

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 OCTOBER 27, 2017
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 October 27, 2017 at 333 Willoughby Avenue, 9th Floor – Juneau, AK
12

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

17 **Agenda Item 1 – Call Meeting to Order**
18

19 Dr. Barney called the meeting to order on Friday October 27, 2017 for the Board of Examiners in
20 Optometry at 8:06 a.m. This meeting was public noticed on September 7, 2017 in the Anchorage
21 Dispatch News and on the Alaska Public Notice system.
22

23 Those present, constituting a quorum of the board were:
24

25 Dr. Paul Barney, OD Chair, Anchorage, AK
26 Dr. Damien Delzer, OD Secretary, Fairbanks, AK
27 Mr. Eric Lingle, Public Member, Juneau, AK
28 Dr. Pamela Steffes, OD, Sitka, AK
29 Dr. Erik Christianson, OD, Ketchikan, AK
30

31 Present from the Division of Corporations, Business and Professional Licensing:
32

33 Patricia Lonergan, Licensing Examiner
34

35 **Agenda Item 2 – Review/Approve Consent Agenda**
36

37 April 7, 2017 Final Meeting Minutes
38 August 23, 2017 Final Teleconference Meeting Minutes
39

40 On a motion duly made by Dr. Pam Steffes, seconded by Dr. Erik Christianson and approved
41 unanimously it was:

42 Resolved to approve the Final meeting minutes as drafted.
43
44
45
46

Board Member	Approve	Deny	Recuse
Dr. Damien Delzer	X		
Dr. Pamela Steffes	X		
Dr. Erik Christianson	X		
Mr. Eric Lingle	X		
Dr. Paul Barney	X		

47

48 **Agenda Item 3 – Review/Approve Meeting Agenda**

49

50 The board reviewed the meeting agenda and made no changes.

50

51 On a motion duly made by Dr. Erik Christianson, seconded by Mr. Eric Lingle and approved
 52 unanimously it was: Resolved to approve the meeting agenda as drafted.

53

Board Member	Approve	Deny	Recuse
Dr. Damien Delzer	X		
Dr. Pamela Steffes	X		
Dr. Erik Christianson	X		
Mr. Eric Lingle	X		
Dr. Paul Barney	X		

54

55

56 **Agenda Item 4 – Ethics Reporting**

57

58 Dr. Barney asked if there were any ethics violations to report. There were no ethics violations to report
 59 from the board or staff.

60

61 **Agenda Item 5 – Old Business/Tasks**

62

63 Board reviewed advisory #5 that Dr. Delzer had completed regarding the need to register with the
 64 PDMP. The board discussed the need to add registration to PDMP into the initial license letter for new
 65 licensees.

66

67 The board reviewed draft regulation 12 AAC 48.930 requiring a licensee who is registered with the DEA
 68 to register with the Alaska Prescription Drug Monitoring Program.

69

70 On a motion duly made by Dr. Pam Steffes, seconded by Dr. Erik Christianson and approved
 71 unanimously it was: Resolved to approve the draft regulation from the regulations specialist
 72 and move it forward for public comment.

73

Board Member	Approve	Deny	Recuse
Dr. Damien Delzer	X		
Dr. Pamela Steffes	X		
Dr. Erik Christianson	X		
Mr. Eric Lingle	X		
Dr. Paul Barney	X		

74

75 Dr. Christianson presented his review of telemedicine/telehealth and went over the definition of the
 76 business registry, AS 44.33.38, which defines the telemedicine business registry. Boards that are
 77 regulated by the Department are explicitly prohibited from imposing disciplinary actions against
 78 licensed providers for providing telemedicine services, as long as the licensed provider complies with
 79 the statutes and regulations specific to the program under which they hold a license. There is both a
 80 medical and dispensing consumer protection the board must address when developing consumer
 81 protection regulations. Discussion centered on the remoteness of so many residents, the
 82 importance of making sure that regulations do not interfere with what is currently working, and
 83 addressing the need for providers to comply with appropriate and professional standards of care.
 84 The board also briefly reviewed the ARBO Telehealth member inquiry and the AOA State Legislation
 85 Information provided with the overview.

