



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, August 8, 2014

Department of Consumer Affairs
 Hearing Room
 1625 North Market Blvd.
 Sacramento, CA 95834

And by telephone at the following location:

*140 C Tower Street
 Beaconsfield, Quebec H9W6B2
 Canada*

<u>Members Present</u>	<u>Staff Present</u>
Alejandro Arredondo, O.D., Board President	Mona Maggio, Executive Officer
Madhu Chawla, O.D., Vice President, Professional Member	Jessica Siefertman, Enforcement Lead
Donna Burke, Board Secretary, Public Member	Lydia Bracco, Administrative Assistant
Cyd Brandvein, Public Member	Robert Stephanopoulos, Policy Analyst
Frank Giardina, O.D., Professional Member	
David Turetsky, O.D., Professional Member	Michael Santiago
Glenn Kawaguchi, O.D., Professional Member	
William H. Kysella, Jr., Public Member	
Kenneth Lawenda, O.D., Professional Member	
Bruce Givner, Esq., Public Member	
Alexander Kim, MBA, Public Member	
	<u>Guest List</u>
	On File

9:35 a.m.

FULL BOARD OPEN SESSION

1. Call to Order and Establishment of a Quorum

Board President, Alejandro Arredondo, O.D. called roll and a quorum was established. The meeting was called to order at 9:35 a.m.

Executive Officer, Mona Maggio introduced Board staff attending meeting.

Public Member, Bruce Givner arrived at 9:40 a.m.

2. Welcome – President’s Report

Dr. Arredondo welcomed everyone in attendance. He announced he took a survey of the ACOE (Accreditation Counsel for Optometric Education) and went to Accrediting meetings for Western University and participated in the survey.

There were three optometry graduations recently. He went to Southern California College of Optometry (SCCO) on May 22, 2014 and Western University on May 15, 2014. David Turetsky, O.D., went to the University of California, Berkeley on May 24, 2014.

He thanked the Board for their patience regarding the BreEZe program.

He asked the members to raise their hand if they want to comment for the benefit of those participating via webcast.

Donna Burke or he will announce the members as they depart and return to the meeting.

Dr. Lawenda was recognized as participating via the webcast.

3. Public Comments 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)]

There was no public comment.

4. Approval of Board Meeting Minutes

- A. August 16, 2013**
- B. November 1, 2013**
- C. April 11, 2014**
- D. June 23, 2014**

Madhu Chawla moved to approve the August 16, 2013 minutes as amended. Frank Giardina seconded. The Board voted: 9-Aye; 0-No; 2-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein			X
Ms. Burke	X		
Dr. Chawla	X		
Dr. Giardina	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky			X

Madhu Chawla moved to approve the November 1, 2013 Meeting Minutes as amended. Alexander Kim seconded. The Board voted: 10-Aye; 0-No; 1-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Ms. Burke	X		
Dr. Chawla	X		
Dr. Giardina	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky			X

Madhu Chawla moved to approve the April 11, 2014 Meeting Minutes as amended. Frank Giardina seconded. The Board voted: 11-Aye; 0-No; 0-Abstention to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Ms. Burke	X		
Dr. Chawla	X		
Dr. Giardina	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky	X		

The June 23, 2014 minutes were postponed to add a discussion regarding two Board members having authority to make policy changes and the vote from that discussion. That portion of the meeting was left out of the minutes. No motion was made.

5. Department of Consumer Affairs Report

*Presented by Christine Lally, Deputy Director of Board/Bureau Relations
And Jason Piccione, Chief Technology Officer*

Mr. Piccione is the Chief Technology Officer for the Department of Consumer Affairs and the BreZE Technical Project Manager. He gave a brief update of the BreZE project and answered questions from the Board.

He stated lessons learned from the first release of BreZE are improving the product. The design methodology of Phase II focuses on the thoroughness and accuracy of design documents to ensure the Board's business is captured and the resulting BreZE system is effective and right.

Two examples of this new methodology are the use of "Use Cases" which allows Boards to map out business processes prior to doing any design work.

Another example of this is "storyboards" which help Boards understand there is a standard flow for all online transactions, what that flow is and how the Board can configure flow for its use.

Dr. Arredondo opened the floor to comment/questions.

Ms. Burke asked Mr. Piccione to elaborate on the usability experience.

Mr. Piccione defined usability as the ability for BreEZe to meet the requirements and demands of the user community that uses it. They want to make sure that the people using it can use it easily and with as few obstacles as possible. License renewals will take 20 – 30 minutes [instead of 6 – 8 weeks].

Ms. Burke asked Mr. Piccione how they are testing the component.

Mr. Piccione said BreEZe is being placed up against the web standards that come out of Usability.gov and the HFI (Human Factors International) standards. As an example, they are also streamlining the ability to do searches easier.

Ms. Burke asked Mr. Piccione if they are using people who will be using BreEZe as licensees or students.

Mr. Piccione responded there is no public user forum, but they are taking the suggestion into high advisement.

Ms. Maggio stated that once BreEZe is implemented we will be reaching out to a couple of schools and have students begin the application process.

Ms. Burke asked about the timetable.

