

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 8, 2016**  
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 8, 2016 at 333 Willoughby St 9th Floor - Conference Room C – Juneau, AK  
12

13  
14 Dr. Barney called the meeting to order on Friday April 8, 2016 for the Board of Examiners in  
15 Optometry at 9:02 a.m. This meeting was public noticed in the Anchorage Dispatch News and  
16 the Online Public Notice system on March 15, 2016.  
17

18 Those present, constituting a quorum of the board, were:  
19

20 Paul Barney, OD Chair, Anchorage, AK  
21 Damien Delzer, OD, Fairbanks, AK  
22 Eric Lingle, Public Member, Douglas, AK  
23 Stephen Stralka, OD, Anchorage, AK  
24

25 Approved Absence – Dr. Steffes, Sitka, AK  
26

27 Present from the Division of Corporations, Business and Professional Licensing:  
28

29 Martha Hewlett, Administrative Officer  
30 Jasmin Bautista, Investigator  
31 Connie Petz, Licensing Examiner  
32

33 **Agenda Item 1 – Review/Approve Consent Agenda**  
34

- 35 1. Response to ARBO Member Query – November 3, 2015
- 36 2. ARBO Member Query Retired License – 11-13-15
- 37 3. Dr. Barney – Ethics write up for October 2015 board meeting
- 38 4. April 10, 2015 Final Meeting Minutes – Requires motion to include approved as final  
39

40 The board pulled from the consent agenda item # 2, Response to ABRO Query Retired License  
41 and moved it to agenda item # 13 correspondence for discussion.  
42

43 **ON A MOTION BY DELZER, SECONDED BY LINGLE TO APPROVE THE CONSENT**  
44 **AGENDA ITEMS #1 RESPONSE TO ABRO MEMBER QUERY – NOVEMBER 3, 2015,**  
45 **#3, DR. BARNEY – ETHICS WRITE UP FOR OCTOBER 2015 BOARD MEETING AND # 4,**  
46 **APRIL 10, 2015 FINAL MEETING MINUTES APPROVED AS WRITTEN.**  
47 **ALL IN FAVOR, NO NAYS. MOTION PASSED UNANIMOUSLY.**  
48

49 **Agenda Item 2 – Review/Approve Meeting Agenda**  
50

51 The board reviewed the agenda and made no changes.  
52

53 **ON A MOTION BY STRALKA, SECONDED BY LINGLE TO APPROVE THE AGENDA AS**  
54 **DRAFTED. ALL IN FAVOR, NO NAYS. MOTION PASSED UNANIMOUSLY.**  
55

56 **Agenda Item 3 – Old Business/Tasks**  
57

58 Staff recapped the qualifications for licensure per statutes and regulations with meeting  
59 requirements for new applicants versus renewal applicants. She asked for clarification on how  
60 the board views passing the ISE when it is not identified in the regulations. Clarification will assist  
61 applicants to meet the law as currently written and eliminate confusion when they apply.  
62

63 Dr. Barney recapped the history of how the Board determined they would accept passing the  
64 injections skills evaluation (ISE) as comparable to completion of a 7 hour injections course. They  
65 interpret in statute, "or equivalent training acceptable to the board" and without a certificate  
66 for completion of 7 hours of injections education the passing scores for the ISE documents they  
67 have the skills and education for injections. The board determined passing the ISE shows  
68 education is equivalent to a 7 hour injections course without the board needing to make a  
69 regulation change.  
70

71 The board advised staff to tell applicants, if they do not have a certificate of completion for a 7  
72 hour injections course they can take and pass the ISE with the NBEO as it is considered  
73 equivalent training for injections and is acceptable by the board. This will allow applicants who  
74 need the injections education the option to complete a 7 hour injections course or take the ISE  
75 with the NBEO.  
76

77 According to the NBEO, nine jurisdictions are identified as being required to take the ISE,  
78 however, AK was in that list and it is not a 'law' in AK, so it was unknown if the other jurisdictions  
79 have actually passed a law for requiring a mandatory ISE exam.  
80

81 It is noted that in the future, the ISE will be required for all NBEO exams. The board agreed they  
82 would not pursue a regulation change for naming the ISE. They did recognize that when making  
83 any regulation they should clearly state what is expected or accepted will benefit both  
84 applicants and board members.  
85

86 TASK - Staff will research historical records for the Bellingham Technical College injections course  
87 and forward it to the board for review. Perhaps they can work towards revising their course to  
88 meet the AK requirements.  
89

90 At the October 2015 board meeting, it was determined that Dr. Delzer and Dr. Messerschmidt  
91 would work together as a committee to begin drafting proposed regulations to be discussed at  
92 this meeting. For the record, Dr. Delzer stated that there was never any 'committee' meeting  
93 discussion between them.  
94

95 **Agenda Item 4 – Ethics Reporting**  
96

97 Dr. Barney asked if there were any ethics violations to report. All board members and staff  
98 stated they did not have any ethical violations to report.  
99

100 **Agenda Item 5 – Investigative Report**  
101

102 Investigator Jasmin Bautista attended the meeting telephonically and provided the board with  
103 the investigative report for the period of October 9, 2015 through March 15, 2016. Including

104 cases, complaints, and intake matters since the last report, the Division opened two (2) matters  
105 and closed two (2) matters.

