



STATE BOARD OF OPTOMETRY
2420 Del Paso Road, Suite 255
P [916] 575-7170 F [916] 575-7292 web: www.optometry .ca.gov

MEETING MINUTES

July 16, 2009

California State Board of Optometry
Department of Consumer Affairs
Hearing Room, First Floor S –102
Sacramento, CA. 95834

Members Present

Lee Goldstein, OD, MPA
Board President
Monica Johnson, Public Member
Board Secretary
Alejandro Arredondo, OD
Kenneth Lawenda, OD
Fred Naranjo, MBA, Public Member
Edward Rendon, MA, Public Member
Katrina Semmes, Public Member

Member Absent

Susy Yu, OD, MBA, FAAO

Staff Present

Mona Maggio, Executive Officer
Margie McGavin, Enforcement Manager
Cheree Kimball, Enforcement Analyst
Andrea Leiva, Lead Licensing Analyst
Michelle Linton-Shedd, Enforcement Analyst
Jeff Robinson, Licensing Analyst
Krista Eklund, Administrative Assistant
Nancy Day, Licensing Analyst
Elizabeth Bradley, Reception
Elvia Melendrez, Licensing Assistant

Legal Counsel

Michael Santiago, Staff Counsel

Guest List

On File

FULL BOARD OPEN SESSION

1. Call to Order – Establishment of a Quorum

Board President, Lee Goldstein, OD called the meeting to order at 9:50 a.m. Dr. Goldstein called roll and a quorum was established.

Dr. Goldstein reported that Drs. Richard Simonds and Martha Burnett-Collins have completed their terms with the Board. He thanked them for their services to the Board and to the public. Currently, the Board is operating with eight Board members and three vacancies, two gubernatorial professional member appointees and one public member appointee by the Senate Rules Committee.

2. Welcome and Introductions

Dr. Goldstein welcomed everyone in attendance. Board Members, staff and members of the audience were invited to introduce themselves.

Patricia Harris, Department of Consumer Affairs (DCA), Acting Chief Deputy, welcomed the Board to Sacramento and provided an update regarding activities at the DCA.

Ms. Harris addressed the difficulty of these challenging economic times stating the Department's Boards and Bureaus have been impacted with three furlough days each month, as well as undergoing a 15% cut in operation resources. Fortunately, the Department's Boards and Bureaus have not suffered any layoffs of personnel.

Ms. Harris congratulated Dr. Goldstein on his award as the California Optometric Association's (COA) "2008 Optometrist of the Year".

3. Approval of the May 15, 2009 Board Meeting Minutes

Dr. Kenneth Lawenda moved to adopt the minutes as amended. Katrina Semmes seconded the motion. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Ms. Johnson	X		
Dr. Arredondo	X		
Dr. Lawenda	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

4. President's Report

Dr. Goldstein reported on the following:

Association of Regulatory Boards of Optometry (ARBO) Annual Meeting

The 90th ARBO Annual Meeting was held June 21-23, 2009, at the Gaylord National Resort, National Harbor, MD. Due to constraints from the current budget crisis, the Board's representative Dr. Susy Yu did not attend. Dr. Goldstein congratulated Dr. Yu on being elected to the ARBO Executive Board and expressed best wishes to her as a member.

Annual American Optometric Association (AOA) 112th Annual Congress

The 112th AOA Congress and 39th Annual American Optometric Student Association (AOSA) were held June 24-28, 2009 at the Gaylord National Resort and Convention Center, in Washington, D.C. Drs. Lawenda and Goldstein attended a Legislative session where they spoke with congressional leaders about matters of importance related to optometry. The two primary issues discussed were:

- 1) The inclusion of a loan forgiveness program reinstated for optometry students and graduates, and
- 2) Legislation to include (under Medicaid legislation) the classification of optometrists as physicians.

Joint Board Certification Proposal

Dr. Lawenda reported that AOA members voted in favor of establishing the American Board of Optometry (ABO) as the entity for development, implementation, and maintenance of board certification. Dr. Goldstein noted that he has not received any calls from members of the practicing public regarding the Board's decision on Joint Board Certification; however, he has received a number of calls pertaining to the shortage of time allotted for completing the examination and the low pass rate pertaining to the April administration of the California Law Examination. Due to the efforts of staff, and the Office of Professional Examination Services (OPES), the issues of concern were resolved, and candidates who failed the exam were allowed to retake the exam on June 26, 2009 at no charge.

