



STATE OF NEVADA

BOARD OF DISPENSING OPTICIANS

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Minutes of Public Meeting

Nevada Board of Dispensing Opticians
Wednesday, August 13, 2014, 5:00 p.m.
Videoconference between Reno and Las Vegas
University of Nevada, Reno, Room SCS 47
University of Nevada, Las Vegas, Room SCS 102

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
Henna Rasul, Senior Deputy Attorney General, Board Counsel
Corinne Sedran, Executive Director

1. Call to order

Board President Joshua Wasson called the meeting to order at 5:18 p.m.

2. Public Comment

There was no public comment.

3. Disciplinary hearing and stipulated settlement agreement (for possible action):

Case 2013-01 Christina Laster, Apprentice License #1135

Wasson noted that a court reporter was present at the meeting and both Sarah Bradley and Corinne Sedran would be testifying in the case. Respondent Christina Laster was not present. Wasson administered the oath to the court reporter and introduced the case as the State of Nevada Board of Dispensing Opticians versus Christina Laster. Wasson administered oaths to Deputy Attorney General Sarah Bradley and Corinne Sedran.

Wasson questioned Bradley regarding the complaint. She stated a complaint had been filed but no answer had been filed. She confirmed all board members had been issued a copy of the Notice of Complaint and Hearing.

Wasson asked Bradley for an opening statement. Bradley stated Christina Laster did not comply with a previous order of the board and this case was brought on her failure to comply. The previous order is

included as an exhibit with the Complaint and Notice of Hearing. Bradley asked the board to find the facts in the complaint proven and stated the testimony would support that finding. Wasson asked board counsel to submit her evidence. Bradley asked that the Complaint and Notice of Hearing be admitted as Exhibit 1 for the record. Wasson admitted the document.

Bradley called witness Corinne Sedran and asked her to state and spell her name for the record. Sedran stated she is employed by the Nevada Board of Dispensing Opticians as the Executive Director of the board. She viewed Christina Laster's licensure file prior to the meeting. She also read the Complaint and Notice of Hearing, which was mailed to Laster by the previous board director, Cynthia Kimball after the board's August 14, 2013 meeting. According to notes kept by Kimball, Laster contacted the board office on August 20, 2013 with her new mailing address. On August 27, 2013, Kimball left a voicemail message for Laster letting her know she could request a rehearing or reconsideration of her discipline by writing the board within thirty days of the date of the original order. There is no indication in the record that Laster contacted the board about a rehearing. Kimball later contacted Laster with dates available to take a board-ordered ethics exam and told her if she did not respond by September 27, 2013, Kimball would schedule the exam and inform Laster of the date. Kimball scheduled the exam for October 15, 2013 at 11 a.m. and went to the scheduled location on the specified date and waited from 11 to 11:15 a.m. Laster did not show up at that time to take the exam. Laster contacted the board office on November 12, 2013 and provided her new cell phone number. Bradley directed the board's attention to page 7 of Exhibit 1. She asked Sedran if she recognized the address on that page and Sedran confirmed it was the last home address Laster had provided to the board.

Bradley asked the board to find that Laster had been given proper legal notice of the hearing based on Sedran's testimony and the Complaint and Notice of Hearing sent to Laster's last known address. Sedran clarified she had mailed the Complaint and Notice of Hearing to Laster's previous address on file and it was returned to the board office. Bradley stated her office had sent the Complaint and Notice of Hearing to Laster's last address on file; that notice was also returned by the postal service. Wasson restated the notice had been sent to Laster's last known address, as well as her previous address on file. Wasson asked if any of the board members had questions for the witness (Sedran). Harris asked for confirmation of where the Notice was sent. Bradley directed the board's attention to page 7 of Exhibit 1 where there is a signed certificate of service completed by Bradley's assistant on July 14, 2013, confirming the Notice was sent via regular and certified mail to Laster's last known address. There were no further questions.

Wasson asked board counsel to summarize the case. Bradley asked the board, based upon Sedran's testimony and Exhibit 1, to find that Laster had been given proper legal notice of the present hearing, and that she had neither contested nor complied with the terms of the previous board order. Laster was also ordered to reimburse the board a set amount in legal fees and has not made any payments, nor has she provided the board with a current address. Bradley contended this constitutes unethical or unprofessional conduct and is grounds for disciplinary action by the board. She asked the board to find all factual allegations against Laster proven and to issue a disciplinary order. Bradley asked to admit the proof of mailing of the Notice and Complaint of Hearing as Exhibit 2 for the record.