86
 87 Dr. Delzer reviewed the continuing education requirement for military personnel noting that, in the
 88 past, during the different overseas conflicts, licensees would have had a challenge to get their
 89 continuing education completed for renewal. The intent appears to address those who are in a
 90 combat zone. The board determined that this should be included in the current regulations project.

91
 92 Task: Dr. Christianson will craft regulation language addressing telemedicine/telehealth for the next
 93 meeting for the board to review.

94 Task: Staff will include 12 AAC 48.230 in the regulations project.

95 Task: Staff will add PDMP registration requirement into initial license letter.

96
 97 **Agenda Item 6 – Investigative Report**

98
 99 Investigator Brian Howes was not available for the meeting. Dr. Barney briefly reviewed the
 100 investigative report for the period of April 3, through October 1, 2017, which showed that two matters
 101 were opened and closed and no matters remain open at this time.

102
 103 **Agenda Item 7 – Continuing Education**

104
 105 The board reviewed continuing education for those selected in the audit during the 2016 renewal.
 106 The board discussed that the 2016 renewal was the first year of online renewal and there seemed to
 107 be a discrepancy between attesting to having completed continuing education prior to renewing
 108 the license and having completed continuing education during the concluding licensing period.
 109 The board agreed that completing continuing education in the concluding licensing period would still
 110 assure that licensees were accountable.

111
 112 On a motion duly made by Dr. Damien Delzer, seconded by Dr. Pam Steffes and approved
 113 unanimously it was:

114 Resolved based on continuing education submitted to approve the audit list of
 115 licensees provided with the exception of 152, 292, 317 and 356.

116

Board Member	Approve	Deny	Recuse
Dr. Damien Delzer	X		
Dr. Pamela Steffes	X		
Dr. Erik Christianson	X		
Mr. Eric Lingle	X		
Dr. Paul Barney	X		

117

118 TASK: Staff contact licensee to confirm they do not have additional CE to submit and will forward
119 licensees not approved to paralegal for review.
120 TASK: Staff to review with supervisor steps needed to change the verbiage that licensees attest to at
renewal.

121

122 **Deviated to Agenda Item 9 – Applications**

123

124 There were 12 licenses issued since the last board meeting. Currently there are 207 active licensees,
125 62 out of state licensees. The State Law Exam was discussed and the board agreed that the State law
126 exam should be updated.

127

128 TASK: Dr. Steffes will review and propose recommendations to update the State Law Exam.

129

130 **Agenda Item 8 – Budget**

131

132 Dr. Barney briefly reviewed the history of the deficit the optometry profession has experienced,
133 advising that at one point the board had a surplus and the board decreased licensing fees. About
134 that same time there was change in the law regarding orals and injections and the optometry
135 profession experienced administrative expenses associated with that change in law. Board expenses
136 jumped at the same time fees were reduced which created the deficit. Fees have since been
137 adjusted and the expectation is the profession will be out of any type of deficit by 2019.

138

139 **Deviated to Agenda Item 13 – Discussion Time/10 Minute Topics**

140

141 Dr. Delzer asked that the board review and discuss Sec. 08.72.181. (b) An optometrist licensed in this
142 state and serving in the military service of the United States, while in the discharge of official duties,
143 may maintain eligibility to practice in this state without paying a renewal fee by registering the
144 optometrist's name and place of residence with the department. And, perhaps inquire with legal
145 what "may maintain eligibility to practice" means. It is important to the board to ensure the safety of
146 the public and close any potential loopholes of obtaining licensing renewal without the need to pay
147 fees or participate in continuing education and agreed that inquiring with the department of law was
148 appropriate.

149 The board discussed the need for additional meetings to discuss any changes to what is proposed in
150 the regulations discussion during the meeting today. In order to give everyone a chance to read,
151 contemplate, and to provide time for measured thought regarding them. The board could have a
152 conference call and move those forward that are ready and continue to work on those that are not.
153 The board could also meet again in February before the AKOA meeting, it would be a minimal
154 expense as everyone will be in for that meeting, to discuss and move forward those regulations that are
155 ready to the regulations specialist.

