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New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Optometrists
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New Jersey State Board of Optometrists

Regular Session Minutes

February 17, 2010

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A regular meeting of the New Jersey State Board of Optometrists was held at 124 Halsey Street, Newark on the 6th floor on Wednesday, February 17, 2010. **Mitchell Fink, O.D., President of the Board**, announced that pursuant to the Open Public Meetings Act notice of this meeting was prepared in the office of the Board and mailed out to the Secretary of State, the Attorney General, the Star Ledger, the Record, the Press of Atlantic City, the Asbury Park Press, and the Trenton Times. The meeting was called to order at 9:15 A.M. A roll call was taken and the following attendance was recorded:

CLARIBEL AZCONA-BARBER	Present
DANIEL DESRIVIERES	Absent
ROBERT DORIO	Absent
GIGETTE COLLAZO HARFST, O.D.	Present
RICHARD FAVREAU, O.D.	Absent
MITCHELL FINK, O.D.	Present
JOHN FLORIO, O.D.	Present

Also present were: **CARMEN RODRIGUEZ, Deputy Attorney General; LISA AFFINITO, Executive Director**

Members of the public: Howard Cooper, Executive Director of the New Jersey Society of Optometric Physicians

- I. Public Comment**
- II. Approval of Regular Session Minutes**

A. December 16, 2009

A motion was made by Dr. Harfst and seconded by Dr. Florio to approve the December 15, 2009 Regular Session Minutes as amended. A vote was taken and the motion carried by a unanimous vote.

- III. Election of Officers for 2010**

Lisa Affinito, Executive Director, took the chair to conduct the election of Board Officers for 2010.

Ms. Affinito called for nominations for President and a motion was made by Dr. Harfst and seconded by Dr. Florio to nominate Dr. Fink for President of the Board for 2010. Ms. Affinito called for further nominations and there were none. Mrs. Barber then made a motion, seconded by Dr. Harfst to close the nominations and elect Dr. Fink President of the Board by acclamation. The vote of the Board was unanimous.

Ms. Affinito called for nominations for Vice President and a motion was made by Dr. Florio and seconded by Dr. Fink to nominate Dr. Harfst for Vice President of the Board for 2010. Ms. Affinito called for further nominations and there were none. Dr. Fink then made a motion, seconded by Dr. Florio to close the nominations and elect Dr. Harfst Vice President of the Board by acclamation. The vote of the Board was unanimous.

Ms. Affinito called for nominations for Secretary and a motion was made by Dr. Harfst and seconded by Dr. Fink to nominate Dr. Florio for Secretary of the board for 2010. Ms. Affinito called for further nominations and there were none. Mrs. Barber then made a motion, seconded by Dr. Fink to close the nominations and elect Dr. Florio Secretary of the Board by acclamation. The vote of the Board was unanimous.

IV. Board Review of New Jersey Administrative Code Title 13, Chapter 38 New Jersey State Board of Optometrists Subchapter 2. General Rules of Optometric Practice

The Board completed their review of **Administrative Code Title 13, Chapter 38 New Jersey State Board of Optometrists Subchapter 2. General Rules of Optometric Practice** for Sunsetting and made recommendations for additional language or clarification of existing language. The Board will review **Administrative Code Title, Chapter 38 New Jersey State Board of Optometrists Subchapter 3. General Provision, Subchapter 4. Therapeutic Pharmaceutical Agents (TPA) Certification, and Subchapter 5. Fee Schedule** at its March 17, 2010.

V. New Business

- A. Letter from Mark Horwitz, O.D.
RE: American Board of Optometry's Certification

Dr. Horwitz inquired whether the new Board Certification process started by the American Optometric Association will be recognized and accepted by the New Jersey State Board of Optometrists. Dr. Horwitz inquired whether he would be allowed to call himself "Board Certified in Optometry" in New Jersey if he became "board certified" by the American Board of Optometry.

A motion was made by Dr. Harfst and seconded by Mrs. Barber to advise Dr. Horwitz that if he chooses to advertise this certification, he must clearly identify the entity from which he received this certification. The Board will also advise Dr. Horwitz that N.J.A.C. 13:38-1.2(f), "When an advertisement contains information on professional credentials, it shall only contain academic degrees obtained from colleges and universities accredited by the United States Department of Education and the Council of Post-Secondary Accreditation" only recognizes academic degrees. A vote was taken and the motion carried by a unanimous vote.

- B. Letter from Eric Yossef, O.D.
RE: Credentialing Course

Dr. Yossef wrote the Board concerning the scarce availability of the oral credentialing course.

A motion was made by Dr. Harfst and seconded by Dr. Florio to advise Dr. Yossef that Salus University in Pennsylvania has just recently offered the credentialing course in the Fall of 2009. Dr. Yossef can contact Salus University and asked to be placed on their waiting list for the next time they offer the course. Dr. Yossef can also contact the Nova Southeastern University College of Optometry as they have shown interest in holding the credentialing course in 2010. The Board will advise Dr. Yossef that the credentialing course can be offered by any school that is accredited by the U. S. Department of Education and the Council on Postsecondary Accreditation provided it is approved by the New Jersey State Board of Optometrists. The Board will further advise Dr. Yossef that he can contact any school that is accredited by the U.S. Department of Education and the Council on Postsecondary Accreditation and inquire whether they are willing to conduct the credentialing course provided that the coursework is presented and approved by the Board prior to its commencement. The specifications of the credentialing course are outlined in N.J.A.C. 13:38-4.3(b) and can be provided to any accredited school. A vote was taken and the motion carried by a unanimous vote.