Mr. Piccione replied that the current scheduled implementation for this Board, Release II, is April/May 2015. With review times potentially being insufficient in some cases, there may be relief for staff working the design phase. This may cause an extension of the schedule.

A discussion ensued regarding personnel limitations and needs, work constraints, timeframes for BreEZe and personnel involvement, overtime, BreEZe costs and budget over runs.

6. Petition for Reduction of Penalty or Early Termination of Probation

Administrative Law Judge (ALJ) Karl Engeman presided over the hearing. Anahita Crawford was the Deputy Attorney General (DAG). Board members heard the following Petition. The hearing was called to order at 10:30 am.

A. Larrance Larson, O.D., OPT 6725

FULL BOARD CLOSED SESSION

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

8. Pursuant to Government Code Section 11126(e), the Board will Meet in Closed Session to discuss pending litigation – Anthony Rudick, O.D.; Ridge Eye Care, Inc. v. State Board of Optometry, Superior Court of the State of California for the County of Sacramento, CA., Case Number KG13708526

FULL BOARD OPEN SESSION

9. Presentation on Running Effective Meetings

Rick Sydor, Registered Parliamentarian; Past International Director, Toastmasters International

Mr. Sydor has served in several different positions on the Board of Directors for the California State Association of Parliamentarians.

Mr. Sydor's presentation was to assist the Board in making their meetings more effective, using some of the "common sense" tips from Robert's Rules of Order Newly Revised.

A handout was distributed and Mr. Sydor reviewed the document. He focused mostly on the numbers 23, 24, and 25.

Mr. Sydor had comments on what he observed during the morning part of the meeting.

He also said there is a phrase that members can use while presiding a meeting: "If there are no objections". Members may not use it to vote because the Board must record the votes.

Mr. Sydor also complimented the Board on how the minutes were read. He shared that you either need to say Aye or No or raise your hand.

In his research for the meeting, Mr. Sydor found that abstentions are allowed. If the Board votes vocally, then the person recording the votes won't know who voted Aye or No.

Ms. Maggio asked if members wish to not vote at all, should we just record the ones that did vote?

Mr. Sydor responded that as long as the majority of those present are voting then you have passed the motion.

It was suggested by staff and members to have the President or Vice President say the name of the member that is not voting and to be clear, raise hands for voting and roll call.

Mr. Sydor stated that President Arredondo allowed side discussion by Board members. All discussion must go through the Chair to maintain control.

Mr. Sydor noticed something that is not on the handout sheet. President Arredondo did not state the motion members were voting on. Chair should restate motion.

Mr. Sydor asked if the Board members submitted new business in written format.

Ms. Maggio told Mr. Sydor that if a subject is not on the agenda, the Board cannot discuss it. There is a point in the agenda where members and the public can ask staff to add certain items to the agenda.

Mr. Sydor stated, if there is a motion on the floor and a member wishes to amend it or change it in any format, is that allowed?

He explained that as soon as the recommendation is made, the member should ask the Secretary to read it or the President to restate it so that everyone will know what is being discussed.

Mr. Sydor said that as a small Board, members are allowed to talk as long as they want. It is the President's job to try and keep them on track. Members can (#23 point of order) interrupt, with no second and no debate. The member making the point of order can say, I believe the member is not speaking to the motion or amendment that is on the floor. President should ask the member to get back on track and keep comments to what is on the floor.

Mr. Sydor said number 24 is an appeal. Offer an opinion, it's your opinion and either the Board agrees with it or not. If a ruling is made, the members can appeal from your ruling. Not everything the President says is under the category of appeal.

President Arredondo asked, if a Board member is speaking on a subject and another member doesn't understand, should the member say "request for information?" Mr. Sydor said yes, but they should ask very specifically what information is needed.

Mr. Sydor stated, from his observation, the Board is on track and doing well. Just maintain a little more control as Chair so the comments go through the President.

Mr. Sydor asked if there were any questions.

President Arredondo said he was curious about Parliamentary Procedure. Mr. Sydor responded by giving a short history of it going back to Old England.

Dr. Turetsky, professional member, asked, regarding number 24, if the Chair makes a decision to ask a staff member to research something, but I feel the staff members time could be better spent doing something else, I would say, I appeal the decision by the Chair and someone has to second it then discuss it and vote on it?

Mr. Sydor responded, yes, and the majority would either support you in your appeal or support the Chair. It's on a ruling, not an opinion.

Ms. Brandvein asked Mr. Sydor to clarify opinions and when it's appropriate or not to have opinions attached to recommendations or motions or the same individual addressing all – making a motion/adding an opinion.

Mr. Sydor responded, that is debate, that amendment is germane to the motion on the floor.

Ms. Brandvein asked, when does the chair participate in the opinion discussion?

Mr. Sydor explained, because of a small Board, Robert's Rules of Order allows the Chair to participate. The Chair has a right to vote. The Chair makes or breaks a tie. The Chair can choose not to vote, that's their privilege.

President Arredondo asked if there were any further questions. He thanked Mr. Sydor for attending.

10. Review and Possible Approval of Amendments to the Board Member Handbook

Cyd Brandvein, Public Member

Ms. Maggio stated that on the introductory page, highlighted in gray, she changed the Mission, Vision and Values Statement from the Board's strategic plan.

