

**STATE BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS  
AND OPHTHALMIC TECHNICIANS**

**PUBLIC SESSION MINUTES  
JULY 8, 2009**

The July meeting of the Board was convened in accordance with its notice to the Secretary of State, the Bergen Record, the Record of Hackensack, the Trenton Times, the Courier Post and the Star-Ledger and was conducted in accordance with the provisions of the Open Public Meetings Act.

President Cohen convened the meeting at 9:00 a.m. A roll call was taken and the following attendance was recorded for these minutes:

**PRESENT:** Linda Cohen, Joseph Grodman, Gary Iavarone, Jerry McMullin, and John Valeri, Esq.

**EXCUSED OR ABSENT:** Michael Higgins and Dorcas K. O'Neal, Executive Director

**PUBLIC ATTENDEES:** NONE

Also in attendance: Susan Berger, Deputy Attorney General and Monica Carrington, staff.

**I. APPROVAL OF PUBLIC MINUTES**

The Board reviewed the Public Session Minutes for June 10, 2009. **On a motion by Joseph Grodman, seconded by Jay McMullin, the minutes were unanimously approved as submitted.**

**II. OLD BUSINESS**

NONE

**III. APPRENTICE MATTERS**

NONE

**IV. STATUTES AND REGULATIONS**

- a. The Board reviewed a letter from the New Jersey Society of Optometric Physicians (NJSOP) stating that its membership has an interest in proposed rule N.J.A.C. 13:33- 9, Registration of Out-of-State Replacement Contact Lens Sellers as it may have a dual purpose for ophthalmic dispensers as well as optometrists and inquiring as to whether the Board of Optometrists was made aware of the rule before publication. The Board did not apprise the Board of Optometrists.
- b. The Board reviewed comments from the Board of Optometry expressing support for the Proposed Rule N.J.A.C. 13:33- 9, Registration of Out- of -State Registration of Replacement Contact Lens Sellers.
- c. The Board reviewed the comments from **1-800-CONTACTS Office of General Counsel** on the Proposed Rule N.J.A.C. 13:33-8.8 and 9: Fee Schedule; Registration of Out-of State Replacement of Contact Lenses Sellers contending that the proposed rule would be preempted by federal law FCLCA (15U.S.C.- 7601, et seq.) and FTC's Contact Lens Rule (16 CFR 315).

**The Board reviewed all comments regarding proposed rule N.J.A.C. 13:33-8.8 and 9 Fee Schedule; Registration of Out-of State Replacement of Contact Lenses Sellers. After reviewing all comments, it was the consensus of the Board to delete "replacement" from the regulation. Responses to the comments will appear in the New Jersey Register. On a motion by Joseph Grodman seconded by John Valeri, the Board unanimously approved N.J.A.C. 13:33-9 upon adoption.**

- d. The Board reviewed comments from the National Association of Optometrists and Opticians on the proposed rule N.J.A.C. 13:33- 5.1 and 5.9 Record of prescriptions filled; Measurements. Subchapter (b) which states that prior to fabricating, verifying or duplicating a lens or pair of eyeglasses, a licensed ophthalmic dispenser shall determine the lens type and material; to be used in the eyeglasses. The rule as written appears to vest broad discretion, if not absolute authority in the ophthalmic dispenser. The response to this comment will appear in the New Jersey Register upon adoption. **On a motion by John Valeri, seconded by Jay McMullin the Board unanimously approved N.J.A.C. 13:33-5.1 and 5.9 upon adoption.**

- e. Regulatory Analyst Chuck Manning advised the Board that the Vision Screening regulation has been postponed due to the fact that Motor Vehicle is currently not performing the screening. It is in the process of updating the system to perform vision screening which will be ready by 2011.

**V. NEW BUSINESS**

- a. The Board reviewed the Board of Optometry Regular Session Minutes of March 18, 2009 **as informational.**
- b. The Board reviewed the fiscal analysis for issuance of a partial credit for the upcoming biennial renewal period. The new fee will be \$240.00 for Ophthalmic Dispensers, \$180.00 for Ophthalmic Technicians, \$130.00 for Branch Ophthalmic Dispensers and \$90.00 for Branch Ophthalmic Technicians. **It was the consensus of the Board to approve this credit for the 2010-2011 renewal period.**
- c. The Board reviewed a draft of on-line course proposal **as informational.**

**VI. OTHER BUSINESS**

**NONE**

There being is no other business to come before the Board in Public Session, on a motion by John Valeri seconded by Joseph Grodman the Public Session was adjourned and the Board convened in Executive Session for the purpose of receiving counsel, to review six criminal background reviews and two matters of new business.

The Board reconvened in Public Session. The next scheduled meeting is September 9, 2009. There being no other business to come before the Board, on a motion made and seconded the meeting was adjourned at 1:00 p.m.

Respectfully submitted,

Dorcas K. O'Neal  
Executive Director