

**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 A
Juneau AK**

January 6, 2012

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 was held January 6, 2012 at 333 Willoughby Ave, 9th Floor Conference Room A in Juneau, Alaska

Agenda item 1 - Call to Order

The meeting for the state of Alaska Board of Examiners in Optometry was called to order by Dr. Graves, Chair at 8:31 AM.

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

James Graves, OD, Chair
Jill Matheson, OD
Paul Barney, OD
JoAnne Levine, Public Member

Present from the Division of Corporations, Business & Professional Licensing:
Connie Petz, Licensing Examiner
Nathan "Nate" Vallier, Licensing Examiner
DJ Keiser, licensing examiner staff of CBPL
Don Habeger, Director of CBPL

Chair acknowledged this is Dr. Matheson's last board meeting and board member Jo Anne Levine's recent marriage.

Board member Dr. Swarner was absent due to illness.

Connie Petz advised the board she will no longer be the licensing examiner for the Board of Optometry and introduced Nathan Vallier as their new licensing examiner.

Agenda item 2 - Review / Amend Agenda

On a motion by Dr. BARNEY, seconded by DR. MATHESON and carried unanimously. IT WAS RESOLVED TO APPROVE THE AGENDA as AMENDED. All in favor, no nays. No further discussion.

Agenda item 3 - Review / Approve Minutes

On a motion by DR. MATHESON, seconded by MS. LEVINE and carried unanimously IT WAS RESOLVED TO APPROVE the May 06, 2011 MEETING MINUTES as written. All in favor, no nays. No further discussion.

On a motion by DR. MATHESON, seconded by DR. BARNEY and carried

On a motion by DR. MATHESON, seconded by DR. BARNEY and carried unanimously IT WAS RESOLVED TO APPROVE the August 26, 2011 TELECONFERENCE MINUTES as written. All in favor, no nays. No further discussion.

Agenda item 4 - Ethics Reporting

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

The Board discussed ex parte communications with applicants prior to licensure and discussed that any type of discussion related to applications or licensing violations with a licensee was not appropriate. Board members should refer applicants with questions to licensing staff.

Ex parte limits the board in their ability to perform board business, be included in discussion and could hinder the board with the risk of not having a quorum to make a board determination or decision. Board members and staff discussed a variety of scenarios and their effects on voting or performing board duties.

Staff will incorporate directions on the application that all questions should be submitted to the licensing examiner.

Agenda item 5 - Investigative Report

The board was advised of their new investigator, Jennifer Wirawan.

Staff read the investigative report. No compliance issues. There are no open complaints, no complaints which have been closed, no open cases and no cases which have been closed.

Agenda item 6 - FY 11 Annual Report/Budget Report

Board reviewed annual report and staff explained portions of the annual report to the board, notably the types of licenses issued in the prior year and the changes in how licenses are issued moving forward based on the changes in law during FY11

Board discussed budget deficit and possible impacts on the increase of licensing fees.

Agenda item 7 – TMOD/PAM with NBEO

The Board discussed what, if any changes, were needed as the NBEO has renamed part II of the national examination to "PAM", Patient Assessment and Management, along with the possible legal ramifications and the effects on state law. NBEO advised staff via e-mail that the TMOD shall remain a separate score from Part II of the examination. Board determined there was no action needed at this time.

The Board moved to add a goal/task item to have 08.72.181(2) & (3) revised to remove the requirement that licensees submit all continuing education documentation to the department every 4 years as this is an unnecessary move that will only increase workload & file size as well as undermine the audit process. The Board feels there is no protective benefit to the public by requiring these submissions.

The Board discussed the challenges relating to the 7 hour injections skill training and will continue to review available options to the licensees and applicants in the State. The challenges of this requirement revolve around the scarcity of a complete course; where courses are offered ensuring the content is adequate; facilities that offer injections training that are not 7 hours

require the licensee to build up a total of 7 hours, and ensuring the courses are presenting the proper content & knowledge base to meet the goal of the requirement.

The Board is also aware that should the NBEO be expanded to more than 3 parts it will require a regulations change to ensure compliance with the law.

Off the record at 9:48AM
Back on record at 10:00AM

Agenda item 8 – Regulation Project

Board began regulations project.

Lunch break/off record at 11:59AM

Back on record at 1:03PM

Dr. Graves called the meeting to order. Roll call, all Board members and staff were present.

Agenda item 9 Public Comment

Don Habeger, Director of the Division of Corporations, Business, and Professional Licensing presented to the board updates about the budget, discussed that license fees support the activities of the division. One action was the reallocation of indirect expenses to the professional boards, as phase I is complete, and we are now in phase II. Recent news regarding another board has opened the door to review the expenditures of the division and how they can be properly shared among the boards, including the possibility of a one-time appropriation from the legislature and other avenues of sharing the costs of investigations.

