

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING**

**ALASKA STATE BOARD OF EXAMINERS IN OPTOMETRY
550 West 7th Ave
Suite 1270
Anchorage, AK**

May 21, 2010

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Examiners in Optometry to be held on May 21, 2010, in Suite 1270 at 550 West 7th Avenue, Anchorage, Alaska.

Agenda Item 1 Call to Order/Roll Call

The meeting for the state of Alaska Board of Examiners in Optometry was called to order by Dr. Matheson; Chair at 9:13 a.m. This board meeting was public noticed on April 15, 2010 and published in the Anchorage Daily News.

Those present, constituting a quorum of the board, were:

Jill Matheson, OD, Chair
Dennis Swarner, OD, Secretary
James Graves, OD
Jeff Gonnason, OD
JoAnne Bell-Graves, Public Member

Staff Present:
Connie Petz, Licensing Examiner

Board welcomed new board member JoAnne Bell-Graves, who fills the public member position which was vacated by Tim Sullivan.

Agenda Item 2 Review/Amend Agenda

Add to agenda to be prepared for new law change: revise applications, checklists, jurisprudence after agenda item 11 and remove the ethics video viewing due to technical difficulties.

**On a motion by Dr. Gonnason, seconded by Dr. Swarner and carried unanimously.
IT WAS RESOLVED TO APPROVE THE AMENDED AGENDA. All in favor, no nays.**

Agenda Item 3 Review/Approve Minutes

November 20, 2009 Meeting Minutes

**On a motion by Dr. Gonnason, seconded by Dr. Swarner and carried unanimously
IT WAS RESOLVED TO APPROVE THE November 20, 2009 MEETING MINUTES AS AMENDED.
All in favor, no nays.**

Staff advised the board that at the last meeting there was one licensee who had a potential CE violation and it has been resolved and all CE's were submitted.

Agenda Item 4 Ethics Reporting

Dr. Matheson asked if there were any ethics violations to report, all board members and staff stated they had no ethics violations to report.

Agenda Item 5 Investigative Report

Investigator Michele Wall-Rood presented her report, as of May 4, 2010. There were two open complaints; one is a violation of professional ethics and one is a license application problem. Both should be closed at the complaint level soon.

One new complaint opened since May 4th related to supervision, where the person did not think the staff was capable nor being supervised appropriately.

She has not opened or closed any cases.

Most calls for complaints for optometry are billing issues where people do not understand their bill. The investigative process is they will hear the complaint; gather information from both sides and if there is a violation of statute or regulation a case may be opened. If not the complaint is closed.

No action taken on the Investigative report.

Agenda Item 6 Public Comment

No public comment as no public in attendance.

Agenda Item 7 Review applications for licensure

Dr. Nazly Mofidi - Applicant by exam.

On a motion by Dr. Swarner, seconded by Dr. Graves IT WAS RESOLVED TO approve Dr. Nazly Mofidi upon passing the jurisprudence law exam for an optometry license with a TPA endorsement. All in favor, no nays.

Agenda Item 8 FY 10 Budget and Annual Report

Board reviewed the budget report and recognized license fees will likely increase at renewal. They would like to understand what the big increase was under personal services. If it is connected to costs related to the law change, staff or is it possible this is an accounting error.

TASK: Staff to find out why personal service expenses had increased so much in FY09 and determine if this is an accounting error.

The board reviewed the last annual report and discussed the goals the board has met and amended FY11 goals and objectives for the annual report.

Break 11:02 a.m. - Off record, back on record at 11:15 a.m.

On a motion by, Dr. Swarner seconded by Dr. Matheson, IT WAS RESOLVED TO APPROVE THE FY11 Goals and Objectives AS PRESENTED. All in favor, no nays.

Staff will type up the goals and objectives, forward to Dr. Gonnason and he will draft the narrative statement and revised legislative recommendations per board discussion and forward to staff. Staff will compile annual report for Jill to review before it is finalized.

