Open Minutes

Missouri State Board of Optometry

July 15, 2004
Division of Professional Registration
Main Conference Room
3605 Missouri Boulevard
Jefferson City, Missouri

The open meeting of the Missouri State Board of Optometry was called to order by Dr. Cathy Frier, President, at approximately 10:00 a.m. on Thursday, July 15, 2004, at the Division of Professional Registration, Main Conference Room, 3605 Missouri Boulevard, in Jefferson City, Missouri.

BOARD MEMBERS PRESENT:
Dr. Cathy L. Frier, President
Dr. W. Carter Glass, Vice President
Dr. Danny D. Nestleroad, Secretary
Dr. Christy M. Fowler, Member
Dr. Don Vanderfeltz, Member
Ms. Dayna Stock, Public Member

STAFF MEMBERS PRESENT:
Sharlene Rimiller, Executive Director
Kelly Maddox, Licensure Tech II

LEGAL COUNSEL PRESENT:
Mr. Glenn Bradford, Private Legal Counsel
Mr. Dan McPherson, Assistant Attorney General

GUESTS
Ms. Zoe Lyle, Executive Director, Missouri Optometric Association
Ms. Ronda Luebbert, Wal-Mart Vision Center

To better track the order in which items were taken up on the agenda, each item in the minutes will be listed in the order it was discussed in the meeting.

APPROVAL OF THE AGENDA
Dr. Nestleroad asked that an item be included on the agenda to talk about developing a document to assist Board members in evaluating applications for licensure by endorsement. A motion was made by Dr. Nestleroad and seconded by Dr. Vanderfeltz that the agenda be approved with the one additional item. Motion carried 5 to 0. Dr. Glass was not present for the vote.

APPROVAL OF MINUTES
The Board reviewed the following open minutes:

February 12, 2004
March 9, 2004 – Conference Call
March 15, 2004 – Mail Ballot

A motion was made by Dr. Nestleroad and seconded by Ms. Stock that the open minutes be approved as written. Motion carried 5 to 0. Dr. Glass was not present for the vote.

EXECUTIVE DIRECTOR REPORT

Financial Statement
Mrs. Rimiller presented the Board with the following financial statement for FY-04 as of May 31, 2004.

Beginning Fund Balance				$349,392.19
Revenue (7/1/03 to 5/31/04)				$15,746.25
Fund Balance Sub Total				$365,138.44
Appropriations to Board:				
Personal Service	$39,696.60			
Expense & Equipment	$42,604.00			
Total Appropriations	$82,300.60		$82,300.60	
Appropriation Expenditures:				
Personal Service	$32,195.30			
Expense & Equipment	$23,733.39			
Total Appropriation Expenditures	$55,928.69	$55,928.69	$55,928.69	
Fund Transfers: (Projected for Year)				
Rent & Utilities	$2,084.77			
General Revenue	$13,408.00			
Fringe Benefits for Board Staff	$14,290.78			
Hancock	$0.00			
DED/MIS	$2,444.96			
Refunds	$440.00			
Professional Registration	$20,735.75			
O.A. Cost Allocation	$2,244.16			
FY-2003 Transfers paid in FY-2004	$8,119.92			

Total Transfers	$63,768.34	$63,768.34		
Total Fund Expenditures		**$119,697.03**	-	$119,697.03
Estimated Revenue (6/1/04 – 6/30/04)			+	$5,693.75
Fund Balance Sub Total			=	**$251,135.16**
Unexpended Appropriations:				
Personal Service	$7,501.30			
Expense & Equipment	$18,870.61			
Total Unexpended Appropriations	$26,371.91		**$26,371.91**	$26,371.91
Fund Balance Projected as of 6/30/04				**$224,763.25**

Included with the financial report, Mrs. Rimiller pointed out the detailed expense reports for personal services and expense and equipment. A fiscal year end (FY-04) report will be made available to the Board at its October meeting. An explanation of "Building Lease Payments" was requested on the detail expense and equipment report. Mrs. Rimiller will provide an explanation at a later date.

Rulemaking Status Report

Mrs. Rimiller provided the Board with a status report on the proposed amendment to 4 CSR 210-2.080 – Certification of Optometrists to Use Pharmaceutical Agents and the rescission of 4 CSR 210-2.081 – Examination of Optometrists for Certification to Use Pharmaceutical Agents. The final orders of rulemaking were filed with the Secretary of State on June 25, 2004 and the effective date is expected to be September 30, 2004. The purpose was to combine the two rules into one rule, eliminating the need for 210-2.081, and to eliminate obsolete examination requirements. It was also pointed out that the proposed amendment eliminates the 96 classroom hours of study in general and ocular pharmacology (the old DPA requirement). Mrs. Rimiller noted that the rule was amended to bring it more in line with the current statute on pharmaceuticals.

HB 600 Report

Mrs. Rimiller reported that the Division of Professional Registration had its first batch of notices mailed out on HB 600 revocations. Notices were sent to licensees of other professions for not having paid their Missouri income taxes or for failure to file income tax returns in Missouri. This bill will affect optometrists renewing in August-October of this year. The term revocation was changed to suspension in an amendment to the law that passed in this last legislative session. Mrs. Rimiller pointed out that an article regarding the new law was published in the last newsletter.