106  
107 Ms. Bautista also gave an overview of the investigative process for yes answers on applications.  
108

109 **Agenda Item 6 – CE Audits – Continuing Education**

110  
111 The board had approved one more audited licensee prior to this meeting. It was noted that  
112 AKOA meeting will not be offering an injections course at their June 2016 meeting.

113  
114 Task: Staff will follow up on two remaining audited licensees.  
115

116 **Agenda Item 7 – Legislation Senate Bill 55**

117  
118 The board has been tracking SB55 and hope it will pass during this legislative session. Mr. Lingle  
119 asked the board if ophthalmologists were concerned with refractive surgery. Dr. Barney  
120 explained the way the bill is written it will not allow optometrists to do anything they are not  
121 trained to do. The board continues to support SB55 and Dr. Barney called for a motion.

122  
123 **ON A MOTION BY DELZER, SECONDED BY STRALKA AFTER REVIEWING THE**  
124 **TESTIMONY AND ASSOCIATED DOCUMENTS THAT THE BOARD CONTINUES TO**  
125 **SUPPORT THE PASSAGE OF SB55 AS WRITTEN. ALL IN FAVOR, NO NAYS. MOTION**  
126 **PASSED UNANIMOUSLY.**

127  
128 BREAK 10:14 A.M. and back on the record at 10:21 A.M.  
129

130 **Agenda Item 8 – Regulation Project**

131  
132 The board crafted a **PROPOSED** future regulation for license by examination 12 AAC 48.011(2)

133  
134 Current law reads:  
135

136 12 AAC 48.011 (2) documentation showing that the applicant has passed, not earlier than the  
137 four years immediately preceding the date of application, all parts of the examinations required  
138 in 12 AAC 48.015(1) and (2) sent directly to the department from the National Board of  
139 Examiners in Optometry (NBEO); if one or more parts of the examination was passed by the  
140 applicant two years or more before the date of the application, the applicant must provide  
141 verification of the completion of 36 hours of approved continuing education taken not earlier  
142 than the two years immediately preceding the date of application, in ocular pathology or  
143 pharmacology that meets the requirements of 12 AAC 48.210(b);

144  
145 The board determined to **strike** if one or more parts of the examination was passed by the  
146 applicant and to **add** the applicant has graduated in accordance with 12 AAC 48.011(3)  
147

148 This law could then read:  
149

150 12 AAC 48.011 (2) documentation showing that the applicant has passed, not earlier than the  
151 four years immediately preceding the date of application, all parts of the examinations required  
152 in 12 AAC 48.015(1) and (2) sent directly to the department from the National Board of  
153 Examiners in Optometry (NBEO); ~~if one or more parts of the examination was passed by the~~  
154 applicant has graduated in accordance with 12 AAC 48.011(3) two years or more before the  
155 date of the application, the applicant must provide verification of the completion of 36 hours of

156 approved continuing education taken not earlier than the two years immediately preceding the  
157 date of application, in ocular pathology or pharmacology that meets the requirements of 12  
158 AAC 48.210(b);  
159

160 The board also completed FAQ worksheet for **PROPOSED** Regulation 12 AAC 48.011 (2) License  
161 by Examination.  
162

163 **What will this regulation do?**

164 It will clarify requirements for license by examination in relation to the date of graduation.  
165 The current regulation requires 36 hours of additional continuing education hours in ocular  
166 pathology or pharmacology if one or more parts of the NBEO is passed two or more years before  
167 the date of application. The board recognizes this regulation is outdated. The educational  
168 process has changed and optometry students are allowed to begin taking parts of the NBEO  
169 exams one year after starting their degree program.

170 **What is the public need or purpose of this regulation?**

171 To allow a well-qualified recent graduate to be licensed without redundant educational  
172 requirements.

173 **What is the known or estimated cost of the new regulation to a private person?**

174 None

175 **What positive consequences may this regulation have on public or private people, businesses,  
176 or organizations?**

177 To allow a well-qualified recent graduate to be licensed without redundant educational  
178 requirements and protects public safety by continuing to regulate continued education for  
179 applicants having graduated two or more years prior to applying for a license by examination.

