



# LOUISIANA STATE BOARD OF OPTOMETRY EXAMINERS

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Meeting Agenda for March 18, 2022  
Baton Rouge Marriott  
9:30am-1:00pm

- I. Roll Call/Call to Order
- II. Adoption of Agenda
- III. Approval of Minutes from February 4, 2022 Meeting
- IV. Secretary's Report
  - a. Finance and Budget Report
  - b. License Activity
    - i. Renewals
    - ii. Retirement requests
    - iii. Inactive requests
    - iv. Hardship requests

## **OLD BUSINESS**

- V. State Audit Update
  - a. Sharing of public funds discussion/update
  - b. CPA candidates for financial audit/shared expenses
  - c. Ethics training status
  - d. Sexual harassment policy and training status
- VI. ABC Complaint/Secret Shopper
- VII. Barthelemy's Optical
- VIII. Telehealth Rules Promulgation Status
- IX. Dispensing of Pharmaceuticals Status

## **NEW BUSINESS**

- X. Discussion of Legal Counsel Interviews
- XI. SB 328
- XII. Request from Apriss Insights
- XIII. Request from Ken Yongwoo Baek, M.D.
- XIV. Board of Ethics Reporting
- XV. Next Meeting
- XVI. Adjourn

Jeff M. Anastasio, O.D.  
Covington, LA  
President

Gary Avallone, O.D.  
Ruston, LA  
Secretary

Christopher W. Wroten, O.D.  
Denham Springs, LA  
Member

Dale Benoit  
Belle Chasse, LA  
Member

Gerald Gerdes, O.D.  
Lafayette, LA  
Member

David Heitmeier, O.D.  
New Orleans, LA  
Member

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## I. Roll Call/Call to Order

The roll was called at 9:36am with present: Drs. Anastasio, Avallone, Gerdes, Wroten, Heitmeier and Mr. Dale Benoit. Also present were Drs Amanda Hickman, Tim Barry, Rob Janot. Declaring a quorum was present, Dr. Anastasio called the meeting to order.

## II. Adoption of Agenda

The agenda was amended upon motion by Avallone/Anastasio. Passed unanimously. The newly changed agenda was approved upon motion by Benoit/Anastasio. Passed unanimously.

## III. Approval of Minutes from February 4, 2022, Meeting

The minutes of the February 4, 2022, meeting was adopted upon motion by Wroten/Gerdes. Passed unanimously.

## IV. OAL

The OAL representatives related questions regarding the amount of money likely involved in the shared expense issue. Several LSBOE members responded to those questions stating that numbers to date have been best estimates first by Dr. Avallone and then the board CPA, but the LSBOE was considering a proposal by and independent CPA firm to conduct a true audit of the shared expenses to get a firm number which the board will communicate to the OAL.

The OAL representatives also were concerned with the failed resolution contained in the minutes of 10/29/21 regarding the removal of Dr. Sandefur from the LSBOE. The response from the LSBOE was that the resolution was an accurate part of the public proceedings and would not be removed from the minutes.

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Dr. Tim Barry and other OAL representatives spoke about the need for the Pharmaceutical Dispensing rule and the need to make that rule as easy as possible for any OD to comply with when dispensing medication from their optometric office.

Also, the OAL representatives noted the bill by Senator Mills to reorganize the LSBOE nomination process and offered to work in conjunction with the LSBOE to ensure proper representation for all ODs in the state.

## V. Secretary's Report

### a. Finance & Budget Report

Dr. Avallone presented a financial report including a P&L statement, Balance Sheet, and Budget comparison for year 2022 as of February 28. Dr. Anastasio questioned the Shipping cost being over yearly budget amount this early in the year. The QB records showed the "Postage-other" category to have two \$2000 payments (January & February) to Pitney Bowes to pay off debt associated with postal meter.

### b. License Activity

Renewals for 2022 continue, close to 100 licensees still show non-payment of renewal fee.