156

157 Task: Dr. Delzer will work with staff on submitting clarifying questions to the department of law.

158

159 **Deviated to Agenda Item 10 – Legislative Update**

160

161 Dr. Barney stated that with the passage of CSHB103 in July of this year, there is a significant regulations
162 project to accomplish. CSHB103 really puts the details of the practice of optometry in the board's
163 hands versus having to go to the legislature every time there are advances in technology and
164 education. The board of examiners in optometry will now be able to write the details of the practice

165 of optometry in terms of changing the regulations commensurate with education and training.
166 The board will take this regulations project seriously, the foremost concern is the protection of the
167 public, at the same time, allowing colleagues to practice to the fullest level of their education and
168 training. This is going to be good for the State of Alaska in terms of access to care.
169 CSHB159 was the Governors Opioid Bill, the intent of this bill is to put controls in place limiting the
170 potential to over prescribe opioids. CSHB159 will restrict the initial prescription of opioids and will help
171 monitor how many prescribers are prescribing for individual patients. CSHB159 also requires that those
172 licensees who are registered with the DEA be required to take two hours of continuing education
173 in pain management and opioid misuse and addiction every two years. The AKOA plans to offer
174 this education at all educational meetings, so, not only will those licensees with DEA registration be able
175 to take that class, but, all licensees can benefit from the training as well.
176 Dr. Barney reviewed that SB74 legislation that created the AKPDMP, the board thoroughly addressed
177 SB74 during the last meeting. The board has moved forward to public comment, regulation drafted by
178 the regulations specialist, requiring a licensee who is registered with the DEA to register with the Alaska
179 Prescription Drug Monitoring Program.
180

181 **Deviated to Agenda Item 14 – Correspondence/Annual Report**

182
183 The board reviewed information that had been received from ARBO regarding Cope Accreditation,
184 Bylaw Revisions, the Fall Greensheet and answered member inquiries from California, South
185 Dakota, New Mexico, Maryland and Washington. The board then discussed an inquiry from Dr. Loftus
186 regarding scope of practice. As the regulations project is just beginning and it will be a lengthy
187 process, the board is unable to provide an answer to the inquiry at this time. Dr. Barney stated that
188 we will need to define which educational programs meet the standard and we want to make certain
189 that anyone with an advance license has gone through a high level of education and training. It is
190 in the best interest of the profession and in the best interest of the public to have a limit on procedures
191 we have deemed there is education and training for, we do not want to be in a situation where a
192 licensee thinks they should be able to interpret what procedures their level of education allows them
193 to perform.
194

195 TASK: Dr. Delzer will draft and send a letter to Dr. Loftus.

196 TASK: Staff to send member inquiry answers to ARBO

197

198 **Agenda Item 11 – Public Comment**

199

200 There were no public members present for public comment.

201

202 **Agenda Item 12 – Regulations Project**

203

204 Discussion began with Dr. Delzer reviewing that with the statute change he is proposing deleting
205 12 AAC 48.210 (d) and replacing it with language that, if in the future, should there be advanced
206 therapeutic procedures license, would require 14 additional continuing education
207 requirements, it would bring us into alignment with those states who currently have advance
208 therapeutic procedures, they require 50 hours every two years. Those additional 14 contact hours
209 would need to be in pathology, pharmacology or advanced procedures. He is also proposing that
210 the judicious prescribing, pain management and opioid use and addiction be required for all

211 licensees. Dr. Steffes inquired if we would then develop regulations creating a separate advanced
212 endorsement.
213

214 Dr. Barney indicated that one of the ways he saw licensure moving forward would be to have an
215 advanced procedures license, which would require additional education and training. There would be
216 tiered licensure for a period of time. Licensees would have the option to get the advanced license
217 now with therapeutic privileges, or continue with their current license, at the end of the time period
218 chosen, everyone would have to get the higher level of license, and from that point forth, everyone
219 would have the same level of licensure. Dr. Barney also mentioned that the other option, would be to
220 require everyone complete education and training for the new advanced licensing now, however, he
221 believes there would be a lot of push back on that. Dr. Steffes inquired if there was an opportunity to
222 consider increasing the base level of continuing education for everyone now, if we are considering
223 removing the 7 hour injection and the 8 hour pharmaceutical specific from the regulation, it would
224 make sense to increase the number, so it is less of a jump when the advanced license is required.
225 The board also discussed online education and increasing the number of approved online education
226 hours.
227

