

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

Board Meeting Minutes of 5/7/2018

BOARD MEMBERS PRESENT: Joy E Johnson, O.D. - Chair
Lance William Fagan, O.D.
William von Tagen
Raymond C Goodman, O.D.
Aaron J Warner, O.D.

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Deputy Bureau Chief
Julie Eavenson, Admin. Support Manager
Lori Peel, Investigative Unit Manager
Maurie Ellsworth, General Counsel
Joan Callahan, Legal Counsel
Jean Uranga, Prosecuting Attorney
Cesley Metcalfe, Technical Records Specialist II
Lizzie Kukla, Technical Records Specialist I
Cheri Simpson, EO Special Assistant

OTHERS PRESENT: Arthur Osterberg, O.D.
Denise Osterberg, Guest
Terri Haley, O.D.
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 Joy E Johnson, O.D.

APPROVAL OF MINUTES

Mr. von Tagen made a motion to approve the minutes of April 17, 2018. It was seconded by Dr. Goodman. Motion carried.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. The deadline to submit proposed law changes to the Governor's Office is mid-July 2018 and the deadline to submit proposed rule changes to the Governor's Office is mid-August 2018 for the 2019 Legislative Session.

Senate Bill 1316 was introduced in the Senate on February 19. Some designated Board members met with Senators Burgoyne and Den Hartog on February 26 and the Senators said they would like to see comments or proposed amendments. Suggested amendments/comments were provided to them on February 27. Some of the proposed amendments were put into the bill and it passed the Senate on March 12 and the House on March 21. The Governor let the bill pass without his signature and it will become law July 1.

House Bill 623 passed the House on March 6 by a vote of 47-23 and was sent to the Senate. Designated members of Boards served by the Bureau were contacted and reviewed the bill. A letter expressing concerns about House Bill 623 was prepared and signed by 28 of the designated Board members. It was addressed and delivered to Senator Patti Ann Lodge, chair of the Senate Judiciary and Rules Committee, on March 12. The bill was held in Committee.

Ms. Cory said that an interim committee has been established to study occupational licensing. The Occupational Licensing and Certification Law Interim Committee will meet over the summer.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board had a cash balance of \$105,467.36 as of April 30.

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 OPT-2018-35. It was seconded by Mr. von Tagen. Motion carried.

EXECUTIVE SESSION

Dr. Goodman made a motion that the Board go into executive session under Idaho Code § 74-206(1)(f) to discuss pending legal and procedural questions concerning litigation with counsel. The purpose of the executive session was to discuss the oral argument for case OPT-2017-1. It was seconded by Dr. Warner. The vote was: Dr. Johnson, aye; Mr. von Tagen, aye; Dr. Goodman, aye; and Dr. Warner, aye. Motion carried.

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

Dr. Fagan joined the meeting during executive session at 9:46 AM.

DISCIPLINE – ORAL ARUGMENT

The Board heard oral arguments in case OPT-2017-1.

EXECUTIVE SESSION

Dr. Goodman made a motion that the Board go into executive session under Idaho Code § 74-206(1)(f) to discuss pending litigation with counsel. The purpose of the executive session was to discuss the OPT-2017-1 oral argument. It was seconded by Dr. Warner. The vote was: Dr. Johnson, aye; Dr. Fagan, aye; Mr. von Tagen, aye; Dr. Goodman, aye; and Dr. Warner, aye. Motion carried.

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

OLD BUSINESS

The Board reviewed the To Do List and no action was taken.

STANDARDIZING CONTINUING EDUCATION REQUIREMENTS

The Board reviewed the responses that were received in response to a letter mailed out on March 9 to the ten (10) optometrists in Idaho who do not have credentials to use therapeutic pharmaceutical agents. There are currently different continuing education requirements for different credentials and the letter sought input from these doctors regarding standardizing the requirements for all credentials. The Board acknowledged the following: one response was against standardization; one response was for standardization; one response was against standardization, but offered additional suggestions; and that no other responses were received. The Board discussed: 1) changing the continuing education requirement to eighteen (18) hours, 2) cardiopulmonary resuscitation (CPR) certification, and, 3) for all optometrists who are therapeutically certified, six (6) of the eighteen (18) hours must be in ocular disease or treatment. No action was taken.

DELIBERATION – ORAL ARUGMENT

The Board deliberated on case OPT-2017-1 and gave recommendations for appropriate discipline. Mr. Ellsworth was directed to draft a final order with the Board's recommendations and to bring it back to the Board for review at the next meeting.

NEW BUSINESS

ASSOCIATION OF REGULATORY BOARDS OF OPTOMETRY (ARBO) PROPOSED BYLAW CHANGES

The Board authorized the Board Chair to communicate directly with Dr. Fagan regarding the proposed bylaw changes in preparation for the upcoming ARBO meeting.

CORRESPONDENCE

The Board reviewed an email from an optometrist asking if the Idaho scope of practice allows the use of the Lumenis M22 that uses IPL to treat rosacea related dry eye. The Board agreed to have the Bureau send a copy of Idaho Code § 54-1501 to the inquirer and ask him to consult his own attorney regarding this practice.

The Board reviewed an email with a report of actions from the Accreditation Council on Optometric Education (ACOE). No action was taken.

The Board reviewed an email from ARBO regarding the number of attempts a candidate may take each examination. No action was taken.

The Board reviewed a request from an optometrist to consider continuing education approval for a conference he will be attending in September. Dr. Goodman made a motion to approve twelve (12) hours of regular continuing education hours that will not apply to the ocular pharmacology or advanced ocular disease requirement. It was seconded by Dr. Warner. Motion carried.

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. Goodman. The vote was: Dr. Johnson, aye; Dr. Fagan, aye; Mr. von Tagen, aye; Dr. Goodman, aye; and Dr. Warner, aye. Motion carried.

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

Dr. Fagan left the meeting.

APPLICATIONS

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

OPTA-100436 Nicholas Blight

It was seconded by Dr. Goodman. Motion carried.

OLD BUSINESS

PROPOSED LAWS AND RULES

The Board briefly discussed the possible additions of an inactive status and temporary or provisional permits and decided to review these options further as part of the Executive Order. The Board also decided that a review of non-classroom/observation continuing education hours will be added to the Executive Order.

EXECUTIVE ORDER

The Board reviewed a rough draft of the Executive Order response and directed Ms. Eavenson and the Board specialist to work with Dr. Warner to prepare the final draft for review and final approval at the June 6 meeting.

NEXT MEETING was scheduled for June 6, 2018 at 9:30 AM MDT.

ADJOURNMENT

Dr. Warner made a motion to adjourn the meeting at 12:18 PM MDT. It was seconded by Dr. Goodman. Motion carried.

Joy E Johnson, O.D., Chair

Lance William Fagan, O.D.

William von Tagen

Raymond C Goodman, O.D.

Aaron J Warner, O.D.

Tana Cory, Bureau Chief