

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
BOARD OF EXAMINERS IN OPTOMETRY
550 W 7th Avenue Conference Room 1270
Anchorage AK

**Minutes of Meeting
November 1 & 2, 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 November 1 & 2 2012 at 550 W 7th Avenue, Conference Room 1270 in Anchorage, Alaska

Thursday, November 1, 2012

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 9:40.

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

James Graves, OD, Chair
Dennis Swarner, OD, Secretary
Paul Barney, OD
Forrest Messerschmidt, OD
Immanuel Lewis, public member

Present from the Division of Corporations, Business & Professional Licensing:
Nathan "Nate" Vallier, Licensing Examiner

Chair thanked Dr. Swarner for his eight years of service on the board as his term will be expiring in August. The chair said it would be advisable to find a new board member from the bush to fill the vacant seat. Dr. Swarner's duties as board secretary will also need to be reassigned.

Agenda item 1(b) - Review / Amend Agenda

Staff advised we need to move item #8, Investigations Review, to today at 1:45PM due to schedule conflicts and ensure the agenda and board packets reflect item #5 as applicant review – this is so that staff can get the exams mailed to doctors who are waiting to start practice. Because of this change, we do not need to start until 9:30AM on Friday unless the board wishes to meet at 9:00AM and finish earlier.

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

Agenda item 1(c) - 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.

Agenda item 2 - Review / Approve Minutes-May 2012

On a motion by Dr. Swarner, seconded by Dr. Barney and carried unanimously, IT WAS RESOLVED TO APPROVE the May 4, 2012 MEETING MINUTES. All in favor, no nays. No further discussion.

Agenda item 3 - Review / Approve Minutes-July 2012

On a motion by Dr. Barney, seconded by Dr. Messerschmidt and carried unanimously IT WAS RESOLVED TO APPROVE the July 10, 2012 TELECONFERENCE MINUTES as written. All in favor, no nays. No further discussion.

Agenda item 4 - Review / Approve Minutes-August 2012

On a motion by Dr. Messerschmidt, seconded by Dr. Barney and carried unanimously IT WAS RESOLVED TO APPROVE the August 28, 2012 TELECONFERENCE MINUTES as written. All in favor, no nays. No further discussion.

Agenda item 5 – Application review

Board reviewed the applications for six pending applicants, Stephanie Le, Jane O’Hora, Stephen Page, William Schilling, Matthew Ubedei, and James Vaught.

Dr. Barney recused himself from voting on Stephen Page due to ex parte communications regarding the injections course.

On a motion by Dr. Barney, seconded by Dr. Swarner and carried unanimously IT WAS RESOLVED TO APPROVE Stephanie Le, Jane O’Hora, William Schilling, Matthew Ubedei, and James Vaught for licensure as an optometrist in the State of Alaska pending successful passage of the jurisprudence exam. All in favor, no nays. No further discussion.

On a motion by Dr. Swarner, seconded by Dr. Messerschmidt and carried unanimously IT WAS RESOLVED TO APPROVE Stephen Page for licensure as an optometrist in the State of Alaska pending successful passage of the jurisprudence exam. All in favor, no nays with Dr. Barney recusing. No further discussion.

Agenda item 6 – Review Injections Training Requirements of other states

The board reviewed other states requirements involving ocular injections for optometrists and any outlines provided. The board feels that it is imperative to offer guidance to the public to prevent confusion over the statute and proceed with some type of advisory or guidance.

The board looked at the West Virginia Board of Optometry injections packet and the syllabus offered by Pacific University. Based on the board’s findings and discussion, the board will issue three different opinion advisories guiding new graduates, applicants applying by credentials, and continuing education.

One point of confusion among the licensees and applicants is that the statute cites “successful passage” of “*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*” as not necessarily being a one-time seven hour course that could be applied to everyone. Research shows that about 35 states have some type of injections law and training with a wide variety of requirements while Alaska’s law is

very pronounced and allows more advanced procedures. Because of this, the Board feels that a new graduate from a school of optometry who has injections education & training AND passing the ISE on the NBEO will meet this requirement; however an applicant who has a current license in another state may have had limited injections training and/or CE that may not meet our injections law. The board feels that passage of the ISE constitutes that the applicant is educated on injections. Washington was used as an example where a course that is allowed for optometrists there does not meet our spirit of the law as it is a general injections-type course that is also attended by paramedics and EMTs. The board is also concerned that the injections education from a school in Puerto Rico or Canada may not be the same as a school on the west coast.

Based on the syllabus from Pacific University, an approved course, the board decided to use the following verbiage:

education should include seven hours of education regarding injections that includes these topics (but is not limited) – intravenous, subconjunctival, subcutaneous, intralesional, infiltrative anesthesia, nerve block, and intramuscular injections & applications.

