

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

**ALASKA STATE BOARD OF OPTOMETRY
MINUTES OF MEETING
April 4, 2014**

By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62, Article 6, a scheduled meeting of the Board of Examiners in Optometry was held on April 4, at the State Office Building, 333 Willoughby Ave., Juneau, AK., 9th Floor, Conference Room B.

Agenda Item 1 Call to Order

The meeting for the state of Alaska Board of Examiners in Optometry was called to order by Dr. Barney, Chair at 9:01 a.m.

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

Paul Barney, OD Chair
Grant Humphreys, OD
Damien Delzer, OD
Forrest Messerschmidt, OD

Review Agenda

The board reviewed the agenda and made the following addition:

At 1:30 there will be a Budget/Expense Report by Martha Hewlett

On a motion duly made by Dr. Humphreys, seconded by Eric Lingle, and approved unanimously, it was

RESOLVED to approve the agenda change.

Agenda Item 2 Introduction of New Board Members

Dr. Barney welcomed the new board members; Damien Delzer and Eric Lingle. They each gave the board a brief self-introduction.

Eric Lingle, Public Member

Present from the Division of Corporations, Business and Professional Licensing were:

Sher Zinn, Records and Licensing Supervisor
Virginia Geary, Licensing Examiner

Agenda Item 3 Review/Approve Minutes

The board reviewed the November 1, 2013 minutes.

On a motion duly made by Dr. Humphreys, seconded by Dr. Messerschmidt and approved unanimously, it was

RESOLVED to approve the minutes of the November 1, 2013 meeting.

Agenda Item 4 Ethics

There were no ethics violations to report.

Agenda Item 5 Investigative Report

Michele Wall-Rood joined the meeting via telephone to say there were no open investigations to report. There was one but it was now closed.

The board thanked Ms. Wall-Rood for her time.

Agenda Item 6 Regulations

Military Courtesy Licensing was discussed. Dr. Barney gave a historical overview report for the new board members and also pertinent information concerning Dr. Lisa Hornick's situation while living in Alaska. Dr. Delzer asked if the courtesy license was only for military spouses or would it extend to other public health services whether uniformed or tribal. Dr. Humphreys asked if changes could be made to say 'uniform services.' Sher Zinn reminded the board they had to stay in the guidelines of the statutes. Dr. Barney noted if changes were made, potential loop holes could open to harm the public and it is the board's foremost concern to protect the public. Ms. Zinn said military fees needed to be added to the regulation project. Dr. Delzer noted if the military spouse wasn't working full time they wouldn't be able to get the hours needed. Dr. Barney suggested the Military Courtesy license be tabled until Correspondence because Lisa Hornick mailed a letter addressing the board.

Agenda Item 7 Correspondence

The board reviewed the correspondence. The first letter from Dr. Pam Steffes asked the board to consider adding courses at the American Academy of Optometry to the list approved for continuing education. Dr. Barney said Dr. Steffes had called him. He said if a person goes to the

Academy meeting, they have to submit courses for approval. Other training that is AOA associated and/or meets the current statute is accepted. Dr. Delzer said the education is excellent because he has attended Academy education and they are all COPE approved. He asked if that would make the hours approved CE's. Dr. Barney asked if they changed hours would the regulations have to be changed. Ms. Zinn said yes. Dr. Barney said most of the courses were COPE approved and some had great lectures but they weren't approved. Dr. Delzer said they offer live-lecture sitting courses, posters and symposia all at the same time.

On a motion duly made by Dr. Messerschmidt, seconded by Dr. Humphreys, and approved unanimously it was,

RESOLVED to add the American Academy of Optometry to 12 AAC 48.200(b) as an approved CE provider.

