

BOARD OF EXAMINERS IN OPTOMETRY

Regular Session Minutes

Wed. July 26, 2017
MDH Metro Executive Center
4201 Patterson Avenue #105
Baltimore, MD 21215
9:30 a.m.

The regular session of the Board of Examiners in Optometry's meeting was held on Wednesday, July 26, 2017. Board members present were, Andrew Doyle, O.D., Brian T. Woolf, O.D., Frederick J. Walsh, Ph.D., Mesheca Bunyon, O.D., Rona D. Pepper and new Board Member, Francisco Burgos, O.D. Also present was Ari Elbaum, Board Counsel, Patricia G. Bennett, Board Executive Director, Arthura H. Easter, Staff Assistant, Brandon Wright, Associate Director of Health Occupations Boards and Commissions and Kristen Neville, Boards and Commission Legislation/Regulations Liaison. Kelechi Mezu Nnabue, O.D., Board Member and Kecia Dunham, Licensing Coordinator was not present.

A. Call to Order

Dr. Andrew Doyle, O.D. called the regular session to order at 9:36 a.m. and introduced new Board member, Francisco Burgos, O.D.

B. Minutes

The regular session minutes of the May 31, 2017 meeting were reviewed. A correction was made by Dr. Bunyon, noting that her name should be removed from the minutes, because she was not present at the meeting. A motion was made by Dr. Woolf, O.D. to accept the minutes as amended and it was seconded. The Board's vote was unanimous.

C. Committee Reports

1. Continuing Education – Dr. Woolf

Dr. Woolf stated that there was nothing to report other than the Board was continuing to approve local CE offerings. He also stated that he would like to have Dr. Burgos' input when working on the review of the CE regulation.

2. Budget – Rona Pepper

Ms. Pepper reported the budget figures as follows:

FY 17 Beginning Balance	\$152,872
Revenue	\$225,790
Expenditures	\$313,411
FY 18 Beginning Balance	\$ 95,255

3. QEI – Dr. Doyle

Dr. Doyle indicated that the QEI meeting was postponed until October and there was nothing to report.

4. ARBO – Dr. Doyle

Dr. Doyle's summary of the Annual Delegate Assembly is attached to the minutes.

D. Old Business

1. Regulatory Review – Dr. Woolf

Drs. Woolf reported that the changes proposed as a result of the regulatory review will become effective July 31, 2017.

Regulatory Moratorium

Kristen Neville discussed the Governor's moratorium and stated that there is a need to justify any proposed regulatory changes. She also informed the Board that the Governor's Regulatory Review Commission had held several meetings in the past with the purpose of ensuring that regulations are business friendly. There had not been complaints involving the Health Occupation Boards. Pat Bennett stated that the Board had already decided to review its CE regulation prior to the moratorium.

2. Legislation

State Senator, Shirley Nathan-Pulliam's Cultural Competency Bill was introduced in part, because there was sentiment that the Boards were not promoting cultural competency and issues involving disparities. There needs to be increased collaboration between the Boards. To that end, Patricia Bennett indicated that in the past the Board had approved an online Cultural Competency program for up to 9 continuing education hours for renewal.

3. US Vision

The Board received a response indicating that their telehealth services were being provided by ophthalmologists licensed to practice in Maryland. The Board asked Ms. Bennett to follow up with the Board of Physicians to determine whether they were aware of the program.

4. Oneyeka Illoh, O.D.

Dr. Illoh has petitioned the Board to allow her foreign optometry degree to meet the educational requirement for licensure in Maryland. Dr. Illoh was sponsored by the California Optometry Board to sit for the NBEO exam. She passed the exam after several attempts and is licensed in DC as they have provisions in statute for educational equivalence. She has also applied for licensure in New York. Ms. Bennett stated that in the past the Board did allow foreign trained optometrists to sit for the exam and accepted the WES evaluation for licensure. There were regulations promulgated to allow educational equivalency, however they were repealed in 2003. Many of the applicants had completed a program in Nigeria and there had been problems with the school's credentialing/accreditation. The issue for the Board is that there is language in statute and regulation that addresses educational equivalency. The Board agreed to contact ASCO to determine whether they recognized the WES evaluation. If it is determined that the WES evaluation is acceptable, the Board agreed to allow Dr. Illoh to begin the application process and accept will accept her education. Dr. Walsh made the motion to approve her education as appropriate if ASCO agrees to the WES evaluation. Dr. Woolf, O.D. seconded the motion. The Board's vote was unanimous.

5. COPE Program Investigation

The Board had sent a letter to ARBO requesting that they investigate Retina Associates. ARBO responded that they reinforced with Retina Associates their responsibility to adhere to COPE standards regarding the number of credit hours/time each course actually runs to more accurately reflect the amount of credit hours given for each approved program.

E. Executive Director's Report - Patricia Bennett

- 1. 2017 – Renewal:**
 - 445 possible renewals
 - 394 were renewed and received on time
 - 30 renewed late
 - 12 non-active/non-renewed

- 2. Budget FY'18**

The expenditure budget for the fiscal year is \$310,502. Fiscal projections for FY'19 are in process. Ms. Bennett

- 3. ARBO Board Invitation**

Ms. Bennett shared with the Board a letter of invitation for her to serve as a consultant on the ARBO Board

representing the Member Board Executive Directors. In that capacity, she will be acting as a bridge between the Executive Directors who manage board operations and the ARBO Board. The Board approved of Ms. Bennett serving in this capacity.