#### Delinquent License Renewal

Motion by Heitmeier/Wroten – authorize delinquent fee of \$250 to all who are late but have all qualifying CE. authorize delinquent fee of \$500 to all who are late & have not received qualifying CE. Passed Unanimously.

Hardship cases – Following discussion it was decided by the board on a motion by Anastasio/Heitmeier which passed by 5 -1 (Benoit voting Nay) to grant Hardship CE waivers for 2021 to all who have applied for lack of required CE for 2021. Also, to send notice that in the future with the passing threat of pandemic resolved hardship waivers will be limited.

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No retired licenses to report.

19 Inactive licenses reported

## c. Complaints

Lu Peng vs Edwin Adams, OD – Following discussion the board unanimously found no violations of law or rules nor ethics. A response will be sent to both parties informing them of the board's decision.

The former office lease in Oakdale has been terminated and the state will be sent the termination agreement.

## VI. State Audit Update

In accordance with Legislative Auditor (LA) recommendation the following resolution was introduced...

**A resolution by the Louisiana State Board of Optometry Examiners (LSBOE)** authorizing the engagement of Carr, Riggs & Ingram, CPAs, and Advisors to assist the LSBOE in determining Shared Expenses with the Optometry Association of Louisiana (OAL) for the years 2014-2021.

On Motion of Mr. Dale Benoit Seconded by Dr. Christopher Wroten this resolution was adopted unanimously on March 18, 2022, with Benoit, Wroten, and Drs. Jeff Anastasio, Gary Avallone, Gerald Gerdes and David Heitmeier all voting yes.

WHEREAS an audit by the State of Louisiana Legislative Auditor identified numerous issues found in the administration of its financial duties, including potential violation of state law by allowing the use of its resources for the benefit of the Optometry Association of Louisiana, (OAL); and

WHEREAS the current board of the LSBOE has instituted numerous reforms to correct any, and all previous infractions of the rules, regulations, and laws of the State of Louisiana; and

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WHEREAS the current board concurred with the findings of the Louisiana Legislative Auditor to seek legal advice to determine appropriate actions to take regarding potential infractions; and

WHEREAS prior to any further actions, there is a need to determine said amounts of LSBOE public dollars which might have benefitted the private association; and

WHEREAS the board is in receipt of a letter of engagement from the national accounting firm Carr, Riggs & Ingram to assist the board in determining the said amount of funds needed to determine what public funds potentially improperly benefitted a private association; now therefore

BE IT RESOLVED that the Louisiana State Board of Optometry Examiners does hereby authorize its Secretary, Dr. Gary Avallone to sign a letter of engagement with Carr, Riggs & Ingram to perform an audit to determine any misdirection of funds which may have taken place during the calendar years 2014-2021; therefore

BE IT FURTHER RESOLVED that the LSBOE Board authorizes its Secretary Dr. Gary Avallone to fully cooperate with any, and all request for LSBOE bank records, financial statements and documents needed by Carr, Riggs & Ingram to fulfil the duties of its engagement; therefore

BE IT FURTHER RESOLVED that the LSBOE Board does authorize and appropriate funds up to \$9,000 for the expense of the engagement of Carr, Riggs & Ingram.

Ethics training was discussed – Anastasio & Heitmeier are 2022 current

Sexual Harassment Prevention training – Anastasio, Heitmeier & Wroten are current

All certificates should be sent to the board Secretary for record keeping.

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**VII. ABC Complaint/Secret Shopper**

Private Investigator needed. Deferred until new legal counsel hired.

**VIII. Barthelemy's Optical**

Deep South Investigations has been unable to locate Barthelemy to handle service of fine or subpoena. The board authorized Deep South to continue efforts to locate and serve subpoena. Once Barthelemy is located the Jefferson Parish DA will be consulted.

**IX. Telehealth Rules Promulgation Update**

Dr. Anastasio reports the Telehealth rule has published without change February 20, 2022.

