



STATE OF NEVADA

## BOARD OF DISPENSING OPTICIANS

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### Minutes of Board Meeting

November 6, 2013

The Regular Meeting of the Nevada Board of Dispensing Opticians was called to order by  
President Joshua Wasson at 7:01 p.m.  
Hyatt Place Las Vegas, 4520 S. Paradise Rd.  
Las Vegas, Nevada 89169

### Members Present

Josh Wasson, President  
Tamara Sternod, Vice President  
Marsha Costuros, Member  
Danny Harris, Member

### Others Present

Sarah Bradley, Deputy Attorney General, Board Counsel  
Cindy Kimball, Executive Director  
Sophia Long, Board Counsel  
Amber Riggio, Court Reporter

1. **Call to Order:** President Josh Wasson called the meeting to order at 7:01 p.m.
2. **Public Comment:** There was no public comment.
3. **Disciplinary Hearings (Agenda Item 8):**
  - a. Josh Wasson introduced case 2013-02: Dorothea Lopez-Rivera
    - i. Rivera (defendant) was in attendance
    - ii. Witnesses were not excluded
    - iii. Witness and Defendant were sworn in
    - iv. Exhibit 1 (Complaint) was admitted; witness for the Nevada Board of Dispensing Opticians, Cindy Kimball testified concerning the exhibit; an amendment was made to the complaint: the date on p. 1 was changed to July 22, 2013
    - v. Exhibit 2 was presented; Defendant asked for an explanation for its admittance, claimed the allegations therein were untrue; Josh Wasson moved to admit the exhibit
    - vi. Witness 1 (Cindy Kimball): explained the ordered discipline, date of service, and her communications with the defendant
    - vii. Exhibit 3 (Declaration of Fees and Costs); defendant objected to admittance of the exhibit; Sarah Bradley (board counsel) explained the reasons for its admittance; Josh Wasson admitted the exhibit
    - viii. Exhibit 4: Sarah Bradley presented the exhibit to Witness 1; Defendant asked for an explanation for its admittance; Josh Wasson admitted the exhibit
    - ix. Exhibit 5: Sarah Bradley presented the exhibit to Witness 1; Defendant did not present objections; Josh Wasson admitted the exhibit
    - x. Exhibit 6: Sarah Bradley presented the exhibit to Witness 1; Defendant agreed to admittance; Josh Wasson admitted the exhibit
    - xi. Sarah Bradley questioned Witness 1 regarding the record of events; Witness 1 confirmed the record

- xii. Defendant was allowed to direct questions to Witness 1; Josh Wasson directed Defendant to only ask questions; Sarah Bradley objected to Defendant's question – stated Defendant should only ask questions regarding her non-compliance with a board order to take an ethics examination; Sarah Bradley objected again
  - xiii. Sarah Bradley rested her case
  - xiv. Defendant did not present any witnesses
  - xv. Defendant made statement denying the board's allegations that she violated the law
  - xvi. Closing statements: Sarah Bradley stated that Defendant did not comply with the order against her or notify the board of a change of address; Defendant stated that she will not comply with any orders against her
  - xvii. The board members were allowed to ask questions: Tamara Sternod asked if Defendant's previous supervisor notified the board of her change in employment; Witness 1 said yes but never any written notice
  - xviii. Alleged violations of law: Sarah Bradley said there is a type – there are actually 32 factual allegations
  - xix. Board vote: Danny Harris moved that all factual allegations be deemed proven; Tamara Sternod seconded; carried unanimously
  - xx. Claims for relief (one or more claims): Danny Harris moved to find Defendant in violation of all five claims; Marsha Costuros seconded; carried unanimously
  - xxi. Sarah Bradley made recommendations: Defendant's license should be revoked (must be revoked for more than one year and less than ten; recommendation for three); Danny Harris moved to revoke license for one year with costs not to exceed \$1000 in addition to previous assessments (withdrawn); Tamara Sternod moved to revoke license for three years and assess reimbursement costs of not more than \$1000 to be paid within twelve months – Defendant must still comply with original board orders before relicensure (take ethics exam and pay \$300 in costs); Danny Harris seconded; carried unanimously
- b. Case 2013-20: Debresha Mebane, apprentice license #1206
- i. Defendant not present
  - ii. Sarah Bradley presented Exhibit 1; Josh Wasson admitted the exhibit
  - iii. Sarah Bradley called witness Cindy Kimball (previously sworn)
  - iv. Exhibits 2 through 6 admitted by Josh Wasson
  - v. Apprentice lack of progress; NRS 622A – finding of proper legal notice; Josh Wasson made finding – factual allegations of violations of law NRS 637.285 be found proven
  - vi. Witness described exhibits
  - vii. Tamara Sternod moved for first claim; Danny Harris seconded; carried
  - viii. Sarah Bradley recommended revocation of license for one year and costs not to exceed \$700 to be paid within 12 months; Danny Harris moved to amend motion to include an ethics exam; Tamara Sternod seconded, questioned Witness
- c. Case 2013-21: Danette Byers, apprentice license #1187
- i. Defendant not present
  - ii. Sarah Bradley presented and described exhibits; Josh Wasson admitted all
  - iii. Sarah Bradley questioned witness Cindy Kimball (previously sworn): board proved service properly given; Witness described exhibits, confirmed their authenticity
  - iv. Sarah Bradley asked board to find factual allegations 1 through 14 and violation of law 637.285 proven
  - v. Board discussion: Tamara Sternod questioned Witness – did supervisor inform board of change of employment (no)