Ms. Brandvein explained that most Boards have responsibilities and roles called out for their officers which helps to build efficiency and effectiveness for what those roles would be. She felt there was no clarity as to what each officer would do, the time commitment, etc. at the prior meeting.

Ms. Brandvein walked the members through the handbook. She stated that the President handles the meetings and other Board business and affairs. It also brings clarity to governance and the election process.

There was discussion with Michael Santiago, Staff Counsel, about the vice president's role.

Ms. Brandvein pointed out a typo, "on boarding", in the document. She suggested that it would be helpful for new board members to receive a "Welcome to the Board" pitch, to get an overview of training and a roster and list of what staff does. Lastly, moving to Secretary, an opportunity here is to focus on the administrative side of what we do as Board members interacting with the Board.

Lastly, the Secretary could change the typos, etc. in the minutes before the Board packet comes out so that the focus could be on substantive edits during the meeting.

Lastly, have available to the Board a copy of the laws, regulations and practices that the Board references.

President Arredondo thanked Ms. Brandvein and asked the other members if there were any comments.

Ms. Maggio stated that in addition to the officer's roles and responsibilities and the mission, vision and value statements are being updated to reflect the new information the Board voted on at our strategic plan. She added, on page 7 under Use of Electronic Devices during Meetings, Keene was misspelled. Use of laptops during the meetings is solely to access the Board meeting materials that are in electronic format.

On page 4 of the handbook under "Making a Motion", number 7 was written as if those in favor of the motion will rise from their seats. She recommended the Board do a roll call. Mr. Kysella agreed.

Ms. Maggio sought other suggestions members want to be drafted in the handbook. She recommended the minutes be sent to the secretary within 30 days after each Board meeting. She will add the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines, to the recommended extra copies of Board Documents.

Ms. Maggio stated because changes were being made to the handbook, members should take a vote.

Dr. Turetsky asked whether laptop be upgraded to include tablet, Smart phones, electronic devices.

It was decided that Ms. Maggio would make the suggested edits to the handbook and bring it back to the Board to review and then a vote would be taken.

11. Discussion and Possible Action on Legislation Affecting the Board of Optometry

Please review and discuss the following bills which are specifically related to the Board and direct staff to take any action if warranted.

A. Senate Bill 492 (Hernandez) Optometrist Scope of Practice

Last Amended: July 1, 2014

Location: Assembly Appropriations Committee

Summary: This bill would revise various scope of practice provisions in the optometry practice act, including the creation of an advanced practice certificate authorizing optometrists to perform certain laser and lesion removal procedures.

Staff Comments: With the Board's approval, a letter with a position of "support if amended" was sent to the author on June 23, 2014. It appears the amendments requested of the Board have been made.

In addition, the following amendments to the bill have been made:

3041(g)(1): The requirement of the passage of test for competency and performance of the procedures in subparagraph (F) of paragraph (2).

3041(g)(2): A TPA certified optometrist may perform the training procedures in their own practice under the supervision of a physician and surgeon or an optometrist with an advanced procedure certification.

3041(g)(2)(A): The advanced procedure course must be provided by a school of optometry and developed in consultation with an ophthalmologist who has experience teaching optometric students.

3041(g)(2)(D): The inclusion of passage of a test for competency.

3041(g)(2)(F)(ii): Clinical or laboratory experience consisting of between 20 and 35 clinical eyelid or adnexa surgery training procedures, between 18 and 25 laser training procedures, and between 6 and 12 injection training procedures. The Board shall convene an advisory committee to establish the exact number of

training procedures required consisting of the Director of Consumer Affairs or his or her appointee, who shall also serve as chair, two practicing optometrists, two practicing ophthalmologists, one faculty member a school of optometry, and one ophthalmologist that teaches at a school of optometry. The members of the committee shall be appointed by the respective licensing boards. Recommendations from the committee shall be reported to the board within six months of being convened.

3041(h)(3): Removal, destruction, or drainage of lesions of the eyelid and adnexa clinically evaluated *by the optometrist* to be noncancerous.

3041(o): Pertussis has been added to the listed immunizations, for persons 18 years of age or older.

Dr. Arredondo welcomed Kristine Schultz representing the California Optometric Association (COA) who reported on Senate Bill (SB) 492.

Ms. Schultz reported on additional amendments that occurred on August 4, 2014 that were raised in the Business and Professions Committee. One of the amendments was to make sure that the experience given to optometrists would be on live, human patients. Another amendment was to eliminate the reference to "lab" which is along the lines of live, human patients and have the word "clinical" only. In addition, an amendment was to revert to existing law when it comes to the types of laboratory tests that optometrists can use, also in response to concerns expressed at that committee hearing. Lastly, to expressly prohibit cosmetic surgery, it was never the intent to have optometrist's doing Blepharoplasty.

One is to change the number of procedures required for certification. There's a range established by an advisory committee in the current language. Other amendments being discussed are: 20 eyelid procedures, 25 laser procedures, nine injection procedures, and eliminate the advisory committee. COA has taken the latter as an amendment in an effort to remove some of the opposition to the bill.

