

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
4

5 **ALASKA STATE BOARD OF OPTOMETRY**
6 **MINUTES OF MEETING**
7 **April 10, 2015**
8

9 By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62,
10 Article 6, a scheduled meeting of the Board of Examiners in Optometry was held on
11 April 10, 2015 at 333 Willoughby St 9th Floor - Conference Room C – Juneau, AK
12

13 **These DRAFT minutes were prepared by the staff of the**
14 **Division of Corporations, Business and Professional Licensing.**
15 **They have not been reviewed or approved by the board.**
16

17 **Agenda Item 1 - Call to Order - Review Agenda**
18

19 Dr. Barney, Chair, of the State of Alaska Board of Examiners in Optometry called the meeting to
20 order at 9:20 a.m.
21

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

23 Paul Barney, OD Chair, Anchorage, AK
24 Forrest Messerschmidt, OD, Juneau, AK
25 Damien Delzer, OD, Fairbanks, AK
26 Eric Lingle, Public Member, Douglas, AK
27 Stephen Stralka, OD, Anchorage, AK
28

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

30 Janey Hovenden, Director
31 Sara Chambers, Operations Manager
32 Martha Hewlett, Administrative Officer
33 Jasmin Bautista, Investigator
34 Connie Petz, Licensing Examiner
35

36 The board reviewed the agenda and made no changes.
37

38 **Agenda Item 2** – The Board welcomed new board member Dr. Stephen Stralka and re-
39 welcomed licensing examiner Connie Petz back to the board.
40

41 **Agenda Item 3 – Review/Approve minutes**
42

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

52 they corrected the name and grammar by changing 'Pro Care approved it' to 'ProKera was
53 approved'.

54
55 Dr. Barney called for a motion to approve the final October 31, 2014 minutes as revised as well
56 as the February 4, 2015 teleconference minutes as written.

57
58 **ON A MOTION DULY MADE BY DR. MESSERSCHMIDT, SECONDED BY DR. DELZER AND**
59 **APPROVED UNANIMOUSLY. MOTION PASSED.**

60
61 **Agenda 4 - Investigative Report**

62
63 Jasmin Bautista attended the meeting telephonically and she provided the board with the
64 investigative report for the period of October 1, 2014 through April 2, 2015. Including cases,
65 complaints, and intake matters since the last report, the Division opened one (1) file and closed
66 two (2) optician matters (they were not related to Optometry). There were no open matters as
67 of April 2, 2015.

68
69 **Agenda 5 - Ethics**

70
71 Dr. Barney educated the board about the importance of not engaging with anyone outside of
72 a board meeting. Board members should refer anyone who contacts them in relation to board
73 business directly to staff as she is the licensing examiner for the board.

74
75 Staff explained ethics and ex parte communication and asked the board to always work
76 directly with staff to avoid the appearance of any ethical violation. If a board member
77 engages outside of a public board meeting they would need to recuse themselves from any
78 decisions on that application. She reminded board members they should never communicate
79 between themselves on any board business. They should work directly with staff who will forward
80 their correspondence to all board members. This will allow all board members to participate in
81 all decisions. No one board member can make a final decision for the board without the input
82 of the entire board. Board members were encouraged to direct anyone who contacts them to
83 staff who will send an ex-parte communication letter if required to any individual to help them
84 understand the process and the role of the board members.

85
86 Staff explained that any financial gift which the board receives towards costs for an annual
87 meeting is to be reported via an ethics 'gift' document at the time it occurs and then stated on
88 the record during the ethics agenda at the following meeting.

89
90 Dr. Barney asked if there were any ethics violations to report. All board members and staff
91 stated they had none.

92
93 **Agenda 6 - Budget Report**

94
95 Director Janey Hovenden, Sara Chambers, Operations Manager and Martha Hewlett attended
96 the meeting for the Budget Report.

97
98 Ms. Hewlett explained the current budget and the fiscal year 2014 final report. She also stated
99 that professional licensing has increased 22 percent in receipt of overall applications for
100 licensing while at the same time the department expenses have not increased. She asked the
101 board to consider scheduling their meetings a few weeks after the end of budget quarters as
102 this will allow them to have the most current financial data at their board meeting.

