

STATE OF NEVADA



Board of Dispensing Opticians

(Draft) Minutes of Public Meeting and Hearing for the Adoption of Proposed Regulation R106-14:

June 14, 2016 at 1 p.m.

Meeting took place via videoconference at:
Offices of the Nevada Gaming Control Board
1919 College Parkway
Carson City, Nevada 89706
and
555 E. Washington Street, Suite 2600
Las Vegas, Nevada 89101

Board Members Present:

Marsha Costuros, President
Tammy Williams, Vice President
Jennifer Benavides, Secretary
Marilyn Brainard, Treasurer/Public Member
Michael Grover, Member

Board Staff Present:

Corinne Sedran, Executive Director
Louis Ling, Board Counsel

1. Call to order

Board President Marsha Costuros called the meeting to order at 1:03 p.m. and called roll.

2. Public comment

There was no public comment made in either Reno or Las Vegas.

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

April 13, 2016 Regular Board Meeting

Motion: Board Secretary Jennifer Benavides moved to approve the minutes as presented.

Vote: Motion passed unanimously.

4. Hearing for the adoption of Proposed Regulation R106-14 (for possible action):

Board attorney Louis Ling explained the process of adopting the proposed regulations. The Board has been working on reviewing and modifying the regulations during its past several meetings. On October 20, 2015, the Board held a workshop on the regulations and accepted public comment. This hearing is the final stage of the regulation-writing process. The Board will accept public comment and then discuss the proposed regulations. The Board may choose to make changes as the result of its deliberations. After the Board votes, the proposed regulations will be submitted to the legislative commission and go through a process of legislative review before they are adopted as regulation.

Costuros stated the Board had received comments via email prior to the meeting and those comments had been reviewed by the Board. Fourteen comments written comments were submitted prior to the meeting.

Costuros opened the regulation hearing and called for public comment:

Lori Leonard, License #412 stated taking away the practical portion of the exam will not allow for the proper evaluation of the candidates and the Board should take into account how opticians feel about taking away a hands-on practical exam.

Chris DeVaul, License #599 stated he knows the Board has been receiving a lot of negative comments in regards to changing the Board exam, however not all opticians are against the changes. He believes the change will be a big step forward for the ophthalmic community and would like to commend the Board for working to update the exam.

Linda Brown, License #334 asked for clarification on the changes that will be made to the practical section of the exam. Ling stated that the proposed regulations do not deal with the actual exam; the Board will be able to administer the current exam or adopt a different exam under the proposed regulations. Brown stated the practical examination should remain a hands-on exam. She would also

like the proposed regulations to be changed to require opticians to keep their CE course attendance slips for three years rather than two years. She asked whether it presents a conflict of interest for Ling to represent both the Board of Opticians and the Board of Optometry. Ling stated there is nothing in either of the Board meeting agendas or in the present proposed regulations that would present a conflict.

Brent Hanson, License #601 stated he is concerned that the entire practical section has been removed from the regulations. He believes this will give the Board too much power to determine which subjects and what percentage of each subject will be included in the exam. The current regulations cover a broad range of subjects and reflect what opticians deal with. He believes the Board should audit its licensees to ensure compliance with CE credit requirements.

Mary Ruth, License #529 stated the removal of exam percentages from the regulations is concerning; the proposed regulations do not break down percentages for the contact lens portion of the exam. She believes removing the requirement that the licensees submit their CE slips at the end of the year will cause a free for all.

Tamara Sternod, License #360 stated one of her projects while serving on the Board was researching various ways in which to update the current licensing exam to come into line with national standards; the proposed regulations are the result of a six-year process. The current exam was not developed by masters or professors in the field and has never been psychometrically analyzed for accuracy or updated to reflect changes in the profession; it must be administered by Scantron which is becoming an outdated technology. The exam percentages are being taken out of the regulations to allow the Board to get rid of a test that is no longer suitable; it was never the intention of the Board to eliminate a practical portion of the exam. The current exam is also unfairly biased towards students who attend CSN and have access to the equipment on which the practical portion of the exam is administered. Sternod stated the proposed regulations should be altered to require CE credit slips to be kept for three years and to require the slips to be submitted with renewals.

Discussion: Benavides referred to Section 637.285 of the proposed regulations and suggested the Board strike the new six-month allowance time for apprentices to enroll in an educational program and leave in place the current ninety-day enrollment allowance. Referring to Section 637.190, Benavides suggested the Board amend the section to require licensees to keep their CE credit slips for three years, rather than two years as stated in the proposed regulation.

Board Vice President Tammy Williams stated apprentices should be given six months to enroll in their educational programs because the current ninety day window may prevent them from enrolling in their preferred program. Benavides stated the Board is moving towards more self-governance in its apprenticeship program; an apprentices should not apply for their apprentice licenses until they are ready to enroll in an educational program. Costuros asked whether the Board might question Scott Helkaa, Director of the Ophthalmic Program at CSN, about timelines for enrollment. Helkaa was present at the meeting; he stated that if an apprentice happens to be licensed halfway through the school semester at CSN, the apprentice would not be able to enroll at the school within the ninety-day window. The Board is currently having to make special allowances for those apprentices at its meetings; extending the enrollment time to six months would rid the Board of this need to make

special exceptions.

Williams asked Ling about the proposed forty-month apprenticeship program and whether the forty months would run from the time the apprentice is licensed or from the start of the apprentice's educational program. Ling stated it would run from the time the apprentice is licensed. Costuros stated she supports changing the enrollment window from ninety days to six months.

Motion: Benavides moved to adopt the proposed regulations with an amendment to Section 637.190 to require licensees to keep their CE credit slips for three years rather than two years.

