

**New Jersey State Board of Optometrists  
Regular Session Minutes  
May 18, 2005**

A regular meeting of the New Jersey State Board of Optometrists was held at 124 Halsey Street, Newark on the 6th floor on Wednesday, May 18, 2005. Mitchell Fink, 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 9:00 A.M. A roll call was taken and the following attendance was recorded:

GIGETTE COLLAZO, O.D. Present  
GORDON COMPTON Absent  
MITCHELL FINK, O.D. Present  
JOHN FLORIO, O.D. Present  
MAYOR JAMES GUIDA Present  
JOSEPH SCHKOLNICK, O.D. Present  
LEONARD STEINER, O.D. Present

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

Christopher Quinn, O.D., Daniel Desrivieres, O.D., and Richard Faveau, O.D. attended the Public Session Meeting. Bryan Markowitz, Executive Director of the New Jersey Society of Optometric Physicians attended the Public Session Meeting.

### **I. Public Comment**

Mr. Markowitz inquired about the timeframe for initiation of the credentialing course. The Board advised Mr. Markowitz that the schools can begin giving the coursework, but cannot give the exam until the regulations have been adopted. Schools that give the coursework in advance of the regulations being adopted must be prepared to implement any changes that may occur to the proposed regulations during the regulatory process.

Mr. Markowitz inquired whether licensees will be able to use the 30 credits they obtained from taking the 30 hour credential course towards their continuing education for the next biennial renewal period. The Board advised Mr. Markowitz that licensees will be able to use the 30 credits from the credential course towards their continuing education requirement.

Mr. Markowitz further inquired whether licensees who are already CPR certified have to get certified again in order to complete the credentialing coursework for the certification in oral medications. The Board advised Mr. Markowitz that licensees will have to become certified again through the credentialing course even if they are already certified in CPR.

Dr. Faveau inquired whether any of the credentialing courses will be available through the internet. The Board advised Dr. Faveau that the credentialing coursework shall be in the traditional classroom format and not be through the internet as the statute requires education requirements completed at a school duly accredited by the United States Department of Education and the Counsel of Postsecondary Accreditation as set forth in N.J.S.A. 45:12-9.9.

Dr. Desrivieres asked whether the Optometry Board members have to be certified before other optometrists can be certified. Dr. Desrivieres then inquired whether optometrists can take the credentialing coursework at the same time the Board members are taking the coursework. The Board advised Dr. Desrivieres that the Ocular

Pharmacology Advisory Panel stays in place as long as there is not a majority of the Board that is certified. Once a majority of the Board becomes certified, the Ocular Pharmacology Advisory Panel will no longer apply. The Board further advised that once the credentialing coursework has been established and the regulations have been adopted all licensees can begin taking the coursework.

Dr. Quinn commented that he would like to urge the Attorney General's Office and the Division of Consumer Affairs to move as quickly as possible with the promulgation of the regulations for credentialing of N.J. optometrists to prescribe oral medications and CDS.

## **II. Approval of Regular Session Minutes**

A. April 13, 2005

A motion was made by Dr. Collazo and seconded by Dr. Schkolnick to accept the April 13, 2005 Regular Session Minutes as amended. A vote was taken and the motion carried by a unanimous vote.

## **III. New Business**

A. New Jersey Board of Examiners in Ophthalmic Dispensers and Ophthalmic Technicians Proposed Readoption with Recodifications and Amendments: N.J. A.C. 13:33  
Proposed Repeals: N.J.A.C. 13:33-1.19 and 1.35

