

IDAHO BOARD OF OPTOMETRY
Bureau of Occupational Licenses
700 West State Street, P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 5/3/2016

BOARD MEMBERS PRESENT: James Davis, OD - Chair
Wayne D Ellenbecker, OD
Raymond C Goodman, OD
Aaron J Warner, OD
Joy E Johnson, OD

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Administrative Support Manager
Lori Peel, Investigative Unit Manager
Maurie Ellsworth, General Counsel
Mitchell Toryanski, Legal Counsel

OTHERS PRESENT: Dr. Steven Iwasa
Dr. Fred Downard
Randy Andregg, Executive Director
Idaho Optometric Physicians
Kris Ellis, Advisor
Idaho Optometric Physicians

The meeting was called to order at 9:30 AM MDT by James Davis, OD.

APPROVAL OF MINUTES

Dr. Ellenbecker made a motion to approve the minutes of 2/8/2016, 2/18/2016, and 4/21/2016. It was seconded by Dr. Goodman. Motion carried.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. She reminded the Board of the deadlines for any proposed legislation for the 2017 Legislative Session: August 1 for proposed laws and the third week in August for proposed rules. Dr. Davis asked about the timing of the Governor's law that was passed in the 2016 Legislature in response to the U.S. Supreme Court case North Carolina Board of Dental Examiners v. Federal Trade Commission. It goes into effect July 1, 2016, and does the following: 1. Allows the Governor to consider recommendations made by associations or any individuals residing in the state and allows him to appoint any qualified individual to Idaho boards; 2. Provides that all board members serve at

the Governor's pleasure; and 3. Provides for at least one consumer member on every board. Ms. Cory said there were 36 Boards affected by the law so the Governor's Office will be working with all of them.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of \$97,616.82 as of 4/30/2016.

INVESTIGATIVE REPORT

Ms. Peel gave the investigative report, which is linked above.

OLD BUSINESS

To Do List – The Board reviewed the to do list and no action was taken.

REVIEW OF TELEHEALTH LETTER

The Board discussed the draft of the letter regarding the Idaho Telehealth Access Act to be sent to the licensees. Dr. Goodman made a motion to approve the letter and mail it to the licensees. It was seconded by Dr. Ellenbecker. Motion carried.

OE TRACKER

Mr. Toryanski reviewed the proposed language for Rule 300.07 with the Board. He said the proposed rule does not designate a specific system but allows for licensees to use a tracking system for their continuing education (CE). Mr. Toryanski and Dr. Ellenbecker reviewed the rules of other states and there were less than ten (10) which used OE Tracker. Ms. Cory discussed the requirements for changing a law and the items that the Governor's Office looks for in its review of proposed laws and rules. The Board discussed the use and cost of online tracking systems for continuing education and the possibility of 100% audits through online renewal and continuing education tracking systems. Ms. Cory asked if the Board knew how many Idaho licensees were using OE Tracker to record their continuing education courses. Dr. Ellenbecker said he would get the number and report it to the Board at its next meeting. Dr. Ellenbecker made a motion to approve the proposed language and move forward with it for the 2017 Legislative Session. It was seconded by Dr. Goodman. Motion carried.

CONTINUING EDUCATION REQUIREMENTS

The Board discussed the possibility of increasing the number of online continuing education hours for licensees, utilizing more Council on Optometric Practitioner Education (COPE) approved continuing education, and emphasizing the value of in-person continuing education. Dr. Andregg discussed the continuing education provided by the Idaho Optometric Physicians, the costs included with it, and the advantages of live continuing education versus online courses. Dr. Johnson made a motion to have Dr. Goodman work with Ms. Toncray to gather CE information through ARBO for other states. This information along with Rule 300.07 will be brought to the next meeting for review prior to submission to the Governor's Office. The motion was seconded by Dr. Ellenbecker. Motion carried.

