

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

MINUTES OF MEETING

- Date: Monday, May 7, 2018
- Time: 9:00 a.m.
- Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813
- Present: Reid Saito, O.D., Chair
Peter Shoji, O.D., Vice Chair
Seulyn Au, O.D.
Gayle Chang, Public Member
Jere Loo, O.D.
Darek Sato, Public Member
Robb Shibayama, O.D.
Daniel Jacob, Deputy Attorney General ("DAG")
James Kobashigawa, Executive Officer ("EO")
Jennifer Fong, Secretary
- 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 9:00 a.m.
 2. Additional Distribution: None.
 3. Approval of Board Meeting Minutes of March 19, 2018:

Chair Saito asked if there were any comments or concerns regarding the board minutes of the March 19, 2018 meeting.

There were none.

Upon a motion by Vice Chair Shoji, seconded by Ms. Chang, it was voted on and unanimously carried to approve the minutes of the March 19, 2018 meeting as circulated.

4. Executive Officer's Report:

a. DCCA Disciplinary Actions (through March 2018)

EO Kobashigawa reported that there were no optometry-related DCCA disciplinary actions in February and March 2018.

b. Reminder to File Financial Disclosure Report

EO Kobashigawa reminded the Board that the deadline to file their annual financial disclosure report is May 31, 2018.

c. American Optometric Association ("AOA") News

- Congress' recent omnibus spending bill includes language directing the Federal Trade Commission to abandon its proposed mandate and prioritize patient safety as it finalizes its Contact Lens Rule changes.
- The Supreme Court may hear a case concerning the size of eyedrops, because there is currently a circuit split on whether patients can sue eyedrop manufacturers over the matter. The article explained that some patients claim that eyedrop bottles produce drops that are too large to fit in the eye, leading to waste and higher costs, while eyedrop manufacturers argue that the patients' claims are based on a hypothetical bottle that could produce smaller drops, which might end up costing consumers more when the prices of design and Food and Drug Administration approval are taken into account.
- The AOA is offering a "HIPAA 201: Beyond the Basics" webinar to its members. The webinar will be held on Tuesday, May 8th at 2:00 p.m., EST.

5. Old Business:

a. Continuing Education ("CE") Audit for License Renewal

EO Kobashigawa reported that 440 licenses were eligible for renewal. As of 1/16/18, 391 licenses were renewed which is 88.9% of eligible licenses. 381 of those licenses were renewed online. Of the 391 licensees, 389 have submitted at least some CE documents.

After some discussion, board members agreed by consensus to direct EO Kobashigawa to refer to RICO any licensees who have not submitted any CE documents.

6. New Business:

a. Association of Regulatory Boards of Optometry ("ARBO") Request for Board Member Report – three current issues of greatest concern to the Board

After some discussion, it was the consensus of the Board to inform ARBO that

the three current issues of greatest concern to the Board are: 1) reciprocity requirements; 2) online refraction; and 3) telemedicine.

b. ARBO Call for Nominations for Board of Directors

EO Kobashigawa informed the Board that there are two open positions on ARBO's Board of Directors and one open position on ARBO's Accreditation Council on Optometric Education. Individuals wishing to be considered for these positions should contact ARBO for more information.

c. Request from Jan L. Hirakawa, O.D. for Trade Name Approval of "Vision Source Honolulu"

After some discussion, upon a motion by Dr. Loo, seconded by Dr. Shibayama, it was voted on and unanimously carried to approve Dr. Hirakawa's request to use the trade name "Vision Source Honolulu".

d. National Board of Examiners in Optometry ("NBEO") Announces Upcoming Changes to Examination Eligibility

EO Kobashigawa reported that the NBEO will make changes to its Examination Eligibility Policy effective August 1, 2019. Candidates taking NBEO examinations will be limited to a total of six attempts for each examination, including but not limited to all attempts prior to August 1, 2019. The NBEO will have an appeals process including submission of a remediation plan for individuals who wish to appeal beyond the six-time limit. Information regarding this process will become available on the NBEO's website prior to the August 1, 2019 effective date.

7. Request for CE Program Approval:

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

| <u>Index #</u> | <u>Program Title (Sponsor)</u> | <u>CE</u> | <u>TPA Hours</u> |
|----------------|---|-----------|------------------|
| 18-010 | International Vision Expo & Conference East 2018 (Reed Exhibitions/Vision Council) | 130 | 96 |
| 18-011 | Advances in Diagnostic Imaging Guiding Treatment of Retinal Disease (Mark E. Tafoya, M.D. of Pacific Retina Care) | 2 | 2 |
| 18-012 | Ophthalmic Update Question and Answer Session 2018 (Hawaii Vision Specialists) | 2 | 2 |

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

8. Chapter 91,
HRS –
Adjudicatory
Matters:

At 9:18 a.m., Chair Saito recessed the Board's meeting to discuss the following adjudicatory matter pursuant to Chapter 91, HRS:

- a. In the Matter of the Application for a Therapeutic Pharmaceutical Agent Agent Certification of Martin Zebzda, O.D., OPT-LIC-2014-001 – Board's Final Order (Draft)

After discussion, it was the consensus of the Board to adopt the Hearings Officer's Findings of Fact and Conclusions of Law and to issue the Board's Proposed Final Order.

At 9:41 a.m., the Board came out of Chapter 91, HRS, and returned to its regular order of business.

9. Applications:

a. Ratifications

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

Approved for Optometrist License

- OD 875 SAMANTHA A KAWA
- OD 876 NICOLE N CHANG
- OD 877 MEGHAN M HARTNETT
- OD 878 KELLY M MOORE
- OD 879 KHANH LE

b. Applications

Executive
Session:

At 9:44 a.m., it was moved by Vice Chair Shoji, seconded by Dr. Loo, and unanimously carried to move into Executive Session in accordance with HRS, § 92-5(a)(1) and (4), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 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" to discuss the following agenda items:

- 9. Applications, b. Applications, 1) Jeffrey Gonnason, O.D.
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At 9:48 a.m., it was moved by Dr. Au, seconded by Dr. Loo, and unanimously carried to move out of Executive Session.