Outreach to New Graduates

Board Members and staff met with fourth year optometry students at the Southern California College of Optometry and the University of California, Berkeley, School of Optometry. Students were provided with an overview of the role and responsibilities of the Board, the programmatic functions of the Board, the licensing process and services the Board provides throughout a licensee's career.

5. Executive Officer's Report

Ms. Maggio, Executive Officer, reported on the following:

State Budget

Board staff has received numerous emails and telephone calls pertaining to budget cuts, as well as being required to work on budget drills/projections and to come up with ways to reduce the Board's budget by 15%.

Contract with Lexis Nexis for Purchase of Updated 2009 Law Book

Due to a number of factors, the Board will not be contracting with Lexis Nexis to update the law book. Ms. Leiva has taken the initiative to update the law book with a goal to have this completed before the end of the year.

Outreach

Ms. Maggio provided a copy of the Board's new quarterly newsletter. This is a great tool for providing information to licensees and students.

Staff is developing a congratulatory licensing packet that will include information for new licensees on how to obtain a fictitious name permit, continuing education requirements, advertising guidelines, license renewal requirements and a current copy of the Board's newsletter.

Ad Hoc Reporting

Staff has completed the first round of training to use the DCA developed Ad-Hoc Reporting Tool. Staff will begin creating a variety of reports with accurate statistical information regarding the Enforcement and Licensing Programs.

Occupational Analysis (OA) for the Practice of Optometry

Board staff completed the data entry of the OA sent to California licensees. There was a very low turnout, less than 300 surveys were submitted to the Board. In the previous OA, over 1000 surveys were returned. OPES received a number of comments that the survey was too long. Even with the small response, OPES was able to use the information to develop the next steps for the examination development workshops.

Budget

Ms. Maggio provided an overview of the Board's budget including expenditures and revenue.

Fingerprinting Regulations

The fingerprinting regulations were filed in the Office of Administrative Law. The Public Hearing is scheduled for August 11, 2009. An additional meeting may be scheduled prior to the October Board meeting for the purpose of approving the final recommendations to the regulations.

Legislation

- SB 638 (Negrete McLeod) this bill would delete the requirement that a board become a bureau under DCA if the board sunsets and instead provides for the removal of board members, and appointment of a successor board.
- AB 1310 (has replaced SB 43) this bill would authorize healing arts boards, as defined to collect information regarding the cultural and linguistic competency of persons licensed, registered, or otherwise subject to regulation by those boards.

A concern raised by this bill is the fiscal impact upon the Board. Staff does not foresee a large fiscal impact for the Board at this time. The Board may realize costs for printing of the questionnaire, additional postage, and possibly cost for hiring a limited term employee (12-18

months) to process the increase in mail and to perform data entry. Information would be obtained by adding a questionnaire to applications.

Dr. Lawenda asked for clarification regarding the expenses budgeted for departmental and personnel services. Ms. Maggio explained that departmental costs include rent, operating costs, and pro rata paid to the department. An example of personnel cost (blanket) was the unexpected expense of the honorarium and travel expenses paid to the Glaucoma Committee.

6. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, Section 1569 of the California Code of Regulations (CCR), Scope of Practice

Michael Santiago, Legal Counsel explained that passage of Senate Bill 1406 expanded the scope of practice for optometry as amended in Business and Professions Code (BPC), Section 3041. CCR 1569 listed the scope of practice and what Therapeutic Pharmaceutical Agents (TPA) certified optometrists can use. Since the regulation is no longer current, it must be amended to include the new provisions found in BPC Section 3041, or the Board might consider repealing CCR 1569 because it does not implement, interpret, or make specific the statute, which is the purpose of a regulation. Repealing a CCR is a much faster process than going through a formal rulemaking process to amend a regulation.

Edward Rendon moved to repeal CCR section 1569. Dr. Lee Goldstein seconded the motion. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Ms. Johnson	X		
Dr. Arredondo	X		
Dr. Lawenda	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

7. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, CCR Section 1524, Fees

Staff recommended the Board consider amending CCR 1524 to add a \$25 fee for the issuance of evidence of California licensure (verification of License and status, disciplinary action, issuance, expiration etc). Staff receives many requests from other states, regulatory agencies, governmental agencies, employers etc. These verification requests are time consuming and require research by various staff members on a case-by-case basis. Additionally, staff has been informed by the DCA Accounting Office that the cost of processing of a check (printing, postage, and staff hours) exceeds \$25. The Board would not be gaining revenue but simply covering its own costs.