103

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

110

111 The board is keeping informed of Senate Bill 55 and recognizes if enacted there will then be
112 additional costs incurred by the board for development of new regulations for the new statute.
113 Ms. Chambers reminded the board to consider making a resolution and motion if they are in
114 support of Senate Bill 55.

115

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

118

119 There was no further board comment on the budget report.

120

121 **Agenda 7 – Public Comment**

122

123 No public attended the meeting.

124

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

126

127 **Agenda 8 – Injections CE for Renewal**

128

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

134

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

140

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

145

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

151

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

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

161
162 Staff informed the board the audit for the last license period will be sent out to all licenses by the
163 end of April. The board agreed they would like to review the certificates for education prior to
164 the fall board meeting. Staff will set up a secure website for board members to review and vote
165 on both applications and continuing education for the audit.

166
167 **Agenda item 9 – Discuss how to approve/disapprove a mail ballot**
168

169 Staff went over the mail ballot process and explained the board should not see any application
170 until all the regulatory requirements are documented in that file. Staff explained her role is to
171 compile and confirm all items are in order and the checklist is the tool both staff and board
172 members work from. The board must have statutory or regulatory authority to back their
173 decisions. Board members should only send questions for any application directly to staff who
174 will share with other board members.

175
176 The board deviated to discussion with operations manager Sara Chambers and discussed what
177 qualifies for military exemption in relation to both renewal fees and continuing educations
178 certificates. After much discussion it was determined that the department of law would be
179 consulted. How far do these statutes and regulations extend to someone in the military as far as
180 active duty vs deployed in combat/danger pay zone?

181
182 The areas which need an interpretation while serving in the military and holding a license are
183 under AS 08.72.181(b) Renewal of license and 12 AAC 18.230 Exemption from continuing
184 education requirements for active duty military service. The board could consider clarifying the
185 wording on the next renewal application to have the license holder identify if they are seeking a
186 military exemption and ask them to confirm they are only practicing at a military facility. The
187 board discussed if the military exemption regulation be revised to clarify only if practicing in AK.

188
189 TASK: Dr. Stralka will research what other states have for military optometry license holders.

190
191 The board deviated to **Agenda item 11- LUNCH** off the record 12:35 p.m. and back on 1:40 p.m.

192
193 All board members were present and the board began reviewing applications for licensure.

194
195 Staff and the board discussed how future application files will be submitted for review. The
196 board agreed they are open to receiving applications for review as soon they are fully
197 complete. The revised checklist will be placed at the beginning of the application and it will be
198 followed with the documentation in order of the statutes and regulations so the board can
199 review documentation in order and compare to the application documentation. Staff
200 encouraged board members to compare and confirm the documentation submitted meets the
201 qualification requirements for licensure. This is a checks and balance process for the examiner
202 and the board.

203
204 Staff reviewed all incomplete applications prior to this board meeting, contacted all licensees
205 and identified what they needed to submit in order for their applications to be reviewed at this
206 meeting. It was understood the statute does not state a specific date which a course must be
207 completed, it only states what education is required.

208
209 Dr. Barney said that he understood the Board determined they would not approve any course
210 completed prior to the law passing. One example was that Dr. Barney had to retake a 100 hour
211 course prior to the board approving him for a license. The board believes they have been
212 consistent in requiring all licensees to document 'current competency' education for injections.

213
214 There was discussion on what date an injections course would be accepted based as to when it
215 was completed for when it would be approved. AS 08.72.140. Qualifications for licensure. (4)
216 shall have successfully completed (C) an optometry and nontopical therapeutic
217 pharmaceutical agent injection course of at least seven hours approved by the board or
218 equivalent training acceptable to the board;

219
220 The Board reviewed application files.

221
222 **Dr. Smalley** – The board reviewed the application file and noted his injections lab was part of his
223 Pacific University education and he graduated in 2013. He took the ISE exam with the NBEO
224 2012 but did not pass so he has not demonstrated competency for injections. He also needs to
225 submit an additional \$180.00 as well as the required 36 contact hours in qualifying continuing
226 education. It was decided he should either pass the ISE exam or he will need to complete a
227 post graduate workshop for 7 hours of injections which would document his competency. Dr.
228 Smalley is in the process of sending the additional fees for his application and taking continuing
229 education courses which he will submit once completed.

