

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

MINUTES OF MEETING

- Date: Monday, December 16, 2019
- 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 (“CH”)
Robb Shibayama, O.D., Vice Chair (“VC”)
Seulyn L. Au, O.D.
K. Paul Chin, O.D.
Wallace Kojima, O.D.
Daniel Jacob, Deputy Attorney General (“DAG”)
Christopher Fernandez, Executive Officer (“EO”)
LaJoy Lindsey, Secretary
- Excused: Scott Kubota, Public Member
Darek Sato, Public Member
- Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by section 92-7(b), of the Hawaii Revised Statutes (“HRS”).
1. Call to Order: There being a quorum present, Chair Shoji called the meeting to order at 9:00 a.m.
 2. Approval of Board Meeting Minutes of November 25, 2019: Chair Shoji asked if there were any comments or concerns regarding the Board minutes of the November 25, 2019 meeting. There being none, upon a motion by Vice chair Shibayama, seconded by Dr. Kojima, it was unanimously carried to approve the minutes of the meeting as circulated.
 3. Executive Officer’s Report
 - a. Disciplinary Actions

EO Fernandez reported that there were no disciplinary actions through

October 2019. He also noted an error on the agenda as it stated the Disciplinary Actions were through November.

4. Applications:

a. Ratifications

Upon a motion by Dr. Chin, seconded by Dr. Au, it was unanimously carried to ratify the following:

1) Approved for TPA Certification

- OD-923 ATTRI, Srishti

5. New Business:

a. Request for Trade Name Approval

After review of the letter from Dr. Lori Ann K. Kim, the Board, with a motion from Dr. Chin, seconded by Vice Chair Shibayama, voted unanimously to approve the use of the trade name to “Hōkū`ula Eyecare”. The trade name will replace “Kenneth J. Fischer, O.D., Inc.”; the trade name for a practice which is now owned by Dr. Kim.

b. Review for Informal Opinion

If a company plans on demonstrating eye lid expression at an optometric meeting on the islands, is it required for an OD or MD from the company present to have an active Hawaii optometric license?

After due consideration of the information received, the Board directed EO Fernandez to re-refer the requestors to Hawaii Revised Statutes §459-1(a) and §459-2, which state:

§459-1 Optometry; practice of, defined. (a) The practice of optometry, for the purpose of this chapter, is defined to be: (1) The examination, diagnosis, treatment, and management of diseases and disorders of the human visual system, the eye, and the eyelids; (2) The employment of trial frame or trial lenses, and any objective or subjective means or methods, other than the use of surgery, including refractive or therapeutic laser surgery, but including the use and prescription of pharmaceutical agents, as established by the board, and the performance of non-invasive diagnostic procedures or ordering of laboratory tests related to the use of pharmaceutical agents for the purpose of examining, diagnosing, treating, and managing visual, muscular, or other diseases and disorders of the human visual system, the eye, and the eyelids;

§459-2 Optometry; unauthorized practice, unlawful. It shall be unlawful for any person to practice optometry or to append the letters "O.D." or any other optometric degree to a person's name with the intent thereby to imply that the individual is a practitioner of optometry, without first securing and holding an unrevoked and unsuspended license under and as provided in this chapter. This chapter shall not apply to, or prohibit, a duly licensed physician from practicing optometry as in this chapter defined, nor shall it prohibit a duly licensed physician or optometrist from filling prescriptions or orders, nor shall it prohibit the replacement, duplication, or repair of ophthalmic lenses, contact lenses, frames, or fittings thereof, by persons qualified to write or fill prescriptions or orders under this chapter, nor shall it prohibit or prevent any dispensing optician licensed under chapter 458 from performing the activities authorized by the license, nor shall it apply to optometric service corporations formed for the primary purpose of contracting with individuals, groups of individuals, and corporations for defraying or assuming the cost of services of optometrists and of contracting on behalf of optometrists to furnish services as provided in chapter 424. Any "ophthalmic lens" within the meaning of this chapter means any spectacle lens which has a spherical, cylindrical, or prismatic power or value, and is ground pursuant to a prescription.

c. ARBO, Continuing Education, Legislation

EO Fernandez informed the Board that he has been unable to further his research in to the possibility of the Board creating a relationship with ARBO that would have them managing the Board's continuing education ("CE") program.

Chair Shoji stated that he does not believe it will be possible and other members echoed him.

