

Board of Registration of Optometry

Public Session Minutes

1000 Washington 1st Floor Room 1C, Boston, MA 02118

DATE: January 16, 2019 TIME: 10:00am

Board Members Present:

Everett Sabree, OD
Jeanette Sewell, OD
Rhonda Willinger, OD
Bruce Rakusin, OD

DPL Staff Present:

Michael Hawley, Executive Director
Sheila York, Board Counsel

Board Member Absent:

Marianne Sarkis, Ph.D.

Members of the Public Present:

Wayne E. Zahka, OD
Whitney Hauser, OD
Jay Gardiner, Massachusetts Society of Optometrists

Meeting called to order at 10:04 AM by Dr. Sabree

Evacuation Procedure:

Mr. Hawley discussed safety procedures in the event of emergency.

Review Minutes:

- Minutes of December 19, 2018 meeting – **Dr. Rakusin moved to accept the minutes as written. Dr. Sewell seconded the motion. Motion passed unanimously.**

Report from Executive Director:

- Licensing Update: Mr. Hawley reported that renewals have been flowing in and being processed in a timely fashion. Board members report that some individuals have not yet received their license cards, although they renewed in a timely fashion. Board staff will check on the status of the individuals in question. Board staff will research the follow-up on the previous audit.

Report from Board Counsel:

- Attorney York reported that she had discussed the Question from Tearlab pertaining to the Department of Public Health (“DPH”) interpretation of the Clinical Laboratory Improvement Act (“CLIA”) and CLIA waiver requirements for Optometrists using the Tearlab Osmolarity test (raised at the December 2018 meeting) with division’s general counsel. She is awaiting an update from General Counsel on the matter.

- Board counsel reported researching the amniotic membrane contact lens issue that was raised at the last meeting. The Board agreed that amniotic membrane contact lenses are allowed under MGL Chapter 112 section 66B.

Dr. Rakusin moved to declare that amniotic membrane lenses are within the Optometrists' scope of practice and to state that in the Board's "frequently asked questions" web page. Dr. Willinger seconded the motion. The motion passed unanimously.

Speakers:

- Dr. Wayne Zahka, Legislation Chair of the Mass Society of Optometry ("MSO") was present and gave an update on pending legislation that would impact the practice of optometry. Dr. Zahka indicated that he and the MSO have reworked the proposed glaucoma legislation into a more patient centered bill. Recent polling indicates that 80% of the public in Massachusetts would support such a bill. MSO has also worked with Massachusetts legislators in both houses and with the Governor's office to stress the cost savings that would be afforded to MassHealth if optometrists were allowed to treat patients for glaucoma. Dr. Zahka discussed that there is significant support for the bill. He noted that the Governor made health care reform a central issue in his inaugural address.

Dr. Zahka noted that the legislation, as currently constituted would require 40 hours of didactic and 20 hours of clinical training (but that he has hopes that the final legislation may omit the clinical training) in order for optometrists to be certified to treat for glaucoma. There was a discussion of the training requirements. Dr. Zahka indicated that if the bill is enacted individuals who have completed optometry graduate programs since 2015 would be qualified for certification to treat glaucoma. Dr. Zahka asked to return for the March meeting along with representatives of the New England College of Optometry and the Massachusetts College of Pharmacy to discuss the training requirement so that the Board can be better prepared in the event that the legislation is enacted. The Board agreed to add this to the March agenda.

Discussion:

- **Intense Pulsed Light (IPL)** – Whitney Hauser, OD spoke to the Board to advocate IPL therapy as it can be used in the practice of optometry. The Board asked questions about the effectiveness of the therapy and possible risks. Dr. Hauser indicated that the practice has been in use by optometrists in her home state of Tennessee for about five years and is currently used by optometrists in 28 states. She spoke briefly about the differing scope of practice requirements in several states. She focused on the benefits of therapy for patients with chronic dry eye and noted that the need is great, stating that while there are about three million patients needing treatment for glaucoma, there are thirty million patients needing treatment for dry eye. When asked about training, Dr. Hauser indicated that when the required equipment is purchased, there is an "on boarding" process that provides training to the practitioner. She noted that the therapy does not involve the

alteration of tissue and therefore, according to her, the risks are minimal. The chief risk is that the treatment might be used inappropriately. She compared this to the risks associated with Latisse. The board agreed to revisit this topic at the next meeting. Board Counsel agreed to do further research on the therapy's adoption for use by optometrists in other states.

- **Blood glucose testing** – Board staff received an inquiry regarding whether it is within the scope of practice of an optometrist to perform blood glucose testing (“finger stick”) on a patient. The Board agreed that, because the testing involves the collection of blood, it does not fall within an optometrist's scope of practice. Attorney York will respond to the inquiry.
- **Serum tears** – Board staff received an inquiry about whether treatment of dry eye using serum tears, falls within the scope of practice of an optometrist in Massachusetts. After some discussion, the board concluded that the answer depended upon whether serum tears would be considered to fall within “schedule six” topical pharmaceuticals. If so, then they would most likely be within an optometrist's scope of practice. If not, then they would be beyond an optometrist's scope of practice. Board staff will research further and reach out to the Department of Public Health Controlled Substances unit to make that determination.
- **Topical testosterone treatment** – Board staff received an inquiry about whether treatment of dry eye using topical testosterone, falls within the scope of practice of an optometrist in Massachusetts. The board concluded, as with serum tears, that the answer depended upon whether topical testosterone would be considered to fall within “schedule six” topical pharmaceuticals. If so, then they would likely be within an optometrist's scope of practice. If not, then they would be beyond an optometrist's scope of practice. Board staff will research further and reach out to the Department of Public Health Controlled Substances unit to make that determination.

Open Session for topics not reasonably anticipated by the chair within 48 hours of the meeting:

The Board received an email from ARBO asking for feedback on their plans to revise the Part 3 clinical skills exam. The Board discussed the matter briefly and indicated that the exam as currently constituted meets the Board's needs. The Board asked staff to so indicate in a reply to the email but also to find out if the Board might have an opportunity to review the revisions.

Dr. Rakusin took this opportunity to encourage board members to consider attending ARBO's annual conference in June.

Closed Session per M.G.L. c. 112, section 65C:

11:30 am, Dr. Sewell moved to enter into closed session to consider the following investigative matter, 2018-000997-it-enf. Dr. Willinger seconded. The motion passed unanimously.

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

During the closed session, the Board took the following actions:

- **2018-000997-it-enf: Dismissed**

11:40 - Dr. Rakusin moved to adjourn the meeting. Motion seconded by Dr. Sabree. The motion passed unanimously.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Michael Hawley". The signature is fluid and cursive, with the first name "Michael" and last name "Hawley" clearly distinguishable.

Michael Hawley, Executive Director

Documents used in the open meeting:

- Agenda for January 16, 2019 board meeting
- Draft of Minutes of December 19, 2018 board meeting
- OP Blood Glucose Testing Question on Finger Stick testing from Dr. Stamm, dated November 29, 2018
- OP IPL Declaratory Ruling IPL and Radio Frequency Devices, dated November 19, 2018.
- OP IPL letter to Board of Registration from Kristen Brown, undated.
- OP IPL M22 510K, dated in 2009.

- OP IPL Packet of IPL for ODs, undated
- OP Serum Tears Topical Testosterone Question regarding Medication, dated October 18, 2018
- OP Serum Tears Topical Testosterone TFOS DEWS II Management and Therapy Report, dated May, 2017
- Email from Lisa Fennel regarding Plans to revise the Part 3 clinical skills exam, dated 1/15/2019