



STATE OF NEVADA

BOARD OF DISPENSING OPTICIANS

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Minutes of Public Meeting

Nevada Board of Dispensing Opticians
Wednesday, June 11, 2014, 3:00 p.m.
Legislative Counsel Bureau, Room 4401
555 E. Washington Avenue
Las Vegas, NV 89101

Members Present

Joshua Wasson, President
Tamara Sternod, Vice President
Marsha Costuros, Secretary
Marilyn Brainard, Treasurer
Daniel Harris, Member

Others Present

Sophia Long, Deputy Attorney General, substituting for Sarah Bradley
Corinne Sedran, Executive Director

1. Call to order

Joshua Wasson called the meeting to order at 3:02 p.m.

2. Public Comment

There was no public comment.

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

April 9, 2014 Regular Board Meeting

Marilyn Brainard moved to approve the April 9th board meeting minutes; Marsha Costuros seconded; Daniel Harris abstained because he was not present at the meeting; none opposed; the motion was carried unanimously.

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

A. **Bobby Bravo**

Harris moved to approve Bravo's application; Tamara Sternod seconded; the motion was carried unanimously.

B. Desiree Debien-Garnica

Sternod noted the applicant has been employed at the same optical location since December 2012. Her application states she plans to work 40 hours per week but lists only one primary supervisor. Costuros moved to approve the application; Harris seconded; motion was carried unanimously.

C. Zulma Echeverria

Costuros moved to approve the application; Sternod seconded; motion was carried unanimously.

D. Luis Enrique Godínez

Harris moved to approve the application; Costuros seconded; motion was carried unanimously.

E. Lisa Jo Gonzalez

Sternod moved to approve the application; Harris seconded; Costuros abstained from voting because the applicant is her apprentice; none opposed; the motion was carried unanimously.

F. Christa Herman

Sternod noted Herman's application is incomplete: she did not state how many hours per week she would be working. Sternod moved to approve the application pending receipt of the missing information. Costuros seconded the motion; carried unanimously.

G. Shaghaiegh Sahraie Kolforouishi – removed from agenda**H. Jose Camerino Magana-Perez**

Harris moved to approve the application; Sternod seconded; motion carried unanimously.

I. Janell Marie Redding

Sternod noted Redding's optical employment began on April 28th, but she did not state her current job responsibilities on her application. The application states Redding will be working 40 hours per week under only one supervisor. Wasson noted the applicant did not state whether she is in compliance with court-ordered child support payments.

Redding was in attendance at the meeting; she stated her name as Janell Marie Redding for the record. She is not subject to any court-ordered child support payments. Her current job is performing retail management for LensCrafters: she partners with the licensed opticians and apprentice opticians at the store to ensure the sales floor is run correctly. Her job does not include any dispensing duties. When customers come to the store she directs them to the correct personnel to help them. Redding asked to add a second supervisor of record to her application.

Wasson returned the application to Redding to be completed and directed the board to return to item 4.I prior to the close of the meeting.

5. Review and decision on apprentice request for prior credit (for possible action): **Rose Walker**

Harris moved to grant Walker one and half years prior experience credit. Sternod noted Walker has not yet completed 100 hours of contact lens training. Sternod seconded the motion; the motion was carried unanimously.

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

For retroactive credit approval:

International Vision Expo & Conference

Sponsored by the Vision Counsel and Reed Elsevier
Jacob Javits Convention Center; New York, NY 10001
March 26-30, 2014
149 hours of continuing education credits offered

The board determined action on this item is not necessary as courses given at Vision Expo conferences have been approved for credit by either the ABO or NCLE. The board has already granted blanket approval of ABO and NCLE approved courses.

7. Review of complaints; discussion and decision on new complaint review procedure and upcoming workplace inspections (for possible action):

A. Review of complaints: 2014-04

Corinne Sedran stated complaint 2014-04 pertains to unlicensed dispensing of contact lenses.