SINGLE TIER LICENSURE

Dr. Davis reviewed the history regarding the issue of single tier licensure. The discussion began in 2006 and the Board at that time suggested multiple tiers be eliminated within five years. Drs. Osterberg and King who hold some of the 14 non-TMOD licenses participated in the discussion through a teleconference call. Dr. Osterberg said he would prefer that the Board keep the licensure structure as it stands, and that his patients were very satisfied with his care. Dr. King agreed with Dr. Osterberg. Dr. Downard attended the Board meeting, and he said he knows he needs to take a TMOD class and get his therapeutics license. Dr. Iwasa also attended the Board meeting, and said he is part of a multi-practitioner business and there are other optometrists to which he can confidently refer patients. He said he provides adequate care for the ocular health of his patients. Dr. Iwasa said the cost would be significant to obtain his therapeutics license, and asked that the Board let him and others practice as they have been. Dr. Davis thanked everyone for their attendance and participation.

Dr. Andregg said that the general perception of Idahoans is that the majority of optometrists have the TMOD level of licensure, so the higher level of care is expected from all optometrists. He suggested that those currently licensed without the therapeutics aspect of licensure be able to retain their optometric license and go forward with the single tier licensure for all other licensees. The Board discussed this possibility and the ramifications for licensees and the protection of the public, and will review the public comments and move forward in its next meeting on a timeline and proposed language for the laws and rules regarding single tier licensure. The Board will continue to discuss this issue but will not have a proposal for the 2017 Legislative Session.

Dr. Ellenbecker made a motion to add Single Tier Licensure to the next agenda. It was seconded by Dr. Warner. Motion carried.

NEW BUSINESS

RULES UPDATE

Mr. Toryanski reviewed the renewal and reinstatement statute which passed through the Legislature this year. He said the Board will need to revise the rules to have the language match the law. Dr. Ellenbecker made a motion to approve the proposed language for the rules regarding continuing education and renewal and reinstatement fees, and have Bureau staff draft a postcard to the licensees for review by the Board prior to sending. It was seconded by Dr. Goodman. Motion carried.

ASSOCIATION OF REGULATORY BOARDS OF OPTOMETRY (ARBO) REPORTS

The Board reviewed the 2016 Idaho Annual Report to be sent to ARBO prior to the ARBO Annual Meeting. Dr. Ellenbecker made a motion to approve the report and have Ms. Toncray send it to ARBO. It was seconded by Dr. Johnson. Motion carried.

Dr. Davis said he could not attend the Annual ARBO meeting in June 2016. Dr. Ellenbecker made a motion to have Dr. Warner attend in Dr. Davis' place. It was seconded by Dr. Goodman. Motion carried.

OPTERNATIVE AND AOA/CONTACT LENS BILL

The Board reviewed and discussed the articles from the American Optometric Association (AOA) regarding an FDA complaint against Opternative and the bill about internet sales of contact lenses which was submitted by the AOA.

EXECUTIVE SESSION

Dr. Warner made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the Executive Session was to consider license application materials. It was seconded by Dr. Ellenbecker. The vote was: Dr. Davis, aye; Dr. Ellenbecker, aye; Dr. Goodman, aye; Dr. Johnson, aye; and Dr. Warner, aye. Motion carried.

Dr. Ellenbecker made a motion to come out of executive session. It was seconded by Dr. Goodman. The vote was: Dr. Davis, aye; Dr. Ellenbecker, aye; Dr. Goodman, aye; Dr. Johnson, aye; and Dr. Warner, aye. Motion carried.

CE FOR AUDIT/REINSTATEMENT

The Board reviewed the CE for audit and reinstatement. Dr. Goodman made a motion to accept the application for reinstatement. It was seconded by Dr. Johnson. Motion carried.

Dr. Johnson made a motion to have Ms. Toncray send a letter to those who were audited to request further information. It was seconded by Dr. Ellenbecker. Motion carried.

Dr. Warner made a motion to deny the waiver request for a CE audit and send it to Investigations. It was seconded by Dr. Ellenbecker. Motion carried.

Dr. Goodman made a motion to deny the applications that fall outside the audit period and send to Investigations. It was seconded by Dr. Johnson. Motion carried.

NEXT MEETING was scheduled for August 8, 2016, at 9:30 AM MDT.

ADJOURNMENT

Dr. Warner made a motion to adjourn the meeting at 11:48 AM MDT. It was seconded by Dr. Goodman. Motion carried.

James Davis, OD, Chair

Wayne D Ellenbecker, OD

Raymond C Goodman, OD

Aaron J Warner, OD

Joy E Johnson, OD

Tana Cory, Bureau Chief