

Board of Registration of Optometry

Public Session Minutes

Meeting Held by Conference Call

DATE: April 15, 2020 TIME: 10:00am

Board Members Present by Phone:

Everett Sabree, OD
Jeanette Sewell, OD
Rhonda Willinger, OD
Bruce Rakusin, OD
Marianne Sarkis, Ph.D.

DPL Staff Present by Phone:

Michael Hawley, Executive Director
Sheila York, Board Counsel

Members of the Public Present by Phone:

Gary Chu, OD
Wayne Zahka, OD
Mark Molloy, Esq.

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

Report from Executive Director:

- Mr. Hawley reported that Board staff is working from home with only weekly visits into the office to check for mail and deal with paper documents.

Report from Board Counsel:

- Nothing to report.

Discussion:

- Impacts of the COVID-19 Pandemic:
 - Continuing Education (“CE”) availability and request for reconsideration of CE requirements for 2020 – comments from Dr. Wayne Zahka of the Massachusetts Society of Optometry (“MSO”).

Dr. Zahka spoke in support of the MSO request that the Board reconsider its policy removing the limitation on distance learning courses that will be accepted for CE credit for the 2020 calendar year. Dr. Zahka reviewed the Council on Optometric Practitioner Education (“COPE”) temporary rules modification allowing organizations that had scheduled live continuing education activities which were COPE approved and can no longer be held in person due to the COVID-19 pandemic, to present those activities in an interactive distance learning format and have them classified as live. He reminded the Board that this

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would allow licensees to use such courses to satisfy the CE requirements of the board while still adhering to the regulatory limitation on distance learning.

Dr. Zahka expressed concern that allowing licensees to use distance learning coursework in place of live (or interactive distance learning reclassified as live) might lead to a decreased demand for the live (and reclassified) seminars. This, in turn, could lead to cancellation of these events, resulting in reduced availability. Dr. Zahka stressed the value of in-person and interactive formats and said that many licensees valued these formats and that the Board ought to reconsider an action that had the potential to make them unavailable for those who wished to attend. He suggested that the Board should consider using the interactive format courses along with in-person courses to satisfy the in-person CE requirement as written in the regulations or that the Board consider increasing the number of distance learning hours allowed, but not eliminating the restriction entirely.

The board discussed Dr. Zahka's concerns; and felt that, while they understood the problems attendant upon relaxing the distance learning restriction, it would be best to reaffirm the decision reached at the March meeting. **Dr. Sewell moved to maintain the policy enacted at the March meeting removing the restriction on distance learning only for the 2020 calendar year. Dr. Rakusin seconded. The motion passed on a roll call vote: Dr. Rakusin – “yes”; Dr. Sewell – “yes”; Dr. Willinger – “yes”; Dr. Sarkis – “yes”; Dr. Sabree – “yes”.**

- Jurisprudence (“JP”) exam availability.

Mr. Hawley reported that the Massachusetts test centers at which applicants for Optometry licensure must take the Massachusetts Optometry Jurisprudence Exam, a prerequisite for licensure, are currently closed and the reopening dates are uncertain. When they do reopen they will have reduced capacity and it is reasonable to expect delays. Given the classification of Optometry as an essential profession in Massachusetts, Mr. Hawley asked the Board to consider offering conditional licensure agreements to candidates who are otherwise fully qualified for licensure and are only awaiting the exam. **Dr. Rakusin moved to grant conditional licensure to applicants who have not been able to take the jurisprudence exam due to lack of exam availability during the COVID-19 state of emergency. Such applicants will be required to sign a conditional licensure agreement requiring them to take and pass the jurisprudence exam within six months of the lifting of the state of emergency. Dr. Sewell seconded. The motion passed on a roll call vote: Dr. Rakusin – “yes”; Dr. Sewell – “yes”; Dr. Willinger – “yes”; Dr. Sarkis – “yes”; Dr. Sabree – “yes”.**

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- National Exam availability.

The Board received from ARBO an email reporting test center closures due to the COVID-19 emergency. There is uncertainty as to when the test centers will become available. The Board directed staff to find out from ARBO what other boards are doing about handling applicants who are unable to take the National Exams.

- Signatures and other documentation requirements

Mr. Hawley reported that applicants have been experiencing difficulty obtaining transcripts and dean's certifications due to school closures. They have also reported difficulty obtaining letters of verification from states where they have been licensed. The Board agreed that staff should work with the license vendor, PCS to allow submission of this documentation via electronic means.

- Provision of services – Request for Guidance Pamphlet

The Board reviewed a document issued by the Betsy Lehman Center (Commonwealth of Massachusetts agency) that provides guidance for provision of health care services during the COVID-19 pandemic. The document is addressed to medical offices. The Commissioner of the Division of Professional Licensure has inquired about whether the Optometry Board wished to contribute to the document with information directed toward optometry practice. The Board thought that a supplement would be a good idea but that it may be advisable to research whether the advice in the pamphlet was compatible with the Boards statutes and regulations.

- Other impacts

The Board held a brief discussion about the idea of extending prescriptions without a new eye examination during the pandemic. The Board agreed the prescription extensions should be handled on a case by case basis with Optometrists exercising their professional judgement in the best interests of the patient. The board also discussed the use of online eye exams and made no decisions on that matter.

- Probation termination request from Blair O'Reilly:

The Board received a petition from Blair O'Reilly to terminate his probation pursuant to the matter of OP-14-017. The Board agreed that the matter was best reviewed in a closed executive session in order to protect the confidentiality of the petitioner's medical information.

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

None.

At 11:41 am, Dr. Sabree moved to adjourn the public meeting and enter executive session [Closed Session pursuant to M.G.L. c. 30A, s. 21(a)(7)] to comply with M.G.L. c. 4, s. 7 para. 26(c) to protect the confidentiality of medical information related to petition termination in the matter of OP-14-017. Dr. Rakusin seconded. The motion passed on a roll call vote: Dr. Rakusin – “yes”; Dr. Sewell – “yes”; Dr. Willinger – “yes”; Dr. Sarkis – “yes”; Dr. Sabree – “yes”.

During the executive session, the board took the following action:

- Voted to terminate Dr. O'Reilly's probation upon receipt of proof of CE compliance.

Respectfully submitted,



Michael Hawley, Executive Director

Documents used in the open meeting:

- Agenda for April 15, 2019 board meeting
- Pamphlet from Betsy Lehman Center dated April 1, 2020
- COPE Temporary Rules Modification dated March 16, 2020
- ARBO email re AOA advisory
- ARBO email re CDC guidance for routine eye care
- ARBO email re Test Centers for National Exams