

**New Jersey State Board of Optometrists  
Regular Session Minutes  
June 18, 2008**

A regular meeting of the New Jersey State Board of Optometrists was held at 124 Halsey Street, Newark on the 6th floor on Wednesday, June 18, 2008. Leonard Steiner, 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 9:00 A.M. A roll call was taken and the following attendance was recorded:

PAUL BENT Present  
GIGETTE COLLAZO HARFST, O.D. Present  
RICHARD FAVREAU, O.D. Absent  
MITCHELL FINK, O.D. Present  
JOHN FLORIO, O.D. Present  
LEONARD STEINER, O.D. Present

Also present were: CARMEN RODRIGUEZ, Deputy Attorney General; LISA PETROWSKI, Assistant to the Executive Director; SUSAN GARTLAND, Representative of the Division of Consumer Affairs; David Disler, Law Clerk

**I. Public Comment**

**II. Approval of Regular Session Minutes**

A. April 16, 2008

A motion was made by Dr. Harfst and seconded by Mr. Bent to approve the April 16, 2008 Regular Session Minutes as amended. A vote was taken and the motion carried by a unanimous vote.

**III. New Business**

A. Letter from Anita V. Patel, O.D.  
RE: Credentialing Course

According to N.J.S.A. 45:12-9.9, "educational standards shall be no less than that required of currently enrolled students as part of their requirements for graduation from that school. This credentialing process shall be required of all persons seeking to utilize pharmaceutical agents for treatment purposes in the practice of optometry ..." and N.J.A.C. 13:38-4.3 "Educational requirements for TPA Certification", new applicants must to meet all requirements to use and prescribe oral and topical medications which is the current level of TPA certification in New Jersey.

Dr. Patel applied to reactivate her New Jersey optometric license. Dr. Patel wrote the Board concerning the unavailability of the oral credentialing course.

A motion was made by Dr. Fink and seconded by Dr. Harfst to advise Dr. Patel that it is statutorily mandated that each new applicant applying for a TPA certification meet all requirements to use and prescribe oral and topical medications as that is the educational standard required of currently enrolled students. The Board ceased granting TPA topical certifications as of the effective date of the credential regulations. Therefore, all new TPA certifications must be obtained at the highest level which includes orals. The Board will advise Dr. Patel that she must take and pass the thirty (30) hour credentialing course in accordance with N.J.A.C. 13:38-4.3 and 4.4 in order to qualify to apply for a TPA certification to use and prescribe oral and topical medications.

The Board will also advise Dr. Patel that the Pennsylvania College of Optometry or the State University of New York College of Optometry have offered the credentialing course in the past. Dr. Patel can contact those schools and ask to be placed on their waiting list. The Board will advise Dr. Patel 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. Patel that she 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.

B. Letter from Vibha Patel, O.D.  
RE: Credentialing Course

Dr. Patel graduated from a college of optometry in May of 2005. Dr. Patel applied to reactivate her New Jersey optometric license and inquired whether she would be eligible to apply for an oral certification.

A motion was made by Mr. Bent and seconded by Dr. Fink to advise Dr. Patel that based upon the information she supplied, she would be eligible to apply for an oral certification. A vote was taken and the motion carried by a unanimous vote.

C. Letter from Jeffrey W. Lem, O.D.  
RE: Credentialing Course

Dr. Lem applied for a New Jersey optometric license. Dr. Lem wrote the Board concerning the unavailability of the oral credentialing course. Dr. Lem also inquired whether the Board would permit him to apply for the topical medication level of certification and grant him a TPA certification to prescribe topical medications only.

A motion was made by Dr. Fink and seconded by Dr. Harfst to advise Dr. Lem that the Board denied his request as it is statutorily mandated that each new applicant applying for a TPA certification meet all requirements to use and prescribe oral and topical medications as that is the educational standard required of currently enrolled students. The Board ceased granting TPA topical certifications as of the effective date of the credential regulations. Therefore, all new TPA certifications must be obtained at the highest level which includes orals. The Board will advise Dr. Lem that he must take and pass the thirty (30) hour credentialing course in accordance with N.J.A.C. 13:38-4.3 and 4.4 in order to qualify to apply for a TPA certification to use and prescribe oral and topical medications.

