

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

MINUTES OF MEETING

- Date: Monday, July 24, 2017
- Time: 9:00 a.m.
- Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813
- Present: Reid Saito, O.D., Chair
Peter Shoji, O.D., Vice Chair
Seulyn Au, O.D.
Darek Sato, Public Member
Robb Shibayama, O.D.
Daniel Jacob, Deputy Attorney General ("DAG")
Sandra Matsushima, Executive Officer ("EO")
Jennifer Fong, Secretary
- Excused: Gayle Chang, Public Member
Jere Loo, O.D
- Guests: None.
- 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 Saito called the meeting to order at 9:02 a.m.
- 2) Additional Distribution: None.
- 3) Approval of Board Meeting Minutes of March 13, 2017: Chair Saito asked if there were any comments or concerns regarding the board minutes of the March 13, 2017 meeting.
DAG Jacob noted that his last name was misspelled as "Jacobs" on the following pages:
- On page 2, under "i. HAR § 16-92-38, Minimum hours";

- On page 3, under “ii. HAR § 16-92-40, Certificates of continuing education”;
- On page 4, under “iii. HAR § 16-92-42, Exceptions”.

Chair Saito asked if there were any other corrections to the minutes.

There being no further discussion or amendments to the minutes, Dr. Au voted to approve the minutes of the March 13, 2017 meeting as amended. It was seconded by Vice Chair Shoji, voted on and unanimously carried.

4) Executive Officer's Report:

a. Introduction of New Board Members Mr. Darek Sato and Robb T. Shibayama, O.D.

EO Matsushima noted that the Board has two new board members, Mr. Darek Sato and Robb Shibayama, O.D. She thanked them for volunteering their time to serve and welcomed them to the Board.

Mr. Sato and Dr. Shibayama each gave a brief introduction.

b. Department of Commerce and Consumer Affairs (“DCCA”) Disciplinary Actions for May 2017

EO Matsushima reported that there were no optometry-related DCCA disciplinary actions for May 2017.

c. 2017 Optometrists Renewal Information

A copy of the “2017 Optometrists Renewal Information” document was distributed to the board members.

Upon a motion by Vice Chair Shoji, seconded by Dr. Au, it was voted on and unanimously carried to approve the “2017 Optometrists Renewal Information” document.

EO Matsushima noted that the document will be posted on the Board’s website shortly.

5) Old Business:

a. Continuing Education (“CE”) Review for 2015 License Renewal of Richard Michelsen, O.D.

EO Matsushima reminded the Board that at the last meeting, they reviewed additional CE certificates for Dr. Michelsen’s 2015 license renewal. The Board determined that Dr. Michelsen was still short 8 hours of approved CE in the

diagnosis, treatment, and management of ocular and systemic diseases.
Dr. Michelsen has since submitted additional documents for review.

After some discussion, upon a motion by Vice Chair Shoji, seconded by Dr. Au, it was voted on and unanimously carried that based on the information submitted, Dr. Michelsen has now complied with the CE requirements of the January 1, 2014 to December 31, 2015 renewal period, pursuant to Title 16, Chapter 92, Hawaii Administrative Rules. EO Matsushima was directed to inform Dr. Michelsen that as he used courses taken in 2016 to cure his deficiency and satisfy the CE requirement, he will not be able to use the same CE towards the next biennium renewal on December 31, 2017.

6) New
Business:

a. Discussion on Possible Amendment to the November 20, 2013 Minutes of Meeting

DAG Jacob noted that at their November 20, 2013 meeting, the Board denied Dr. Martin Zebzda's application for therapeutic pharmaceutical agents ("TPA") certification. During the license denial hearing, the Hearings Officer questioned the Board's inclusion of the informal interpretation language after its decision.

After some discussion, upon a motion by Chair Saito, seconded by Mr. Sato, it was voted on and unanimously carried to make the following change to the November 20, 2013 Meeting Minutes:

- On Page 5, delete "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."

b. CE Review for 2013 License Renewal of Michael Santarlas, O.D.

EO Matsushima reported that Dr. Santarlas recently submitted additional documents for his 2013 license renewal.

Chair Saito noted that Dr. Santarlas submitted two certificates for the "New Lasik Technologies at GWSVI" course held on two different dates – 5/17/12 and 10/4/12. According to the information provided by Dr. Santarlas, the event title, organization, course length and organizer are the same. No course description was provided for either date so the Board has no way of knowing whether this is the same course taken twice or two different courses.

