

BOARD OF EXAMINERS IN OPTOMETRY



AGENDA

General Session (Public) Meeting
Wednesday, May 31, 2023 – 9:30 AM-11:00 A.M.

- A. Call to Order at 9:30 a.m.
- B. Additions/Corrections to Agenda
- C. Approval of Agenda
- D. Review and Approval of General Session Minutes – March 29, 2023
- E. Legislative Update – Lillian Reese, Legislative and Regulations Coordinator
 - End of Session Report 2023
 - Concept Paper for Sunset Bill – Legislative Session 2024
 - Sunset Extension Bill
 - Bill for CHRI – State and FBI – Legislative Session 2024
 - Telehealth Regulations
- F. **Committee Reports – Dr. Burgos**
 - CE Approvals for FY2024
 - Ocular Foreign Body Removal Workshop July 16, 2023, and October 22, 2023 Maryland Optometric Association.
 - Seidenberg Protzko Eye Associates, Our Favorite Cases 6/14/2023
 - Clinical Observation

G. Treasurer's Report -Gwendolyn Joyner, Executive Director

H. President - Mesheca Bunyon, O.D.

- Email -Board of Examiners in Canada
- Email – Can a Doctor Request records from another Doctor without any patient signature.
- Email – Would like to know what the Board's view would be on the use of a device such as a horoscope or digital slit lamp, by a technician as a delegated function, to record an examination of the anterior eye and adnexa for review by an OD.

I. New Business – Mesheca Bunyon, O.D.

- Newly Licensed Optometrist

**J. Old Business – Executive Director
Follow Up Discussions**

- Limited License
- Prorating of CE
- Fee Schedule
- Board Vacancy

K. Executive Director's Report — Gwendolyn Joyner

- Internal Audit Control – OLA

L. Board President's last meeting

- Mesheca Bunyon, O.D.
- Next Board meeting will be July 26, 2023, at 9:30 a.m. by videoconference

M. Adjournment

BOARD OF EXAMINERS IN OPTOMETRY
4201 Patterson Avenue
Baltimore, Maryland 21215
Room 105



Minutes for General Session (Public) Meeting
Wednesday, May 31, 2023 – 9:30 AM-11:45 A.M.

A. Call to Order at 9:49 a.m.

The meeting was called to order at 9:49 a.m. by Mesheca Bunyon, O.D.

Optometrist Board members present were: Mesheca Bunyon, O.D., Francisco Burgos, O.D., Marcie Lerner, O.D. and Kelechi Mezu, O.D. (by phone).

Staff present: Gwendolyn A. Joyner, Executive Director, Rhonda Edwards, Deputy Counsel/Board Counsel.

Guest Attendance: Lillian Reese, Legislative & Regulations Coordinator, Boards and Commissions, and Kimberly Link, Senior Advisor to the Secretary for Health Board Matters at Maryland Department of Health.

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: Mesheca Bunyon, O.D., (her 8 years of service ends today); Kelechi Mezu, O.D., Fran Burgos, O.D. (incoming Board President), Marcie Lerner, O.D. (incoming Board Secretary), one vacant Optometrist position, 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 one staff: Gwendolyn Joyner, Executive Director; Licensing Coordinator (position currently vacant), and Rhonda Edwards, Deputy/Board 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

The public may attend and observe an open session of a public body within or established by the Maryland Department of Health.

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.

A. Additions/Corrections to Agenda - There were no corrections or additions to the agenda.

B. Approval of Agenda: A motion was made by Dr. Burgos, seconded by Dr. Lerner, to approve the May 31, 2023, agenda.

C. Review and Approval of General Session Minutes – March 29, 2023

A motion was made by Dr. Mezu, seconded by Dr. Burgos, to approve the General Session Minutes – March 29, 2023.

D. Committee Reports - Francisco Burgos, O.D.

- **CE Approvals for FY 2024;**
The Board previously voted to waive the 10 hours Live CE for 2022 and 2023 renewal cycles and stated that the 10 hours can be live anywhere; it does not have to be in Maryland, but this was during the Pandemic.

The 10 hours Live CE was waived for 2022- 2023 (as well as the CE Audit for 2022-2023, as stated in the March 2022 meeting minutes).

Nothing has been voted on for 2024; the Board voted to extend through June 30, 2023, to be fair to the licensees who are renewing in 2023, M-L.