The Board will also advise Dr. Lem that the Pennsylvania College of Optometry or the State University of New York College of Optometry have offered the credentialing course in the past. Dr. Lem can contact those schools and ask to be placed on their waiting list. The Board will advise Dr. Lem 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. Lem 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.

D. Board Discussion  
RE: Oral Certification Wall Certificate

A motion was made by Dr. Fink and seconded by Dr. Harfst to approve the draft oral certification wall certificate as amended. The oral certification wall certificate will be issued to all New Jersey licensed optometrists who have become TPA certified to use and prescribe oral and topical medications. A vote was taken and the motion carried by a unanimous vote.

E. Letter from the National Glaucoma Society, Inc.

RE: Continuing Education Courses

The National Glaucoma Society advised the Board that it conducts web courses approved by the Council of Optometric Education (COPE). The National Glaucoma Society inquired whether the Board would approve these courses and identify them as contact (live continuing education) courses rather than internet courses.

A motion was made by Dr. Fink and seconded by Mr. Bent to advise the National Glaucoma Society that the Board accepts courses that are approved by the Council of Optometric Education. The Board will also advise the National Glaucoma Society that web courses would be counted towards credits obtained via internet. A vote was taken and the motion carried by a unanimous vote.

F. Assembly No. 2735 (Synopsis - Prohibits employment and licensing background checks to go back further than seven years under certain circumstances.) Introduced May 19, 2008

A motion was made by Dr. Fink and seconded by Dr. Harfst to advise the Division of Consumer Affairs legislative liaison that it opposes A-2735 as the Board should have all information available to properly make a decision regarding licensure. A vote was taken and the motion carried by a unanimous vote.

G. Senate No. 1815 (Synopsis - Requires legal action against certain licensed persons to be brought within two years.) Introduced May 15, 2008

A motion was made by Dr. Fink and seconded by Dr. Harfst to advise the Division of Consumer Affairs legislative liaison that it opposes S-1815. There may be times that the consequences of a practitioner's actions may take longer than two years to manifest itself and the Board feels that the patients rights should not be limited. The Board feels that the statute of limitations should remain at six years. The Board also noted that optometrists are not included in N.J.S.A. 2A:53A-26. A vote was taken and the motion carried by a unanimous vote.

H. Senate No. 1805 (Synopsis - Permits removal of State board, commission or independent authority member for failure to attend three consecutive meetings thereof without good cause.) Introduced May 8, 2008

A motion was made by Dr. Fink and seconded by Dr. Harfst to advise the Division of Consumer Affairs legislative liaison that it supports S-1805 with the caveat that the process to appoint a new member must move in a timely and efficient manner. It is difficult for the Board to protect the health, welfare and safety of the consumer when the Board doesn't have enough members to make a quorum and vote on important decisions. Mr. Bent opposed and all others voted in favor. A vote was taken and the motion carried by a majority vote.

I. Senate No. 1939 (Synopsis - Extends Medical Malpractice Liability Insurance Premium Assistance Fund and collection of annual surcharges for 5 years) Introduced June 9, 2008

A motion was made by Dr. Fink and seconded by Dr. Harfst to advise the Division of Consumer Affairs legislative liaison that it opposes S-1939. The New Jersey State Board of Optometrists is very concerned about escalating malpractice premiums and the effect on the consumer who needs to obtain the necessary services from these doctors. The Board of Optometrists believes in developing ways of controlling medical malpractice premiums. Just charging everyone in the State an assessed monetary amount does not solve the underlying problem of the escalating medial malpractice premiums. Within the legislation there needs to be mechanisms to determine the underlying causes for the increasing premiums and to develop and implement practical answers to control the increasing premiums. A vote was taken and the motion carried by a unanimous vote.

