

Board of Registration of Optometry

Public Session Minutes

Meeting Held by Phone/Video Conference

DATE: August 16, 2023 TIME: 10:00am

A public meeting of the Massachusetts Board of Registration in Optometry (“the Board”) was held via Videoconference and Conference Call pursuant to section 40 of chapter 2 of the acts of 2023, signed into law on March 29, 2023.

Board Members Present by Phone/Video:

Rhonda Willinger, OD

Jeanette Sewell, OD

Everett Sabree, OD

DPH Staff Present by Phone/Video:

Sheila York, Board Counsel

Thomas F. Burke, Executive Director

Lauren McShane, Chief Investigator

Margaret McKenna, Board Staff

Board Members Not Present by Phone/Video:

Bruce Rakusin, OD

Marianne Sarkis, Ph.D.

Meeting called to order at 10:02 AM by Dr. Sabree

Meeting called to order:

- Teleconference Procedures

Mr. Burke advised members of the public to mute their volume and utilize the raise hand function to address the Board. He asked that members of the public turn off their cameras during the meeting and when not directly addressing the Board.

- Roll Call Vote for Attendance

Board chair Dr. Sabree established a quorum via calling attendance: Everett Sabree, Jeanette Sewell and Rhonda Willinger. All members participated remotely via Webex by Cisco.

Board Business:

- Review of Public Session Minutes: June 21, 2023

Dr. Sewell moved to accept the public session minutes as written. Dr. Willinger seconded. The motion passed on a roll call vote: Dr. Willinger – “yes”; Dr. Sabree – “yes”; Dr. Sarkis – “Not Present”; Dr. Sewell – “yes”; Dr. Rakusin – “Not Present”.

- Review of Executive Session Minutes: June 21, 2023

Dr. Sewell moved to accept the executive session minutes as written. Dr. Rakusin seconded. The motion passed on a roll call vote: Dr. Willinger – “yes”; Dr. Sabree – “yes”; Dr. Sarkis – “Not Present”; Dr. Sewell – “yes”; Dr. Rakusin – “Not Present”.

Correspondence:

- Request for CE waiver due to hardship from J. Bui

Dr. Jennifer Bui, O.D. completed her doctor of optometry degree in 2022 but did not pass the NBEO exams until 2023. Her license was issued in April 2023 and she petitioned the board to waive the continuing education requirement for the current renewal period.

After discussion, Dr. Sewell moved to deny the petition to waive the continuing education requirement. Dr. Willinger seconded. The motion passed on a roll call vote: Dr. Willinger – “yes”; Dr. Sabree – “yes”; Dr. Sarkis – “Not Present”; Dr. Sewell – “yes”; Dr. Rakusin – “Not Present”.

Compliance Monitoring:

- Bado Report

The Board reviewed the first monitor report pursuant to Dr. Bado’s consent agreement (in the matter of 2022-000587-it-enf). The Board agreed to address the attorney letter in executive session.

Dr. Sewell moved to accept the first monitor report and accompanying lab report. Dr. Willinger seconded. The motion passed on a roll call vote: Dr. Willinger – “yes”; Dr. Sabree – “yes”; Dr. Sarkis – “Not Present”; Dr. Sewell – “yes”; Dr. Rakusin – “Not Present”.

Discussion:

- Prescriber training course requirement pursuant to M.G.L. c. 94C, s. 18(e)

The Board discussed the new prescriber training requirement for optometrists. The Board agreed that there should be a standard for pain management and reviewed a course offered by Boston University in opioid prescribing education and pain management. The Executive Director, Mr. Burke, explained that the course offering would fulfill the new prescriber training requirement for optometrists in Massachusetts. Ms. York noted that in 2016 the law under Massachusetts Controlled Substance Registration (MCSR) was changed to require that all prescribers of controlled substances take a course each renewal period in pain management, specifically in opioids pursuant to M.G.L. c. 94C, s. 18(e). Now that optometrists are permitted to prescribe medications in the treatment of glaucoma and because of the recent transfer to the Department of Public Health, DPH interprets the statutory

