

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

Board Meeting Minutes of 11/21/2016

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

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

OTHERS PRESENT: Dr. Alona King
Dr. Steve Iwasa
Ann Beebe, Governor's Office
Kris Ellis, Advisor,
Idaho Optometric Physicians
Dr. Andregg, Executive Director,
Idaho Optometric Physicians

The meeting was called to order at 9:30 AM MST by Wayne D Ellenbecker, OD.

APPROVAL OF MINUTES

Dr. Davis made a motion to approve the minutes of 8/8/2016. It was seconded by Dr. Goodman. Motion carried.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. She said that the Board's proposed rules were approved by the Governor's Office with the exception of proposed Rule 300.07 which stated: "Every licensed Idaho optometrist will obtain documentary or electronic certification of their hours of participation in board-approved continuing education activities from course instructors, providers, or sponsoring institutions. To receive credit for continuing education participation on or before their license expiration date, optometrists will ensure that this certification is posted to an electronic tracking system that is designated by the Board. The Board may designate the Association of Regulatory Boards of Optometry OE Tracker Program or another system as the means to verify continuing education participation." The Governor's Office is still reviewing the Board's proposed law change.

FINANCIAL REPORT

Ms. Cory gave the financial report, which indicated that the Board had a cash balance of \$99,068.21 as of 10/31/2016.

INVESTIGATIVE REPORT

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

FOR BOARD DETERMINATION

Dr. Davis made a motion to approve the Bureau's recommendation and authorize closure in case I-OPT-2016-2. It was seconded by Dr. Warner. Motion carried.

OLD BUSINESS

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

NEW BUSINESS

UPDATE ON PROPOSED RULES

Mr. Toryanski reviewed the draft of the proposed rules with the Board. He said the Governor's Office reviewed the proposed language and removed the language regarding the national CE tracking system and approved the revised rule to be published. Ms. Cory discussed the caveat that would be included on the Board's website for the revised rule listed on the website. Dr. Goodman made a motion to approve the caveat to be written by Bureau staff, authorize the Board Chair to approve it, and have it posted on the website. It was seconded by Dr. Johnson. Motion carried.

PRESENTATION BY DR. DAVIS

Dr. Davis presented information regarding tiered licensure. Dr. Ellenbecker also provided a brief history of the Board's actions regarding tiered licensure.

PUBLIC COMMENT AND CORRESPONDENCE ON PROPOSED LAW CHANGES

Dr. Ellenbecker invited the public in attendance to make comments. Dr. Alona King addressed the Board with her comments regarding tiered licensure and the letter she sent to the Board. She said that treating medical issues was not in the curriculum when she graduated, and when the required course was available she was not able to attend since she had just opened her own practice. Dr. King said that in her own practice in pediatric optometry that it's easier and more successful to use a pen optic rather than dilating the eyes of young children. She said if the medical issues of the patient are beyond her knowledge that she refers the patient to a medical office where the practitioner has the knowledge to treat

the patient. Dr. King said she would prefer to continue to practice as she has and continue referring certain medical issues to another practitioner.

Dr. Steven Iwasa also addressed the Board with his concerns regarding single tier licensure. He said that he is diagnostic certified, and that he never received a notification from the Board regarding single tier licensure. Dr. Iwasa said he would be taking the course in order to become therapeutically certified.

Dr. Randy Andregg, Executive Director of the Idaho Optometric Physicians (IOP), addressed the Board regarding Board certification, continuing competency and single tier licensure in light of the Board's directive to protect the public. He said the IOP strongly supports the Board's proposed law regarding single tier licensure. Dr. Andregg said the Continuing Professional Development of Optometry (CPDO) could be a better education piece for currently licensed optometrists that do not have training in therapeutic and pharmaceutical practices within optometry. Dr. Ellenbecker said those optometrists who would be affected by single tier licensure would need to complete the TMOD training as stated in the law and rules.

Ms. Beebe said the Governor's Office wanted to make sure that the proposed law would improve public health and safety.

DISCUSSION ON PROPOSED LEGISLATION

Mr. Toryanski reviewed the proposed language in Idaho Code §§ 54-1520 and 54-1522. The Board agreed to move forward with the proposed language in these codes.

NOTICE TO LICENSEES

Mr. Toryanski presented the draft language for the notification to be sent to licensees regarding the law and rule change. He said the language would need to reflect the removal of the requirement of the tracking system. Dr. Davis made a motion to authorize the Chair to work with the Bureau on the postcard language pending the Governor's approval of the proposed law. It was seconded by Dr. Goodman. Motion carried.

