



STATE OF NEVADA

BOARD OF DISPENSING OPTICIANS

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Minutes of Board Meeting

Wednesday April 9, 2014, 4:00 p.m.
TMCC Meadowood Center,
Reno, Nevada 89502

Members Present

Joshua Wasson, President
Tamara Sternod, Vice President
Marsha Costuros, Secretary
Marilyn Brainard, Treasurer
Sarah Bradley, Deputy Attorney General
Corinne Sedran, Executive Director

Members Not Present

Daniel Harris, Member

1. Call to order

Joshua Wasson called the meeting to order at 4:15 p.m.

2. Public Comment

There was no public comment.

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

A. Board Meeting February 10, 2014

Tamara Sternod noted there had been discussion regarding the policy for applying for credit for previous experience (item 6) and Harris had requested the issue be placed on a future meeting agenda. The board members decided the issue was not relevant at this time. Sternod moved to approve the minutes; Marilyn Brainard seconded the motion; the motion was carried unanimously.

B. Board Meeting February 18, 2014

Sternod noted the minutes include a request for course approval (item 6) which was denied. Sedran stated she had contacted the requester with the board's decision and had not heard back.

Brainard asked whether transferring the board's excess funds to an investment account was still under consideration (item 7). Sedran stated the board's new bank accounts (checking and savings) had been opened at First Independent Bank. She asked Sarah Bradley if the board would need to approve the transfer of funds to a third investment account or if the treasurer could authorized such a transfer. Bradley stated it is up to the board to adopt its own policy on such a matter. The issue does fall under the purview of the treasurer, but smaller boards often vote on these

decisions at meetings. She suggested Sedran might come up with complete job descriptions for each board member outlining which duties fall under each member's purview. The descriptions could be adopted at a future meeting. The board decided this should be a future meeting agenda item. Sternod moved to approve the February 18th meeting minutes; Costuros seconded; carried unanimously.

Sternod asked to reopen agenda item 3A. She stated the board's policy on continuing education credits earned during the month of January should be clarified: credits may be applied to either the current or following year's renewals. Bradley stated the new policy should be approved by the board at a meeting. Sternod moved to add the new policy, as well as Marsha Costuros' request to increase the apprentice renewal fee to \$100, to a future agenda; Brainard seconded; carried unanimously.

4. Discussion and decision on individuals who did not renew their licenses for 2014 (for possible action):

Sedran asked Bradley whether non-renewed licenses need to be addressed by the board at a meeting. Bradley stated the board office should send out notifications to those who did not renew that their licenses are delinquent. There was discussion on license reinstatement for apprentices. After reviewing the law, Bradley clarified that apprentices have only until the March 1st delinquency deadline to reinstate their licenses, whereas opticians have two years to reinstate before their files will be closed. She stated Sedran has the authority to reinstate licenses without board approval. Joshua Wasson asked that the process for dealing with delinquent licenses be drafted into a policy. Bradley and Wasson noted it would be a good idea to send notice to the delinquent apprentices' employers of record as well as the apprentices themselves.

5. Review and decision on new Apprentice Ophthalmic Dispenser License applications (for possible action): **Olicia Abrams, Judi Estrada, Lyndell Flores, Hannah Loydi, Charles Masco, Isela Perez, Crystal Silber, Ernest Valdez, Dana Whitford**

Olicia Abrams: Wasson and Sternod noted Abrams' application states she has been adjusting and repairing glasses as part of her current job duties, which would qualify as dispensing; the board should ensure she has not been dispensing without a license at her current job. Wasson asked that a letter of clarification be submitted to the board office before a license is issued. Wasson moved Sternod will review the letter and either issue final approval of Abrams' application, or require further board review. Brainard seconded the motion; the motion was carried unanimously

Judi Estrada: Sternod noted all of Estrada's named supervisors hold limited licenses. She moved to approve the application with the understanding Estrada will not be dispensing contacts. She asked Sedran to verify that all listed supervisors hold limited licenses and noted Estrada will have to obtain her 100 hours of contact lens training from someone other than her named supervisors. Costuros seconded the motion; carried unanimously.

Lyndell Flores: Sternod moved to approve the application; Costuros seconded the motion; carried unanimously.

Hannah Loydi: Wasson moved to approve the application; Costuros seconded; unanimous.

Charles Masco: Sternod moved to approve the application; Costuros seconded; unanimous.

Isela Perez: Sternod moved to approve the application; Wasson seconded; unanimous.

Crystal Silber: Wasson noted Silber's application states she is requesting credit for prior experience but no documentation was included with the request. Sedran stated she did not receive any documentation of prior experience with her application materials. Sternod moved to approve the application without credit for prior experience; Costuros seconded the motion; approved unanimously.