CE Courses Approved

Mrs. Rimiller presented the Board with the list of continuing education courses that were approved since the date of its October meeting. It was noted that there were two continuing education course approval applications rejected because they did not meet the time requirements for filing an application. A motion was made by Dr. Nestleroad and seconded by Dr. Glass that the Board ratify the vice-president's approval and/or disapproval of the continuing education courses contained on the lists provided. Motion carried unanimously.

PROPOSED LEGISLATION

The Board reviewed the legislation from last year that was approved for submission through the routine process. Mrs. Rimiller reminded the Board that the only proposal in the Board's legislative package that was approved by the Division last year was the proposed changes to the statute relating to advertising, the elimination of Section 336.200 and the changes to Section 336.225. Everything else was disapproved but only because the Division thought the timing of the legislation to be wrong. Mrs. Rimiller said it is her understanding that if the legislation is re-submitted this year, it would have a good chance of being approved, except for the proposed new statute creating the optometry assistant. A motion was made by Dr. Glass and seconded by Dr. Nestleroad that the Board re-submit the legislation through the Division/Department approval process the same as last year. Motion amended by Dr. Nestleroad that the proposed statute creating the optometry assistant be excluded from the legislation to be submitted through the Division/Department approval process. Motion, as amended, carried unanimously. Ms. Lyle reported that the Missouri Optometric Association (MOA) is looking at a pretty aggressive legislative agenda for 2005. She thought that it would be helpful if her Board is made aware of the Division's position on the legislation in case the MOA Board should decide to include some or all of the Board's legislation with the MOA legislation.

PUBLIC MEMBER VOTING PRIVILEGES

Ms. Stock asked for clarification on voting privileges for public members. Specifically, Ms. Stock asked for the Board's opinion on the language, "technical requirements to be met for licensure". Ms. Stock said she would not feel qualified voting on whether or not an applicant meets either the educational and/or examination requirements for licensure. However, it was noted that some questions regarding licensure do not always relate to technical requirements but whether an applicant should be licensed because of a conviction or discipline imposed in another state. Legal counsel agreed that all questions regarding licensure are not technical and that the public member can vote on non-technical licensure issues. The best way to handle it is on a case-by-case basis.

FLUORESCEIN ANGIOGRAPHY

The Board reviewed the inquiry received from Shari Roberts asking the question of whether a medical doctor has to be in the office when an RN is performing the IV stick for a Fluorescein Angiography, or can it be an optometrist. The question was asked specific to billing under CPT code 92235. A motion was made by Dr. Nestleroad and seconded by Dr. Fowler that the Board inform Ms. Roberts that an optometrist may bill for the professional component of a Fluorescein Angiogram (92235-26) but cannot bill for the technical component (92235 TC) and that the optometrist cannot be the supervisor of the person doing the technical component (IV stick), therefore, she needs to ask her question of the Board of Healing Arts to find out if the medical doctor needs to be in the office when Fluorescein Angiograms are performed. Motion carried unanimously. Dr. Nestleroad will provide a draft response for Mrs. Rimiller.

ARBO ANNUAL MEETING

Mrs. Rimiller and Dr. Glass provided the Board with a report on the 85th annual meeting of the Association of Regulatory Boards of Optometry (ARBO) held in Orlando, Florida, on June 20-22, 2004. The National Board of Examiners in Optometry (NBEO) is moving its office to Charlotte, North Carolina, in April 2005. The NBEO is still administering the TMOD as a stand alone examination. It was noted that the Board's pharmaceutical rules were recently amended because it was reported two years ago at ARBO that the examination was being phased out since it was included in the Part II examination. ARBO and the NBEO are still looking at a possible merger. ARBO is still seeking COPE reviewers. If there are any Board members interested in reviewing CE programs for ARBO, there is an application process. ARBO is starting a new program called the Council on Endorsed Licensure Mobility for Optometrists (SELMO). Its purpose is to assist state boards of optometry in determining qualifications of applicants for licensure from established practitioners in other states. ARBO acknowledges that each state board has the right to make its own determination regarding licensure and this program does not lessen the power of the individual boards. ARBO is still working on a disciplinary database, similar to that of other professions. ACEO is a new CE tracker program on the ARBO website. After each approved CE program, the CE sponsor will send their data to ARBO and ARBO downloads it into each individual optometrist's record. ARBO also maintains information regarding every state that the optometrist is licensed in and keeps track of how many hours are needed in each state and the number of hours remaining to qualify for license renewal. ARBO is looking at developing a national CE membership card. One entire afternoon was devoted to attending the opening session of the World Council of Optometry. The topic was Globalization: Opportunities and Challenges for the Profession of Optometry. On the federal contact lens legislation, the rules and regulations are scheduled to be published in the Federal Register on August 4th. This should be the date the FTC begins its enforcement of the act.

