



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



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 Ed Revelli and Patsy Harvey 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 announced 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.

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 undo 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 coming in.

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 Siefertman 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 Siefertman continues to monitor all active probationers while on maternity leave.

Ms. Siefertman 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. Siefertman 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