Agenda Item 9 Review Correspondence

Dr. McIntyre correspondence was discussed in relation to the injection course requirements for the TPA endorsement. Jill will draft reply to him, send to staff to put on state letter head and forward to Dr. McIntyre.

Annette Hanlan, AZOA legislation committee chair sent a letter to AK state board as AZ is planning to run a full scope pharmaceutical bill. Jill will draft reply to her questions, sent to staff to put on state letter head and forward to Ms. Hanlan.

Board reviewed the ARBO report letter which staff had prepared and sent to ARBO recapping the boards activity for the past year.

Agenda Item 10 Regulation Project

Board held discussion of draft regulations which Dr. Gonnason prepared.

LUNCH – off record at 12:14 p.m. and back on record at 1:01 p.m.

Agenda Item 11 Regulation Project

Continued discussion of draft regulations. Dr. Gonnason had to leave the meeting at 3:28 p.m. so was not in attendance for the final motion/vote after the discussion. There was a quorum of the board.

The board of optometry has reviewed and revised the regulations in anticipation of the governor signing HB 245 which passed in the 2010 legislative session. The board is aware these regulations will not be submitted to the regulations specialist to draft for the board until the law is signed and then once drafted, they will need to review them again to adopt for public comment.

The below highlighted wording is how the board would now like the regulations to read.

12 AAC 48.011. LICENSE BY EXAMINATION. (a) An applicant for a license by examination to practice optometry must submit

- (1) a completed and notarized application on a form provided by the department;
- (2) documentation showing that the applicant has passed, within 5 years of the date of the application, all parts of the examinations required in 12 AAC 48.015(1) and (2) sent directly to the department from the NBEO;

(A) if the examination was passed by the applicant 2 years or more before the date of the application, the applicant must provide verification of the completion of 36 hours of approved continuing education in ocular pharmacology or pathology.

**On motion by Dr. Matheson, seconded by Dr. Graves amend the regulation.
All in favor – no nays. No Discussion.**

12 AAC 48.020. LICENSE BY CREDENTIALS. Amended (a) and (c)

- (a) The board will issue a license by credentials to practice optometry to an applicant who meets the requirements of AS 08.72.140, AS 08.72.170 and this section.

(c)(3) verification that the applicant has successfully completed all the requirements for, and, received a license to practice optometry from another state or territory of the United States or from a province of Canada that required the applicant to have passed the National Board of Examiners in Optometry (NBEO) examination, sent directly to the department from the licensing jurisdiction;

(c)(6) verification of having passed the National Board of Examiners in Optometry (NBEO) examination, sent directly to the department from the NBEO;

On a Motion Dr Swarner, seconded by Ms. Bell-Graves, all in favor – no nays.

Discussion – the board recognized a housekeeping issue and want to clean up the wording which identifies 'province' of Canada throughout the statutes and regulations to include 'territory' as Yukon is a territory and not a province.

Task for Dr. Gonnason to research CE requirements with other licensing states for an additional item on this regulation in time for the final review of regulation project before drafted for public comment.

12 AAC 48.021 Pharmaceutical Agent Use Endorsement - REPEAL all of 12 AAC 48.021

On a motion by Dr. Swarner, seconded by Dr. Graves to repeal all of 12 AAC 48.021, All in favor – no nays. No discussion.

ADD an entire new section: board recognizes the actual number to be appointed by regulations specialist, they choose 12 AAC 48.022 for this regulation project.

12 AAC 48.022 RESTRICTED LICENSES.

(a) The Board of Examiners in Optometry may issue a restricted license, restricting the optometrist from prescribing or using a pharmaceutical agent in the practice of optometry, only to an optometrist who has a license issued before <date> but does not have a license endorsement under former AS 08.72.175 issued before <date>.

(b) The Board of Examiners in Optometry may issue a restricted license, restricting the optometrist from prescribing or using a pharmaceutical agent in the practice of optometry except for use of a drug topically applied to the human eye and its appendages as permitted under former AS 08.72.175(c) and former AS 08.72.272(c), only to an optometrist who has a license issued before <date> and a license endorsement issued under former AS 08.72.175(c), as it read on the day before <date>.