- 1) Jeffrey Gonnason, O.D.

Upon a motion by Vice Chair Shoji, seconded by Dr. Loo, it was voted on and unanimously carried to approve Dr. Gonnason's application for Therapeutic Pharmaceutical Agent Certification.

10. Discussion on Possible Amendments to Chapter 16-92, Hawaii Administrative Rules - §§ 16-92-2, 16-92-39, 16-92-40, 16-92-41.5 (new):

After some discussion, upon a motion by Dr. Loo, seconded by Dr. Shibayama, it was voted on and unanimously carried to approve the following proposed amendments to Hawaii Administrative Rules ("HAR") Chapter 16-92 (underlined material to be added, while bracketed material is to be deleted):

§16-92-39 Educational courses; approval. (a) Professional educational but not practice management courses sponsored by the following are automatically approved:

- (1) United States accredited colleges and schools of optometry;
- (2) Regional and national optometric societies and councils;
- (3) American Academy of Optometry;
- (4) International Optometric Extension Program Foundation; and
- (5) United States optometric associations[.]; provided that continuing education courses in the diagnosis, treatment, and management of ocular and systemic diseases shall be required for licensees who are therapeutically certified.

(b) Correspondence courses sponsored by optometric journals recognized by the board and webinar courses that are not interactive and provided by approved sponsors shall be approved by the board provided that the number of hours constitutes no more than twenty-five per cent of the total number of continuing education hours required per biennium for license renewal.

(c) Interactive webinar courses provided by approved sponsors shall be approved by the board provided that the number of hours constitutes no more than twenty-five per cent of the total number of continuing education hours required per biennium for license renewal.

~~[(c)]~~ (d) All courses sponsored by persons or organizations other than those outlined above shall be submitted to the board for approval on a form as provided by the board, unless the course is approved by the Council on Optometric Practitioner Education. Forms shall be submitted to the board no more than forty-five days after the course is completed.

~~[(d)]~~ (e) Practice management courses shall be considered for approval of continuing education credit hours if they meet the following criteria:

- (1) Aids the optometrist and the optometrist's staff to directly serve more patients in a more productive and efficient manner;
- (2) Is presented by an optometrist who is actively in practice, or by an instructor at any of the accredited colleges and schools of optometry, or by someone who is very knowledgeable of optometric practices; and
- (3) Promotes greater patient satisfaction and greater patient awareness of optometry.

~~[(e)]~~ (f) Practice management courses pertaining to any of the following

subject matters shall not be approved for continuing education credits:

- (1) Tax strategies;
- (2) Marketing/advertising;
- (3) Investments; or
- (4) Financial planning.

[(f)] (g) Board approval of a course shall remain valid until December 31 of the odd-numbered year, provided that approval may be withdrawn for cause after notification to the course provider by the board.

[(g)] (h) The board may reconsider disapproval of continuing education credit hours for any course if the sponsor files a motion for reconsideration in writing within ten days after the notice of disapproval is received by the licensee, pursuant to chapter 16-201, the rules of practice and procedure of the department.

§16-92-40 Certificates of continuing education. (a) Certificates of continuing education shall be submitted on or before December 31 of each odd-numbered year and shall contain the following information:

- (1) Name of sponsoring organization;
- (2) Name of licensee;
- (3) Place of course;
- (4) Title of course;
- (5) Number of hours of course;
- (6) Date of course;
- (7) The index number assigned by the board, except for courses provided by sponsors listed in section 16-92-39 (a) and (b); and
- (8) Signature of lecturer or any authorized official of the sponsoring body.

(b) In the alternative, the board may accept certificates or transcripts on behalf of a licensee from an organization approved by the board.

[(b)] (c) The board shall accept [certified] copies of certificates of continuing education in lieu of originals [if good cause is shown].

[(c)] (d) The board shall not accept any continuing education credit hours of courses taken by the optometrist more than two years prior to the date the application for license renewal was received by the board.

By consensus, the Board determined that no changes would be made to HAR §16-92-2 at this time.

By consensus, the Board also deferred discussion on adding HAR §16-92-41.5 to possibly address allowing an audit of licensees pending additional research by DAG Jacob.

11. Legislative Matters:

- a. H.B. No 2060, H.D. 1 Relating to Boards – Removes the word “Examiners” from the names of the State Board of Chiropractic Examiners, Board of Dental Examiners, Board of Examiners in Optometry, and the Board of Veterinary Examiners. Renames the boards with titles that more accurately

reflect their scope and duties.

EO Kobashigawa reported that the bill has been passed by both houses but has not yet been signed by the Governor.

12. Annual
Election of
Officers:

After some discussion, Dr. Au moved to nominate Dr. Shoji as Chair and Dr. Loo as Vice Chair.

Dr. Loo stated that he is respectfully declining the nomination as he only has one year left in his current term.

Dr. Loo moved to nominate Dr. Shoji as Chair and Dr. Shibayama as Vice Chair. Dr. Au seconded the motion. It was voted on and unanimously carried.

13. Next Board
Meeting:

July 30, 2018
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

14. Adjournment:

With no further business to discuss, Chair Saito adjourned the meeting at 10:25 a.m.

Taken by:

/s/ Jennifer Fong

Jennifer Fong
Secretary

Reviewed by:

/s/ James Kobashigawa

James Kobashigawa
Executive Officer

5/24/18

[] Minutes approved as is.

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