

BOARD OF EXAMINERS IN OPTOMETRY

A

Regular Session Minutes

Wed. November 29, 2017
MDH Metro Executive Center
4201 Patterson Avenue #105
Baltimore, MD 21215
9:30 a.m.

The regular session of the Board of Examiners in Optometry's meeting was held on Wednesday, November 29, 2017. Board members present were, Andrew Doyle, O.D., Mesheca Bunyon, O.D., Francisco Burgos, O.D., Kelechi Mezu Nnabue, O.D., Brian T. Woolf, O.D., Frederick J. Walsh, Ph.D., and Rona D. Pepper. Also present was Ari Elbaum, Board Counsel, Patricia G. Bennett, Board Executive Director and Kecia Dunham, Licensing Coordinator. Guests present were Allan Brull, O.D., Sheldon Diskin, O.D. Janice Simmons, O.D. Sharon Bloom, and Kim Lang, Department Workforce Liaison. Also present was Adam Malizio, the Board's newly assigned Board Counsel.

A. Call to Order

Andrew Doyle, O.D., Board President, called the regular session to order at 9:38 a.m. and read the following statements into the record:

Maryland of Examiners in Optometry Mission Statement

The Board of Examiners in Optometry was created in 1914. It is composed of five optometrists, Dr. Andre Doyle, Dr. Fran Burgos, Dr. Mesheca Bunyon, Dr. Kelechi Mezu, and Dr. Brian Woolf and two consumer members, Dr. Frederick Walsh, and Ms. Rona Pepper 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 to ensure the delivery of vision services by qualified optometrists. It is the responsibility of the Board to:

- Credential and approve applicants for licensure
- Participate in administration of national licensing examination
- 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 and conduct hearings concerning these violations
- Discipline licensees found to be in violation of the law
- Evaluate and monitor the quality assurance program and standard of care for the citizens of the state

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. Doyle invited guests who were present to introduce themselves.

B. Minutes

The regular session minutes of the September 27, 2017 meeting were reviewed with the following corrections: Page 2 under Old Business, remove the extra space between the word "Decision" and an "s" and Under Executive Director's Report, add the FY' 19 budget amount "\$306,932.00". A motion was made by Dr. Walsh and seconded by Dr. Bunyon to accept the minutes as written. The Board's vote was unanimous.

C. Committee Reports

1. Continuing Education – Dr. Woolf
Review of COMAR 10.28.02-Continuing Education

Dr. Woolf reported that the committee will be meeting on a monthly basis for three months to give the continuing education regulation a comprehensive review. During that time, the MOA may introduce legislation that could result in amending the current CE regulation.

National Glaucoma Society

The CE Committee received a Request by Sponsor for Approval of Continuing Education from the National Glaucoma Society requesting approval for six live webinars via the internet. The course is streamed live over the internet using Cisco technology that allows the optometrist to interact directly with the speaker in real time and all attendees must reply to random questions by the host during the webinar. Participants must remain on the webinar for at least 50 minutes to receive full CE credit. All of the lectures are COPE qualified as live courses. A motion was made by Dr. Walsh and seconded by Dr. Woolf to approve the six webinar courses submitted by the National Glaucoma Society as lectures. The Board’s vote was unanimous.

2. Budget – Rona Pepper

Ms. Pepper reported that as of November 7, 2017, the FY’18 budget figures are as follows:

Special Fund Balance (Revenue)	\$133,348
Budget Balance (Expenditures)	\$195,339

3. QEI – Dr. Doyle

Dr. Doyle reported that the QEI meeting was October 26, 2017 and the Committee reviewed records from the 2016 Record Review Audit and determined that only three optometrist’s records did not meet the minimum Standard of Care for a therapeutically licensed optometrist and their records will be reviewed next year. Dr. Doyle also stated that the QEI Committee generally creates Educational Topics with a post exam to give optometrists CE credits. However, since the Board is moving toward accepting only COPE approved programs, the committee decided not to draft topics and an exam. Dr. Doyle will include an article in the Board’s annual newsletter to inform optometrists about the major areas of concern, i.e. Diagnosing Corneal Ulcers. TPA ODs have made it clear, sometimes very angrily, that the process involved in collecting TPA records seems unnecessary and burdensome. The QEI committee does recognize the burden put upon TPA ODs, but also recognizes that this process is part of what is required to practice optometry in Maryland. The Committee is also requesting that any ODs interested in serving on the committee should contact the office.

4. ARBO – Dr. Doyle

Dr. Doyle reported that there was nothing to report at this time.

D. Old Business

1. Regulations

COMAR 28.04 OAH – Review of Decisions and Actions of Health Occupation Boards

Dr. Doyle reported that the supervision outlined in these procedures is intended to prevent the unreasonable anticompetitive actions by a Board or Commission and to determine whether the actions of a Board or Commission furthers a clearly articulated State policy to displace competition in the regulated market.

2. Legislation

HB275/Chapter 183, MDH-Recommended Courses in Military Culture
SB 503- Health Occupations Boards-Racial and Ethnic Health Disparities-Information
Campaigns-Reporting

Dr. Doyle stated that HB 275 required the Department of Health in consultation with the Department of Veterans Affairs to provide to health occupation boards a list of recommended courses in military culture. The Office of Minority Health and Health Disparities must provide to each board a list of recommended courses in cultural and linguistic competency, health disparities and health literacy. This Act took effect October 1, 2017 and each board must: (1) Post the list of recommended courses provided to the board (2) Provide information about the recommended courses to health care professional at the time of renewal of licensure (3) Advertise the availability of the recommended course in newsletters and any other media published by the Board. Ms. Bennett indicated that there was a link on the Board's website to these courses.

