

**Board of Optometry**

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

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**SUNSET REPORT MEETING****FULL MINUTES**

March 20, 2017

Main Location

2420 Del Paso Road

Sequoia Room

Sacramento, CA 95834

## Teleconference locations:

Eyeglass World  
1207 E. Valley Pkwy  
Escondido, CA 92027

Kaiser Permanente  
Department of Optometry  
5601 De Soto Avenue, Rm 1761  
Woodland Hills, CA 91367

Oakland Marriott City Center  
2<sup>nd</sup> Floor – Lobby  
1001 Broadway  
Oakland, CA 94607

Coffee Bean  
Conference Room  
4360 E. Main Street, Suite E  
Ventura, CA 93003

Las Lomas Community Park  
Multipurpose Room  
10 Federation Way  
Irvine, CA 92603

Nugget Market – 2<sup>nd</sup> Floor  
4500 Post Street  
El Dorado Hills, CA 95762

<b>Members Present</b>	<b>Staff Present</b>
Madhu Chawla, O.D., President	Jessica Siefertman, Executive Officer
Donna Burke, Public Member, Vice President	Matt McKinney, Enforcement Analyst
Lillian Wang, O.D., Secretary	Kurt Heppler, Supervising Legal Counsel
Cyd Brandvein, Public Member	Taylor Schick, Fiscal Officer
Martha Garcia, CLD, SLD	
Rachel Michelin, Public Member	
Maria Salazar Sperber, JD, Public Member	
David Turetsky, O.D.	
Glenn Kawaguchi, O.D.	
Debra McIntyre, O.D.	<b>Guest List</b>
Mark Morodomi, JD, Public Member	On File

**March 20, 2017****12:00 p.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)]**

There were no comments.

## 3. Discussion of Proposed Responses to Sunset Issues Report and Resulting Legislation; Possible Action

Dr. Chawla asked the Members if there was anything they would like revised. She opened the floor to discussion regarding whether the RDO and Optometry funds should be merged at this time.

Dr. David Turetsky, O.D. noted that the response to Issue # 12 states that the Public Relations and Outreach Committee will begin meeting on a quarterly basis in March 2017 which is too early. Ms. Sieferman will amend this date.

Public member, Mark Morodomi asked if the Board has taken any position regarding Issue # 2: *Should the RDO and Optometry funds be merged? Should the RDO program be merged into the Optometry Practice Act?* Dr. Chawla assured that this topic will be discussed. Martha Garcia, RDO affirmed that she is also interested in having this discussion. Dr. Chawla asked Executive Officer, Jessica Sieferman to provide an update of events over the last week regarding this issue. Ms. Sieferman reported that she was involved in a conference call with four Assembly consultants, Department of Finance, Agency and Department of Consumer Affairs (DCA) discussing merging the two funds. It appears this is the direction everyone hopes to move in. The entities mentioned are interested in the Board's concerns which Ms. Sieferman advised them of. She reported that at this time it is not yet known if the RDO fund will sustain itself. Ms. Sieferman explained that during the fee audit of the previous year the auditor reported that there are many unknowns at this time. It was recommended, and the Board sought to set a minimum of the fee increases in statute. The intent was to set the fee for the status quo now and observe over the next couple years what the fees actually need to be. The entities mentioned would still like to see the funds merged at this time. Merging the funds of DCA regulated entities would not be unique to this Board. The funds can be merged and tracked separately. In a couple years a fee audit of the entire Board (all licenses) may be performed to assess if fees are appropriate across the Board. At that time if necessary the Board may pursue fee increases for the RDO program through regulations or change the fee structure to the optometry program.

Dr. Chawla asked Ms. Sieferman to provide a background of the BCPs (budget change proposals) for the RDO program. Ms. Sieferman explained that the Board currently has a BCP pending. The BCP would allow reimbursement of services the Board provides the RDO program such as the Executive Officer's oversight, personnel assistance, and the Policy Analyst. The BCP is scheduled for Assembly hearing on Tuesday March 28, 2017. Dr. Chawla expressed her concern of either program ending up supporting the other program. She does not understand the urgency to merge the programs at this time. She believes the plan the Board had decided upon was a good plan. "Why not merge the programs together at the right time rather than hastily?"