Wasson called for the board to terminate the hearing, deliberate, and come to a decision. Wasson asked for a motion that Laster received proper legal notice of the present hearing. Sternod so moved. Brainard seconded the motion. The vote was unanimous.

Bradley asked that the factual allegations of the case be found proven. Daniel Harris so moved. Marsha Costuros seconded the motion. The vote was unanimous.

Wasson recounted the violations of law included on page three of the complaint individually:

1) Laster's failure to take the board's ethics exam violated the board's order, issued September 9th 2013, and constitutes unethical conduct subject to disciplinary action. Brainard so moved. Harris seconded the motion. The vote was unanimous. 2) Laster's failure to notify the board of a change of her home or mailing address violated NAC 637.230 which is grounds for disciplinary action. Brainard so moved. Costuros seconded the motion. The vote was unanimous. 3) Laster's unethical and unprofessional conduct is grounds for discipline pursuant to NRS 637.150(1)(i). Brainard so moved. Harris seconded the motion. The vote was unanimous.

Bradley made her recommendations for disciplinary action against Laster. She referred to a similar case in which the board entered into a stipulated agreement with a licensee and the licensee did not comply with the terms of the agreement. The board issued a five-year revocation of the person's license and assessed a fine to compensate the board for the time of the executive director and attorney's fees. She suggested a five-year license revocation, along with a fine not to exceed \$750, in the present case. Harris moved to accept the recommendation. Brainard seconded the motion. The vote was unanimous.

Wasson stated the present time of 5:50 p.m. and called for a five minute break.

Wasson called the meeting back to order at 5:55 p.m.

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

June 11, 2014 Regular Board Meeting

Brainard moved to approve the June 11th meeting minutes. Sternod seconded the motion. The vote was unanimous.

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

- a. **Randee Azevedo**

Sternod read information included on the back of Azevedo's application aloud for the other board members. The information was a continuation of the list of the applicant's current job duties. Harris noted the applicant works for a doctor and moved to approve the application. Sternod seconded the motion. The vote was unanimous.

- b. **Beshara Fadel**

Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.

- c. **Kelly Funderburk**

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

- d. **Wendy Mederos-Sedano**

Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.

- e. **Raquel Ramirez**

Sternod noted the applicant did not include a list of current job duties on her application. She moved to approve the application pending receipt of the list. Harris seconded the motion. The vote was unanimous.

- f. **Bryan Rogers**

Sternod noted Rogers did not include his social security number on his application. She moved to approve the application with the stipulation Rogers may only work when his named

supervisor is on the floor, and only upon receipt of a complete application. Costuros seconded the motion. The vote was unanimous.

g. **Shabnam Sahraie-Kolesforooshie**

Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.

h. **Shaghaiegh Sahraie-Kolesforooshie**

Sternod moved to approve the application. Harris seconded the motion. The vote was unanimous.

i. **Amanda Sloane**

Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.

6. Review and decision on Ophthalmic Dispenser License Applications (for possible action):

a. **Eulises Beas-Santos**

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

b. **Elizabeth Bigmeat**

Harris asked if the board had received Bigmeat's Certificate of Completion for the Career Progression Program. Sedran confirmed the certificate has arrived in the office that day. Harris move to approve the application. Costuros seconded the motion. The vote was unanimous.

c. **Diane Bruggemeyer**

Wasson stated Bruggemeyers' hire date was December 26, 2012. Costuros moved to approve the application. Harris seconded the motion. Sternod noted Bruggemeyer had included all dates on her contact lens training record as specified in the instructions. The vote was unanimous.

d. **Christopher DeVaul**

Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.

e. **Brent Hanson**

Hanson was present and stated his name for the record. Sternod stated NRS 637.100 and 637.150 mandate all requirements for licensure be completed sixty days prior to the exam. Hanson stated he took the final test for the Career Progression Program on August 5th, the day after the deadline. Sternod moved to deny Hanson's application based on his failure to meet the deadline for completion of his educational requirements. Harris seconded the motion. The vote was unanimous.

