

BOARD OF EXAMINERS IN OPTOMETRY

Regular Session Minutes
9:30 a.m.

March 25, 2020
Video Conference

- A. Call to Order** - The virtual meeting was called to order at 9:34 am by the Board President, Mesheca Bunyon, O.D. Patricia Bennet, Executive Director read an inspirational poem. Board members present included, Meshsca Bunyon, O.D., Kelechi Mezu-Nnabue, O.D., Mark Gordon, O.D. Andrew Doyle, O.D. Fran Burgos, O.D. and Rona Pepper. Margaret Hubbard was not in attendance. Staff present were Board Counsel Deb Donohue, Kecia Dunham, Licensing Coordinator and Lilian Reese, Legislation/Regulations Liaison. Guests in attendance on the call included MOA Executive Director, Jen Cohen and 23 licensed optometrists.

Dr. Bunyon read the Board's opening statement into the record at 9:44 am and read the Board's mission statement.

Maryland Board of Examiners in Optometry Mission Statement

The Board of Examiners in Optometry was created in 1914. The Board of Examiners in Optometry is composed of five optometrist members, in our case, Andrew Doyle, Mesheca Bunyon, Kelechi Mezu, Fran Burgos, and Mark Gordon and two consumer members, Rona Pepper and Margaret Hubbard. All members are appointed by the Governor with the advice and consent of the Secretary of Health. The Board is mandated to regulate the practice of optometry in Maryland and protect the public health and welfare of its citizens by ensuring the delivery of vision services by qualified optometrists. It is the responsibility of the Board to:

- Credential and license applicants
- Participate in administration of national licensing examination
- Certify optometrists to use diagnostic pharmaceutical agents and therapeutic pharmaceutical agents in practice of optometry
- Promulgate and adopt regulations to govern the practice of optometry in Maryland
- Monitor continuing education programs and continuing education compliance
- Investigate complaints against licensees concerning alleged violations of the law and conduct hearings concerning these violations
- Discipline licensees found to be in violation of the law

Evaluate and monitor the quality assurance program and standard of care for the citizens of the state

COMAR 10.01.14.02. - Public Attendance

The general public may attend and observe an open session of a public body within or established by the Maryland Department of Health. B. Except in instances when a public body expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law, a member of the public attending an open session may not participate in the session.

B. Approval of Agenda: A motion was made by Dr. Mezu to accept the agenda. It was seconded by Dr. Gordon and the motion carried.

C. Review and Approval of Minutes - The minutes were reviewed and there were no corrections made. Dr. Mezu moved and it was seconded by Rona Pepper to accept the minutes as drafted.

D. Committee Reports

1. **Continuing Education – Mesheca Bunyon, O.D.** - There was no report.
2. **Budget – Rona Pepper:** The budget was read by Patricia Bennett for Ms. Pepper. As of March 9, 2020, There was a total of \$163,148.86 in the Board’s expenditure balance and the special fund balance was \$120,804.00.
3. **ARBO - Mesheca Bunyon, O.D.** - Dr. Bunyon gave an ARBO update and stated that the 2020 Annual Delegate Assembly Meeting was still set for June 21-23, 2020 in Alexandria, VA. She would attend as the Board’s representative and Pat Bennett would attend as the Executive Director and ARBO Board member.

E. Old Business

1. Regulations – Standards of Quality for TPAs and Optometric Care - March 1, 2020: Dr. Bunyon, Dr. Mezu and Dr. Doyle had an opportunity to get together over the phone with Pat Bennett and Deb Donohue to review proposed changes to the regulation. The changes that were agreed upon were reviewed so that everyone could look at it and weigh in. Dr. Mezu explained her rationale to remove the word “life threatening” vs “Sight threatening” on page 6 of the draft, letters K and L. Dr. Burgos agreed that disease threatening was too broad. Dr. Doyle stated that leaving “disease threatening” was a waste of time whereas the doctors could focus more on individuals most at risk. This language was noted to have been in the red book previously. After a discussion, Dr. Burgos again asked to narrow the words to “emergency life or sight threatening”. Board counsel, Deb Donohue agreed with that but stated that it was better not to define emergency when asked by Dr. Bunyon. After this, a motion was made by Dr. Burgos to add the amendments agreed upon, and it was seconded by Dr. Mezu. Dr. Burgos rephrased his motion to include both K and L paragraphs in the proposed changes. Patricia Bennett then asked Dr. Burgos to read the motion again and after which the motion passed. Dr. Doyle did not support that change. The Board voted to approve the proposed changes as amended. The vote carried.
2. Legislation
2019 Scope Expansion – Mandatory Course Status Update -Kecia Dunham gave a report at the end of the meeting. See the Addendum..

2020 Legislative Session – Bills of Interest

HB 448/ SB 402 – Health Care Practitioners- Telehealth - The bill has not passed to date but is still on the radar.

Dr. Bunyon spoke about the telehealth bill. Patrica Bennett deferred the discussion to Board Counsel Deb Donohue, who talked about COVID-19 and its impact on the Department and the boards. She explained that she was monitoring all the developments and keeping track to see when updates will be given. A committee on Telehealth was set up to include Drs. Burgos, Gordon and Mezu. Pat Bennett will schedule a video conference in the near future with committee members, Deb Donohue and herself.

Dr. Mezu asked about Tele-Eyecare and wanted to know if it was banned in Maryland for optometrists. Deb Donohue explained that even if Medicare gives a blanket approval, each case had to be reviewed on a case by case basis. Dr. Gordon also talked about the CMS guidelines and routine tele Optometry. Dr Burgos also asked additional questions regarding this issue.

