

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 10, 2015**

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 10, 2015 at 333 Willoughby St 9th Floor - Conference Room C – Juneau, AK

Agenda Item 1 - Call to Order - Review Agenda

Dr. Barney, Chair, of the State of Alaska Board of Examiners in Optometry called the meeting to order at 9:20 a.m.

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

Paul Barney, OD Chair, Anchorage, AK
Forrest Messerschmidt, OD, Juneau, AK
Damien Delzer, OD, Fairbanks, AK
Eric Lingle, Public Member, Douglas, AK
Stephen Stralka, OD, Anchorage, AK

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

Janey Hovenden, Director
Sara Chambers, Operations Manager
Martha Hewlett, Administrative Officer
Jasmin Bautista, Investigator
Connie Petz, Licensing Examiner

The board reviewed the agenda and made no changes.

Agenda Item 2 – The Board welcomed new board member Dr. Stephen Stralka and re-welcomed licensing examiner Connie Petz back to the board.

Agenda Item 3 – Review/Approve minutes

The board reviewed the October 31, 2014 minutes. Staff explained she amended the minutes to reflect all staff from CBPL who had been part of this meeting for the historical record. Dr. Delzer requested corrections under Agenda 4 – Correspondence for the wording to be more specific. The board changed 'contact filler classes' as it did not distinguish what the educational component was. It was changed to read 'fractional contact hour' classes. It was noted if a licensee chose to submit these 15 minute segments towards their continuing education they would be required to complete at least four (4) – fifteen (15) minute segments of rapid fire classes for credit to count as a contact hour is 50 minutes. If they only took three (3) rapid fire classes their collective time would only add up to forty five (45) minutes. In the next paragraph they corrected the name and grammar by changing 'Pro Care approved it' to 'ProKera was approved'.

Dr. Barney called for a motion to approve the final October 31, 2014 minutes as revised as well as the February 4, 2015 teleconference minutes as written.

**ON A MOTION DULY MADE BY DR. MESSERSCHMIDT, SECONDED BY DR. DELZER AND APPROVED
UNANIMOUSLY. MOTION PASSED.**

Agenda 4 - Investigative Report

Jasmin Bautista attended the meeting telephonically and she provided the board with the investigative report for the period of October 1, 2014 through April 2, 2015. Including cases, complaints, and intake matters since the last report, the Division opened one (1) file and closed two (2) optician matters (they were not related to Optometry). There were no open matters as of April 2, 2015.

Agenda 5 - Ethics

Dr. Barney educated the board about the importance of not engaging with anyone outside of a board meeting. Board members should refer anyone who contacts them in relation to board business directly to staff as she is the licensing examiner for the board.

Staff explained ethics and ex parte communication and asked the board to always work directly with staff to avoid the appearance of any ethical violation. If a board member engages outside of a public board meeting they would need to recuse themselves from any decisions on that application. She reminded board members they should never communicate between themselves on any board business. They should work directly with staff who will forward their correspondence to all board members. This will allow all board members to participate in all decisions. No one board member can make a final decision for the board without the input of the entire board. Board members were encouraged to direct anyone who contacts them to staff who will send an ex-parte communication letter if required to any individual to help them understand the process and the role of the board members.

Staff explained that any financial gift which the board receives towards costs for an annual meeting is to be reported via an ethics 'gift' document at the time it occurs and then stated on the record during the ethics agenda at the following meeting.

Dr. Barney asked if there were any ethics violations to report. All board members and staff stated they had none.

Agenda 6 - Budget Report

Director Janey Hovenden, Sara Chambers, Operations Manager and Martha Hewlett attended the meeting for the Budget Report.

Ms. Hewlett explained the current budget and the fiscal year 2014 final report. She also stated that professional licensing has increased 22 percent in receipt of overall applications for licensing while at the same time the department expenses have not increased. She asked the board to consider scheduling their meetings a few weeks after the end of budget quarters as this will allow them to have the most current financial data at their board meeting.

The board discussed their current deficit and very strongly supports a higher increase to the non-refundable application fee. They understand the goal is to be revenue neutral and they do not think the fee is adequate to cover the costs for department staff to process applications. They also want the licensee to be serious about seeking licensure in our state and believe a higher fee will encourage more deliberate consideration by an applicant. Overall the board supports the plan to continue to have steady increases in application and license fees for their budget.

The board is keeping informed of Senate Bill 55 and recognizes if enacted there will then be additional costs incurred by the board for development of new regulations for the new statute.

Ms. Chambers reminded the board to consider making a resolution and motion if they are in support of Senate Bill 55.