After the Board of Optometrists reviewed the New Jersey Board of Examiners in Ophthalmic Dispensers and Ophthalmic Technicians Proposed Readoption with Recodifications and Amendments: N.J.A.C. 13:33 and Proposed Repeals: N.J.A.C. 13:33-1.19 and 1.35, a motion was made by Dr. Steiner and seconded by Mayor Guida to request that the word, "available" be included after the word "examinations" in Subchapter 7 Advertising 13:33-7.1(f). N.J.A.C. 13:33-7.1(f) would then read as follows: Licensees may advertise eye examinations available provided they state that the examination is performed by an independent doctor of optometry or ophthalmology. The Board will inquire why the word, "may" was added in 13:33-5.5(a) as an explanation was not included in the summary. The Board will suggest that Subchapter 7 Advertising include the requirement that ophthalmic dispensers and ophthalmic technicians include their license numbers in all advertisements. The inclusion of the ophthalmic dispensers and ophthalmic technicians license numbers in advertisements would be beneficial to consumers of New Jersey. A vote was taken and the motion carried by a unanimous vote.

B. Letter from Irina Perelman, O.D.  
RE: Request for waiver of renewal late fee

Dr. Perelman wrote the Board and requested a waiver of the renewal late fee. Dr. Perelman advised the Board that she was on a medical leave for two weeks in March of 2005. Dr. Perelman informed the Board that her renewal application was received by her office, but was misplaced along with some other mail during her two week absence. Dr. Perelman further advised that she searched and found her renewal application after she realized on April 30, 2005 that she had not renewed.

A motion was made by Dr. Collazo and seconded by Mayor Guida to deny Dr. Perelman's waiver request. The Board opined that licensees were sent more than one notice concerning the renewal as post cards were mailed to licensees in January of 2005 concerning the upcoming renewal, licensees were notified in February of 2005 that they could renew their license on the internet; and the renewal applications were then sent to licensees in early March. The Board acknowledged that Dr. Perelman renewed her license with the late fee as it was mailed after April 30, 2005. A vote was taken and the motion carried by a unanimous vote.

C. Letter from Lee Hersh, O.D.  
RE: Request for waiver of renewal late fee

Dr. Hersh wrote the Board and requested a waiver of the renewal late fee. Dr. Hersh advised the Board that he tried several times on April 30, 2005 to renew his license on the internet but was unable to access the renewal

pages due to maintenance of the website. The Board office confirmed that they were notified on Monday, May 2, 2005, that the renewal website was not functioning the last day of the renewal, April 30, 2005. Dr. Hersh subsequently mailed his renewal application on Monday, May 2, 2005 as he was unable to renew his license on the internet on April 30, 2005.

A motion was made by Dr. Schkolnick and seconded by Dr. Collazo to waive the renewal late fee as Dr. Hersh would have renewed his license in the allotted time period if the renewal website was functioning properly on the last day of the renewal. A vote was taken and the motion carried by a unanimous vote.

#### D. Assembly No. 3945

(Synopsis - Prohibits dispensing contact lenses without proper licensure.)

- Introduced May 2, 2005

A motion was made by Dr. Steiner and seconded by Dr. Collazo to advise its legislative liaison that it strongly supports A-3945 with the following comment. The Board noted that the legislation states in Section 2 (a), "for the purposes of the act, "contact lenses" shall include contact lenses without power, sometimes referred to as "plano" lenses". The Board would advise that even though there is no power for plano lenses, it is important for the lenses to be examined on the eye. If the lenses do not fit properly, the eye can be damaged. Before dispensing contact lenses, the health of the eye should be determined. A lens evaluation should be performed to make sure the lens fits properly. If a lens is improperly fitted, corneal ulcers may result. A vote was taken and the motion carried by a unanimous vote.

#### E. Board of Optometrists Committee report

RE: Recommendations of Ocular Pharmacology Advisory Committee

The Committee consisted of two Board members, Leonard Steiner, O.D. and John Florio, O.D., who were appointed by the President of the Board Mitchell Fink, O.D. at its March 16, 2005 meeting.