The new amendments COA is considering would clearly specify that all of the training procedures must be performed entirely by the optometrist or student seeking this certification to perform advanced procedures. They couldn't do a partial procedure and have that count as a full procedure. They have to do it from start to finish. COA is going to add language that allows optometrists to get the procedures done at a school of optometry or in a physician's office in addition to their own practice under the supervision of a physician to get the numbers. The numbers are higher than what ophthalmologists have to do for the specific procedures during their residency.

COA is considering and will adopt language limiting the removal, destruction or drainage of lesions of the eye to only those that do not involve the eyelid margin or the lacrimal supplier drainage systems and are no deeper than the orbicularis muscle. The limiting language would prohibit any plastic surgery.

COA is going to strike Pertussis (whooping cough) from the list of vaccines authorized and adopt language to authorize the Board of Optometry to charge a fee to pay for the regulation for the new certifications created by the bill. The language says, something like, it has to be a reasonable amount, no more than \$300 for license and renewal.

Dr. Kawaguchi, professional member, asked for clarification regarding the surgical procedures around the eyelids. Does that mean it's not including Hordeolums?

Ms. Schulz responded by saying they just couldn't be on the eyelid margin because those can be more complicated. Hordeolum and Chalazion would still be authorized under the bill.

Dr. Lawenda asked Ms. Schulz to define suspense file.

Ms. Schultz explained the bill was a candidate for suspense file which means of costs. The bill was heard on August 6th by the Assembly Appropriations Committee and it was put on suspense. The Legislature was expected to take up that suspense file on August 14th. On that day they will know if the bill moves forward.

There will not be a bill hearing, it will either come off suspense or just stay there. If it stays it won't make the deadline of August 15th and will probably die.

Dr. Lawenda asked if the legislation is going to require that they actually work with live patients in schools.

Ms. Schultz said the amendments that were taken on August 4th specifically say it has to be on live, human patients. The schools are aware of all of the amendments and COA is working with them to make sure this will be implemented.

Dr. Lawenda asked if the three schools of optometry have agreed to the bill.

Ms. Schultz responded that she has not seen a letter from UC Berkeley, she saw an updated letter from Western in support, and couldn't remember if there was a letter from SCCO. She will check.

Dr. Chawla asked if David Sendrowski, a professor at SCCO, testified.

Ms. Schultz responded that he has been their expert along with the new Dean, Dr. Stanley Woo.

Ms. Burke asked if Ms. Schultz said Pertussis was deleted.

Ms. Schultz explained that Pertussis comes with two other immunizations that are not authorized. By removing Pertussis, COA hoped to alleviate opposition to the bill.

Dr. Turetsky asked if Ms. Schultz thought the optometry schools graduating May 1, 2016 would be able to have the advanced practice licensure. Would they have to obtain it on their own at a later time?

Ms. Schultz said that is the intent.

Dr. Arredondo, President, thanked Ms. Schultz.

B. Senate Bill 870 (Committee on Budget and Fiscal Review) Health Trailer Bill

Robert Stephanopoulos, Policy Analyst, stated that the Board sent an "oppose unless amended" letter to the author. The Board requested a comprehensive eye exam to be added with color screening for all students and evaluations every second year. No changes have been made to the bill. Mr. Stephanopoulos contacted Steinberg's office. He was advised they didn't receive the letter. There was too much opposition and the changes would kill the bill. Steinberg's office said there was a study done with the US Vision Task Force involving a literary review and determined that no other medical professionals recommended implementing a comprehensive eye exam for children. They determined that the visual acuity was sufficient and not a comprehensive eye exam unless a child failed a vision screening.

Dr. Turetsky asked about Board oversight. He voiced concern that the Board ensure there isn't a financial motivation to complete the exams as fast as possible.

Ms. Maggio replied, there has to be a complaint filed.

Ms. Burke suggested the Public Relations Committee put together informational brochures or literature to make sure those participating in the program know what their rights are as consumers.

Last Amended: June 13, 2014

Status: Chaptered June 20, 2014 – Chap. 40, Statutes of 2014

Summary: This bill, among other things, included provisions sought by the Department of Health Care Services creating a mobile vision services pilot program in Los Angeles County, to be covered by Medi-Cal. This pilot program enables school districts to allow students enrolled in Medi-Cal managed care plans to

receive vision care services at the school site through the use of a mobile vision service provider. The vision care services available under this pilot program are limited to vision examinations and providing eyeglasses. The program shall last three years, starting no sooner than January 1, 2015, and concluding December 31, 2017, or three years from the start date of the pilot if later.

C. Senate Bill 1172 (Steinberg) Pupil Health: Vision Examinations

Last Amended: April 23, 2014

Location: Assembly Appropriations Committee

Summary: This bill would revise the vision appraisal procedures for elementary school (through 8th grade) students in California school districts. Existing law requires, upon first enrollment in a California school district of a child at an elementary school, and at least every 3rd year thereafter until the child has completed the 8th grade, the child's vision to be appraised by the school nurse or other authorized person, as specified. This bill would instead require a pupil's vision to be appraised by the school nurse or other authorized person during kindergarten or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, except as provided. The bill would revise the functions to be performed by the school nurse and the classroom teacher in observing a pupil's eyes, appearance, and other factors that may indicate vision difficulties.