Agenda 8 – Regulations Project

Board deviated back to agenda item 8 for the regulations project.

The board continued the review of regulations which became effective October 16, 2011. In reviewing the new laws, the board began a new regulation project. The experience of the board has been that once a law is fully enacted there are regulations which need amended or created to clearly define the new law.

The board proposes the below regulations changes and asks that staff forward them to the regulation specialist with a request to be public noticed 30 days prior to the May 3, 2012 board meeting. The goal is to have these regulations adopted into law before the end of the current license period which is December 31, 2012.

#1. It is the intent of the board to have clarity in the regulations. Department of Law has also favored using the wording "not earlier than" and "preceding" in both statutes and regulations.

Regulation currently reads:

12 AAC 48.210. HOURS OF CONTINUING EDUCATION REQUIRED

(d) An applicant for renewal of an optometry license must submit official verification of having successfully completed, in the four-year period immediately before the date of application for renewal

The board proposes amending the regulation to read:

12 AAC 48.210. HOURS OF CONTINUING EDUCATION REQUIRED

(d) An applicant for renewal of an optometry license must submit official verification of having successfully completed not earlier than four years immediately preceding the date of application for renewal

#2. Currently regulation for applying for license by examination does not clearly state the transcripts are to be sent to the department 'directly from' their school. The regulation for applying for a license by credentials is very clearly written. The board wants application by exam to state 'directly from' in the regulation.

Regulation currently reads:

12 AAC 48.011 License by Examination

(3) official college transcripts verifying graduation from a recognized school or college of optometry;

12 AAC 48.020 License by Credentials

(c) (1) college transcripts verifying graduation from a recognized school or college of optometry, sent directly to the department from the institution;

The board proposes amending the regulation to read:

12 AAC 48.011 License by Examination

(3) college transcripts verifying graduation from a recognized school or college of optometry; sent directly to the department from the institution;

#3. Current regulations for licensure by examination do not refer the applicant to the continuing education regulation 12 AAC 48.200(b) and this regulation will assist the applicant in understanding what should be on their certificates.

Regulation currently requires applicants for license by examination to provide CE's:

12 AAC 48.011. LICENSE BY EXAMINATION

(2) documentation showing that the applicant has passed, not earlier than the five years immediately preceding the date of application, all parts of the examinations required in 12 AAC 48.015(1) and (2) sent directly to the department from the NBEO; if one or more parts of the examination was passed by the applicant two years or more before the date of the application, the applicant must provide verification of the completion of 36 hours of approved continuing education taken not earlier than the two years immediately preceding the date of application, in ocular pharmacology or pathology;

The board proposes amending the regulation for applicants for licensure by examination to the continuing education requirements as outlined in 12 AAC 48.200 (b) to read:

12 AAC 48.011. LICENSE BY EXAMINATION

(2) documentation showing that the applicant has passed, not earlier than the five years immediately preceding the date of application, all parts of the examinations required in 12 AAC 48.015(1) and (2) sent directly to the department from the NBEO; if one or more parts of the examination was passed by the applicant two years or more before the date of the application, the applicant must provide verification of the completion of 36 hours of approved continuing education taken not earlier than the two years immediately preceding the date of application, in ocular pharmacology or pathology, in accordance with 12 AAC 48.200(b);

#4. Current regulations are missing a critical component for licensure by credentials and this may have occurred when repealing 12 AAC 48.025 Pharmaceutical Agent Prescription and Use Endorsement. Previously there had been a defined timeframe in which the board would accept courses. The current regulations do not require or define the date when the courses should have

been completed. This leaves the requirement open to any prior date of completion, ie: 5 to 20+ years ago and the board would have to accept a certificate.

The board proposes ADDING an entire regulation to 12 AAC 48.020 (C):

12 AAC 48.020 – License by Credentials

(C) (7) not earlier than the four years immediately preceding the date of application, the applicant must provide certification of completion in

(a) a nontopical therapeutic pharmaceutical agent course of at least 23 hours approved by the board or an examination approved by the board on the treatment and management of ocular disease or patient assessment and management; and

(b) an optometry and nontopical therapeutic pharmaceutical agent injection course of at least seven hours approved by the board or equivalent training acceptable to the board;

#5. In review of the need for consistency in dates in the application process. The board proposes reducing the date for accepting documentation for the application of license by examination for passing from 5 years to 4 years. If the applicant has passed all parts of the exam more than 4 years ago they would likely apply by credentials as having practiced in another jurisdiction.

Currently regulation reads: 12 AAC 48.011. LICENSE BY EXAMINATION.