228 Dr. Delzer proposed the following changes:
229

230 **12 AAC 48.210. HOURS OF CONTINUING EDUCATION REQUIRED.** (a) An applicant for renewal of a
231 biennial optometry license, must document at least 40 contact hours of continuing education credit
232 that meets the requirements of 12 AAC 48.200, and that was completed during the concluding
233 licensing period. (b) Continuing education credit received under (a) of this section must include at
234 least 24 contact hours of ocular pathology or pharmacology. (c) No more than three contact hours of
235 credit in practice management is acceptable as continuing education credit under (a) of this section
236 for each license period.
237

238 (d) A minimum of 2 hours of Judicious Prescribing/Pain Management and Opioid Use and Addiction
239 are required of all licensees holding a DEA license.
240

241 (e) An applicant for renewal of an advanced optometry therapeutic procedures license must
242 document an additional 10 contact hours of continuing education credit that meets the requirements
243 of 12 AAC 48.200, and that was completed during the concluding licensing period, for a combined
244 total of 50 contact hours. All 10 hours shall be of ocular pathology, pharmacology or advanced
245 therapeutic procedures.
246

247 (f) An applicant for renewal of an optometry license for the first time must document completion of at
248 least one-half of the continuing education requirements in this section for each complete calendar
249 year that the applicant was licensed during the concluding license period. Authority: AS 08.72.050 AS
244 08.72.181 AS 08.72.272 AS 08.72.140 12 AAC 48.220.
245

246 **12 AAC 48.200. LICENSE RENEWALS AND CONTINUING EDUCATION.** (a) In order to be approved by the
247 board, an applicant for renewal of a license must pay the appropriate renewal fee and submit
248 evidence of completing continuing education courses, related to the practice of optometry, as
249 specified in (b) or (c) of this section within the two-year renewal period as specified in 12 AAC 48.210.
250 (b) The following continuing education courses, if related to the practice of optometry, are accept by
251 the board for renewal of a license to practice optometry: (1) education courses offered at the
252 American Optometric Association (AOA) Convention or offered at any American Optometric

253 Association affiliate state association convention; (2) seminars held by committees of the AOA or
254 organized regional Optometric Extension Program Foundation seminars for educational purposes; (3)
255 postgraduate courses offered by recognized schools or colleges of optometry; (4) remote learning,
256 on-line and correspondence courses, except that no more than ten hours of continuing education
257 credits may be claimed in a single licensing renewal period; (5) courses approved by the Council on
258 Optometric Practitioner Education (COPE); (6) educational courses offered by the American
259 Academy of Optometry (AAO). (c) Other continuing education courses not listed in (b) of this section, if
260 related to the practice of optometry under this chapter and AS 08.72, may be approved by the board
261 upon written request of the licensee if request is submitted within 30 days following the course completion.
262 The request must include the following information: (1) name and address of organization sponsoring
263 courses; (2) course title and outline of subject matter to be covered (3) instructors name and credentials;
264 and (4) location and dates of the course. Authority: AS 08.72.050 AS 08.72.181
264

265 The board reviewed and discussed how the CSHB159 statute change will effect AS 08.72.140 and
266 AS 08.72.170 that will be effective in July, 2018. The board decided they would come back to these
267 two statutes at another time. Staff will inquire if a 2 hour class that all professions can access will be
268 recommended by the PDMP program.

269 The board reviewed AS 08.72.181 and Dr. Delzer has proposed changes that the board will be
270 considering. The board briefly discussed that 12 AAC 48.022 will need to be updated when the
271 specifics of the advanced license are established and approved by the board.

272 The board reviewed AS 08.72.240 and did not see a need for a regulation update for 12 AAC 48.330
273 at this time. The board reviewed AS 08.72.272, Dr. Steffes will work on regulation language.
274

275 TASK: Board to review proposed regulation.

276 TASK: Staff will inquire if a 2 hour class for all professions will be recommended by the PDMP.
277

278 The board reviewed AS 08.72.276 and discussed if further definition was needed in regulation.
279 Dr. Barney provided a handout for board members to review proposing two new regulations.
280

281 **12 AAC 48.340 PRESCRIPTIONS AND USE OF PHARMACEUTICAL AGENT** (a) Every optometrist desiring
282 to prescribe and use a pharmaceutical agent, including a controlled substance, for the treatment of
283 eye disease shall have satisfactorily completed courses in general and ocular pharmacology at an
284 institution accredited by the Council on Post-Secondary Accreditation of the United States
285 Department of Education and acceptable to the board. The board shall only approve the highest
286 levels of education and training and shall license those qualified by such education and training to
287 prescribe and use such pharmaceutical agents, including controlled substances for the treatment of
288 eye disease. The use of any such pharmaceuticals by an optometrist or the obtaining of same by an
289 optometrist shall require the optometrist to be in possession of a current license as provided in this
290 section. Such optometrist shall furnish evidence to any pharmacist or other supplier from whom such
291 pharmaceuticals are sought as to his or her holding a current license.