Staff requested that the Board make any additional recommendations on the proposed language if needed, approve the language and direct staff to begin the rulemaking process.

Dr. Kenneth Lawenda moved to approve the language and direct staff to begin the rulemaking process. Katrina Semmes seconded the motion. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Ms. Johnson	X		
Dr. Arredondo	X		
Dr. Lawenda	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

8. Review and Approval of the Report of the Office of Professional Examination Services (OPES) Pertaining to the Recommended Curriculum and Case Management Requirements for Optometrists Licensed in California to Diagnose and Treat Glaucoma

Dr. Goldstein thanked Sonja Merold, Chief of the OPES for a timely and thorough participation in the process.

Ms. Merold thanked the Board for the opportunity to serve California’s consumers by working together to meet the mandates of SB1406. She explained that the role of OPES was to review the curriculum requirements for glaucoma certification as recommended by the Glaucoma Diagnosis and Treatment Advisory Committee (GDTAC), and to present its findings and modifications to the Board. Curriculum review is not one of the core competencies of OPES; therefore, OPES hired a special consultant, Dr. Tony Carnevali, OD to assist in fulfilling the mandate. Dr. Carnevali reviewed two reports; one from the Optometrist members of the Committee, and one from the Ophthalmologist members of the Committee. OPES was pleased to submit its report to the Board on July 1, 2009 as required by SB 1406.

Dr. Carnevali presented a brief report on his activities as special consultant. Dr. Carnevali is a tenured faculty member at the Southern California College of Optometry (SCCO) since 1994, and Clinical Director of his affiliate clinic, Optometric Center of Los Angeles. His charge was to provide an independent examination and evaluation of curriculum for the purpose of establishing entry-level requirements for currently licensed optometrists who possess a therapeutic level licensure to become certified to treat glaucoma, evaluate the recommendations made by the GDTAC and determine if the recommendations will:

- Adequately protect glaucoma patients;
- Ensure that defined applicant optometrists will be certified to treat glaucoma in an appropriate and timely basis;
- Provide appropriate case management of patients diagnosed with glaucoma;
- Be appropriate for entry level optometrist certification;
- Demonstrate (re: course curriculum) an optometrist’s ability to safely and competently diagnose, treat and manage primary open-angle glaucoma, and exfoliation and pigmentary glaucoma;
- Ensure that optometrists can treat narrow angle glaucoma on an emergency basis;
- Be consistent with the DCA and the Board’s examination validation for licensure and occupational analyses polices adopted pursuant to subdivision (b) of Section 139 of the B&P Code.

To accomplish this charge, Dr. Carnevali was assigned certain explicit tasks and responsibilities. He was careful to review sufficient information and obtain enough background information to assist in making his conclusions to justify his recommendations.

Mr. Santiago stated that according to SB 1406, and qualified in BPC Section 3041.10, the Board is charged with two duties:

- 1) To adopt the findings of the OPES final report, and

2) To implement the certification requirements on or before January 1, 2010.

This means the Board must review the final report and determine how to implement regulations. The certification requirements deal with two categories of licensees:

- 1) Those who have completed a didactic course of not less than 24 hours, and
- 2) Those who have not completed any didactic course.

The Legislature has stated the Board is to implement via the final report, for both categories of licensees a didactic course and a case management plan. Mr. Santiago clarified that the report is final and it is the charge of the Board to adopt whatever findings are in the final report. Therefore, there is no opportunity for discussion regarding the findings. The Board is to adopt the findings and implement certification requirements based on the recommendations of the report.

Dr. Kenneth Lawenda moved to adopt the report by the Office of Professional Examinations Services. Dr. Alejandro Arredondo seconded the motion. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Ms. Johnson	X		
Dr. Arredondo	X		
Dr. Lawenda	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

9. Discussion and Possible Action Regarding Glaucoma Certification for Out-of-State Glaucoma Certified Optometrists Seeking Licensure in California

Staff believes that, except where experience is concerned, the requirements should not be any less than what is required of recent graduates of accredited schools/colleges of optometry. For example, proof that an applicant meets California's requirements for certification by providing documentation that educational or training requirements have been completed should be submitted. Currently, applicants for licensure as an out-of-state optometrist are required to certify that they have been in active practice for a minimum of 5,000 hours in five of the past seven years. Similarly, out-of-state optometrists should be required to certify a minimum amount of hours or, at least, a minimum number of patient case scenarios where they have diagnosed, treated and managed glaucoma.