EO Matsushima noted that the Board only accepts each course once during a licensing biennium for continuing education credit. If a licensee chooses to

take the same course more than once, credit will only be given for the first course.

Upon a motion by Vice Chair Shoji, seconded by Dr. Au, it was voted on and unanimously carried to defer this matter. The Board directed EO Matsushima to request additional information from Dr. Santarlas regarding the “New Lasik Technologies at GWSVI” course so the Board may determine whether it is two different courses.

c. 2017 Association of Regulatory Boards of Optometry (“ARBO”) Annual Meeting

1) Chair’s Report

Chair Saito reported the following:

- The emphasis at this year’s meeting seemed to be the changing political climate of regulation in our nation. As a result of recent anti-trust lawsuits, government entities want more oversight while the public wants more transparency.
- Many jurisdictions are creating “super boards” which combine multiple professions under one board (e.g. optometry and dispensing opticians).
- A big issue which was discussed was telemedicine. Many states are currently looking into how to address the issue of telemedicine, including online refractions. He noted that currently, Hawaii does not have any language addressing the concept of telemedicine. It will be the responsibility of the Board to determine if action is needed to ensure public safety is maintained despite an increased pressure to deregulate all disciplines.

2) Executive Officer’s Report

A copy of EO Matsushima’s Report was distributed to the Board.

EO Matsushima gave a brief overview of her report including the following:

- Recent legislation includes a California bill which expands the scope of practice allowing optometrists to perform minor eye surgeries and administer flu shots and vaccinations to adults, a Michigan bill that bans low cost eye exams and a law which bans automated eye exams and eyeglass kiosks, and a West Virginia

bill to consolidate health profession boards to provide consolidated administrative functions to the health regulatory boards, which include the boards of medicine, dentistry, pharmacy, nursing, optometry, and 19 others. This type of board is being termed as a “super” board.

- There was much interest and discussion on the growing trend of state regulatory board consolidation, licensure compacts along state borders, legislation expanding scope of practice and prescribing controlled substances for optometrists.

3) ARBO Council on Optometric Practitioner Education (“COPE”) Resolution 2017

A copy of COPE Resolution 2017 was distributed to the Board for their information.

Chair Saito commented that it appears ARBO is basically trying to get COPE more widely approved and utilized by the jurisdictions.

EO Matsushima asked if there were any comments or questions.

There were none.

d. Inquiry from Layne Hashimoto, O.D. regarding whether optometrists may use a Picosure laser for cosmetic removal of pigmentation abnormalities of the skin near the eye area and face

The Board reviewed an email from Dr. Hashimoto regarding a laser called Picosure. Dr. Hashimoto states “[a]mong many functions, it is for the cosmetic removal of pigmentation abnormalities due to aging and UV damage.” He asked if performing such a procedure is within the scope of practice of a Hawaii licensed optometrist. Dr. Hashimoto’s request also states “[i]t will be considered cosmetic treatment, not medical, and not covered by any medical insurance.”

EO Matsushima noted that Dr. Hashimoto’s request stated “[o]ur representative for Picosure says that our ophthalmic technicians, once laser-trained, are able to perform the procedures in place of the MD’s.” She asked the Hawaii Medical Board if this statement was correct. The response she received stated in part “At its meeting on May 11, 2017, the Hawaii Medical Board reviewed the Board of Optometry’s forwarded email from Layne S. Hashimoto, OD, and limited its decision and discussion to whether ophthalmic technicians may perform procedures using a Picosure Laser. Please be

advised that the Hawaii Medical Board determined that it will not issue approvals of specific procedures or devices (i.e. Picosure). However, it is the Hawaii Medical Board's informal opinion that anyone engaged in the practice of medicine as defined by HRS §453-1, requires a medical license or osteopathic medical license in the State." The Hawaii Medical Board also recommended that Dr. Hashimoto obtain legal counsel to ensure that he is adhering to all federal and state laws.

Chair Saito commented that he did some research and it appears the laser is primarily used for tattoo removal. He asked if the Board needs to address Dr. Hashimoto's comment regarding the ophthalmic technicians.