f. **Edward Jiongco**

Harris asked for the dates of Jiongco's apprenticeship. Wasson stated the start date of December 15, 2010 and confirmed there had not been any lapses. Sternod moved to approve the application. Costuros seconded the motion. The vote was unanimous.

g. **Demi Ledesma**

Sternod inquired about Ledesma's third letter of recommendation. Harris confirmed he had faxed the letter to the board office on August 13, 2014 and had mailed the letter on July 26, 2014. Sternod moved to approve the application. Costuros seconded the motion. The vote was unanimous.

h. **Jesse Lucero**

Harris moved to approve the application. Sternod seconded the motion. The vote was unanimous.

i. **Luth McCaulley**

Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.

- j. **Patrick Miller**
Harris moved to approve the application. Sternod seconded the motion. The vote was unanimous.
- k. **Victoria Miranda**
Sternod moved to approve the application. Costuros seconded the motion. The vote was unanimous.
- l. **Phi Nguyen**
Sternod moved to deny the application based on NRS 637.100 and 637.150 which require all educational requirements be completed sixty days prior to the date of the board exam. Harris seconded the motion. The vote was unanimous.
- m. **Roderick O'Connor**
Wasson abstained from the discussion and decision on the application because the applicant is his associate. Sternod moved to approve the application. Harris seconded the motion. The motion carried four to zero, with one abstaining.
- n. **Andrew Phillips**
Costuros moved to approve the application. Sternod seconded the motion. The vote was unanimous.
- o. **Natasha Puckdee**
Sternod moved to approve the application, then amended her motion to an approval pending receipt of Puckdee's proof of degree and a subsequent review by a board member. She stated the proof of degree must be dated prior the 60-day deadline for exam applications. She requested Costuros review the application and issue final approval. Harris seconded the motion. The vote was unanimous.
- p. **Yasser Torres-Vargas**
Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.
- q. **Rocky Ventura**
Sternod noted Ventura had submitted a copy of his social security card in lieu of a birth certificate as proof of his right to live and work in the United States. Bradley confirmed the social security card constitutes adequate proof. Harris moved to approve the application. Sternod seconded the motion. The vote was unanimous.
- r. **Richard Wair**
Harris moved to approve the application. Sternod seconded the motion. The vote was unanimous.
- s. **Rose Walker**
Harris moved to approve the application. Costuros seconded the motion. The vote was unanimous.
- t. **Aaron Whittaker**
Costuros moved to approve the application. Harris seconded the motion. The vote was unanimous.

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

- a. **Complaint 2014-05**
Sedran stated the complaint had been withdrawn.
- b. **Complaint review assignments**
Sedran asked for recommendations from the board members on how to assign complaints for review. Sternod stated she prefers the idea of assigning complaints from northern Nevada to the southern Nevada board members and vice-versa. She believes this will help avoid conflicts of interest. Wasson would prefer the executive director contact a board member upon receipt of a complaint and determine whether there is a conflict of interest before proceeding. Bradley agreed the complaints could be assigned this way.
- c. **Follow-up on open unlicensed dispensing complaints**
Sedran stated there are unlicensed dispensing complaints from previous years that still require follow-up inspections. She would like the board to allocate funds towards inspecting the

establishments named in the complaints. She stated it would be preferable to have a licensed investigator conduct these investigations. Multiple inspections could be done in a single day.

8. Proposed regulation changes (for possible action):

Wasson stated this agenda item will be tabled and added to a future agenda. He later decided to return to this item after completion of Item 10.

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

Bradley stated this is an informational item on which the board cannot take action. A public workshop and hearing must be held before the regulation changes can be adopted. A workshop requires fifteen days' notice and a hearing requires thirty days' notice. The workshop and hearing may be held within two years of the date the changes are submitted to the Legislative Counsel Bureau. She would like to see the board's regulations altered to directly state that a violation of a board order is grounds for discipline.

Brainard suggested the board consider moving to a system of renewing licenses on the licensees' birthdates rather than renewing all licenses at the same time of year. Bradley stated this may require a change in the law.

