

**STATE BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS
AND OPHTHALMIC TECHNICIANS
PUBLIC SESSION MINUTES
September 13, 2006
FINAL**

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

President Cohen convened the meeting at 9:15 a.m. A roll call was taken and the following attendance was recorded for these minutes:

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

EXCUSED OR ABSENT: Jane Kenny

Also in attendance: Dorcas K. O'Neal, Executive Director, Tobey Palan, Deputy Attorney General, Monica Carrington, and Bonnie Sheppard, staff.

APPROVAL OF PUBLIC MINUTES

The Board reviewed the Public Session Minutes for July 19, 2006 and on a motion by Gary Iavarone, seconded by Jerry McMullen, the minutes were approved as submitted.

OLD BUSINESS

None

APPRENTICE MATTERS

I/M/O KEITH M. HABE. Mr. Habe submitted a letter asking to be excused from the 9/06 Qualifying Technical exam because of personal, work, and education-related problems. On a motion by John Valeri, seconded by Jerry McMullin, the Board granted an extension until the March 2007 examination. Mr. Habe will be advised.

I/M/O MARK PASQUINI. Mr. Pasquini submitted a letter requesting to be excused from the 9/06 exam because of financial difficulties and unpreparedness. On a motion by John Valeri, seconded by Jerry McMullen, the Board granted a final excused absence from this exam but Mr. Pasquini must sit for the March 2007 examination. He will be so advised.

I/M/O JESSICA PATANE. Wendy Waldron, preceptor to Ms. Patane, submitted a letter requesting that this apprentice be excused from the September 2006 examination because she did not receive a high enough grade to sit for the Qualifying Technical Exam. On a motion by John Valeri, seconded by Joseph Grodman, the Board granted an excused absence from the September 2006 exam and Ms. Patane will be required to sit for the September 2007 exam. Ms. Patane will be so advised.

I/M/O GALINA CERNAVSLOR. Dispenser Melissa Deekan submitted a letter requesting that Galina Cernavslor be excused from the September 2006 examination due to insufficient educational requirements. On a motion by John Valeri, seconded by Jerry McMullen, Ms. Cernavslor was granted a one-year extension on her permit. She must submit her transcripts to the Board as well as proof that she is currently in school. Upon receipt of the transcripts, the Board will address her request. Reagendized.

I/M/O JONATHAN BARAN. This apprentice submitted a letter asking to be excused from the September 2006

examination due to insufficient educational requirements. On a motion by Gary Iavarone, seconded by John Valeri, Mr. Baran was granted an excused absence from the September 2006 exam and must sit for the March 2007 exam if he earns a grade of "C" or better in Principles of Optics and Contact Lenses I.

I/M/O EFTALIA DIMITRAKI. This apprentice submitted a letter advising that she will complete the application for the U.S. Medical Licensing Step 1 Exam and will not be able to sit for the September 2006 examination. On a motion by Jay McMullen, seconded by John Valeri, the Board denied her request and she will be given an automatic failure because she provided no reason why she is not sitting for the September 2006 qualifying exam. Ms. Dimitraki will be advised of the denial and requested to notify the Board whether she will continue to pursue the ophthalmic profession.

I/M/O JULIE MAGYAR. Ms. Magyar submitted a letter requesting to be excused from the September 2006 examination because of insufficient educational requirements. On a motion by John Valeri, seconded by Gary Iavarone, Ms. Magyar was granted an excused absence from the September 2006 exam and must take the September 2007 exam following completion of Ophthalmic Materials II, which she plans to take at Essex Community College in the spring, 2007 semester. She will be so advised.

I/M/O KATHLEEN SHACKLEY. This apprentice submitted a letter asking to be excused from the September 2006 examination because of financial and medical problems. On a motion by Gerry McMullen, seconded by John Valeri, Ms. Shackley will be advised that in order to avoid receiving an automatic failure for the September 2006 exam she must provide the Board with documented proof of her medical situation. She will be so informed. Reagendized.

I/M/O SHERYL BROWN. Ms. Brown submitted a letter requesting a license as an Ophthalmic Technician. She previously took and failed the dispenser written exam in March 2004 and believes that she is eligible for the technician license. She does not qualify for a technician's license. The Board directed that she may sit for the September 2006 technical exam so long as she immediately submits a completed application to the Board office. Her fees for the dispenser exam can be applied to the technician's exam.

I/M/O EDWARD MISELEVICH. This apprentice submitted a letter requesting to be excused from the September 2006 dispensers exam because he will be out of the country on a family matter. On a motion by John Valeri, seconded by Joseph Grodman, Mr. Miselevich will be excused from the exam if he submits a copy of his plane ticket to the Board. He will be so advised.

NEW BUSINESS

INTERNET SALES OF CONTACT LENSES/CONSENT ORDER W/ WALSH OPTICAL. The Board reviewed an August 7, 2006 FTC press release, "FTC Alleges Illegal Internet Sales of Contact Lenses" where the FTC authorized the referral of the complaint and stipulated consent decree and order to the Department of Justice to be filed in the US District Court for the District of New Jersey. The stipulated Consent decree and order is for settlement purposes only and does not constitute an admission by defendants Walsh Optical, Inc. and Kevin Walsh, owner, of a law violation. On a motion by John Valeri, seconded by Gary Iavarone, the Board directed that the FTC's press release be posted to the Division of Consumer Affairs' Web site along with a link to the final order.

I/M/O WILLIAM FREUND. This licensee wrote the Board asking it to affirm in writing that the provision of artificial eyes is within the scope of practice of a licensed dispenser. Discussion on the matter was moved to the October Executive Agenda.

I/M/O FRANCIS J. CONNELLY. The Board read as informational an announcement of a lawsuit and preliminary injunction petition filed by the Pennsylvania Attorney General against Francis J. Connelly, a Philadelphia ophthalmologist.

I/M/O SAMUEL P. PORFIDO, JR. This licensed dispenser submitted a letter requesting that the reinstatement fee of \$150.00 be waived, as he allegedly notified the Board in May 2006 that he did not receive his renewal

application. On a motion by Gary Iavarone, seconded by Jerry McMullin, Mr. Profido's request was denied. It is the responsibility and obligation of a licensee to know his license must be renewed. Mr. Profido will be so informed.

The Board reviewed as informational an email sent from Joe Virgadamo of Premier Vision Care Network, Inc., concerning two sections of A3945, now passed into law, which impact his mail order contact lens business. This matter was reagendaized for response.

LEGISLATION/REGULATION

A-3027 Health/Facilities - "Violence Prevention in Health Care Facilities Act," which would require certain health care entities to establish violence prevention programs to protect health care workers. The Board deferred consideration of the bill until next month's agenda. 1st legislation: employees are not reporting incidences of violence.

The Board reviewed as informational the Notice of Proposed Amendments to regulations for the Board of Optometrists N.J.A.C. 13:38-45

OTHER BUSINESS

The Board reviewed as informational the monthly revenue reports for June and July 2006 and the Division of Law Billing of July 2006.

The Board reviewed an article entitled, "The Backlash against 'Doctor Only' Contacts" as informational.

There being no other business to come before the Board in Public Session, on a motion made and seconded, the Board convened in executive session to receive counsel, review two items of old business, two consumer complaints and two advertising issues.

The Board reconvened in Public Session.

I/M/O WILLIAM FREUND. It was the consensus of the Board to reagendaize this matter pending a decision by the Orthotics and Prosthetics Board.

The next scheduled meeting of the Board will be held on October 11, 2006.

There being no other business to come before the Board, the meeting was adjourned at 2:05 p.m.

Respectfully submitted,

Dorcas K. O'Neal
Executive Director