The board feels that applicants by credentials who have had no injections training should complete the seven hour course, whereas applicants with injections training could show seven hours of education to meet the requirement. However, there is no statutory authority designating the difference. The law for renewing licenses is written differently,

completed seven hours of continuing education, approved by the board, concerning the injection of nontopical therapeutic pharmaceutical agents

Whereas the law clearly states EDUCATION rather than a set course. The board feels that licensees do not necessarily have to take the seven hour course every four years, however they could take a shorter course (such as four hours) that meets the topics/spirit of the law and additional courses/continuing education credits to meet the seven hour requirement. The board does not want to see licensees taking the same course each year and applying both credits, for example SECO does an annual four hour injections lab and course at their conference – a licensee shouldn't claim four hours if they attended the course in 2011 and then attend the exact same course in 2012 and claim a total of eight hours.

Off record at 11:53AM – break for lunch

On record at 1:12PM

Dr. Graves, Chair, called the meeting back to order at 1:12PM with all board members present.

Agenda item 6 continued – Review Injections laws

The board continued discussing the injections education and courses and developed some preliminary 'advisories' for the public.

Staff will complete the minutes and work with CBPL management to determine if a regulations projects is required for the board's opinions of the injections law.

Board advisories will be placed on the website of the board if cleared.

Agenda item 8 – Investigations Review

Michelle Wall-Rood, investigator for the Division of Corporations, Business, and Professional licensing presented a report advising of three open cases, one closed complaint.

Agenda item 7– Statute Wish List

The board reviewed current issues with the statutes and complications of licensure and practice because of such. The goal is to do a housecleaning of the statutes and possibly look at other items of interest.

The board would prefer that the statutes relating to Canada should be read as “jurisdiction of Canada” rather than strictly “province of Canada” as the Board feels the political boundary of territory should be included and “jurisdiction” seems more appropriate.

Adding “A clearance report from the National Practitioner Data Bank” to 08.72.150 to better know the applicant’s history and licensing background would be beneficial to the public, as long as it is not overly costly to the licensees.

Looking at the short-term licensing, the board doesn’t feel it is prohibiting licensure or deterring applicants and hurting the public by relaxing licensing requirements. The board is also concerned that some retail facilities may opt to use temporary optometrists rather than keeping a full time, year round licensed optometrist. The item is of interest to the board, but not a priority at this time.

The Board may not pursue a change at this time as it does not want to open up the door to additional changes to the Optometry law.

The meeting was recessed at 2:45PM and off record at 2:45PM

Friday, November 2, 2012

The meeting was called to order by Dr. Graves, Chair at 9:38AM. Roll call was taken and all members were present, plus staff.

Agenda item 9 – Review CE

The board reviewed the syllabus and information provided by the American Academy of Optometry which held a conference in Phoenix on October 24-27, 2012. Dr. Messerschmidt had asked how many other states have approved the course; staff discovered that at least eight have already approved it.

On a motion by Dr. Messerschmidt, seconded by Dr. Barney and carried unanimously IT WAS RESOLVED TO APPROVE the curriculum as acceptable continuing education for the 2012-2014 renewal period excluding eight hours of education in the use of pharmaceutical agents. All in favor, no nays. No further discussion.

Agenda item 10 – Department of Law Discussion

Ms. Harriet Milks, Assistant Attorney General representing the State of Alaska joined the board meeting via telephone at 10:05AM.

The Board approved & adopted part 1 of the FY 2012 regulations project and is currently pending approval by the governor's office. Part 2 is still pending review; part 2 of the regulations project included the time limitations of taking the TMOD and injections law requirement. Department of Law advised the board does not have the statutory authority to put time limitations on these items, despite the previous law did exist (note: the law was changed in 2008 & 2010 and was removed during that time).

Department also has a pending fee change regulation pending receipt of the lieutenant governor's office – this must be done before it is law.

The board and Ms. Milks then reviewed the proposed advisory opinions.

Ms. Milks advised the board can issue interpretations or explanations of existing regulations and statutory requirements but you can not change them without going through the regulations process. A litmus test is "will the public be surprised by anything in the advisory?". You can expand and explain, but you can not create new rights or obligations. Advisories are meant to be helpful, instructional or conversational. Ms. Milks continued "regarding your advisory, you need to point to a statute or regulation for the discussion of the advisory."

For instance, the board's desire to state that students who have graduated from a school of optometry need to pass the ISE portion of the NBEOP Part III exam is not required by the statute and can not be an advisory. Ms. Milks went on to say we should use "typically courses should include..." but we have to be very careful and ask ourselves if it is in a regulation or statute somewhere. But if the board really wants it to be in there, the board needs to go through the legislative process by means of statute change. The board should be suggestive rather than demanding. Ms. Milks also advised that we should put in a disclaimer to contact the division if anyone has questions about the specific advisories.

Based on edits with Department of Law, the board has developed the following advisories:

State of Alaska Board of Examiners in Optometry Board Issued Advisory <i>This advisory is issued for the assistance of licensees and applicants; it is not intended to and can not change the requirements that are set out in AS 08.72.110 et. seq. or 12 AAC 48.011 et. seq.</i>
Advisory #1 Subject: Nontopical Therapeutic Injections Course for initial licensure by examination Implemented: November 2012 Statutory Authority: AS 08.72.140

Initial licensure, as required by AS 08.72.140(4)(C):

For students who are just graduating from a school of optometry that is recognized by the board:

Education typically should include seven hours of training and/or instruction regarding injections; such training typically includes these topics: intravenous, subconjunctival, subcutaneous, intralesional, infiltrative anesthesia, nerve block, and intramuscular injections & applications.

