

**NEW JERSEY STATE BOARD OF OPTOMETRISTS
REGULAR SESSION MINUTES**

FEBRUARY 18, 2004

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 18, 2004. Leonard Steiner, O.D., President of the Board, announced that pursuant to the Open Public Meetings Act, Chapter 321, P.L., 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 9:20 A.M. A roll call was taken and the following attendance was recorded:

GIGETTE COLLAZO, O.D. Absent
GORDON COMPTON Present
MITCHELL FINK, O.D. Present
JOSEPH SCHKOLNICK, O.D. Present
LEONARD STEINER, O.D. Present
LEONARD STRULOWITZ, O.D. Absent
RALPH WHITE Present

Also present were: SUSAN H. GARTLAND, Executive Director; CARMEN RODRIGUEZ, Deputy Attorney General; LISA PETROWSKI, Assistant to the Executive Director.

I. Public Comment

II. Election of Officers for 2004

Executive Director, Susan H. Gartland, took the chair to conduct the election of Board Officers for 2004.

Mrs. Gartland called for nominations for President and a motion was made by Dr. Steiner and seconded by Mr. White to nominate Dr. Fink for President of the Board for 2004. Mrs. Gartland called for further nominations and there were none. Dr. Schkolnick then made a motion, seconded by Mr. Compton to close the nominations and elect Dr. Fink President of the Board by acclamation. The vote of the Board was unanimous.

Mrs. Gartland called for nominations for Vice President and a motion was made by Dr. Steiner and seconded by Mr. White to nominate Dr. Schkolnick for Vice President of the Board for 2004. Mrs. Gartland called for further nominations and there were none. Dr. Fink then made a motion, seconded by Mr. Compton to close the nominations and elect Dr. Schkolnick Vice President of the Board by acclamation. The vote of the Board was unanimous.

Mrs. Gartland called for nominations for Secretary and a motion was made by Mr. White and seconded by Dr. Steiner to nominate Mr. Compton for Secretary of the Board for 2004. Mrs. Gartland called for further nominations and there were none. Dr. Steiner then made a motion, seconded by Dr. Fink to close the nominations and elect Mr. Compton Secretary of the Board by acclamation. The vote of the Board was unanimous.

Dr. Fink took the seat as President of the Board and presided over the remaining portion of the meeting.

III. Approval of Regular Session Minutes

A. December 17, 2003

A motion was made by Dr. Steiner and seconded by Mr. White to accept the December 17, 2003 Regular Session Minutes as presented. A vote was taken and the motion carried by a unanimous vote.

IV. New Business

A. Letter from Steve Silberberg, O.D. RE: Contact Lens Prescription Release

Dr. Silberberg advised the Board of some of his concerns regarding the new Federal law, "Fairness to Contact Lens Consumers Act", specifically the contact lens prescription release. Dr. Silberberg advised the Board that the requirement to release the contact lens prescription upon completion of the contact lens fitting whether or not it is requested by the patient may cause problems in the area of specialty contact lens fittings. Dr. Silberberg further advised the Board that it may cause a problem in the area of trial lenses as optometrists earn fitting or "trial" contact lenses from manufacturers when they order product. If the patients do not order contact lenses from the examining optometrist, the manufacturers will eventually stop furnishing trial contact lenses for fitting purposes because the optometrist did not order enough of their product.

A motion was made by Dr. Steiner and seconded by Mr. Compton to advise Dr. Silberberg that the State Board abides by all Federal laws. Optometrists should discuss all fees with the patient prior to rendering services and should combine all fees involved in the fitting process into their professional fee schedule. The Board would further advise that after the contact lens fitting is complete the contact lens prescription must be released to the patient. A vote was taken and the motion carried by a unanimous vote.

B. Notification from Vincent J. McGlone, O.D. RE: Business Name Change

The Board reviewed Dr. McGlone's notification regarding his business name changed and will keep it in his licensee file.

C. Assembly, No. 1913 (Synopsis - Establishes Health Care Professional Regulation Study Commission and requires Board of Medical Examiners to take certain actions.) - Introduced January 22, 2004

The Board reviewed Assembly No. 1913 which impacts the health care boards. A motion was made by Dr. Steiner and seconded by Mr. White to advise the legislative liaison that the Bill should include the Board of Optometrists and a member of the New Jersey Society of Optometric Physicians should be included on the committee. The Board supports reporting results of completed disciplinary action to third party payers instead of results of completed investigations in general. The Board does not support the thirty day evaluation period as it does not permit sufficient time for proper investigation and development of a case. The Board feels strongly that it has been very diligent in overseeing its licensees and protecting the public. The Board does not support the health care boards being placed under the Department of Health as the Department of Health is not consumer oriented and is in favor of the boards remaining under the Division of Consumer Affairs. A vote was taken and the motion carried by a unanimous vote.

