

BOARD OF EXAMINERS IN OPTOMETRY

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09-29-2021- Regular Session Minutes - Videoconference

- A. Call to Order** Virtual meeting was called to order at 9:35 am by the Board President, Dr. Mesheca Bunyon, O.D. Board members also present included Marcie Lerner, O.D.; Fran Burgos, O.D.; Mark Gordon, O.D.; Rona Pepper; Kelechi Mezu Nnabue, O.D. and Margaret Hubbard. Staff present were Patricia Bennett, Board Executive Director; Kecia Dunham, Licensing Coordinator; and Board Counsel Deb Donohue. Also present was Lillian Reese Legislation/Regulations Liaison, as well as Jennifer Cohen from MOA and Cheryl Frazier from MOA and Kim Link, MDH. Dr. Bunyon read the Board's opening statement into the record as well as the Board's mission statement and notice about public attendance.

Maryland Board of Examiners in Optometry Mission Statement

The Board of Examiners in Optometry was created in 1914 The Board of Examiners in Optometry is composed of five optometrist members in our case Mesheca Bunyon, O.D., Kelechi Mezu, O.D., Fran Burgos, O.D., Marcie Lerner, O.D., and Mark Gordon, O.D., and two consumer members Rona Pepper and Margaret Hubbard. All members are appointed by the Governor with the advice and consent of the Secretary of Health. The Board is mandated to regulate the practice of optometry in Maryland and protect the public health and welfare of its citizens by ensuring the delivery of vision services by qualified optometrists. It is the responsibility of the Board to:

- *Credential and license applicants
- *Certify optometrists to use diagnostic pharmaceutical agents and therapeutic pharmaceutical agents in practice of optometry
- *Promulgate and adopt regulations to govern the practice of optometry in Maryland
- *Monitor continuing education programs and continuing education compliance
- *Investigate complaints against licensees concerning alleged violations of the law
- *Conduct hearings concerning these violations
- *Discipline licensees found to be in violation of the law

COMAR 10.01 14.02 Public Attendance

- A. The general public may attend and observe an open session of a public body within or established by the Maryland Department of Health.
- B. Except in instances when a public body expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law a member of the public attending an open session may not participate in the session.

Dr. Bunyon asked whether there were any other people joining the meeting and to introduce themselves. Guests in attendance on the call were introduced.

B. Approval of Agenda: Dr. Bunyon asked for a motion to approve the agenda. It was properly moved by Dr. Mezu and seconded by Ms. Rona Pepper. The motion to approve the agenda unanimously passed.

C. Review and Approval of Minutes: The minutes were reviewed. Ms. Bennett asked if there were any additions or corrections to the minutes. Ms. Donohue stated that members who made the motion and seconded on adjournments needed to be added. The adjournment was 11.41 am.

It was properly moved by Dr. Burgos and seconded by Dr Gordon to approve the minutes as amended. The motion unanimously passed.

D. Committee Reports

1. Continuing Education - Fran Burgos, O.D.

He stated that some courses were approved for the MOA and also for Seidenburg and Protzko and also one more being awaited approval. Dr. Bunyon asked about if a licensee has a course that is not COPE approved, and Dr Burgos explained the way it can get approved - they needed to submit a course outline, CV and filled-out form. The speaker and sponsor have to submit the necessary paperwork. That way, they get the hours needed with materials enough for the hours. Issues were discussed.

2. Budget - Rona Pepper

End of Fiscal Year 21 Report: No figures were available due to COVID and we will have future reports.

As of 09/29/2021

Revenue Special Fund Total – N/A

Expenditures – N/A

Special fund Carryover Over to FY'22 - \$91,395

3. ARBO — Mesheca Bunyon, O.D.

Dr. Bunyon reported that there was no new information. She spoke about the new mobile app and the draft minutes from the annual meeting. It was a packed meeting attended by Pat Bennett, Executive Director; Deb Donohue, Board Counsel; Board members Dr. Mezu and Dr. Bunyon also attended. Dr. Bunyon described all the issues that were discussed and the new resolutions. Ms. Bennett also explained that the ARBO minutes were the approved minutes and will go to ARBO.

E. Old Business

Ms. Lilian Reese went over bills and regulations in process.

1. Regulations

Standards of Quality for TPAs —COMAR 10.28.12 - Regulation will be submitted to DSD for publication in the Maryland Register. She stated that this was published in the 8/27/2021 issue. At this point, Dr Burgos pointed out that the bill contained Glaucoma-Co Management and with the new law, there should have been no co-management. Ms. Donohue stated that we were missing a page in the packet. She shared the page on the screen regarding this issue. **In developing a [co-management] glaucoma treatment plan that ensures the maximum effectiveness for the patient, the therapeutically certified optometrist [and the ophthalmologist] shall consider the following...**

After a discussion, the issue was resolved since it was fixed in the page we didn't have.

