

## BOARD OF EXAMINERS IN OPTOMETRY

### 11/18/2020 - Regular Session Minutes - Videoconference

**A. Call to Order** Virtual meeting was called to order at 9:32 am by the Board President, Mesheca Bunyon O.D. Board members also present included, Kelechi Mezu Nnabue, O.D., Mark Gordon, O.D. Marcie Lerner, O.D. Fran Burgos, O.D., Rona Pepper and Margaret Hubbard. Staff present were Patricia Bennett, Board Executive Director, Kecia Dunham, Licensing Coordinator, Board Counsel, Deb Donohue. Lillian Reese Legislation/Regulations Liaison was on the call. Guests in attendance on the call included Cheryl Frazier and Jen Cohen, MOA. Dr. Bunyon read the Board's opening statement into the record at 9:33 am and read 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**

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 also asked if there were any other people joining us today. She asked for them to introduce themselves. Cheryl Frazier from MOA and Jen Cohen from MOA introduced themselves. Lillian Reese was also on the call. Based on google meet count, there were 14 people at the meeting.

**B. Approval of Agenda:** Dr. Bunyon asked for approval of the agenda. Rona Pepper made a motion seconded by Dr. Mezu and motion passed.

**C. Review and Approval of Minutes** The minutes were reviewed at 9:39 am. A motion was made by Dr. Burgos to approve minutes with the corrections and it was seconded by Rona Pepper. Motion passed.

### **D. Committee Reports**

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

Dr. Bunyon asked Dr. Burgos to discuss the proposed new COPE categories and COPE's decision regarding interactive online CE. He stated that enduring distance learning can be submitted as live. He also discussed the CEE and those with exams were not included in the waiver.

Per COPE: Due to continued state restrictions and CDC guidelines related to COVID-19, COPE has made the decision to extend the temporary rules modification to allow COPE Administrators and Providers to present CE activities through an INTERACTIVE ONLINE format and give LIVE COPE CE credit through June 30, 2021. COPE previously announced a temporary modification to the rules through December 31, 2020.

As part of COPE's ongoing effort for continuous improvement, the COPE Governing Committee has done an extensive review of the course category definitions. The committee's recommendations for updating and modernizing the course categories are attached. In an effort to streamline the COPE accreditation process, the committee is also recommending

combining some categories and eliminating one category. Since many State and Provincial Boards have specific requirements regarding course categories, it is very important that COPE receives your input before moving forward with making any changes.

COPE has temporarily modified its rules to allow COPE Administrators and Accredited Providers to give LIVE credit for CE courses if they are presented in an INTERACTIVE DISTANCE LEARNING format. In order to be considered interactive, attendees must be able to have immediate interaction with the instructor (i.e. live webinar, videoconference). The activity can only be presented at one specified time, and once it has taken place the learners may no longer participate in that activity, COPE Administrators and Accredited Providers must have a way to confirm the learners' attendance for every course before issuing certificates of attendance. Post-course tests will not be required for this modified type of activity.

If a course is virtual and interactive, it is accepted as live. If a person has to watch it only, then it must have a post assessment. If live, it can be taken as many times as possible.

Dr. Burgos also discussed the questions about co-management and invasive ophthalmic procedures. He suggested that the PO category include non- invasive and as well as invasive ophthalmic surgery to cover different rules in different states.

Ms. Bennett stated she will send the suggestions as directed by the vote. These changes were voted on by the Board on amendment of COPE categories regarding invasive and noninvasive ophthalmic procedures. A motion was made by Dr. Burgos. Motion was adopted after being seconded by Dr. Mezu.

Dr. Bunyon also stated that we needed to make a vote regarding the 10 hours of Maryland in -person CE required so that due to COVID, the courses could be taken online and approved till June 30th 2021. Motion was made by Rona Pepper to accept all 50 hours online without the 10 hour in person requirement, and motion was approved and passed after being seconded by Dr. Mezu after a brief amendment and explanation by Patricia Bennett.

2. **Budget - Rona Pepper - As of 11/10/20 for FY 21**
  1. Expenditure Budget Available - \$231,800
    - a. Expenditures to date \$74,625
  2. Special Fund Balance - \$142,220

3. **ARBO- Highlights by Mesheca Bunyon, O.D.**

Dr. Bunyon stated that there was no new correspondence.

**E. Old Business**

**1. Telehealth Regulation:**

Lillian Reese stated in her updates that it was still with the Secretary. She mentioned he was retiring December 1st and hopefully will get to it.

**Closed Session**

Dr. Bunyon read the closing statement as directed by Board counsel regarding the matters in front of the Board that required it to go into closed Session. Dr. Bunyon also read the statutory provisions for closing the open meeting as directed by Board Counsel Deb Donohue.

A motion was made by Dr. Burgos to close this meeting to go into Closed Session to discuss some issues. The motion was seconded by Dr. Gordon. The meeting will resume between 10:30 am and 10:45 am.