This will be put on the July 2023 agenda for further discussion. Licensees are calling the Board, as well as Jennifer Cohen, about the 10 hours live in person, and if they have to come to Maryland to complete the 10 hours in person for renewal cycles 2024 and 2025, and they also want to know if the Board will accept the Synchronous Live as part of the 10 hours CE requirements.

- Ocular Foreign Body Removal Workshop July 16, 2023, Maryland Optometric Association.
- Seidenberg Protzko Eye Associates, Our Favorite Cases
- *Clinical Observation can count for a maximum of 6 credit hours per two-year license renewal period.*

E. President's Report – Mesheca Bunyon, O.D.

- **Email 04/28/2023:** from Board of Examiners in Canada (Kim Allen, CEO of OBEC) questioned if the Optometry Examining Board of Canada (OEBC) exam would be an acceptable alternative to the United States National Board of Examiners in Optometry (NBEO) exam. She notes that the NBEO is accepted in Canada. The cost of the OBEC exam is approximately \$1,200 less than the NBEO exam.
(on 5/12/2023, ARBO Executive Director, Lisa Fennell, issued a response concerning this option of the OBEC exam; she stressed that there is no oversight by ARBO or the state boards over the OBEC exams, and that NBEO ensures uniformity for possible portability of practicing optometrists within the United States.)

A motion was made by Dr. Mezu and seconded by Dr. Lerner to conclude that applications from Canada will be considered on a case-by-case basis.

In Favor: Unanimous

- **Email:** 04/11/2023: Can a Doctor request records from another Doctor without any patient signature?

Answer:

**Maryland Code Health General Title 4 Statistics and Records Subtitle 3
Confidentiality of Medical Records §4-302: Disclosure:**

In general

(a) A health care provider shall:

- (1) Keep the medical record of a patient or recipient confidential and

- (2) Disclose the medical record only
 - (i) As provided by this subtitle or
 - (ii) As otherwise provided by law

...

(d) Redisclosure of medical records: A person to whom a medical record is disclosed may not redisclose the medical record to any other person *unless*:

- (1) The redisclosure is
 - (i) Authorized by the person in interest
 - (ii) Otherwise permitted by this subtitle
 - (iii) Permitted under 1-202 (b) or (c) of the Human Services Article; or
 - (iv) Directory Information; or

(2) (i) the person to whom the medical record was disclosed is a guardian ad litem who received the medical record in accordance with § 4-306(b)(12) of this subtitle;

...

Disclosure of Medical Records

(e) (1) Except as provided in paragraph (2) of this subsection, a person may not disclose by sale, rental, or barter any medical record.

(2) This subsection shall not prohibit the transfers of medical records relating to the transfer of ownership of a health care practice or facility if the transfer is in accord with the ethical guidelines of the applicable health care profession or professions.

(emphasis added).

- **Email –04/27/2023:** Jim Cox in the UK would like to know what the Board’s view would be on the use of a device such as a “horoscope”? (maybe he meant “haploscope?”) or Digital slit lamp, by a technician as a delegated function, to record an examination of the anterior eye and adnexa for review by an O.D.

Answer:

Annotated Code Of Maryland, Health Occupations Article, Title 11: Section 11-208: Requirements of Minimum Optometric Exam:

Minimum optometric examinations

(a) A licensed optometrist shall perform a minimum optometric examination which shall include:

- (1) Reviewing a patient's history, past prescriptions and specifications when available;
- (2) Visual analysis;

- (3) Ophthalmoscopy of internal eye;
- (4) Tonometry without anesthetic when indicated or for a patient over 40 years of age;
- (5) Muscle balance examination;
- (6) Writing of lens formula and other prescription data when needed as well as specific instructions for future care; and
- (7) Subsequent progress evaluation when indicated.

