

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

**MINUTES OF MEETING<sup>1</sup>**

Date: May 22, 2023

Time: 9:00 a.m.

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

Virtual Videoconference Meeting – Zoom Webinar  
<https://dcca-hawaii-gov.zoom.us/j/91491130415>

Present: Robb Shibayama, O.D., Chairperson (“Chair”)  
K. Paul Chin, O.D., Vice Chairperson (“VC”)  
Seulyn L. Au, O.D.  
Gayle Chang, Public Member  
Wallace Kojima, O.D (Virtual)  
Peter Clayton Searl, O.D.

Excused:

Staff: John Cole, Deputy Attorney General (“DAG”)  
Andrew I. Kim, Deputy Attorney General (“DAG”)  
Kerrie Shahan, Executive Officer (“EO”)  
Chiara Latini, Secretary  
Mia Hoang, Tech Support  
Johnny Li, Tech Support

Guests: Lei Fukumura, Special Deputy Attorney General (“SDAG”)

Agenda: The agenda for this meeting was posted on the State electronic calendar as required by HRS section 92-7(b).

A short video was played to explain the meeting procedure and how members of the public could participate in the virtual meeting.

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<sup>1</sup> Comments from the public were solicited on each agenda item. If no public comments were given, the solicitation for and lack of public comment are not explicitly stated in these minutes.

1. Call to Order: Chairperson Shibayama welcomed everyone to the meeting and proceeded with a roll call of the Board members. Board members joining via Zoom confirmed that they were present and alone.

There being a quorum present, Chair Shibayama called the meeting to order at 9:07 a.m.

Dr. Au motioned and Vice Chair Chin seconded to amend the second item on the agenda to correct "Approval of Board Minutes of February 13, 2022" to "Approval of Board Minutes of February 13, 2023."

2. Approval of Board Minutes of February 13, 2023 Chair Shibayama asked the Board members if there were any comments or concerns regarding the Board meeting minutes of February 13, 2023. there were none; it was moved by Vice Chair Chin, seconded by Dr. Searl to and unanimously carried to approve the Board meeting minutes of February 13, 2023.

3. Chapter 91, HRS Adjudicatory Matters Chair Shibayama called for a recess from the meeting at 9:09 a.m. to discuss and deliberate on the following adjudicatory matter pursuant to Chapter 91, HRS (Note: Board members and staff entered the Microsoft Teams meeting).

- a. In the Matter of the Optometrist's License of Mark S. Schmalz, O.D.; OPT 2022-5-L; Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order

After due consideration of the information received, it was moved by Vice Chair Chin, seconded by Dr. Au, to approve the aforementioned Settlement Agreement Prior to Filing of Petition for Disciplinary Action and The Board's Final Order.

- b. In the Matter of the Optometrist's License of Lizeth Delgado, O.D.; OPT 2023-1-L; Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order

After due consideration of the information received, it was moved by Vice Chair Chin, seconded by Dr. Au, to approve the aforementioned Settlement Agreement Prior to Filing of Petition for Disciplinary Action and The Board's Final Order.

4. Applications:
  - a. Ratifications

Following the Board's review, deliberation, and decision on these matters pursuant to Chapter 91, HRS, Chair Shibayama announced that the Board reconvenes to its

Chapter 92, HRS, meeting at 9:19 a.m. Board members and staff returned to the Zoom meeting.

Approved for DPA Certification

OD1001 JASON CHRISTMAN  
 OD1002 DANE SULTZER  
 OD1003 MICHELLE CABEZAS  
 OD1004 BRADLEY MENDOZA

Approved for TPA Certification

OD997 IVY MEI KHA  
 OD1000 JAMES THOMPSON  
 OD1003 MICHELLE CABEZAS

License Restoration

OD895 SARAH YI

It was moved by Dr. Searl, seconded by Vice Chair Chin, and unanimously carried to ratify the above licenses and certifications.