12 AAC 48.011 (a) An applicant for a license by examination to practice optometry must submit (2) documentation showing that the applicant has passed, not earlier than the five years immediately preceding the date of application, all parts of the examinations required in 12 AAC 48.015(1) and (2) sent directly to the department from the NBEO; if one or more parts of the examination was passed by the applicant two years or more before the date of the application, the applicant must provide verification of the completion of 36 hours of approved continuing education taken not earlier than the two years immediately preceding the date of application, in ocular pharmacology or pathology;

The board proposes CHANGING the regulation to read:

12 AAC 48.011 (a) An applicant for a license by examination to practice optometry must submit (2) documentation showing that the applicant has passed, not earlier than the **four** years immediately preceding the date of application, all parts of the examinations required in 12 AAC 48.015(1) and (2) sent directly to the department from the NBEO; if one or more parts of the examination was passed by the applicant two years or more before the date of the application, the applicant must provide verification of the completion of 36 hours of approved continuing education taken not earlier than the two years immediately preceding the date of application, in ocular pharmacology or pathology;

#6. The regulations do not require an applicant to provide professional references. The board believes AS 08.72.050 gives authority to require references and wants each applicant to provide three notarized references.

The board proposes ADDING regulations for professional references:

12 AAC 48.011 License by Examination

(a)(8) provide three character and professional references from three persons not related to the applicant who must be an optometrist, instructor, supervisor, or official from the applicant's school of optometry sent directly to the department on a notarized form provided by the department.

12 AAC 48.020 License by Credentials

(c)(7) provide three character and professional references from three persons not related to the applicant who must be an optometrist, instructor, supervisor, or official from the applicant's

school of optometry sent directly to the department on a notarized form provided by the department.

#7. Currently the Optometry regulations do not clarify the licensed optometrist has authority to write a prescription for medications.

Current regulation reads:

12 AAC 48.011. LICENSE BY EXAMINATION. (a) An applicant for a license by examination to practice optometry must submit

12 AAC 48.020. LICENSE BY CREDENTIALS. (a) The board will issue a license by credentials to practice optometry to an applicant who meets the requirements of AS 08.72.140, AS 08.72.170, and this section.

The board proposes Amending Regulations to include prescriptive authority:

12 AAC 48.011. LICENSE BY EXAMINATION (a)The board will issue a license by examination to practice optometry to an applicant who meets the requirements of AS 08.72.140, AS 08.72.160 with authority to prescribe and use the pharmaceutical agents described in AS 08.72.272 and this section.

12 AAC 48.020. LICENSE BY CREDENTIALS. (a)The board will issue a license by credentials to practice optometry to an applicant who meets the requirements of AS 08.72.140, AS 08.72.170, with authority to prescribe and use the pharmaceutical agents described in AS 08.72.272 and this section

#8. The board wants to amend the existing regulation 12 AAC 48.026(b) for clarity by defining the requirements to reactivate a retired license. The board wants to protect the public from any optometrist who has not practiced for an extended period of time, meaning an optometrist who has not maintained current in either practice skills, in their continuing education or an optometrist who has been practicing below U.S. standards of practice such as in any country outside of the U.S. The board also believes that after 10 years without practice or completion of continuing education then the retired doctor would be far removed from what is current within both their professional education and their skills to practice.

Regulation currently reads:

12 AAC 48.026(b)

A person holding a retired status license may apply for an active license by showing documentation of satisfying the continuing education requirements under AS 08.72 and this chapter that would have been required to maintain an active license during the period the person held the retired status license.

The board proposes amending the regulation:

12 AAC 48.026(b)

An applicant holding a retired status license in this state, under AS 08.72.185 will, in the board's discretion, be issued an active license to practice optometry with authority to prescribe and use the pharmaceutical agents described in AS 08.72.272, as appropriate, if the applicant (1) submits a new, complete and notarized application as required by AS 08.72.185(b), documenting compliance with

(A) AS 08.72.140 (2) and AS 08.72.140 (3);

(B) AS 08.72.181 (d) and AS 08.72.181 (e);

(2) the required fees established in 12 AAC 02.105 and 12 AAC 02.300

(3) evidence of completion of all continuing educational requirements in 12 AAC 48.200-

220 that would have been required to maintain a current license for the entire period the licensee has been retired; for licensees in retired status of more than 5 years but less than 10 years, licensee must also show 400 hours of clinical practice in the United States (per year) within the two year period immediately preceding the date of the application.;

(4) successful passing of the jurisprudence law exam according to 12AAC48.015(3);

(5) a statement of the dates and places of employment after the license was retired;

(6) verification of all optometry licenses held in other states, territories or provinces if any, for the entire period the Alaska license has been retired, and a signed statement from a licensing official from each of those states which verifies that no restrictions have been placed on the license and that no disciplinary sanctions have been taken against the licensee;

(7) if the applicant is, or has been, employed as an optometrist with a federal agency, after the license was retired; verification of the applicant's current employment status and disciplinary history from each federal agency where the applicant is, or has been, employed as an optometrist and;

(8) In accordance with AS 08.01.100(d), a license that has been retired for ten years or more is considered permanently retired and the former licensee must apply for a new license under AS 08.72 and this chapter.