3. MTA Reduced Fare Program

The Reduced Fare Program sponsored by the MTA allows visually impaired people to get free bus passes and other services. The Board had voted to allow the MTA to send letters regarding the program to licensees on Board letterhead, however it had not been sent out as of the September 27th meeting. The letter was sent on October 10, 2017 and a copy was included in the Old Business agenda.

E. Executive Director's Report - Patricia Bennett

1. Department News/Updates –

Meeting with Secretary Schrader

The Secretary met with the Executive Directors on October 4, 2017. The meeting included the Secretary's overview of his meeting with Board Charis/ Presidents; feasibility of shared services among the Boards, including investigator services; infrastructure costs, such as rent, IT, HR; AG costs and development of performance points for Board counsel and Prosecutors; potential for live streaming meetings or meetings off-site; rational for statewide licensing portal (Enterprise Licensing System).

Appointment of Director of Health Occupations Boards and Commissions

Secretary Schrader announced via email on October 18, 2017, the appointment of Kimberly Lang. The email was forwarded to Board members.

Occupational Licensing Study

Maryland is one of 11 states that will participate in a multi-year study to learn about occupational licensing in other states and to implement actions to remove barriers to labor and improve portability and reciprocity. The Department of Labor, Licensing and Regulation applied to be a part of the study. The Health Occupation Boards are not included at this point but Kim Lang, newly appointed Director of Health Occupation Boards and Commissions, will sit in on meetings.

Secretary Schrader Moved to New Post

The Governor appointed the Secretary as the acting deputy secretary of Medicaid while he continues to serve as acting secretary of the Department during legal battle which ensued as a result of his not being confirmed by the legislature and not being paid.

Department Audit

The Department of Health was cited as unsatisfactory in accountability and compliance levels during the Office of Legislative Audits' review of the expenditures within the executive and leadership budget units. There were 49 recommendations made for corrective action.

Sexual Misconduct Report

The Board completed the 2016-2017 report that goes to the General Assembly. There were two complaints received involving two licensees resulting in one informal action and one referral for prosecution.

AELR Annual Hold for Submission of Regulatory Proposals – 12/11/17 – 2/12/18

The Board had submitted a Notice of Regulation Development stating that the CE regulation would be reviewed and a proposal submitted by October 2017. The Board decided to wait and submit a proposal in spring 2018, following the introduction of legislation that if passed would require a revision of the regulation.

2. New Board Member Training- 12/4/17

Dr. Burgos and Ms. Bennett will attend the session.

3. ARBO Board Meeting

Ms. Bennett attended her first meeting of the ARBO Board of Directors in Nashville, TN, September 30 – October 1, 2017. Some points of interest – Approval of the signing of a contract with the Four Seasons in St. Louis, MO for the 2019 Annual Meeting and exploring hotels in Old Town Alexandria, VA and the Gaylord National Harbor for the 2020 Annual Meeting; approval of a six month agreement with a marketing firm to develop a PR plan and messaging for better communication with member boards and other stakeholders; approval for COPE to begin the process to join the Joint Accreditation for Interprofessional Continuing Education group; drafting of a model telehealth regulation/policy.

4. COPE Accreditation Program

The documents were included in the agenda for Board members to review again as the Board considers and explores the possibility of only accepting COPE approved CE.

5. 2018 Board Retreat

The retreat will tentatively be scheduled in late summer/early fall 2018 when the two member vacancies will be filled. The Mt. Washington Conference Center is one of the suggested locations to hold the one-day retreat.

6. **PIA Request from State Ethics Commission**

Ms. Bennett had a teleconference with the General Counsel for the State Ethics Commission as a follow-up to its investigation of Fells Point IT, the company that submitted a proposal to the Board for the development of the online application process, online renewal update and license printing feature. There has been no communication or payment by the Board to the vendor.

7. **Optometrist Rehabilitation Committee § 11-405**

Ms. Bennett suggested that in light of the opioid crisis, there should be an article included in the Board's newsletter about the committee and resources available to licensees and their patients.

8. **2018 Board Newsletter Template**

The template was reviewed and edits were made to the draft. Dr. Walsh agreed to submit an article under the Consumer's Corner section. Dr. Walsh suggested that the Board post on its website a FAQ section to address the issues and questions that Board members and staff regularly receive rather than including articles on these subjects in its newsletter. The remaining articles will be drafted by staff.

F. **New Business**

1. **Licensees Issued** - A motion was made by Dr. Woolf to approve the licenses issued to 6 new licensees and it was seconded by Dr. Walsh. The Board's vote was unanimous.

2. **NBEO Online State Law Exam**

The NBEO has an Online State Law Exam (OSLE) program to assist the state boards in administering their optometry jurisprudence exams. The benefits are that the information is available as multiple choice, true/false, and essay. Participating state boards can customize and maintain control and it's easily accessible. The fee for applicants is \$25.00 and registration and completed exam notifications are easily provided. After favorable discussion, the Board decided to table the issue for further deliberation at the next Board meeting.

Dr. Doyle closed the regular session at 11:00 p.m. to move into administrative session 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. The motion was seconded and passed unanimously.

Respectfully submitted,



Brian Woolf, O.D.
Board Secretary