Staff Comments: With the Board's approval, on June 20, 2014, a letter with a position of "oppose unless amended" was sent to the author.

Attachments

- 1) SB 492 Proposed Language
- 2) SB 870 Text
- 3) SB 1172 Proposed Language

12. Legislation and Regulations Update

Action Requested: The next major deadline is August 15th when all legislation must have passed through fiscal committees. The Department suggests the Board review the following bills and determine if there would be any significant implementation issues or costs.

A. Assembly Bill 186 (Maienschein) Professions and Vocations for Military Spouses

Last Amended: June 25, 2014

Location: Senate Floor

Summary: This legislation requires the majority of programs under the Department to issue a temporary license (valid for 12 months) to the spouse or domestic partner of a military member on active duty if the applicant is also licensed in a similar profession in another state and meets other specified conditions while the license application is being processed.

Staff Comments: With the Board's approval, on June 19, 2014, a letter with a position of "oppose unless amended" was sent to the author. The Board's request to be exempted from the requirements of this bill has not been met.

B. Assembly Bill 213 (Logue) Healing arts: licensure/certification requirement: military experience

Last Amended: April 18, 2013

Location: Assembly Appropriations. This bill is dead.

Summary: This bill proposed to require the State Department of Public Health, upon the presentation of evidence by an applicant for licensure or certification, to accept education, training, and practical experience completed by an applicant in military service toward the qualifications and requirements to receive a license or certificate for specified professions and vocations if that education, training, or experience is equivalent to the standards of the department. If a board within the Department of Consumer Affairs or the State Department of Public Health accredits or otherwise approves schools offering educational course credit for meeting licensing and certification qualifications and requirements, the bill would, not later than January 1, 2015, require those schools seeking accreditation or approval to have procedures in place to evaluate an applicant's military education, training, and practical experience toward the completion of an educational program that would qualify a person to apply for licensure or certification, as specified.

C. Assembly Bill 2165 (Patterson) Department of Consumer Affairs, Licensing

Last Amended: April 10, 2014

Location: Hearing canceled at request of the author. This bill is dead.

Summary: This bill would require each board to complete within 45 days the application review process with respect to each person who has filed with the board an application for issuance of a license, and to issue, within those 45 days, a license to an applicant who successfully satisfied all licensure requirements. The bill also requires each board to offer each examination the board provides for the applicant's passage of which is required for licensure, a minimum of 6 times per year.

D. Assembly Bill 2598 (Hagman) Department of Consumer Affairs, Pro-Rata

First Introduced: February 21, 2014

Location: Assembly Business, Professions and Consumer Protection. Hearing cancelled at request of author. This bill is dead.

Summary: This bill would require the department to make a claim to the Controller each month against any of the funds of a board for that board's pro rata share of the department's estimated monthly administrative expenses, and would further require the department to base the claim on the amount of filled positions working for a board. This bill would prohibit the Controller from paying the department for a board's pro rata share of total administrative expenses for any fiscal year in an aggregate amount over 20% of a board's budget for any fiscal year.

Legislation Specifically Related to Optometry:

E. Assembly Bill 1877 (Cooley) California Vision Care Access Council

Last Amended: July 1, 2014

Location: Senate Appropriations Committee, suspense file

Summary: This bill would establish the California Vision Care Access Council within state government and would require that the Council be governed by the executive board that governs the California Health Benefit Exchange.

Committee Hearing Date: August 4, 2014

Legislation Potentially Impacting All Healing Arts Programs:

F. Assembly Bill 809 (Logue) Telehealth Patient Consent

Last Amended: May 19, 2014

Location: Senate Health Committee

Summary: This legislation would require a health care provider who uses telehealth for the delivery of health care services to obtain verbal or written consent from the patient, and to document the patient's consent.

Committee Hearing Date: August 14, 2014

Dr. Giardina, professional member asked, what if you wanted to do telemedicine with someone who is out of state and they don't have a license to practice in California, would that be considered legal?

Mr. Stephanopoulos replied that he would research it and let him know.

G. Assembly Bill 2102 (Ting) Licensees: Demographic Data Collection

Last Amended: June 2, 2014

Location: Senate Appropriations Committee

Summary: This legislation would require the Board of Registered Nursing, the Physician Assistant Board, the Respiratory Care Board, and the Board of Vocational Nursing and Psychiatric Technicians to annually collect and report licensee demographic data to the Office of Statewide Health Planning and Development.

Committee Hearing Date: August 4, 2014

H. Senate Bill 1256 (Mitchell) Medical Services: Credit

Last Amended: June 25, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would prohibit medical providers from arranging for a line of credit on behalf of a patient unless the patient signs a release acknowledging they are aware of their rights concerning these loans that are offered by third party providers. In addition, the bill would require the healthcare practitioner to provide the patient with a treatment plan prior to arranging for the line of credit, prohibit charges to the credit account before the procedure has been rendered, and prohibit a licensee from arranging for credit for a patient who is under the influence of anesthesia.

I. Senate Bill 1466 (B, P & ED Committee) Health Omnibus

Last Amended: July 1, 2014

Location: Assembly Appropriations Committee

Summary: This legislation, the omnibus bill for health-related professions, would make a number of technical or noncontroversial changes for health care professions.