- **Email: 05/09/2023:** “Abandoned Optometrist Records” from a Wal-Mart optical:

“The doctors referenced below were licensees [sublease holders?] of the Wal-Mart ... located.. in Hanover, Maryland; per their agreement with Wal-Mart, the doctors were to maintain their own [patient] records related to their practices at that location... The doctors have discontinued their practices... but have left their records... at the store. The doctors have indicated that they will not retrieve the records. We have given the doctors 30 days notice... to retrieve the records... Our intention is to destroy these records if the doctors refuse to take possession or do not respond...*Does the Board have any objection?* (note: the doctors in the list last practiced at this location from 12/2005 to 12/2008 at the latest);

Answer:

**Annotated Code of Maryland, Health-General Article, §4-403
Destruction of medical records and reports**

(b) Except for a minor patient, unless a patient is notified, a health care provider may not destroy a medical record or laboratory or X-ray report about a patient for 5 years after the record or report is made.

Code of Maryland Regulations, (COMAR) 10.01.16.04

.04 Maintenance of Medical Records:

A. A health care provider shall develop and maintain a records retention schedule compatible with the requirements of Regulations .04—.07 of this chapter.

B. Except as provided in Regulations .06 and .07 of this chapter, a health care provider shall maintain medical records for all patients in the health provider's care for a minimum of 5 years after the medical record is made or until the patient is 21 years old, whichever is longer; (*emphasis added*)

**F. Treasurer’s Report - Gwendolyn Joyner, Executive Director
FY Summary as of May 30, 2023**

Total Revenue Collected in FY23: \$125,637

FY22 Special Fund Carry Over + \$112,943.80
Expenditure Budget – Spent: - \$221,462.81
Current Fund Balance: \$ 17,117.99

H. Legislative Update - Lillian Reese, Legislative and Regulations Coordinator

- End of Session Report 2023 (see document sent with Board Meeting Packet);
There were 2,300 bills proposed and 800 of those passed.
There were several bills of interest regarding the Psychology Board; Social Workers; Dry Needling by Licensed Athletic Trainers; Temporary Health Care Provider Licenses for Military; establishment of a Commission on Public Health; Chiropractor Board disciplinary actions, and much more!
- **Sunset Extension Bill for FY24** - Department will discuss the # of years for the extension (currently 9 different health care boards are facing the same fate); Termination as of June 1, 2025; we need to plan to appeal for extension in January 2024.
- Bill for CHRC (Criminal History Records Check) - State and FBI -Legislative Session 2024 –we would need to write a “concept paper” to propose **background checks** for initial applications, every 3rd renewal and reinstatements; National Practitioner Data Base - Executive Director will now check at every renewal.
- Telehealth Regulations - no update

I. New Business - Mesheca Bunyon, O.D.

- Newly Licensed Optometrists

Gregory Moore, O.D.	DA	2907
Julianne Marie Grissom	TA	2908
Karen Lynn Slate	TA	2909
Crystal Marie Edison	TA	2910
Jayashree Vishwanath	DA	2911

A motion was made by Dr. Mezu and seconded by Dr. Burgos to approve the new licensees. In Favor - Unanimous

**J. Old Business - Executive Director
Follow Up Discussions**

- **“Limited License”**–Not needed by residents; designed for those O.D.s doing research, teaching, who are not directly doing patient care. What are other state boards doing? What is the fee for a limited license?
- Residents would **not** need a license unless they want to work outside of the organization, “moonlighting.” If they are seeing patients outside, they would need a Maryland DPA or TPA license.
- Point of Information: What agencies in the state have residency programs? Dr. Applebaum, Wilmer Eye Institute (Johns Hopkins), Perry Point VA Medical Center, National Capital Consortium, Walter Reed National Military Medical Center, Seidenberg Vision Therapy Pediatrics; Omni Eye Associates
- Prorating of CE - Gwen will post on the website after the end of the 2023 renewal.
- Fee Schedule for roster copies/directory - Gwen will rely on PIA and charge administrative fees based on the calculation outlined statute. (You can opt out of the release of your personal data from the roster) Nothing will be added to the regulations regarding roster fee.
- Board Vacancy: Tracy Boss, OD. will be filling Dr. Gordon’s seat on the Board.

K. Executive Director's Report — Gwendolyn Joyner

- Internal Audit Control – OLA
- Reciprocity
- ARBO Conference June 18-20, 2023(Gwen and Dr. Lerner plan to attend)

L. Board President’s last meeting

- Mesheca Bunyon, O.D. gave a statement for her time serving on the Board for 8 eight years.
- Next Board meeting will be July 26, 2023, at 9:30 a.m. by videoconference.

M. Adjournment 11:45 a.m.

Marcie Lerner, O.D. Board Secretary