

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

**Board Meeting Minutes of 8/8/2016**

**BOARD MEMBERS PRESENT:** James Davis, OD - Chair  
Wayne D Ellenbecker, OD  
Raymond C Goodman, OD  
Joy E Johnson, OD  
Aaron J Warner, 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:** Kris Ellis, Advisor  
Idaho Optometric Physicians  
Dr. Randy Andregg, Executive Director  
Idaho Optometric Physicians  
Dr. Steven Iwasa

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

**APPROVAL OF MINUTES**

Dr. Goodman made a motion to approve the minutes of 5/3/2016. It was seconded by Dr. Ellenbecker. The Board discussed the email sent by Dr. Randy Andregg and his comments regarding his statements during the 5/3/2016 meeting about the subject of "Single Tier Licensure" in the 5/3/2016 minutes (see last page of these minutes). Motion carried.

**LEGISLATIVE REPORT**

Ms. Cory gave the legislative report. She reminded the Board of the August 1 deadline for proposed law changes and the third week of August for proposed rules for the 2017 Legislature.

**IDACARE LETTER**

Ms. Cory reviewed the IdaCare letter which was sent by the Governor's Office last week to all licensees.

## **FINANCIAL REPORT**

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of \$96,390.63 as of 7/31/2016.

## **BOARD CONTRACT**

Ms. Hall reviewed the 2017 contract with the Board. Dr. Goodman made a motion to approve the 2017 contract and to allow the Chair to sign. It was seconded by Dr. Johnson. Motion carried.

## **INVESTIGATIVE REPORT**

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

## **FOR BOARD DETERMINATION**

Dr. Warner made a motion to approve the Bureau's recommendation and authorize closure in case I-OPT-2016-6. It was seconded by Dr. Ellenbecker. Motion carried.

## **REGULATORY BOARD TRAINING**

Mr. Toryanski provided an overview of the rules and responsibilities of Board members.

## **OLD BUSINESS**

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

## **SINGLE TIER LICENSURE**

Dr. Davis reviewed the actions the Board has taken to date regarding single tier licensure. Dr. Johnson asked what the Board's options were if a complaint was received regarding the "standard of care" provided by an OD versus an ODP. Mr. Ellsworth said the Board is obligated to follow and enforce the law as written in determining the standard of care that it enforces when a complaint is received. The law currently allows licensure of ODs and they will be held to the standards allowed by their license, including referring patients to other practitioners if necessary. Mr. Ellsworth reviewed a scenario regarding standards of care and licensees' professional obligations under the laws and rules of the Board. Mr. Ellsworth said the Board is protected from liability by the discretionary function exception in the tort claim act in protecting the public and taking action against a licensee if the Board follows the law and acts in good faith.

## **OE TRACKER**

Dr. Ellenbecker reviewed the email and information he sent regarding the mandatory use of OE Tracker. Dr. Johnson said the ARBO report on OE Tracker showed that a 100% audit in another state was beneficial in ensuring the licensees completed all required continuing education. Ms. Cory discussed the

possible use of OE Tracker and the number of licensees currently using OE Tracker, and Dr. Johnson reviewed the fees for licensees and Boards to participate in OE Tracker: \$25/optometrist/year, \$60/optometrist/3 years; discount for Member Boards and State Associations, \$15/optometrist/year. The Board discussed the various scenarios of the licensee, the Board, or the Idaho Optometric Physicians paying the fees for OE Tracker. The Board's discussion of OE Tracker continued under "Proposed Laws and Rules."

## **ONLINE CONTINUING EDUCATION**

Dr. Goodman reviewed the information he provided regarding the allowed amount in other states of online continuing education. Dr. Goodman made a motion to propose a revision to Rule 300.03 to increase the allowed online continuing education (CE) from six (6) to nine (9) credit hours per year. It was seconded by Dr. Ellenbecker. The Board discussed the possibility and ramifications of this change. Dr. Goodman said that it would provide a greater spectrum of CE that an individual optometrist might be able to take, which could be more focused on his/her area of practice. The Board discussed the requirement of having the extra online CE being approved by COPE and the increased flexibility of having more online hours in the CE requirement. Motion carried. Mr. Ellsworth asked the Board if the CE listed in Rule 300.02(b) would continue to be in line with the proposed language and the Board said it would be.

