

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
ALASKA STATE BOARD OF EXAMINERS IN OPTOMETRY**

**Teleconference
November 20, 2009**

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled teleconference of the Board of Examiners in Optometry to be held on November 20, 2009, in conference room A on the 9th floor at 333 Willoughby Avenue, Juneau, Alaska.

Agenda Item 1 Call to Order/Roll Call

The meeting was called to order by Dr. Matheson; Chair at 9:21 a.m.

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

- Jill Matheson, OD, Chair
- James Graves, OD
- Jeff Gonnason, OD
- Dennis Swarner, OD, Secretary
- Tim Sullivan, Public Member

- Staff Present:
- Connie Petz, Licensing Examiner
 - Stacie Johnston, Licensing Examiner
 - Sher Zinn, Licensing Supervisor

Staff introduced new Licensing Supervisor Sher Zinn to the board and Stacie Johnston who will be the boards new licensing examiner effective December 1, 2009.

Agenda Item 2 Review/Amend Agenda

On a motion by Dr. Gonnason, seconded by Dr. Swarner and carried unanimously by voice roll call vote of the administrative procedures act.

IT WAS RESOLVED TO APPROVE THE AGENDA.

Voice Roll Call Vote:

- Jeff Gonnason, OD
- James Graves, OD
- Dennis Swarner, OD
- Tim Sullivan
- Jill Matheson, OD

Agenda Item 3 Review/Approve Minutes
June 10, 2009 Meeting Minutes

Two corrections to the draft minutes were noted. Page 3 – agenda item 7 - 4th paragraph sentence structure revised for clarity. Page 6 – agenda item 13, delete entire 3rd paragraph

On a motion by Dr. Gonnason, seconded by Dr. Graves and carried unanimously by voice roll call vote of the administrative procedures act.

IT WAS RESOLVED TO APPROVE THE June 10, 2009 MEETING MINUTES AS AMENDED.

Voice Roll Call Vote:

Jeff Gonnason, OD
James Graves, OD
Dennis Swarner, OD
Tim Sullivan
Jill Matheson, OD

Agenda Item 4 Ethics Reporting

Dr. Matheson asked if there were any ethics violations to report, by voice roll call vote of the administrative procedures act; all members reported that they had no ethics violations to report. Staff had no ethics violations to report.

Voice Roll Call Vote:

Jeff Gonnason, OD
James Graves, OD
Dennis Swarner, OD
Tim Sullivan
Jill Matheson, OD

Dr. Kevin Berg called in to the meeting at 9:30 a.m. for the public comment.

Agenda Item 5 Investigative Report

Investigator Michele Wall-Rood joined the meeting via telephone at 9:40 a.m. with the report from May 27, 2009 to November 9, 2009.

No new open complaints, as of November 20, 2009; two open complaints
One complaint is pending to be closed.

There are no open cases.

Closed Case: # 2500-08-001 allegation regarding sexual misconduct; case is now closed due to insufficient evidence.

Michele stated most phone calls for optometrists are complaints related to billing. There are very few customer service complaints or service provider complaints.

No action taken on the Investigative report.

Agenda Item 6 Public Comment

Dr. Kevin Berg, optometrist practicing in Wasilla AK and a member of the American Optometric Association, American Optometric Society and liaison for the AOS. Dr. Berg's comments were related to the September 21, 2009 letter which attorney Dr. Craig Steinberg O.D. sent to the board. Dr. Berg is in agreement with Dr. Steinberg's letter and he is concerned with the board certification topic. He thinks the public is being misled and asked the board to explain their position on the topic of board certification. The board did not have any questions for Dr. Berg.

The board certification topic would be discussed under agenda item 11.

Agenda Item 7 Review applications for licensure

Dr. Robert Eugene Knutson – Applicant by credentials. Staff will draft a letter to Veterans Administration to determine if the TPA requirements have been met.

On a motion by Dr. Matheson, Seconded by Dr. Swarner, approve Robert Eugene Knutson for an Optometry license with a DPA endorsement and send him a letter that states if the VA can verify that he had 23 hours of orals in his training and had 7 hours of injections in his training, then the board would reconsider him for the TPA endorsement. Carried unanimously by voice roll call vote of the administrative procedures act.

IT WAS RESOLVED TO approve Robert Eugene Knutson for an optometry license with a DPA endorsement.

Voice Roll Call Vote:

- Jeff Gonnason, OD
- James Graves, OD
- Dennis Swarner, OD
- Tim Sullivan
- Jill Matheson, OD

For the record, the application reflects pending passage of Jurisprudence Law Exam.

