

BOARD OF EXAMINERS in OPTOMETRY

**4201 Patterson Avenue
Baltimore, Maryland 21215**

General Session Minutes

5/25/2022

- A.** Call to Order: The Board meeting was held in person and was called to order at 11:15 a.m. by the Board President, Dr. Mesheca Bunyon, O.D. Board members also present include Marcie Lerner, O.D., Francisco Burgos, O.D.; Mark Gordon, O.D.; Rona Pepper (call in) Staff present were Gwendolyn A. Joyner, Executive Director, Shakiera Wade, Office Clerk, Rhonda Edwards, Deputy Counsel, Board Counsel.

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. Board staff include Gwendolyn Joyner, Executive Director, Shakiera Wade, Office Clerk. Board Counsel Rhonda Edwards, Deputy Counsel. 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 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.

B. Approval of Agenda:

Dr. Bunyon asked for a motion to approve the agenda. A motion was made by Dr. Burgos and seconded by Dr. Gordon to approve the May agenda, the agenda unanimously passed.

C. Additions/Corrections to Agenda

A motion was made by Dr. Burgos and seconded by Dr. Gordon to approve the March minutes with the noted corrections: to add entering Executive Director Gwendolyn Joyner to page 1, add Dr. Gordon on page 2 and remove the repeat sentence Dr. Lerner page 2, page 8 add the time the meeting adjourned, change Posttest.

D. Review and Approval of Minutes

E. Committee Reports – Fran Burgos, O.D.

There were 4 courses submitted by the Maryland Optometric Association

- Spring ES0S CE Dinner Meeting
- State Library Resources for the Blind Prime Disabled.
- Live (in person) CE Meeting and On Demand Course
- Low Vision

A motion was made by Dr. Gordon and seconded by Dr. Lerner to approve the 4 CE courses stated by the Maryland Optometric Association.

2. Treasurer's Report — Rona Pepper, As of May 17, 2022

Revenue \$98,773.00

FY 21 Special Fund Carry over is \$89,170.71

Expenditure Budget - \$194,573.18

-\$6,629.47 until renewals are complete

Ms. Joyner stated that she has asked the Fiscal Officer to attend the July 27, 2022, virtual Board meeting to inform the Board what the Budget will be for FY2023 and discuss fee increases.

President's Report:

Dr. Bunyon testified for the SB202 on March 31, 2022, virtually. The SB202 extension was originally submitted to extend for 10 years. During legislative session the Senate wanted the Board to extend for only two years. Dr. Bunyon met with the Health Occupations Long Term Care Subcommittee on April 4, 2022, at 10:00 a.m. no additional information was requested, the Amendment was not approved. There were two Boards that were not approved, the Optometry Board is one of those Boards. The Bill will need to be submitted again for 2023 Legislative Session. Lobbyist may be able to assist with finding out what is going on in Annapolis. Dr. Gordon stated he will contact Jennifer Cohen, Executive Director of the Maryland Optometry Association, to discuss in more detail.

Maryland Optometry Association sent an inquiry to the Board of Examiners in Optometry regarding new contact lens.

1. Part 1 -Can an OD, **prescribe** this product? Please respond **Yes** or **No**?
 - Yes, it does fall under the Optometrist Scope of Practice because it is a contact lens.
 - If no, why not? Is there a requirement for additional licensure or certification to prescribe prescription drugs? If so, what is the process?
 - Are you aware of any prohibition on prescribing a drug-eluting contact lens that is regulated as drug under federal law? If so, please provide the reference, if known?
2. Would this product have to be added to the Optometry Statute drug formulary before an OD can prescribe a contact lens? Please respond Yes, No or Maybe? The answer is **no**, Optometrist already prescribe anti allergy medication and they prescribe contact lens.
3. Is there a statutory requirement for OD to conduct a "lens on eye" evaluation in order to prescribe a contact lens that is a drug? **Yes**
4. Is there any other relevant information or additional requirements for an OD prescribing a **drug**-CL in your State of which we should be aware of? No, because it is already in their scope.

Part 2: Samples

1. Can an OD, **sample** this product? Please respond **Yes** or **No** if no, why not?
Yes, an OD can sample the product because they sample contacts and drugs.
2. Are there any additional state statutes or regulations to take into consideration for **samples**? No Optometrist already do samples.

Such as: Is a Maryland pharmacy dispensing license needed to distribute a sample?

- Does state law require ODs to keep drug sampling logs? If so, what information is required in the logs? **No State law does not require drug sampling logs.**
 - Does drug sample need to be in locked up or secure area while in OD office? **Samples are kept but they are not locked up.**
3. Is there a requirement for OD to conduct a “lens on eye” evaluation in order to **sample the product**? **Yes, because it is a fitting.**
 4. Is there any other relevant information or additional requirements for sampling a drug in Maryland of which we should be aware? **No**

PART 3: Dispense

Defined as: An Optometrist (OD) who can distribute pharmaceuticals to patients from their office and charge the patient for the product.