The board reviewed the letter from Dr. Lisa Hornick requesting an update on the status of her application for licensure submitted May 2013. She asked if the military regulations were complete and if not could she be granted a temporary license or be able to work as an intern with Dr. Shank and Dr. Lewis in Kodiak. Dr. Barney said he first wanted to address her working as an intern. Dr. Humphreys asked why not. Dr. Barney said you had to look at the intent of the law. He noted you can't function as a doctor when you are not licensed. She said Drs. Shank and Lewis would carry the burden of watching over it. He said the board didn't want to set precedence. Dr. Hornick may do a great job but what stops a recent graduate from coming up and working two weeks. The board has to consider these things. Dr. Delzer stated as a highly qualified tech she could refract and check blood pressure but the licensed Kodiak doctors still have to do the final check. Dr. Humphreys said MD's do it all the time. Dr. Barney noted the perception of the patient could be violated. Dr. Barney said it is not OK for her to say she is an intern. It means training and not for pay. He was not sure the board wants to give direction for her title. Dr. Delzer said it is a delicate situation and the Doctor she works for should be mindful of her situation. Dr. Messerschmidt said people work in his office with less education. He said she could spell out in a letter for the patient to read before she sees them that states she is not Alaska licensed. Dr. Barney said she can be employed as a tech but she cannot say she is a doctor or an intern. Dr. Humphreys said the Doctors would have to be there for every appointment. Dr. Barney said his techs take calls and offer advice based on the policy for his practice while he is at lunch. The patient understands they are only talking to a tech. He said the board should write a letter to Lisa Hornick saying she can be a tech providing care under the physical presence of a licensed Doctor otherwise she is in violation. He said we are not giving a blessing. Dr. Delzer with Dr. Barney's assistance said he would write the letter and send it to Virginia for mailing.

On a motion duly made by Dr. Humphreys and seconded by Dr. Messerschmidt and approved unanimously it was,

RESOLVED to send the regulations project out for public comment with the addition of the courtesy license fee to be 50% of the full license fee and if it is extended for an additional 180 days, the person has to pay an additional 50% of the full license fee, approving any changes by the

Department of Law prior to public noticing.

The board reviewed the email from Nalani Torres asking the board if an optometrist could conduct impairment ratings. Dr. Barney personally didn't see why an OD cannot do this. He said an Optometrist can rate visual systems. The board's opinion is an Optometrist is duly qualified to rate a person's visual impairment. Dr. Messerschmidt said he would write the letter.

The board reviewed the letter from Melissa Thaisz concerning tinted windows. Dr. Barney said the lighting in Alaska changes month to month. He said one should wear sunglasses when they are sensitive to light. He also added another person driving her car without the same impairment might not be safe. Dr. Humphreys said the DMV tells how dark a tinted window can be. Dr. Barney stated the history to tinted windows was Doctors were giving prescriptions too loosely. The board said Virginia will send her a reply by email stating 'we the board are not aware of anyone who can write her a prescription for tinted windows and suggest for the protection of the public she wear sunglasses.'

Break – off the record at 11:00.
On the record at 11:19.

Agenda Item 7 Correspondence Continued

The board reviewed the letter from Patrick Walsh explaining that he did not pass Part 3 of the ISE of the NBEO exam. He did however supply documentation showing he passed IUSO's Applied Ocular Therapeutic 8 hours of injection instruction course and an NBEO simulated lab practical. Dr. Barney explained that one used to be able to fail the ISE and still pass Part 3. In the future if you do not pass the injections portion (ISE) you don't pass Part 3. Dr. Messerschmidt asked if you go to school and don't pass the NBEO do you still get licensed. Dr. Barney said in the past, test pass rates for the ISE fell to under 50% because it was not required to pass Part 3 and students didn't take it seriously. In the next year or two he said that will change.

On a motion duly made by Dr. Humphreys and seconded by Dr. Messerschmidt and approved unanimously,

RESOLVED to accept the injection course successfully completed by Mr. Walsh.

Agenda Item 8 ARBO Meeting

Dr. Barney stated since we are a member of ARBO someone from the board should go to the conference every year or two if the budget can cover the cost. Dr. Messerschmidt said he didn't have a problem with someone going and did anyone want to attend. No one did so Dr. Barney said he would check his schedule and wondered if the board needed to spend the money during a

deficit year. The board will ask Martha Hewlett if there are funds for a possible June 2014 ARBO trip.

Dr. Barney and Dr. Messerschmidt said the board needed to discuss Board Certification. Medicare and Medicaid may in the future restrict reimbursements for not having continuing competency. Earlier Medicare tried to reduce an Optometrist without Board Certification to second tier because of lack of ongoing competency. It is optional to be Board Certified. Dr. Barney didn't think the board needed to embrace it or discourage it. Medicare and Medicaid are looking to change the way they reimburse. The board is not requiring it. Dr. Barney said he is Board Certified. He said as more become Board Certified it could become something to regulate or guide how people use it. People will promote themselves by using this because it could be touted that 'I'm better than you because I am 'Board Certified.' Dr. Delzer explained for Eric Lingle that this is after passing the NBEO, this is in addition to that, by doing more work, classes and exam. Dr. Delzer said ABO is clear in their guidelines that they state you cannot imply being better than 'not certified.'

