

**Board of Registration of Dispensing Opticians
Public Session Minutes**

Date: March 18, 2021 Time: 10:00 a.m.

A regularly scheduled open public meeting of the Massachusetts Board of Dispensing Opticians (“the Board”) was held via Videoconference and Conference Call due to the Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20.

Board Members Present:

Gary Peters
David Fogg
Deanna Kurlowecz, Board Chair
Marty Bregman

Staff Present:

Jennifer Romeo-Porcaro, Board Counsel
Thomas F. Burke, Associate Exec. Director

Meeting called To Order:

- Ms. Kurlowecz called the meeting to order at 10:05 a.m.
- Exit and Evacuation procedures were tabled.

Review Meeting Minutes:

- The review of the minutes of February 3, 2021 Meeting: **Mr. Fogg moved to accept the minutes as amended so that discussion topic “Out of State Entities” read “Took no action.” Mr. Peters seconded. Motion to accept amended minutes passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Peters: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”.**

Board Business:

- **Report from Associate Executive Director, Thomas Burke**
Associate Executive Director Burke announced a new member to Board staff to assist in with Dispensing Opticians and reminded all present that the Board continues to work remotely during most regular office hours.

Application Review

At 10:15 a.m., the Board met with five applicants for licensure. Below is a list of the candidates for review and the motion and roll call vote for each:

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

Kasey Flewelling – After review of Ms. Flewelling’s application, **the Board requested that she provide a notarized letter from her direct supervisor or physician to document contact lens training. Ms. Kurlowecz moved to table the application until**

review on April 7, 2021. Mr. Peters seconded. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Peters: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”.

David Thistle – After review of Mr. Thistle’s application, the Board requested that he provide a notarized letter from his sponsor to document additional contact lens training, and both sponsors should attend the next meeting. Ms. Kurlowecz moved to table the application until review on April 7, 2021. Mr. Peters seconded. Motion to accept amended minutes passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Peters: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”.

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

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

Zachary Coles – The Board met with Mr. Coles to discuss his application for licensure. The Division of Apprentice Standards (“DAS”) was present on the video meeting, and confirmed that they would need Mr. Coles to return his certificate back to DAS, and then he would be able to continue under the same apprenticeship number. The Board noted that Mr. Coles worked as a manager during his apprenticeship. After review, Mr. Fogg moved to direct Mr. Coles to resume up to two additional years of training as an apprentice optician through the Division of Apprentice Standards (“DAS”), provide an updated letter of supervised training hours, and meet with the Board in one year for review. Mr. Peters seconded. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Peters: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”. The application will remain open, and his apprenticeship extended.

Discussion:

- **Consumer Fact Sheet** – Tabled.
- **Supervisor Letter/Form and Apprenticeship Hours** – Tabled.
- **FAQ Scope of Practice** – Board Counsel updated the Board that we are still waiting for approval before posting of the document. **After discussion of pending scope of practice questions, Mr. Fogg moved to include the FAQ in the Board minutes. Mr. Peters seconded. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Peters: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”.**

FREQUENTLY ASKED QUESTIONS REGARDING SERVICES IN OPTICAL SHOPS

Q. What is the Board's definition of the following?

- **Sales associate**
- **Eyewear consultant**
- **Frame stylist**
- **Optical shop receptionist**

A. These are not positions that fall within the Board's regulations. Thus, the Board has no authority to define the scope of these positions. However, without a license as a dispensing optician, a certificate as an apprentice optician or falling into one of the regulatory exceptions, an individual holding one of these positions may not perform activities which are within the definition of a "dispensing optician" as defined in M.G.L. c. 112, s. 73C or the "practice of opticianry" in 235 CMR 2.04.

Q. What is the board's definition of dispensing a pair of eyeglasses?

A. Please see the Board's regulations 235 CMR, especially section 2.04 which defines the practice of opticianry.

Q. Is a Dispensing Optician's License or Apprentice Certificate required for an employee to answer the phones?

A. No.

Q. Is a Dispensing Optician's License or Apprentice Certificate required for an employee to dispense eyeglasses?

A. Yes. This activity is considered the "practice of opticianry" as defined in 235 CMR 2.04.

Q. Is a Dispensing Optician's License or Apprentice Certificate required for an employee to hand out eyeglasses?

A. No. However, a licensed optician must be in the same room. The prescription must be physically verified by a licensed dispensing optician (or optometrist, medical doctor) prior to handing out of any product, for both glasses and contact lenses. Other rules may apply in offices owned and operated by optometrists or medical doctors.