Time of closed session: 9:58 am

Place: Google Meet

Purpose(s): to obtain legal advice regarding the content of the Maryland Law Exam, the legal requirements for contract provisions, and statutory requirements for the practice of optometry; to discuss the proposed questions for the qualifying examination for license applicants and licensees for optometry; and to discuss specific contractual provisions for negotiation of a final contract.

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

Persons attending closed session: Dr. Bunyon, Dr. Burgos, Dr. Gordon, Dr. Mezu, Dr. Lerner, Rona Pepper, Patricia Bennett, Kecia Dunham, Deb Donohue.

Authority under § 3-305 for the closed session: (b)(7) - to consult with counsel to obtain legal advice; (b)(11) - to prepare, administer, or grade a scholastic, licensing, or qualifying examination; (b)(14) - before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

Topics actually discussed: As listed above. Additionally, the Board obtained legal advice regarding a request for information by a licensee.

Actions taken: 1. on motion by Dr. Gordon and seconded by Dr. Lerner, the Board unanimously accepted the NBEO-OSLE contract amendments. 2. On motion by Dr. Gordon and seconded by Ms. Pepper, the Board unanimously approved responding to a request for information. 3. On motion by Dr. Gordon and seconded by Dr. Mezu, the Board unanimously approved 35 exam questions and authorized Dr. Lerner and Dr. Bunyon to develop 15 additional questions.

Each recorded vote: see above. At 10:42 am, on motion by Ms. Pepper and seconded by Dr. Burgos, the Board unanimously approved adjourning the closed session and returning to the open.

Ms. Hubbard due to a COVID Outbreak at work was not able to log back in and did not participate in the Closed Session.

### **Executive Director's Report -**

**1. ARBO Board** - ARBO plans to send a statement to all member Boards about the NBEO-ARBO contract as it relates to their relationship and the exam. She also stated that there was nothing to add other than she attended the Board's fall meeting virtually and that the ARBO Green Sheet, newsletter, was sent to Board members.

**2: Newsletter:** The newsletter template was discussed and Ms. Bennett asked for volunteers to draft articles and send to her and Kecia before December 15th. The annual newsletter will be disseminated in January of the New Year.

**3. MDH practice guidelines:** Ms. Bennett reiterated that she continues to post all Governor and

MDH Secretary Orders that impact licensed optometrists in their work environments and their use of judgement when practicing and seeing patients.

**4: Vaccines:** The Department may extend the opportunity for licensees to administer the COVID-19 vaccine when it becomes available. Dr. Gordon also asked questions about workplace exposure of employees and patients and whether practices had to close etc. There was no uniform consensus.

**5... 2022 Legislative Proposal.** The Board needs to discuss any bill to clean up its statute that it wants to put forth. It takes a while to work on and a proposal will need to be submitted to the Department in the spring of 2021 for the 2022 legislative session. She reminded the Board and Dr. Mezu, who is our legislative liaison that the Board needs to vote on taking positions or submitting letters for any bills of interest. She also mentioned that there was a bill on Implicit Bias Training that may be required for licensees to take.

## **G... New Business**

**1. Licensees issued - October - November 2020**The Board approved the 4 applicants for licensure listed below.. Dr. Mezu made a motion to approve and Dr. Lerner seconded the motion to accept. The Board's vote was unanimous.

TA 277 Jesse Fertig	10/5/20
Ta 2778 Marissa Gomez	10/28/20
TA 2779 Sharon Williams	10/30/20
DA 1187 Steven Sharma	10/23/20

## **2. Federal Contact Lens Rule**

Here is a link to more information <https://www.ftc.gov/tips-advice/business->

[center/guidance/contact-lens-rule-guide-prescribers-sellers.](#)

This rule was discussed and questions were asked. Dr. Lerner also quoted a section of the new rules that stated when a contact lens exam starts and ends in response to a question by Kecia Dunham. It does depend on the clinical judgement of the prescribing optometrist.

Dr. Mezu stated that she shared CDC guidelines regarding COVID-19 exposure.

### **3. Credentialing**

Scope Expansion: There are 45 licensees who have not taken the 10 hour course to date - 10 with 2020 expiration dates and 35 with 2021 expiration dates. Due to the pandemic, the date for completion of the course has been extended until 30 days after the state of emergency has been lifted.

### **H. Adjournment**

Dr. Bunyon adjourned the open session at 11:23 a.m. and convened an administrative session to discuss administrative matters and quasi-judicial matters and to comply with in order to comply with specific constitutional, statutory or judicially imposed requirements that prevent public disclosure about a particular proceeding or matter and to discuss the investigation of complaints against specific licensees. Motion was made by Dr. Lerner and seconded by Dr. Burgos, O.D. The Board's vote was unanimous. The motion passed.

Respectfully submitted,

A handwritten signature in blue ink that reads "KR Mezu". The letters are cursive and somewhat stylized.

Dr. Kelechi Mezu Nnabue, O.D., Secretary