

Board of Registration of Optometry

Public Session Minutes

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

DATE: October 17, 2018 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
Thomas F. Burke, Associate Executive Dir.
Sheila York, Board Counsel

Members Absent:

Marianne Sarkis, Ph.D.

Meeting called to order at 10:16 AM by Dr. Sabree

Evacuation Procedure:

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

Review Minutes:

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

Election of Board Officers:

- **Dr. Rakusin moved to re-elect the current officers, Dr. Sabree as Chair and Dr. Willinger as Secretary. Dr. Sewell seconded the motion. Motion passed unanimously.**

Approval of 2019 Meeting Dates:

- The Board discussed and approved the draft of meeting dates for 2019. Meetings are scheduled to be held the third Wednesday of each month other than February, April and July. No meetings are scheduled to be held for those months.

Report from Executive Director:

- Licensing Update: Mr. Hawley reported no recent problems with the issuance of licenses. However, Board members mentioned that new licensees have been experiencing difficulties with the obtaining certification for controlled substances. There have been instances reported where it took several months to obtain the required certification. One of the difficulties seems to delay in communication with the Controlled Substances Division. Mr. Hawley agreed to reach out to the DPH to determine whether staff can assist licensees experiencing problems. Mr. Hawley also reported that the number of licenses issued each year for the past ten years ranged from fifty-two to sixty-nine. Most

years were in the mid to high fifties. Mr. Hawley agreed to report at the next meeting on the number of those licensees who have maintained their current licensure status.

Report from Board Counsel:

- No update.

Discussion:

- **Intense Pulsed Light (IPL)** – Attorney York reported on her research to determine whether other states permit the use of IPL therapy in the practice of optometry. So far, she has found several states allow IPL use by optometrist and at least one other has proposed legislation that would permit such use. Further research needs to be done to review the statutory scope of practice in those states. She noted that the FDA has not approved the use of IPL to treat ocular rosacea and therefore it would be considered an off-label use. The Board discussed the training that might be required for an optometrist to perform the therapy and whether the practice is taught in schools of optometry and/or post graduate courses. The Board plans to invite Dr. Howard Purcell, director of the New England School of Optometry, to speak at its December meeting and asked that Mr. Hawley request Dr. Purcell to address the topic of students' education training in advanced therapies in his remarks. The Board may invite other individuals as well to discuss this topic with the Board at future meetings.
- **AARP Advertising for Eye Examinations by LensCrafters** – The Board received a question from an Optometrist who questioned the legality of an advertisement by LensCrafters in the September issue of American Association of Retired Persons ("AARP") magazine. Attorney York and Mr. Hawley discussed their review of the hard-copy advertisement and related links on the AARP and LensCrafters websites. They noted that the \$55 eye exam mentioned in the online version of the ad appears to refer to a co-pay and has fine print language indicating that the advertisement should be considered void in states where it would not be legal. The links to the web pages of local LensCrafters stores do seem to indicate the names and license numbers of Optometrists who practice at those locations. However, the hardcopy advertisement from the AARP magazine had no such identification of the optometrist providing the service and no disclaimers. They also do not make it clear that the named price is a co-pay. It appears that the cost is the fee for the eye examination. In Massachusetts, advertisements for eye examination services must include the name or tradename of the optometrist(s) providing the services. The Board requested that Attorney York draft a potential letter to AARP and LensCrafters articulating the regulatory requirements in Massachusetts. The letter will need to be reviewed and approved by the Board and the Division of Professional Licensure before it is sent out.

Reinstatement Request:

- **Request from Gerald Selvin for license reinstatement** – After review and discussion of the documents that Dr. Selvin submitted along with information provided by board staff, the Board agreed that Dr. Selvin met the requirements to proceed with the reinstatement process. **The next step would be to take the Massachusetts optometry Jurisprudence examination. Dr. Sewell moved to allow Dr. Selvin to continue with the reinstatement process. Dr. Sabree seconded. The motion passed unanimously.**

Open Session for topics not reasonably anticipated:

- The Board discussed member availability for the November meeting which falls on the eve of Thanksgiving Day and agreed that the meeting will not be held.

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

10:59 am, Dr. Rakusin moved to enter into closed session to discuss a settlement offer in the following matter: 20160809OP001-it-enf and to consider the following investigative matter, 2018-000669-it-enf. Dr. Sabree 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:

- **20160809OP001-it-enf: Provided guidance on consent terms to the prosecutor**
- **2018-000669-it-enf: Dismissed with advisory**

12:00 - Dr. Sabree moved to adjourn the meeting. Motion seconded by Dr. Willinger. The motion passed unanimously.

Respectfully submitted,



Michael Hawley, Executive Director

Documents used in the open meeting:

- Agenda for October 17, 2018 board meeting
- Draft of Minutes of September 19, 2018 board meeting
- Note from Dr. George Montminy along with copies of AARP and LensCrafters advertisements, undated.
- Request for license reinstatement from Dr. Gerald Selvin, dated September 17, 2017
- Letter from Dr. Selvin to MA Board answering conditions for reinstatement, dated August 8, 2018
- Mass Board of Optometry letter to Dr. Selvin, dated March 21, 2018
- Partial CE record for Dr. Selvin (1991-2018), file dated August 27, 2018
- Notes on partial licensure timeline for Dr. Selvin, undated