Vote: Costuros and Williams voted in favor of the motion; Board Member Michael Grover requested the Board table the vote; he stated many licensees are against the adoption of an electronic practical exam; Ling advised that once a motion has been moved to a vote, the Board members must cast their votes on the motion; Grover asked Costuros to table the vote; Costuros instructed that the two Reno Board members must cast their votes; Board Treasurer Marilyn Brainard voted in favor of the motion and Grover voted against the motion. The motion passed by a vote of four to one.

Grover stated he would like to discuss changes to the present exam at a future meeting. Sedran stated she will place the issue on the August meeting agenda.

5. Review and decision on requests for prior experience credit (for possible action):

a. **Myers, Joy**

Motion: Benavides moved to grant Myers one year prior experience credit.

Vote: Motion passed unanimously.

b. **Tabaoda, Israel**

Motion: Benavides moved to grant Tabaoda two years prior experience credit.

Vote: Motion passed unanimously.

6. Review and modification of Board travel reimbursement policies (for possible action):

Ling suggested the proposed policy be amended to include the use of motor pool vehicles and a prohibition on additional passengers riding in Board-rented vehicles; these changes would reflect the policies in the State Administrative Manual. Brainard suggested the policy be amended to require reimbursement forms and receipts to be submitted within thirty days of travel in order to qualify for reimbursement. Sedran will make the changes and add the policy to a future agenda.

7. Scheduling of disciplinary hearing(s) (for possible action):

This item was tabled.

8. Financials (for possible action):

a. Review and acceptance of **April and May 2016** financial statements

Motion: Williams moved to accept the April and May 2016 financial statements as presented.

Vote: Motion passed unanimously.

b. Review of investment of savings account funds

Brainard reported the Board has invested \$100,000 of the surplus funds in its savings account in a federally-insured flex-CD account. The CD is for a 12-month term at .55% interest and the Board can make one withdrawal from the account during that term with no penalty charges.

c. Budget modification: review and decision on InLumon database/web application proposal

Sedran stated she received a proposal from local computer software development company InLumon to develop an online database and online forms for the Board. The company specializes in developing government licensing software and works with several other Nevada occupational licensing boards, including the Massage, Cosmetology, Professional Engineers and Land Surveyors, Occupational Therapy, and Physical Therapy Boards. The board directors Sedran has contacted thus far have highly recommended the company and its programs. Benefits of the program include: an online portal for each licensee that displays licensure and renewal history, payment verifications, and continuing education history, a cloud-based database with government-level encryption for the protection of sensitive data, and online forms that allow for credit card payments and the viewing of application statuses. InLumon has presented the Board with two options to fund the creation and funding of its online program: a one-time up-front cost, plus a reduced monthly cost for maintenance, or a higher ongoing monthly cost.

Brainard stated that if the Board pays for the initial setup of the database upfront, InLumon will provide six months of free support. She stated this would be a much needed update of the Board's filing system and would allow the licensees to access their information instantly.

Costuros stated she is very impressed by the proposal and mock-up web pages presented by InLumon; the company did a lot of work on the proposal and the system seems to provide everything the Board needs to handle its applications and files efficiently. The Board has needed to update its system for some time; this is an important and necessary investment for the Board.

Williams stated the program looks very user-friendly and has all the needed features.

Brainard stated the Board's current method of processing applications, especially renewal applications, by mail creates far too much paperwork and is not feasible or practical as the Board grows.

Benavides stated she is interested in implementing the program and would like to obtain feedback from the other Boards on how they have funded their programs, whether as an up-front cost or on a month-to-month basis.

Sedran requested the Board members send all their inquiries about the program to her in advance of the next meeting so they will have the necessary information to make a final decision.

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

a. Hiring of workplace inspector

Sedran stated she had hired a workplace inspector for the Northern Nevada region.

b. Review and approval of updated Board FAQs

Sedran stated she is in the process of updating the Board's FAQs page on its website. She would like the Board to clarify its policies regarding which activities constitute "delivery" of ophthalmic products and must be done by a licensed optician. Benavides stated she interprets the law to mean a licensed optician must hand the final product to a customer over-the-counter but mail delivery of online orders does not require a licensed optician. Costuros asked if ophthalmic products delivered by mail are given a final inspection before they are boxed and delivered and if so, who is performing the final inspection. Ling suggested he and Sedran come up with a proposed policy and present it to the Board at its next meeting for discussion.

10. Board Counsel's Report (for possible action)

Ling did not have any items to report.

11. Public Comment

Marquetta DeVille, Appr. License #1034 requested clarification on whether the Board will host an exam in September. President Costuros stated the Board should go ahead with its regularly scheduled September exam.

Margaret Price, License #203L asked about the regulation change allowing licensees to obtain up to four hours of CE credits for community service and whether an upcoming event would qualify. Ling stated the new regulations are not yet in effect and would not pertain to the upcoming event.

Jayme Lopez, License # 578 asked whether the Board will still be offering CE credits for meeting attendance; Sedran stated CE credits will be offered at live meetings for the foreseeable future. Lopez asked whether investing in the InLumon software program would make the Board financially unstable; Sedran stated the Board is in very good shape financially and would not have a problem affording the software.

Tamara Sternod, License #360 asked whether the InLumon software would make online renewals available for the upcoming year. Sedran stated the company had quoted a two-month timeframe for launching the program and online renewals would potentially be available by the end of the year. Sternod stated she had been a member of the Board for six years and the executive director is very cautious with the Board's funds; the Board makes its decisions based on what it feels will be most beneficial for the public as a whole.