

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

4 ALASKA STATE BOARD OF OPTOMETRY
5 MINUTES OF MEETING
6 FEBRUARY 7, 2018
7

8 By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62,
9 Article 6, a scheduled meeting of the Board of Examiners in Optometry was held on
10 February 7, 2018 at 333 Willoughby Avenue, 9th Floor – Juneau, AK
11

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

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

18 Dr. Barney called the meeting to order on Wednesday, February 7, 2018 for the Board of
19 Examiners in Optometry at 8:04 a.m. This meeting was public noticed on January 12, 2018 in the
20 Anchorage Dispatch News and on the Alaska Public Notice System.
21

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

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

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

32 Ms. Sara Chamber, Deputy Director
33 Ms. Harriet Milks, Assistant Attorney General
34 Ms. Patricia Lonergan, Licensing Examiner
35

36 **Agenda Item 2 – Review/Approve Meeting Agenda**
37

38 The board reviewed the meeting agenda and made no changes.
39

40 On a motion duly made by Mr. Eric Lingle, seconded by Dr. Erik Christianson and approved
41 unanimously it was: Resolved to approve the meeting agenda as drafted.
42

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

43 **Agenda Item 3 – Ethics Reporting**

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

46
47 Dr. Barney disclosed that he was contacted by Dr. Blair Lonsberry and Jeanne Oliver from Pacific University
48 regarding a continuing education course that could potentially meet the 2 hour DEA opioid pain
49 management requirement for HB159. Dr. Barney advised the information that was sent did not meet the
50 requirement, it was simply a pain management course. He informed Dr. Lonsberry and Jeanne Oliver that
51 it did not meet the requirement and included the licensing examiner, so it is documented. The outcome
52 was that they would re-evaluate their course and resubmit all future courses to the licensing examiner for
53 board review.

54
55 **Agenda Item 4 – Regulations**

56 Dr. Barney reviewed briefly that the during the January 3, 2018 conference call the board moved forward
57 to the regulations specialist proposed regulation changes for 12 AAC 48.200 License Renewals and
58 Continuing Education, 12 AAC 48.210 Hours of Continuing Education Required, 12 AAC 48.230 Exemption
59 from Continuing Education Requirements for Active Duty Military Service, Prescription and Use of
60 Pharmaceutical Agents, and Use of Controlled Substances: Limitations. Dr. Barney inquired on the status
61 of those proposed regulations. The licensing examiner advised the board that the regulations specialist
62 was working on those proposed regulations and may have them back to the board by the April 6, 2018
63 board meeting. Dr. Barney also reviewed with the board the reasoning behind holding back the
64 Therapeutic Procedures proposed regulations, as he was reviewing the draft meeting minutes, from the
65 January 3, 2018 teleconference, he believed that more clarification was needed prior to moving those
66 forward, and requested that an email vote ballot be sent to the board to hold those back. A quorum of
67 votes was received and those did not move forward to the regulations specialist. Dr. Barney thanked the
68 board for agreeing to fly into Juneau in advance of the AKOA meeting, to attend this two hour meeting,
69 the goal of this meeting is to facilitate additional regulations to be reviewed and discussed at the April 6,
70 2018 board meeting and move those forward to the regulations specialist.

71 Dr. Barney reviewed with the board the questions that he had forwarded to the department of law.

72 QUESTION: HB 103 will allow the Board to write regulations for expanded scope of practice
73 commensurate with what is currently taught at accredited schools and colleges of optometry. For
74 the sake of this discussion we will call the expanded scope Advanced Procedures, and licensees who
75 have demonstrated that they have advanced education and training will have an Advanced
76 Procedures License. Does the Board have the authority to require current licensees to elevate their
77 licenses to Advanced Procedures Licenses within a given period of time? Or, will the Board need to
78 allow current licensees to practice until retirement at their current level of licensure? If the Board
79 doesn't have the authority to require current licensees to get an Advanced Procedures License, do
80 we have the authority to require that all new licensees be granted only an Advanced Procedures
81 License?

82
83 QUESTION: HB 103 has a provision that allows the Board the authority to write regulations and board
84 advisories. Do the advisories carry the same legal authority as regulations? For example, if the board
85 were to write regulations for a specific number of advanced anterior segment procedures which will
86 also require licensees to demonstrate specific levels of advanced training and education. As training
87 and education advances at schools and colleges of optometry will the Board be able to expand the
88 list of allowed procedures and educational requirements through board advisories? Or will new
89 regulations need to be written when procedures are added to the list of allowed procedures? The
90 same question would apply to advanced education for these procedures. There are schools and
91 colleges of optometry that are currently under construction and development, as these schools

92 become accredited and offer advanced procedures training, can the Board write board advisories
93 regarding which educational programs are approved by the Board?
94