## **NEW BUSINESS**

### **ASSOCIATION OF REGULATORY BOARDS OF OPTOMETRY (ARBO) ANNUAL MEETING REPORT**

Dr. Johnson reviewed the report she provided regarding the annual ARBO meeting. She asked Ms. Cory to share the telehealth information with those previously involved in writing the Idaho Telehealth Access Act. Dr. Johnson pointed out that there was a discussion in the ARBO meeting about other Boards and the processing of applications for licensure and the possibility of background checks and requirement of fingerprinting. Dr. Johnson also reviewed the COPE approval process and the Board's approval process for continuing education. The Board discussed its process of past approvals of continuing education courses. Dr. Davis asked that the topic of continuing education reviews/ approvals be included on the next agenda.

## **PROPOSED LAWS AND RULES**

Mr. Ellsworth said he reviewed the current law in the Board's scope of practice to see where to place the proposed single tier licensure language. He said that as he reviewed the current law he noted that language in Idaho Code § 54-1522 should be updated. Mr. Ellsworth stated he also saw the necessity of revising Idaho Code § 54-1520 and reviewed the proposed language with the Board. The Board discussed the proposed language and agreed to remove the portion of Idaho Code § 54-1520 related to displaying a license. The Board discussed the timing of the proposed language for single tier licensure.

Dr. Davis recognized the public in attendance to share comments regarding the proposed language regarding single tier licensure. Dr. Iwasa said he reviewed the available information regarding licensees who currently do not have authority to use or prescribe diagnostic or therapeutic pharmaceuticals. He said that after his review, he seemed to be the only one who would be continuing to practice without using or prescribing diagnostic or therapeutic pharmaceuticals, and that the Board needs to determine whether single tier licensure was truly a public protection issue. There were no further comments from the public in attendance. Dr. Ellenbecker made a motion to accept the proposed language with the deletion of the display provision in Idaho Code § 54-1520, accept the proposed language in Idaho Code § 54-1522, and submit it to the Governor's office for the 2017 Legislative Session. It was seconded by Dr. Goodman. Motion carried. Ms. Cory said that once the proposed language is approved by the Governor's Office, it would be posted on the Board's website and the Board would need to send notification via postcard to the licensees.

Mr. Toryanski provided an updated copy of the proposed language for the revised rules regarding reinstatement and renewal. He also reviewed the proposed change the Board requested in Rule 300, to have the allowable online CE be increased from six (6) to nine (9) hours. Mr. Toryanski also reviewed Rule 300.07 regarding verification of a licensee's participation in a CE tracking system. The Board discussed adding language to have each licensee maintain his/her original documentation of completion of continuing education and provide it upon request by the Board or its agent. Dr. Goodman made a motion to approve the proposed language with the requested changes to Rule 300 and submit it to the Governor's office for the 2017 Legislative Session. It was seconded by Dr. Ellenbecker. Motion carried.

Ms. Cory suggested that the Board send a postcard related to the proposed laws and rules once they are approved by the Division of Financial Management and are posted on the website. Dr. Ellenbecker made a motion to have the Bureau send a postcard to the licensees regarding the proposed laws and rules. It was seconded by Dr. Goodman. Motion carried.

## **CORRESPONDENCE**

### **ARBO – COPE ADMINISTRATOR/PROVIDER WORKSHOP**

The Board discussed having a member attend the workshop. Dr. Johnson said she and Dr. Andregg discussed COPE, and Dr. Andregg said he was interested in attending the Workshop. The Board took no further action on the correspondence.