1. Can an OD **dispense** this product? Please respond **Yes or No**. If no, why not? **No -they can sell vitamins and contact lens.**
2. If an OD can dispense prescription drugs, does the OD have to have a valid pharmacy license or other certifications? Please respond **Yes or No**. **No, you do not need a pharmacy license, but you must be TPA certified to do each part, Part 3 #2.**
3. Are there any additional regulations to take into consideration? **No.**

Part 4: Potential Changes to State Law or Regulation

4. Would the BOE consider supporting updates to State Laws or regulations necessary that would be applicable to OD prescribing, sampling, or dispensing a product like the NDA CL drug device delivery system? **No, it is not necessary to add to the Statute or regulations because it falls under the Scope of Practice for Optometrist.**

A motion was made by Dr. Gordon and seconded by Dr. Lerner to send the answer to the questions by email to Jennifer Cohen, Executive Director of the MOA.

Question– Whether licensed Optometrists may procure (i.e., place an order for) prescription devices and hypodermic needles and syringes from a wholesaler based on their individual license? Board’s Response - The Board does not provide legal advice to individual practitioners.

Scope of Practice Question

Question -Email received the Director Health Policy for Ocular Therapeutix stating that in January he received a new Category 1 Code CPT 68841-1 insertion of drug eluting implant, including punctal dilation when performed, into the lacrimal canaliculus, each which is being

denied by some national and regional insurance carriers stating this procedure is not within the scope of practice for Optometry.

The Director provided an overview of the company and listed various product information. He asked that a letter be prepared that he can pass along to the MACs and payers that this procedure CPT 68841 is comparable to the various punctal plug codes listed above and is well within the scope of practice for optometry in the State of Maryland. **Board does not use its weight and authority to lobby for CPT codes and recommended that he contact the MOA.**

Optometrist May Delegate Medication Administration to Unlicensed Assistive Personnel

Board staff received an email requesting information from states who have specified in law whether Optometrists may delegate medication administration to unlicensed assistive personnel such as paraoptometric or ophthalmic technicians and would like to know if Maryland State Laws explicitly allow this activity, prohibit this activity, or are silent on this activity? **Members are silent on this activity**

Board staff received an email from Dr. Morris Berman, Adjunct Professor of New England College of Optometry. He stated he represents the New England College of Optometry, located in Boston, MA. Optometry degree program is planning to establish educational training sites in Maryland as part of a hybrid program to train students in laboratory procedures and patient care. These will be offered in community health clinics and private optometry practices in Maryland. **Dr. Berman's question:** Will the establishment of these education sites require program approval from the State Higher education Department? **No, Dr. Moore will need to contact the England College of Optometry.**

Board staff received an email from Gregory S. Moore, O.D. He would like a license in Maryland. He stated he has taken and passed the TMOD. Dr. Moore will be required to follow what is written in the Statute and regulations (for certification) to become certified in the State of Maryland.

Dr. Bunyon and the Executive Director will attend the ARBO Annual Meeting from June 12 -June 14, 2022.

F. Old Business

- Legislative Update – Board members received a copy of the Legislative End of Session Report.
- Draft Sunset Bill for FY2023.

A motion was made Dr. Gordon and seconded by Dr. Burgos that the Board submit the State Board of Optometry Sunset Extension to terminate after July 2033 that is the change.

G. Executive Director's Report — Gwendolyn Joyner

- 2022 Renewal Cycle Update – Implicit Bias Training

Jennifer Cohen, Executive Director of MOA prepared the Declaratory Ruling Attestation form for licensees to complete as proof they completed their Implicit Bias Training. Board members recommended that the Declaratory Attestation form is uploaded to Maryland Optometric Associations website as well for O.D. access. Ms. Joyner met with Lisa Fennell from ARBO to discuss how licensees can upload their Implicit Bias CE to the OE Tracker.

- **Executive Memorandum** – Implicit Bias was an FYI sent to the Executive Directors
- **Standard Operating Procedures** – Small Boards are working together to put SOPs in place as a guide, this is due to the audit findings.
- **Licensing Coordinator** — Ms. Joyner stated she asked for a new list for the Licensing Coordinator position, there were 3 candidates who interviewed but they had no licensing experience. Ms. Joyner has contacted Human Resources to request that the position be reposted.
- **Board Communications – Gov Delivery Update**
Working on finding out the price for wireless texting to licensees. IT staff informed Ms. Joyner that the licensees would not be able respond to the text, it would not be necessary, to receive a response from the licensee by text.
- Ms. Joyner has asked Ms. Beyer to attend the July 27, 2022, Board meeting to provide information about the Board’s budget for FY2023.
- ARBO Annual Report for 2021 was submitted to Lisa Fennell, Executive Director.
- Ms. Joyner introduced Shakiera Wade as the new contractual Office Clerk.

H. New Business

New Licensees

- Nicole Wynn, O.D.
- Lauren Watson, O.D.
- Ariana Jordan, O.D.

A motion was made by Dr. Gordon and seconded by Dr. Burgos to approve the licensees issued.

Docuexplorer

Ms. Joyner explained to Board members the services that Docuexplorer would provide. Documents can be scanned and there would be no paper documents, and keep documents secured. Several Boards have used Docuexplorer for years, Docuexplorer would like for other Boards to join, the price will be cost effective if Boards join during the same time. There is an upfront initial cost, monthly maintenance fee of around \$130.00 a month, there will be annual renewal fee.

Dr. Gordon made a motion and it was seconded by Dr. Lerner to accept adopt Docuexplorer.

The next Board meeting will be virtual on July 27, 2022 at 9:30 a.m.

On a motion made by Dr. Lerner and seconded by Dr. Burgos, the public meeting was adjourned at 1:05 p.m.

Sincerely,

Original Signature on File

Gwendolyn A. Joyner, Executive Director