

Board of Registration of Optometry

Public Session Minutes

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

DATE: October 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 Members Absent:

Marianne Sarkis, Ph.D.

Members of the Public Present:

Maggie Cohen

Meeting called to order at 10:06 AM by Dr. Sabree

Evacuation Procedure:

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

Election of Board Officers:

Dr. Rakusin nominated Dr. Sabree for re-election as chairman. Dr. Sewell seconded. Dr. Sabree accepted the nomination and was elected by a unanimous vote.

Dr. Sewell nominated Dr. Willinger for re-election as secretary. Dr. Rakusin seconded. Dr. Willinger accepted the nomination and was elected by a unanimous vote.

Approve 2020 meeting calendar:

Dr. Rakusin moved to approve the proposed board meeting calendar with meetings to be held on the third Wednesday of each month with no meetings scheduled in February, April and July. Dr. Sewell seconded. The motion passed unanimously.

Review Minutes:

Minutes of August 21, 2019 meeting – Dr. Willinger moved to accept the minutes as written. Dr. Sewell seconded the motion. Motion passed unanimously.

Report from Executive Director:

- Mr. Hawley reported that all OP renewals will be online only from now on. The needed changes have been made to the notices. He also reported that the Board staff has instituted an email address for OP questions. The address is optometry@mass.gov. The contact link on the board web site has been changed to this address. The advantage to the new address is that it can be monitored and accessed by the entire administrative staff so that unexpected absences will not cause undue delays in responding.

Report from Board Counsel:

- DPH Laboratory Waiver question. DPH has language in the regulations regarding CLIA licensing allowing waivers of licensure requirements for “physicians” however DPH has not been according this waiver to Optometrists. Attorney York reports that the General Counsel for the Office of Consumer Affairs and Business Regulation has contact DPH regarding this issue. Ms. York will bring updates to the Board’s attention as they are received.

Discussion:

- Request for advisory opinion regarding delegation to unlicensed employees: The Board received a request from Douglas Haigh asking if an optometrist can employ an individual who does not hold an optometry license to “work up patients (take acuities, IOP, refract, ant. seg photos, etc) without using any pharmaceuticals” while the optometrist is not on the premises. The Board discussed the question and indicated that for activities of this type, a licensed optometrist must be on the premises. Board counsel will respond to the inquiry.
- Internet Eye Exams: The Board discussed the use of internet based eye examinations in general. FDA has indicated that such exams could be marketed for the wrong purposes and has not approved advertising for online refraction tests. The Board noted that use of online refraction tests could carry serious health risks. Massachusetts does not have specific legislation on this issue. The Board discussed the possibility that restriction could be viewed as anti-competitive behavior. The Board agreed that it would be best to await a specific complaint with specific circumstances and technology involved to make a determination on that case.
- Glaucoma training requirements: The Board discussed the proposal by New England College of Optometry (“NECO”) that, in the event that the pending legislation passes with the current training requirement of 40 hours of didactic training and 20 hours of clinical training, the board is willing to accept online training to fulfill the requirements, provided that it meets the standards described by NECO representatives. The Board noted that it cannot guarantee that all proposed on-line courses will be acceptable, but courses would not be denied approval based on the mere fact that they are on-line. **Dr.**

Sabree moved to ask Board Counsel to send a letter to indicate the Board's willingness to accept on-line training. Dr. Sewell seconded. The motion passed unanimously.

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

There was a brief discussion of why Optometrists do not get DEA #s and that fact that much reporting is based on DEA numbers.

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

11:16 am, Dr. Rakusin moved to enter into closed session to discuss new case number 2019-000649-it-enf as well as investigative materials relating to Nantucket Superior Court C.A. No. 187CV00031. 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:

- Notice of Suffolk Superior Court C.A. No. 187CV00031: No action
- 2019-000649-it-enf: Forward to the office of Prosecutions.

11:45 pm - Dr. Sewell moved to adjourn the meeting. Motion seconded by Dr. Rakusin. The motion passed unanimously.

Respectfully submitted,



Michael Hawley, Executive Director

Documents used in the open meeting:

- Agenda for October 16, 2019 board meeting
- Draft of Minutes of August 21, 2019 board meeting
- Email from Douglass Haigh, OD requesting advisory opinion.