Ernest Valdez: Sternod moved to approve the application; Costuros seconded; unanimous.

Dana Whitford: Sedran stated she had received notice from Whitford's named supervisor that she is no longer employed by the employer listed on her application. Bradley cited NAC 637.260, stating it is implied in the law an applicant must be currently employed/supervised in order to be approved for a license. Sedran asked whether an apprentice who is disclaimed by her supervisor after being issued a license still holds a valid license. Bradley stated a license may not be taken away without a hearing, but the board may refuse to issue a license to a person not currently employed. Sternod moved to deny Whitford's application, due to lack of a supervisor of record. Costuros seconded the motion; carried unanimously.

6. Review and decision on Requests for Credit for Previous Experience (for possible action):
Hannah Loydi, Jesse Lucero

Hannah Loydi: Wasson noted Loydi's supervisor stated she has been working ten to twenty hours per week for two and a half years; she may fall short of the required hours of experience. The board needs to address the issue of apprentices who work part-time because the board is not able to ascertain how many hours are being worked in a year. Bradley stated the law requires an apprentice who is not working towards a degree in ophthalmic dispensing to obtain 2,000 hours spent at fitting table and preparing orders (at least three years as an apprentice). Those apprentices working towards a degree are required to obtain 1,000 hours of training (at least one year as an apprentice). This suggests a part-time work schedule. Sedran stated the majority of apprentices who request prior experience credit are those enrolled in a career progression program, rather than working towards a degree.

The board discussed whether Loydi should be granted prior experience credit for hours worked when she did not complete her career progression requirements for the previous year. Sedran stated the previous experience policy is mainly applicable to those apprentices whose licenses are not renewed due to lack of career progression. Apprentices who do not complete their yearly progression requirements will be those who apply for new licenses and request credit for their hours worked. Wasson stated the board should not take a lack of educational

progress during a past apprenticeship into account when deciding whether to grant prior experience credit. He moved to grant Loydi two years' experience credit, going by the law requiring 2,000 hours total; she has completed 75% of her requisite work experience hours in the two and a half years she has been working. Sternod seconded the motion; carried unanimously.

Jesse Lucero: Sternod noted Lucero did not state how many hours per week he had worked during his previous experience. Sternod moved to approve Lucero's request for six months' experience; Costuros seconded; carried unanimously.

Wasson called for a break at 5:21 pm; the meeting resumed at 5:26 pm.

7. Review and decision on issuing Ophthalmic Dispenser Licenses to apprentices who passed the March 29, 2014 exam (for possible action):

Examinees who received a passing score on the March 29th exam include:

Kris Allen
Beatriz Alvarado
Terry Harris
Joyce Hodges
Kevin McGrew
Diane Patio
Amber Reyes

Brainard moved to approve the license applications of those examinees who had passed the March 29th board exam in Las Vegas; Costuros seconded the motion; the motion was carried unanimously.

8. Review and decision on request to take private lectures in lieu of completing degree program (for possible action):
Phi Nguyen

Sedran stated the item was withdrawn from the agenda after speaking with Nguyen because he had not yet submitted an application to sit for the state board exam. At the time he applies, the board may determine whether to grant him credit towards his educational requirements for taking private lectures from a licensed optician.

9. Review and decision on proposed continuing education courses (for possible action):

Sternod asked that the dates and locations of proposed continuing education courses be placed on future meeting agendas and be added to the minutes. Sternod moved to approve the application for course approval; Brainard seconded; the vote was unanimous.

The dates, times and locations of the approved courses are as follows: April 17 and April 24 (3 hours of credit available on each date), 2014 at 6pm; 5260 West 7th Street; Reno, NV 89523.

David Leonard and Associates, PC

Courses by David Leonard, OD:

1. Tear Film Stability Importance (1 hour)
2. Ocular Allergies and Contacts (1 hour)
3. Contact Lens Dropout: Why? (1 hour)
4. Corneal Staining from Contacts (1 hour)
5. Presbyopia Challenges: Contact Lens Solutions (1 hour)
6. Masking Astigmatism: Good Idea or Bad? (1 hour)

10. Proposed Board Retention Schedule/disposal of board office documents (for possible action):
Board decision on adopting board-specific retention schedule/disposing of documents according to schedule

Sedran stated she had created an abridged version of the State of Nevada Retention Schedule, highlighting items of special relevance to the board, for review by the board members. She recommended the board follow the current retention schedule and destroy items according to the schedule's instructions, rather than devising a board-specific schedule. She believes the schedule adopted by the state provides for adequate retention periods of board documents.