Public member, Donna Burke agrees with Dr. Chawla. Ms. Burke does not see any benefit to the public by not waiting.

Dr. Turetsky has a different perspective on this. He believes that since the RDO program has come under the jurisdiction of the Board it should be considered joined “as like a marriage.” He believes the Board should have one funding source to deal with both programs, and he stated “the sooner this can be done the better.” Dr. Debra McIntyre, O.D. leans towards Dr. Turetsky’s perspective.

Mr. Morodomi is opposed to the merger at this time. He stated that “it is anti-transparent.” He questioned if there are legal issues, for example, with using money optometrists pay towards supporting the optometry program to regulate the RDO program? Legal Counsel, Kurt Heppler referred to the fact that the Legislature directed the merging of the funds and that all expenses would be paid out of the one fund. He does not see any constitutional or statutory prohibitions. Mr. Morodomi is still uncomfortable with this due to the lack of transparency. Dr. Chawla agrees with Mr. Morodomi.

Ms. Garcia is fine with the fund merge but she is concerned about the merging of the Practice Act given that the scope of practice for opticians and optometrists are very different.

Dr. Glenn Kawaguchi does approve of the fund merge at this time. He understands the benefits which are legitimate. However, he believes there is risk in not knowing the actual costs of the RDO program. If there will be any risk to the optometry funds it will put consumers at higher risk.

Public member, Cyd Brandvein would like to hear the proposal from the state regarding how the two programs would be tracked before making a determination.

Public member, Rachel Michelin agrees with Ms. Brandvein. Additionally, she is also leaning towards Dr. Turetsky’s viewpoint. Ms. Michelin would also like to hear from the state regarding how they propose to merge and why they feel this way.

Dr. Chawla shares the same concerns as Ms. Burke, Mr. Morodomi and Dr. Kawaguchi. She feels it would help her if the state would explain the reason for their sense of urgency in this. Dr. Chawla invited Fiscal Officer, Taylor Schick to provide a presentation from the DCA Budget Office’s perspective.

Mr. Schick introduced himself and provided an overview. He started by noting that he is not advocating for nor against the merge. Rather he is here to explain the technical aspect. How law would be implemented should the Legislature choose to merge the funds. He addressed the concerns about transparency. He acknowledged that “with regards to fund mergers there exists a loss of initial visibility. However, regarding accountability the Department and the Board have the ability to set up distinct reporting structures for components of the budget. Therefore, the Board would be able to create a reporting structure that has two distinct budgets within the overall Board budget allowing expenditures to be tracked separately. Additionally, all revenue codes regardless of fee type are tracked separately with distinct coding structures.” So, although there would be an initial loss of visibility, there would not be a loss of data integrity. Mr. Schick stated that if the merger is pushed, the DCA Accounting Office would request that it become effective July 1, 2018, for the purpose of working with the Governor’s budget and all annual record keeping.

Ms. Burke questioned what the administrative impact would be of creating our own distinct reporting structures. Mr. Schick assured it would not have too much of an administrative impact on the Board. She also asked how tracking the programs separately would impact the Executive Officer’s workload. Ms. Siefertman replied that this would depend upon the level of detail required.

She explained that it does require more work to track programs separately due to gathering duplicative reports. She believes merging would make her workload easier.

Dr. McIntyre requested clarification, and Mr. Schick explained that currently if someone from the optometry program provides services to the RDO program there is not a way to move the expenditures between the funds and appropriations. This is the intent behind the BCP that would allow a reimbursement relationship between the programs. Mr. Schick believes merging the accounts creates an easier accounting process to transition costs. Additionally, there would not be the accounting issue of transferring money between funds. However, the Board would still need to track all expenditures for which reporting structure on an internal level. His recommendation would be to keep two distinct reporting structures for as long as necessary to be able to track side-by-side and ensure that one side is not supporting the other to the extent possible.

Ms. Siefertman clarified for Mr. Morodomi that although there is not enough data to confirm the fund status in future years, right now the RDO program is projected to sustain itself. Mr. Morodomi feels that until he sees that the RDO program will sustain itself, he will still have concerns.

Dr. Kawaguchi reported that he has been a part of multiple large corporate mergers, and they have never completely merged at a financial standpoint in less than two years. The reason is that one organization may interpret and manage their funds differently than another organization. Although the Board is projected to sustain itself with the RDO program, but since we do not know this for certain, the Board is still at risk.