J. Letter from Christopher Dente, O.D.

RE: Scope of Practice

Dr. Dente inquired whether an A-Scan with IOL calculation is within the scope of the practice of optometry.

A motion was made by Dr. Harfst and seconded by Dr. Florio to advise Dr. Dente that the procedure to calculate the power of an intraocular lens after performing an A-Scan or similar technique is within the scope of practice of optometry. A vote was taken and the motion carried by a unanimous vote.

K. Letter from Carl Hirshorn, O.D.  
RE: Credentialing Course

Dr. Hirshorn is licensed to practice optometry in the State of New Jersey but is not certified to prescribe oral or topical medications. Dr. Hirshorn advised the Board that he met the requirements for the previous topical TPA certification. Dr. Hirshorn also advised the Board of the unavailability of the oral credentialing course. Dr. Hirshorn inquired whether the Board would permit him to apply for the topical medication level of certification and grant him a TPA certification to prescribe topical medications only.

A motion was made by Dr. Fink and seconded by Dr. Harfst to advise Dr. Hirshorn that the Board denied his request as it is statutorily mandated that each new applicant applying for a TPA certification meet all requirements to use and prescribe oral and topical medications as that is the educational standard required of currently enrolled students. The Board ceased granting TPA topical certifications as of the effective date of the credential regulations. Therefore, all new TPA certifications must be obtained at the highest level which includes orals. The Board will advise Dr. Hirshorn that he must take and pass the thirty (30) hour credentialing course in accordance with N.J.A.C. 13:38-4.3 and 4.4 in order to qualify to apply for a TPA certification to use and prescribe oral and topical medications.

The Board will also advise Dr. Hirshorn that the Pennsylvania College of Optometry or the State University of New York College of Optometry have offered the credentialing course in the past. Dr. Hirshorn can contact those schools and ask to be placed on their waiting list. The Board will advise Dr. Hirshorn 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. Hirshorn 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.

L. Senate No. 1767 (Synopsis - Provides prescriber or health care facility with discretion to number prescription blank forms consecutively.) Introduced May 8, 2008

A motion was made by Mr. Bent and seconded by Dr. Florio to advise the Division of Consumer Affairs legislative liaison that it opposes S-1767 as prescription blanks consecutively numbered would be in the best interest of public safety. Consecutively numbered prescription blanks would also comply with the federal requirements for security. A vote was taken and Dr. Fink voted in opposition while all others voted in favor. The motion carried by a majority vote.

M. Letter from Jan T. Cox of Independent Blue Cross  
RE: New Jersey State Board of Optometrists

March 19, 2008 Public Session Minutes  
RE: Prescriptive authority of New Jersey licensed optometrists

From the March 19, 2008 Public Session Minutes

Steve Zacarias of Porzio Pharmaceutical Services asked for clarification concerning the prescriptive authority of New Jersey licensed optometrists. Mr. Zacarias also inquired whether New Jersey licensed optometrist prescriptive authority was restricted by a formulary. Mr. Zacarias asked for clarification concerning the Controlled Dangerous Substance (CDS) schedules in which an optometrist may prescribe and whether an optometrist must register to prescribe CDS with a State CDS agency as well as the Federal Drug Enforcement

Administration (DEA). Mr. Zacarias inquired whether New Jersey licensed optometrists can request, receive and distribute sample drugs including controlled substances.

A motion was made by Dr. Harfst and seconded by Mr. Bent to advise Mr. Zacarias that a New Jersey licensed optometrist must be certified to prescribe topical and oral medications by the New Jersey State Board of Optometrists. New Jersey licensed optometrists that are certified to prescribe topical and oral medications are not restricted by a formulary. New Jersey licensed optometrists that are certified to prescribe oral medications must register with a New Jersey State CDS Agency as well as the Federal DEA and can only prescribe from CDS Schedules 3, 4, and 5. The Board will also advise Mr. Zacarias that New Jersey licensed optometrists that are certified to prescribe topical as well as oral medications can request, receive and distribute sample drugs including CDS that are within schedules 3,4, and 5. The Board will further advise Mr. Zacarias that New Jersey licensed optometrists that are only certified to prescribe topical medications cannot request, receive and distribute sample drugs that are CDS. A vote was taken and the motion carried by a unanimous vote.

