

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

MINUTES OF MEETING

Date: Monday, July 30, 2018

Time: 9:00 a.m.

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

Present: Peter J. Shoji, O.D., Chair
Robb Shibayama, O.D., Vice Chair
Seulyn L Au, O.D.
K. Paul Chin, O.D.
Scott Kubota, Public Member
Jere H.E. Loo, O.D.
Darek Sato, Public Member
Daniel Jacob, Deputy Attorney General ("DAG")
James Kobashigawa, Executive Officer ("EO")
Jennifer Fong, Secretary
LaJoy Lindsey, 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 Shoji called the meeting to order at 9:03 a.m.
2. Agenda:
Additions
and Revisions: None.
3. Approval of
Board Meeting
Minutes of
May 7, 2018: Chair Shoji asked if there were any comments or concerns regarding the board minutes of the May 7, 2018 meeting. There being none, upon a motion by Dr. Loo, seconded by Dr. Au, it was voted on and unanimously carried to approve the minutes of the May 7, 2018, meeting as circulated.

Chair Shoji introduced the two new members, Mr. Scott Kubota and Dr. K. Paul Chin.

Dr. Au asked if they'd share a little background about themselves.

Mr. Kubota said he has been a commercial litigation attorney since 1984. His office has been at Restaurant Row since the 90's. He has three children and no grandchildren. He mentioned that he is a case study (for Optometrists) as he will be undergoing his fifth eye surgery next week.

Dr. Chin said he has been an Optometrist for 28 years, and practices in Honolulu. He has two children, ages 14 and 10, and recently returned from a baseball tournament in San Diego. He's looking forward to serving on the board.

EO Kobashigawa introduced Ms. LaJoy Lindsey as the Board's new secretary. He noted that Ms. Fong is still a secretary for PVL, but she has been reassigned to other areas. He stated that the Board's phone number will remain the same.

4. Executive Officer's Report:

a. DCCA Disciplinary Actions (through May 2018):

EO Kobashigawa reported that there were no optometry-related DCCA Disciplinary actions in April and May 2018. The report was circulated to the members for their information

b. News from the National Board of Examiners in Optometry ("NBEO")

EO Kobashigawa shared that the NBEO is making revisions to the Part III Clinical Skills Examination ("CSE"). Proposed revisions include knowledge assessments, patient scenarios, and patient records documentation while maintaining a performance evaluation of the most critical clinical skills. The Injection Skills Exam will be offered as a stand-alone examination effective August 1, 2018.

c. American Optometric Association ("AOA") News

EO Kobashigawa shared information from a few articles in the AOA News. One of the issues he found interesting is that Oklahoma has a statute in which Optometrists can't work for big box companies such as Wal Mart. Because of this, Wal Mart is attempting to put this up to a vote and amend the state constitution as they are unable to convince the Oklahoma Optometry Board to amend its rules.

d. Call for Comments on Proposed Revisions to Accreditation Council on Optometric Education ("ACOE") Optometric Technician Standards

There were no comments from the Board.

e. Recent Accreditation Actions by the ACOE

A copy of the recent accreditation actions by the ACOE was reviewed by the Board.

5. Old Business:

a. 2018 Legislative Session

- 1) Act 203, SLH 2018, S.B. No. 2201, S.D. 1, H.D. 2 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 of duties.*

EO Kobashigawa informed the board that effective July 10, 2018, the name of the Board changed from “Board of Examiners in Optometry” to “Board of Optometry” as a result of Act 203, SLH 2018.

6. New Business:

a. Request from Jonathan Chun, O.D. for Trade Name Approval of “Downtown Vision”

After some discussion, upon a motion by Vice Chair Shibayama, seconded by Dr. Loo, it was voted on and unanimously carried to approve Dr. Chun’s request to use the trade name “Downtown Vision”.

b. Report on 2018 Association of Regulatory Boards of Optometry (“ARBO”) Annual Meeting

A copy of EO Kobashigawa’s report on the 2018 ARBO Annual Meeting was given to the Board members.