B. Complaint review procedure

i. Review/adoption of board member review sheets

Sedran asked the board members to review the proposed complaint review forms and she discussed the new procedure for handling complaints made against licensees. Board members will be asked to complete both an initial and secondary review form when handling a complaint. During an initial review, the board member will determine whether the board has jurisdiction over the complaint and if an investigation should be performed. The reviewing board member will then make a recommendation to the board at the next board meeting. If the board decides to

pursue the complaint, the executive director will perform an investigation as directed by the reviewing board member. Once the investigation is complete, the reviewing board member will complete a secondary review and determine whether illegal activity has taken place. If so, the board's attorney will be notified and a hearing will be scheduled. The respondent will be issued a 233(b) letter and given a final opportunity to respond to the allegations in the complaint.

Sedran stated the new review policy will allow the executive director to issue written questionnaires to both the complainant and respondent. This will furnish the board with written a documentation of events according to both parties.

Wasson stated the new policy should relieve the board attorney of some of the pressure of dealing with frivolous complaints and complaint investigations. Sternod moved to approve both the primary and secondary complaint review forms; Costuros seconded; the motion was carried unanimously.

ii. Finalization of review procedure

Sedran stated she has discussed the new procedure with board attorney Sarah Bradley and official board approval is not required; the handling of complaints may be treated as an internal office policy.

C. Workplace inspections (some discussion on sub-items was out of presented order)

i. Discussion: information to be provided to private investigators/what investigators should be looking for during inspections

Sedran asked for direction from the board on what workplace inspectors should be checking for in the course of their inspections. She would like to develop a comprehensive form the inspectors can use to guide inspections.

Wasson stated a major concern is apprentice supervision, specifically, ensuring an adequate number of supervisors are on duty. He would like inspectors to check for a log of substitute supervision whenever apprentices are on duty with substitute supervisors. Inspectors should also ask to see where license certificates are posted and ensure each licensee on duty has a posted license.

ii. Review of potential inspection forms/suggestions

Harris asked if the inspection form has been finalized or if board members may still offer suggestions. Sedran stated board members and the general public may contact the board office with suggestions on workplace inspections.

Sternod asked for clarification on the board's definition of "unannounced inspection." Sedran stated the inspections will be "open" (as opposed to undercover), however, they will be unannounced, meaning the workers will not receive advance notice of an inspection. Sternod asked whether the inspection forms may be modified as the board

goes forward with more inspections. Sedran stated, yes, the form and policy may be modified as needed. The policy is internal procedure and does not require formal modification.

Harris asked if persons may file anonymous complaints with the board. Sedran stated she believes all complaints must be signed but she would ask the board's attorney for direction. Sophia Long stated she does not believe a board can act upon an anonymous complaint because in case of a hearing, the complainant would need to be present. Sternod stated the board could receive anonymous complaints but could not act upon them.

- iii. Discussion: Can the board regulate the number of licensed apprentices on duty at an ophthalmic retailer?

Sternod asked whether apprentices who are working in the lab will be considered as being "on duty" for purposes of the two-to-one apprentice to supervisor ratio. Sedran stated she had received direction from board attorney Sarah Bradley on this issue. The board may regulate the number of apprentices per supervisor on dispensing duty at an ophthalmic retailer, but may not prevent licensed apprentices from doing unsupervised lab work. Sternod expressed concern that a policy of allowing licensed apprentices to do unsupervised lab work may lead to unsupervised dispensing. Ophthalmic managers might ask apprentices to leave the lab area to work the floor (dispense) should a store become busy. In such case, there may be more than two licensed apprentices per supervisor (the legally mandated ratio) on dispensing duty.

Harris stated NRS 637.125(4) is clear on the issue and only two apprentices per supervisor may be on duty at an ophthalmic workplace. Sedran agreed the law regulates the ratio of apprentices to supervisors on dispensing duty, however, the board may not regulate the number of apprentices on duty in other areas of the establishment (specifically the lab).

- iv. Discussion: Can the board initiate undercover workplace inspections without receipt of a formal complaint?

Sedran stated she had received direction from board attorney Sarah Bradley on this issue. The board's regulations state the board may only initiate undercover workplace inspections when investigating a formal complaint.

Wasson stated undercover inspections are unlikely to be helpful in tamping down on unsupervised dispensing by apprentices. He stated the board should assume its licensees are attempting to follow the law; it should address the issue of unsupervised apprentices by making inspections as in-depth as possible. Inspections should include asking which apprentices are working only in the lab that day and whether any apprentices on dispensing duty have also been in the lab that day.