- vi. Tamara Sternod moved to find allegations proven; Danny Harris seconded (made comment – should board pursue discipline against supervisor?); carried unanimously
- vii. Sarah Bradley made recommendations: revoke license one year and assess reimbursement costs of not more than \$700 to be paid 12 months, must take ethics exam before reinstated; Tamara Sternod moved to approve recommendations; Danny Harris seconded; carried unanimously

8:20 p.m. Break

8:37 p.m. Meeting resumed

**4. Approval of board meeting minutes (Agenda Item 3):**

- a. Board meeting October 2, 2013. Danny Harris moved to approve. Tamara Sternod seconded. Carried unanimously.
- b. Board meeting October 9, 2013. Tamara Sternod moved to approve. Marsha Costuros seconded. Danny Harris abstained (wasn't present). Carried.

**5. Executive director's report (Agenda Item 4):** Cindy Kimball discussed the leasing of new office space; the board will be sharing office space with the Psychology Board; there will be a change of telephone services and phone and fax numbers; Josh Wasson clarified that the board will not have any affiliation with the Psych Board – only sharing an address

**6. Discussion and decision regarding classification of assistant as an employee or contractor (Agenda Item 5):** Corinne Sedran and Cindy Kimball presented reasons why the assistant should be classified as an employee rather than a contractor: board must make Medicare and Social Security payments, but employee will not have to sign a contract or obtain a business license – it will be easier to procure an employee than a contractor; Tamara Sternod moved to make the position an employee position; Danny Harris seconded; carried unanimously

**7. Financials (Agenda Item 6):**

- a. Danny Harris motioned to approve the August and September 2013 statements; Tamara Sternod seconded; carried unanimously
- b. Tamara Sternod presented concerns regarding being over-budget on personnel costs – the executive director will need to work more hours in January and February – how to account for this extra cost?; Cindy Kimball: assistant will be hired in December – will make up difference in hours; Tamara Sternod made motion to spread out the executive director's \$2000/year retirement payment over four quarters (\$500/quarter) – Josh Wasson directed her to make the motion when approving the budget; Tamara asked if all of the executive director's salary is included in the budget (insurance, etc.); Tamara motioned to change \$2000/year retirement payment to \$500/quarter; Marsha seconded; carried unanimously; discussion: should the payments be made from date of hire towards first quarter?, Josh – yes, payments will be retroactive to date of hire (1<sup>st</sup> payment will be January 22, 2014)
- c. Danny motioned to approved audit; Tamara pointed out the recommendations of the auditor (#1 and 2); Cindy stated the board also needs an expense account; Sarah Bradley mentioned hearing costs versus general costs; Tamara seconded; carried unanimously

**8. Board Resolution to Enter into Lease Agreement (Agenda Item 7):** Cindy stated that a lease agreement is required by Public Works – the board cannot move into its new location without one;

