

**Board of Optometry**

2450 Del Paso Road, Suite 105, Sacramento, CA 95834

P: (916) 575-7170 F: (916) 575-7292 www.optometry.ca.gov

**BOARD MEETING ACTION MINUTES**

Friday, November 4, 2016

DoubleTree by Hilton Hotel LAX

1985 East Grand Avenue

El Segundo, CA 90245

| Members Present | Staff Present |
|--|--|
| Madhu Chawla, O.D., President | Jessica Siefertman, Executive Officer |
| Donna Burke, Public Member, Vice President | Robert Stephanopoulos, Assistant Executive Officer |
| Lillian Wang, O.D., Secretary | Joanne Stacy, Policy Analyst |
| Cyd Brandvein, Public Member | Kurt Heppler, Legal Counsel |
| Martha Garcia, CLD, SLD | |
| Glenn Kawaguchi, O.D. | |
| Debra McIntyre, O.D. | |
| Rachel Michelin, Public Member | |
| Mark Morodomi, Public Member, J.D. | |
| Maria Salazar Sperber, Public Member, J.D. | Guest List |
| David Turetsky, O.D. | On file |

Friday, November 4, 2016**9:00 a.m.****FULL BOARD OPEN SESSION****1. Call to Order/Roll Call and Establishment of a Quorum**

Board President, Madhu Chawla, O.D. called roll and a quorum was established.

2. Public Comment for Items Not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment Section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]

3. President's Report

Board President, Madhu Chawla provided a report on the following:

A. Welcome and Introduction

Dr. Chawla welcomed everyone in attendance.

B. 2016-2017 Board Meeting Dates and Locations

Possible locations were discussed and Members decided to alternate between Southern and Northern California areas.

C. Committee and Workgroup Structures

Dr. Chawla provided a brief history and rationale for past and current workgroup structures.

Mr. Heppler initiated and discussed with Board Members and staff what to do if it is believed a conflict of interest exists with a Committee member and their workgroup.

D. Board President Monthly Updates

Dr. Chawla announced that monthly updates will be sent to all Members subsequent to this meeting.

Dr. Chawla reported that she and Vice President Donna Burke were scheduled to attend the DCA Annual Distributing Cost Meeting. The meeting was rescheduled and neither Dr. Chawla nor Ms. Burke could attend. In lieu of this meeting, the DCA Budget Office provided a presentation for Ms. Burke.

E. DCA's Annual Distributed Costs Meeting

Having received a presentation from the Department of Consumer Affairs Budget Office, Ms. Burke reported on this matter. Ms. Burke assured Members that the state is doing its due diligence to make certain that all spending allocations are needed and not exceeded. She briefly described the process.

F. DCA Internal Board Audit

Executive Officer, Jessica Sieferman provided an overview of the audit process. Ms. Sieferman wishes to have any issues that are addressed, added to the Board's Strategic Plan in January.

G. Teleconference Procedures and Policies

Ms. Sieferman reported that until the Board is able to obtain Skype, staff will begin using WebEx. She believes this system will significantly help with teleconference meetings.

No action was taken on this agenda item.

4. Update, Discussion and Possible Action on Concerns Raised Related to the National Board of Examiners in Optometry (NBEO) Examination and National Board Examinations (Parts I, II, and III); NBEO to Participate Via Telephone

Dr. William Rafferty, O.D. and NBEO's Chief Executive Officer, Dr. Jack Terry, O.D. participated in open dialogue with the Board and answered Member's questions.

Discussion ensued regarding the accuracy and methodology of NBEO's forensic system of detecting exam results considered untrustworthy. Members are concerned about the reliability of the number of untrustworthy results detected. Members are disappointed in the lack of adequate communication from the NBEO. Members are concerned about repeated glitches and malfunctions of the electronic exam platform while applicants are testing.

Madhu Chawla moved to create a workgroup to address any and all concerns with the NBE0. Cyd Brandvein seconded. The Board voted unanimously (11-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

5. Presentation by the Association of Regulatory Boards of Optometry (ARBO) on the Optometric Education (OE) Tracker System

Program Manager for ARBO, Sierra Rice provided a presentation of the OE Tracker System.

No action was taken on this agenda item.