230
231 **ON A MOTION DULY MADE BY DR. DELZER, SECONDED BY DR. STRALKA, IT WAS RESOLVED**
232 **KYLE SMALLEY NEEDS TO COMPLETE A POST GRADUATE INJECTIONS WORKSHOP OR TO**
233 **PASS THE ISE PRIOR TO APPROVAL.**
234 **ALL IN FAVOR, NO NAYS. MOTION PASSED UNANIMOUSLY.**

235
236 **Dr. DeDeo** – The board reviewed the application for Nathan DeDeo. Since their last review he
237 has secured documentation for an unrestricted license in New Jersey and fees have increased.

238
239 **ON A MOTION DULY MADE BY DR. MESSERSCHMIDT, SECONDED BY DR. DELZER, TO GRANT**
240 **DR. DEDEO A LICENSE TO PRACTICE OPTOMETRY IN ALASKA. HE HAS DEMONSTRATED THAT**
241 **HE IS PRACTICING WITHOUT A RESTRICTED LICENSE IN NEW JERSEY AND HAS MET THE**
242 **REQUIREMENTS FOR A LICENSE IN ALASKA, PREDICATED IN PASSING THE LAW EXAM AND**
243 **PAYING ALL THE REQUIRED FEES.**
244 **ALL IN FAVOR, NO NAYS. MOTION PASSED UNANIMOUSLY.**

245
246 **Dr. Schuster** – The board reviewed the application file and agreed she needs to demonstrate
247 post graduate proficiency either by completion of workshop or passing the ISE. Once the
248 required injections course is completed she would then need to complete and pass the state
249 law exam before a license could be issued.

250
251 **ON A MOTION DULY MADE BY DR. STRALKA, SECONDED BY DR. DELZER, PENDING PASSING**
252 **POST GRADUATE INJECTIONS WORKSHOP OR HAVE PASSED THE ISE.**
253 **ALL IN FAVOR, NO NAYS. MOTION CARRIED UNANIMOUSLY.**

254
255 **Dr. Stanley** – The board reviewed the application file and agreed that the AOT course was not
256 sufficient to fulfill the SEVEN hour workshop required by all licensed Alaska OD's following the
257 passage of the injection law. (Sec 08.72.140 (4)(C)). He needs to demonstrate post graduate
258 proficiency either by completion of a workshop or passing the ISE. It is noted that both the
259 Arizona and the Washington verifications of licensure state he is not authorized to perform

260 injections with pharmaceutical agents for therapeutic purposes. Once the required injections
261 course is completed he would then need to complete and pass the state law exam before a
262 license could be issued.

263

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

268

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

275

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

281

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

286

287 **Agenda 10 – Correspondence**

288

289 NBEO asked the board to confirm if they will seek funds to attend the ARBO meeting June 21-23,
290 2015. Dr. Barney will check his schedule and he will let staff know if he can attend so she can
291 begin the request for travel stipend from NBEO and out of state travel with the department.

292

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

296

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

302

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

304

305 **Agenda 12 – Legislation**

306

307 The Board discussed if they would be in support of Senate Bill 55. Two questions were posed by
308 public member Mr. Lingle. He asked about one very persuasive letter in opposition to the bill
309 and what was the boards' rebuttal? The board stated it was a matter of trust. Trust that
310 optometrists are capable of regulating their profession. Dentistry, nursing and medical all
311 regulate their own professions through their own boards. There is no reason that Optometry

312 should not be allowed to regulate their profession. They are all limited by what they are trained
313 in and what their educational background allows them to practice. Public protection is
314 ultimately the bottom line. Professionals police themselves through what they are trained in and
315 they are not going to perform beyond their education.

316

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

324

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

335

336 **Agenda 13 – Annual Report**

337

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

341

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

345

346 **Agenda 14 – Office Business**

347

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

350

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

354

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

361

362 **Agenda 15 – Adjourn**

363

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

365

366

367

368

369

370

371

372

373

374

375

376

377

378

Respectfully Submitted:

Connie Petz, Licensing Examiner

Approved:

Paul Barney, Chairperson
Alaska Board of Optometry

Date

DRAFT