Resolution must be passed by board in order to share space with Psychology Board; Danny motioned to approve; Marsha seconded; carried unanimously

**9. Review and Decision Regarding Apprentice Applicants:**

- a. Alissa Hamann not present; Danny motioned to grant her a license plus two years credit for previous experience; Tamara seconded; carried unanimously
- b. Jessica Sartori; Danny Harris motioned to grant license; Tamara moved to approve and revise – only primary supervisor
- c. Hilaire Summerson; not considered

**10. Review and decision regarding request for apprentice license extension:** Lydia Davidson, apprentice license #1223; discussion: Tamara stated licensee had enough time to complete course according to policies and procedures; Danny stated she should have until January 2014; Cindy commented that some licensees don't get their materials on time; Tamara motioned to deny request – licensee must take test on first volume in order to renew; Marsha seconded; Danny opposed; carried 3-1-0

**11. Review and decision regarding ophthalmic dispenser license applications (for possible action):** Roberto Ramirez, Jr.; no decision

**12. Review and decision regarding proposed license reinstatement policy:** Discussion: Sarah Bradley stated that the law allows for reinstatement or reactivation; a licensee whose license has been expired for more than two years must be “reinstated” – should an applicant for reinstatement have to resubmit all credentials, even though a license can be “reactivated” without submitting credentials? Bradley suggested that if an expired licensee originally qualified for licensure, he or she should only have to take the optical exam to reinstate license; Tamara commented that those requesting relicensure who previously held limited licenses should have to take entire optical test (not just the portion required for a limited license); Cindy recommended breaking Section A into two parts: 1) expired limited licensee must meet same requirements as for contact lens upgrade, 2) expired dual licensee just take entire optical test; same fees for both: \$350 for whole test; Danny noted that NRS 637.220 needs to be amended; Danny motioned to approve Cindy's recommendation; Tamara seconded; carried unanimously

**13. Review and decision regarding request for license reinstatement (for possible action):** Patrick Miller, former optician license #107; Cindy stated she couldn't find Miller's request for reinstatement sent in August – she recommended board allow him to take test under new policy (#12 in minutes) and rely on his own records; Tamara motioned to approve; Marsha seconded; carried unanimously

**14. Review and decision on continuing education classes:** 2013- 08 – Contact Lens Updates (6 cl), December 5 & 12, 2013, David Leonard, O.D., 5260 West 7th Street, Reno, Nevada; Danny motioned to approve; Tamara seconded; carried unanimously

**15. Review of complaints 2013-23 through 2013-25:** 2013-23 – unlicensed dispensing in establishment; 2013-24 – apprentice dispensing without supervision; 2013-25 - ; no action

**16. Review and decision on request for apprenticeship credit for prior experience (for possible action):** Monica Garner not present; Tamara commented that there is a ten-year gap since her prior

experience; there is no law or regulation regarding length of time that may lapse; Danny motioned to grant two years prior experience; Tamara seconded; carried unanimously

- 17. Review and decision on proposed revisions to Apprenticeship Credit for Prior Experience Policy:** Cindy stated that the new policy will be posted on the website; Danny motioned to approve; Marsha seconded; carried unanimously
- 18. Review and decision on proposed revisions to Apprentice License Renewal and Apprentice Lack of Career Progression Policies to align with adopted regulations in LCB File R073-12:** Danny motioned to approve; Marsha seconded; carried unanimously
- 19. Review and decision on 2014 Board meeting and exam dates:** CSN agreed to exam dates; discussion on changing meeting times – earlier Las Vegas meetings; Reno TBD – meetings may be held at Kietzke Plaza – need to ensure internet connection is available; Tamara motioned to accept meeting schedule with a note to try to make Las Vegas meeting times earlier than 7 p.m.; Danny seconded; carried unanimously
- 20. Future meetings and agenda items:** Discussion at to whether to create new regulation now; Sarah noted regulation could potentially be created within 90 days – would allow time for a hearing; executive director will complete revisions and submit them to LCB in December, have a draft completed by January for a public hearing (April target for implementation)
- 21. Public Comment:** There was no public comment; Josh thanked Cindy Kimball for her work as executive director and adjourned the meeting at 9:49 p.m.