2. Legislation

2021 Legislative Session — Bills impacting the Boards effective in FY22

HB 123/SB 3 Preserve Telehealth Access Act of 2021 — 7/1/21.

2022 Legislative Session - The Sunset extension bill is with the Department and they are getting a sponsor. We will wait and see - session starts in January.

F. Executive Director's Report: Executive Director's Report — Pat Bennett

1. NPDB: Certified Self-Query response:

The NPDB is now providing certified Self-Query responses! Ms. Bennett explained this in detail and now applicants have the ability to produce a certified self-query and then present this to the Board. One less thing the Board will have to pay for and save money. Ms. Bennett asked Dr. Bunyon if we wanted to vote on this and discuss. Dr. Gordon asked how we would collect it and Ms. Bennett explained the applicant will communicate with NPDB to get it certified. Ms. Dunham stated that it was easier for the Board to do because it saves time and also keeps it secure. With the applicant, they may not know how to do it. She also stated that it was only for partial waiver applicants. Further discussions were had and it was then agreed on to continue to have the Board do its normal process. Dr. Gordon asked for us to leave the way it was normally. A motion was made to keep it the way it was with Kecia getting the information. The Board agreed to leave it as status quo. No vote was needed.
2. Internal Controls and Audits:

Ms. Bennett explained more about this. This new unit handles actual results from legislative audits and financial disclosures. Office of Legislative Audits quarterly report was also discussed. She mentioned areas where the boards have had repeat findings. She also stated that there were certain areas the boards had some deficiencies and are in the process of responding and giving the corrective actions required.
3. Implicit Bias Training:

The legislation passed and all licensees have to take the training. It will be effective for our Board with the 2022 renewal cycle. The Department was tasked to come up with the Diversity and bias and inclusion training which is now on the Board website. The annual newsletter comes in January and Ms. Bennett proposed we send out letters explaining this new law and link for these courses. Dr. Gordon asked how many hours it was. Ms. Donohue explained more about the course. No credit for CE, but is just an additional requirement to renew your license. According to Ms. Donohue, it appears to be a one-time requirement. Ms. Dunham stated that since this was a one-time thing, then let everyone just do it before the renewal deadline. Ms. Link also added that if there were other courses being offered by other associations, that should be okay too for them to meet the requirement as long as they let the Board know. Dr. Gordon stated that he got information that you get credit for it and it costs 5 dollars. Ms. Bennett asked Dr. Gordon to email that information to her. More discussions were had and Ms. Donohue reminded us that the trainings had to be approved by the Department.. She shared the bill language and Dr. Gordon explained more. Ms. Cohen explained more and added that it was on our website and has a link to a self-training module. Ms. Bennett thanked Ms Cohen for her help.
4. Licensing Management Survey:

This report is due to the legislature December 1st. Ms. Bennett stated that the company handling this will take care of this process. She stated that it has already been done and they had till December to report on results.
5. New Board Member orientations:

Ms. Bennett stated she sent this to everyone. She wanted us to attend for new Board members and anyone who wanted to get a refresh. She stated Kim Link will discuss what is on the agenda for Friday. Ms. Donohue also stated an important speaker will be there for Friday.
6. Board Elections:

Ms. Bennett stated that all officer positions were open and explained that someone makes a

recommendation and nomination. She wanted Board members to start preparing for that. She also discussed the newsletter and possible topics so people can start thinking about topics to write or contribute.

G. New Business

1. Acceptance of online CE for the 2022 Renewal:

Dr. Bunyon stated that we are in alignment with COPE. Dr. Bunyon discussed the CE requirements. Ms. Dunham also explained the different scenarios. Board members asked many questions regarding the 10-hour credit, online CE requirements since all of this is in the middle of a pandemic. Ms. Bennett quoted that our law at §11-309 states that the board may waive CE requirements and the pandemic is a hardship and can waive requirements and can accept all online. Dr. Gordon agreed that this made sense and he made a motion to waive requirements for in-person CEs for all licenses renewing in 2022 and seconded by Dr Lerner to accept all CEs online through the renewal. The motion unanimously passed.

2. Licenses Issued:

The Board approved licenses that were issued to the following applicants.