Staff will forward the budget to board members each quarter when they are released as well as including it in their board packet.

There was no further board comment on the budget report.

Agenda 7 – Public Comment

No public attended the meeting.

Break – Off the record at 11:00 a.m. back On the record at 11:05 a.m.

Agenda 8 – Injections CE for Renewal

Dr. Barney shared the boards stand on injection courses when renewing a license and the requirement for an initial license for optometry. The process has been that an applicant for a new license needs to be able to demonstrate they have the physical ability to do an injection which means a workshop type course or passing the injections skills evaluation (ISE) given by the NBEO. Both of these would show they could competently do an injection.

When it comes to an Alaska licensed optometrist for the renewal requirement concerning injections every 4 years, the board agreed that 7 hours of education could be didactic and that the licensee does not have to complete another injections workshop for their license renewal. They do have to submit the certificate of completion to document when they renew. Staff explained the licensee should retain their certificate and submit it when they renew their license.

Dr. Barney asked where the board will find other injection courses. They are becoming more difficult both for renewal of a license and for new applicants for licensure. The board relies on Pacific University who has offered the course annually and they now offer one on one course. They will also come to Alaska and offer the course if they have at least 10 participants signed up.

Dr. Messerschmidt said he took the December 2014 Pacific University injections course in Anchorage and reported it was an excellent course. He said it was far superior to the prior course he took. He said after sitting through this course, if a person wants to do injections, then this is the course which they should be educated in and they should be required to do all the injections.

The Bellingham course offered a few years ago did not include ophthalmic injections, which is why this course was no longer accepted. A new graduate or doctor seeking licensure in Alaska must document they have the skills to perform injections. If they fail the ISE with the NBEO then they need to complete a course which documents they are competent to perform an injection.

The board agreed a renewal course for continuing education for injections is not the same as the initial course where you must perform injections and that documents you have the competency to perform. You must either take a course which requires you to perform injections and that documents your competency or pass the ISE which is another way to document they have the skills to complete injections.

Staff informed the board the audit for the last license period will be sent out to all licenses by the end of April. The board agreed they would like to review the certificates for education prior to the fall board meeting. Staff will set up a secure website for board members to review and vote on both applications and continuing education for the audit.

Agenda item 9 – Discuss how to approve/disapprove a mail ballot

Staff went over the mail ballot process and explained the board should not see any application until all the regulatory requirements are documented in that file. Staff explained her role is to compile and confirm all items are in order and the checklist is the tool both staff and board members work from. The board must have

statutory or regulatory authority to back their decisions. Board members should only send questions for any application directly to staff who will share with other board members.

The board deviated to discussion with operations manager Sara Chambers and discussed what qualifies for military exemption in relation to both renewal fees and continuing education certificates. After much discussion it was determined that the department of law would be consulted. How far do these statutes and regulations extend to someone in the military as far as active duty vs deployed in combat/danger pay zone?

The areas which need an interpretation while serving in the military and holding a license are under AS 08.72.181(b) Renewal of license and 12 AAC 18.230 Exemption from continuing education requirements for active duty military service. The board could consider clarifying the wording on the next renewal application to have the license holder identify if they are seeking a military exemption and ask them to confirm they are only practicing at a military facility. The board discussed if the military exemption regulation be revised to clarify only if practicing in AK.

TASK: Dr. Stralka will research what other states have for military optometry license holders.

The board deviated to **Agenda item 11- LUNCH** off the record 12:35 p.m. and back on 1:40 p.m.

All board members were present and the board began reviewing applications for licensure.

Staff and the board discussed how future application files will be submitted for review. The board agreed they are open to receiving applications for review as soon they are fully complete. The revised checklist will be placed at the beginning of the application and it will be followed with the documentation in order of the statutes and regulations so the board can review documentation in order and compare to the application documentation. Staff encouraged board members to compare and confirm the documentation submitted meets the qualification requirements for licensure. This is a checks and balance process for the examiner and the board.

Staff reviewed all incomplete applications prior to this board meeting, contacted all licensees and identified what they needed to submit in order for their applications to be reviewed at this meeting. It was understood the statute does not state a specific date which a course must be completed, it only states what education is required.

Dr. Barney said that he understood the Board determined they would not approve any course completed prior to the law passing. One example was that Dr. Barney had to retake a 100 hour course prior to the board approving him for a license. The board believes they have been consistent in requiring all licensees to document 'current competency' education for injections.

There was discussion on what date an injections course would be accepted based as to when it was completed for when it would be approved. AS 08.72.140. Qualifications for licensure. (4) shall have successfully completed (C) an optometry and nontopical therapeutic pharmaceutical agent injection course of at least seven hours approved by the board or equivalent training acceptable to the board;

The Board reviewed application files.