Q. Is a Dispensing Optician's License or Apprentice Certificate required for an employee to make eye exam appointments?

A. No, This activity is not considered the "practice of opticianry" as defined in 235 CMR 2.04

Q. Is a Dispensing Optician's License or Apprentice Certificate required for an employee to perform doctor pre-exam tests?

A. No, pre-exam tests do not fall within the definition of "opticianry" in 235 CMR 2.04. Other licensing laws may apply.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to adjust glasses?

A. No, provided the adjustment does not include any services that fall within the definition of “dispensing optician” in G.L. c. 112, s. 73C or “practice of opticianry” in 235 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to enter a customer’s general information into a computer?

A. No.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to enter prescription related information into a computer?

A. Yes. This activity involves the interpreting and inputting of prescription information and is considered the “practice of opticianry” as defined in 235 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to measure a customer for frame or lens fittings?

A. Yes. This activity is considered the “practice of opticianry” as defined in 235 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to make recommendations regarding frame fitting with a customer?

A. Yes. This activity is considered the “practice of opticianry” as defined in 235 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to discuss style trends and give fashion advice?

A. No. However non-licensed employees should steer clear of giving advice regarding fitting and technology.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to explain prescription requirements?

A. Yes. This activity is considered the “practice of opticianry” as defined in 265 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to give advice regarding lens requirements and/or add-on options such as anti-reflective coating, transitions, blue light filters, etc.?

A. Yes. This activity is considered the “practice of opticianry” as defined in 265 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to give advice regarding frame fitting? (i.e., good for distance vision, good for a progressive, sizing, etc?)

A. Yes. This activity is considered the “practice of opticianry” as defined in 235 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to process a payment for a customer?

A. No.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to process a warranty remake order?

A. Yes. This activity is considered the “practice of opticianry” as defined in 265 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to place a duplicate order from a previous sale?

A. Yes. This activity is considered the “practice of opticianry” as defined in 265 CMR 2.04.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to perform contact lens insert and removal training to a patient?

A. No, contact lens insert and removal training does not fall within the definition of “opticianry” in 235 CMR 2.04. Other licensing laws may apply.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to tend to the frame displays (i.e., clean, sort and arrange frames)?

A. No.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to assist in the optometrist or ophthalmologist’s office?

A. No. However, Board of Optometry or Board of Medicine regulations apply.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to discuss sales promotions?

A. No.

Q. Is a Dispensing Optician’s License or Apprentice Certificate required for an employee to work in a lab?

A. No. However all work must be physically verified by the owner doctor or licensed optician before the customer receives the product.

- **Updated Letter re: Penn Foster** – Board Counsel updated the Board that the letters, which were approved by the Board previously, were sent out by prior Board Counsel. Tabled.
- **Apprentice Extension – Exam Review** – The Board discussed tracking exams taken for apprentice opticians who are granted apprentice extensions on the condition that they take the ABO or NCLE exams every time they are available. Mr. Fogg will provide a list of previously approved apprentice extensions to Board staff. No vote taken.

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

At 12:08 p.m., Ms. Kurlowecz made a motion, seconded by Mr. Peters, to adjourn the public meeting, and to enter into Quasi-Judicial Session under G.L. c. 30A, § 18(d), after which the Board will enter in Closed Session pursuant to G.L. c. 30A, § 18(b), and the Open Meeting would not resume. The motion passed unanimously by a roll call vote.

Quasi-Judicial Session [Closed session pursuant to G.L. c. 30A, s. 18(d).]

During the quasi-judicial session, the Board voted to take the following action:

- 2019-001504-IT-ENF – .Accepted Tentative Decision as Final Decision and Order

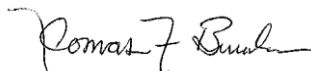
At 12:47 p.m. Mr. Fogg moved to exit Quasi-Judicial Session [Closed Session pursuant to M.G.L. c. 30A § 18(d)] in order to move into Closed session pursuant to G.L. c. 30A, s. 18(b).

The Board received a training by Board Counsel.

Adjournment:

- **At 1:18 p.m., Ms. Kurlowecz moved to adjourn the meeting. Mr. Peters seconded. Motion passed unanimously by members present. Motion passed by a roll call vote: Ms. Kurlowecz: “Yes”, Mr. Peters: “Yes”, Mr. Fogg: “Yes”, Mr. Bregman: “Yes”.**

Respectfully Submitted,



Thomas F. Burke
Associate Executive Director

Documents used in the open meeting:

- Agenda for DO Board Meeting of March 18, 2021
- Applications for B. Mathieu-Lee, K. Flewelling, D. Thistle, E. Perlman, A. Owen and Z. Coles
- Public Session Minutes for February 3, 2021