DAG Jacob recommended that the Board defer to the Hawaii Medical Board ("HMB") as ophthalmologists are licensed by the HMB.

Dr. Shibayama noted that the law does not allow optometrists to use lasers.

After some discussion, upon a motion by Vice Chair Shoji, seconded by Dr. Shibayama, it was voted on and unanimously carried that based on the information provided by Dr. Hashimoto and pursuant to HRS § 459-1, Hawaii licensed optometrists are not allowed to perform cosmetic removal of pigmentation abnormalities due to aging and UV damage. The Board also directed EO Matsushima to inform Dr. Hashimoto that as ophthalmologists are licensed by the Hawaii Medical Board, the Board will defer a response regarding ophthalmic technicians to the Hawaii Medical Board. In addition, the Board advised Dr. Hashimoto to consult with private counsel to address any other potential prohibitions or regulations to all federal and state laws outside of the Board's jurisdiction.

This is an informal interpretation for informational and explanatory purposes only and is not an official opinion or decision of the Board. Accordingly, Board interpretations are not to be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

- e. Inquiry from Venable LLP regarding disciplinary actions against licensees within the past five years regarding treatment and management of glaucoma; prescription of any FDA-approved therapeutic agents/drugs; ordering or performing of diagnostic testing; and removal of a "superficial" foreign body from the eye

The Board reviewed and discussed the inquiry from Venable LLP regarding disciplinary actions against licensees. The letter stated in part that during its recently concluded 2017 Session, the Maryland General Assembly considered legislation that would have expanded the scope of practice for Maryland-

licensed optometrists in four categories by allowing optometrists to: (1) independently treat glaucoma; (2) order and perform certain diagnostic tests; (3) prescribe certain FDA-approved therapeutic agents/drugs (*not* including Schedule I or II narcotics); and (4) remove foreign bodies from the eye (limited to a certain location).

After some discussion, upon a motion by Mr. Sato, seconded by Dr. Shibayama, it was voted on and unanimously carried to respond to Venable LLP's questions as follows:

1. Over the past 5 years, has your Board imposed any disciplinary actions against any licensee regarding the licensee's treatment or management of any type of glaucoma other than congenital glaucoma, infantile glaucoma, juvenile glaucoma, neovascular glaucoma or acute angle closure glaucoma? If so, how many (by year)?

Board's Response: No.

2. Over the past 5 years, has your Board imposed any disciplinary actions against any licensee regarding the licensee's prescription of any FDA-approved therapeutic agents/drugs (not including any Class I and II schedule narcotics) appropriate for the treatment of ocular diseases/conditions? If so, how many (by year)?

Board's Response: No.

3. Over the past 5 years, has your Board imposed any disciplinary actions against any licensee related to diagnostic testing ordered or performed by the licensee? If so, please specify whether the disciplinary action related either to the performance of, or the ordering of the testing and indicate the number of each type of action by year.

Board's Response: No.

4. Over the past 5 years, has your Board imposed any disciplinary actions against any licensee regarding the licensee's removal of a "superficial" foreign body from the eye? For purposes of this question, "superficial" means "embedded in the conjunctiva or cornea, but not penetrating the corneal stroma." If so, how many (by year)?

Board's Response: No.

f. Inquiry from Remote Area Medical regarding legal requirements of medical volunteer licensure in Hawaii

The Board reviewed an email from Aidan Hamilton on behalf of Remote Area Medical in which he states that Remote Area Medical is a non-profit whose mission is to provide free, quality healthcare to the indigent. To accomplish their mission, they rely on medical professionals, including optometrists, to volunteer their time. He is inquiring: 1) if optometrists licensed to practice within Hawaii may volunteer their time in Hawaii and if so, what paperwork is required; and 2) if optometrists licensed to practice in another state may volunteer their time in Hawaii and if so, what paperwork is required.

After some discussion, upon a motion by Dr. Shibayama, seconded by Dr. Au, it was voted on and unanimously carried to direct EO Matsushima to inform Mr. Hamilton that any person who practices optometry in Hawaii will need to be licensed in Hawaii pursuant to HRS §459-2. With regards to his inquiry regarding volunteer services in Hawaii, the Board is unaware of any laws regarding requirements for optometrists to participate in volunteer services.

