



MEETING MINUTES

December 17, 2009

California State Board of Optometry
Southern California College of Optometry
TVCI Conference Room
2575 Yorba Linda Boulevard
Fullerton, CA 92831-1699

Legislation and Regulation Committee Meeting

9:00 a.m. – 11:45 a.m.

Members Present

Lee Goldstein, OD, MPA
Board President
Susy Yu, OD, MBA, FAAO
Kenneth Lawenda, OD

Staff Present

Mona Maggio, Executive Officer
Margie McGavin, Enforcement Manager
Andrea Leiva, Policy Analyst
Jeff Robinson, Licensing Analyst

Members Excused

Monica Johnson, Public Member
Board Secretary
Ed Rendon, Public Member

Guest List

On File

Thursday, December 17, 2009

FULL BOARD OPEN SESSION

1. **Call to Order – Establishment of a Quorum**

Board President, Lee Goldstein, OD called the meeting to order at 9:04 a.m. Dr. Goldstein called roll and a quorum was established.

2. **Welcome and Introductions**

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

3. **Selection of Committee Chair**

Monica Johnson was to be a committee chair, but due to her excused absence, Dr. Goldstein chaired the meeting.

4. **Legislation and Regulation Update**

Legislation – Mona Maggio reported that Board staff is working with legal counsel and the Department of Consumer Affairs (DCA) on identifying current statutes or proposing legislation pertaining to the Substance Abuse Uniform Standard Committee's (SB 1441) final recommendations for a diversion and probation program for the healing arts boards under DCA. Margie McGavin served as a member of the Substance Abuse Coordination Workgroup. All executive officers of healing arts boards served on the Substance Abuse Coordination Committee.

Regulation – The hearing for the regulation pertaining to California Code of Regulations (CCR) 1571, Requirements for Glaucoma Certification will be held on December 22, 2009. This is a hearing in order to collect comments only. At the hearing, there will be no discussion of the

regulation, only the acceptance of verbal and written comments. On December 30, 2009, the Board will meet to review drafted responses to the comments and discuss any changes to the responses or additions and whether to move forward with this rulemaking package.

CCR 1579, Scope of Practice Repeal is moving along smoothly and staff will be able to submit to the Office of Administrative Law (OAL) in the next few months.

CCR 1525, 1525.1, and 1525.2, Fingerprinting Requirements are currently sitting at the Department of Finance. Board staff has hopes that the push by DCA for a new enforcement model will move these regulations forward quickly.

CCR 1505, Notification of Intention to Engage in Practice is a change without regulatory effect and Board staff is awaiting OAL's final review and approval.

Staff Update – New staff is being interviewed for three positions for the enforcement program. The positions include a new staff person to provide clerical support, a fingerprint coordinator, and a probation monitor. There are already three tentative selections and staff is working with human resources to receive approval from DCA before these individuals are formally offered the positions. All new staff should be on board by mid January.

The Board also received approval to hire a part time employee in July for the licensing program. Elizabeth Bradley is leaving the Board on January 4, 2010, so staff is also recruiting for a new receptionist. All staff will need to share reception duties during this staff transition.

5. Discussion and Consideration of Legislative Proposals for the 2010 Legislative Session:

A. Possible Recommendation to Amend Business and Professions Code (BPC) Section 3070, Notice of Address for Practice of Optometry

Andrea Leiva reported that BPC section 3070 requires optometrists to notify the Board of every location where they are practicing and obtain a statement of licensure. Due to a shortage of Board staff in years past, licensees were unable to get a statement of licensure quickly, thus legislation was enacted to remedy this problem by amending BPC section 3070 and adding five locations to be exempt from the notification requirement.

Due to the evolution of the practice of optometry, Board staff has found there is a need to broaden the definition of temporary practice. For example, many optometrists practice in multiple locations and do not have a primary place of practice. This makes it difficult to fully comply with BPC section 3070. Also, many optometrists are practicing in multiple nursing homes and need to consider where they keep their patient records. Patients must have access to obtain their records.

The Board has considered many options including:

- 1) Completely re-writing BPC section 3070 to included all practice settings
- 2) Adding a multi-location special permit or license that would be renewed biannually
- 3) Deleting the exception from BPC section 3070
- 4) Removing the Statement of Licensure requirement.
- 5) Defining temporary practice in a regulation and continue to brainstorm ideas with the Board and stakeholders

Staff recommends that temporary practice be defined in regulation and that there be more brainstorming sessions among stakeholders and staff to develop legislation regarding temporary practice.

