

Board of Registration of Dispensing Opticians

Public Session Minutes

Date: November 3, 2021 Time: 10:00 a.m.

A regularly scheduled open public meeting of the Massachusetts Board of Registration of Dispensing Opticians (“the Board”) was held remotely by video conference and telephone pursuant to Chapter 20 of the Acts of 2021: *An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency* signed into law on June 16, 2021.

Board Members Present:

David Fogg
Deanna Kurlowecz, Board Chair
Marty Bregman
Gary Peters

Staff Present:

Sheila York, Board Counsel
Thomas F. Burke, Executive Director

Meeting called To Order:

- Ms. Kurlowecz called the meeting to order at 10:03 am.
- Exit and Evacuation procedures were tabled.

Review Meeting Minutes:

- Public Meeting Minutes from October 6, 2021: **Mr. Fogg moved to accept the minutes and Mr. Peters seconded. Motion to accept October 6, 2021 minutes by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Peters: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”.**

Board Business:

- **Report from Executive Director, Thomas Burke**
Mr. Burke reported that the Frequently Asked Question (“FAQ”) form regarding services in optical goods stores is posted on the Board website, and the updated supervisor letter is available on the Board website as a guide for apprentice opticians. Mr. Burke will continue to update the Board on the transfer of resources and staff to the Department of Public Health.

Correspondence:

- Zachary Coles – The Board reviewed a letter from Dr. Euin Cheong regarding the training he has provided Mr. Coles in the fitting of contact lenses, and Mr. Coles provided an update to the Board on his new employment and apprentice training. After discussion, the Board instructed Mr. Coles to continue his apprentice training and submit new letters from his supervisor to the Division of Apprentice Standards (“DAS”). The Board encouraged Mr. Coles to submit additional apprentice optician letters to Board staff in support of his application for licensure when his training is complete.

Application Review:

At 10:28 a.m., the Board met with two applicants for licensure and reviewed their applications. Below is a list of the candidates for review and the motion and roll call vote for each:

Christine Howard – After review of Ms. Howard’s application, Ms. Kurlowecz moved to delegate David Fogg to work with Board staff in the review of additional documentation of apprentice training hours. Mr. Peters seconded. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”, Mr. Peters: “Yes.”

Jasmine Duest – After review of Ms. Duest’s application, Ms. Kurlowecz moved to approve her for licensure. Mr. Peters seconded. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”, Mr. Peters: “Yes.”

Discussion:

- **Licensing Apprentice Opticians** – After discussion on the processing of applications, Ms. Kurlowecz moved to delegate David Fogg to work with the Division of Apprentice Standards on standardizing training hours for apprentice opticians. Mr. Fogg seconded. Sheila York noted that a staff representative should be included in these discussions. Ms. Kurlowecz agreed to amend the motion to delegate to David Fogg to work with Board staff and DAS on standardizing training hours for apprentice opticians. Mr. Fogg seconded the amended motion. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”, Mr. Peters: “Yes.”
- **Division of Apprentice Standards guidelines** – The Board reviewed the different levels of training and exam requirements for apprentice opticians enrolled through the Division of Apprentice Standards. The Board expressed interest in reviewing further the apprentice agreement and the content of contact lens training for apprentice opticians.

Board Counsel asked Division of Apprentice Standards (“DAS”) about its policies regarding apprentices on the management track. She stated that there was information on DAS website regarding how optician apprentices could be on track to become managers and was curious whether this program still existed. The Board explained that several years ago a management track program was developed between a sponsor and DAS, but that the program had strict requirements, including the mandate that optician apprentices never manage their supervisors.

- **Consumer Fact Sheet Revisions** – The Board discussed the status of the Consumer Fact Sheet. Board staff will provide an update for review at the subsequent meeting.
- **5.02: Standards for Dispensing of Lenses or Eyeglasses** – In reference to first time users, progressive users, children and general troubleshooting, the Board discussed the need for improved public safety in the distributing and handling of eyeglasses by supervised apprentice opticians as well as licensed dispensing opticians. The Board

pledged to uphold the regulatory requirement that only licensed opticians provide fitting and adjustments to members of the public.

- **Corporate Updates – G. Peters** – Mr. Peters led the Board in a discussion on what constitutes the practice of opticianry according to the regulations and how the Board may encourage corporate entities to understand better the management of optical goods stores. The Board expressed an interest in creating a policy statement to assist corporate entities. Gary Peters will continue to work with Board Counsel on this topic and report back to the Board.
- **Services Performed by Unlicensed Employees of Optical Goods Establishment** – Gary Peters is working with Sheila York to draft a letter to educate businesses that certain duties require licensure to perform.
- **NCLE Practical Exam Update** – The Board discussed the addition of the NCLE practical to the NCLE basic exam requirement for licensure as a dispensing optician. Mr. Jim Morris, Executive Director and General Counsel for the American Board of Opticianry & National Contact Lens Examiners, reported to the Board that at present only three states that use his examinations do not require the NCLE practical exam. Also, he noted that the inclusion of the NCLE practical exam will not provide additional cost burden to the applicant. In response, Board Counsel reminded the Board that including additional license requirements requires compliance with Governor Baker’s Executive Order 567 to ensure the Board is acting within its statutory authority. Mr. Morris stated that he would be available to answer any questions that Board Counsel may have when working towards amending the Board’s regulation to include this additional examination.

After further discussion, the Board agreed to take a short break at 12:03 pm. The meeting resumed at 12:24 pm.

- **CEPA Agreement Revisions** - Professor Blair Wong of the Ben Franklin Institute of Technology (“BFIT”) addressed the Board on a proposed update to the CEPA agreement. In response, the Board discussed the rationale of the agreement and how it might apply to student opticians despite recent changes to registration for the Massachusetts practical examination. After discussion, the topic was tabled until further review by Board and its counsel. The matter will be discussed at the subsequent meeting.

Open session for topics not reasonably anticipated 48 hours in advance meeting:

At 1:20 p.m., Mr. Peters made a motion, seconded by Ms. Kurlowecz, to adjourn the public meeting and to enter into closed session to conduct investigatory conferences, pursuant to G.L. c. 112, §65C, and at the conclusion of the closed session, not return to the public meeting. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”, Mr. Peters: “Yes.”

Cases, Investigative Conference, Settlement Offers [Closed session pursuant to G.L. c. 112 §65C]:

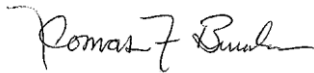
During the closed session, the Board voted to take the following action:

- 2021-000642-IT-ENF – Referred to Prosecutions.
- Investigative Updates – Board Counsel provided update.

Adjournment:

- **At 1:59 p.m., Mr. Fogg moved to adjourn the meeting. Ms. Kurlowecz seconded. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”, Mr. Peters: “Yes.”**

Respectfully Submitted,



Thomas F. Burke
Executive Director

Documents used in the open meeting:

- Agenda for DO Board Meeting of November 3, 2021
- Draft Minutes of the October 6, 2021 meeting
- Correspondence from Dr. Euin Cheong, O.D. on behalf of Z. Coles
- Report on Approved Licensed Opticians
- Applications for C. Howard and J. Duest (protected personal data redacted)