- C. Letter from Christopher Moore, O.D.
RE: Disciplinary Action

Dr. Moore inquired whether the September 3, 1998 Uniform Penalty letter can be expunged from his records.

A motion was made by Dr. Harfst and seconded by Mrs. Barber to advise Dr. Moore that the September 3, 1998 Uniform Penalty letter is a permanent part of his record and cannot be expunged. A vote was taken and the motion carried by a unanimous vote.

- D. Senate No. 2944 (Synopsis - Establishes additional investigative and enforcement powers in Division of Consumer Affairs to deter individuals from engaging in unauthorized practice of professions and occupations.) - Introduced June 18, 2009

The Board reviewed Senate No. 2944 and considered it informational.

- E. David Glassco, O.D.
RE: TPA Certification

Dr. Glassco inquired whether he could be considered for a TPA certification to prescribe oral and topical medications based on his educational background. Dr. Glassco advised the Board that he did not take the oral credentialing course for New Jersey but has a license to prescribe oral medication in the State of Ohio and in the State of Illinois. Dr. Glassco also advised the Board that he has a controlled dangerous substance license and a DEA number.

The Board will request that Dr. Glassco provide it with a copy of the syllabus of the course he completed in order to qualify for licensure to prescribing oral pharmaceutical agents in the State of Illinois. The Board will also request that Dr. Glassco confirm the State in which he is currently actively practicing optometry.

- F. Senate No. 89 (Synopsis - Requires licensed health care professionals and facilities to bill Medicare beneficiaries within six months of providing health care services.)

A motion was made by Dr. Harfst and seconded by Mrs. Barber to advise the Division of Consumer Affairs legislative liaison that the Board opposes S-89. The Board will comment that the six months should be from the Medicare final adjudication of the claim rather than six months from the date of service. A vote was taken and the motion carried by a unanimous vote.

- G. Senate No. 812 (Synopsis - Concerns dispensation by an optometrist or ophthalmologist to a patient of drugs delivered to the eye through contact lens.)

A motion was made by Dr. Florio and seconded by Dr. Harfst to advise the Division of Consumer Affairs legislative liaison that it supports S-812 as it conforms with the standard of optometric care. A vote was taken and the motion carried by a unanimous vote.

- H. Memorandum from the National Board of Examiners in Optometry
RE: List of Potential Examiners for April and August 2010 Clinical Skills Examination

The National Board of Examiners in Optometry supplied the Board with a list of potential examiners for the April and August 2010 Clinical Skills Examination and asked that it identify an optometrist licensed in the State of New Jersey who the Board would object to as an examiner. After the Board reviewed a list of potential examiners for the April and August 2010 Clinical Skills Examination, a motion was made by Dr. Harfst and seconded by Dr. Florio to approve all the optometrists on the list whose licenses are active in the State of New Jersey. The Board reserves any judgment on the optometrists who have a license in New Jersey on inactive status and practice in another State. A vote was taken and the motion carried by a unanimous vote.

VI. For Your Information

- A. American Optometry Association's
2009 Annual State Legislation Update

The Board reviewed the American Optometry Association's 2009 Annual State Legislation Update and considered it informational.

- B. Signed Settlement letter - Michael Newman, O.D.

The Board is in receipt of a signed Settlement letter from Dr. Newman together with a check in the amount of \$1,500.00 for violation of N.J.A.C. 13:38-2.3(a),(b)5 and N.J.A.C. 13:38-2.1(a)3,4 and 12. The Board considers this matter to be concluded.

- C. Notice from the New Jersey Foundation for Aging
RE: New law to protect vulnerable seniors

The Board reviewed a notice from the New Jersey Foundation for Aging regarding a new law to protect vulnerable senior citizens and considered it informational.

- D. New Jersey Board of Medical Examiners'
January 13, 2010 Open Board Agenda

The Board reviewed the New Jersey Board of Medical Examiners' January 13, 2010 Open Board Agenda and considered it informational.

- E. New Jersey Board of Medical Examiners'
January 13, 2010 Open Agenda of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey Board of Medical Examiners' January 13, 2010 Open Agenda of Disciplinary Matters Pending Conclusion and considered it informational.

- F. New Jersey Board of Medical Examiners'
November 4, 2009 Open Board Minutes

The Board reviewed the New Jersey Board of Medical Examiners' November 4, 2009 Open Board Minutes and considered it informational.

- G. New Jersey Board of Medical Examiners'
October 14, 2009 Open Minutes of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey Board of Medical Examiners' October 14, 2009 Open Minutes of Disciplinary Matters Pending Conclusion and considered it informational.

Upon a motion made by Dr. Harfst and seconded by Dr. Florio, the Board voted to go into Executive Session to discuss the following matters involving investigations or violations of the Board's enabling act, the Uniform Enforcement Act and/or Board regulations.

1. Four matter filed with the board which requires review and additional recommendations with regard to investigations and/or actions.
2. Two matters where additional information has been submitted to the Board concerning pending investigations.

VII. Adjournment

A motion was made by Dr. Harfst and seconded by Mrs. Barber to adjourn the Regular Session Meeting at 2:00 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Lisa Affinito
Executive Director