6. Update, Discussion and Possible Action Regarding OE Tracker Requirements and Potential Amendments to CCR § 1536 Continuing Education; Purpose and Requirements

Rachel Michelin moved to direct staff to explore multiple options that would allow the State Board of Optometry to better audit and collect CE obtained by optometrists prior to the renewal of their license including what other boards are currently utilizing for the same purpose and process; and direct staff to explore ARBO, BreEZE and other potential electronic systems for collecting and auditing the CE coursework including the costs involved in implementing such a system for the Board. Cyd Brandvein seconded. The Board voted unanimously (11-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

7. Approval of Board Meeting Minutes

A. August 26, 2016

Rachel Michelin moved to approve the August 26, 2016 Board Meeting Minutes. Debra McIntyre seconded. The Board voted unanimously (11-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|------------|-----------|----------------|---------------|----------------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

8. Update from the Department of Consumer Affairs, Which Include Updates Pertaining to the Department’s Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as Well as Legislative, Regulatory and Policy Matters

Ms. Siefertman provided an update for the Board.

No action was taken on this agenda item.

9. Executive Officer’s Report

Assistant Executive Officer, Robert Stephanopoulos

A. BreEZE

Assistant Executive Officer, Robert Stephanopoulos reported on BreEZE.

B. Budget

Ms. Siefertman provided the Budget details for the Board.

C. Personnel

Mr. Stephanopoulos reported on personnel updates.

D. Examination and Licensing Programs

Ms. Siefertman reported on licensing matters.

E. Enforcement Program

Ms. Siefertman reported on the Board’s enforcement program.

No action was taken on this agenda item.

10. Discussion and Possible Action on Board’s 2016 Sunset Report

Members discussed and decided upon language changes and additions for each section of the report.

Members discussed and decided upon the format for displaying the specific comments or the summary of the comments in the Customer Satisfaction Survey results.

Members took informal votes on three questions;

(1) How the Members would like the “New Issues” laid out in the Sunset Report? For question (1), Members agreed to authorize the Executive Officer to rework and integrate the language to make each section/topic consistent. At that point the Executive Officer has the option to call a meeting before she takes action.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

(2) Whether to document the Customer Satisfaction Survey results as specific results or as a summary. For question (2) the informal votes were 5-specific and 6-summary.

| Member | Specific | Summary | Abstain | Absent | Recusal |
|---------------|----------|---------|---------|--------|---------|
| Dr. Chawla | | X | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | | X | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | | X | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | | X | | | |
| Dr. Turetsky | | X | | | |
| Dr. Wang | | X | | | |

(3) Options are to remove Board composition or work with legal staff to make the language vague. For question (3) the informal votes were 5-remove; 5-vague; 1-abstention.

| Member | Remove | Vague | Abstain | Absent | Recusal |
|---------------|--------|-------|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | | X | | | |
| Ms. Michelin | | X | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | | X | | | |
| Dr. Kawaguchi | | X | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | | | X | | |
| Dr. Turetsky | | X | | | |
| Dr. Wang | X | | | | |

11. Update on RDO Advisory Committee

Dr. Chawla provided an update on the RDO Advisory Committee.

No action was taken on this agenda item.

12. Update on 2016 Legislation Impacting Healing Arts Boards and the Practice of Optometry

Policy Analyst, Joanne Stacy provided a legislative update on the following bills:

- A. **SB 482 (Lara) Controlled Substances: CURES Database**
- B. **SB 622 (Hernandez): Optometry**
- C. **SB 1039 (Hill) Professions and Vocations**

No action was taken on this agenda item.

13. Update, Discussion and Possible Action on Recommendations Regarding Children’s Vision Legislative Proposal (Formerly SB 402)

Ms. Stacy provided an update for the Board.

Professional Member, Glenn Kawaguchi, O.D. led the workgroup discussion.

Cyd Brandvein moved for the Board to sponsor the legislative concept and direction of the children’s vision workgroup and request that workgroup Members together with staff to move forward with introducing the legislation in the 2017 legislative session. Madhu Chawla seconded. The Board voted unanimously (11- 0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |

| | | | | | |
|----------------------|---|--|--|--|--|
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

14. Update, Discussion and Possible Action on Recommendations Regarding Mobile Clinics and Potential Legislative Proposal

Ms. Stacy provided an overview of this agenda item.

Ms. Michelin expressed a deep concern regarding the non-existent clarification of what a mobile clinic is. She believes the Board is not currently in a position to make any legislative proposals on this issue. Her recommendation is to begin with a full meeting discussion, and in consideration of the many interested parties that would like to be a part of the discussion. Members agreed.

