

# STATE OF NEVADA



## Board of Dispensing Opticians

### Board Meeting at:

Office of the Nevada Public Utilities Commission

Hearing Room B

9075 W. Diablo Drive, Suite 250

Las Vegas, NV 89148

**October 12, 2016 at 1 p.m.**

**(Draft) Minutes**

#### Board Members Present:

Marsha Costuros, President  
Tammy Williams, Vice President  
Jennifer Benavides, Secretary  
Marilyn Brainard, Treasurer

#### Board Staff Present:

Corinne Sedran, Executive Director  
Louis Ling, Esq., Board Counsel

1. Call to order  
Board President Marsha Costuros opened the meeting at 1:09 p.m. and called roll. Board Member Michael Grover was not in attendance.
2. Public comment  
There was no public comment.
3. Approval of previous board meeting minutes (for possible action):  
**August 10, 2016** Board Meeting and Regulation Hearing  
**August 23, 2016** Board Meeting  
**Motion:** Board Treasurer Marilyn Brainard moved approval of the minutes as presented.  
**Vote:** Passed, unanimous.
4. Disciplinary hearings and stipulated settlement agreements (for possible action):
  - a. **Case 2016-04** Almeida-Perez, Regla; Apprentice License #1360  
**Discussion:** Board Attorney Louis Ling provided the Board with an overview of the Board's processes for reviewing complaints, filing formal complaints against respondents, implementing settlement agreements with respondents, and conducting disciplinary hearings.  
  
Mr. Ling then provided the Board with an explanation of the proposed stipulated agreement in the present case. The respondent was not in attendance but consented to the terms of the agreement prior to the meeting. Board Treasurer Marilyn Brainard expressed concern about the current state of Nevada law that allows an apprentice to act as retail manager over licensed opticians. Board Secretary Jennifer Benavides suggested a Nevada Law and Ethics exam be implemented as a term of disciplinary agreements.  
  
**Motion:** President Costuros moved to approve the settlement agreement as proposed.  
**Vote:** Board Vice President Tammy Williams abstained from the vote due to a conflict of interest in the case. Passed 3-0 with one member abstaining.
  - b. **Case 2016-05** Taboada, Israel; Apprentice License #1316  
**Discussion:** Mr. Ling provided the Board with an explanation of the proposed settlement agreement. The respondent was not in attendance but consented to the terms of the agreement prior to the meeting.  
**Motion:** Secretary Benavides moved approval of the proposed agreement.  
**Vote:** Passed, unanimous.
5. Continuing education course approval requests (for possible action):
  - a. **Henderson NAOD:** 8 credit hours; October 23, 2016 at 8 a.m.  
Fiesta Henderson: 777 W. Lake Mead Pkwy.; Henderson, NV 89015
  - b. **Reno NAOD:** 8 credit hours; Oct 23, 2016 at 7 a.m.  
Peppermill Reno: 2707 S. Virginia St.; Reno, NV 89502
  - c. **David Leonard, OD:** 3 credit hours each date; November 3<sup>rd</sup> and 10<sup>th</sup>, 2016 at 6 p.m.  
5260 West 7<sup>th</sup> Street; Reno, NV 89523

**Motion:** Secretary Benavides made a blanket motion to approve items a, b, and c, with the number of credits for each request being amended according to each application. The application from the Reno NAOD encompasses 12 credit hours.

**Vote:** Passed, unanimous.

d. **Onesight** (individual credit request)

**Motion:** Secretary Benavides moved to grant the applicant one full year of CE credit towards renewal requirements.

**Vote:** Passed, unanimous.

6. Prior experience credit requests (for possible action):

**Calderon, Allen**

**Motion:** President Costuros moved to approve the applicant's request for credit pending receipt of a letter from his workplace supervisor in Hawaii.

**Vote:** Passed, unanimous.

7. Extension (renewal) of apprenticeships for 2017 requests (for possible action):

**Smith, Rebecca**

**Motion:** President Costuros moved to grant Ms. Smith an extension of her apprenticeship for 2017 so she may renew her license.

**Vote:** Passed, unanimous.

8. Financials (for possible action):

a. Review and acceptance of **August and September 2016** financial statements

**Motion:** Treasurer Brainard moved to approve the financial statements as presented.

**Vote:** Passed, unanimous.

b. Budget: review and decision on cost of living adjustment for executive director

**Discussion:** President Costuros explained that Executive Director Corinne Sedran had not received a cost of living adjustment since beginning work for the Board in October of 2013. She gave an overview of Ms. Sedran's contributions to the Board since being hired.