Wasson asked that the public workshop date be discussed and set at the October meeting.

b. Workplace record-keeping: apprentice supervision; burden of proof on employer

Sedran stated she would like to see the regulations changed to place the burden of proving adequate supervision of apprentices on the employer. She noted employers must keep records of whom is working on a given day for other legal purposes. She would like the regulations to require employers to submit the records to the board upon request, rather than on an ongoing basis. The ongoing record collection creates a large time burden for both the board office and optical employers. She would also like to add a yearly apprentice review sheet to the apprentice renewal application. The apprentice's supervisor would be responsible for checking and signing the review sheet at the end of the year. This would ensure supervisors are maintaining responsibility for the progress of their apprentices, even if apprentices are being supervised by other opticians at work. She would like to set a limit of two apprentices per supervisor, and only one supervisor per apprentice so every licensee knows to whom and for whom they are responsible. Bradley noted the board has subpoena power and in case of a complaint, can subpoena daily work records from an employer.

c. Apprenticeship: yearly reviews

Sternod asked if the new regulations need to go into effect before the board can issue a review form with apprentice renewals. She would like to see the suggestion implemented for this year's renewals.

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

a. Discussion and decision on development of CL upgrade exam

Sedran stated the board office does not have possession of a contact lens upgrade exam that complies with the law; the exam will be needed for the September 27, 2014 exam date. Harris stated he has a copy of the upgrade exam and would like to schedule an exam subcommittee meeting to prepare for

the upcoming exam. Wasson and Harris are the members of the exam subcommittee. Wasson asked Harris to email a copy of the exam to Sedran at the board office. Harris stated he would email a copy of the exam as well as mail a hard copy. Wasson, Harris, and Sedran agreed to hold a subcommittee meeting Thursday September 4th at 5:30 p.m. via teleconference. The board office will be the physical location of the meeting for posting purposes.

- b. Discussion and decision on continuing education course offerings
Sedran stated there is a lack of continuing education courses being offered this fall in southern Nevada. She suggested the board host at least one more board meeting as a videoconference during 2014 to give licensees another opportunity to earn CE credits. The board members agreed the October meeting would be done via videoconference.
- c. Workplace inspections – evaluation of inspections and costs
Sedran stated the board had completed its first two random workplace inspections and they had gone well. She suggested moving forward with more inspections and allocating board funds for that purpose. Bradley suggested inspectors be given a route to follow when conducting the inspections in order to save time and costs. She stated inspections could still be considered random if locations were chosen geographically. Wasson moved to allow for random inspection locations to be chosen geographically. Sternod seconded the motion. The vote was unanimous.

10. Financials (for possible action):

- a. Review and decision on **June and July 2014** financial statements
Brainard stated the FY 2014-15 budget may need to be altered. Sedran stated she had tried to streamline the accounts for the new budget year, but some adjustments may be needed. She will be meeting with the board auditor in the near future and can get suggestions on the budget. Brainard moved to accept the June and July 2014 financial statements. Sternod seconded the motion. The vote was unanimous.
- b. Change of long-distance telephone provider; change to state system
Sedran stated the board would save on costs by switching to the state system for long-distance phone service. Bradley agreed switching to the state system would cost less. Wasson and Brainard stated the service should be switched.
- c. Upcoming financial audit; tax corrections
Sedran stated the board will need to complete its yearly audit in October. She will be meeting with the board's accountant to discuss the audit as well as possible tax corrections for FY 2013-14. The board may need to file 941X forms with the IRS to amend its previous filings.

11. Public Comment

Wasson would like to address what to do with incomplete applications at the next board meeting. Sternod asked that the board discuss hiring a lobbyist for the upcoming legislative session.

Member of the public Brent Hanson addressed the board. He objected to his application being rejected by the board on grounds of missing the 60-day deadline because other applicants had submitted documents to the board office after the deadline had passed. He believes the board is showing leniency selectively with respect to the 60-day deadline. Bradley stated Wasson could reopen an agenda item if he felt it was appropriate given the circumstances.

Sternod moved to reopen agenda item 5. Wasson seconded the motion. There was no further action taken on the motion. Sedran stated the board office has employed a policy of accepting proof of completion certificates or transcripts from schools after the 60-day deadline has passed, but only in instances when applicants had completed their educational requirements by the deadline and were waiting on their schools to issue their documents. She believes the board has employed this policy consistently.

Wasson called for additional comment; there was no further public comment. Wasson adjourned the meeting at 8:15 p.m.