Professional Member, Dr. Glenn Kawaguchi stated that although he understands the grayness around mobile clinics the Board's core role is consumer protection now. He asked if there is a possibility of focusing more specifically on current law and current potential enforcement action for which the Board should be paying close attention to.

Ms. Michelin responded that the Board will look better to potential authors having fully vetted this issue.

Professional Member, Ms. Martha Garcia, RDO noted from her perspective that without a clear definition of what a mobile clinic is, how can any enforcement action ensue? Her opinion is that a discussion regarding what constitutes a mobile clinic, is a good place to start.

Mr. Heppler added his opinion that the core building block of what arena defines a mobile clinic is the critical starting point from which following steps can be considered.

Dr. Kawaguchi clarified: he wants to make certain that public perception is not that the Board is not interested in regulating mobile clinics and providing consumer protection.

Members continued to discuss this matter and agree that defining mobile clinics is step one.

Ms. Siefertman explained for the Board the two requirements that currently limit mobile clinics which involve Statement of Licensure permits and Branch Office License permits. The two license types are registered to a specific location; the question then becomes would there be a type of exemption for mobile clinic providers to not have to register each location that they go to because the Board would not want the patient's homes registered and displayed on the Board's website.

Members decided to have a stand-alone Board meeting for this specific agenda item, and to include this matter in the Board's Strategic Plan.

No action was taken on this agenda item.

15. Review, Consideration and Possible Action on Consumer Protection Committee Recommendations Regarding the Scope of Practice Educational Outreach

Ms. Michelin, Chair of the Consumer Protection Committee provided an explanation of a two-part form-letter the Committee members created. The letter informs optometrists of their scope of practice, and what their certifications will allow. The Committee would like to have it mailed out to all California optometrist by the end of the year.

Madhu Chawla moved to direct staff to move forward and mail the letter to all optometrists in the state. Lillian Wang seconded.

Members made comments and modification suggestions regarding the letter and accepted a friendly amendment to the previous motion.

Madhu Chawla moved to allow the Executive Officer and Counsel to review and modify the letter as appropriate. Cyd Brandvein seconded. The Board voted unanimously (11-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

16. Update on Rulemaking Calendar and Possible Action Regarding Regulations Impacting the Practice of Optometry

Ms. Stacy provided an update on the following regulations:

- A. Amendment to California Code of Regulations (CCR) § 1582 Unprofessional Conduct and Amendment to CCR § 1516 Application Review and Criteria for Rehabilitation Following Disapproval**
- B. Amendment to CCR § 1399.260 RDO Fees; § 1399.261 Contact Lens Dispenser Fees § 1399.263 Spectacle Lens Dispenser Fees**

Cyd Brandvein moved to withdraw the rulemaking packet. Rachel Michelin seconded. The Board voted unanimously (11-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |

| | | | | | |
|---------------|---|--|--|--|--|
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

- C. Amendment to CCR § 1523 Licensure Examination Requirements to Update Form 39A-1. Rev. 7-09, Form OLA-2m Rev. 11/07, and Form LBC-4, rev. 2/07
- D. Amendments to CCR § 1536 Continuing Optometric Education; Purpose and Requirements
- E. Proposed Revision to CCR § 1514.1 Co-Location Reporting Requirement
- F. Amendment to CCR § 1502 Delegation of Functions
- G. Amendment to CCR § 1530.1 Qualifications of Foreign Graduates
- H. Amendment to CCR § 1506 Certificates – Posting
- I. Amendment to CCR § 1523.5 Abandonment of Applications
- J. Proposed Addition to CCR § 1503 Relating to Accreditation of Schools and Colleges of Optometry

Rachel Michelin moved to prepare regulations C, E, F, G, H, I, J and to accept the tweaks made to E. Lillian Wang seconded. The Board voted unanimously (11-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Chawla | X | | | | |
| Ms. Brandvein | X | | | | |
| Ms. Michelin | X | | | | |
| Ms. Burke | X | | | | |
| Ms. Garcia | X | | | | |
| Dr. Kawaguchi | X | | | | |
| Dr. McIntyre | X | | | | |
| Mr. Morodomi | X | | | | |
| Ms. Sperber | X | | | | |
| Dr. Turetsky | X | | | | |
| Dr. Wang | X | | | | |

17. Future Agenda Items

Items of discussion for future agenda items are pre-accusation settlement of cases and ARBOs OE Tracker system.

FULL BOARD CLOSED SESSION

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

FULL BOARD OPEN SESSION

19. Adjournment