STATE OF ALASKA

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

333 Willoughby Ave, 9th Floor Conference Room C Juneau, AK

January 21, 2011

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Examiners in Optometry to be held on January 21, 2011, Conference Room C at 333 Willoughby Avenue, Juneau, Alaska.

Agenda item 1

Call to Order/Roll Call

The meeting for the state of Alaska Board of Examiners in Optometry was called to order by Dr. Matheson; Chair at 9:00 a.m. This board meeting was public noticed on December 15, 2010 and published in the Anchorage Daily News.

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

Jill Matheson, OD, Chair Jeff Gonnason, OD James Graves, OD

Via Teleconference - JoAnne Bell-Graves, Public Member Approved Absence: Dennis Swarner, OD, Secretary

Present from the Division of Corporations, Business & Professional Licensing: Connie Petz, Licensing Examiner
Melinda Butler, Licensing Examiner
Peggy Weaver, Investigator
Karen Wilke, Para Legal
Katherine (Cathy) Mason, Administrative Officer

Present from the Dept. of Law - Dan Branch, Assistant Attorney General

Agenda item 2

Review / Amend Agenda

On a motion by Dr. Gonnason, seconded by Dr. Graves and carried unanimously. IT WAS RESOLVED TO APPROVE THE AGENDA. All in favor, no nays. No further discussion.

Agenda item 3

Review / Approve Minutes

On a motion by Dr. Gonnason, seconded by Dr. Graves and carried unanimously IT WAS RESOLVED TO APPROVE THE May 21, 2010 MEETING MINUTES as written. All in favor, no nays. No further discussion.

Agenda item 4

Ethics Reporting

Dr. Matheson asked if there were any ethics violations to report, all board members and staff stated they had no ethics violations to report.

Off record at 9:07 a.m. - Back on record at 9:09 a.m.

Agenda item 5

Investigative Report

Joining the meeting were Karen Wilke, Paralegal and Margaret (Peggy) Weaver, Investigator. Ms. Wilke shared her role with the board and explained the process for consent agreements. Ms. Weaver stated she is stationed in Juneau and shared her role as investigator.

As of the January 5, 2011 investigative report, there were no open complaints and two complaints had been closed. There are neither open cases nor cases which have closed.

No board action was required on the Investigative report.

Agenda item 6

FY 10 Annual Report/Annual Report duties

The board discussed the annual report and agreed it was correct. At this time, no changes or additions are needed for board goals.

Administrative Officer, Katherine (Cathy) Mason joined the meeting to discuss the budget and explained the new budget format and how board expenses are calculated. The board now understands fiscal year, how costs are divided among indirect and direct expenses. Cathy also expressed license fees are adjusted as needed in relation to expenses. Sometimes, boards run at a deficit but the expenses are recovered with license fee increases.

Agenda item 7

Review Correspondence

The board discussed correspondence none of which required a response. The board was encouraged to learn that NBEO is considering adding injections to the national exam.

Off record at 9:50 a.m. Back on record 9:58 a.m.

Agenda item 8

Regulation project

Department of Law attorney Dan Branch attended the meeting to review the draft regulations dated 12/17/10 with the board. After considerable discussion the only changes to the draft include:

12 AAC 48.020

(b) (3) an affidavit certifying at least 3,120 hours of active license clinical practice experience in optometry at the highest therapeutic level authorized by the licensing authority in their jurisdiction within the three years immediately preceding the date of application, signed by a licensed health care professional who is familiar with the applicant's practice; the board may require further documentation verifying the 3,120 hours of active licensed clinical practice;

Delete all of 12 AAC 48.020 (d)

12 AAC 48.022 Restricted licenses. Change date from June 1, 2010 to actual date signed into law which was June 2, 2010. A total of four (4) date changes are required within parts (a) and (b).

Change 12 AAC 48.026 Retired license rewritten to now read:

(a) If the licensee holds an optometry license that is not restricted, the licensee may apply for a retired license by submitting

- (1) A completed application on a form provided by the department;
- (2) The applicable fee established in 12 AAC 02.300
- (b) A person holding a retired status license may apply for an active license by showing documentation of continuing education requirements that would have been required to maintain an active license during their entire retirement period.

Deleting last sentence of this portion of what was (c) of the draft on page 7.

On motion by Dr. Graves, seconded by Dr. Gonnason, amend the draft regulations and adopt for public comment. All in favor – no nays.

Staff will forward the revisions for the adopted regulations to Jun to draft for public comment.

Dr. Gonnason spoke with Mr. Branch asking for a new legal view on prior correspondence related to condition of hypotrichosis. Staff will forward the history of the discussion to Mr. Branch for more facts and reconsideration.

Lunch off record at 12:08 p.m. - Back on record at 1:11p.m.