5. Request for CE Program Approval:

It was moved by Dr. Au, seconded by Dr. Searl, and unanimously carried to approve the following CE programs:

INDEX #	PROGRAM TITLE	SPONSOR'S NAME	DATE	LOCATION	HOURS REQUESTED	TPA HOURS REQUESTED
23-005	Ocular Adnexal Lymphoma	Aloha Laser Vision	2/22/2023	Zoom	1	1
23-006	Ophthalmic Screening Guidelines for Systemic Medications	Andrew Parlin, MD	3/15/2023	Honolulu	1	1
23-007	Management of Post-Surgical Glaucoma Patients	James Pitts, MD	3/15/2023	Honolulu	1	1
23-008	Thyroid Eye Disease: Diagnosis and Management	Hugo Higa, MD	3/15/2023	Honolulu	1	1
23-009	HOA Live Virtual CE	Hawaii Optometric Association	4/30/2023	Honolulu	4	4
23-010	Co-management of Cataract and Refractive Surgery	Aloha Laser Vision	5/25/2023	Zoom	1	1
23-011	Hawaii Optometric CE Seminar	Hawaii Optometric Association	7/16/2023	Honolulu	8	8

6. New Business:

a. 2023 Optometrists Renewal Information for Website

The Board discussed this agenda item.

Chair Shibayama asked the Board members if they had any comments regarding the renewal information provided in the meeting packet that will be posted on the Board's website.

Vice Chair Chin noted that page 3 of the renewal information reported an incorrect date of December 31, 2021, as the last date to provide continuing education certificates.

Ms. Shahan stated that the date should reflect that of December 31, 2023. She stated the correction would be made.

Ms. Shahan informed the Board members that the Board currently provides inquirers with a copy of the November 9, 2020, meeting minutes which state:

In response to inquiries asking whether the Board will accept more hours of acceptable correspondence courses per biennium than what is currently allowed by HAR §16-92-39(b), the Hawaii Board of Optometry informally opined that it does not have the authority to amend or modify any rule set forth in HAR Title 16 Chapter 92 without going through the rule change process set forth in HRS §91. Therefore, it cannot accept more than 25 percent of the total CE required per biennium for license renewal, as provided by HAR §16-92-39(b), specifically: (8) hours of CE for DPA licensees, and (9) hours of CE for TPA certified licensees.

The Board also informally interprets HAR Title 16 Chapter 92 Subsection 7 as allowing the approval of continuing education courses facilitated both in-person and remote, as long as the courses facilitated remotely adhere to the rules set forth in the subsection, and:

- 1) Are facilitated live at a specific time and place;
- 2) Are interactive involving interaction between the facilitator and attendees; and
- 3) Are not recordings of live events

If remote courses are not live, then they are considered correspondence courses and will need to meet the requirements set forth in HAR §16-92-38(a) or (b), HAR §16-92-39(b) regarding

correspondence courses and HAR §16-92-39(c) regarding request for Board approval of continuing education courses.

Chair Shibayama went on to ask whether the terms 'synchronous' and 'asynchronous' should be included with the renewal information packet.

Ms. Shahan relayed to the Board members that she will revise the renewal information to include the definitions 'synchronous' and 'asynchronous' and provide a draft for the Board members to review at its next meeting.

- b. Email from Jean-Christophe Firer, Managing Director E-Swin USA  
Request for Board position, specific guidance and official recommendation related to the use of Intense Pulse Light (IPL) technology.
- c. Email from Lisa Fennell, Executive Director, ARBO  
Is IPL allowed by your licensees?  
Do you have any laws that specifically allow or prevent it within the scope of practice?  
Do you have any CE requirements specific to IPL?

The Board members discussed inquiries 6.b. and 6.c.

Chair Shibayama stated that these inquiries had been discussed in the past. He went on to say that the statutes are silent on the matter and the Board could not offer official recommendation or guidance.

- d. Email from Olivia Graceffa, Clarion  
In reading through the legislation, we've come across the term 'administer' several times. In your state, does this encompass an optometrist's ability to prescribe?

The Board members discussed this inquiry.

Ms. Shahan relayed to the Board members that she had received a first inquiry from Ms. Graceffa in which she had asked to provide information regarding an optometrists' ability to prescribe injectable or infused biologics to treat eye conditions such as AMD, diabetic retinopathy, thyroid eye disease, uveitis, and others for which there are available injectable or infused biologic therapies.

