

Board of Registration of Dispensing Opticians  
1000 Washington St. Room 1C  
Date: January 8, 2020 Time: 10:00 a.m.

Public Meeting Minutes

**Board Members Present:**

Gary Peters  
David Fogg  
Deanna Kurlowecz

**Staff Present:**

Jim O'Connor, Board Counsel  
Michael Hawley, Executive Director  
Thomas F. Burke, Associate Exec. Director

**Members of the Public Present:**

Blair Wong  
James Russo  
Camille Pensavalli, Division of Apprentice Standards  
Dibby (Olivia) Bartlett  
Ahhyer R. Ma  
James Morris  
Dave Fogg, Jr.  
Donald Phillips  
Ma Komari  
Wade Delk  
B. Dale Shannon  
George Bourque

**Meeting called To Order:**

- Mr. Peters called the meeting to order at 10:10 a.m.
- Mr. Hawley reviewed exit procedures in the case of an emergency.

**Review Meeting Minutes:**

- Minutes of December 4, 2019 Meeting amended to include the electronic mailing address for the Dispensing Optician Board: [dispensing.optician@mass.gov](mailto:dispensing.optician@mass.gov). **Mr. Fogg moved to accept the public minutes as amended. Ms. Kurlowecz seconded. The motion passed unanimously.**

**Board Discussion:**

- **JCAHPO Practical Exam Presentation** – Mr. Wade Delk of JCAHPO and Mr. Dale Shannon, retired chair of the Florida Board of Opticianry, met with the Board to discuss a JCAHPO proposal for a newly designed practical examination. Mr. Shannon spoke to the Board first about the successful use of the JCAHPO exam in Florida for the past five years with over thirty testing centers available throughout the state and exams offered daily during most of the calendar year. Mr. Shannon stated that all applicants receive an exam preparation handbook at the time of registration. Mr. Delk noted that the exam consists of two parts with the first part comprising multiple-choice questions. He stated that the Board may decide when and how frequently candidates may be permitted to take the exam, which is administered by Pearson Vue testing centers. In response to questions from Mr. Hawley, Mr. Delk stated that the exam would be available 362 days a year and

exam results would be delivered to the Board on a weekly basis. He said the current cost of the exam is \$325 and the pass rate for 2018-2019 was greater than seventy percent. Mr. Delk reported that the JCAHPO practical exam is available in five states: Florida, Kentucky, Arkansas, and Arizona. In response to other questions from the public, Mr. Delk clarified that candidates must enter the data on the electronic exam to support multiple choice answers, and candidates would use either keyboard or computer mouse to navigate the exam. Mr. Delk stated that only Kentucky accepts the JCAHPO practical exam taken by candidates licensed in other jurisdictions. After further discussion, the Board thanked Mr. Delk and Mr. Shannon for their presentation. Mr. Delk stated that he would be willing to meet with the Board for further review upon request.

- **Scope of Practice Frequently Asked Questions** – The Board reviewed a series of questions related to the work of non-licensed professionals (e.g. frame stylists, receptionists) in opticianry stores in the Commonwealth of Massachusetts. Mr. Fogg presented questions to define the type of work non-licensed professionals may do distinct from the scope of practice for dispensing opticians.

The Board discussed and agreed that the following definitions are not recognized by the Board under 235 CMR 2-5 and M.G.L. c. 112 sec. 73C – 73M: Sales associate, eyewear consultant, frame stylist and optical shop receptionist.

The Board agreed that the definition of dispensing a pair of eyeglasses may be found within the definition of Dispensing Optician in the Board's statute M.G.L. c. 112 sec. 73C and within the definition section of regulation 235 CMR 2.04.

Activities that require licensure (or apprenticeship) are those that fall within the regulatory and statutory definitions above. Among those are: dispensing eyeglasses, adjusting glasses, entering prescription information into a computer, measuring a customer for frame or lens fittings, providing advice on frame fitting, explaining prescription requirements, advocating for lens requirements and/or add-on options, processing a warranty remake order, placing a duplicate order from a previous sale and tightening screws in a customer's frame, as adjustments should be checked.

Activities generally not requiring licensure (or apprenticeship) are those that do not fall within the regulatory and statutory definitions above. Among those are: answering phones, making eye exam appointments, entering a customer's general information into a computer, processing a payment for a customer, tending to frame displays, discussing sales promotions, giving fashion advice (when not related to lenses and fitting). In addition, working in a lab does not require a license. However, all work must be verified by a licensed individual. Non-licensed employees may hand out prescriptions if a licensee is present in the room and the prescriptions have been previously verified by a licensee. Non-licensed employees may manage licensees. However, apprentices may not manage their licensee supervisors.

Non-licensed employees of optometrists and MDs may assist their employers with activities normally requiring an optician's license, such as contact lens insert and removal

training, performing pre-exam tests. Because optometrists often lease space within businesses that contain optical shops, it is important to note that the exemptions only apply to employees of the optometrists and not employees of the business leasing space to the optometrist while in the optometrist's office and not in the optical shop.

Mr. Peters expressed hope that the discussion would create opportunities for non-licensed professionals who exhibit interest in the field to pursue licensure as dispensing opticians. In response to concerns about non-licensed professionals carrying out duties related to opticianry, Mr. O'Connor reminded the Board that such matters may be addressed through the adjudicatory process related to prosecutorial discretion and active oversight. Mr. Fogg expressed a desire to address these matters in a more explicit manner through ongoing education and formation. The Board and public agreed that education should include a discussion of the role of corporate entities in the work of non-licensed professionals.

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

**At 12:40 p.m. Mr. Peters announced that the Board would adjourn for lunch. He stated that the Board would return at approximately 1:15 p.m.**

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

**At 1:30 p.m., Mr. Fogg moved to enter into Investigative Conference to discuss pending cases. [Closed session pursuant to G.L. c. 112 §65C]. Mr. Peters seconded the motion. Motion passed unanimously.**

At the end of the closed session, the open meeting resumed.

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

- DO-2019-000776-IT-ENF – Dismissed.
- DO-2019-001504-IT-ENF – Referred to Prosecutions.
- DO-2019-001442-IT-ENF – Closed, no action.

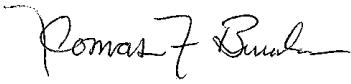
**CEPA Extension Review:**

The Board reviewed Ms. Aenise Wyatt's CEPA extension. It came to the Board's attention that Ms. Wyatt failed to take the ABO and NCLE exams every time they were available. **After discussion, Ms. Kurlowecz moved to terminate Ms. Wyatt's CEPA extension. Mr. Fogg seconded. The motion passed unanimously.**

**Adjournment:**

**At 2:08 p.m., Mr. Fogg moved to adjourn the meeting. Ms. Kurlowecz seconded. Motion passed unanimously.**

Respectfully Submitted,



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Thomas F. Burke  
Associate Executive Director

Documents used in the open meeting:

- Agenda for DO Board Meeting of January 8, 2020
- Minutes of December 4, 2019 board meeting
- Frequently Asked Questions for Scope of Practice