D. Letter from Louis Fornasier, O.D. Fairness to Contact Lens Consumer Act

Dr. Fornasier advised the Board that he was not aware of the new Federal law, "Fairness to Contact Lens Consumer Act" until recently and was upset that the Board did not notify him. Dr. Fornasier further advised the Board that he is not a member of the New Jersey Society of Optometric Physicians or the American Optometric Association and has had difficulty obtaining additional information about the new law. Dr. Fornasier inquired where optometrist who do not belong to organizations could keep apprized of new Federal laws if the State Board does not notify them.

A motion was made by Dr. Steiner and seconded by Mr. Compton to advised Dr. Fornasier that optometrist who do not belong to an organization can review the Federal Register at their local library for updates on Federal laws. A vote was taken and the motion carried by a unanimous vote.

E. Letter from Ann Dahms RE: Scope of Practice

Ms. Dahms wrote the Board for clarification of the scope of practice of optometry in New Jersey. A motion was made by Dr. Steiner and seconded by Mr. Compton to supply Ms. Dahms with a copy of the New Jersey State

Board of Optometrists' approved CPT Code list and advise her that CPT Code 65435 is included on the list. A vote was taken and the motion carried by a unanimous vote.

F. Association of Regulatory Boards of Optometry Annual Meeting

A motion was made by Dr. Steiner and seconded by Dr. Schkolnick to send the President, Mitchell Fink, O.D., and Executive Director, Susan Gartland, to the Association of Regulatory Boards of Optometry's 2004 Annual Meeting. A vote was taken and the motion carried by a unanimous vote.

V. Old Business

A. Letter from Joyes Abraham, O.D. RE: Criteria and Definition of legal blindness in New Jersey Pending from the July 16, 2003 meeting

Dr. Abraham asked the Board for the criteria and definition of legal blindness for New Jersey. Carmen Rodriguez, D.A.G. will research this information and advise the Board at a future meeting.

B. Henry E. Parker, O.D. RE: Explanation of answer on renewal Pending from the July 16, 2003 meeting

This matter was tabled until the Board receives notification of the outcome of Dr. Parker's traffic violation.

VI. For Your Information

A. Division of Consumer Affairs New Jersey State Board of Optometrists Permissible Business Structures; Referral Fees Independent Doctor of Optometry Proposed Amendments: N.J.A.C. 13:38-1.3 and 2.13

The Board reviewed the Proposed Amendments: N.J.A.C. 13:38-1.3 and 2.13 from the January 5, 2004 issue of the New Jersey Register and considered it informational.

B. Division of State Police Criminal History Record Background Checks Fees Adopted Amendments: N.J.A.C. 13:59-1.3

The Board reviewed the Division of State Police Criminal History Record Background Checks Fees Adopted Amendments: N.J.A.C. 13:59-1.3 from the December 15, 2003 issue of the New Jersey Register and considered it informational.

C. The Association of Regulatory Boards of Optometry's 2003 issue of The Green Sheet

The Board reviewed the Association of Regulatory Boards of Optometry's 2003 issue of The Green Sheet and considered it informational.

D. Article, "HIPPA Myths & Misconceptions" from the December 8, 2003 issue of Advance for Nurses

The Board reviewed an article, "HIPPA Myths & Misconceptions" from the December 8, 2003 issue of Advance for Nurses and considered it informational.

E. The New Jersey State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians's November 12, 2003 Public Session Agenda and October 8, 2003 Minutes

The Board reviewed the New Jersey State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians's November 12, 2003 Public Session Agenda and October 8, 2003 Minutes and considered them informational.

F. The New Jersey State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians's November 12, 2003 Public Session Minutes

The Board reviewed the New Jersey State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians's November 12, 2003 Public Session Minutes and considered it informational.

G. Notice of Conference for Solicitation of Informal Public Input on Medical Malpractice Coverage Requirements on behalf of the Board of Medical Examiners

The Board reviewed the Notice of Conference for Solicitation of Informal Public Input on Medical Malpractice Coverage Requirements on behalf of the Board of Medical Examiners and considered it informational.

H. Consent Order In the matter of John Diering, O.D.

The Board is in receipt of a Consent Order filed December 17, 2003 for violation of N.J.S.A. 45:1-21(d) Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions.