**X. Dispensing of Pharmaceuticals**

Tabled for new legal counsel review

**NEW BUSINESS**

**XI. Legal Council**

The board conducted information only interviews with two candidates for LSBOE legal counsel. Dr. Heitmeier did not participate in the interviews or the discussion regarding legal counsel by exiting the room before legal

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counsel discussion began. Following discussion, the following resolution was offered.

**A resolution by the Louisiana State Board of Optometry Examiners (LSBOE)**

authorizing the engagement of A.J. Herbert, with the firm Taggart Morton, as executive counsel.

On Motion of Mr. Dale Benoit and Seconded by Dr. Gerald Gerdes, this resolution was adopted on March, 18, 2022 with Benoit, Gerdes, and Dr. Gary Avallone, voting yes, Dr. Jeff Anastasio voting no, Dr. Christopher Wroten abstaining and Dr. David Heitmeier not present. (Yeas- 3, Nays-1, Abstention-1, Absent-1)

WHEREAS **the Louisiana State Board of Optometry Examiners (LSBOE)** is in need of legal counsel to adequately discharge its duties of licensing and regulating the practice of optometry in the State of Louisiana; and

WHEREAS the board of the LSBOE has conducted a search for said legal counsel possessing the knowledge, background and experience required to assist the board in adequately executing its duties and responsibilities and ensuring the board is properly following the rules, regulations, and laws of the State of Louisiana; now therefore

BE IT RESOLVED that the Louisiana State Board of Optometry Examiners does hereby authorize its President, Dr. Jeff Anastasio, or its Secretary, Dr. Gary Avallone to sign a letter of engagement with A.J. Herbert, with the firm Taggart Morton, to perform any and all legal services required by the board as directed by its president or secretary.

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**XII. SB 328**

Discussion was held regard legislation introduced by State Senator Fred Mills regarding the nomination process of the LSBOE.

The following resolution was offered.

**A resolution by the Louisiana State Board of Optometry Examiners (LSBOE)** stating it has no objection to LA. Senate Bill 328 by Senator Fred Mills, Jr

On Motion of Dr. Gary Avallone Seconded by Dr. David Heitmeier this resolution was adopted unanimously on March 18, 2022, with Avallone, Heitmeier, Drs. Jeff Anastasio, Gerald Gerdes, Christopher Wroten, and Mr. Dale Benoit all voting yes.

WHEREAS the current board of the LSBOE has instituted numerous reforms to correct any, and all previous infractions of the rules, regulations, and laws of the State of Louisiana; and

WHEREAS the LSBOE is aware of Senate Bill 328, authored by Senator Mills which proposes to create districts and set the method of nomination, and terms for future board members: and

WHEREAS Senate Bill 328 would also prohibit LSBOE Board members from holding an elected or appointed position on any professional association board during their term as an LSBOE board member; now therefore

BE IT RESOLVED that the Louisiana State Board of Optometry Examiners does not object to any legislative action offered to improve transparency, increase representation across the state, and ensure the regulatory board maintains its independence.



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**XIII. Request from Apriss Insights**

Tabled pending review of legal counsel

**XIV. Request from Ken Youngwoo Baek, MD**

Following discussion, the board unanimously decided to deny Dr. Baek's request for sponsorship for the NBEO examinations.

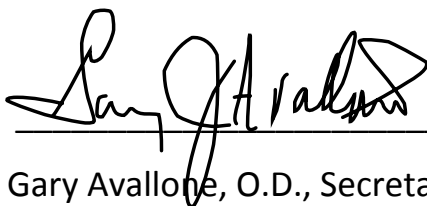
**XV. Ethics reporting**

Dr. Anastasio reminded the board that financial disclosure reporting should be conducted each year by May 15<sup>th</sup>.

**XVI. Next Meeting**

May 6, 2022 – Location TBD

**Adjourn – 1:30pm**



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Gary Avallone, O.D., Secretary



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Jeffrey Anastasio, O.D., President