EO Fernandez agreed that the Board may not have enough justification to get authorization if this is service that is paid for. He went on to state that alternatively, that legislation could be introduced to create a percentage audit. He stated that it may be possible for a bill title to be restricted enough so that it does not, or if changed, could not affect other sections of the statutes. He gave several examples including, "Relating to the Hawaii Board of Optometry's license renewal"; "Relating to the Hawaii Board of Optometry's continuing education requirements"; and "Relating to the Hawaii Board of Optometry license renewal continuing education requirements". He concluded that if the worry is a bill affecting other parts of the chapter, then this may be a way of dealing with that while also reducing the scale of managing the CE program requirements.

Chair Shoji stated that it will probably get worse too.

EO Fernandez informed the Board that he does not have numbers for those licensees that let their license lapse or retire, but that generally speaking, there are at least 12 new licensees per year based on past years' Board approvals.

DAG Jacob cautioned that restricting the title of the bill would not completely protect the powers, provided by the legislature, that the Board has to create rules regarding CE. If it wanted, the legislature could come in and take that authority away. He also informed the Board that DCCA could prioritize a bill to be sent in an administrative package but that this would be up to the administration.

EO Fernandez stated that he can continue to look in to whether this bill could be a part of the administrative package for next year, but he was uncertain if it could be since it may need to go the route of a publicly introduced bill.

DAG Jacob stated that he believes that it should be a DCCA bill since managing renewals is administrative.

EO Fernandez also reminded the Board that most of its heavy work is reviewing CE courses for TPA content, and this is based on the rules which could still be revisited in rule revision.

Chair Shoji stated that he prefers not to make substantive changes to the CE requirements and that it should stick with the way it is, i.e. 100% audit.

EO Fernandez asked if there is or remains a large opposition to the Board's authority to create the CE rules as defined in the statutes.

Chair Shoji stated that there used to be for many, many years opposition from MD/Ophthalmology.

Vice Chair Shibayama said not as much, but still there is a risk.

Members agreed and that it is still too much of one.

The following item was taken out of order

6. Request for
CE Program
Approval:

Upon a motion by Dr. Chin, seconded by Dr. Au it was unanimously carried to approve CE programs as indicated beginning on the following page.

Index #	Course Title	Sponsor or Requestor	TPA Hours Requested	TPA Hours Approved
19-056	2020 Island Eyes Conference	Pacific University Oregon	30	17

7. Old Business:

a. Rule change discussion and Revision

EO Fernandez, referring to the meeting minutes from November, highlighted language that he was suggesting for limiting the number of hours of distance education courses, including but not limited to: interactive webinar, correspondence courses, and internet-based courses.

The following are approved provided that the total number of hours for each category constitutes no more than 25 percent of the total hours of continuing education required per biennium for license renewal:

- 1) Interactive webinars
- 2) Online or correspondence courses sponsored by optometric journals recognized by the Board.

Chair Shoji asked if there are any type courses that could be taken online and if the language would need to be updated to include them.

Vice Chair Shibayama stated that some schools provide online courses.

EO Fernandez stated the language can be updated. On separate note, he added that with interactive webinars, there is only one Board within the PVL that limits their use. The Dental Board. He also added that he has heard from licensees that the 25% limit on distance CE (referring to #1 and #2 above) is burdensome for those who do not have as much access to in-person courses, e.g. outer island licensees. Furthermore, he noted that currently the rule that limits correspondence courses seems to be outdated since it was enacted in 1999 and only refers to those courses found in optometric journals. He suggested that interactive webinar courses probably are not equivalent to correspondence courses, although pre-made web courses may be similar. He stated that if the Board wishes to make 25% restriction for all distance education then it should be made clear in the rules.

Dr. Au asked how much of a problem for licensees is limiting correspondence courses to 25%, or 9 hours.

EO Fernandez stated that until this renewal was complete, he probably could not provide a good picture and really this is more about the long-term not about this current renewal.

DAG Jacob suggested that if the regional or national optometric societies offered an online course it would be automatically approved.

Chair Shoji stated that the Board can continue the conversation the next meeting.

8. Public Forum: There were no public comments.
9. Next Board Meeting: January 6, 2019
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813
10. Adjournment: With no further business to discuss, Chair Shoji adjourned the meeting.

Taken by:

/s/ LaJoy Lindsey
LaJoy Lindsey
Secretary

Reviewed by:

/s/ Christopher Fernandez
Christopher Fernandez
Executive Officer

12/30/19

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