Dr. Smalley – The board reviewed the application file and noted his injections lab was part of his Pacific University education and he graduated in 2013. He took the ISE exam with the NBEO 2012 but did not pass so he has not demonstrated competency for injections. He also needs to submit an additional \$180.00 as well as the required 36 contact hours in qualifying continuing education. It was decided he should either pass the ISE exam or he will need to complete a post graduate workshop for 7 hours of injections which would document his competency. Dr. Smalley is in the process of sending the additional fees for his application and taking continuing education courses which he will submit once completed.

ON A MOTION DULY MADE BY DR. DELZER, SECONDED BY DR. STRALKA, IT WAS RESOLVED KYLE SMALLEY NEEDS TO COMPLETE A POST GRADUATE INJECTIONS WORKSHOP OR TO PASS THE ISE PRIOR TO APPROVAL. ALL IN FAVOR, NO NAYS. MOTION PASSED UNANIMOUSLY.

Dr. DeDeo – The board reviewed the application for Nathan DeDeo. Since their last review he has secured documentation for an unrestricted license in New Jersey and fees have increased.

ON A MOTION DULY MADE BY DR. MESSERSCHMIDT, SECONDED BY DR. DELZER, TO GRANT DR. DEDEO A LICENSE TO PRACTICE OPTOMETRY IN ALASKA. HE HAS DEMONSTRATED THAT HE IS PRACTICING WITHOUT A RESTRICTED LICENSE IN NEW JERSEY AND HAS MET THE REQUIREMENTS FOR A LICENSE IN ALASKA, PREDICATED IN PASSING THE LAW EXAM AND PAYING ALL THE REQUIRED FEES. ALL IN FAVOR, NO NAYS. MOTION PASSED UNANIMOUSLY.

Dr. Schuster – The board reviewed the application file and agreed she needs to demonstrate post graduate proficiency either by completion of workshop or passing the ISE. Once the required injections course is completed she would then need to complete and pass the state law exam before a license could be issued.

ON A MOTION DULY MADE BY DR. STRALKA, SECONDED BY DR. DELZER, PENDING PASSING POST GRADUATE INJECTIONS WORKSHOP OR HAVE PASSED THE ISE. ALL IN FAVOR, NO NAYS. MOTION CARRIED UNANIMOUSLY.

Dr. Stanley – The board reviewed the application file and agreed that the AOT course was not sufficient to fulfill the SEVEN hour workshop required by all licensed Alaska OD's following the passage of the injection law. (Sec 08.72.140 (4)(C)). He needs to demonstrate post graduate proficiency either by completion of a workshop or passing the ISE. It is noted that both the Arizona and the Washington verifications of licensure state he is not authorized to perform injections with pharmaceutical agents for therapeutic purposes. Once the required injections course is completed he would then need to complete and pass the state law exam before a license could be issued.

ON A MOTION DULY MADE BY DR. DELZER, SECONDED BY DR. STRALKA; DR. CHRISTOPHER STANLEY WOULD NOT BE GRANTED A LICENSE UNTIL THE COMPLETION OF A POST-GRADUATE 7 HOUR INJECTIONS WORKSHOP OR PASSING THE ISE. ALL IN FAVOR, NO NAYS. MOTION CARRIED UNANIMOUSLY.

Dr. Hornick – Application file was reviewed as the new regulation for military courtesy license was signed on March 31, 2015 and will be enacted on April 30, 2015. The board determined Dr. Hornick's file does not hold any documentation that she holds a current valid license which is a requirement for the courtesy license. She will be notified to request a verification of license which reflects she holds a current license and then she must pass the state law exam before a courtesy license could be issued.

ON A MOTION DULY MADE BY DR. MESSERSCHMIDT, SECONDED BY DR. DELZER TO APPROVE MILITARY COURTESY LICENSE FOR DR. HORNICK PENDING VERIFICATION OF CURRENT LICENSE FOR THE PRACTICE OF OPTOMETRY IN ANOTHER STATE AND PENDING PASSING THE LAW EXAM. ALL BOARD MEMBERS VOTED YES EXCEPT DR BARNEY WHO ABSTAINED AND DR. STRALKA WHO WAS OPPOSED. MOTION PASSED.

Task: Staff will follow up with all applicants reviewed at this meeting. She will also review files for licensees who were issued a license after the fee regulation project was enacted to identify if they paid the correct fee. If any have not, they will be contacted to submit the correct fees with an explanation of a clerical error at the time they were issued a license.