Chair Shoji informed the Board that he was not able to attend due to illness. EO Kobashigawa gave a brief summary of his written report:

- Approximately 44 state board representatives and their counsels, guests of the member states, and members from Alberta, Australia, British Columbia, New Zealand, Ontario, Quebec, and Saskatchewan attended the meeting.
- Board member training was conducted by Dale Atkinson, Esq., Executive Director of the Federation of Associations of Regulatory Boards (“FARB”). He recommended that boards review the language of their statutes and

rules as the proper use of language may be the determining factor in administrative hearings or court cases. Oftentimes that is the primary determination on what the court or hearing officers decide. The Board should have a mission statement and a legislative declaration in their statute to protect the public's interest and to set minimal competency.

- Mr. Atkinson also conducted a session on the current environmental climate of de-regulation due to the Supreme Court ruling on the FTC vs. North Carolina ("NC") Dental Board case. In that case, the Supreme Court ruled that the NC Dental Board violated anti-trust provisions and lacked sufficient government oversight. The contention was that the NC Dentists were serving on board for their own interest and were restricting trade in the process.

EO Kobashigawa noted that in NC, the dental association appoints the board members. In Hawaii, the Governor submits board nominations and the Senate must confirm all board appointments. In addition, in Hawaii, there is government oversight of all boards and commissions. Mr. Atkinson stated that Board members should consider themselves as public member regulators, not industry representatives, as their role is to protect the public.

- There was a presentation on the NBEO examination updates. Effective 8/1/19, candidates will have a maximum of six times to pass the exam. Benefits include test security, reduced likelihood of unqualified persons passing, may increase candidate motivation and scores tend to stop improving after two attempts. Only 16 percent of candidates are successful after six attempts.

The Part III exam will be restructured with the ISE becoming a stand-alone examination. The Laser and Surgical Procedure Exam ("LSPE") is projected to be ready by 2026. It will have multiple choice and clinical components and will also be available as a stand-alone exam.

- ARBO is encouraging state boards to take advantage of OE tracker. ARBO can use OE Tracker to track the continuing education ("CE") courses taken by the licensees, conduct the audit and issue deficiency notices, if needed. If a board chooses to use OE Tracker, they would need to notify the licensees to use OE Tracker and send in their certificates. There is an annual fee for each licensee which is currently \$25.00. There's no fee for the Board but they would need to provide a list of licensees to ARBO annually. If the Board is interested, ARBO will send a representative to speak to the Board about participation and what would be involved.

DAG Jacob reminded the Board that currently, licensees are required to provide CE certificates that include very specific information. The Board is working on amending their rules, however, the rule amendments process is very extensive.

Chair Shoji asked if the rule amendments could be in place before the next renewal in December 2019.

DAG Jacob stated that it was possible.

EO Kobashigawa noted that there are approximately 25 different steps in the rule amendment process. There is a chart detailing the rule amendment process and the steps involved in the Board's Operational Manual.

- There was also a presentation from the Interstate Medical Licensing Compact Commission ("IMLCC"). The IMLCC currently has 24 participating states. Instead of applying for a license in each of those states, a person can apply with the IMLCC to obtain a license which allows the person to practice in all of the participating states. In order to participate, a state must change their statutes to allow for participation in the compact and agree to the criteria of the compact. The compact can also process renewals.

c. DCCA Legislative Timeline

EO Kobashigawa noted that the DCCA has an internal timeline for any legislation submitted. For the 2019 legislative session, EO Kobashigawa must notify the DCCA by August 20, 2018 and a draft of any proposed bills must be submitted by August 27, 2018.

Dr. Au asked who would draft the language for any proposed bills.

EO Kobashigawa stated that he would work with DAG Jacob on language for any proposed bills, however, the Board would need to inform the EO what they want and the justification for the proposed bills.

Dr. Au informed the Board that she was recently advised of an eyeglass shop that recently opened that charges \$50 for a refraction done by a technician or a dispensing optician. The results are sent to an optometrist in San Francisco who reviews the results on a delayed basis and issues the prescription. If the person buys glasses from the shop, their exam is free. She feels that this would be an example of delayed telemedicine.

Chair Shoji questioned if the optometrist has any interaction with the patient.