Wasson directed the board to return to item 4.I for final decision on **Janell Marie Redding's** apprentice application. Sternod asked Redding about how she handles customer complaints at her place of employment. Redding stated she would direct a customer with an eyewear complaint to the licensed optician who had previously served the customer or to another available optician; she might also direct the person to her manager. Sternod moved to approve Redding's application; Harris seconded; the motion was carried unanimously.

8. Proposed regulation changes/decision on submitting proposals to LCB for drafting (for possible action):

Sedran stated proposed regulation revisions have not yet been drafted. She would like the board to discuss which revisions it would like to pursue during the legislative session. The deadline for obtaining LCB R-numbers for proposed revisions is June 30th.

A. Mandatory log of temporary supervision for ophthalmic retailers

This is a revision requested by Josh Wasson to aid board oversight of apprentice supervision.

B. Specify number of supervisors of record per apprentice

Current board policy allows for two primary and two substitute supervisors of record per apprentice. Sedran stated reducing this number would help with record-keeping. The board's attorney has advised the dispensing laws and regulations do not allow for "substitute" supervisors of record. Sedran suggested the policy of allowing four supervisors of record per apprentice undermines the board's goal of maintaining a record of apprentice supervision.

C. Specify meaning of temporary supervision as "longer than seven days"; change mandatory reporting time for supervision changes to five days

Sedran stated the board should determine the length of time a change of supervision will be considered "temporary," as well as the length of time apprentices will be given to notify the board of permanent changes.

D. Renewal regulations

i. Eliminate/alter rollover credit policy in anticipation of online renewals, etc.

Sedran stated the current rollover credit policy is sometimes abused and also creates administrative difficulties, as many licensees claim to have turned in more credits than board records demonstrate. She believes the board will want to move to an online renewal system in the near future, in which case an auditing system will be preferable to having all licensees mail their CE certificates to the board office. The policy of allowing rollover credits will make performing an audit difficult because the office will need to collect and review a licensee's renewal credits two or three years back to ensure credits are not being submitted twice.

Costuros stated she would like to see the board move to online renewals. Other organizations that accept online renewals allow licensees to check a box certifying they have earned a certain number of credits in the past year.

Harris stated he does not support moving to an online system that does not support the current rollover credit policy.

Sedran stated difficulties also stem from the lack of a standard policy for turning in rollover credits. Some licensees turn them in the year they are earned and expect the board office to keep track of credits to be rolled over to the following year. Wasson and Sternod agreed the board should not take responsibility for tracking credits to be applied the following year.

- ii. Specify that January is a "float month" – continuing education credits can count towards either the current or next year's renewal

This is a revision requested by Tamara Sternod to clarify the board's policy on applying credits earned in January as though they were earned the previous year.

E. New complaint procedure specified in regulations

- i. Review by board members

Sedran suggested the board may want to codify all or a portion of the new complaint review procedure.

- ii. Fee paid to board members for complaint review

Sedran suggested the regulations specify a set fee to be paid board members for reviewing applications.

F. Changes to apprentice application/optical exam application procedures

- i. Apprentice/optical exam applications to be approved by board members (with review sheets)

Sedran suggested the board move to a policy of having individual board members approve licensure applications rather than bringing them to board meetings, as this would expedite the approval process. Costuros noted applicants must sometimes wait two full months to have their applications approved at a meeting. Brainard stated this measure would improve the board's customer service. It is a progressive step that would make the application process friendlier.

- ii. Fee paid to board members for complaint review

Sedran suggested the regulations specify a set fee to be paid board members for reviewing applications.

- iii. Ophthalmic dispenser license applications approved pending passage of state board exam/other requisite exam

Sedran stated that approving license applications pending passage of the state board exam, as opposed to approving them once before the exam and again afterwards, would expedite the licensure process. Applicants would not have to wait for a second meeting to find out if they passed the exam, and those examinees who do not pass will not be listed on a public meeting agenda.

Sternod moved to approve agenda items 8.A-F for submission to the LCB. Costuros seconded the motion; Harris approved with the exception of agenda item 8.D; there were no other objections; the motion carried.