Courses that are less than seven hours and/or do not include these topics, may be approved at the discretion of the Board. Please contact the Division and include a syllabus and/or course outline. Prior approval is recommended and approval may take a minimum of 60 days after submission. If you have

any questions or concerns, please contact the licensing examiner for the Board of Examiners in Optometry. The Division and Board will be happy to assist you.

Applicants who have successfully passed the ISE portion of the NBEO Exam Part III will typically meet the requirement of AS 08.72.140(4)(C).

State of Alaska Board of Examiners in Optometry Board Issued Advisory <i>This advisory is issued for the assistance of licensees and applicants; it is not intended to and can not change the requirements that are set out in AS 08.72.110 et. seq. or 12 AAC 48.011 et. seq.</i>
Advisory #2 Subject: Nontopical Therapeutic Injections Course for initial licensure by credentials Implemented: November 2012
Statutory Authority: AS 08.72.140 / AS 08.72.170

For applicants who are presently credentialed in another state:

Education typically should include seven hours of training and/or instruction regarding injections; such training typically includes these topics: intravenous, subconjunctival, subcutaneous, intralesional, infiltrative anesthesia, nerve block, and intramuscular injections & applications.

Applicants who have successfully passed the ISE portion of the NBEO Exam Part III will typically meet the requirement of AS 08.72.140(4)(C).

State of Alaska Board of Examiners in Optometry Board Issued Advisory <i>This advisory is issued for the assistance of licensees and applicants; it is not intended and can not change the requirements that are set out in AS 08.72.110 et. seq. or 12 AAC 48.011 et. seq.</i>
Advisory #3 Subject: Nontopical Therapeutic Injections Education for Continuing Education Requirements Implemented: November 2012
Statutory Authority: AS 08.72.181 Regulatory Authority: 12 AAC 48.210(d)(2)

For current licensees seeking continuing education:

Education typically should include seven hours of training and/or instruction regarding injections; such training typically includes these topics: intravenous, subconjunctival, subcutaneous, intralesional, infiltrative anesthesia, nerve block, and intramuscular injections & applications. In most cases, courses that meet this requirement will include "injections" in the course title or description.

Online injections courses may be approved by the Board with prior submission to the Board along with a copy of the syllabus and/or course outline. Please submit this information in accordance with 12 AAC 48.200(c). Online courses should not represent all seven hours of injections continuing education.

The board reviewed the stylistic changes to the advisories.

On a motion by Dr. Messerschmidt, seconded by Dr. Barney and carried unanimously IT WAS RESOLVED TO APPROVE the curriculum as acceptable continuing education for the 2012-2014 renewal period excluding eight hours of education in the use of pharmaceutical agents. All in favor, no nays. No further discussion.

Off record at 11:45AM – break for lunch

On record at 1:05PM

Dr. Graves, Chair, called the meeting back to order at 1:05PM with all board members present.

Agenda item 11 – Review correspondence

- Phone call regarding proper way to handle a fraudulent prescription

Practitioner should not fill the prescription, but notify the proper authorities (local police).
Practitioner should not take the prescription. Staff will contact dispensing optician.

- Letter from Aaron Zimmerman, Ohio State University

Dr. Barney will send Dr. Zimmerman the advisory.

- ARBO President's Memo

Dr. Barney spoke about some conflicts between AOA and ARBO regarding accrediting bodies.
ARBO has COPE to handle accrediting & AOA is more of a political association.

- NBEO newsletter

ARBO President's Memo #2

- Virginia Board of OPT Email regarding billing codes

No, the state does not post, utilize, or distribute CPT codes nor does the state association.

Agenda item 12 – Budget Review / Division discussion

Sara Chambers, Operations Manager and Misty Frawley, Administration Officer for the Division joined via telephone at 2:00pm. Director Habeger discussed that the division completed the legislative supplemental allocation to "true-up" the past 10 years indirect expenses to better reflect a more fair distribution. The division also is awaiting the Lt. governor's office signature on a fee change for the Board of Optometry from \$200 to \$400 per biennial. The reason for the fee increase was due to significant expenses related to the law changes in the past few years.

Renewals are going to be a bit later than the division would prefer. Due to the legalities with the fee increase, the renewals can not go out until the law is enacted, which means they will be mailed at the end of November or early December 2012.

Agenda item 13 – Other Business/Schedule Meetings/Task List

The next Optometry board meeting is scheduled for April 19, 2013 at 9AM in Anchorage, Alaska.

Board of Examiners in Optometry – meeting minutes November 2012

Dr. Messerschmidt was appointed as the next board secretary once Dr. Swarner's term ends.

Recap TASKS/Projects from board meeting:

- Board members will respond to the correspondence
- Staff will work to get the advisories published

On a motion by Dr. Swarner, seconded by Dr. Barney and carried unanimously. The board having no other business adjourned the meeting at 2:43 p.m.

Respectfully Submitted:



Nate Vallier, Licensing Examiner



James Graves, OD, Chair

Date: 4/19/13