292 (b) Every optometrist's license to prescribe and use pharmaceutical agents, including a controlled
293 substance, for the treatment of eye disease shall be limited within the scope of the licensee's
294 education, training and experience as found acceptable by the board under paragraph (a).
295

296 Authority: AS.08.72.050 AS.08.72.272 (a) AS.08.72.278

298 **12 AAC 48.341 USE OF CONTROLLED SUBSTANCES; LIMITATIONS**

299 (a) Requisite Prior Conditions. In utilizing any controlled substances, an optometrist shall comply with
300 the following:

301 (1) Evaluation of the Patient. Evaluation of the patient shall initially include a full history, including
302 complete medical, pain, alcohol and substance abuse histories.

303 (2) Medical Diagnosis. A medical diagnosis shall be established and fully documented in the patient's
304 medical record, which indicates the nature of the underlying disease, presence of pain and pain
305 mechanism if such are determinable.

306 (3) Treatment of Pain. An individual treatment plan shall be formulated and documented in the
307 patient's medical record, which includes medical justification for controlled substance therapy.

308 (4) Patient Information. An optometrist shall ensure that the patient and/or his guardian is informed of
309 the benefits and risks of controlled substance therapy.

310 (b) Controlled Substance Therapy. Upon completion and satisfaction of the conditions prescribed in
311 (a), and upon an optometrist's judgment that the prescription of a controlled substance is medically
312 warranted, an optometrist shall adhere to the following:

313 (1) Treatment Records. An optometrist shall document and maintain in the patient's medical record,
314 accurate and complete records of all history, physical and other examinations and evaluations,
315 consultations, laboratory and diagnostic reports, treatment plans and objectives, controlled
316 substance and other medication therapy, informed consents, periodic assessments and reviews.

317 (2) Any optometrist qualified to prescribe controlled substances shall maintain complete records on
318 any controlled substances he or she prescribes, which records shall clearly identify the controlled
319 substances prescribed, the individual to whom each controlled substance was prescribed, the date
320 of each prescription and the amount of the controlled substance prescribed.

321 (3) An optometrist shall not dispense or administer controlled substances in their optometry practice
322 and shall not keep an inventory of controlled substances on hand for purposes of dispensation or
323 administration by an optometrist in their optometry practice.

324 (4) The controlled substances records required by this regulation shall be readily retrievable and
325 available for examination, inspection, copying, and verification of accuracy, currency and
326 completeness by the board or its designated employee or agent, immediately upon the request of
327 the board, its agents, or employees, at any reasonable time, but without the necessity of prior notice
328 by the board.

329

330 **Authority:** AS.08.72.050 AS.08.72.272 (a) AS.08.72.278

331

332 Dr. Barney noted that the four day limitation will need to be added into these proposed regulations.
333 Discussion included placement of the four day limitation and if it is already stipulated in statutes, does
334 it need to also be stipulated in regulation. Discussion also included opioid prescriptions for children,
335 and if there is a need in regulation to assure safety for the child, as, there is a worry about diversion in
336 some situations. If there was a risk component for the profession, that potentially, could be it. Is there
337 an opportunity to make it safer for optometrists prescribing to a minor, even if it is only a four day
338 prescription and how would you put that in regulation? Discussion resolved, there has not been an
339 issue, the profession is very conservative.

340

341 Dr. Barney reiterated that today is the initial presentation of all proposed regulations. The intent is to
342 enable the board to have the opportunity to read the proposals, and think about them. If board
343 members see major changes are needed, they can be forwarded to staff, who will send them out to
344 all board members for consideration prior to a conference call.