Dr. Warren K. Gross - Applicant by credentials. Dr. Gross does not meet DPA or TPA requirements as he has never taken the NBEO.

On a motion by Dr. Matheson, Seconded by Dr. Gonnason, Carried unanimously by voice roll call vote of the administrative procedures act.

IT WAS RESOLVED TO approve Warren K. Gross for an optometry license.

Voice Roll Call Vote:

- Jeff Gonnason, OD
- James Graves, OD
- Dennis Swarner, OD
- Tim Sullivan
- Jill Matheson, OD

For the record, the application reflects pending passage of Jurisprudence Law Exam.

Agenda Item 8 Review CE Audits

The board reviewed the continuing education audit of 4 licensees who submitted CE's for the audit period of January 1, 2007 to December 31, 2008.

On a motion by Dr. Gonnason, seconded by Dr. Swarner, and carried unanimously by voice roll call vote of the administrative procedures act.

IT WAS RESOLVED TO approve the CE Audits for:

- Ray J. Weekly # 151
- William Matthew Riley # 215
- Aharon Sternberg # 79

Voice Roll Call Vote:

Jeff Gonnason, OD
James Graves, OD
Dennis Swarner, OD
Tim Sullivan
Jill Matheson, OD

One licensee did not provide enough CE's to meet the TPA renewal requirements. He met the requirement for the base license but did not meet the additional 12 CE's required for the TPA endorsement.

Staff advised when required continuing education certificates are not sufficient for the audit period; the file is forwarded to the paralegal. The paralegal will contact the licensee requesting documentation for the remaining CE's. In some cases a memorandum of agreement or fines and/or both. The Board will be advised of the status from the paralegal.

Agenda Item 9 Regulation Project

The board discussed removing the word 'contact' hours from statutes and regulations in relation to continuing education. Contact hours came up from prior board meeting as there was confusion as to what 'contact' means. The board reviewed regulation 12 AAC 48.990 DEFINITIONS (a) (3) "contact hour" means a minimum of 50 minutes of instruction.

The board determined this definition is acceptable and the board all agreed this topic could be dropped.

Carried unanimously by voice roll call vote of the administrative procedures act.

Voice Roll Call Vote:

Jeff Gonnason, OD
James Graves, OD
Dennis Swarner, OD
Tim Sullivan
Jill Matheson, OD

Agenda Item 10 Annual Report and Budget

The board reviewed the annual report and noted there was increase in DPA endorsed licensees during FY09. When a new licensee does not meet the requirement for TPA they are changed to the DPA endorsement (if they meet the DPA requirement). The board hopes the new law will pass during the upcoming legislative session which will address the DPA only licensee. All board members agreed that Jill will represent the board for any committee meetings and testifying during session.

On a motion by Dr. Gonnason, seconded by Dr. Swarner and carried unanimously by voice roll call vote of the administrative procedures act.

IT WAS RESOLVED TO APPROVE THE FY 09 Annual Report AS PRESENTED.

Voice Roll Call Vote:

Jeff Gonnason, OD
James Graves, OD
Dennis Swarner, OD
Tim Sullivan

Agenda Item 11 Review Correspondence

- AOS - State of the Union letter
- ABO - formation of American Board of Optometry
- Steinberg, General Counsel to AOS and statement on ABO
- ARBO – statement regarding formation of ABO
- Colorado Optometric Assn. – statement re: Board Certification and Maintenance of Competency (MOC)
- NC optometry board - position on AOA/ABO & MOC

Discussion occurred regarding the above correspondence and Dr. Gonnason said the board certification issue has nothing to do with our board at this time. He believes from a board stand point that we should just be aware of these issues but does not believe there is any action required by the board. For the record, Dr. Gonnason still believes the AOA made the better argument in favor of board certification. Alaska's Optometric Assn. is working on the board certification issue.

Jill directed the board to regulation 12 AAC 48.330(d) No optometrist may represent himself or herself as a specialist in an optometric field unless the optometrist is certified (1) as a diplomate of the American Academy of Optometry in contact lenses, binocular vision, geriatric care, or low vision; or (2) as a fellow of the College of Vision Development in... Jill said she doesn't know if the ABO is considering what 'specialist' and said the board may have to look at this regulation in relation to "specialist" if the board certification is passed. Jeff agreed that if this occurs the board will have some work to do in our regulations and define it.

