



**STATE OF NEVADA
BOARD OF DISPENSING OPTICIANS**

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Minutes of Public Meeting

Monday October 6, 2014, 1:00 p.m.

Videoconference between Reno and Las Vegas

TMCC Redfield Campus: 18600 Wedge Parkway, Building B, Room HTRC 103 - Reno, NV 89511

CSN Cheyenne Campus: 3200 East Cheyenne Ave., Room 2638 - Las Vegas, NV 89030

Members Present

Joshua Wasson, President

Tamara Sternod, Vice President

Marsha Costuros, Secretary

Marilyn Brainard, Treasurer

Daniel Harris, Member

Others Present

Sarah Bradley, Deputy Attorney General

Corinne Sedran, Executive Director

1. Call to order

Joshua Wasson called the meeting to order at 1:06 p.m.

2. Public comment

Carole Neel stated it is difficult for licensees to obtain continuing education credits this year as there are fewer courses available. She would like the board meetings in Las Vegas to be held after 5 p.m. so people who would like to earn credits by attending meetings may attend after work.

End of public comment.

Wasson moved ahead to agenda item #6: Announcement of newly licensed ophthalmic dispensers (for possible action):

Examinees who passed the September 27, 2014 state board exam include:

- | | |
|-------------------------------|------------------------------------|
| a. Eulises Beas-Santos | h. Andrew Phillips |
| b. Diane Bruggemeyer | i. Natasha Puckdee |
| c. Christopher DeVaul | j. Yasser Torres-Vargas |
| d. Edward Jiongco | k. Rocky Ventura |
| e. Demi Ledesma | l. Rose Walker |
| f. Jesse Lucero | m. Luth McCaulley (upgrade) |
| g. Roderick O'Connor | |

3. Approval of previous board meeting minutes (for possible action):

a. **August 13, 2014** Regular Board Meeting

Marilyn Brainard moved to make corrections to the minutes including removal of a partial comment and inclusion of the outcome of a motion made at the end of the meeting during public comment. Corinne Sedran stated there had not been a vote on the motion. Bradley said it should be made clear no additional action was taken on the motion. Tamara Sternod seconded the motion to approve the minutes with the stated corrections. The vote was unanimous.

b. **September 16, 2014** Exam Subcommittee Meeting

Sternod asked Daniel Harris why he did not attend the subcommittee meeting. She stated the date and time of the meeting had been determined at the September 16th board meeting and the minutes indicate he had agreed to supply the board office with a copy of the contact lens upgrade exam. Harris stated he had not read the email regarding the committee meeting until after the meeting date had passed. Sternod asked if Harris is still in possession of an original copy of the exam. Harris confirmed he is. Brainard asked whether the board members who were not in attendance at the meeting could vote to approve the minutes. Bradley confirmed the full board could approve the minutes if Wasson would vouch for the accuracy of the minutes to the rest of the board. Brainard moved to approve the minutes. Wasson seconded the motion. The vote was unanimous.

4. Review and decision on Apprentice Ophthalmic Dispenser License applications (for possible action):

a. **Christopher Ceresola**

Sedran stated the application was incomplete and should be withdrawn from the agenda.

b. **Christine Hachinski**

Sternod noted the application includes a request for prior experience but the request does not include the amount of time requested or a letter sent directly from the doctor who provided her training. Sedran stated she had spoken with the applicant and told her she could submit a request for prior experience later if she could not obtain the required documentation in time for the meeting. Sternod moved to approve the application for apprenticeship. Marsha Costuros seconded the motion. The vote was unanimous.

c. **Deanna Peredo**

Sternod noted the dates of Peredo's optical employment are missing on her application. Sternod moved to approve the application pending receipt of her dates of employment. She stated Sedran may review the dates and issue the license upon receipt. Costuros seconded the motion. The vote was unanimous.

5. Review and decision on request for extension of apprentice license (for possible action):

Hilda Dehne

Sternod stated she did not have enough information to make a decision on this request. Costuros agreed. Wasson noted this is a situation in which an apprentice licensee has exceeded the number of renewals of her license permitted by law. At a prior board meeting the board decided to renew her license for 2014 but issued specific stipulations she must meet in order to renew her license for 2015. The board had required her to finish her contact lens education courses and take the board exam in fall 2014. She did not meet these requirements. Wasson moved to deny her request and require her to apply for a new apprentice license if she wants to continue in the profession. Brainard seconded the motion. The vote was unanimous.

