



New Jersey State Board of Optometrists

Regular Session Minutes

July 17, 2002

A regular meeting of the New Jersey State Board of Optometrists was held at 124 Halsey Street, Newark on the 6th floor on Wednesday, July 17, 2002. 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 9:05 A.M. A roll call was taken and the following attendance was recorded:

GORDON COMPTON	Present
MITCHELL FINK, O.D.	Present
JOSEPH SCHKOLNICK, O.D.	Present
LEONARD STEINER, O.D.	Present
LEONARD STRULOWITZ, O.D.	Present
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. Approval of Regular Session Minutes

A. June 19, 2002

A motion was made by Dr. Fink and seconded by Mr. Compton to accept the June 19, 2002 Regular Session Minutes as amended. A vote was taken and the motion carried by a unanimous vote.

III. New Business

A. Letter from Barry Schneider, O.D.

RE: Farewell

Dr. Schneider served on the New Jersey State Board of Optometrists for twelve years and resigned from his service as a Board member on the New Jersey State Board of Optometrists as he is moving to another State. Dr. Schneider advised the Board that the Association of Regulatory Boards of Optometry (ARBO) will allow a past Board member to remain an active member of ARBO via petition from the members Regulatory Board to the ARBO Board of

Directors. If Dr. Schneider remains an active member of ARBO he would be able to continue to be Chairman of the Council on Optometric Practitioner Education (COPE) for one more year.

A motion was made by Dr. Strulowitz and seconded by Mr. Compton to send a recommendation to the Association of Regulatory Boards of Optometry in support of Dr. Schneider remaining an active member of ARBO and continuing his position as Chairman of the Council on Optometric Practitioner Education (COPE). A vote was taken and the motion carried by a unanimous vote.

**B. 9:30 A.M. Discussion of Permissible business structures; referral fees N.J.A.C. 13:38-1.3(f) and Excessive Fees
N.J.A.C. 13:38-2.15 with Danielle Swenson, Regulatory Analyst**

The Board reviewed N.J.A.C. 13:38-1.3(f) to amend it to comply with the Appellate Division's 2001 decision. A motion was made by Mr. White and seconded by Dr. Schkolnick to eliminate (f), "Optometrists shall not participate in any arrangement or agreement, with any person other than an associate, whereby any remuneration received by that person in payment for the provision of space, facilities, equipment, products, drugs, personnel, marketing or management services used by the optometrist is to be determined or calculated as a fixed percentage of, or otherwise dependent upon, the income or receipts derived from the practice of optometry. Nothing in this subsection shall preclude an optometrist from entering into a bona fide profit sharing plan or retaining the services of a collection agency." from N.J.A.C. 13:38-1.3. A vote was taken and the motion carried by a unanimous vote.

The Board also addressed amending the Independent Doctor of Optometry regulation N.J.A.C. 13:38-2.13(2). A motion was made by Mr. White and seconded by Dr. Schkolnick to eliminate the words, "patient fees" from N.J.A.C. 13:38-2.13(2). A vote was taken and the motion carried by a unanimous vote.

The Board reviewed the Excessive Fees Proposed New Rule: N.J.A.C. 13:38-2.15 again and considered amending the proposed new rule. After review, a motion was made by Dr. Fink and seconded by Mr. Compton to reaffirm its decision made at its October 17, 2001 meeting to adopt the regulation as proposed without substantive change. A vote was taken and the motion carried by a unanimous vote.

**C. 10:00 A.M. Review of Comments of New Jersey State Board of Optometrists
Termination of the Optometrist-Patient Relationship
Proposed New Rule: N.J.A.C. 13:38-3.9
with Danielle Swenson, Regulatory Analyst**

The comment period for the New Jersey State Board of Optometrists Termination of the Optometrist-Patient Relationship Proposed New Rule: N.J.A.C. 13:38-3.9 ended July 5, 2002 and the Board received no comments. A motion was made by Dr. Strulowitz and seconded by Mr. Compton to adopt the regulation as proposed. A vote was taken and the motion carried by a unanimous vote.

**D. Application for N.J. Licensure
RE: Brian Kerper, O.D.**

The Board reviewed a letter from Brian Kerper, O.D. regarding a traffic violation that he had in 1991 and based on a letter supplied by the applicant it appeared as though there have been no further violations of this nature since that time. A motion was made by Dr. Strulowitz and seconded by Dr. Fink to approve Dr. Kerper for licensure in New Jersey as he has met all the licensure requirements. A vote was taken and the motion carried by a unanimous vote.

**E. New Jersey State Board of Optometrists' Comment
RE: A-2227 Introduced May 9, 2002
(Synopsis- Revises scope of practice of optometrists.)**

A motion was made by Dr. Fink and seconded by Dr. Strulowitz to accept the comment concerning A-2227 as presented. The Board's comment reads as follows: "The need for quality healthcare worldwide and the United States has grown at an exponential rate. The diagnosis of disease and their related treatment modalities has also expanded so

quickly that what was considered science fiction a few years ago has now become mainstream treatment. With the rapid growth of numerous advanced treatment modalities and with the unknown future discoveries for maintaining eye health, it is necessary for the learned profession of optometry to be able to practice at the highest level possible to best care for their patients. Optometrists should be permitted to take care of their patients using the latest and most advanced technology. Another extremely important issue is continuity of care provided to an optometric patient. Whenever a new treatment modality is considered, the doctor who will care for the patient should be the one that knows the patient's concerns and history, along with a long-standing trust and confidence that has developed between the patient and the doctor. We all understand that along with the need to care for our patients, education of the doctor and safety for the patient is of utmost concern. The bill presented before the Board, A-2227 addresses both of these concerns.

The proposed bill establishes that before an optometrist can perform any future treatment modality, the State Board of Optometrists must develop a comprehensive credentialing and certification procedure. Allowing the State Board of Optometrists to make the decisions on which treatment modalities will be permitted enhances the quality of optometry while maintaining the safety and protection of the public. The professionalism and conservatism of optometry has always been forthright. In the decade that has passed since optometry received the ability to utilize therapeutic agents, there has not been one drug related mismanagement by a therapeutic optometrist reported to the State Board of Optometrists.

The State Board of Optometrists strongly supports A-2227. The enactment of this legislation will enhance the health and welfare of all the people of New Jersey." A vote was taken and the motion carried by a unanimous vote.

IV. For Your Information

A. Attorney General

Juvenile Justice Commission

Executive Commission on Ethical Standards

Election Law Enforcement Commission

Victims of Crime Compensation Board

Access to Government Records; Confidentiality of Records

Jointly Proposed New Rules: N.J.A.C. 13:1-E-2 and 3

The Board reviewed the above Proposed New Rules: N.J.A.C. 13:1-E-2 and 3 and considered it informational.

B. Report on Association of Regulatory Boards of Optometry annual meeting submitted by Leonard Steiner, O.D., Board President

The Board reviewed the Board President's report on the Association of Regulatory Boards of Optometry annual meeting and considered it informational.

V. Adjournment

A motion was made by Mr. White and seconded by Dr. Fink to adjourn the Regular Session Meeting at 3:00 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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