On a motion by DR. BARNEY, seconded by MS. LEVINE, IT WAS RESOLVED TO APPROVE THE DRAFT REGULATION PROJECT. All in favor, No nays. No further discussion.

Task: Staff to forward draft regulations to the Regulations Specialist and request these regulations be sent out to public comment 30 day prior to the May 3, 2012 board meeting.

Agenda item 10 – Review applications for licensure

On a motion by Dr. Matheson, seconded by Dr. Barney, it was resolved to approve the application of Dr. John P. Downy pending receipt of \$50 for the law exam fees and \$200 in licensing fees, passing of the law exam, and receipt of the Colorado license verification. All in favor and none opposed.

On a motion by Dr. Matheson, seconded by Dr. Barney, it was moved to accept the correspondence from Dr. Brad Sutton from the Indiana University School of Optometry as meeting the requirement for a certificate stating that he took & passed a 23 hour oral pharmaceutical nontopical course. All in favor and none opposed.

On a motion by Dr. Matheson, seconded by Ms. Levine, it was resolved to finish agenda item number 8 & 9 and table agenda items 12, 13, 14, and parts of 11 for the next meeting. All in favor and none opposed.

Agenda item 11 – Correspondence

The board reviewed and discussed multiple pieces of correspondence and tabled some correspondence to the next board meeting.

Dr. Barney shared about OD's and prescriptions for Tinted Windows in automobiles.

The State of Alaska has a law regarding automobiles and window tinting that regulates the depth of tinting which an automobile window may have. It has been brought to the attention of the Board that some OD's may be granting medical waivers for darker tint for people who do not need them for their eye health. The board feels the importance of addressing this with OD's who issue waivers when there is no credible medical condition warranting the need for tinted windows.

Dr. Barney proposed the board send out a letter to all licensees (if it is within the scope of the board), staff recommended a newsletter-type mailer. The board asked Dr. Barney to speak on this topic at the June AKOA meeting.

Mary Kay Vellucci of the Board of Pharmacy forwarded an e-mail from a pharmacy with concerns about an optometrist. prescription of pharmaceutical agents that appeared to be outside of the authority of the DEA restrictions for IA, IIA or VIA controlled substances.

Staff advised the board this particular matter is in the hands of investigations. The Board is concerned about standing orders but thankful that pharmacists are alert to prescriptive authorities. There was no action taken on this item.

Agenda item 15 - Other Business/Schedule Meetings/Task List

The next Optometry board meeting is scheduled for Anchorage, May 3-4, 2012. If board business will not require a full 2 day board meeting, there will be later starting time on Thursday so board members aren't required to travel Wednesday night.

The Board set tentative dates of November 1 & 2, 2012, with the intention of meeting in Anchorage.

The Board discussed the 7 hours injection course conducted by board member Dr. Barney and the requirements needed on the certificates to ensure compliance with the law. Board and staff also discussed the management of the 7 and 8 hour course requirements for renewal of license.

Off the record at 3:50PM
Back on record at 4:03PM

Staff presented board with the option of a teleconference prior to the May board meeting should one be needed to clarify/discuss the regulations project once returned from the Department regulations specialist. The board recognizes that regulations are best dealt with in person.

Recap TASKS/Projects from board meeting:

DR. BARNEY will research the injections skills breakout score with NBEO and share at the next board meeting.

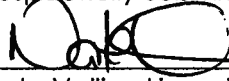
Board discussed ARBO, June 24-26, 2012 in Chicago, IL and staff advised that although there is a moratorium on out of state travel, if they want to attend, then a board member should make a request for travel. Dr. Barney would like to attend the ARBO meeting.

Staff will forward draft regulations to regulations specialist with the goal they be ready for the board to approve for public comment at the May 2012 board meeting.

Staff will add instructions to the licensing application regarding any questions or communications be directed to staff.

On a motion by DR. MATHESON, seconded by DR. BARNEY and carried unanimously. The board having no other business adjourned the meeting at 4:22 p.m.

Respectfully Submitted:



Nate Vallier, Licensing Examiner



James Graves, OD, Chair

Date: 4 May 2012