Dr. Goldstein voiced that most important to the Board and the public is the ability to contact the doctor and access to patient records.

Margie McGavin noted that newly licensed optometrists who have not set up a permanent place of practice are the ones most impacted and confused about this requirement. Many of them give their home address as their principle place of practice.

Ms. Maggio addressed that staff is aware that the easiest thing to do is to have the ability to include two addresses, an address of record and a home address. Unfortunately, the DCA's database system is archaic and at this time cannot be done. DCA is looking for another system at this time to facilitate this process.

VSP representative Andrea Hamil commented that documentation and exam requirements are also important and need to be tracked for VSP's health plan. VSP will support what is being discussed to make sure their patients get the best care possible. VSP wants to make sure the right policies and procedures are in place so that optometrists will be able to participate in VSP's mobile charity program.

The Board agreed that ultimately, the Board's mandate is to protect the public and the law requires that optometrists notify the Board where they are practicing so that patients can contact them if they need to and get copies of their patient records.

Ms. Maggio identified the reality that an alternative needs to be found where revenue is not lost. If the statement of licensure were removed as a requirement then, a large amount of Board revenue would be lost, which the Board needs to function.

Tim Hart of COA felt that legislation should be created to address temporary practice or make it an affirmative duty for practitioners to inform their patients of their permanent location. The Board could consider initiating disciplinary action if the licensee failed to comply with this requirement.

Dr. Ken Lawenda asked why optometrists are so unique from other practitioners that they need to report all their practice locations? Nobody else has to do this.

Mr. Hart responded that back when that legislation was enacted, the intent was to prevent itinerant optometrists.

Discussion ensued regarding California Code of Regulation (CCR) 1509, Definition of Temporary Practice.

The final recommendation by the committee was to have staff work with COA and VSP in order to develop language for BPC section 3070 and CCR 1509. COA and VSP agreed to work with Board staff.

B. Possible Recommendation to Add BPC Section 3070.1, The Practice of Optometry in Health and Residential Care Facilities

Staff and the committee discussed the proposed language for BPC section 3070.1. VSP provided staff with recommendations from their organization for the Board's consideration.

The final recommendation by the committee, after providing edits and suggestions, was to submit this proposed language to the Senate Business, Professions and Economic Committee to be considered for legislation. A final approval of the language will take place at the January Board meeting.

6. Discussion and Possible Action to Recommend Adoption of California Code of Regulations (CCR), Title 16, Section 1059, Temporary Practice Defined

This section was already discussed in Agenda Item 5. The committee opted to move on.

7. Discussion and Possible Action to Recommend Amendment to CCR, Title 16, Section 1518, Related to Fictitious or Group Names, Fees

This amendment is for clean up purposes only and changes the fee for Fictitious Name Permits from \$10 to \$50 pursuant to the amendments to CCR 1524. The new \$25 delinquency fee is also being added to the language.

The committee's final recommendation is to approve these amendments and make a final approval and motion to begin the rulemaking process at the January 2010 Board meeting.

8. Discussion and Possible Action to Recommend Amendments to CCR, Title 16, Section 1523, Licensure Examination Requirements; CCR, Title 16, Section 1531, Licensure Examination; Section 1532, Re-examination; and Section 1533, Re-scoring of Examination Papers

Staff and the committee discussed the proposed language for CCR sections 1523, 1531, 1532 and 1533. All these amendments are for clean up purposes only, and are being made to conform to the National Board of Examiners in Optometry's (NBEO) recently restructured examination.

Dr. Morris Berman from the Southern California College of Optometry suggested that students should be able to take the law examination anytime during their fourth year, not after completing part three of the NBEO exam. The committee and Board staff took this recommendation into account and amended the regulation to reflect this suggestion.

The committee's final recommendation is to approve these amendments and make a final approval and motion to begin the rulemaking process at the January 2010 Board meeting.

9. Public Comment for Items Not on the Agenda

The committee suggested that the Board send invitations to the schools and colleges of optometry in Arizona, San Antonio, and Iowa so that they may come and present their accreditation reports. The Accreditation Council on Optometric Education should also be contacted if there are additional questions. Ms. Maggio noted this suggestion and plans to send invitations for presentations at a future meeting.

10. Suggestions for Future Agenda Items

There were no suggestions for future agenda items.

11. Adjournment

The meeting was adjourned at 11:45 a.m.



