

Board of Registration of Optometry

Public Session Minutes

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

DATE: December 19, 2018 TIME: 10:00am

Board Members Present:

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

DPL Staff Present:

Michael Hawley, Executive Director
Thomas F. Burke, Associate Executive Dir.
Sheila York, Board Counsel

Members of the Public Present:

Gary Chu, New England College of Optometry
Howard Purcell, New England College of Optometry
Tony Cavellerano, New England College of Optometry
Kim McRoberts, Lumenis
Melissa Toyos, MD, Toyos Clinic
Jay Gardiner, Massachusetts Society of Optometrists

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

Evacuation Procedure:

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

Review Minutes:

- Minutes of October 17, 2018 meeting – **Dr. Rakusin moved to accept the minutes as written. Dr. Sewell seconded the motion. Motion passed unanimously.**

Report from Executive Director:

- Licensing Update: Mr. Hawley reported that renewal notices were mailed late but that on-line renewal is available. Since this is the first renewal period where the requirement that licensees have applied for provider status with MassHealth, a letter has been prepared for distribution to licensees who attest that they have not yet applied to MassHealth.

Report from Board Counsel:

- CORI policy – Board counsel reviewed the DPL CORI policy regarding the way the DPL licensing boards handle applicants whose records show that they have criminal histories. The Board discussed the policy and agreed that it is consistent with the way the Board has been reviewing application.
Dr. Sewell moved to accept the policy. Dr. Rakusin seconded. The motion passed unanimously.

Speakers:

- Drs. Howard Purcell, Anthony Cavallerano and Gary Chu of New England College of Optometry (“NECO”) gave the Board an update on NECO activities, student curriculum, and board related issues. Among the issues discussed were:
 - The definition of Optometry in the Board’s statutes and regulations,
 - The number of distance learning CEs allowed by the Board,
 - Potential CE and training requirements if glaucoma legislation is adopted
 - Possible legislative change to allow college faculty to become members of the Board.
 - New facility and other developments at NECO.
- Dr. Wayne Zahka, Legislation Chair of the Mass Society of Optometry (“MSO”) was unable to attend the meeting this month. Mr. Gardiner spoke briefly on his behalf and indicated that Dr. Zahka would attend the January meeting and give an update on pending legislation that would impact optometry practice.

Discussion:

- **Intense Pulsed Light (IPL)** – Mellissa Toyos and Kim McRoberts spoke to the Board to advocate IPL therapy as it can be used in the practice of optometry. They discussed the procedures and equipment required and reported on its effectiveness. The Board asked questions about the process and its risks and asked the representatives of NECO whether training for IPL therapy is offered at NECO. The Board asked board staff to seek information from ARBO about other states’ use of IPL. The Board also agreed to discuss IPL at a future meeting.
- **Blood glucose testing** – The discussion was tabled for a future meeting.
- **Serum tears** – The discussion was tabled for a future meeting.
- **Topical testosterone treatment** – The discussion was tabled for a future meeting.
- **Amniotic membrane lenses** – A question was received regarding whether the use of amniotic membrane lenses is within the scope of practice if an optometrist. The Board may have addressed the use of amniotic membrane lenses at a prior meeting and asked board staff to obtain and refer to the minutes of that meeting in order to provide an answer.

Question from Tearlab pertaining to the Department of Public Health (“DPH”) interpretation of the Clinical Laboratory Improvement Act (“CLIA”) and CLIA waiver requirements for Optometrists using the Tearlab Osmolarity test: – Attorney York discussed

the fact that this issue may impact access to care for patients in Massachusetts. She will respond to the inquiry and have further discussion with the General Counsel at DPL on the matter.

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

- The Board received a request from Dr. Magalhaes (Cases: OP-15-001, OP-15-003, OP-15-004) that he be removed from probation. The Board agreed that Dr. Magalhaes has met the terms of his consent agreement.

Dr. Sewell moved to terminate the probation. Dr. Willinger seconded. The motion passed unanimously.

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

12:11 am, Dr. Sewell moved to enter into closed session to consider the following investigative matters, 2018-000867-it-enf and 2018-000913-it-enf. Dr. Rakusin 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:

- **2018-000867-it-enf: Dismissed**
- **2018-000913-it-enf: Dismissed**

12:23 - Dr. Rakusin moved to adjourn the meeting. Motion seconded by Dr. Sewell. The motion passed unanimously.

Respectfully submitted,



Michael Hawley, Executive Director

Documents used in the open meeting:

- Agenda for December 19, 2018 board meeting
- Draft of Minutes of October 17, 2018 board meeting
- Request for probation termination and associated documents from Dr. Magalhaes.
- OP Amniotic Membrane Contacts Question from MSO regarding amniotic membrane contact lenses, dated November 19, 2018.
- OP Blood Glucose Testing Question on Finger Stick testing from Dr. Stamm, dated November 29, 2018
- OP CLIA Massachusetts State CLIA Rule and Regulations, undated.
- OP IPL Declaratory Ruling IPL and Radio Frequency Devices, dated November 19, 2018.
- OP IPL letter to Board of Registration from Kristen Brown, undated.
- OP IPL M22 510K, dated in 2009.
- OP Serum Tears Topical Testosterone Question regarding Medication, dated October 18, 2018
- OP Serum Tears Topical Testosterone TFOS DEWS II Management and Therapy Report, dated May, 2017