

LOUISIANA STATE BOARD OF OPTOMETRY EXAMINERS
Law Office of Taggart and Morton LLC
New Orleans, LA
MINUTES
April 28, 2023

I. Roll Call/Call to Order/Confirmation of posting of notice and agenda

The roll was called at 9:38am with present: Drs. Heitmeier, Avallone, Gerdes, Wroten, LaPoint and Mr. Dale Benoit. Also present were board counsel Mr. AJ Herbert, III, Mr. Larry Demmons, Public Guests and OAL Members.

Declaring a quorum was present, Dr. Heitmeier called the meeting to order.

II. Adoption of Agenda

Dr. Avallone requested the agenda be amended to include an item for Legal opinions/Guidance due to a current question regarding Louisiana. Optometry scope of practice. The agenda was amended without objection. Dr. Avallone then requested the agenda be amended to include a short discussion regarding SB210 since that bill is currently being considered within the Louisiana State Legislature and directly affects the LSBOE and the required Optometric CE. An objection was heard by Dr. Gerdes on the motion. Motion failed. Amended agenda was approved without objection. Passed unanimously.

III. Approval of Minutes

The amended minutes from 1/20/23 and 3/17/23 were previously distributed by email for review. Mr. Herbert requested that the minutes from 3/17/23 include the letter presented to the LSBOE by Dr. Janot during the Public Comment section. No objections were heard. Dr. Wroten pointed out a typo in the 1/20//23 minutes of no substantive change which will be corrected in the revised copy. Dr. Avallone reported by all approved and corrected minutes will be posted on the LSBOE website as soon as possible.

IV. Secretary's Report

A. Finance and Budget Report

Dr. Avallone presented financial reports including a P&L statement, Balance Sheet, and Budget/Actual expense comparison through 2023. All budget items are as expected except that the legal fees for 2022 were paid in 2023. A question was raised regarding the auditing/CPA budget expenses appearing high. Dr. Avallone explained that the expenses from the LLA were included in that expense number. There was no increase in expected fees from the CPA. There is an increase in website monthly cost from \$170/mo to 200/mo.

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B. License Activity –

- i. Renewals Ongoing – Most renewal completed
- ii. Applicants/New Licensees – Applications for new license are being received. Currently aprox 6-7

Lauren Stirling, OD - upgrade to “AT” satisfied all requirements last week with successful completion of the law tests administered by Dr. Lewis.

Motion by Dr. Avallone to issue license “AT” upgrade to Lauren Stirling, OD, no objections heard. Motion passed unanimously.
- iii. Retirement – no new requests
- iv. Endorsement request – several inquiries, no new applications
- v. Inactive requests - no new requests
- vi. Hardship requests – no new requests
- vii. Request for Reinstatement following Disciplinary Action – TBD in Executive Session
- viii. Complaints – TBD in Executive Session

C. Required Training

- i. Ethics Training – Dr. Avallone reported all members completed required trading for 2022. Agreed to drop from future agenda items in 2023
- ii. Sexual Harassment Prevention – Dr. Avallone reported no members completed required trading for 2023.

OLD BUSINESS

V. Louisiana Legislative Audit 2020/2021

Dr. Avallone reported creating & sending the policy and procedures cited by the LLA as lacking during the 2020/2021 audits to Dr. Wroten and Mr. Benoit today prior to the

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meeting. Mr. Benoit expressed an anticipation that those policies would be ready for discussion by meeting time. Dr. Avallone expressed the understanding that the materials would be available for review by the meeting day. The LSBOE President requested the item be placed on the agenda for next meeting for discussion.

Dr. Avallone reported that the LSBOE CPA has been in contact with Mr. Daniel Garber regarding the controls and reconciliation of collections, which was a finding in both the 2020/2021 LLA audits. The CPA reported that the LLA representative seemed to be pleased with the solution presented by the CPA. Dr. Heitmeier will continue the item on the next meeting agenda.