A motion was made by Dr. Fink and seconded by Dr. Harfst to correct the March 19, 2008 Public Session Minutes as follows: New Jersey licensed optometrists that are certified to prescribe oral medications and elect to also prescribe CDS must register with a New Jersey State Drug Control Unit in Consumer Affairs as well as the Federal DEA and can only prescribe medications for the eye and adnexae from Schedules 3,4,and 5. The optometrists who are certified to prescribe oral medications and elect not to prescribe CDS are not required to register with the Drug Control Unit for a CDS number or obtain a Federal DEA number. The Board will also advise Mr. Zacarias that New Jersey licensed optometrists that are certified to prescribe topical as well as oral medications and are registered with a New Jersey State CDS Agency and with the Federal DEA can request, receive and distribute sample drugs including CDS that are within schedules 3,4, and 5.

The Board will advise Mr. Cox and Mr. Zacarias of the correction. A vote was taken and the motion carried by a unanimous vote.

#### N. August 20, 2008 New Jersey State Board of Optometrists Meeting

A motion was made by Mr. Bent and seconded by Dr. Harfst to cancel its August 20, 2008 meeting due to a lack of a quorum. A vote was taken and the motion carried by a unanimous vote.

### **IV. For Your Information**

#### A. Signed Settlement letter - Michael Todd, O.D.

The Board is in receipt of a signed Settlement letter from Dr. Todd for violation of N.J.A.C. 13:38-2.11 Delegation of duties to ancillary personnel and N.J.S.A. 45:1-21(h). The Board will consider this matter concluded once they receive full payment of the \$2,500.00 civil penalty.

#### B. Association of Regulatory Boards of Optometry's April, 2008 issue of The Green Sheet

The Board reviewed the Association of Regulatory Boards of Optometry's April, 2008 issue of The Green Sheet and considered it informational.

#### C. Division of Consumer Affairs Per Diem Compensation for Members of Professional and Occupational Boards Readoption with Amendments: N.J.A.C. 13:44B From the May 5, 2008 New Jersey Register

The Board reviewed the Division of Consumer Affairs Per Diem Compensation for Members of Professional and Occupational Boards readoption with amendments and considered it informational.

#### D. New Jersey State Board of Medical Examiners

May 21, 2008 Open Agenda of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' May 21, 2008 Open Agenda of Disciplinary Matters Pending Conclusion and considered it informational.

E. New Jersey State Board of Medical Examiners  
May 21, 2008 Open Board Agenda

The Board reviewed the New Jersey State Board of Medical Examiners' May 21, 2008 Open Board Agenda and considered it informational.

F. New Jersey State Board of Medical Examiners  
March 19, 2008 Open Board Minutes

The Board reviewed the New Jersey State Board of Medical Examiners' March 19, 2008 Open Board Minutes and considered it informational.

G. New Jersey State Board of Medical Examiners  
March 19, 2008 Open Minutes of Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' March 19, 2008 Open Minutes of Disciplinary Matters Pending Conclusion and considered it informational.

H. Letter from the Pennsylvania Board of Optometry  
RE: PA Certifications of Licensure

The Board reviewed a letter from the Pennsylvania Board of Optometry concerning PA Certifications and Licensure and considered it informational.

Upon a motion made by Dr. Harfst and seconded by Mr. Bent, 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. Five matters filed with the board which requires review and additional recommendations with regard to investigations and/or actions.
2. Six matters where additional information has been submitted to the Board concerning pending investigations.

## **V. Adjournment**

A motion was made by Mr. Bent and seconded by Dr. Harfst to adjourn the Regular Session Meeting at 3:30 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Leonard Steiner, O.D.  
Board President