requirement to apply to Massachusetts optometrists with MCSR. Ms. York stated that the course offering at Boston University is free of charge and suggested that the Board may approve other courses on a case-by-case basis. In response, the Board expressed concern about the new requirement because optometrists are not permitted to prescribe opioids, and when optometrists complete the course they may interpret that as approval to prescribe opioid medication. Attorney Mark Malloy of Cascade Strategies on behalf of the New England College of Optometry agreed that there is an explicit prohibition on optometrists prescribing opioids; however, the statute does not make a distinction between pain management and prescribing opioids in controlled substances. Thus, anyone who is licensed to prescribe medications in Massachusetts must take the course. Attorney Malloy acknowledged that the Board may develop its own standards for education on pain management and interpret how optometrists may fulfill the requirement. Attorney York responded that she will bring the Board's concerns to senior management regarding potential confusion for optometrists and keep the Board updated. She acknowledged that the course may fulfill continuing education requirements.

- Telepractice Policy

The board reviewed the revised draft telepractice policy and provided further guidance to board counsel on the draft policy. The board stressed that patient records should contain written documentation when a patient visit is conducted by electronic means and emphasized the need for optometrists to exercise professional judgment and patient concerns when choosing telepractice to examine the patient. No vote was taken.

- Registry of Motor Vehicles and vision examinations

The Board discussed recent changes to the Registry of Motor Vehicles (RMV) vision test procedures that became effective on July 1, 2023. Individuals who do not initially pass the RMV vision exam must visit their optometrist for additional examination. New procedures now require optometrists to submit their exam results to the RMV by electronic means or via FAX. The Board noted that some patients report that results can take approximately one week to be processed, which delays the renewal of their drivers' licenses. Executive Director Thomas Burke stated that he will bring this matter to the attention of senior management.

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

- None

Executive Session

At 10:42 a.m., Dr. Sewell moved to exit open session and enter Executive Session pursuant to G.L. c. 30A, s. 21(a)(1) to protect the confidentiality of medical records to discuss an

individual's health rather than professional competence and s. 21(a)(7) to maintain confidentiality of highly personal data to comply with G.L. c. 4, s. 7 para. 26(c) and G.L. c. 214, s. 1B, and not return to the public meeting. Dr. Willinger seconded the motion. The motion passed on a roll call vote: Dr. Willinger – “yes”; Dr. Sabree – “yes”; Dr. Sarkis – “Not Present”; Dr. Sewell – “yes”; Dr. Rakusin – “Not Present”.

See separate minutes for Executive Session.

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

At 10:58 a.m., Dr. Sewell made a motion, seconded by Dr. Willinger to adjourn the executive session and to enter into closed session to conduct investigatory conferences, pursuant to G.L. c. 112, §65C, and at the conclusion of the closed session, not return to the public meeting. The motion passed on a roll call vote: Dr. Willinger – “yes”; Dr. Sabree – “yes”; Dr. Sarkis – “Not Present”; Dr. Sewell – “yes”; Dr. Rakusin – “Not Present”.

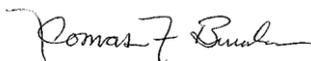
During the closed session, the Board took the following action:

- INV7255 – provided guidance to the investigator.

Adjournment:

At 11:08 a.m., Dr. Sewell moved to adjourn the meeting. Dr. Willinger seconded. The motion passed on a roll call vote: Dr. Willinger – “yes”; Dr. Sabree – “yes”; Dr. Sarkis – “Not Present”; Dr. Sewell – “yes”; Dr. Rakusin – “Not Present”.

Respectfully submitted,



Thomas Burke, Executive Director

Documents used in the open meeting:

- Agenda for August 28, 2023 board meeting
- Public Session Minutes for June 21, 2023
- Executive Session Minutes for June 21, 2023
- Draft Telepractice Policy
- Prescriber training course at Boston University