RegAlph	RegNum	LName	FName	OrigLicDate	ExpDate
TA	2821	Hsiao	Nicole Marie	26-Jul-21	30-Jun-22
TA	2822	Patel	Priyanka Jigar	27-Jul-21	30-Jun-23
TA	2823	Tsay	Sonia	10-Aug-21	30-Jun-23
DA	2824	Bentley	Gillian	12-Aug-21	30-Jun-22
TA	2825	Silva	Camille Elena	16-Aug-21	30-Jun-23
TA	2826	Hogan	Alexis Clay	20-Aug-21	30-Jun-22
TA	2827	Guo	Emily Christine	15-Sep-21	30-Jun-22
TA	2828	Yoseph	Bethel	20-Sep-21	30-Jun-23
TA	2829	Valle	Amanda	21-Sep-21	30-Jun-23
TA	2830	Kane	Colin Patrick	21-Sep-21	30-Jun-22
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A motion was made by Dr. Mezu and seconded by Ms. Hubbard to approve the 10 licensees. The motion unanimously passed.

3. Telehealth Discussion:

A letter brought up by Ms. Cohen from the MOA was discussed. It was stated that we may not arrive at a conclusion at this meeting and legal may have to get involved. Dr. Gordon asked why we cannot bring it up and start it here and Board counsel, Ms. Donohue stated that disciplinary actions are not usually done in open session and has to be in a closed quasi-judicial setting. Dr. Bunyon also stated that she had a patient complain about doing an eye exam on a screen and she was not sure if the doctor was a Maryland optometrist or not. Dr. Gordon stated that these telehealth exams are getting billed to insurances and getting paid and the doctor's name has to be on those forms being submitted to insurance companies. The prescription has to be a signed and given to the patient. Dr. Gordon also talked to the head of doctors at VSP and VSP sent someone to his office to discuss this issue. He stated that they were offering Optos to their premier locations to cut Drs.out and use techs and cameras to do exams for patients which hurts patient care and patient care quality.

Ms. Cohen reiterated this position and stated that a position paper we write as a Board will help

with this situation. She discussed the issue with VisionWorks doing exams remotely and also 1-800 Contacts doing mobile vision apps. She stated that these companies also state on the website that their machine is not FDA approved. Dr. Mezu stated that VisionWorks in Cockeysville is doing the same thing with telehealth. Dr. Lerner stated For Eyes is also doing the same thing and has previously sent an email on this issue.

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1. Recorded vote to close the meeting:

Date: 09/29/2021; **Time:** 10:48 am; **Location:** Google Meet (virtual)

Motion to close meeting made by: Dr. Gordon; **seconded by:** Dr. Lerner;

Members in favor: Dr. Bunyon, Dr. Mezu, Rona Pepper, Dr. Burgos, Dr. Gordon, Dr. Lerner, Margaret Hubbard; **Opposed:** none; **Abstaining:** none; **Absent:** N/A

2. Statutory authority to close session.

This meeting will be closed under General Provisions Art. § 3-305(b) only:

- (1) "To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals";
- (7) "To consult with counsel to obtain legal advice.

3. For each provision checked above, disclosure of the topic to be discussed and the public body's reason for discussing that topic in closed session.

Citation (insert # from above)	Topic	Reason for closed-session discussion of topic
§3-305(b)(1)	Personnel matters	To discuss employee performance
§3-305(b)(7)	Scope of practice of optometry	To obtain legal advice regarding the statutory requirements for the practice of optometry.

4. This statement is made by Dr. Mesheca Bunyon, Presiding Officer.

Purpose(s): to discuss personnel matters involving employee performance; to obtain legal advice regarding the statutory requirements for the practice of optometry.

Members who voted to meet in closed session: Dr. Bunyon, Dr. Mezu, Rona Pepper, Dr. Burgos, Dr. Gordon, Dr. Lerner, Margaret Hubbard

Persons attending closed session: Dr. Bunyon, Dr. Mezu, Rona Pepper, Dr. Burgos, Dr. Gordon, Dr. Lerner, Margaret Hubbard, Deb Donohue (Board Counsel)

Authority under § 3-305 for the closed session: (b)(1) – to discuss personnel matters that affect one or more specific individuals; and (b)(7) - to consult with counsel to obtain legal advice.

Topics actually discussed: As listed above. **Actions taken:** None.

Each recorded vote: At 11:48 am, on motion by Dr. Gordon and seconded by Dr. Mezu, the Board unanimously approved adjourning the closed session and returning to the open session.

Adjournment of closed session.

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Session opened again to the public at 11:53 am.

With no other new business, Dr. Bunyon asked for a motion to adjourn the regular session. It was properly moved by Dr. Lerner and seconded by Ms. Pepper to adjourn the regular session. The Board's vote was unanimous. The motion passed.

The meeting adjourned at 11:53 a.m.

Respectfully submitted,

Dr Kelechi Mezu
Board Secretary