

Board of Registration of Dispensing Opticians
1000 Washington St. Room 1C
Date: September 5, 2018 Time: 10:00 a.m.

Public Meeting Minutes

Board Members Present:

Gary Peters
Marty Bregman
David Fogg
Deanna Kurlowecz

Staff Present:

Michael Hawley, Exec. Director
James O'Connor, Board Counsel

Members of the Public Present:

James Russo
Susan Clarke
Joshua Brown

10:03AM: Meeting called To Order:

- Meeting was called to order at 10:05 a.m. by Mr. Peters.
- Mr. Peters reviewed exit procedures in the case of an emergency.

Review Meeting Minutes:

- Minutes of August 1, 2018 Meeting: **Mr. Bregman moved to accept the minutes as amended. Mr. Peters seconded. The motion passed unanimously.**

Board Business:

- Report from Executive Director, Michael Hawley
 - Mr. Hawley reported that there approximately 50 applicants who have been invited to take the September practical exam.
- Report from Board Counsel, James O'Connor
 - Attorney O'Connor suggested that the board may wish to alter its delegation of authority regarding final decisions and orders to allow the Executive Director and Board Counsel to issue final decisions and orders in the Board's name when the respondent is an unlicensed individual who is being prosecuted for unlicensed practice. An updated delegation policy will be presented for a vote at a final meeting.

Apprentice Extension Request:

- **Susan Clarke** – Ms. Clarke appeared before the board to request a reinstatement and extension of her apprenticeship. Ms. Clarke has passed the ABO but still has not passed the NCLE. Ms. Clarke was granted extensions of her apprenticeship in October of 2016, May of 2017, November of 2017, and again in May of 2018. The May 2018

apprenticeship extension was granted on the condition that she take the NCLE every time it was available to her. However, Ms. Clarke failed to register for the NCLE in August when it was available. This triggered the cancellation of her apprenticeship. Ms. Clarke's Sponsor, Joshua Brown, accompanied her to the meeting. However, Mr. Brown expressed doubts (in person and in a memo to the Board) about Ms. Clarke's commitment and ability to pass the NCLE. He cited a lack of preparation along with other problems with her past performance as an apprentice. Ms. Clarke disputed Mr. Brown's characterizations of her abilities and performance.

The Board discussed the fact that Ms. Clarke had received four extensions of her apprenticeship and cited the desire of the Board to limit the number of extensions granted to any individual. The Board also considered the fact that Ms. Clarke's sponsor doubted Ms. Clarke's commitment and ability to pass the NCLE.

Mr. Peters moved to deny Ms. Clarke's extension and reinstatement request. Ms. Kurlowecz seconded. Motion passed unanimously.

Discussion:

- Options for former apprentices who have forfeited their eligibility to be apprentices – The board discussed what employment options exist for former apprentices who have not become licensees and who are no longer eligible to work as apprentices. The Board agreed that such individuals may become frame stylists or sales associates. However, they may not perform tasks that comprise dispensing as defined in the Board's regulations and statutes.
- Apprentice training program options – The Board discussed the fact that the apprentice optician program provides two tracks for apprentices. One is a standard apprenticeship. The other is for management employees who also are apprentice opticians. The Board observed that apprentices who are managers may not supervise their sponsors.
- Activities that constitute dispensing and those that do not – The Board discussed whether or not the act of placing a pair of glasses on the counter for a customer to pick up, without fitting or adjusting the glasses, constituted dispensing under the regulations. There was considerable discussion of situations that may give rise to this issue. The Board agreed that a dispensing optician or apprentice optician must fit and adjust the glasses and would be in violation of their responsibilities if they did not. The Board discussed whether an employee who is neither an optician nor an apprentice may allow a customer to take the glasses. Members did agree that they, themselves, would not allow such a practice.

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

None.

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

At 11:12 a.m. Mr. Fogg moved to enter into Investigative Session to discuss a pending case [Closed Session pursuant to M.G.L. c. 112 §65C]. The motion was seconded by Ms. Kurlowecz. Motion passed unanimously.

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

During the investigative conference the board voted to take the following action:

- DO 2018-000408-it-enf - Dismiss

Adjudicative Conference [Closed session pursuant to G.L. c. 30A §18, 5(d)]:

At 11:25 a.m. Mr. Fogg moved to enter into Adjudicative Conference to issue a final order in a disciplinary case. [Closed Session pursuant to M.G.L. c. 112 §65C]. The motion was seconded by Mr. Bregman. Motion passed unanimously.

At the end of the adjudicative conference, the open meeting resumed.

During the adjudicative conference the board voted to take the following action:

- DO-2016-001106-IT-ENF – issued final order.

11:36 a.m. Adjournment:

Mr. Bregman moved to adjourn the meeting. Ms. Kurlowecz seconded. Motion passed unanimously.

Respectfully Submitted,



Michael Hawley
Executive Director

Documents used in the open meeting:

- Agenda for DO Board Meeting of September 5, 2018
- Minutes from the August 1, 2018 Board meeting
- Apprenticeship extension request of Susan Clarke