Dr. Florio advised that the Committee held a meeting on April 27, 2005 with the Executive Director of the Board, Susan Gartland; Deputy Attorney General, Carmen Rodriguez,; Deputy Director of the Division of Consumer Affairs, Anthony Miragliotta,; and Regulatory Analyst, Danielle Swenson. At that meeting the Committee discussed the recommendations of the Ocular Pharmacology Advisory Committee and drafted regulations. The Committee discussed the following issues:the content and length of the credentialing course; the status of recent graduates regarding oral TPA certification; the usefulness of a formulary; and continuing education requirements.

The Board wrote the local Colleges of Optometry as well as Colleges of Pharmacy regarding how many hours they deem necessary to cover the following areas:1. General Pharmacology of appropriate agents; 2. Pharmacokinetics, which includes drug absorption, distribution, metabolism, and elimination; 3. Special populations including pediatrics and geriatrics; 4. Prescription writing and appropriate dosages;5. Appropriate and ethical uses of off-label medications; 6. Addiction recognition of patient, self and impaired practitioner; 7. record keeping; 8. CPR certification; and 9. passing an examination at the conclusion of the course.

Dr. Florio advised that the Committee considered the proposals received from the local Colleges of Optometry and Pharmacy which included a proposal from the State University of New York College of Optometry, the Pennsylvania College of Optometry; and the Rutgers School of Pharmacy. Dr. Florio explained that there was a significant disparity between the number of hours submitted by the Colleges of Optometry than the School of Pharmacy. The Committee opined that the two Colleges of Optometry have had extensive experience in educating optometric physicians and are very aware of the educational level of currently certified TPA optometrists. The Committee noted that optometrists who are currently TPA certified have already successfully completed a 100 hour course and are experienced in the treatment of ocular disease and recommended a 30 hour credentialing course including a CPR certification.

Dr. Florio advised that the Committee discussed the 2005 graduates and recommended that they be eligible for oral TPA certification without additional education after August 7, 2005 when the law becomes effective as they are at the current level of education required by the statutory amendments.

Dr. Florio advised that the Committee considered correspondence concerning the subject of a formulary from the New Jersey Society of Optometric Physicians; Mitchell Fink, O.D.; Ronald Siwoff, O.D.; and Daniel Desriveres, O.D. as well as an article in Medscape and a lecture outline on Standards of Care in Clinical Practice by William Potter, O.D. The Committee noted that the consensus was that the use of a formulary limits the ability of the practitioner to prescribe the most appropriate agent for the patient's condition. The legitimate concern of patient safety could be better addressed by means other than a formulary without limiting the standard of care. The Committee further noted that the current statute and regulations clearly limit the practice of optometry to the treatment of the eye and adnexae (N.J.S.A. 45:12-1 and N.J.S.A. 45:1-21(e)). The Committee recommended against a formulary.

Dr. Florio advised that the Committee recommended that the number of continuing education credits remain at 50 as stated in statute, N.J.S.A. 45:12-9.3. The Committee recommended 30 hours in therapeutic pharmaceutical agents, 10 hours of the 30 shall be in oral medications and controlled dangerous substances, and 20 hours of general optometric education.

The above mentioned recommendations from the Committee which include the issue that the Board not accept a formulary and that the number of continuing education credits remain at 50 were incorporated in amended regulations drafted with Danielle Swenson, Regulatory Analyst.

#### F. Board Review

RE: Draft Regulations for credentialing of N.J. optometrists to prescribe oral medications and CDS

The Board reviewed draft amendments to existing regulations that were formulated as a result of changes in the optometric statutes. The draft regulations included the recommendations of the Committee. The draft regulations also included the following: language that must be included on prescription blanks of those who are certified to prescribe therapeutic pharmaceutical agents on a topical level only; any licensee who practices outside his or her scope of practice will be subject to professional misconduct; Initial certification fee and certification biennial renewal fee will be \$250.00 whether a licensee is certified on a topical level only or certified to prescribe oral medications; any applicant who is applying for initial TPA certification and has graduated from a college of optometry on or after August 7, 2005, is exempt from completing the required credentialing courses; and the credentialing courses must be offered by a school that is accredited by the U.S. Department of Education and the Council of Postsecondary Accreditation and approved by the New Jersey State Board of Optometrists.