**Motion:** President Costuros moved to increase the director's hourly rate by 12.5%, commensurate with a standard cost of living adjustment for an employee over a three year period.

**Vote:** Passed, unanimous.

c. Budget: review and decision on PERS enrollment and payments

**Discussion:** Ms. Sedran stated the Board is currently enrolled in the State's mandated retirement program which is very expensive for both the Board and its employees. Ms. Sedran and Treasurer Brainard both noted other state licensing boards are not currently enrolled in the program and are not being pursued by the Attorney General's office or PERS for enrollment.

d. Budget: review and decision on Puliz document scanning services

This item was tabled until the December Board meeting.

President Costuros called for a break at 2:35 p.m. Ms. Costuros called the meeting back to order at 2:43 p.m.

9. Discussion and decision on Board policies and future regulation changes (for possible action)

**Discussion:** Ms. Sedran stated the Board needs to clarify its policies on online prescription lens sales originating both out-of-state and in Nevada. Under current Board policies, an unlicensed employee may not physically hand a completed prescription to a customer at a retail location, as this has been interpreted to constitute dispensing. In the case of online sales, employees are not interacting with customers in person. Mr. Ling stated a licensed person must confirm a completed order matches the customer's prescription, as this is a professional act; he questioned whether an employee who completes the sale or delivers the product after the order is verified must be licensed. He stated the Board does not currently have statutory authority to regulate sales originating in other states; the Board has not received any consumer complaints related to such sales up to this point, so it would be difficult to convince the legislature of the necessity of regulating these sales.

Secretary Benavides suggested the current regulations should be revised to allow unlicensed persons to deliver completed work orders to laboratory technicians. President Costuros agreed unlicensed persons should be allowed to deliver completed work orders to lab technicians, however, a licensed optician should physically deliver the final product to the customer in the context of in-store sales. In the case of online sales, once a licensed optician performs a final inspection of the product, an unlicensed person may be responsible for mailing the product to the customer. Ms. Sedran questioned whether an online business domiciled in Nevada must employ a licensed optician to perform a final inspection of any online orders. Mr. Ling stated the law has historically been interpreted to require a final inspection of any prescription ophthalmic products sold in Nevada. An online service fulfilling orders within Nevada would need to employ a licensed optician to perform final inspections of all such products before they are mailed to customers.

Ms. Sedran asked the Board members whether they were still in favor of amending the regulations to allow licensees to obtain all requisite CE credits via online courses. The Board members agreed the regulations should be so amended.

10. Discussion and decision on Board-sponsored continuing education course (for possible action)

**Discussion:** Ms. Sedran suggested the Board host a CE course to inform its licensees of changes in the regulations and renewal process. The Board members agreed the CE course should be scheduled after the proposed regulations are approved by the Legislature. Secretary Benavides suggested the Board host a similar CE opportunity every time the laws or regulations are altered.

11. Executive Director's Report (for possible action)

Ms. Sedran updated the Board on progress made on the new licensee database and the results of workplace inspections.

Newly licensed opticians who passed the September 17<sup>th</sup> Board Exam were announced:

**Clemente Blanco**

**Mark Bolos**

**Lorrie Curless**

**Laura Epperson-Davis**

**Ghazala Hussain**

**Kimberly Kekahuna-Lee**

**Maria Landin**

**Patricia Lee**

**Luis Moctezuma**

**Cynthia Mueller**

**Zayra Romero-Mendoza**

**Lisa Jo Skallet**

**Janice Sticka**

**Sheena Thompson**

**Karen Wilken**

**Denise Woodson**

**Lela Zoranovic**

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

Mr. Ling did not have any items to report.

13. Public Comment

Howard Adler, License 246, commented regarding online sales of contact lenses. He does not believe online sellers are collecting Nevada sales tax; the Nevada Tax Commission should pursue these sellers to collect taxes on these sales. He also asked for clarification on the regulations regarding management of an ophthalmic facility. Board Attorney Louis Ling directed attention to NAC regulations that allow unlicensed persons to act as retail or general managers of optical retail locations.

Joseph Yared, License 516, spoke concerning the Board's discussion of whether delivery of a finished product to a customer constitutes dispensing. He stated dispensing consists of speaking with the customer about the product, placing the product on the customer's face to make adjustments, and ensuring the prescription and frames are correct. He also suggested the Board's workplace inspectors carry identification badges.

Barbara Amway, License 313, inquired as to whether licensed apprentices may perform final inspections of lenses once they are returned by the lab. The Board Members agreed a licensed apprentice may perform all duties of a licensed optician, including final inspections, so long as they are performed under the direct supervision of a licensed optician.

President Costuros closed the meeting at 3:47 p.m.