This is an informal interpretation for informational and explanatory purposes only and is not an official opinion or decision of the Board. Accordingly, Board interpretations are not to be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

g. Request from Robb T. Shibayama, O.D. for Trade Name Approval of "Hawaii Vision Associates"

Dr. Shibayama recused himself from this matter as he is the requestor.

The Board reviewed the request from Dr. Shibayama for approval to use the trade name "Hawaii Vision Associates".

After discussion, Mr. Sato moved to approve Dr. Shibayama's request for approval of the trade name "Hawaii Vision Associates". It was seconded by Dr. Au, with Chair Saito, Vice Chair Shoji, Mr. Sato and Dr. Au voting "yes" and Dr. Shibayama abstaining. The motion carried.

h. Request from Calvin Alonzo, O.D. for Trade Name Approval of "Filcom Vision Center"

Dr. Shibayama recused himself from this matter, noting he had delivered the request on behalf of Dr. Alonzo.

The Board reviewed the request from Dr. Alonzo for approval to use the trade name "Filcom Vision Center".

After discussion, Dr. Au moved to approve Dr. Alonzo's request for approval of the trade name "Filcom Vision Center". It was seconded by Mr. Sato, with Chair Saito, Vice Chair Shoji, Dr. Au and Mr. Sato voting "yes" and Dr. Shibayama abstaining. The motion carried.

7) Request for CE Program Approval:

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

<u>Index #</u>	<u>Program Title/Sponsor</u>	<u>CE</u>	<u>TPA Hours</u>
16-032	Academy 2016 Anaheim – Lectures & Workshop Program <i>American Academy of Optometry</i>	310	192
17-009	Update in Ophthalmic Education <i>Hawaii Vision Specialists</i>	2	2
17-010	"Eye Emergencies and their Management" and "Update on Cornea" <i>Hawaiian Eye Center</i>	2	2

Vice Chair Shoji seconded the motion, it was voted on and unanimously carried.

The following continuing education courses are still under review:

<u>Index #</u>	<u>Program Title/Sponsor</u>
17-011	2017 Montana Optometric Association Annual Education Conference and Exhibition <i>Montana Optometric Association</i>
17-012	Ocular Symposium: Pearls in Ocular Diagnosis <i>Ocular Symposium</i>

8. Applications:

a. Ratifications

Upon a motion by Dr. Au, seconded by Vice Chair Shoji, it was voted on and unanimously carried to ratify the following:

Approved for Optometrist License

- OD 858 ANGELA M LEHANE
- OD 859 LAUREN E MORDUE
- OD 860 MALIA M SATO
- OD 861 COURTNEY C STUCK
- OD 862 CHARENE-MARIE F DU BOYCE

Approved for TPA Certification

- OD 854 T IAN T KAWAMOTO
- OD 856 T NINA NEMETZ
- OD 859 T LAUREN E MORDUE

b. Applications

Executive
Session:

At 10:12 a.m., it was moved by Vice Chair Shoji, seconded by Dr. Au, and unanimously carried (by roll call with Chair Saito, Vice Chair Shoji, Dr. Au, Mr. Sato and Dr. Shibayama voting aye) to move into Executive Session pursuant to HRS § 92-5 to consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section HRS § 26-9 or both, and to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities, as provided in HRS §92-5(a)(1) and (4).

At 10:17 a.m., it was moved by Dr. Shibayama, seconded by Dr. Au, and unanimously carried (by roll call with Chair Saito, Vice Chair Shoji, Dr. Au, Mr. Sato and Dr. Shibayama voting aye) to move out of Executive Session.

1) Nicholas Klauba

Upon a motion by Dr. Shibayama, seconded by Mr. Sato, it was voted on and unanimously carried to approve Dr. Klauba's Application for Exam & License – Optometrist.

9. Annual Election
of Officers:

After some discussion, Vice Chair Shoji moved to keep the current slate of officers (Dr. Saito as Chair and himself as Vice Chair. Dr. Au seconded the motion. It was voted on and unanimously carried.

10. Next Board
Meeting:

September 25, 2017
9:00 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 Saito adjourned the meeting at 10:20 a.m.

Taken by:

/s/ Jennifer Fong

Jennifer Fong
Secretary

Reviewed by:

/s/ Sandra Matsushima

Sandra Matsushima
Executive Officer

8/8/17

[] Minutes approved as is.

[] Minutes approved with changes; see minutes of _____.