VI. Telehealth - Rule status

Mr. Herbert reports the rule was being revised but there is pending legislation which will affect this rule by changing definitions and recommends a delay of the rule until legislation is cleared. No objections were heard regarding the delay.

VII. Dispensing of Pharmaceuticals – Rule status

Mr. Herbert reports the rule is revised and working with Catherine Brinley to get the fiscal impact statement to begin the legislative promulgation process.

VIII. Alternate Route of Licensure (NBEO) – Rule Status

Mr. Herbert reported the Rule is being revised to reflect comments from the last meeting and will be ready by the next LSBOE meeting.

NEW BUSINESS

IX. Reconsideration of the CE Rule and Proposed Changes

Motion to reconsider (LaPoint) – No objections heard. Passed unanimously. Proposed CE Rule Hearing scheduled at 9:00am April 28, 2023, immediately prior to the LSBOE meeting was cancelled.

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Motion to amend (Gerdes/Benoit) the proposed CE rule – Passed (5/1, Avallone voting Nay) Motion will allow 8 hrs on online CE and add any COPE accredited course to the acceptable TPA sources. (See attached)

Mr. Herbert pointed out that any legislation pertinent to this subject will override any rule regarding this subject.

Motion (Wroten/Benoit) to add the NOA as acceptable source of CE. No objection heard. NOA will be added to the proposed CE rule. Dr. Time Barry was recognized by the LSBOE president and pointed out that the list for acceptable CE sources in the proposed rule did not include other non-profit CE providers and therefore the board may need to add sources in the future. Dr. Wroten responded by including any COPE approved course those other sources referred to by Dr. Barry may be included and that the LSBOE would still maintain the ability to approve other courses as needed on a case-by-case basis.

Motion to accept the proposed CE rule as amended. No objections heard.
Passed

X. Policy and Procedures update

Policy and procedures updated and under review by Dr. Wroten and Mr. Benoit. CPA communicating with LLA. Agenda Item will be discussed at the next meeting.

XI. Discussion of hiring an Executive Director in lieu of a Secretary to execute the duties and responsibilities of the LSBOE

Mr. Benoit expressed his concerns regarding a voting board member who holds a contract to fulfill the administrative duties of the LSBOE and suggested that the board seek an opinion from the AG regarding the matter. Mr. Benoit also proposed that the board seek applications for an Executive Director. Discussion following included comments by Dr. Avallone reminding the board that regardless of hiring an Executive Director, the position of Secretary is

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mandated by statute, also in light of the current law suits involving the LSBOE and ethics investigations, compliance with the law regarding the Secretary shouldn't bring any unwanted attention, and due to the existing Secretary's contract, Dr. Avallone asked how soon is the intent of hiring an Executive Director. Also, Dr. Avallone asked how the LSBOE is to pay for an Executive Director in light of the current 2023 budget which has no excess funds to do so. Dr. Wroten inquired about how many boards have a situation similar to the LSBOE where a board member is also the administrator. Dr. Heitmeier stated in his experience very few. Dr. Avallone suggested reaching out to ARBO for a definitive answer. Mr. Herbert offered information for the benefit of the board regarding the current Secretary's contract citing the effective date of the contract was August 1, one year term (August to August), automatic renewal, immediate termination for cause, absent cause 6 month written notice required.

Motion (Benoit/Wroten) to task Mr. Herbert to contact the AG & Ethics office regarding the current Secretary contract. No objections heard. Passed unanimously.