Questions brought forth in this discussion:

- Should the recommendations for glaucoma curriculum and case management presented in the report submitted by the OPES for certification be used to develop criteria for out-of-state licensed doctors already certified and treating glaucoma in their state?
- What criteria/standards should out-of-state glaucoma certified doctors be held to or meet to ensure they are knowledgeable in treating, diagnosing, and safely treating the public?
- In drafting regulations, should out-of-state optometrists be required to work a minimum number of years? Should an optometrist have treated a minimum number of glaucoma patients? What other criteria should be considered?

Staff requests the Board direct staff to work with the Practice Committee for developing draft regulatory language and procedures for out-of-state licensed and glaucoma certified optometrists desiring to become glaucoma certified in California.

Mr. Santiago reported that current statutes and regulations do not provide provisions to allow the Board to consider equivalency. An out-of-state optometrist must meet the requirements of BPC Section 3057 to be issued a California license. Once the requirements are met and an optometrist is

issued a California license, then BPC Section 3041 is addressed to determine which licensees may treat glaucoma. The first requirement is that the optometrist is TPA certified; secondly, the optometrist must meet one of five requirements listed to determine experience in didactic or case management, or the optometrist must have graduated after May 1, 2008 which will incorporate regulations the Board will set forth to determine what experience and portions of didactic or case management the optometrist has.

Dr. Goldstein noted that no action is required at this time as this item is primarily informational at this point. As the Board develops the requirements for implementing SB 1406, the requirements will also apply to out-of-state optometrists.

10. Discussion and Possible Action to Initiate a Rulemaking to Add Regulations for Glaucoma Certification

Staff requested the Board make a motion to direct staff to initiate a rulemaking file to add regulations for glaucoma certification to the CCR. (Formal discussion was held under item 8).

Mr. Rendon moved to direct staff to initiate the rulemaking process to add regulations for glaucoma certification. Monica Johnson seconded the motion. The Board voted unanimously (7-0) to pass the motion.

Member	Aye	No	Abstention
Dr. Goldstein	X		
Ms. Johnson	X		
Dr. Arredondo	X		
Dr. Lawenda	X		
Mr. Naranjo	X		
Mr. Rendon	X		
Ms. Semmes	X		

11. Public Comment Regarding Issues Not on the Agenda

No public comment was received.

Dr. Goldstein acknowledged and welcomed Assembly Member and former Board President, Edward Hernandez. Assembly Member Hernandez thanked the Board for the great work it has done.

12. Suggestions for Future Agenda Items

Dr. Goldstein announced that the scheduled Board meeting for August 16-17, 2009 probably will not occur but will possibly be replaced as a Committee meeting. Additionally a teleconference may be scheduled to discuss/approve rulemaking. The Board will meet October 22-23, in Oakland, it is a very full agenda, and Dr. Goldstein requested members clear their agendas in order to attend.

13. Adjournment of Public Session

The public portion of the meeting was adjourned for lunch at 12:10 p.m. Jeff Robinson was recognized and thanked for his 26+ years of excellent service to the State of California. Mr. Robinson has been with the Board since 1996. A special luncheon was prepared in his honor.

FULL BOARD CLOSED SESSION

The meeting reconvened in closed session at 1:10 p.m..

14. Stipulated Settlement and Disciplinary Order, Christine A. Matson, O.D. Opt 7990

The Board deliberated in closed session regarding the Stipulated Settlement and Disciplinary Order for Christine A. Matson, O.D., License Number 7990.

15. Stipulated Settlement and Disciplinary Order, Paul C. Mann, O.D. Opt 5090

The Board deliberated in closed session regarding the Stipulated Settlement and Disciplinary Order for Paul C. Mann, O.D., License Number 5090.

16. Discussion Pertaining to the California Law Examination

Board staff provided a summary pertaining to the resolution of the April 17, 2009 California Law Examination.

17. Closed Session to Discuss Executive Officer's Performance Evaluation

Board Members convened to discuss the performance evaluation of the Executive Officer.

FULL BOARD OPEN SESSION

The meeting reconvened in open session and the meeting adjourned at 3:30 p.m.

Monica Johnson, Board Secretary

Dated