180 **What negative consequences may this regulation have on public or private people, businesses,  
181 or organizations?**

182 None known.

183 **If any negative consequences, please address the reasons why the public need for this change  
184 outweighs the negative impact.**

185 Not applicable

186 **List any additional questions or comments that may arise from the public during the comment  
187 period.**

188 Unknown.  
189  
190

191 The Board continued discussion in consideration of proposing a regulation change for the  
192 military exemption 12 AAC 48.230 and determined they will continue to research the history of  
193 statute 08.72.181 (b) prior to consideration of any regulation change. Fully understanding this law  
194 will help them to make a better decision for any change.  
195

196 TASK: Staff will research the history of 08.72.181 (b) which passed in 1987 and forward the  
197 information to the board.  
198

199 **LUNCH off the record at 11:46 a.m. and back on the record at 1:00 p.m.**  
200

201 Dr. Barney called the meeting to order. Roll call, Delzer, Lingle, Stralka, Barney and staff present.  
202

203 **Agenda Item 9 – Public Comment - No Public Present**  
204

205 **Agenda Item 10 – Budget Report and Annual Report**  
206

207 Administrative Officer, Martha Hewlett went over the Budget Reports for FY15 year end, 1<sup>st</sup> QTR  
208 FY16 and 2<sup>nd</sup> QTR FY16. Ms. Hewlett advised the board to make a written statement of  
209 justification for any travel and send it to Director Hovenden. The board thanked Ms. Hewlett for  
210 her budget review.

211  
212 Staff Ms. Petz explained the budget constraints has limited out of state travel to be fully funded  
213 by an outside agency. The board decided that would not seek to attend the NBEO/ARBO  
214 meeting in June 2016. However, they do believe attending the national conferences every  
215 other year is of great benefit to the Board in keeping current on national laws and trends. They  
216 will seek approval to attend the annual meeting in 2017.

217  
218 Staff Petz told the board in the future she may not be attending board meetings in person but  
219 telephonically from Juneau. The board may need to write a letter if they want staff to be in  
220 attendance in person at their board meetings. They asked if it was more economical to all  
221 come to Juneau. The current makeup of the board requires the same number of travelers go  
222 either direction so the costs are fairly similar both directions.

223  
224 Board members are getting used to the online board packets which the view on the secure  
225 website. They understand in the future they may not have printed board packets mailed to  
226 them. Staff advised the board to offer suggestions for improvements in any processes which are  
227 changing.

228  
229 The board discussed ways they reduced expenses; sharing cab fare, reduced hotel rates, one  
230 board member did not attend this meeting. They do believe they need to meet in person to be  
231 effective, especially when they are working on regulations. If SB55 passes they will need to work  
232 on many regulatory changes.

233  
234 The board wants to be involved for the fee regulation project with the department for both  
235 license fees and non-refundable application fees. They will do this via a noon teleconference  
236 on August 2, 2016.

237  
238 TASK: Staff will follow up on the fee regulation tool.

239  
240 **Break at 1:49 p.m. and back on at 1:54 p.m.**

241  
242 The board reviewed the annual report for FY16. They discussed the format of past annual report  
243 goals were not actual 'goals' but a list of board ideas. This year they will only identify what they  
244 'achieved/completed'.

245  
246 During FY16 the board achieved goals and objectives:

247  
248 Crafted a final proposed regulation for 12 AAC 48.011 (2) licensure by exam and completed the  
249 FAQ to have this project ready for the next time they start a regulation project.

250  
251 They determined to research history for the military exemption prior to crafting any proposed  
252 regulation change.

253  
254 List of boards FY17 goals:

255  
256 1) Continue regular review of optometry statutes and regulations. This review is  
257 necessary to be sure that the laws are adequately protecting the public and  
258 properly regulating the modern practice of optometry.

- 259 2) Make active Alaska licensed optometrists aware of recent amendments to  
260 regulation.
- 261 3) Continue to meet twice per year, two face to face meetings with teleconferences as  
262 needed.
- 263 4) Consider funding a board member to attend ARBO (Association of Regulatory Boards  
264 of Optometry). Funding has been an issue in the past and will continue to be going  
265 forward given the current budget shortfall.
- 266 5) Keep informed of and support legislation on the state and federal level concerning  
267 patient protection and access to care.
- 268 6) Continue to support provider non-discrimination language in state and federal  
269 legislation.
- 270 7) Continue to monitor board certification on a national level.
- 271 8) Encourage and support legislation that supports current best practice standards of  
272 care for Optometry and allows Optometrists to practice to their highest level of  
273 training.
- 274 9) Continue to monitor the definition of use, dispense and sale of prescription and non-  
275 prescription pharmaceuticals.
- 276 10) Continue to monitor the definition of use, dispense and sale of prescription and non-  
277 prescription contact lenses.
- 278 11) Work toward eliminating the budget deficit through ongoing evaluation of licensure  
279 fees and budget shortfalls
- 280 12) Monitoring online eye exams