Jill noted that of the above correspondence the AOS letter from Dr. Steinberg did request a "formal opinion" in response to his letter. Jeff said there is no opinion to be given as there is nothing to opinion on. Jill agreed that although we do not have anything from the ABO which requires a "formal opinion" from the board she will draft a reply to Dr. Steinberg which she'll send to staff to forward to the board for approval prior to sending. Again, the board does not have a "formal opinion" at this time.

For the record, at the June 2009 board meeting "board certification" was discussed under agenda item 13 and the board resolved to appoint Dr. Gonnason at ARBO to represent the boards' position in support of board certification. Also for the record, JBCPT is now considered the ABO.

Agenda Item 12 2009 ARBO Attendance

Jeff Gonnason attended ARBO in June 2009. The meeting included board training and an attorney representing regulatory boards from the Federation of Associations of Regulatory Boards (FARB) who shared about current cases under litigation.

ARBO held discussion of the board certification issue. ARBO resolved to work with the profession and other stakeholders to establish an enhanced mechanism for maintenance of competence... standards in the formation, governance, requirements, and assessment... and further resolved ... it will only support a mechanism that has adequate oversight from the regulatory boards of the optometric profession... and has equitable representation as does the American Optometric Association on the American Board of Optometry or any similar entity. In the current AOA plan ARBO only has one vote and everyone else has one vote, except AOA has two votes.

ARBO is in support of continued competence of the optometric profession and ARBO resolved a call to action the development of an improved system of demonstrating continued competence... this improved system could be utilized by a national program or individual jurisdictions to demonstrate maintenance of competence for the public welfare.

Jeff read the September 17, 2009 press release, "The ARBO Board of Directors voted unanimously that it is unable to sign the Memorandum of Understanding distributed by the AOA to the various groups represented on the new ABO Board. This vote was taken after advice from ARBO legal counsel that to sign the MOU was in direct conflict with ARBO's mission as well as the resolutions passed at the ARBO House of Delegates Meeting in June of 2009. ARBO remains fully committed to the concept of demonstrating continued competence within our profession, and is very willing to continue to work with the ABO as appropriate for our organizations' mission and responsibility to its Member Boards." ...

ARBO still supports the idea of continuing competence. There is also the argument if ARBO board members should also be board members of the National Board. NBEO would be one of the groups bidding to provide the test for the board certification.

The board still supports sending someone to ARBO in Orlando June 14-15, 2010. Jeff said he is willing to go to ARBO in 2010 unless another board member would like to go.

Agenda 13. Discussion

Sale of pharmaceutical products from optometry offices: The board asked if any other professions, MD, DO, OD, etc... now sell pharmaceuticals from their office. Can they sell direct from their offices? Our statutes and regulations are not clear on this topic.

Specifically Latisse, this is a pharmaceutical used for glaucoma, not covered under health insurance as "latisse".

Staff directed the board to AS 08.72.175 which states "prescribe and use pharmaceutical agents" But it does not say anything about "selling" pharmaceuticals.

Jill will draft a letter for all board members to approve which will inform the AKOA regarding sale of pharmaceuticals by optometrists once we have direction from staff and department of law.

NBEO online State Law Exam: The board did not think pursuing an online exam with NBEO would benefit Alaska applicants. It would cost the applicant more money and we already have an open book exam. This requires applicants read the statutes and regulations in order to understand our state laws and in order to correctly answer the questions.

NBEO injection skills pilot-tested August 2009: The board thought this could simplify applicants meeting the injections skills requirements for future and the board recognized this is just informational.

Agenda Item 14 Schedule Meetings/Task List

The next board meeting is May 21, 2010 at 9:00 a.m. in Anchorage - Atwood building. The Board will set the fall board meeting date at that time.

Tasks:

- Jill to draft letters to Dr. Steinberg and AK AOA for sale of pharmaceutical agents.
- Staff to draft a letter to Veterans Administration to determine if the TPA requirements have been met for Dr. Knutson and amend the June minutes.

No further discussion.

Agenda Item 15 Final Comments

On a motion by Dr. Graves, seconded by Dr. Dennis Swarner and carried unanimously by voice roll call vote of the administrative procedures act.

The board having no other business adjourned the meeting at 12:08 p.m.

Voice Roll Call Vote:

Jeff Gonnason, OD
James Graves, OD
Dennis Swarner, OD
Tim Sullivan
Jill Matheson, OD

Respectfully Submitted:

Connie Petz

Connie Petz, Licensing Examiner

Jill Matheson, OD
Jill Matheson, OD, Chair

Date: MAY 21, 2010