4. ARBO Executive Director's Report

Ms. Bennett reported that she serves as the Co-chair of ARBO's Member Board Executive Directors' Committee. During the Delegate Assembly, the Execs hold several sessions devoted to discussing issues of importance that impact Board management and operations. There were more than 20 Boards represented in the sessions. The group discussed successes in your jurisdictions, what's new in your jurisdictions and had a presentation by Dale Atkinson about the Ideal Board. The committee made several recommendations to ARBO, that included, the development of a list serve/forum/blog ; an amendment to the ARBO Bylaws to add an Executive Director to the Board; add discussion about best practices (forms, website, training); and increase the forum to a one-half session.

5. Board Retreat

Ms. Bennett stated that she would work on planning a one-day strategic planning session as Dr. Walsh has strongly recommended in the past to the Board.

6. Board Election

Ms. Pepper was elected to serve as Board Treasurer. It was moved and seconded. The Board's vote was unanimous.

F. New Business

- 1. Licensees Issued** - A motion was made by Dr. Woolf to accept the 27 new licensees and was seconded by Dr. Bunyon. The Board's vote was unanimous.
- 2. NBEO Survey** - New Board member, Dr. Burgos, was asked to complete an NBEO Survey for the Board.
- 3. MTA Reduced Fare** - The Reduced Fare Program sponsored by the MTA allows visually impaired people to get free bus passes and other services. The Board voted to have the MTA send the letter regarding the program from the Board to licensees. Ms. Bennett will respond to the request.
- 4. BioDOptix** - There is no provision in the Board's statute for the use of a therapeutic product. The Board will respond as it did to the inquiry regarding the use of Prokera rings. Dr. Doyle made the motion to respond with Dr. Walsh seconding the motion. Dr. Woolf abstained from voting. The Board's vote carried.
- 5. OAH Regulation Discussion** - Ari Elbaum, Board Counsel, was asked to provide more information at the next meeting.

Dr. Doyle closed the regular session at 12:10 p.m. to move into administrative session 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. The motion was seconded and passed unanimously.

Respectfully submitted,

Patricia G. Bennett, MSW
Executive Director

ARBO 2017 Summary:

I. "Changing Times"

- Regulatory boards
 - o Members have state delegated authority to protect citizens of the state by enforcing state policy
 - o If members are active market participants (practice the profession they are regulating) this invites self-dealing
 - o More scrutiny is being applied to regulatory boards (not OD boards)
 - Lawsuits alleging antitrust
 - Regulation is anti-competitive in itself
 - NC Acupuncture board sued for antitrust
 - Institute of Justice
 - Filing many lawsuits against boards
 - Seems aimed at reducing regulation
 - Studies suggest that only marginal safety and quality benefits are achieved
 - Evidence indicates the cost of occupational licensing far exceeds the benefit
 - "Cartels by another name"
- "Perception is Reality"
 - o If there is a perception of "protecting turf" then regulatory boards lose their status as public protectors and become perceived as a trade association
 - Trade association: Founded and funded by businesses that operate in a specific industry with a focus on collaboration between companies/professionals
 - o Regulatory Capture needs to be avoided
 - Regulatory capture is a form of government failure that occurs when a regulatory agency, created to act in the public interest, instead advances the commercial or political concerns of special interest groups that dominate the industry or sector it is charged with regulating.
 - o Trade associations or other stakeholders in the profession being regulated can certainly have input, and communication with these stakeholders is important to stay abreast of trends and future changes within the profession. But, these stakeholders can never have control of, or a say in, the regulatory process.
- Board actions
 - o Create a record of every board meeting that clearly states board's mission
 - o Ensure all members can recite mission statement or "elevator speech"
 - o Remind members of potential conflicts of interest and manage those that arise
 - o Look out for what's best for the public
 - o Consider inviting legislators to the board to position board as a source of information

Please call 1-800-30-STATE (1-800-307-8283) 8:30 - 4:30 EST M-F except for State Holidays if you need further assistance.

II. "Continuing Education"

- Continues to be only way to ensure continued competency
- COPE
 - o Considers itself independent, not influenced by industry/AOA
 - o Considers AOA's efforts to become an accrediting body illegitimate
 - Trade representative/active market participants would accredit CE
 - self-dealing conflict of interest
 - how does public know that CE accredited is not pro-industry or influencing doctors
 - o Aligning itself with ACCME
 - Efforts
- Change from Cop to Coach
- Methods of proving continued competency
 - o Will likely be new forms of CE

III. "The Future" – Issues that our board may face

- Telemedicine
 - o Regulation determined by:
 - Is it within scope
 - Where does the practice occur (exam is where the patient is)
 - o Laws changing to include language like:
 - Practice of optometry includes self-diagnosis/self-examination
 - remember: license needed to practice optometry
 -
- Tear technology
 - o Lipiflow at ¼ of original price
 - o True Tear Technology (allergan)
 - Durable medical equipment – sold out of office
 - o MS diagnosis through tear analysis
- Corneal Crosslinking
 - o 95% of world doesn't remove epithelium
 - o Scleral lens based version/all-in-one
- Topical Presbyopia Control/Cataract prevention
- UV adjustable IOL
- MIGS
- Dexamethasone punctal plugs

"Other News"

- Hutton vs NBEO
 - o Security breach
 - o Court dismissed, but has been appealed
- Websites need to be ADA Compliant