She went on to relay to the Board that she had replied that the Hawaii Revised Statutes provide that therapeutically certified optometrists shall not administer injectable agents except for anaphylaxis. She provided the inquirer with a link to HRS §459-7.4 which states:

Therapeutically certified optometrists; scope; qualifications. (a) The use and prescription of therapeutic pharmaceutical agents as established by the board for the

treatment and management of conditions of the anterior segment of the human eye, eyelids, and lacrimal system, and the non-invasive surface removal of superficial foreign bodies from the anterior segment of the human eye and eyelids is authorized only for an optometrist licensed under this chapter who meets the requirements of a therapeutically certified optometrist as authorized in this section. A therapeutically certified optometrist may use or prescribe steroidal agents. A therapeutically certified optometrist shall not administer injectable agents except for anaphylaxis. Performing any invasive surgery shall not be allowed. Therapeutic pharmaceutical agents shall not include any of the controlled substances enumerated in sections 329-14, 329-16, 329-18, 329-20, and 329-22.

Ms. Shahan asked the Board members to clarify whether an Optometrist can prescribe injectables.

Chair Shibayama stated that Optometrists can only administer anaphylaxis.

Chair Shibayama stated that the Board's laws are silent on the matter. He went on to state that Optometrists can prescribe injectables but cannot administer them.

Ms. Shahan asked the Board members if there are FDA approved pharmaceutical agents that would be injected that are for ophthalmic use.

Chair Shibayama answered in the negative.

Ms. Shahan referred the Board members to HAR §16-92-2 which state:

§16-92-2 Definitions. As used in this chapter or in chapter 459, HRS:

"Non-invasive diagnostic procedures" means any procedure used for the purpose of diagnosing ocular diseases or disorders, excluding surgery or injection; provided that a therapeutically certified optometrist may administer injectable agents for anaphylaxis only.

"Therapeutic pharmaceutical agents" or "TPAs" means ingested oral agents, or topical solutions, suspensions, and ointments applied to the surface of the eye or adjoining tissues. Therapeutically certified optometrists are authorized to use and prescribe therapeutic pharmaceutical agents specifically formulated for ophthalmic use, as approved by the Food and Drug

Administration, and with the exception of any controlled substance as defined in chapter 329, HRS

Chair Shibayama went on to say that the Board's rules and statutes do not restrict what optometrists can prescribe, but the rules and statutes state that optometrists cannot inject them.

Dr. Au suggested that the Board could answer the inquiry by citing HRS §459-7.4 and HAR §16-92-2.

Chair Shibayama stated that the Board could not offer their opinion on the matter.

Dr. Kojima stated that it was up to the optometrist to make their decision regarding the matter.

Chair Shibayama asked if any other Board members wanted to provide additional comments. There were none.

Vice Chair Chin made the motion, seconded by Dr. Au to provide the inquirer copies of HRS §459-7.4 and HAR §16-92-2, carried unanimously

## 7. Executive Officer Report

Ms. Shahan informed the Board members that the Legislative Reference Bureau has returned the Board's rule revisions. Being that there were no substantial changes to make, she stated she would make the formatting and grammar changes and forward to the next stage.

### a. Recognition of Out-going Board Members

Ms. Shahan thanked Chair Shibayama and Dr. Au for their tutelage and for their service on their Board and presented them with a certificate of service.

Dr. Au relayed to the Board that she was honored to serve on the Board and has learned a lot.

Chair Shibayama thanked the Board members for their hard work and has enjoyed their collaborative efforts. He went on to thank Ms. Shahan for her hard work.

Ms. Shahan reminded the Board members to submit their Ethics training and Financial disclosures.

## 8. Next Board

Monday, May 22, 2023

Meeting: 9:00 a.m.  
In-Person: Queen Liliuokalani Conference Room  
HRH King Kalakaua Building  
335 Merchant Street, First Floor  
Honolulu, Hawaii 96813  
Virtual  
Participation: Virtual Videoconference Meeting – Zoom Webinar

9. Adjournment: With no further business to discuss, Chair Shibayama adjourned the meeting at 9:53 a.m.

Taken by:

S/ Chiara Latini  
Chiara Latini  
Secretary

Reviewed by:

s/ Kerrie Shahan  
Kerrie Shahan  
Executive Officer

2.16.2023

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_.