3. NBE0 Six Limit Appeal Process – Andrew Doyle, O.D. Poyesh Refahi: Dr Doyle spoke on this and explained that due to COVID, the March exam was postponed. and that the testing centers were closed. The next test would be in August for the students affected.

Letter to ASCO and Response: Patricia Bennett explained that the Board had decided not to write any letters to ASCO as the point was moot and the Board had also decided not to take further action on the issue.

Additional: Dr. Burgos again asked about the telehealth bill and inquired about the 1135 waiver. Board Counsel, Deb Donohue explained the guidance about reimbursable services. Dr. Burgos then asked what optometrists could do instead of going into the office. Dr. Burgos again stated that routine exams were not the issue but rather simple medical stuff like sty and red eyes etc. It was also asked if optometrists could submit a G -code for telehealth? Dr. Doyle also added that 11-208 of the statute really did not specify what a minimum eye exam was, and Dr. Gordon also added that the law had a lot of difficulties. Board counsel Deb Donohue explained that everything was subject to the state of emergency.

F. Executive Director’s Report – Pat Bennett

1. Legislative Audit - This was discussed and explained that the auditors basically look at cash receipts and issuance of licenses to ensure that the same staff handling cash through the process does not have access or rights to the licensing system - separation of duties.
2. ARBO may still have its annual meeting but due to travel restrictions, the Board will not send a representative.
3. The Governor has provided that licenses can be extended to 30 days beyond the end of the emergency state. This situation could impact the Board’s revenue for FY 2020 , which ends on 6/30/20, depending on the end of the emergency.
4. Board appointments will be made in the future. Dr. Mezu is eligible for re-appointment and Dr. Doyle’s position is open.

G. New Business

1. The Board approved the following applicants for licensure. Dr Doyle moved and Dr. Mezu seconded the motion to accept. The Board’s vote was unanimous.

Lindsey Agro, O.D
Dawn Hallums, O.D.
Suzanne Kim, O.D.
Jay McDonald, O.D.
Eun-Young Ko, O.D.

2. COVID - 19 Coronavirus Pandemic Relevant Issues

State of Emergency:

Governor Hogan issued an executive order extending all licensing requirements till 30 days after the state of emergency is lifted.

Dr Mezu asked about those who are not able to attend this year’s CEs? It was mentioned that COPE was allowing virtual CEs instead of live CEs. Given the urgency of COVID related issues, someone suggested increasing the CE requirement from 30 to a higher number given that no one would probably be able to travel anywhere this year due to COVID-19.

A decision was made to allow all renewing 2020/2021 licensees to obtain their CEs online due to COVID-19. This would allow those renewing this year and also next year to complete all CEs online. A motion was made by Burgos and seconded by Dr Mezu. Vote was unanimous.

A question was asked about extending the time frame for license renewal and the Board counsel also stated that any extension of regulatory or legal timeframes should not affect public safety and the board must take a public vote on it. Dr. Bunyon spoke about it and was supported by Dr. Mezu. A decision was made to table the vote on whether licenses can be extended past the renewal date but that would also be subject to when the state of emergency was lifted.

MOA Director, Jen Cohen asked questions about completing all CEs online, COPE approved versus Board approved CEs and if waivers would be given for hardship. In addition, the MOA asked for Patient Care and Optometry Board specific guidance during the pandemic.

Kecia Dunham asked about TPA and Pat Bennett explained that waivers given would be on an individual basis. If someone was sick, had hardship at home or had health issues or was at risk of COVID-19, a case by case decision would be made since the Board allows for hardship exemptions for CE..

It was also advised to licensees that they should always consult their attorneys and be guided by the CDC/Governor and to look at websites or emails sent by the Board via Constant Contact for any updates.

Board president, Dr Bunyon asked a question regarding the MOA online partnership and MOA Director, Jen Cohen stated that most questions had been answered. It was also stated that for COVID-19 response, ODs can help on a volunteer basis with MD Responds. Dr Mezu stated that if other doctors were being paid, then ODs should be also in answer to a question on the issue.

H. **Addendum**

1. Lillian Reese prepared an end of 2020 legislative session report. A discussion was made again regarding E-audio only services by Dr. Burgos and Dr. Mezu asked if the Board could ask for authorization and Board Counsel stated that the particular issue did not apply to optometry. Board counsel responded to Dr Mezu's questions about telehealth after Dr. Bunyon again asked if anything could be done to help Optometry practices that have been closed for 3 months.

2. Finally, Patricia Bennett asked other participants who were in the meeting to email their names so that they can get their CEs for attending. Kecia Dunham updated that we had 972 active licenses, of which 168 attended the Wilmer course, 422 had attended the MOA courses while 271 licensees had not taken the course to date.

3. Dr. Burgos again asked about addressing the minimum exam for telehealth requirements and Board Counsel Deb Donohue stated that the language shall be held to the same standard of practice applicable to in person services. Dr Mezu agreed that a lot depended on clinical judgement.

I. **Adjournment**

Dr. Bunyon adjourned the open session at 11:22 a.m. and convened an administrative session to discuss administrative matters and quasi-judicial matters and to comply with in order to comply with specific constitutional, statutory or judicially imposed requirements that prevent public disclosure about a particular proceeding or matter and to discuss the investigation of complaints against specific licensees. A motion was made by Dr. Mezu and it was seconded. The Board's vote was unanimous. The motion passed.

Respectfully submitted,

A handwritten signature in black ink that reads "KR Mezu". The letters are cursive and somewhat stylized.

Kelechi Mezu Nnabue, O.D.
Secretary