

**PUBLIC SESSION MINUTES
ESSEX CONFERENCE ROOM, 6TH FLOOR
DECEMBER 17, 2014
9:00a.m.**

I OPENING STATEMENT AND ROLL CALL

A regular meeting of the New Jersey State Board of Optometrists was held at 124 Halsey Street, Newark on the 6th floor on Wednesday, December 17, 2014. Dr. Fink, 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 and a quorum was present:

PRESENT

**Mitchell Fink, O.D.
Michael Siegel, O.D
Gigette Collazo Harfst, O.D.
Sheldon G. Greenspan, O.D.
Scott Ruffolo, O.D.
Colette Lamothe-Galette
M. Carolyn Daniels, DHSC**

ALSO PRESENT

**Carmen Rodriguez, DAG
Renee P. Clark, Executive Director
Sonia Claudino, Administrative Staff**

MEMBER(S) OF THE PUBLIC

**Howard Cooper, Executive Director
of the New Jersey Society of Optometric
Physicians**

II APPROVAL OF MINUTES

A motion was made by Dr. Siegel seconded by Dr. Greenspan to approve the October 15, 2014 Public Session Minutes with amendments. The motion carried by unanimous vote.

III ELECTION FOR BOARD SECRETARY

Executive Director called for nominations for Secretary and a motion was made by Dr. Fink, seconded by Dr. Collazo Harfst to nominate Dr. Siegel for Secretary of the Board for 2015. Executive Director called for further nominations and since there were none. Dr. Fink then made a motion, seconded by Dr. Collazo Harfst to close the nominations and elect Dr. Siegel, Secretary of the Board by acclamation. The motion carried by unanimous vote.

Dr. Fink to invite Dr. Florio and Dr. Desrivieres to the next scheduled Board meeting to issue them a plaque in recognition of their time as Board members.

IV 2015 FISCAL REVIEW

Darlene Kane, Fiscal Officer reported on the Budget for Fiscal Year 2015. The Committee was concerned about monies deducted from the Board's/Committee's budget.

Ms. Kane explained to the Board that legislature had added language that would allow a shortfall could be made up from the funds of the professional Boards. Ms. Kane stated that 1.5 million dollars was taken from the Optometrist Board. The Board expressed their concern and Ms. Kane advised that Fiscal tried to reverse the change but was denied by the Governor's office. Dr. Fink thanked Ms. Kane for the information she provided and expressed his concern since as Board members they no longer provide breakfast or lunch as in previous years. In addition Dr. Fink stated that it was the Boards intention to waive the next renewal fee and is upset that the Board wasn't given the opportunity to explain about their intention to waive the next renewal fee. Ms. Kane advised the Board that going forward the Board's revenue is based on current licensees not new licensees or civil penalties. Ms. Kane explained that the Board is completely operational. Dr. Fink asked if licensees would be paying the same fees for licenses and applications due to the budget change. Ms. Kane indicated that no fees have been changed due to the budget change. Dr. Siegel asked Ms. Kane what was the 1.5 million dollars taken from the Board used for. Ms. Kane advised Dr. Siegel that the Division does not have that information. The Board once again thanked Ms. Kane for the information.

V NEW BUSINESS

- a. Harvey Richman, O.D., submitted an inquiry for Board review in regards to whether a “regular” optometric license allows for surgical procedures such as foreign body removal.

After discussion, a motion was made by Dr. Collazo Harfst, seconded by Dr. Siegel to send Mr. Richman a letter in response to his inquiry advising him that pursuant to N.J.S.A. 45:12-1 “optometry is hereby declared to be a profession, and the practice of optometry is defined to be the employment of objective or subjective means, or both, for the examination of the human eye and adnexae for the purposes of ascertaining any departure from the normal, measuring its powers of vision and adapting lenses or prisms for the aid thereof, or the use and prescription of pharmaceutical agents, excluding injections, except for injections to counter anaphylactic reaction, and excluding controlled dangerous substances for the purposes of treating deficiencies, deformities, diseases, or abnormalities of the human eye and adnexae including the removal of superficial foreign bodies from the eye and adnexae”. Therefore, an optometrist license allows an optometrist to remove a foreign body if removed with a swab. In order for an optometrist to be able to treat the condition the optometrist must also have a TPA or OM certificate license. The motion carried by unanimous vote.

- b. Lisa Fennell/Paula Garshowitz, O.D., Registrar, College of Optometrists of Ontario submitted an inquiry as to whether optometrists in New Jersey are allowed to treat their spouses and if so what are the consequences of discipline.

After discussion, a motion was made by Dr. Siegel, seconded by Dr. Greenspan to send Dr. Garshowitz a response stating that the Board's sexual misconduct regulation does not prohibit the treatment of spouses or family members. The motion carried by unanimous vote.