Agenda Item 9 Public Comment

No one was present for public comment.

Lunch – off the record 12:00
On the record at 1:06.

Agenda Item 10 Annual Report/Goals and Objectives

The board discussed the FY 2013 Annual Report Goals and Objectives for FY 2014. The board said its goal and objective was to reduce the deficit. Dr. Barney said the board has no new proposals for the upcoming year. Regulations will change to accept the Academy's CE's and a temporary license for military spouses. Ms. Zinn said it will go to public comment and the Regulations Specialist, Jun Maiquis and will take about 40 days. Dr. Humphreys said the board needs to put requirements on the next 'as taught' bill and have no ongoing educational requirements. He said if the bill is written right it will clean itself up. Dr. Messerschmidt said he would write the narrative statement.

The board tabled the Annual Report until after Martha Hewlett gave the Budget/Expense Report.

Agenda Item 11 Budget/Expense Report

Martha Hewlett said the division will be reviewing fees in the next week. Dr. Barney expressed the board would like to get back in the black over two renewal cycles rather than one. Ms. Hewlett said she will look into that. The board said they had no fiscal concerns. Dr. Barney asked if it was alright for a board member to travel out of state this year. Ms. Hewlett explained the director approves travel then the Commissioner. She will check with Ms. Chambers to ask if she

will approve travel and let Ms. Zinn know. Dr. Barney said the board is asking for about \$2,000 to travel to the ARBO conference in June. Ms. Hewlett said out of state travel has to go to the Commissioner.

Agenda Item 10 Annual Report/Goals and Objectives Continued

Dr. Messerschmidt said the sunset audit had been completed. Dr. Barney said #9 needs to be changed to read 'Encourage' instead of 'Introduce' and support 'as taught' legislation.

The board agreed to meet twice a year, once in Juneau and in Anchorage but would like to consider holding a meeting in Fairbanks and Ketchikan at some point. The board said it may also hold two teleconferences in 2015 so it is in the budget if needed. Dr. Messerschmidt said he would write the objectives.

Agenda Item 12 Legislative Senate Bill #162

Dr. Barney said the FDA/ DEA may change the classification of hydrocodone to a class II drug. The bill if passed would allow Optometrists to continue to write prescriptions for hydrocodone, should it be reclassified. Dr. Barney noted Optometrists have always been able to write prescriptions for hydrocodone with limits on a prescription to be only written for four days and for eye conditions only. Ms. Zinn encouraged the board to write a letter to the sponsors and committee if they are in support of the bill. Dr. Delzer will write a letter to legislators expressing the board's support of the bill and send to Virginia for mailing.

Agenda Item 13 Application for Reinstatement and CE's

The board looked over Brandon Mills file and his renewal paperwork.

On a motion duly made by Dr. Humphreys and seconded by Dr. Delzer and approved unanimously, it was

RESOLVED to accept the reinstatement license application for Brandon Mills.

The board reviewed for approval the Continuing Education for Vision Expo. The board discussed the course titles and descriptions and pointed out some were COPE approved at other continuing education venues. Dr. Humphreys said the board already has a means to approve courses. Dr. Barney said they are good lectures but he doesn't know if the board wants to set precedence by approving them. He also noted they have to be submitted 60 days ahead of time and if the board approves them will it be listed in their materials that the courses are approved by the 'following boards.' The board said they would not give blanket approval to the courses, but would as always consider each on an individual basis. Dr. Humphreys will write the letter to Ms. Alexander and send to Virginia for mailing.

Agenda Item 14 Board Business

Board travel information and receipts were collected. The board tentatively scheduled the next meeting for October 31, 2014 to be held in Anchorage.

Agenda Item 15 Adjourn

On a motion duly made by Eric Lingle, seconded by Dr. Humphreys, and approved unanimously, the board adjourned the meeting.

Off the record at 3:01 p.m.

Respectfully Submitted:

Virginia Geary, Licensing Examiner

Approved:

Paul Barney, Chairperson
Alaska Board of Optometry