345 Task: The board will review proposed regulations.

346

347 The board reviewed AS 08.72.278 and Dr. Barney proposed the following:

348

349 **12 AAC 48.346 Therapeutic Procedures** (a) Every optometrist desiring to utilize therapeutic procedures
350 in the examination, evaluation, diagnosis, treatment, or performance of preventive procedures
351 related to diseases, disorders, or conditions of the human eyes or adjacent and associated structures
352 shall have satisfactorily completed courses in therapeutic procedures at an institution accredited by
353 the Council on Post-Secondary Accreditation of the United States Department of Education and
354 acceptable to the board. The board shall only approve the highest levels of education and training
355 and shall license those qualified by such education and training to utilize therapeutic procedures,
356 including anterior segment lasers and anterior segment surgical procedures. The use of any such
357 therapeutic procedure by an optometrist shall require the optometrist to be in possession of a current
358 license as provided in this section. (b) Every optometrist's license to utilize therapeutic procedures in
359 the examination, evaluation, diagnosis, treatment, or performance of preventive procedures related
360 to diseases, disorders, or conditions of the human eyes or adjacent and associated structures shall be
361 limited within the scope of the licensee's education, training and experience as found acceptable by
362 the board under paragraph (a) and may not perform ophthalmic surgery unless the procedure is
363 authorized by the board.

364

365 Authority AS.08.72.050 AS.08.72.278 AS.08.72.273

366

367 **12 AAC 48.350. ADVISORY OPINIONS** (a) Proceedings on Inquiries – A member of the public, a
368 licensee or a member of the board may request an advisory opinion regarding whether optometry
369 practice procedures comply with acceptable standards of the practice of optometry, as provided
370 under this chapter. For each request the board chair will determine whether the request is
371 appropriately raised with the board under the provisions of this chapter. Not all requests for an
372 advisory opinion will be considered by the chair. A request for an advisory opinion must concern an
373 optometry practice procedure or policy and its compliance with acceptable standards of practice of
374 optometry as provided under AS 08.72.050 and AS 08.72.060. Hypothetical questions will not be
375 answered. Furthermore, a proposed practice procedure or policy matter must be sufficiently
376 documented by the submitter for the chair to conclude that it is an actual practice procedure
377 proposal or policy matter rather than a mere possibility or hypothetical. (b) Hearings on an Inquiry. In
378 the course of an investigation involving a request for an advisory opinion, the board may conduct a
379 public administrative hearing to receive the views of those who are interested in, or may be affected
380 by, issuance by the board of an advisory opinion. Notice of the hearing is given to licensees and to
381 others who, in the opinion of the board, may be interested in, or affected by, issuance of an advisory
382 opinion. The notice may include a tentative proposed advisory opinion. The hearing is conducted by
383 the board with any three or more board members participating. The board chair presides at the
384 hearing and assures that these administrative procedures are followed. The chair may issue any
385 appropriate procedural or evidentiary ruling in the course of the hearing and may be assisted by
386 board counsel. The chair presents at the hearing the issues raised by the inquiry, the results of the
387 investigation up to the time of the hearing, and any tentative proposed board advisory opinion.

388

389 Information is offered through witnesses, who may be assisted by counsel and are subject to
390 questioning by the committee. Any information may be considered which is relevant or potentially
391 relevant. A transcript or recording of the hearing is made and becomes part of the official record.
392 (c) Proceedings on Inquiries – Advisory opinion. Upon completion of an investigation and hearing
393 involving an inquiry, the board issues an advisory opinion as to whether an optometry practice
394 procedure or policy complies with acceptable standards of practice of optometry under this chapter.
395 Once issued by the board, the advisory opinion is promulgated by publication to licensees. Advisory
396 opinions are compiled by the board, and the compilation is periodically made available to licensees.
397

398 **Authority:** AS 08.72.050(4)
399

400 Dr. Barney reiterated by having regulations written like this, will allow board advisories to list procedures
that the profession can and cannot do.

401
402 The board reviewed AS 08.72.273, and the fact that the last sentence was not taken out, when the
403 new statute was enacted. Dr. Barney does not believe they conflict, he advised that the intent of the
404 new statute AS 08.72.278 is to give the optometry profession the authority to practice at the level
405 education and training allow.
406

407 Dr. Barney believes advisory opinions could list out the procedures that are within the scope of
408 education and training. In regulation we could list out in, general terms, procedures that are allowed,
409 and then in board advisories, be more specific.

