

THE BOARD OF EXAMINERS IN OPTOMETRY
Professional & Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes ("HRS").

Date: Monday, July 27, 2015

Time: 8:30 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: Geoffrey Reynolds, O.D., Chair
Reid Saito, O.D., Vice Chair
Seulyn Au, O.D.
Gayle Chang, Public Member
Jere Loo, O.D.
Peter J. Shoji, O.D.
Daniel Jacob, Deputy Attorney General ("DAG")
Sandra Matsushima, Executive Officer ("EO")
Jennifer Fong, Secretary

Guests: Lei S. Fukumura, Special Deputy Attorney General ("SDAG")

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by section 92-7(b), Hawaii Revised Statutes ("HRS").

1. Call to Order: There being a quorum present, Chair Reynolds called the meeting to order at 8:32 a.m.

2. Additions/
Revisions to
Agenda: None.

At this time, Chair Reynolds announced he was taking the agenda out of order to discuss the following agenda item:

- 9. Chapter 91, HRS, Adjudicatory Matters, a. In the Matter of the License to Practice Optometry of **Mealiinani C. Duarte-Hernandez, O.D., OPT 2014-7-L**, Settlement Prior to Filing of Petition for Disciplinary Action and Board's Final Order

9. Chapter 91, HRS
Adjudicatory
Matters:

Chair Reynolds called for a recess from the Board's meeting at 8:34 a.m., to discuss and deliberate on the following adjudicatory matter, pursuant to Chapter 91, HRS:

- a. In the Matter of the License to Practice Optometry of Mealinani C. Duarte-Hernandez, O.D.; OPT 2014-7-L – Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order

SDAG Fukumura gave a brief summary of the settlement agreement.

After discussion, it was moved by Dr. Loo, seconded by Dr. Shoji, and unanimously carried to approve the Settlement Agreement.

Following the Board's review, deliberation and decision on this matter, pursuant to Chapter 91, HRS, Chair Reynolds announced that the Board was reconvening its scheduled meeting pursuant to Chapter 92, HRS.

The Board returned to its regular order of business.

3. Approval of
Board Meeting
Minutes
of June
8, 2015:

Chair Reynolds noted that this is Dr. Au's first meeting as a member. He informed her that the June 8, 2015 minutes include the formation of an advisory committee to assist the Board with research. He asked if there were any questions or comments on the minutes.

After some discussion, upon a motion by Dr. Loo, seconded by Ms. Chang, it was voted on and unanimously carried to approve the minutes of the June 8, 2015 meeting as circulated.

4. Executive
Officer's
Report:

- a. Ethics Training and Other Helpful Information for Board Members

EO Matsushima noted that information on an upcoming ethics training as well as other helpful information was provided to board members in their meeting packet. If there are any questions, they should let her know.

DAG Jacob gave a brief overview of the Sunshine Law regarding interaction between members outside of a board meeting. He noted that one member cannot speak on behalf of the Board unless the Board appoints them to do so (e.g. legislative representative). He encouraged them to direct any inquiries received from other optometrists and/or members of the public to the EO.

Dr. Loo asked what he should do if someone asks him a question and doesn't address the fact that he is a board member.

DAG Jacob stated that he should inform the person that he is a board member and if he would like an opinion from the Board, the person should submit a written request to the Board's office. He noted that they can give someone their personal opinion, however, they should make it clear that they are providing their own personal opinion and not speaking on behalf of the Board.

5. Old Business:

a. 2015 Association of Regulatory Boards of Optometry ("ARBO") Conference - Reports from Executive Officer ("EO") and Chair

Chair Reynolds noted that he and EO Matsushima recently attended the ARBO Conference in Seattle. Board members were provided with a copy of both reports.

EO Matsushima reported that ARBO is trying to determine if they can format the OE Tracker report to meet Hawaii's continuing education ("CE") certificate requirements.

DAG Jacob reminded the Board that their rules require licensees to provide CE certificates which includes specific information such as the signature of the lecturer or authorized official of the sponsoring body. Right now, if the Board wants to accept the OE Tracker Report, they would need to amend their rules.

Chair Reynolds noted that §16-92-40(b) states that "The board shall accept certified copies of certificates of continuing education in lieu of originals if good cause is shown."

DAG Jacob acknowledged that certified copies of the CE certificates would be accepted, however, the certified copies still must comply with the information requirement in §16-92-40(a).