MEETING MINUTES

December 17, 2009

California State Board of Optometry
Southern California College of Optometry
TVCI Conference Room
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Joint Meeting of the Practice and Education Committees

1:00 p.m. – 4:15 p.m.

Members Present

Lee Goldstein, OD, MPA
Board President
Alex Arredondo, OD
Kenneth Lawenda, OD

Staff Present

Mona Maggio, Executive Officer
Margie McGavin, Enforcement Manager
Andrea Leiva, Policy Analyst
Jeff Robinson, Licensing Analyst

Members Excused

Fred Naranjo, Public Member
Katrina Semmes, Public Member

Guest List

On File

Thursday, December 17, 2009

FULL BOARD OPEN SESSION

1. Call to Order – Establishment of a Quorum

Board President, Lee Goldstein, OD called the meeting to order at 1:20 p.m. Dr. Goldstein called roll and a quorum was established.

2. Welcome and Introductions

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

3. Selection of Committee Chair

Dr. Goldstein selected Dr. Alex Arredondo to chair agenda items four and five and selected Dr. Kenneth Lawenda to chair agenda items six and seven.

4. Discussion and Possible Action to Recommend Amendments to BPC Sections 3147, Renewal of Expired Certificates; 3147.6, Restoration of Certificate Following Failure to Renew Within Specified Period; 3147.7, Applicability of Provisions to Out-of-State Licensees; 3148, Disposition of Renewal Fees

Mona Maggio reported that amendments to BPC section 3147, 3147.6, and 3147.7 are for clean up purposes only. Staff and the committee discussed the proposed language. BPC section 3148 did not have any amendments, but was discussed to see if any were needed. It was decided to leave BPC section 3148 as is.

The committee's final recommendation is to approve the amendments to BPC sections 3147, 3147.6, and 3147.7 and provide them to the Senate Business, Professions and Economic Committee to be considered for legislation.

Additional information regarding inactive licenses will be brought to the Board's January 2010 meeting per the request of the committee.

5. Possible Recommendation to Amend BPC Section 3059, Continuing Education Requirements to Expand the Categories of Acceptable Coursework

Ms. Maggio reported that California licensed optometrists are mandated reporters for the reporting of child and elder abuse and neglect. Staff would like to recommend to the committee to consider expanding the scope of continuing education courses for which an optometrist may gain credit by adding courses identifying domestic violence and how to report suspected abuse and/or assist the patients with seeking help.

Staff would also like to recommend that the Board periodically provide information to its licensees regarding these issues.

Staff and the committee went through and discussed the proposed language. The final recommendation of the committee was to continue working on proposed language to add these requirements.

6. Discussion and Possible Action to Recommend Amendments to California Code of Regulations (CCR), Title 16, Section 1536, Continuing Optometric Education; Purpose and Requirements

A. Recognize the Association of Regulatory Boards in Optometry's (ARBO) OE Tracker as an Acceptable Record of Completed Continuing Education

Jeff Robinson reported that staff recommends that the Board add language to CCR 1536 in order to recognize ARBO's OE tracker as an acceptable record of completed continuing education.

Staff and the committee went through and discussed the proposed language. The committee's final decision was to accept these amendments to CCR 1536.

B. Grant CE Credit for Completed Coursework in:

1. Practice Management

2. Ethics

3. Attendance at a Board Meeting

4. Other

Staff recommended that the Board add language to CCR 1536 in order to allow practice management, jurisprudence, ethics courses and CPR courses. This type of continuing education will be helpful to licensees in their practice.

Staff and the committee went through and discussed the proposed language and made additional edits. The committee's final decision was to accept these amendments to CCR 1536.

7. Discussion and Possible Action to Recommend Amendments to CCR, Title 16, Section 1561, Topical Pharmaceutical Agents Usage-Purpose and Requirements

Staff and the committee went through and discussed the proposed language and made additional edits. Dr. Goldstein commented that CCR 1561 is a regulation associated with diagnostic pharmaceutical agents. Deleting this regulation was considered, but in BPC Section 3041, topical pharmaceutical agents are separate from therapeutic pharmaceutical agents, so it is best to keep this regulation at this time.

The committee's final decision was to accept these amendments to CCR 1561.

8. Public Comment for Items Not on the Agenda

There was no additional public comment for items not on the agenda.

9. Suggestions for Future Agenda Items

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10. Adjournment

The meeting was adjourned at 4:15 p.m.