Dr. Au stated that she was told specifically that the optometrist gets the information on a delayed basis. There is no health check. No insurance requirement. Free refraction with a purchase. There is no way to know the skill set of the technician or the dispensing optician.

EO Kobashigawa asked if it is okay if the technician is under the supervision of the optometrist.

Dr. Au stated that as the optometrist is not live with the technician during the refraction, they could not be supervising the refraction. She is concerned about who oversees the skill set of the technician or dispensing optician since the optometrist is not available during the refraction.

Vice Chair Shibayama noted that there is nothing in the Board's laws or rules stating that an optometrist cannot perform refractions without a health check up.'

Dr. Au said she feels the Board should consider amending their laws to state what is required to issue a prescription, such as a health exam.

Mr. Kubota said he thinks it would be a major problem to require a health exam. There could be possible ramifications for other professions like dispensing opticians.

Dr. Au said the Board's main concern is consumer protection and the technician or dispensing optician performing the refraction may not be adequately trained to do so, especially since there is no live oversight by an optometrist.

DAG Jacob said he does not see anything in the laws which require the physical presence of an optometrist.

Dr. Au said the practice might be okay if the optometrist could ask questions while the patient was there.

Chair Shoji asked if it would be a statute or rule change to insert language regarding telemedicine.

DAG Jacob stated that he would need to check. He would also need to look at other boards and commissions to see if they have language in their laws or rules regarding telemedicine.

Board members agreed by consensus to defer this matter to allow for additional research.

Chair Shoji requested that this matter be included on the agenda for every meeting until further notice.

e. 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 :

Upon a motion by Dr. Chin, seconded by Mr. Sato, it was voted on and unanimously carried to approve the following continuing education (“CE”) courses:

<u>Index #</u>	<u>Program Title (Sponsor)</u>	<u>CE</u>	<u>TPA Hours</u>
18-014	Optometry’s Meeting 2018 (<i>American Optometric Association</i>)	193	127
18-015	Ocular Symposium: Pearls in Diagnosis (<i>Ocular Symposium</i>)	24	24
18-016	CE with Aloha 2018 (<i>Aloha Laser Vision</i>)	3	3
18-017	Minimally Invasive Glaucoma Surgery (<i>Professional Eye Care Associates of America</i>)	1	1
18-018	Interesting Cases and Conundrums (<i>Professional Eye Care Associates of America</i>)	1	1

8. Chapter 91, HRS – Adjudicatory Matters:

At 10:06 a.m., Chair Shoji 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 Proposed Order (Draft)

Upon a motion by Dr. Au, seconded by Dr. Loo, it was voted on and unanimously carried to approve the Board’s Proposed Final Order.

At 10:12 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. Au, seconded by Dr. Loo, it was voted on an unanimously carried to ratify the following:

Approved for Optometrist License

- OD 880 JESSICA H LIN
- OD 881 STEPHEN A RIDDER
- OD 882 JULIE A RYBARZYK
- OD 883 DAVID M GILL
- OD 884 THERESA C FLORESCA
- OD 885 LIZETH DELGADO
- OD 886 ANGELA N MORGAN
- OD 887 KELLIE-ANNE C ISHII
- OD 888 JOANNA N MA
- OD 889 EMILY C ENG
- OD 890 KELLIE R M ABE
- OD 891 LACEY D BEDOY
- OD 892 KRISTINA M LIN
- OD 893 KIIRA M P HARRISON

Approved for TPA Certification

- OD 855 JEFFREY A GONNASON
- OD 888 JOANNA N MA
- OD 892 KRISTINA M LIN
- OD 893 KIIRA M P HARRISON

10. Next Board Meeting:

September 24, 2018
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Dr. Loo mentioned that he will be unable to attend.

11. Adjournment: With no further business to discuss, Chair Shoji adjourned the meeting at 10:19 a.m.

Taken by:

/s/ LaJoy Lindsey

LaJoy Lindsey
Secretary

Reviewed by:

/s/ James Kobashigawa

James Kobashigawa
Executive Officer

8/29/18

Minutes approved as is.

Minutes approved with changes; see minutes of _____.