410 Questions brought up by the board include: Is a board advisory as binding as a regulation? The board
411 will need confirmation that an advisory opinion is as legally binding as a regulation. Within the advisory
412 opinion is that a mechanism to define the approved highest level of education and training?
413 Would the advisory call out the approved training for specific procedures. There was discussion that
414 initially it may be one educational tract that the board will allow. The advisory would provide a
415 flexibility to make changes without the time involved in regulations projects.
416

417 Dr. Delzer confirmed with Dr. Barney that the advisory process steps would start with a licensee who
418 has met the highest level of education and training, making an inquiry to the board, if something is a
419 reasonable procedure, based on experience and training; the next step is the hearing process, where
420 interested parties can comment on that procedure, including what the proposed opinion would be;
421 the final step is actually issuing the advisory. The advisory opinion process would be put in place to
422 vet potential procedures outside the initial list of procedures, and allows a process for interested
423 parties to comment, prior to the board making a decision. Dr. Barney clarified that the board would
424 vet the original list of scope of practice procedures through this same advisory opinion process, as well
425 as when someone inquires on a procedure not currently on the list of approved procedures, the same
426 steps would be followed to add new procedures.
427

428 Dr. Barney advised that we will have to have the regulations in place, prior to being able to address
429 the actual scope of practice changes. The board can work on both concurrently. The goal is
430 to write the regulations so that they are tightly defined, but with broad enough language, where,
431 years down the road we do not have to go through another regulation project to include
432 procedures that are being taught at schools.

433 Task: Board members to review proposed regulation.

434

435 Dr. Barney also drafted potential regulation for grandfathering existing licenses and presented it to
436 the board.

437

438 **12 AAC 48.347. GRANDFATHERING OF EXISTING LICENSES** (a) The board recognizes that existing
439 licenses issued prior to July 17, 2017 may not meet the requirements of AAC 48.340 in connection with
440 the prescription and use of a pharmaceutical agent, including a controlled substance, for the
441 treatment of eye disease; and AAC 48.346 in connection with therapeutic procedures in the
442 examination, evaluation, diagnosis, treatment, or performance of preventive procedures related to
443 diseases, disorders, or conditions of the human eyes or adjacent and associated structures.
444 Therefore, the board shall only renew such existing licenses up to July 17, 2026 and not renew the
445 license of any optometrist to practice after July 17, 2026 unless that optometrist has completed or
446 otherwise obtained the necessary additional education, training and experience consistent with the
447 standards set forth by the board in AAC 48.340 and 48.346.

448

452 **Authority:** AS.08.72.050 AS.08.72.272 (a) AS.08.72.278

453

454 Dr. Barney stated that he arbitrarily picked the 2026 date for the sake of starting the conversation, it
455 could be 2019 before regulations are finally enacted. That would give people ample time to
456 prepare to take the additional education. Once we have established what the educational
457 requirements are and what the timeline is, then a person submits the necessary education
458 requirements they are issued the advanced license. Renewal would then be at the higher level, with
459 the additional educational requirements.

460

461 The board discussed sending a letter to licensees regarding the new law and the fact that until the
462 board puts regulations in place, the current level of practice has not changed. A new license will be
463 required.

464

465 TASK: Dr. Delzer will draft a letter to licensees regarding the passage of CSHB103 and that until
466 regulations are completed and in place, scope of practice has not changed. A new license will be
467 required.

468

469 TASK: Board members to review proposed regulation.

470

471 **Agenda Item 15 – Schedule Meetings**

472

473 Board meetings scheduled:

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475 January 3, 2018 12 PM – 1 PM Teleconference – Review and discuss proposed regulations.

476 February 7, 2018 8 AM – 10 AM Meeting – Review, approve regulations

477 April 6, 2018 Board Meeting in Juneau

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479 Dr. Barney and Dr. Delzer signed wall certificates and Dr. Barney signed prior meeting minutes.

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483 Agenda Item 16 – Adjourn Meeting
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485 Dr. Barney adjourned the meeting at 4:04 PM.
486

Respectfully Submitted:


Patricia Lonergan, Licensing Examiner

Approved:



Dr. Paul Barney, Chairperson
Alaska Board of Optometry

4.19.18

Date