281  
282 **Agenda Item 11 – Application Review**  
283

284 There were two applications which required board discussion. Dr. Barney called for a motion to  
285 enter Executive Session in accordance with AS 44.62.310(c) (2) and (3), and the Alaska  
286 Constitutional Right to Privacy Provisions, for the purpose of review of applications.  
287

288 **ON A MOTION BY DELZER, SECONDED BY STRALKA THE ALASKA BOARD OF EXAMINERS**  
289 **ENTER EXECUTIVE SESSION ACCORDING TO AS 44.62.310(C) (2) AND (3), AND THE ALASKA**  
290 **CONSTITUTIONAL RIGHT TO PRIVACY PROVISIONS, FOR THE PURPOSE APPLICATIONS**  
291 **DISCUSSION. VOICE ROLL CALL VOTE; DELZER, LINGLE, STRALKA AND BARNEY ALL VOTED**  
292 **YES - MOTION PASSED.**  
293

294 Mr. Barney stated all board members and staff, Petz to stay in the room.  
295

296 **Enter executive session at: 2:49 p.m.**

297 **Out of executive session at: 3:51 p.m.**  
298

299 **ON A MOTION BY DELZER, FOR APPLICATION FOR WILLIAM PHILLIPS APPROVED PENDING**  
300 **PASSING STATE LAW EXAM, SECONDED BY STRALKER. ALL IN FAVOR NO NAYS. MOTION**  
301 **PASSED UNANIMOUSLY.**  
302

303 Task: staff will send status letter and the state law exam to Mr. Phillips then issue his license after  
304 he passes the exam.

305  
306 Task: Dr. Delzer will craft a letter to a different applicant requesting additional information as  
307 well as request the provider of the affidavit of clinical experience explain further regarding  
308 knowledge of verification of clinical practice experience.

309  
310 **Agenda Item 12 – Discussion time - 10 Minute topics**

311  
312 Staff informed the board the state is moving to new standardized applications. The goal for the  
313 upcoming renewal is online Optometry renewal applications.

314  
315 Staff provided information for injections education and asked the board to review it and  
316 determine if there are ways they can find additional injections education to assist incoming  
317 applicants. How can the board clarify the requirements to make it clear for current and future  
318 understanding in what exactly it is that the board requires for injections education?

319  
320 **Agenda Item 13 – Correspondence**

321  
322 Dr. Staley submitted a suggestion that the wording in all the policies be changed to say that  
323 unless you pass the injections portion of boards you need the 7 hour course. The board recalled  
324 what he had submitted was not equivalent according to statutes and regulations.

325  
326 An email regarding - Mail Order dispensing ophthalmologist's question. The boards' response  
327 was they do not regulate anything the medical board regulates.

328  
329 Staff shared an email where she responded to an ABRO query regarding retired license and the  
330 board thought it was a broad question and the citing the statutes and regulations was  
331 appropriate. The board said they approved of the response by staff, citing the law is the best  
332 way to educate; we do not need to interpret it for them.

333  
334 **Agenda Item 14 – Task List / New Business / Schedule Meetings**

335  
336 Board meetings scheduled:

337  
338 August 2, 2016 – noon teleconference (tentative)

339 October 28, 2016 – Anchorage

340 April 7, 2017 - Juneau

341

342 Tasks:

343

344 Dr Delzer:

345

- Craft 2 letters for applicant and provider for the affidavit of clinical optometry  
346 experience

347

- Submit draft narrative, goals and objectives for annual report to staff

348

349

350 Staff:

351

352

- Follow up on the boards request for a fee regulation tool and fee increase.

- 353  
354 • Forward State Law Exam to approved applicant and issue license once exam is  
355 passed.
- 356  
357 • Research historical records for the Bellingham Technical College injections  
358 course and forward it to the board for review.
- 359  
360 • Research the history of 08.72.181(b) which passed in 1987 and forward to board.
- 361  
362 • Follow up on two remaining audited licensees.

363  
364 **Agenda Item 15 – Adjourn Meeting**

365  
366 Dr. Barney adjourned the meeting at 4:10 p.m.  
367  
368

369 Respectfully Submitted:

370 Connie Petz

371  
372 Connie Petz, Licensing Examiner

373  
374 Approved:

375 Paul Barney

376  
377 Paul Barney, Chairperson  
378 Alaska Board of Optometry

379 10-28-2016

380  
381 Date