Agenda 10 – Correspondence

NBEO asked the board to confirm if they will seek funds to attend the ARBO meeting June 21-23, 2015. Dr. Barney will check his schedule and he will let staff know if he can attend so she can begin the request for travel stipend from NBEO and out of state travel with the department.

**ON A MOTION DULY MADE BY DR. MESSERSCHMIDT, SECONDED BY DR. STRALKA TO APPROVE DR. BARNEY TO ATTEND THE ARBO MEETING AS PREVIOUSLY BUDGETED.
ALL IN FAVOR, NO NAYS. MOTION CARRIED UNANIMOUSLY.**

Correspondence received from Rebecca Roby, College Registrar of The Ohio State University asked the board if a student passes ISE on their first attempt but fails part III as a whole, and then on their retake they pass part III but fail the ISE portion, will AK requirement be fulfilled. Staff referred her to the NBEO for her question. The board did not think it was possible, per their understanding a person would have to pass part III and the ISE.

Staff will respond to Ms. Roby's email for the board.

Agenda 12 – Legislation

The Board discussed if they would be in support of Senate Bill 55. Two questions were posed by public member Mr. Lingle. He asked about one very persuasive letter in opposition to the bill and what was the boards' rebuttal? The board stated it was a matter of trust. Trust that optometrists are capable of regulating their profession. Dentistry, nursing and medical all regulate their own professions through their own boards. There is no reason that Optometry should not be allowed to regulate their profession. They are all limited by what they are trained in and what their educational background allows them to practice. Public protection is ultimately the bottom line. Professionals police themselves through what they are trained in and they are not going to perform beyond their education.

Mr. Lingle asked if the fact that so many people are in the remote parts of the state would they seek to see an optometrist as a matter of convenience or ease when they should be seeking an ophthalmologist. The board said the fact is optometrists and ophthalmologist work very well together. When people have an eye problem, their choices may be only to see a medical doctor, family practice, emergency room or an optometrist. Professionals in every geographical area will assess the situation for various medical conditions and it is up to each professional to refer patients to the best provider when the conditions are outside of their expertise.

**ON A MOTION DULY MADE BY DR. MESSERSCHMIDT, SECONDED BY DR. STRALKA, TO SUPPORT SENATE BILL 55. THIS BILL MODERNIZES AND UPDATES THE ALASKA OPTOMETRY STATUTE. SB 55 ALLOWS THE BOARD OF OPTOMETRY TO HAVE THE FLEXIBILITY WITH ONGOING CHANGES IN TECHNOLOGY AND EDUCATION TO REGULATE OPTOMETRY TO A MORE MODERN STANDARD. THIS WOULD BE SIMILAR TO THE BOARDS OF DENTISTRY, NURSING AND MEDICINE. OPTOMETRY'S STATUTES ARE ANTIQUATED AND DO NOT REFLECT THE CURRENT STANDARDS OF OPTOMETRIC CARE. SB55 ALLOWS THE BOARD OF OPTOMETRY TO REGULATE OUR PROFESSION WITHIN THE SAME FRAMEWORK OF LAWS AND REGULATIONS THAT GOVERN THESE OTHER PROFESSIONS.
ALL IN FAVOR, NO NAYS. MOTION PASSED UNANIMOUSLY.**

Agenda 13 – Annual Report

Dr. Messerschmidt will forward the draft narrative and revised goals of the board to staff for the annual report. The Board will continue to ask for fees for the ARBO meeting in 2016. There are no regulation projects at this time. Goals of the board have carried forward.

Staff reminded Dr. Messerschmidt that his current term ends in March 2016. The board hopes he will seek reappointment and he should send a letter to Boards and Commissions this fall advising his intentions.

Agenda 14 – Office Business

The board changed the next board meeting to October 30, 2015 in Anchorage. The spring board meeting 2016 will be in Juneau, date to be determined.

Staff will send audit letters and the board agreed they prefer to review continuing education online. Staff will establish the secure website admin log in for a mail ballot and a quorum to approve CE. Staff will only bring questionable CE's to the fall board meeting.

Staff will also forward the newly passed regulation to all board members for their records. Staff explained to the board members that when they are in travel status they are considered a state employee which is why they should only travel within the travel times they have been approved. If they deviate outside of the approved times they may not be covered under workers compensation. It is ok to deviate as long as it is approved in advance of the actual travel dates and times.

Agenda 15 – Adjourn

Dr. Barney adjourned the meeting at 4:37 p.m.

Respectfully Submitted:



Connie Petz, Licensing Examiner

Approved:



Paul Barney, Chairperson
Alaska Board of Optometry

10-30 - 2015

Date