- c. Lisa Fennell submitted an inquiry for Board review in regards to a company recruiting optometrists for online eye exams and is inquiring as to what policies, rules or regulations the State of New Jersey pursued on the subject of optometric kiosks, online eye exams or telemedicine; have any businesses begun offering services through kiosks or online eye exams; what are the names of these businesses; what strategies have been employed to deal with these businesses or providers; has the Board had any legal challenges or taken legal action regarding this problem and if so what was the result.

After discussion, a motion was made by Dr. Siegel, seconded by Dr. Collazo Harfst to send Ms. Fennell a response advising her that the Board does have specific regulations for minimum examination requirements and his does not constitute a minimum examination. The motion carried by unanimous vote.

V NEW BUSINESS (cont.)

- d. Jack Sol Mermelstein, O.D., submitted an inquiry for Board review in regards to denial of payment from Federal BCBS, Horizon BCBSNJ, Oxford and Aetna for in-home visits and nursing home care.

After discussion, a motion was made by Dr. Greenspan, seconded by Dr. Rufolo to recommend that Dr. Mermelstein submit his inquiry to the Department of Insurance since an optometrist in New Jersey is allowed to provide treatments in the areas mentioned. The motion carried by unanimous vote.

- e. Howard R. Cooper, Executive Director of the New Jersey Society of Optometric Physicians submitted an inquiry in regards to a rule issued by the Federal Drug Enforcement Administration in which New Jersey Optometrists cannot prescribe hydrocodone. Dr. Cooper was inquiring as to disciplinary actions taken by the Board regarding the prescribing of hydrocodone drugs over the past ten years.

The Board advised Mr. Cooper that it supports legislation to have optometrists restored to continue prescribing medications containing hydrocodone which will ultimately become a law. Refer to item VI(c) on minutes.

Mr. Cooper also expressed his concern in regards to Senate No. S1184 which is expanding the scope of practice for physician assistants and is concerned that a physician assistant will be providing services or procedures that are part of the scope of practice of an optometrist and may potentially perform full eye examinations.

VI HANDOUTS

- a. The Board reviewed Senate No. 2370 which requires pharmacies and prescribers to notify patients about how to ensure proper and safe disposal of unused prescription drugs.

After review a motion was made by Dr. Collazo Harfst, seconded by Dr. Rufolo to support the bill. The motion carried.

VI HANDOUTS (cont.)

- b. Harvery Richman, O.D submitted an inquiry for Board review in regards to whether an optometrist can perform an immunoassay for analyte other than infectious agent antibody or infectious agent antigen; qualitative or semi-quantitative, multiple step method.

After discussion, a motion was made by Dr. Collazo Harfst, seconded by Dr. Siegel to advise Dr. Richman that the Board approves the availability to perform certain procedures but does not approve codes. Analysis and treatment is within the scope of practice of an optometrist licensed in the State of New Jersey. The motion carried by unanimous vote.

- c. Kerry Gelb, O.D submitted an inquiry for Board review in regards to the prescription of laboratory tests needed for ocular patient care and denial of laboratory companies.

After discussion, a motion was made by Dr. Greenspan, seconded by Dr. Siegel to advise Dr. Gelb that it is within the scope of practice of an optometrist to order lab work. The motion carried by unanimous vote.

- d. The Board reviewed assembly No. 2578 which authorizes optometrists to continue prescribing medications containing hydrocodone.

After discussion, a motion was made by Dr. Siegel, seconded by Dr. Collazo Harfst to support the bill. The motion carried by unanimous vote.

- e. Marcia Berg submitted an inquiry for Board review in regards to contact lens prescription expiration date.

After discussion, a motion was made by Dr. Collazo Harfst, seconded by Dr. Rufolo to advise Ms. Berg that based on health of the eye a practitioner can determine the expiration of the contact lense prescription. The patient must be monitored. The motion carried by unanimous vote.

- f. Osama Khoury an Ophthalmologist from Suryaia wants to apply for an Optometrist license and submits for Board review his curriculum vitae and a report of evaluation of educational credentials.

After review a motion was made by Dr. Collazo Harfst, seconded by Dr. Greenspan to advise Mr. Khoury that before the Board can reconsider his application, he must submit proof that he passed the Treatment and Management of Ocular Disease examination , and Parts 1, 2 and 3 of the National Board of Examiners optometry examination. In addition he must have California submit verification of his license. The motion carried by unanimous vote.

VIII ADJOURNMENT

A motion was made by Dr. Collazo Harfst seconded by Ms. Lamothe-Galette to proceed to Executive Session, to hold an investigative inquiry, to consider and review advertisements, consumer complaints and other information received pursuant to the Board's investigative authority in order to determine whether violations of law, including Board's regulations, have occurred. The results of these deliberations will be made known when, and if, the Board determines to initiate disciplinary or other enforcement actions. If the Board chooses to issue a Uniform Penalty Letter, the action will be taken in Public Session immediately after the Executive Session.

A motion was made by Dr. Siegel, seconded by Dr. Greenspan to adjourn the meeting at 3:30p.m. The motion carried by unanimous vote.

Respectfully submitted
BOARD OF OPTOMETRISTS

Renee Pearson Clark
Executive Director