6. Announcement of newly licensed ophthalmic dispensers (for possible action):

This item was discussed after Item 2: Public Comment.

7. Review and decision on continuing education course applications (for possible action):

Sternod stated this agenda item includes eight continuing education credit hours available in Las Vegas in fall 2014.

a. **David Leonard, OD:** Contact Lens Updates

5260 West 6th St.; Reno, NV 89523

December 4th and 11th 2014 (3 contact lens credits offered on each date)

Wasson noted six credit hours will be offered. Brainard noted these applications are often hard to read. She suggested a separate form for the background information on the speakers and their course information. Sedran stated a form would make submitting this information more standard. She also noted she often receives incomplete applications that do not specify the number of courses offered or whether spectacle or contact lens credits will be offered. Sternod agreed a separate form should be included that the course speakers will fill out with their qualifications and information on the course.

Brainard moved to approve the courses. Costuros seconded the motion. The vote was unanimous.

b. **NNAOD & SNAOD** – Barbara Amway

Wildfire Casino, Conference Room; 4451 E. Sunset Rd., Henderson, NV

November 16, 2014: 8 courses offered

Wasson noted this application was submitted by SNAOD – a chapter of NAOD that will operate in southern Nevada and hopefully provide continuing education courses going forward. Brainard noted corrections need to be made to the course descriptions included with the application. Some of the courses do not include the number of credit hours offered. Sedran stated these applications are often sent to the board office right before a meeting which makes it difficult to prepare the meeting agenda. Bradley suggested a deadline of at least 30 days prior to the meeting for items that will be included on the agenda. This information could be posted on the board's website. Bradley stated a waiver form should also be included with these applications.

Sternod moved to approve the courses. Costuros seconded the motion. The vote was unanimous.

c. **NNAOD** – Lisa Stewart

Peppermill Hotel and Casino; South Virginia Street, Reno, NV

October 19, 2014: 12 credits offered

Brainard noted this application does not include the number of credits offered for each course. Brainard moved to approve the courses with a note that applicants should review their applications more carefully in the future for accuracy and completeness. Sternod noted the applicant had been facing time constraints when compiling her application information. Costuros seconded the motion. The vote was unanimous.

- d. **Marsha Costuros: Importance of Accuracy and Completion of Forms**
Walmart #5070; 5200 S. Fort Apache Road; Las Vegas, NV 89148
Multiple dates (1 contact lens/spectacle credit offered on each date)

The board members agreed this is a much-needed course. Brainard moved for approval of the course. Sedran asked whether Costuros planned to offer this course to non-Walmart employees. Costuros said she is considering offering the course to the public. Wasson seconded Brainard's motion. Costuros abstained from the vote. The vote was unanimous.

8. Review of complaint; discussion and decision on complaint follow-up (for possible action):

a. **Complaint 2014-01:**

- i. Recommendation by reviewing board member

Sedran noted this complaint was originally assigned to Sternod for review. Bradley stated Sternod should abstain from voting on the outcome of the complaint. Wasson reviewed the details of the complaint with the board: a doctor wrote his/her own prescription for contact lenses; the prescription pad he/she used did not include the doctor's name or other identifying information. An apprentice dispenser filling the prescription called the hospital to verify the doctor's identity. Wasson researched Nevada optometry law and discovered any physician can write a prescription for himself/herself. Bradley confirmed this is what the law says. She stated the apprentice should have been more careful when verifying the prescription but no laws had been violated. Wasson recommended the board dismiss the complaint.

- ii. Vote by board

Wasson and Sternod abstained from the vote. Brainard moved to approve Wasson's recommendation. Costuros seconded the motion. The motion carried. Bradley stated both the complainant and respondent should receive letters of dismissal.

b. Follow up on open unlicensed dispensing complaints

Sedran stated there are six complaints initiated in 2012 against drugstores selling cosmetic contact lenses that are still open, as well as open complaints for 2014. She plans to send investigators to the locations named in the complaints so the locations can be inspected and the complaints closed.

c. Discussion of October complaints/investigations

Sedran asked that members of the public who see cosmetic contacts out for sale for Halloween file a complaint with the board office. The board plans to send an investigator out on a single day to follow up on all October complaints.

