indicated that they would move the bill if the success of AB 986 was threatened, which has not occurred. Therefore, the bill has not been heard since being introduced. The Board has a “watch” position on this bill.

Assembly Bill 1102 (Nakanishi) – Optometric Assistants

This is a spot bill and has not moved since it was introduced. The Board has a “watch” position on this bill.

Assembly Bill 1224 (Hernandez) – Telemedicine

The Board took a “watch” position on this bill at the May 2007 meeting in anticipation of June 26, 2007 amendments that significantly changed the bill.

In its current form, this bill would make a licensed optometrist subject to the telemedicine provisions as set forth in the Medical Practice Act and would define collaborating ophthalmologist for purposes of his or her participation in treating primary open angle glaucoma.

This bill has successfully passed through policy and fiscal committees in the Senate and Assembly. It is currently waiting a vote on the Senate floor.

Move to support AB 1224. M – Simonds; S – Naranjo; MSP – Unanimous

14. Executive Officer’s Report

Taryn Smith provided a report on the following subjects:

- ***Applicant Tracking System***

Applicant Tracking System (ATS) is an automated program used to link cashiering and licensing functions that interfaces with the Board’s existing automated system for tracking licenses (CAS).

The Board began using ATS on July 1, 2007 (the beginning of Fiscal Year 2007/2008) and Board’s cashiering and license staff have been working very closely with ATS experts. There is no formal training for ATS, so the Board has not yet realized the full benefits of the program. However, once fully implemented, ATS will provide numerous reports and establishes a useful tracking system for pending applications.

- ***Processing Renewals with Inadequate Continuing Education***

Approximately 60 days prior to the expiration date of an optometric license, the licensee is sent a renewal application form alerting the licensee that their license will soon expire and to remit a fee to renew their license. Part 3 of the form allows the licensee to certify that they have met the continuing education (CE) requirements, which is a condition of renewal.

When optometrists submit the renewal application form but do not sign under penalty of perjury that they have completed the required number of CE units, the renewal is placed on a temporary hold, which accomplishes two things:

1. Prevents the renewal process from continuing until the hold is released
2. Prevents the issuance of any new wall or pocket licenses

In such cases, the licensee is issued a notice indicating that they must sign a statement that they have completed their CE requirement. Once the licensee demonstrates compliance with CE, the hold is released. However, sometimes licensees fail to demonstrate compliance. In the past, such licenses would be placed in “inactive” status, which allows the license to be renewed (expiration date is extended by 2 years) but does not allow the licensee to practice optometry due to non-compliance with the CE condition of renewal.

Board staff has recently implemented a change in procedure to ensure licensees in this situation receive his/her due process. The Board will now allow a hold on a renewal to remain in place for 60 days. If the licensee fails to demonstrate CE compliance within 60 days, the Board will refund the renewal fee and the license will not be renewed. The licensee will be notified twice in writing that the renewal is on hold and the repercussions of failure to comply with the request for compliance with CE.

- ***Livescan – Background Checks***

State regulatory boards, including the Board of Optometry, require applicants for licensure to submit fingerprints to the Department of Justice (DOJ) and Federal Bureau of Investigations for purpose of checking arrest records. Applicants who are physically in California can submit to digital fingerprinting, which is called Livescan, at local law enforcement offices. Out of state applicants must submit their fingerprints on a “hard card.”

The FBI and DOJ check their records to determine if the subject has an arrest record. The Board is notified of any arrest record, regardless of outcome, prior to issuance of the license and if the license holder is arrested subsequent to obtaining the license.

Staff is working on two recent improvements to the Livescan process:

- 1 – Automated notification to DOJ when the Board becomes “no longer interested” in an arrest record. For example, when a licensee passes on or surrenders his/her license.
- 2 – DOJ has authorized posting the Livescan form on the Internet, which was previously obtained via mail from the Board. Board staff has submitted the Livescan form on the Board’s website.

- ***Licensing Exam Development and Validation***

Board staff worked with the Office of Examination Resources (OER) on a series of workshops to develop and validate a new California Laws and Regulations Examination. The final product was presented to the Board via a telephone conference call on July 12, 2007. The Board voted to adopt the new exam, which will be administered for the first time on August 22, 2007.