After the Board's in depth deliberation, a motion was made by Dr. Steiner and seconded by Mayor Guida to approve the draft proposed regulations with modifications. A vote was taken and the motion carried by a unanimous vote.

G. Letter from the Council on Endorsed Licensure Mobility for Optometrists (CELMO) RE: Concept of licensure by endorsement at a national level

The Board will advise Beverly Miller, O.D., Chair of the Council of Endorsed Licensure Mobility for Optometrists, that the Board supports the concept of licensure by endorsement at a national level and would consider utilizing the information from CELMO if an applicant provided it with their application for licensure. The Board will advise that although it supports the concept, it does not mean that an applicant is guaranteed to come through endorsement in this State because they provide a certificate from CELMO. The Board will inquire as to whether CELMO is verifying status of licensure of applicants with state boards. The Board will recommend that CELMO require that their application include notarization.

#### IV. Old Business

A. Letter from Christian Miller, O.D.

RE: Continuing Education

Dr. Miller previously wrote the Board requesting an extension to fulfill his continuing education requirement

which consisted of obtaining 50 continuing education credits from May 1, 2003 through April 30, 2005 with 25 of the 50 continuing education credits classified as therapeutic pharmaceutical agents. Dr. Miller informed the Board that he called the Board office in April of 2003 and was advised at that time that there was no limit to the amount of continuing education credits that he could obtain through the internet.

The Board granted Dr. Miller a 60 day extension beginning April 30, 2005 to obtain the remaining 20 continuing education credits. Dr. Miller was advised that he must answer no to the question, "Will you have completed the required continuing education credits by April 30, 2005?" on his renewal form since he had not completed the required 50 credits by April 30, 2005.

Dr. Miller wrote the Board and advised them that he is having difficulty finding enough courses to complete his credits by June 30, 2005 and requested an additional four month extension. The Board went into Executive Session to consider this matter.

## **V. For Your Information**

### **A. Signed Assurance of Voluntary Compliance letters**

#### **1. Paul Repage, O.D.**

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Paul Repage, O.D. for violation of N.J.A.C. 13:38-1.2(c)6 General advertising practices. An Assurance of Voluntary Compliance letter is a letter of warning with no disciplinary action taken against Dr. Repage. The Board considers this matter to be concluded.

#### **2. Mousami Paver, O.D.**

The Board is in receipt of a signed Assurance of Voluntary Compliance letter from Mousami Paver, 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. Paver. The Board considers this matter to be concluded.

### **B. Signed Settlement letter - Steven Roth, O.D.**

The Board is in receipt of a signed Settlement letter together with a check in the amount of five hundred (\$500.00) from Dr. Roth for violation of N.J.S.A.45:1-21(h) Grounds for refusal to admit to examination or denial suspension or revocation of any certificate, registration or license; definitions and N.J.A.C. 13:38-6.1(c) Availability of records. The Board considers this matter to be concluded.

### **C. Senate, No. 1804**

(Synopsis - "Health Care Professional Responsibility and Reporting Enhancement Act.") - Introduced September 24, 2004

A motion was made by Dr. Steiner and seconded by Dr. Collazo to advise its legislative liaison that it supports S-1804 as it is within the best interest of the consumer. The Board will further advise that it has concerns with the implementation. A vote was taken and the motion carried by a unanimous vote.

### **D. Memorandum from the National Board of Examiners in Optometry**

RE: Score Reports for 2005 Graduates

The Board reviewed the memorandum from the National Board of Examiners in Optometry concerning the score reports of the 2005 graduates and considered it informational.

## **VI. Adjournment**

A motion was made by Dr. Steiner and seconded by Mayor Guida to adjourn the Regular Session Meeting at 2:10 P.M. A vote was taken and the motion carried by a unanimous vote.

Respectfully submitted,

Susan H. Gartland  
Executive Director