EO Matsushima reported that the Board has always conducted a 100% audit, however, if they are considering rule amendments, they can always consider doing a random audit or conducting their audit similar to the Hawaii Medical Board, who informs licensees several months prior to the license expiration date if they are chosen for the audit. Those licensees are not allowed to renew online. Instead, they are sent a hard copy renewal application and must submit their completed renewal application with proof of compliance of the CE requirement either by mail or in person prior to the license expiration.

Dr. Loo noted that licensees who do not receive the audit notification will know that they will not have to provide proof of compliance and therefore, may not complete the required CE hours.

Dr. Shoji commented that completion of the requirement would then be determined by the integrity of the licensee.

EO Matsushima stated that currently, a majority of the licensees renew online including agreeing with the attestation that they have complied with the CE requirement. Once the renewal is completed online, the system automatically renews their license and orders them a new pocket card with a new expiration date, however, many licensees either do not submit enough approved CE hours or don't submit any at all before the renewal deadline.

DAG Jacob stated that once the license is renewed, it is difficult for the Board to take it away.

EO Matsushima noted that in many ways, allowing renewal of licenses online made it easier for licensees, however, it also made it easier for those who did not complete their CE requirement to renew their license by attesting that they did so without providing proof of CE by the license renewal deadline. Licensees who submit an original renewal application without proof of CE completion would not have their license renewed until they do so.

6. New
Business:

a. Election of Officers

By consensus, the Board deferred the election of officers to the Board's next meeting.

b. Inquiry from Lesley Gearity regarding optometrists dispensing of non-controlled substances directly from their office

The Board reviewed Ms. Gearity's email in which she asks "if an Optometrist in the state of Hawaii is able to dispense non-controlled substances directly from their office, or does this require special licensing/permitting?"

Chair Reynolds noted that he looked up "Medvest" online and they provide a program which allows doctors to dispense prescription medications directly from their office.

Executive
Session:

At 9:40 a.m., it was moved by Vice Chair Saito, seconded by Dr. Shoji, and unanimously carried to move into Executive Session in accordance with HRS, 92-5(a)(4), "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities".

At 9:52 a.m., it was moved by Vice Chair Saito, seconded by Dr. Au, and unanimously carried to move out of Executive Session.

After some discussion, upon a motion by Dr. Loo, seconded by Vice Chair Saito, it was voted on and unanimously carried to inform Ms. Gearity that the Board's laws and regulations do not address the dispensing of non-controlled substances. The Board's laws and regulations only address the use of pharmaceutical agents by therapeutically certified optometrists.

The Board requested that EO Matsushima inform Ms. Gearity that although the Board's laws and regulations do not pertain to the act of dispensing non-controlled substances, there may be other state and federal laws that regulate such conduct. Ms. Gearity may want to consult with private counsel to address any other potential prohibitions or regulations.

This is an informal interpretation for informational and explanatory purposes only and is not an official opinion or decision and therefore is not to be viewed as binding on the Board.

7. Continuing Education:

a. Continuing Education Course Report

Dr. Shoji moved to approve the following continuing education courses:

<u>Index #</u>	<u>Program Title/Sponsor</u>	<u>CE</u>	<u>TPA Hours</u>
15-027	New Technologies and Treatments in Vision Care Maui 2015 Review of Optometry	14	14
15-029	Update on Laser Refractive and Advanced Cataract Surgery Hawaii Vision Clinic, Inc. – William K. Wong, Jr., M.D.	1	1
15-030	8 th Annual CE in Paradise Jenkins Eye Care	6	6
15-032	2015 Victoria Conference Pacific University College of Optometry	20	15

Dr. Loo seconded the motion, it was voted on and unanimously carried.

8. Applications:

a. Ratification List

Upon a motion by Dr. Loo, seconded by Ms. Chang, it was voted on and unanimously carried to ratify the following:

Approved for Optometrist License

- OD 815 DARREN S MORCHESKY
- OD 816 CHRISTOPHER G LOW
- OD 817 YANA TSIGANENKO
- OD 818 ROBERT E FRANKS

Approved for TPA Certification

- OD 814 AILEEN CHANG

b. Applications

None.

10. Next Meeting: Monday, October 12, 2015
8:30 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

11. Adjournment: With no further business to discuss, Chair Reynolds adjourned the meeting at 9:56 a.m.

Taken by:

/s/ Jennifer Fong

Jennifer Fong
Secretary

Reviewed by:

/s/ Sandra Matsushima

Sandra Matsushima
Executive Officer

8/4/15

Minutes approved as is.

Minutes approved with changes; see minutes of _____.