She asked Bradley for direction on purging documents from the files of current licensees, stating the retention schedule instructs boards to keep only the original application and three most current years of documents. Bradley stated any documentation justifying licensure, such as a licensee's birth certificate or educational certificates, should be kept for the life of the file, but only the three most recent years of renewal documentation should be kept. Documentation of disciplinary actions should be kept indefinitely. Sedran explained the state retention schedule instructs the board to keep closed complaints, which did not result in disciplinary action, for three years, and those that did result in disciplinary action for ten years. Bradley believes the retention schedule is incorrect on this issue and licensee disciplinary files should be kept as long as the license is active, plus three years after the file is closed. She suggested there may be valid reasons to keep these documents indefinitely, and she plans to present the issue to the State Retention Committee. Complaints on which the board did not act may be purged after three years because they are not public records.

Sternod asked what would happen in a case where a previous licensee decided to reapply for licensure after the license file had been destroyed. She asked how such a person would apply for credit for their previous experience. Sedran stated the individual licensees should be responsible for keeping copies of their own records after a time, rather than relying on the board office to keep track of the records indefinitely. Wasson stated there needs to be a balance between keeping records and ensuring the office is not bogged down with excess documents. Bradley believes the board should be cautious about expunging disciplinary

records, especially those documenting a hearing, regardless of whether the board ultimately took action, as well as educational records, and closed license files.

Sedran recounted the categories of documents the board is currently storing and asked the board for a final decision on which documents require a board-specific retention schedule, and what the schedule will be. This board's decision is as follows:

- Continuing education approvals and supporting documents/course descriptions: keep for (3) years from end of renewal year to which they pertain; destroy
- Complaints: keep for three (3) years from date of close of non-disciplinary cases, destroy; disciplinary files will be kept indefinitely for now
- Licensure materials: keep all documents justifying initial licensure for life of file; keep three (3) most current years of renewal documentation; keep expired apprentice licensee files for five (5) years from the date file is closed; keep expired optician licensee files for the two-year delinquency period provided for in the law, plus three (3) years from the date the file is closed (five [5] years total)

All other documents will be disposed of according to the state retention schedule. Wasson directed Sedran to employ a shredding service to dispose of documents in the board's storage unit according to the approved schedule. Wasson moved to approve the agency-specific schedule and employ a shredding service to destroy expired documents. Costuros seconded the motion; the vote was unanimous.

11. Review of Complaints; Proposed Complaint Policy/Procedure (for possible action):

Discussion/action on adopting new complaint policy, retaining private investigative services

Sedran gave the board a synopsis of complaints 2014-01 and 2014-02.

Sedran stated she has been working with Bradley on developing a comprehensive complaint procedure for the board. She would like to streamline the process of following up on complaints and tamp down on the illegal sale of contact lenses. She is proposing the board retain the services of a private investigations firm that has a network of investigators in both northern and southern Nevada. Bradley stated Sedran may need to go through a contract process if the firm is being paid in excess of a certain amount per year. Sedran stated the firm works with other state boards and offers a special hourly rate to boards.

Sedran believes having licensed private investigators do the board's on-site inspections is preferable to having board members do them. The investigators will be able to investigate both unlicensed dispensing and infractions by licensed individuals.

Sedran suggested complaints against licensed individuals be assigned to board members for review. A board member assigned to review a complaint would not be able to vote on its outcome at a board meeting. Bradley explained this process of complaint review: the board members act as filters and determine whether complaints should be forwarded to the board's attorney for action; they also direct the investigations and determine what information should be collected or subpoenaed in each case. The board members are better suited to this task

than the executive director or board attorney because of their expertise in the optical field and knowledge of standard practice.

Sedran would like to move from doing investigative questioning over the phone to issuing written questionnaires. This would give the board members written documents to review and eliminate hearsay. The board could offer the respondent licensee a limited amount of time to respond to the complaint before the allegations will be deemed true.

Sedran suggested the possibility of hiring another optician (not serving on the board) to review complaints and work with the investigators. Wasson stated doing so could raise confidentiality concerns. Bradley stated the person could be hired as an independent contractor and bound by a confidentiality agreement; Sedran may need to undergo contract training before hiring an independent expert. Sedran stated an independent expert is not necessary if the board members are willing to invest their time in investigating these complaints.

Wasson moved to have the board follow the proposed complaint procedure until such time as a formal policy and procedure is proposed to the board at a meeting. Costuros seconded the motion; the vote was unanimous.