9. Review of proposed regulation changes/scheduling of workshop (for possible action):

- a. Review and discussion of LCB proposed regulation revisions/rewordings; suggestions and requests

Harris asked about the proposed changes to apprentice supervision and whether apprentices will now be allowed more than one supervisor of record. Sedran explained the current regulation does not allow for more than one supervisor of record per apprentice, however, the board has been allowing each apprentice to name up to three alternate supervisors. The new regulation would allow for these multiple supervisors of record. Sedran believes the board should employ a

policy of allowing only one supervisor of record per apprentice and having each supervisor complete a yearly apprentice review. Bradley stated the existing law requires a single supervisor of record for each apprentice and allows any other licensed optician to temporarily supervise when the supervisor of record is unavailable. There is no requirement that temporary supervision of an apprentice be reported to the board. Harris would like the new section removed from the regulation changes.

Sternod stated the original intent of the law was to have each apprentice work with a single supervisor of record. Costuros stated restricting apprentices to a single supervisor would create a problem for opticians working for large companies that employ several opticians at one location. Such companies often need to schedule apprentices to work with several different opticians. Sedran stated the original law allows for any licensed optician to temporarily supervise any apprentice so long as the optician does not supervise more than two apprentices at any one time. Workplace inspections would still be conducted wherein employers would have to demonstrate proper apprentice supervision. Bradley noted the current procedure for collecting notice of substitute supervision is not codified in any way and she does not know the genesis of the procedure.

Brainard asked about the original intent for apprenticeships: Was each supervisor supposed to have a mentoring relationship with his/her apprentice wherein they worked together on a daily basis? Harris believes this was the original intent. Sedran stated the board's apprenticeship program has transitioned from a student-teacher scenario into a primarily supervisory scheme. She noted bigger optical retailers would be unable to maintain a scenario wherein the same optician is working with the same apprentice each day. Harris stated it is not the board's job to accommodate the larger businesses. He asked that the new section be removed from the proposed regulations. Bradley stated the board's job is to protect the public, first and foremost, regardless of the impact on businesses. The issue of whether an apprenticeship needs to be a mentoring relationship should hinge on whether such a relationship is necessary to protect the health and safety of the public.

Bradley stated the role of the board at the present meeting is to review the proposed regulations and schedule a workshop. As written, the regulation says there will be one supervisor of record per apprentice. If the supervisor is unavailable on a given day, another licensed optician needs to be obtained to supervise. There is no requirement that a record be kept or that substitute supervision only take place in special situations. The board members may propose new language prior to a legislative hearing or workshop. Nothing in the new regulations will be voted upon or approved at the present meeting.

Sedran stated she included a requirement in the proposed regulations that an optician of record perform a yearly review of his/her apprentice. The requirement would ensure at least one optician would take responsibility for each apprentice's progression. Bradley stated if the requirement is included in the regulations, a supervisor could potentially be disciplined for not completing a yearly review.

Sternod proposed the requirement that opticians keep their CE course slips for two years after completion of a course be changed to three years because the law prohibits submitting the same course for credit more than once every three years. Wasson agreed with making the change. Sedran explained the regulation change is in anticipation of moving to online renewals. Once renewals are online, only a select group of licensees will be required to submit CE course slips to the board office, so the remainder must keep their credit slips in case of audit.

Wasson asked how suggestions on the proposed legislation should be submitted to the board office. Bradley explained a legislative workshop is normally attended just by staff and Sedran will be hosting the workshop as a videoconference between Las Vegas and Reno. The board members can send her their comments and do not need to attend the workshop. The workshop requires fifteen days' notice and may require resubmitting the draft legislation to the LCB for further review. It is recommended the draft be submitted prior to the start of the legislative session. Wasson instructed Sedran to contact the Attorney General's Office for dates a room will be available to host the workshop, then notify the board members and post the meeting date. Bradley explained everything in the proposed legislation must be fixed prior to the hearing. The vote to adopt the new regulations takes place after the hearing.

b. Length of time to notify board examinees of results

Sedran stated the board office is having an issue with examinees expecting to receive the results of their exams within days of taking them. She does not believe a regulation needs to be added but the board should adopt a standard policy regarding how long it will take to issue exam results. Her suggestion is the office should have thirty days after an exam to notify examinees and issue license certificates. Bradley explained the examinees have already been approved for licensure prior to taking the exam. What takes place at the meeting is just an announcement. A 30-day policy would afford the board more time to review the exams but would also give a finite amount of time an examinee would have to wait for results. Costuros asked whether the board members could complete the license certificates and issue them when they score the exams to save time. Wasson believes the board office should deal with double-checking the exams and mailing out letters and certificates as a matter of error control. Brainard believes records and correspondence related to board business need to be kept in one place. All records-processing should be done in the executive director's office. She would be uncomfortable with a division of administrative roles between the board members and board office. Bradley stated the board needs a written policy on how examination results will be administered, though it does not need to be included in the board's regulations.