9. Review and approval of proposed new forms (for possible action):
 - A. Change of Apprentice Supervisor Form
 - B. Change of Address Form
 - C. Inactivation/Reactivation Request Form
 - D. Complaint Form
 - E. Complaint Review Forms (for use by reviewing board members)

Sedran stated the board had already approved items 9.D and E as part of agenda item 7.B.i. Items 9.A, B, and C are forms she is proposing the board office use in its standard course of business. The new forms will aid the office in keeping a paper trail of changes to licensee files. Sternod noted the Change of Apprentice Supervisor Form only allows for two supervisors of record. Costuros would like the number of supervisors to remain at four because the temporary supervision log would have to be completed more often with only two. Sedran agreed allowing only two supervisor would create more paperwork, however, allowing four supervisors makes it more difficult for the board to determine who was supervising on a given day. Sternod asked Sedran to consult with the board attorney regarding whether substitute supervisors of record are allowed under the laws and regulations. If so, the form may be modified. Sternod moved to approve items A, B, and C, stipulating item A may be modified. Costuros seconded the motion; the motion was carried unanimously.

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

- A. Elimination of storage unit and various office files; items destroyed/preserved
The board's storage unit has been emptied and documents have been destroyed or preserved according to the state's retention schedule and direction from the board's attorney. Preserved items include expired license files dating five years back and all complaint files. The board will be moving appropriate items to State Archives in Carson City, including all board meeting minutes dating back to the board's creation in 1951.

- B. Progress on Board Procedures Manual/Board Member job descriptions
Progress has been made on the procedures manual and board member job descriptions, but they are not yet complete.
- C. New computer hardware and software purchase
Sedran purchased new computer hardware and software for the board office since the last meeting. The computer system and components are now up-to-date.
- D. New database under construction
Sedran has begun working on the construction of a new database that will house licensee information. The database will expedite the process of updating information and responding to requests for information.

11. Financials (for possible action):

- A. Review and decision on **April and May 2014 financial statements**
Sternod asked why the board has not yet met its projected yearly budget for legal fees. Sedran explained the board is charged fees a month after services are rendered. Sternod asked if the funds budgeted for investigations will be rolled over to next year, as they have not been used this year. Sedran confirmed they would and would be put towards funding workplace inspections and board member complaint reviews. The board budget will not be settled until July. Brainard moved to accept the April/May 2014 financial statements; Costuros seconded; the motion was carried unanimously.
- B. Review and decision on proposed FY 2014-15 Budget
Sternod noted the proposed budget shows a deficit for the year. Sedran explained there are new budget items for next year. The unused investigation funds from the FY 2013-14 budget should cover the new complaint review budget item. Sedran stated funds could be moved back and forth between the investigation and complaint review accounts as necessary. There is also a new budget item for reception services, which will allow the board to have full-time office coverage. Sternod asked why the proposed budget anticipates fewer renewals than last year. Sedran said she would check on the discrepancy. Wasson noted Sedran attempted to be conservative with the budget to allow for possible inflation of costs or decreases in revenue. The budget is “floating” so it can be adjusted as necessary.

- i. Discussion and decision on amount to be budgeted for workplace inspections

This item was discussed as part of item 11.B (see above).

- ii. Discussion and decision on allotting funds for an office “go phone”

Sedran stated an office “go phone” would be useful to her as a part-time employee. It would expedite requests for service if she is able to check phone messages and return calls during hours she is not at the office. Brainard stated she is in favor of getting the phone. She said it is important for the office to keep up with phone

messages and answer questions; the forwarding ability provided by the go phone would help supplement the part-time director's availability. Brainard moved to approve the expenditure; Costuros seconded; motion was approved unanimously.

Sternod moved to approve the proposed budget with ongoing reassessments. Harris seconded the motion; the motion was carried unanimously.

12. Public Comment

Brainard reported the board has approximately \$50,000 in its general checking account in addition to the funds in its savings account. The board recently transferred its funds to First Independent bank; the bank is very receptive to non-profit organizations (such as the board). Both Brainard and Sedran are very happy with the new accounts.

Wasson adjourned the meeting at 4:40 p.m.