12. Proposed change to temporary supervision policy (for possible action): board discussion/approval of change to temporary supervision policy

Sedran presented the board with the temporary change of supervision forms the board office has received in the past year. Wasson noted the temporary supervision policy has been abused, as evidenced by the number of forms that have been submitted. Sedran suggested doing away with the temporary supervision forms and allowing any licensed optician to supervise so long as the optician agrees to never supervise more than two apprentices at any one time. Sternod and Wasson are concerned there will be more abuse of the policy if no documentation of temporary supervision is required. Wasson stated there should be a true emergency justification for obtaining a temporary supervisor for an apprentice.

Bradley suggested the licensees be notified the form will no longer be accepted sixty (60) days from the date of notice. The law does not provide for these "one day only" forms and apprentices must work with one of their 4 (four) named supervisors of record. Costuros is concerned about apprentices being able to work when their supervisors of record are not available or working at a different location. Wasson directed Sedran to work with Bradley on coming up with a new policy in line with the dispensing laws.

Wasson moved to make an announcement to licensees via fax, email, and on the website announcing temporary supervision forms will no longer be accepted. Sternod moved to amend the motion to give licensees sixty (60) days to come into compliance. Wasson seconded the amended motion; the vote was unanimous.

13. Nevada “Sales and Use Tax” collection by online retailers (for possible action):

Sedran explained this tax is not being collected by internet eyewear retailers operating outside Nevada (e.g. ZenniOptical.com and Glasses.com do not collect NV sales tax from those consumers making purchases in Nevada). Online retailers are not being required to collect the same sales taxes as storefront retailers. A licensed optician contacted the board to inquire whether there is any way to enforce sales tax collection laws against online retailers.

The board members agreed this issue does not fall within the purview of the board and should be handled by the Department of Taxation. Bradley stated Nevada law requires companies to know the law regarding sales tax and enforce it, even when conducting internet sales. It is up to the tax department to enforce these laws.

14. Executive Director’s Report

A. Proposed Board Procedures Manual (for possible action): board review/discussion of proposed procedures manual

Sedran stated this agenda item will be tabled until a future meeting because the manual is not yet complete.

B. Banking (for possible action): discussion/action on adding executive director as signer on account

Sedran stated the board policy under the previous executive director allowed the director to sign checks under \$1000. Bradley stated there is an accepted accounting rule that the person who deposits funds in an agency account should not be able to withdraw funds from the same account. Bradley directed Sedran to ask the board accountant for advice on the issue; if the board and the board’s CPA are comfortable with adding Sedran as a signatory on the board’s checking account, a new policy may be implemented.

C. Review/decision on purchase of proposed computer software/hardware for board office (for possible action):

Sedran presented the board with a proposed budget of \$2500 to purchase new computer software and hardware for the board office, including the software needed to create a license database. Sternod asked whether there is room for the expenditure in the budget for the current fiscal year. Brainard indicated the current budget only allows for \$1000 in computer expenditures, but the board has a significant sum in its savings account. She believes the expenditure is necessary to bring the board office up-to-date. Wasson suggested approving the proposed budget and directing Sedran to research the most cost-effective option for software, but said she should purchase the software she believes will be most productive for the board office.

Sternod moved to approve a \$2500 allowance towards computer expenditures. Costuros seconded the motion; the vote was unanimous.

- D. Review/discussion on purchasing internet database service (for possible action)
Sedran stated purchasing a custom-designed database for the board would cost around \$30,000 according to her research. The board members agreed this was not an option for the board at this point.

15. Financials (for possible action):

Review and decision on **February 2014 and March 2014** financial statements

Sternod noted the financials did not show payment of the board's taxes for the first quarter of 2014. Sedran stated the taxes had not been paid because the board's new bank accounts were not opened until late March and Sedran had not been able to pay herself for February and March until they were opened. The taxes have been paid but were not included on the first quarter financial statements. Sternod noted the projected income for apprentice license applications seems to be much higher than reasonable. Wasson suggested there was a mistake in the budget and the projected income for apprentice license renewals had been switched with that for initial apprentice applications. He directed Sedran to review the budget and make any necessary corrections to the line item for apprentice applications.

Sternod moved to approve the February and March financial statements; Wasson seconded the motion; vote was unanimous.

16. Public Comment

Member of the public Nikki Adair asked about prescribed PDs issued on an Rx pad.
Wasson stated he cannot answer her question during comment time, but she may contact him or the board office after the meeting for an answer.

Member of the public Tamara Chaparro said she would like to see the board go to more digital data-keeping moving forward.

Wasson adjourned the meeting at 7:03 pm.