XII. Board Elections District 1

Dr. Avallone reported that the Nomination ballots have been mailed to Optometrist with home addresses in District 1 in compliance with the law. All ballots now have the addressee's license number printed on the ballot for security. He also pointed out the referenced expiration dates of June 22, 23, 24, 25, 26 were in error as actual term expirations are in July each year. The return date for ballots is May 26, 2023. The information with the ballots stated to return to Taggart Morton but the enclosed envelope is addressed to the board office. To date, Mr. Herbert reports receiving only one ballot. Dr. Heitmeier stated that he was unaware of the ballots being mailed and asked if any other board members were aware of ballot mailing. No other board member responded. Dr. Avallone stated that he was complying with the law as written ensuring that ballots be returned in the specified time frame. Dr. Heitmeier expressed his displeasure with the mailing of ballots without the knowledge of board members. Dr. Gerdes brought up the case of district optometrists in need of replacement ballots and having a equal and

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transparent way to distribute those replacement ballots. Dr. Heitmeier asked Mr. Herbert if the nomination ballots mailing without the knowledge of board members presents any challenge to validity of the nominating election. Mr. Herbert response was “I don’t think so.” Dr. Heitmeier requested that in the future all board members be advised of any nomination ballot mailing. Dr. Gerdes inquired regarding a transparent replacement ballot process that would follow the path of; request by district optometrist to a board member, board member forwards the request to all board member, member responsible for mailing of ballots (Secretary) contacts printer (currently K-Team) to mail replacement ballot. Question by Dr. Avallone, “May a replacement ballot be delivered by email?”, Mr. Herbert’s response – since the original ballot is required to be sent by US mail so must the replacement ballot. Dr. Avallone reiterated the need to have updated accurate home addresses of all licensed optometrists, so every eligible optometrist has the opportunity to be nominated and vote for a nomination.

XIII. Optometry School Discussion

INFORMATION ONLY: Dr. Avallone reports being contacted by Dr. George Bakowski regarding the possibility of establishing an Optometry School in Louisiana. Dr. Bakowski said the topic came up in his conversations with the former Dean of LSU Medical School in Shreveport, Dr. Gali. Dr. Gali stated that it took approximately 20 years for the Shreveport Medical School to progress from conception to operation. Louisiana currently has professional Schools for Medicine, Nursing, and Dental but not for Optometry. Dr. Wroten mentioned that in his opinion the LSBOE should remain neutral in this matter. Dr. Gerdes mentioned that the AOA through the ACOE accredits Optometry schools and if the AOA is not in support of the concept it probably won’t happen. Dr. Avallone will pass on the gist of the conversation to Dr. Bakowski.

XIV. Legal Opinion/Guidance

Mr. Herbert reported after reviewing a request sent from Williamson Eyecare that since optometrists are considered physicians by the Federal government optometrists are allowed to perform History and Physical evaluations prior to surgical procedures.

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EXECUTIVE SESSION

Motion (Heitmeier/Gerdes) – No objections (Entered 11:06am)

XV. Litigation:

- A. By OAL v Heitmeier, et al No C-729018 19th JDC State of Louisiana
- B. By LSBOE v OAL et al No. C-729434 19th JDC State of Louisiana

XV. Complaints

- A. Complaints & Investigation of complaints
 - i. Ongoing
 - ii. New
- B. Reactivation requests
- C. Request for Reinstatement from Prior Disciplinary Action

EXECUTIVE SESSION – (Exited 11:42am)

XVI. Report on Items Discussed in Executive Session

Mr. Herbert introduced Mr. Larry Demmons at the request of Dr. Avallone so that the board may meet the attorney who will handle the legal action involving the LSBOE/OAL
No action/votes occurred during Executive Session

XVII. Public Comment

No comments received
Dr. Gerdes requested a point of personal privilege to recognize Dr. Amy Puerto being selected as the AOA Optometrist of the Year. CONGRATULATIONS, Dr. Puerto!!
Dr. Puerto commented that she is “proud to represent Louisiana”.

XVIII. Next Meeting

Board members agreed that the next meeting will be scheduled for June 9, 2023

Adjourn

Meeting adjourned at 11:45am

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Gary Avallone, O.D.
Secretary LSBOE

David Heitmeier, O.D.
President LSBOE