### **ACCREDITATION COUNCIL ON OPTOMETRIC EDUCATION (ACOE) – ADOPTION OF REVISED OF OPTOMETRIC RESIDENCY STANDARDS, EFFECTIVE JULY 1, 2017 and ADOPTION OF REVISED OPTOMETRIC DEGREE STANDARDS, EFFECTIVE JULY 1, 2017**

Dr. Davis said the Board could take this information to review on its own, and if a Board member would like to have it included on the next agenda, he/she could contact Ms. Toncray and let her know.

## **CE COURSES**

The Board reviewed the continuing education courses and approved the following:

**EYE SYMPOSIUM NORTHWEST**  
OPTOMETRIC PHYSICIANS OF WASHINGTON

**INTERNATIONAL VISION EXPO & CONFERENCE WEST 2016**  
REED EXHIBITIONS/VISION COUNCIL

## **EXECUTIVE SESSION**

Dr. Goodman 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.

## **APPLICATIONS**

Dr. Johnson made a motion to approve the following for OD licensure without authority to use diagnostic and therapeutic pharmaceuticals, send the applicant a letter regarding the proposed language for single tier licensure, and authorize the Chair to review the applicant's completed CPR card if she chooses to be licensed to use diagnostic and therapeutic pharmaceuticals:

OPTA-100380 Dominique Ivette Garcia-Robles

It was seconded by Dr. Ellenbecker. Motion carried.

Dr. Goodman made a motion to approve the following for an upgrade to ODP:

OD-863 Randy Devoe Woolf

It was seconded by Dr. Ellenbecker. Motion carried.

Dr. Goodman made a motion to approve the following for license:

OPTA-100381 Thuy Ngoc Nguyen

It was seconded by Dr. Warner. Motion carried.

## **CE FOR AUDIT/REINSTATEMENT**

Dr. Warner made a motion to approve the CE for audit. It was seconded by Dr. Dr. Ellenbecker. Motion carried.

Dr. Ellenbecker made a motion to approve the CE for reinstatement. It was seconded by Dr. Johnson. Motion carried.

Dr. Ellenbecker made a motion to approve the CE for audit and have Ms. Peel send a warning letter to the licensee. It was seconded by Dr. Goodman. Motion carried.

### **ELECTION OF OFFICERS**

Dr. Goodman made a motion to elect Dr. Ellenbecker as the new Chair. It was seconded by Dr. Johnson. Motion carried. Dr. Ellenbecker made a motion to elect Dr. Johnson as Secretary. It was seconded by Dr. Goodman. Motion carried.

**NEXT MEETING** was scheduled for November 21, 2016, at 9:30 AM MST.

### **ADJOURNMENT**

Dr. Ellenbecker made a motion to adjourn the meeting at 12:12 PM MDT. It was seconded by Dr. Johnson. Motion carried.

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James Davis, OD, Chair

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Wayne D Ellenbecker, OD

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Raymond C Goodman, OD

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Aaron J Warner, OD

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Joy E Johnson, OD

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Tana Cory, Bureau Chief

**From:** Randy L. Andregg, OD [<mailto:execdir@iopinc.org>]  
**Sent:** Monday, August 08, 2016 7:29 AM  
**To:** Debbie Toncray  
**Cc:** Rick Davis  
**Subject:** ISBO Minutes Correction



Good morning Debbie,

I just realized I was misquoted (or mis-understood) when reading the ISBO Minutes from the 26May2016 meeting. In speaking with one of the current board members, it was suggested I communicate with you directly.

The correction needs to occur in the section titled SINGLE TIER LICENSURE, in the second paragraph, second sentence. "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." implies that I support grandfathering lowest-tier doctors into a level that I and those who practice at the top tier currently, had to pass specific testing to prove competency. I want to go on record as saying that is not the case.

What was said, is that **"an option be considered to allow lower tier doctors to continue practicing under the oversight of an ophthalmologist or optometrist with therapeutic pharmaceutical privileges."**

Would you be so kind as to share this with the board during today's meeting?

Thanks in advance,

Randy L. Andregg, OD  
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