(c) A restricted license issued under (a) or (b) of this section may be renewed under the same conditions that apply to other licenses issued under AS 08.72, except that

(1) the holder of a restricted license under (a) of this section is not required to comply with the continuing education requirements of AS 08.72.181(d)(1) and (2);

(2) the holder of a restricted license under (b) of this section is not required to comply with the continuing education requirements of AS 08.72.181(d)(2).

(d) The Board of Examiners in Optometry may remove the restrictions on a license issued under this section if the licensee has met the requirements of AS 08.72.140(4). If restrictions on a license are removed, the licensee may not be issued a restricted license again in the future.

(e) a licensee holding a restricted license cannot apply nor be granted a retired license under AS 08.72.185

(f) if a licensee holding a restricted license allows their license to lapse, the license will be treated as permanently lapsed and may not be reinstated in restricted license status, the former licensee must apply for a new license under AS 08.72 of this chapter.

**On a motion by Dr. Matheson, seconded by Dr. Graves add the restricted license regulation.
All in favor – no nays. No Discussion.**

12 AAC 48.025 Pharmaceutical Agent Prescription and Use Endorsement – Repeal all

The board did not vote on this item but it had been discussed earlier in the meeting that it would be repealed due to the law change.

New Section:

12 AAC 48.026 RETIRED LICENSE.

A person with a retired license status may apply for an active license if the applicant meets the requirements of 12 AAC 48.200 and 12 AAC 48.210.

If the licensee holds an optometry license that is not restricted the licensee may apply for a retired license by

1. Filling out an application by the department
2. Paying a one time fee of \$150.00

A person holding a retired status license may not practice optometry in the state, may hold the license for life, and does not need to renew the retired license. A person holding a retired status license may apply for licensure under 12 AAC 48.900 reinstatement of a lapsed license except they do not have to pay PAST due fees just the fees for the license period in which they are applying. If they are retired for 5 years or more they have to reapply per 12 AAC 08.72.

**On a motion by Dr. Swarner, seconded by Dr. Graves add retired license section.
All in favor – no nays. No discussion.**

12 AAC 48.200. LICENSE RENEWALS AND CONTINUING EDUCATION.

(change 30 day requirement to 60 to allow time for board to review, the board would like the licensee to know that the course may be preapproved but the licensee needs to allow 60 days from the time they ask the board.)

(c) Other continuing education courses not listed in (b) of this section may be approved by the board upon written request of the licensee. If the licensee wants the CE pre-approved, the written request must be received by the department 60 days before commencement of the program. The request must include the following information:

- (1) name and address of organization sponsoring courses;
- (3) instructors name and credentials; and
- (4) location and dates of the course.

**On a motion by Dr. Matheson, seconded by Dr. Swarner, amend (c) duration of days.
All in favor – no nays. No discussion.**

12 AAC 48.210. HOURS OF CONTINUING EDUCATION REQUIRED. All highlighted below is NEW wording the board amended all the requirements and now state 36 hours total in 2 years, 24 in ocular pathology and 8 hours in pharmaceutical and 7 hours injections both of which can be included in the 36 total required CE's.

(a) An applicant for renewal of a biennial optometry license must document at least 36 contact hours of continuing education credit that meets the requirements of 12 AAC 48.200, and that was completed during the concluding licensing period;

(b) Continuing education credit received under (a) of this section must include at least 24 contact hours of ocular pathology or pharmacology;

(c) No more than three contact hours of credit in practice management is acceptable as continuing education credit under (a) of this section for each license period;

(d) An applicant for renewal of an optometry license

(A) must submit official verification of having successfully completed in the four-year period immediately before the date of application for renewal,

(i) 8 hours of continuing education in the use and prescription of pharmaceutical agents that meets the requirements of 12 AAC 48.200(b) or (c); and

(ii) 7 hours of continuing education in the injection of nontopical therapeutic pharmaceutical agents that meets the requirements of 12 AAC 48.200(b) or (c); and

(B) may include continuing education hours used to satisfy the requirements of this paragraph in the total continuing education hours required under (a) and (b) of this section for renewal of a license;

(e) An applicant for renewal of an optometry license for the first time must document completion of at least one-half of the continuing education requirements in this section for each complete calendar year that the applicant was licensed during the concluding license period.