95 Deputy Director Sara Chambers and Assistant Attorney General Harriet Milks joined the meeting. Dr. Barney
96 thanked them both for coming to talk with the board. It is important to the board that they are efficient in
97 crafting and moving regulations projects forward. Deputy Director Chambers gave a brief, overview of the
98 difference between a regulation and an advisory, by stating, if you can envision yourself holding someone
99 to that standard in a court, it needs to be spelled out in regulation, through the public process. Advisories
100 are helpful clarifications of existing statutes and regulation, but, they do not go through rigor of the public
101 process. Advisories can change, trends within a profession are something that can be addressed with
102 advisories. Deputy Director Chambers advised that as a board it is important to adopt a decision making
103 framework, a guide to determining how educational, and approved procedures will be approved based
104 on authority within the statute. Once a specific frame work is in place, and standards are clearly
105 articulated in regulation, with defined education requirements, a board advisory could list schools currently
106 providing that education. Everyone must know what the licensing requirements are and how to meet those
107 requirements. In defining the scope of practice, it is important to define an entry to practice threshold, as a
108 government entity, board focus should be on the ability for someone to enter the profession. If the practice
109 of optometry is broad, the board has the ability to define what advanced procedure are and just because
110 you have the license does not mean you can practice the advanced procedures. The board will need to
111 determine if they want to pursue defining what the advanced procedures are through regulation.
112 Discussion continued to center around the board issuing an initial license and having a credential or
113 endorsement process for advance procedures, noting that in the future, the requirements for licensure
114 would evolve as the practice evolves. Assistant Attorney General Milks reiterated that HB103 gave the
115 board the ability to define the scope of practice. It is possible to change the requirements for basic
116 licensure over time as the practice of the profession evolves and advances, it is the board's obligation to
117 assure that happens. If it is going to require a license to do something or not do something, it needs to be in
118 regulations. If it is going to change the rights or obligations of the licensee it has to be in regulation. Specific
119 word choices used in writing regulations were discussed. For instance, if the word including is used, other
120 things can be added to a list, however, if wording signifying, these are the procedures, only those
121 procedures are allowed. Assistant Attorney General Milks reminded the board that regulations are a way to
122 communicate with the public. Dr. Barney thanked Deputy Director Chambers and Assistant Attorney
123 General Milks again, for meeting with the board to help us with the process of crafting regulations.
124

125 The board continued to review and discuss various options on how to move forward with advance
126 procedures, licensing, and educational requirements. Currently there are three other states in which
127 licensees are able to perform advanced procedures within the optometry profession: Louisiana, Kentucky
128 and Oklahoma. In Oklahoma, Northeastern State University Oklahoma College of Optometry (NSUOCO)
129 has an advanced procedures surgical education that they offer to graduates. The University of Pikeville in
130 Kentucky may also have an advanced procedures education in the near future. The board reviewed the
131 pros and cons of having an initial license and offering a credential or endorsement for advanced
132 procedures, slowly moving the scope of licensure up over time; or defining the scope, require all new
133 licensees come in at the advance procedure level and advise licensees that everybody has X number of
134 years to get up to this level. The board concluded that initially, tiered licensure may be needed until the
135 majority of licensees were issued the advanced practice endorsement, moving the scope of practice
136 forward, and initiating a timeline for requiring all licensees to meet the advance procedures requirements.
137 The board discussed advanced procedures educational requirements. The board also discussed that in
138 order to ensure the protection of the public, educational requirements for the advance procedures license
139 need to be well defined. The board debated the potential to offer the advanced practice endorsement
140 to current practitioners who have a license from a state where advanced procedures are allowed and/or
141 received advanced procedures training in a state where advanced procedures are in practice. Dr. Barney
142 reminded the board that until regulations project are completed we don't want to advise anyone on
143 specific education requirements that may or may not be needed and that our goal is to have regulations
144 to move forward at the April 6, 2018 board meeting.
145

146 Task: Dr. Barney to draft proposed advanced procedures regulation for review at April 6 board meeting

147 Task: Dr. Delzer to draft proposed educational requirements for advanced procedures to review at April 6
 148 board meeting.
 149 Task: Staff to forward to board the OPT law in KY, LA and OK
 150

151 **Agenda Item 5 – Continuing Education, Board Advisories, AKOA Board Update**

152 The board reviewed emails received from licensees and discussed the DEA 2 HR pain management, opioid
 153 addiction and misuse requirement that goes into effect on July 1, 2018. This requirement became law from
 154 HB159 and is a legislative mandate that affects several professions. Pacific University submitted a CE course,
 155 to potentially fulfill the 2HR pain management requirement for board approval, it was decided due to the
 156 limited time at the meeting, to vote by email ballot to approve or deny this course as fulfilling the DEA 2 HR
 157 pain management requirement. The board discussed who would present information and what information
 158 would be presented at the AKOA Business meeting. The board reviewed and discussed 12 AAC 48.930 which
 159 the regulations specialist had revised with standard PDMP language. The board reviewed the board advisory
 160 page of the website and requested changes be made to update the current information.

161 On a motion duly made by Dr. Delzer, seconded by Dr. Erik Christianson and approved unanimously
 162 it was:

163 Resolved to approve Dr. Barney as spokesperson for the board at the AKOA Business Meeting
 164 advising attendees the scope of practice has not changed, the board is in the process of
 165 writing regulations to define advanced procedures, there may initially be tiered licensure, the
 166 board is moving regulations forward to modify CE requirements and address HB159 DEA 2 HR
 167 pain management and opioid misuse and abuse CE requirement. The requirement can be
 168 met by any course meeting 12 AAC 48.200 requirements and licensees may submit a course
 169 to the board that offers 2 HRS of pain management and opioid misuse and addiction for
 170 approval.

171

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

172

173 On a motion duly made by Mr. Eric Lingle, seconded by Dr. Erik Christianson and approved
 174 unanimously it was:

175

176 Resolved to approve the changes made by the regulations specialist to 12 AAC 48.990 and
 177 to move 12 AAC 48.990 to public comment.
 178

178

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

179

180 Task: Dr. Barney to provide board update at AKOA meeting
181 Task: Staff to forward 12 AAC 48.990 to regulations specialist
182 Task: Staff to make changes to the board advisory on the webpage
183

184 Agenda Item 6 – Adjourn Meeting

185 Dr. Barney adjourned the meeting at 11:10 am.
186

187 Respectfully Submitted:

188 
189 Patricia Lonergan, Licensing Examiner
190

191 Approved:

192 
193 Dr. Paul Barney, Chairperson
194 Alaska Board of Optometry

195 4.19.18
196
197 Date

198

199