I. Final Order of Discipline In the matter of Walter Beckford, O.D.

The Board is in receipt of a Final Order of Discipline filed January 26, 2004 from Dr. Beckford and a check in the amount of five hundred dollars (\$500.00) for violation of N.J.S.A. 45:12-9.3 Credits necessary. The Board considers this matter to be concluded.

J. Final Order of Discipline In the matter of Allisia Williamson, O.D.

The Board is in receipt of a Final Order of Discipline filed January 26, 2004 from Dr. Williamson and a check in the amount of two hundred and fifty dollars (\$250.00) for violation of N.J.S.A. 45:12-9.3 Credits necessary. The Board considers this matter to be concluded.

K. Final Order of Discipline In the matter of Howard Hertz, O.D.

The Board is in receipt of a Final Order of Discipline filed January 26, 2004 from Dr. Hertz and a check in the amount of five hundred dollars (\$500.00) for violation of N.J.S.A. 45:12-9.3 Credits necessary. The Board considers this matter to be concluded.

L. Final Decision and Order After UPL Explanation In the matter of Kevin Hrabinski, O.D.

The Board is in receipt of a Final Decision and Order After UPL Explanation filed January 21, 2004 from Dr. Hrabinski and a money order in the amount of two hundred and fifty dollars (\$250.00) for violation of N.J.A.C. 13:38-1.2(1) General advertising practices. The Board considers this matter to be concluded.

M. Signed Settlement letter - Terri Haberman, O.D.

The Board is in receipt of a signed Settlement letter together with a check in the amount of one thousand dollars (\$1,000.00) from Dr. Haberman for violation of N.J.S.A. 45:1-7.1(c) Application to holders of professional or occupational licenses. The Board considers this matter to be concluded.

N. Signed Assurance of Voluntary Compliance letters

1. Eric Robinson, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Eric Robinson, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Robinson. The Board considers this matter to be concluded.

2. Stanley Anton, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Stanley Anton, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Anton. The Board considers this matter to be concluded.

3. Minas Nicholas, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Minas Nicholas, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Nicholas. The Board considers this matter to be concluded.

4. Frank DeRienzo, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Frank DeRienzo, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. DeRienzo. The Board considers this matter to be concluded.

5. Frederick Buensuceso, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Frederick Buensuceso, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Buensuceso. The Board considers this matter to be concluded.

6. Alan Deyong, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Alan Deyong, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Deyong. The Board considers this matter to be concluded.

7. Bruce Mazie, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Bruce Mazie, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Mazie. The Board considers this matter to be concluded.

8. David Alvarez, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from David Alvarez, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Alvarez. The Board considers this matter to be concluded.

9. Jeffrey Neuss, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Jeffrey Neuss, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Neuss. The Board considers this matter to be concluded.

10. Jeffrey Case, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Jeffrey Case, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Case. The Board considers this matter to be concluded.

11. Kerry Gelb, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Kerry Gelb, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Gelb. The Board considers this matter to be concluded.

12. Loretta Clifford, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Loretta Clifford, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Clifford. The Board considers this matter to be concluded.

13. William Beegle, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from William Beegle, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Beegle. The Board considers this matter to be concluded.

14. Wayne Goldschneider, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Wayne Goldschneider, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Goldschneider. The Board considers this matter to be concluded.

15. Steven Pinard, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Steven Pinard, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Pinard. The Board considers this matter to be concluded.

16. Jimmie Ciccarello, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Jimmie Ciccarello, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Ciccarello. The Board considers this matter to be concluded.

17. Sergio Peneiras, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Sergio Peneiras, O.D. for violation of N.J.A.C. 13:38-1.2(f)2 General advertising practices. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Peneiras. The Board considers this matter to be concluded.

18. William Greenberg, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from William Greenberg, O.D. for violation of N.J.A.C. 13:38-1.2(l) General advertising practices. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Greenberg. The Board considers this matter to be concluded.

19. David Crowley, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from David Crowley, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Crowley. The Board considers this matter to be concluded.

20. Dale Stein, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Dale Stein, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Stein. The Board considers this matter to be concluded.

21. Paul Vaccarella, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Paul Vaccarella, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Vaccarella. The Board considers this matter to be concluded.

22. Daniel Isaac, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Daniel Isaac, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Isaac. The Board considers this matter to be concluded.

23. Saras Raghuvir Rustagi, O.D.

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Saras Raghuvir Rustagi, O.D. for violation of N.J.A.C. 13:38-1.4(d) Optometric practice under assumed names and disclosure of practitioner names. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Rustagi. The Board considers this matter to be concluded.

VII. Adjournment

A motion was made by Dr. Steiner and seconded by Mr. Compton to adjourn the Regular Session Meeting at 3:25 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Susan H. Gartland
Executive Director

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