Committee Hearing Date: August 6, 2014

The following bills have been identified as potentially impacting the department as a whole or most, if not all, boards and bureaus:

J. Assembly Bill 1702 (Patterson) Delay or Denial of Licensure Due to Incarceration

Last Amended: April 23, 2014

Location: Senate Appropriations Committee

Summary: This legislation would provide that an applicant shall not be subject to a delay in processing his or her application or a denial of the license due to the applicant completing some or all of the licensure requirements while incarcerated.

K. Assembly Bill 1711 (Cooley) Economic Impact Assessment

Last Amended: April 3, 2014

Location: Senate Appropriations Committee

Summary: This legislation would require the inclusion of an economic impact assessment in a rulemaking's initial statement of reasons and would direct the Department of Finance to prepare instructions for agencies to use in preparing the assessment.

Committee Hearing Date: August 11, 2014

L. Assembly Bill 1758 (Patterson) Prorating of Initial License Fees

Last Amended: June 30, 2014

Location: Senate Appropriations Committee, suspense file

Summary: This legislation requires prorating of a licensee's initial license fee for the following programs: Architects Board, Dental Board, Dental Hygiene Committee, Acupuncture Board, Medical Board, Physical Therapy Board, Board of Psychology, Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, Board of Occupational Therapy and Veterinary Medical Board.

Committee Hearing Date: August 4, 2014

M. Assembly Bill 1921 (Holden) Access to Records for State Contracts

Last Amended: April 28, 2014

Location: Senate Appropriations Committee

Summary: This legislation would require contractors providing state contract service to allow state access to their records and files related to the contract if the contract is in excess of \$25,000, and additionally would require the contractor to keep and maintain records as provided in the California Public Records Act.

N. Assembly Bill 2058 (Wilk) Open Meetings

Last Amended: June 19, 2014

Location: Senate Appropriations Committee

Summary: This legislation would modify the definition of “state body” within the Bagley-Keene Open Meeting Act, to include advisory committees with less than three individuals, when those committees have standing subject matter jurisdiction.

O. Assembly Bill 2396 (Bonta) Denial of Licensure for Prior Convictions

Last Amended: May 15, 2014

Location: Senate Appropriations Committee, suspense file

Summary: This legislation would provide that a person may not be denied licensure solely based upon a conviction that has been dismissed through specified penal code procedures.

Committee Hearing Date: August 4, 2014

P. Assembly Bill 2720 (Ting) Requires State Agencies to Record Votes in Meeting Minutes

Last Amended: April 2, 2014

Location: Senate Floor

Summary: This legislation would require a state body to publicly report any action taken and the vote or abstention on that action of each member present for the action.

Q. Senate Bill 1159 (Lara) Professions and Vocations: License Applicants: Federal Tax Identification Number

Last Amended: June 30, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would allow licensees to use a federal taxpayer identification in lieu of a social security number when applying for licensure. In addition, this bill would prohibit any program within the Department of Consumer Affairs from processing an application that omits these numbers.

Committee Hearing Date: August 6, 2014

Dr. Giardina asked what is the rationale to allow licensees to use their Federal Taxpayer ID in lieu of their social security number.

Board members replied by saying it could be an immigration related thing or identity theft protection.

Mr. Stephanopoulos replied he didn't know and he would look it up.

R. Senate Bill 1240 (Anderson) Changes to State Employment Applications

Introduced Date: February 20, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would require state employment forms to ask applicants to disclose any previous employment with the state, and whether that person has been prohibited from seeking or accepting any future employment with the state.

S. Senate Bill 1243 (Lieu) Professions and Vocations

Last Amended: June 30, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would, among other things, require the Department to provide the Enforcement Academy training annually for any employees in enforcement who wished to take it. The bill would also require the Department as well as the Attorney General's Office and the Office of Administrative Hearings to report annually on enforcement-related statistics.

Committee Hearing Date: August 6, 2014

T. Senate Bill 1337 (DeSaulnier) Reports

Last Amended: May 27, 2014

Location: Assembly Appropriations Committee

Summary: This legislation would require the heads of all state departments and agencies to sign a statement attesting to the accuracy of information provided to the legislature or a member of the legislature, with individual civil liability for an agency head that knows of false information in the report. This bill would likely apply to board executive officers.

Regulations:

Update on rulemaking package pertaining to CCR Section 1516. Applicant Medical Evaluations and 1582. Unprofessional Conduct Defined

At its August 16, 2013 meeting, the Board voted to initiate a rulemaking to give the Board authority to compel an applicant to submit to a psychological or physical examination, and further define unprofessional conduct. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013, and the 45-day comment period for the public started on October 18, 2013 and ended on December 2, 2013. The hearing was to be held December 2, 2013 in Sacramento at the Department of Consumer Affairs. However, due to the Executive Officer's absence for medical leave and the loss of the Board's Policy Analyst, the hearing was not held.

Due to time constraints, and at the recommendation of the Department of Consumer Affairs' Legal Division, the Board restarted the process concerning the rulemaking package pertaining to CCR Section 1516. On August 1, 2014, a Notice of Decision Not to Proceed was printed in the California Regulatory Notice Register in order to withdraw the Board's October 18, 2013 Notice. The unchanged rulemaking package was resubmitted to the Office of Administrative Law, which will be printed in the California Regulatory Notice Register on August 8, 2014. A 45-day public comment period will begin August 8, 2014 and conclude September 22, 2014.