Dr. Matheson called the meeting to order. A quorum of the board was met with attendance by Dr. Matheson, Dr. Gonnason and Dr. Graves. Public member, Ms. Bell-Graves requested approved absence for the afternoon session of the board meeting. Staff in attendance, Melinda Butler and Connie Petz

Agenda item 9

Public Comment

No public in attendance

Agenda item 10

Review CE's for license renewal applications

The board reviewed all licensees who were required to document they met the renewal requirements of seven hours in injections and eight hours of continuing education approved by the board concerning the use and prescription of pharmaceutical agents. Licensees reviewed were:

108 Wells

143 McIntyre

200 Coombs

225 Gibbs

227 Glanzer - staff to follow up for additional CE's

244 Johnson

252 Robilotto

268 Weaver

269 Reese

274 Donaghy

All licensees met requirements except license # 227, staff will contact licensee for additional CE's, then if licensee is unable to document, the file will be forwarded to paralegal for compliance review.

Agenda item 11

Review applications for licensure

The board had one application for review. Dr. Matheson, as chair of the Alaska Board of Examiners in Optometry, called for a motion to enter executive session to discuss the application for license in accordance with:

AS 44.62.310(c) (2) and (3) and the Alaska Constitutional Right to Privacy Provisions, for the purpose of discussion of (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion and (3) matters which by law, municipal charter, or ordinance are required to be confidential.

Executive session included staff, Peggy Weaver, Melinda Butler and Connie Petz.

On a motion by Dr. Graves, seconded by Dr Gonnason the board will enter into executive session to discuss the application. All in favor, none opposed.

Executive session – off record at 1:47 p.m. Out of Executive session - on record – 2:50 p.m.

The board has reviewed and discussed the application submitted by Dr. Gary Kitzrow and determined Dr. Kitzrow did not meet the license requirements for the state of Alaska.

On a motion by Dr Graves, seconded by Dr Gonnason, that the board, in review of the application for optometry submitted by Dr. Gary Kitzrow denies licensure due to prior license violations and disciplinary actions in Washington and Oregon; per statute Sec. 08.72.140. Qualifications for licensure. An applicant for licensure as an optometrist (2) may not have committed an act in any jurisdiction that would have constituted a violation of this chapter or regulations adopted under this chapter at the time the act was committed;

(3) may not have been disciplined by an optometry licensing entity in another jurisdiction and may not be the subject of a pending disciplinary proceeding conducted by an optometry licensing entity in another jurisdiction; however, the board may consider the disciplinary action and, in the board's discretion, determine if the person is qualified for licensure.

And/or the applicant's history of discipline does not meet the requirements per statute Sec. 08.72.170 Licensure by credentials (6) has not committed an act in any jurisdiction that would have constituted a violation of this chapter or regulations adopted under this chapter at the time the act was committed; and (7) has not been disciplined by an optometry licensing entity in another jurisdiction and is not the subject of a pending disciplinary proceeding conducted by an optometry licensing entity in another jurisdiction; however, the board may consider the disciplinary action and, in the board's discretion, determine if the person is qualified for licensure.

All in Favor - No nays.

The board discussed that the applicant did not meet the qualifications for licensure in the state of Alaska due to prior license violations, which had they occurred in the state of Alaska, they would have required disciplinary action. Staff will send a letter to the applicant explaining the license has been denied and his rights in relation to the decision of the board.

Off record 3:04 p.m. - Back on record 3:09 p.m.

Agenda item 12

Schedule Meetings/Task List

ARBO will meet in Salt Lake City, Utah June 12-14, 2011 and Dr. Matheson will attend.

The board established the next board meeting would be in Anchorage and tentatively set for 2 days – May 5-6, 2011. The dates are pending the schedules of the absent board members and the amount of board business at that time. A one day board meeting may be all that is necessary.

For the record, today is the last board meeting for Dr. Gonnason as his term on the board will end on March 1, 2011. Dr. Gonnason thanked the board for allowing him to serve and the board thanked him for his many years of dedicated service with the board of optometry.

At the last board meeting Dr. Matheson expressed it would benefit the board to select another chairman of the board. This is to allow a transition time for the new chair to become familiar with their role. Dr. Matheson's term with the board ends on March 1, 2012 and she asked Dr. Graves if he would be willing to chair the board of examiners in optometry. Dr. Graves said he had considered the opportunity and agreed he would be willing to serve.

Dr. Gonnason nominated Dr. Graves as chair of the board, all board members were in favor and Dr. Graves will begin the role of the chair effective immediately.

TASK: Staff

- Forward adopted regulations to regulations specialist to prepare for public comment
- Forward additional facts and prior correspondence to Dept of Law related to the prescription authority and facts related to condition of hypotrichosis
- Follow up with all licensees regarding renewal CE's
- Follow up with applicant for license denial

Agenda item 13

Final Comments

Closing comments by Dr. Gonnason; for the record, the boards history on the intent for AS 08.72.140 section (2) and AS 08.72.170 section (7); regarding the board's discretion in considering disciplinary action in another jurisdiction, the intent was to give the board flexibility regarding disciplinary violation in other jurisdictions where the violation would not have been subject to discipline in Alaska.

On a motion by, Dr. Gonnason, seconded by Dr. Graves and carried unanimously. The board having no other business adjourned the meeting at 3:26 p.m.

Respectfully Submitted:

onnie Petz, Licen**y**na Examiner

James Graves, OD, Chair

Date: 5/6/11