**On a motion by Dr. Swarner, seconded by Ms. Bell-Graves amend 12 AAC 48.210.
All in favor – No nays. No discussion.**

12 AAC 48.905. REINSTATEMENT OF A LAPSED LICENSE ENDORSEMENT. Repealed.

**On a motion by Dr. Swarner, seconded by Dr. Matheson, Repeal all of 12 AAC 48.095
All in favor – no nays. No discussion.**

Staff explained after the regulations specialist reviews the proposed draft regulations they will be given back to the board for a final review and vote for public comment. Nothing will happen until the governor signs the new optometry law bill.

Application, application checklist and jurisprudence exam all need to be revised to match the law. Revise and get back to staff so they can be drafted in time to go online once the law passes, reminder; statute trumps regulation. Anyone who has not met the requirements prior to the law being signed must qualify.

On a motion by Dr. Graves, seconded by Dr. Swarner, remove current application from web with note for applicants to contact license examiner for current application until revised application can be put on website. All in favor – No nays. No discussion.

TASK: Dr. Swarner - revise application checklist and Dr. Matheson - revise application and jurisprudence law exam.

Agenda Item 12 Schedule Meetings/Task List
Election of Officers *Motion to Approve
Review Task list for Board and Staff

Jill advised the board her term is up in 2012 and she felt it was in the best interest of the board to have another board member consider becoming board chair. Dr. Graves said he would consider it but that he could not commit at this time. Jill will remain chair at this time.

TASKS:

- Connie - Contact Jeannie Oliver – to find out about upcoming courses for 23 and 7 hours
 - Ask administration why FY09 personal expenses were so high, what were those resources allocated too
 - Find out how much our board pays to be a member of ARBO.
 - Draft FY10 review of goals and FY11 goals and objectives, send to Dr. Gonnason to write up narrative and legislative recommendations for FY10 annual report.
- Jill - Draft responses to correspondence, send to staff for putting on state letter head.
 - Revise application and jurisprudence exam to be prepared when new law goes in to effect
 - Draft note to AKOA to post note that this is a renewal year, apply early to avoid delays
- Dennis - Revise application checklist, submit to staff to be prepared when new law goes in to effect
- Jeff - Draft narrative and legislative recommendation for annual report.
 - Contact Sherry Cooper AOA and find list of each state CE requirements – which states meet the AK 36 CE's. Jeff will work on the list of equivalent states.
 - Contact Jeanne Oliver to ask about best amount of glaucoma CE's.
 - Work on 12 AAC 48.020. LICENSE BY CREDENTIALS (d) which was discussed but needs more research.

Board scheduled a two day board meeting in Juneau for December 2-3, 2010, with the understanding there is potential for the date to change. Board to hold a teleconference also for the regulation revisions, date to be determined once law has passed.

On a motion by, Dr. Swarner seconded by Ms. Bell Graves, IT WAS RESOLVED TO APPROVE a TWO day board meeting in Juneau in December 2-3, 2010 and a Teleconference, date to be determined. All in favor - No Nays. No discussion.

Agenda 13. Discussion

Dr. Gonnason board term is up March 1, 2011. Although we have the fall meeting, it would be good to encourage other doctors to apply now for the board opening and they should submit a letter by early October 2010 to boards and commissions.

Agenda Item 14 Final Comments - Adjourn

On a motion by Dr. Graves, seconded by Dr. Swarner and carried unanimously. The board having no other business adjourned the meeting at 4:15 p.m.

Respectfully Submitted:

Connie Petz

Connie Petz, Licensing Examiner

Jill Matheson

Jill Matheson, OD, Chair

Date: 1/21/11