13. Executive Officer's Report

Ms. Maggio provided the Executive Officer's Report on the following topics:

BreZE

Awet Kidane, Director, Department of Consumer Affairs will be present during the meeting to answer any questions members may have about the Breeze project. Staff will provide an oral update and a handout of staff concerns that was given to the Director and the vendor.

2013/2014 Budget

The 2013/2014 budget for the Board was \$1,901,030. Planned receipts \$1,731,000; as of June 30, 2014 Receipts received \$1,914,795.31. As of June 30, 2014 the Board has encumbered \$1,724,906 reflecting 90.74% of the total budget. The Board is projecting an unencumbered balance of \$174,124. The unencumbered balance is reverted to the Board's Fund.

The Month 13 Final Fiscal Report that provides the final expenditures, revenue and adjustments for fiscal year FY 2013/2014 is expected soon.

2014/2015 Budget

The 2014/2015 budget released for the Board is \$1,804,000

Out of State Travel

On April 22, 2014 a request to attend the Association of Regulatory Boards of Optometry's (ARBO) Annual Meeting June 22-24, 2014, at The Westin, Philadelphia, Pennsylvania was submitted for review and approval to the Agency Secretary. Though California State Board is a voting member of ARBO and the Executive Officer sits on the OE Tracker National Committee as the only board administrator, representing all other state administrators, the request was denied.

Budget Change Proposals

Staff submitted two budget change proposal (BCP) requesting position authority (additional staff) and funding for two enforcement analysts, a licensing technician and funding to conduct an occupational analysis of optometric assistants as directed by the California legislature. After submission to the Department of Consumer Affairs, another Budget Letter was released by the Department of Finance detailing the specifics of what requests would be considered.

A. Personnel

Rob Stephanopoulos was hired as the policy analyst for the Board effective June 30, 2014. Rob is currently juggling his assigned enforcement cases and learning the rulemaking process. The request to fill the vacant enforcement analyst position is under review at The Department of Consumer Affairs, Office of Human Resources (OHR) and a job announcement will be posted soon.

The request to upgrade the receptionist position from an Office Assistant (entry level clerical) to an Office Technician (journey level clerical) classification was approved by OHR. Interviews were held and Pricilla Torres-Fuentes was hired as the Board's receptionist. Pricilla in addition to her receptionist responsibilities, Pricilla is training to assist with initial license application review.

Teri Hunley, was hired June 20, 2014 as a retired annuitant to handle the evaluation and issuance of initial optometry licenses and continuing education providers when the licensing staff is away for BreEZe. Teri retired from the Medical Board of California as the manager of the licensing program.

In addition, staff is working to recruit one temporary employee to assist when current staff is out of the office working on BreEZe. The Board was planning to recruit two temporary employees but blanket funding can be used to bring Nancy on full time which will alleviate the need to train a new person on licensing procedures.

B. Examination and Licensing Programs

Licensing statistics will be presented at the Board meeting.

Presentations to third year students were held:

April 14th University of California, Berkeley School of Optometry
Jeff Robinson, Jessica Sieferman

April 29th Western University, College of Health Sciences, College of Optometry
Jeff Robinson, Jessica Sieferman

Licensing Statistics

		FY 2013-14												FY TOTAL
		Q1			Q2			Q3			Q4			
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
OPTs	Received	27	14	12	19	17	27	56	51	56	47	51	36	413
	Issued	77	26	7	20	17	13	12	12	9	9	18	134	354
	Closed*	6	0	3	5	6	6	12	8	20				66
	Pending	182	170	175	169	163	171	203	234	261	299	332	234	234
	Avg. Cycle Time	97	113	137	183	170	187	247	236	198				145

		FY 2013-14												FY TOTAL
		Q1			Q2			Q3			Q4			
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
FNPs	Received	16	8	14	15	13	15	27	16	17	4	15	7	167
	Issued	9	6	3	32	7	10	13	4	10	16	5	18	133
	Closed*	0	1	2	5	7	6	0	0	0				21
	Pending	57	58	67	45	44	43	57	69	76	64	74	63	63
	Avg. Cycle Time	144	183	124	114	108	93	112	98	151				122

		FY 2013-14												FY TOTAL
		Q1			Q2			Q3			Q4			
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
SOLS	Received	19	22	29	27	21	23	31	18	25	22	27	20	284
	Issued	32	13	34	3	22	33	24	3	34	26	12	17	253
	Closed*	0	6	5	8	2	0	0	0	0				21
	Pending	28	31	21	37	34	24	31	46	37	33	48	51	51
	Avg. Cycle Time	52	25	28	34	37	37							37

		FY 2013-14												
		Q1			Q2			Q3			Q4			FY TOTAL
		July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
BOLS	Received	4	4	4	5	4	3	1	4	6	4	5	5	49
	Issued	5	0	0	10	1	3	4	1	2	3	0	3	32
	Closed*	0	0	40	0	5	6	0	0	0				51
	Pending	60	64	28	23	21	15	12	15	19	20	25	27	27
	Avg. Cycle Time	132	0	0	96	20	97	91	106	89				99