Board staff is currently working with OER staff to develop and disseminate information regarding the new exam to the optometry schools and the national exam vendor.

- ***Update Printed Licenses***

Staff is in the process of changing the printed licenses to more clearly reflect the different levels of certification (therapeutics, lacrimal irrigation, and/or glaucoma). Currently the licenses are printed with the certification code (TPA, TPL, TLG) without an explanation of what the codes mean. Staff is also researching options for improving the original wall certificate that is issued upon licensure. An example of the current license is attached.

- ***iLicensing***

The Board is scheduled to begin implementation of the Department of Consumer Affairs’ iLicensing program, which is an on automated *online* service that accepts credit card payments and requests for the following functions:

- Initial license applications
- License renewal
- Address changes
- Requests for duplicate licenses
- Cashiering and reports

- ***Enforcement Program***

Board staff has been working with Department of Consumer Affairs’ Office of Information on a new report-writing feature in the automated tracking system for enforcement and licensing. The feature is called “Ad Hoc Reports” and will be useful with extracting data that was previously unattainable.

The Board is scheduled to begin implementation in Phase 4, which will take place January – April of 2009. Although the launch date is scheduled three

years away, Board staff will be working with DCA staff to identify baseline requirements to be built into the system.

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- **State Board of Optometry Budget**

As a result of spending controls in place throughout the fiscal year, the Board reverted approximately \$100,000 at the end of Fiscal Year 2006/2007. The reverted money remains in the Optometry Fund and will be available to the Board in future fiscal years. The large amount of money reverted will help to replenish the Optometry Fund, which may be necessary if the Board does not gain approval to increase fees.

Calendar of Upcoming Events

August 21 – 22, 2007	Licensing Exam	Various
November 16, 2007	Board Meeting	Bay area
November 16 – 18, 2007	Monterey Symposium	Monterey, Ca.
March 13 – 16, 2008	OptoWest	Long Beach, Ca.
April 7 – 8, 2008	Licensing Exams	Various
June 22 – 24, 2008	ARBO Annual Meeting	Seattle, Wa.

- **Web Updates**

The Governor's Chief Information Officer issued a memo on January 22, 2007 that all state agencies should comply with new look and feel standards for their websites by November 2007. Those standards include:

Logo and banner – A new logo and banner have been established that use less space and facilitate co-branding. The header helps signify to users that they are on an official State site, and is a required element for every State web site.

Tabs – The primary navigation will transition to tabs, versus left hand sub-navigation.

Footer – The footer will appear at the bottom of all State pages. The footer contains links to the policies of www.ca.gov, contact information, and other information.

Board staff submitted a flowchart for the redesign of the Board's website to the Department of Consumer Affairs' Office of Information Services (OIS). OIS is scheduled to begin programming the redesign in September 2007.

15. Amendments to Regulations

California Code of Regulations (CCR) Section 1524 (Fees)

This item was not discussed at the meeting.

CCR Section 1568 (Therapeutic pharmaceutical agents usage – purpose and requirements)

Staff reported on the status of a proposed change in regulations to amend Section 1568 as follows:

The Board instructed staff to begin the rulemaking process to amend California Code of Regulation Section 1568 at the May 17, 2007 meeting. The proposed amendment would address a problem for out-of-state licensed optometrists who graduated prior to January 1, 1996 to meet licensure requirements in California.

Staff began the rulemaking process and during the legal review of the Board's Initial Statement of Reasons for the proposed regulation, a concern was raised that the State Office of Administrative Law (OAL) may determine that the Board may not have the authority to decide issues of equivalency as proposed in the regulation.

Legal counsel from the Office of Administrative Law has agreed to meet with Board staff and its legal counsel in order to make a preliminary determination of the proposed regulation. A meeting is scheduled for August 24, 2007 at the Office of Administrative Law.

16. Future Agenda Items

Dr. Simonds requested that the Board consider requiring licensed optometrists to obtain a DEA number.

17. Future Meeting Dates

The November 15, 2007 meeting will be held in San Jose.

18. Public Comment

None received.

19. Adjournment

The meeting adjourned at 3:24 p.m.