CONTINUING EDUCATION APPROVAL DISCUSSION

Dr. Ellenbecker reviewed the language on the renewal forms regarding the timing of completion of the annually required continuing education. Ms. Peel provided a draft of proposed language for the renewal forms. Dr. Davis made a motion to approve the proposed language changes, to have Ms. Hall update the forms and contact the Chair if there are questions. It was seconded by Dr. Goodman. Motion carried.

BACKGROUND CHECKS

Dr. Johnson provided an overview regarding other states' requirements for background checks and fingerprinting to issue licenses. She said that if the Board was to move forward in adding background checks with the requirement of fingerprinting to its law, it would involve a considerable amount of time. Ms. Cory said there are two staff members who are trained to work with the fingerprinting process and results received by the Bureau. She also said there is a cost involved that would either be paid by the licensees. Dr. Ellenbecker said the issue needs to remain on the To Do List as an ongoing topic to watch over the next couple of years. The Board also recommended that this be a question that is included on the report to ARBO for the next annual ARBO meeting.

CORRESPONDENCE – ARBO ANNUAL MEETING

The Board reviewed the email and letter from ARBO regarding inappropriate actions that occurred at the 2016 Annual ARBO Meeting, and no action was taken.

CORRESPONDENCE – ARBO DATA BREACH

The Board reviewed the email from ARBO regarding an alleged data breach that occurred in its database and the precautions that ARBO is taking, and no action was taken.

CORRESPONDENCE – ARBO AND COUNCIL ON OPTOMETRIC PRACTITIONER EDUCATION (COPE)

The Board reviewed the email and letter from ARBO regarding COPE and its mission, and no action was taken.

CORRESPONDENCE – EMAIL REQUESTING CLARIFICATION OF SPECIFIC RULES FOR READING GLASSES SOLD IN IDAHO

The Board discussed the email from Jerry Werbner with TrueColor Optics regarding the laws and rules related to reading glasses. Dr. Johnson made a motion to have Bureau staff draft a letter to Mr. Werbner which cites the appropriate laws and rules and advise him to consult his own legal counsel, and authorize the Chair to sign. It was seconded by Dr. Davis. Motion carried.

CORRESPONDENCE – EMAIL REGARDING CLINICAL TRIALS

The Board discussed the email from Dr. Brian McNeel to Dr. Warner regarding the Board's approval of a specific clinical trial. Dr. Warner said he requested the specific requirements of the clinical trial but did not receive a response. Mr. Ellsworth said that a clinical trial is not presumed to be within the normal scope of practice, and it is not the Board's function to approve clinical trials. The Board chose to take no action at this time.

CORRESPONDENCE – AMERICAN OPTOMETRY ASSOCIATION (AOA) ADVOCACY ARTICLE

The Board reviewed the article from the AOA regarding the Federal Trade Commission's (FTC) proposed rule changes for contact lens prescriptions, and no action was taken.

The Board thanked the public and Ms. Beebe for attending its meeting. Dr. Davis made a motion to authorize Dr. Johnson or Dr. Warner to meet with the Governor's Office if there are further questions regarding the proposed law. It was seconded by Dr. Goodman. Motion carried.

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. Warner. The vote was: Dr. Ellenbecker, aye; Dr. Davis, aye; Dr. Goodman, aye; Dr. Johnson, aye; and Dr. Warner, aye. Motion carried.

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

APPLICATIONS

Dr. Davis made a motion to approve the following for licensure:

OPTA-100384	Brandon Becken
OPTA-100387	Rhett Veater

It was seconded by Dr. Goodman. Motion carried.

CE COURSES

Dr. Warner made a motion to approve SECO 2017 provided by SECO International LLC. It was seconded by Dr. Davis. Motion carried.

Dr. Goodman made a motion to approve Academy 2016 Anaheim provided by the American Academy of Optometry. It was seconded by Dr. Davis. Motion carried.

Dr. Johnson made a motion to approve the Spokane Pain Conference provided by Russo CME for a maximum of 6 hours. It was seconded by Dr. Goodman. Motion carried.

NEXT MEETING was scheduled for February 27, 2017, at 9:30 AM MST.

ADJOURNMENT

Dr. Warner made a motion to adjourn the meeting at 12:05 PM MST. It was seconded by Dr. Davis. Motion carried.

Wayne D Ellenbecker, OD, Chair

Raymond C Goodman, OD

Aaron J Warner, OD

Joy E Johnson, OD

James Davis, OD

Tana Cory, Bureau Chief