C. Enforcement Program

Prepared by Jessica Siefertman, Lead Enforcement Analyst/Probation Monitor

The entire Enforcement Unit has and will continue to devote large portions of time to BreEZe development. This will negatively impact our Enforcement Performance Measures and other Enforcement tasks, particularly during Data Conversion/Validation and User Acceptance Testing. Given the limited time staff has to devote to casework, the Board's Enforcement Unit was still able to meet its performance measure target for intake and investigation for May and June (attached). With that said, the average time for Q3 was still over our target. In addition, staff has concerns that the intake and investigation target may not be realistic. Since this target includes the time it takes for staff investigation, Expert Witnesses to review and the Division of Investigation to conduct their investigation, 90 days is not sufficient in many of our cases. Staff needs to meet with the Department of Consumer Affairs to discuss more realistic performance measure targets.

During DCA's Sunset Hearing in March, the legislature asked DCA about CPEI's Performance Measures. Specifically, our Board was identified as one of the Boards not meeting Performance Measure 3: Intake and Investigation (90 day target cycle time) in the last two fiscal years. Citing various reasons for the missed target (e.g., staffing, technology issues, potentially unrealistic target, etc.), the Board worked with DCA's Budget Office to respond to concerns raised.

As previously reported, however, the Board's Enforcement Program is diligently working to meet its performance measures. In October 2013, the Enforcement Program made a goal to meet its performance measures by the end of the fiscal year. Armed with a fully staffed program, increased DAG and DOI communication, and streamlined processes, the Board's Enforcement Program closed March (end of Quarter 3) with an average cycle time of 88 days. In addition, the Board's Enforcement Program has the lowest pending caseload it has had in years, with only 68 complaints pending.

Enforcement Statistics

Complaints				
	2010/11	2011/12	2012/13	2013/14*
Total Received	295	318	254	190
Total Closed	227	282	289	257
Total Pending	134	170	135	68
Citations				
	2010/11	2011/12	2012/13	2013/14*
Issued	2	1	3	11
Discipline				
	2010/11	2011/12	2012/13	2013/14*
Referred to AG	9	14	15	11
Accusations Filed	9	1	18	7
Statement of Issues Filed	0	0	1	0
Pending at AG	13	17	22	17
Disciplinary Decision Outcomes				
Revoked	4	1	2	1
Revoked, Stayed, Probation	4	2	4	7
Surrender	1	1	2	1
Other	0	0	0	1

*July 1, 2012 – March 31, 2014

Attachments

1. Expenditure Report
2. Fund Condition
3. Enforcement Annual Performance Report FY 2013/2014
4. Enforcement Performance Measures 4th Quarter

Dr. Turetsky asked if there was an update on CURES as to whether or not all TPA certified optometrists will have to have a DEA number.

Ms. Maggio replied that she and Mr. Santiago will need to work on that by reviewing the Board's law. She stated a CURES update will be added to the next agenda and she will send an update to Dr. Turetsky.

Ms. Maggio said the next meeting is scheduled for November 1, but there was a request to change it to November 14 by Dr. Turetsky. Ms. Maggio asked the Board members to consider a two day meeting because at the June meeting there was discussion with Dr. Redman from COA and he asked if we could have a tour of one of the schools so all of the members could see what they are currently teaching regarding the new procedures for SB492.

After much discussion, November 21, 2014 was confirmed as the next Board meeting date.

Ms. Maggio stated that the Board was having issues with members receiving emails from her, Jessica Sieferman and Lydia Bracco. She instructed the members to contact her if they are not receiving emails from us.

14. Suggestions for Future Agenda Items

Dr. Kawaguchi requested continuance of discussion on student pupil vision health and have consideration for the Board to seek a senator or assembly member to support the Board's suggestions on legislation.

Mr. Kysella asked for a status update from counsel regarding co-location. He reminded the Board that an Attorney General attended a Board meeting and the Board's letter, which was factually based, went too far. Wasn't something going to happen?

Ms. Brandvein would like to re-visit mental health – the regulatory trends and compliance trends. Are we getting anymore closed door sessions that involve mental health? How the environment is changing and how other Boards are dealing with it.

Dr. Lawenda stated that he would like to discuss the Board utilizing or possibly looking at Optometric Physician. Seven states use that signification for optometrists. He would like someone to research what other states have done.

Ms. Burke questioned old business regarding the last set of minutes. The Board had a target date of April for legacy database updates. What is the status? Ms. Maggio explained that the "Legacy System" is referring to the two old database systems (CAS and ATS) DCA is currently using. BreEZe is the system DCA is moving to.

15. Adjournment

Dr. Chawla moved to adjourn the meeting. Mr. Kysella seconded. The Board voted unanimously (11-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Arredondo	X		
Mr. Kim	X		
Ms. Brandvein	X		
Ms. Burke	X		
Dr. Chawla	X		
Dr. Giardina	X		
Mr. Givner	X		
Dr. Kawaguchi	X		
Mr. Kysella	X		
Dr. Lawenda	X		
Dr. Turetsky	X		

The meeting was adjourned at 4:30 pm.