At Dr. Kawaguchi's request, Mr. Schick assured he will research his notes to determine if the RDO program was ever created distinctly. He stated that currently the Medical Board does have several smaller programs under their purview that have their own distinct and separate funds. The RDO was one of those prior to moving under the jurisdiction of optometry.

Ms. Brandvein asked and Mr. Schick confirmed that on the Governor's budget displays there would be two separate fund condition displays for the optometry and RDO programs. Additionally, the Governor's budget contains an Expenditures-by-Category section which provides another area to identify how much of the expenditures are for the board and how much are for its sub-funds.

Ms. Michelin recommended that "if the Board's will is to not move forward with the merging at this time, that the Board present a clear and strategic plan to the Legislature and Governor's Office of our timeline and how the Board proposes to solve this issue, and stick to it." She still supports Dr. Turetsky's position. She asked that the Board reach out to the Governor's Office's to and find out what the Governor's position is on this.

Ms. Burke feels it is prudent upon the Board to have a strategic plan and a timetable. She stated that she cannot see how it benefits the consumers by moving forward when it is not known if the Board's projection is accurate. Ms. Burke suggests responding that it is the Board's recommendation to move with caution and obtain secure data in order to ensure the Board is representing the consumers in the best manner possible; this requires time to collect that data.

Dr. Turetsky questioned if the Board should have a bracket of dates such as 'no sooner than 2018 but no later than 2020?'

Dr. Chawla acknowledged and confirmed that Mr. Morodomi would like to include a stronger statement about why the Board feels as it does and Dr. Kawaguchi would like to have a timeline

and/or focused plan to demonstrate the Board’s commitment to solving and completing this matter. Members discussed language for this matter.

Katheryn Scott with Lenscrafters and EyeExam expressed appreciation to the Board for the “thoughtful discussions and thoughtful approach in moving the merger forward with 12 months of data.”

Dr. Chawla opened the floor to discussion regarding merging the RDO program into the Optometry Practice Act. Dr. Chawla warned that her concern with the merge is that it may create confusion regarding scope of practice of what and optician can or cannot perform. Additionally, she is concerned that the language of the Board’s proposed response deals only with the administrative aspect; she feels the Board needs to be stronger in its response about the actual practice aspects of optometry and opticianry.

Mr. Heppler and Ms. Siefertman explained that the merging is not to change any of the actual content of the practice acts; rather it is for easier comprehension and readability. When looking up various statutes and regulations, it is easier for consumers if they can find them all under one act versus three acts. Ms. Garcia and Dr. Chawla are concerned that moving them around will do the opposite and make it more confusing for people who have been used to finding various statutes in a particular place are suddenly unable to find them. Dr. Turetsky and Ms. Burke agree that having everything in one spot is easier for the reader. He believes it will help practitioners stay in compliance if they can find particular laws readily rather than searching through hundreds of pages; this would prove beneficial for consumer protection. Mr. Morodomi does not believe licensees look at the laws much. He believes a FAQ sheet could be more helpful. Dr. Kawaguchi does not see any benefit in the integration. Additionally, he is concerned about the administrative time that would be involved. Ms. Garcia agrees. Ms. Brandvein would like the Board to look at this issue over a number of years rather than make a definitive decision at this time. She wishes to come back to this discussion with additional thoughts after the Advisory Committee has had opportunity to explore it and Members have fully vetted the issue. This response timeline should be no later than 2020. Ms. Michelin suggested mirroring the language decided upon for the funding issue; a timeline of twelve months. She needs more input from stakeholders before she can make a decision. Ms. Siefertman noted that current language has the funding merge and Practice Act merge in the same response already.

**Dave Turetsky moved to adopt the changes to the Sunset Report as discussed and to delegate authority to the Executive Officer, Legal Counsel, and the Sunset Committee to make changes that are consistent with the guidance discussed during this meeting and to make any grammatical or not-substantive changes necessary. Maria Salazar 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. McIntyre	X				
Mr. Morodomi	X				
Ms. Sperber	X				
Dr. Kawaguchi	X				

<b>Dr. Turetsky</b>	X				
<b>Dr. Wang</b>	X				

**4. Adjournment**