REQUEST FOR CLARIFICATION OF BOARD RULE

The Board reviewed the inquiry received from Dr. Matthew Bowman regarding the disclosure requirement in Board Rule 4 CSR 210-2.060 (10) through (14) specific to his arrangement with an optical firm at his new office location. A motion was made by Dr. Glass and seconded by Dr. Nestleroad that the Board inform Dr. Bowman that as long as his name is posted at the entrance of his office, he is complying with the disclaimer requirement in the Board's professional conduct rule. Motion carried unanimously.

FUTURE MEETING SCHEDULE

The Board's next meeting is scheduled in conjunction with the MOA convention in St. Louis on October 7, 2004. The Board set the February 2005 meeting in conjunction with the Heart of America in Kansas City. The Board's meeting will be on February 10, 2005.

LEGAL SERVICES CONTRACT

The Board considered renewal of Glenn Bradford's legal services contract for fiscal year 2005. A motion was made by Dr. Nestleroad and seconded by Dr. Glass that the Board renew Mr. Bradford's legal services contract for the new fiscal year. Motion carried unanimously.

TLC LASER EYE CENTERS

The Board reconsidered Dr. Glass's denial of continuing education credit for the CE program, ***Managing the LASIK Post-Operative Interface Complication & Optical Coherence Tomogra*** presented by TLC Laser Eye Centers on May 20, 2004, in St. Louis. Dr. Glass denied CE credit only because the application was not received within the required sixty (60) day time limit. A motion was made by Dr. Glass and seconded by Dr. Fowler that the Board approve the course as meeting the continuing education requirements for re-licensure in Missouri. Motion carried unanimously.

4 CSR 210-2.030 LICENSE RENEWAL

The Board reviewed its rule on continuing education course approval to evaluate whether or not the sixty (60) day requirement for submission of applications for continuing education course approval should be shortened to thirty (30) days. A motion was made by Dr. Glass and seconded by Dr. Fowler that the Board keep the sixty (60) day requirement for submission of CE course approval applications in the rule. Motion carried unanimously.

LICENSURE BY ENDORSEMENT

The Board reviewed the draft document that can be used as a tool in assisting the Board in evaluating applications for licensure by endorsement. Dr. Nestleroad said that he wanted something showing the dates of when certain requirements for licensure were implemented in Missouri. For example, the date when Missouri first started requiring passage of the NBEO examinations, Parts I and II, when Part III and the TMOD were implemented, etc. The Board agreed that the document is a good starting point in helping to evaluate licensure by endorsement applications.

PRESCRIBING CONTROLLED SUBSTANCES

The Board discussed a recent situation experienced by a licensed optometrist when attempting to renew his DEA registration. The situation has since been resolved by the optometrist but Dr. Glass reported that the DEA rejected the optometrist's application to renew his controlled substances registration because he checked Schedule II, III (narcotic and non narcotic), and IV. Evidently, the DEA denied the use of a non narcotic Schedule II drug because they could find nothing in that formulary that an optometrist could write for ocular pain. The optometrist appealed the decision and he was issued his DEA registration without restrictions.

ELECTION OF OFFICERS

Dr. Frier called for nominations for the office of President. A nomination was made by Dr. Glass and seconded by Ms. Stock for Dr. Danny Nestleroad to serve as President. There being no further nominations, Dr. Nestleroad was elected as President of the Board by acclamation.

Dr. Frier called for nominations for the office of Vice President. A nomination was made by Dr. Nestleroad and seconded by Dr. Vanderfeltz for Ms. Dayna Stock to serve as Vice President. There being no further nominations, Ms. Stock was elected as Vice President of the Board by acclamation.

Dr. Frier called for nominations for the office of Secretary. A nomination was made by Dr. Nestleroad and seconded by Dr. Glass for Dr. Christy Fowler to serve as Secretary. There being no further nominations, Dr. Fowler was elected as Secretary of the Board by acclamation.

CITIZEN ADVOCACY CENTER

The Board reviewed the preliminary agenda for the annual meeting of the Citizen Advocacy Center. The meeting is scheduled on October 28-30, 2004 in Orlando, Florida. A motion was made by Dr. Nestleroad and seconded by Dr. Glass that the Board send Ms. Stock to the CAC annual meeting. Motion carried unanimously.

CLOSED SESSION

Motion was made by Dr. Nestleroad and seconded by Dr. Vanderfeltz to move into closed session pursuant to section 610.021 (1) and (14) RSMo, for the purpose of discussing complaints, investigative reports, applicants for licensure, general legal actions, causes of action or litigation and any confidential or privileged communications between the Board and its attorney. Those voting yes: Dr. Frier, Dr. Glass, Dr. Nestleroad, Dr. Fowler, Dr. Vanderfeltz, and Ms. Stock. Motion carried unanimously.

ADJOURNMENT

There being no further business to be brought before the Board at this time, a motion was made by Dr. Nestleroad and seconded by Dr. Fowler that this meeting adjourn. Those voting yes: Dr. Frier, Dr. Glass, Dr. Nestleroad, Dr. Fowler, Dr. Vanderfeltz, and Ms. Stock. Motion carried unanimously. The meeting adjourned at approximately 3:45 p.m.

Respectfully submitted,

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Sharlene Rimiller, Executive Director

Approved by the Board on: ________