c. Increase of apprentice renewal fee

Sedran asked whether all board members are in agreement regarding increasing the apprentice renewal fee to \$100. Bradley instructed the board to vote on the issue. She suggested the board review the proposed regulations again once they are finalized, and after the workshop, so the board members can vote on approving them as a whole. Sternod made a motion to approve the increase. Brainard seconded the motion. Harris opposed the motion. The motion carried.

d. Review of apprentice applications by board members

Sedran stated having board members review apprentice applications outside of board meetings would expedite the process. Applicants are currently waiting two months or more to be issued licenses. The apprentice applications are fairly simple and would not be difficult for a single board member to review. This process does not need to be included in the official regulations and can be implemented as an office policy. Wasson stated this change would speed up the process of dealing with incomplete applications. Brainard moved to approve the new process of approving applications. Bradley explained that a reviewing board member could still ask that an application be reviewed by the entire board at a meeting if there is an exceptional issue with the application. A policy should be drafted outlining the approval process for apprentice applications. Wasson seconded the motion. He stated requests for prior experience will still be brought before the board at meetings. Marilyn amended her motion to state that applications with exceptional issues and requests for prior experience will still be reviewed by the board at meetings. Harris opposed the motion. The motion carried.

e. Renewal time determined by birthdate

Bradley explained this policy would require a statutory change. Under NRS, Chapter 637, apprentice licenses and regular licenses both expire on January 31st. The board could change the statute to read that licenses expire on the birthdate of each licensee. Bradley explained a benefit of the current scheme is the board's money comes in all at once for the year and the board can plan accordingly. A change to birthdate renewals would require the sending of renewal notices and ongoing renewal processing; the benefits are money comes in more regularly and the work of processing renewals is dispersed throughout the year. Bradley stated it is too late to file a BDR with the governor on this issue. In order to pursue legislative changes, the board would need to rely on a lobbyist or legislator. The board also has the option of transitioning to biannual renewals or separating the schedules for renewals and CE requirements. Brainard stated it is always good to consider efficiency. Bradley stated no motion needs to be made on this item.

Wasson called for a break at 2:52 p.m.

Wasson called the meeting back to order at 3:01 p.m.

10. Review and decision on state board exam (for possible action):

a. Dissolution of exam subcommittee

Sternod noted Harris had not attended the last three board exams which has made it difficult to train the new board member. Brainard stated this is a small board with a huge amount of responsibility. She cannot personally provide much help with the exams as the public board member. She asked whether some of the responsibility for preparing/proctoring the exams could be outsourced. Tamara explained the board does not receive adequate notice of when they will be in need of such support. Bradley explained the current exam committee is a two-member committee which means both members must be present to constitute a quorum. She suggested a subcommittee may no longer be necessary for exam preparation. A portion of a public board meeting could be closed in order to discuss or revise the exam. Wasson stated this board is one of the smaller boards and it is difficult to conduct business if one person is not present. He suggested doing exam reviews with the entire board present. Sternod stated the board should work on getting the test set up as an electronic exam and having a professional review the exam and attest to its validity. Brainard moved to dissolve the exam subcommittee. Costuros seconded the motion. The vote was unanimous.

b. Scheduling of board exam review session (closed meeting)

Sedran stated Sternod had suggested holding a special closed meeting in February 2015 to review the exam. Wasson stated a policy and procedures regarding exam administration should be drafted for new board members to review. Sternod suggested having the closed meeting the day before the February open meeting to discuss the exam/having an outside person perform an exam review. Sedran will generate a proposed schedule for 2015 meetings and exams and send it to the board members for approval at the December meeting.

11. Executive Director's Report (for possible action):

- a. All board correspondence to be done via email
Sedran would like the board to adopt a policy that board correspondence will be sent by email so there is a written trail of messages sent and received. Wasson agreed he would prefer board correspondence to be in writing. Bradley stated all board members should have a current email address on file with the board office. Sedran will send any official board correspondence via email and responses should be sent via email as well. Board members should check their email boxes regularly for correspondence. Brainard moved to approve the policy that all official board correspondence be sent via email. Costuros seconded the motion. The vote was unanimous.
- b. DataBank reporting requirements
Sedran apprised the board of the requirements instituted by the National Practitioners DataBank for the reporting of disciplinary actions; the board needs to come into compliance. Bradley explained the DataBank keeps track of disciplinary actions against professional licenses nationally.
- c. State Professional and Occupational Licensee Report (SPOLR)
Sedran explained the state is now requiring licensing boards to collect more information on their licensees. The board needs to compile the required information and submit it to the state in an encrypted format.
- d. Report by Board Vice-President Tamara Sternod – National Opticon Conference
Sternod attended the NAO/NCLE conference in Nashville on September 5th and 6th. She spoke with representatives for the organization and other national optical organizations. The NAO has revised its educational program – the program now consists of five volumes, rather than three and materials are printed in color. Eight states have adopted this program as part of their requisite education. The ABO/NCLE has upgraded its exams and has employed another organization, Test Track, to administer the exam. By doing so, they can administer the exams quarterly rather than annually. Other states are encountering legislative bills aimed at eliminating or relaxing the regulation of ophthalmic dispensing. All states are dealing with the online distribution of ophthalmic products that do not meet their current standards.
- e. Discussion/decision on procedure for incomplete applications
Wasson stated incomplete applications should be mailed back to the applicant. A motion was not required on this item.
- f. Discussion/decision on hiring of lobbyist
Bradley explained the purpose of hiring of a lobbyist is participation in the legislative session. If the board decides to hire a lobbyist, it must go through the contract and bidding process. If board staff is unable to perform this process, a private attorney may be hired to do so. Sternod explained the board had completed this process last year and hired a lobbyist. Bradley stated Sedran should review the previous year's contract, as the board may be able to continue the contract if the terms have not yet expired. Brainard moved to authorize Sedran to begin the process of hiring a lobbyist: Sedran should continue the current contract with Neena Laxalt if possible; if the contract is no longer good, she should begin the process of obtaining bids, with an expenditure cap of \$5000. Sternod seconded the motion. The vote was unanimous.

12. Financials (for possible action):

a. Review and decision on **August 2014** financial statements

Brainard stated she had reconciled all checks written from the board's checking account with the board's bank statements. As of September 30, 2014, the board has \$32,362 in its checking account and \$150,396 in its savings account. First Independent Bank of Nevada is very helpful to nonprofit organizations and the board was very fortunate to find an account with such a generous return rate. Brainard suggested the board consider investing in CDs – this could be done through the bank. The board could invest \$100,000 of its retained earnings in CDs. Wasson stated Brainard should research making this investment; Costuros and Sternod agreed. Brainard moved to accept the financials as presented. Costuros seconded the motion. The vote was unanimous.

b. Review and discussion of Audit Engagement Letter

Sedran explained the board needs to submit its yearly audit to the state. Sedran presented an Audit Engagement Letter provided to the board by the accounting firm of David Pringle, CPA, which outlines the auditing services the firm will provide to the board at a cost not to exceed \$5000. The board retained this firm to perform its audit for the previous fiscal year. Brainard moved to retain Pringle's firm to perform the board's audit for the current fiscal year. Sternod seconded the motion. The vote was unanimous.

c. Budgetary review; possible amendments and item additions

Brainard noted there is software available that would allow Sedran to access the office accounts when she is away from the office. Sedran added the software would allow her to access the board's database without having to store any sensitive information on the internet. Brainard suggested the expense be added to a new item in the budget specifically for software. Sedran stated she will also need funds allotted to purchase software for creating PDF fillable forms for renewals and other board functions. The software runs around \$450. Wasson stated he approves of the expenditures. Sedran stated the expenditures are in line with the current budget.

13. Election of board officers (for possible action):

Wasson announced the nominations for board president which included Wasson and Costuros and called for further nominations. There were no further nominations. Costuros stated she did not wish to be considered. Wasson was confirmed as president with four votes.

Wasson announced Sternod and Costuros had been nominated for vice president. There were no further nominations. Sternod was confirmed as vice president with four votes.

Wasson announced Costuros had been nominated for board secretary. Costuros was confirmed as secretary with five votes.

Wasson announced Brainard had been nominated for board treasurer. Brainard was confirmed as treasurer with five votes.

14. Public Comment

There was no public comment.

Wasson adjourned the meeting at 3:56 p.m.