

LOUISIANA STATE BOARD OF OPTOMETRY EXAMINERS

Law Office of Taggart and Morton LLC

New Orleans, LA

MINUTES – October 28, 2022

I. Roll Call/Call to Order

The roll was called at 2:01pm with present: Drs. Heitmeier, Anastasio, Avallone, Gerdes, Wroten, and Mr. Dale Benoit. Also present were board counsel Mr. AJ Herbert, III, and Ms. Jennifer Herbert, Public Guests and OAL Members.

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

II. Adoption of Agenda

The agenda was adopted upon motion by Anastasio/Gerdes. Passed unanimously.

III. Approval of Minutes

The previous meetings (June 24, 2022, July 12, 2022, and August 12, 2022) minutes were approved upon motion by Benoit/Wroten with correction regarding vote on CE Motion 1 of August 12, 2022, as requested by Dr. Wroten. Passed unanimously.

IV. 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 September 30, 2022.

Motion 1 (Avallone/Benoit)– To authorized Dr. Avallone to cash in the current board Certificate of Deposit with Sabine Bank in Oakdale at maturity (November 8, 2022) and establish a board account as a Legal Reserve fund with a bank with more convenient access. Passed unanimously.

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Motion 2 (Avallone/Wroten) To authorize electronic payments directed by the LSBOE Secretary with authorization of the board president (or another board member if the board president is not available) by signing any invoice or statement presented to the board for payment. Passed unanimously.

b. License Activity

- i. Renewals for re-billed 2021 continue, nearly complete.
- ii. No additional Inactive licenses requested
- iii. Endorsement requests – to be addressed in Executive Session
- iv. Inactive requests – none
- v. Hardship requests – none
- vi. Complaints - to be addressed in Executive Session
- vii. Applicants/New Licensees – 24 new licenses issued post July state board exam

V. Louisiana Legislative 2020 Audit Update

a. General Update

Eleven Findings published. Resolution completed on six original findings. Remaining 5 findings to be expected in 2021 LLA to to timing of audit publish date. All findings expected to be resolved by end of 2022.

b. Mediation – To be discussed in Executive Session

c. Ethics training – Avallone & Benoit due for 2022 training

d. Sexual Harassment Prevention – Approved policy published on website. Avallone, Benoit & Gerdes due for 2022 training

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OLD BUSINESS

VI. Telehealth Registration & Fee

The board approved a Telehealth Application subject to legal review and approval to be submitted by Dr. Avallone. Telehealth fees were discussed and upon Motion (Heitmeier/Anastasio- Passed 3-2)) fees were set at:

Original issuance

\$100 for In-state home address licensees

\$750 for Out-of-state home address licensees

Renewal

\$100 for In-state home address licensees

\$500 for Out-of-state home address licensees

VII. Dispensing of Pharmaceuticals Rule - Status

The board was presented a rule proposal by the legal team (see attached).

On a Motion (Anastasio/Benoit) the rule was accepted by unanimous consent with no fee assigned to any licensee at this time.

VIII. CE Rule Status

The legal team presented a proposed rule for changes to allowable CE based on discussion which occurred during last board meeting (August 12, 2022) and further input from Dr. Gerdes. A discussion was held regarding the proposed rule for required CE. A Motion (Gerdes/Anastasio) was passed by unanimous consent to accept up to 6 hours of online (non-classroom excluding auditory and/or written instruction with or without exam)) credit for non-TPA required hours.

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IX. Alternate Routes of Licensure Testing – Rule Status (NBOE)

Tabled until next meeting

X. Does Mississippi qualify for licensure by endorsement in Louisiana

By Statute referenced below, the answer is NO

RS 37§1054. Applicants from other states; waiver of examination

The board may waive the examination provided in R.S. 37:1051 if the applicant presents to the board a satisfactory certificate of registration from a board of optometry examiners of another state, and if the standard of requirements adopted and enforced by such board is equal to that provided in this Chapter.

XI. Approval of Sexual Harassment Prevention Policy - Status

Approved policy (August 12, 2022) published on website.

XII. 2021 LLA update

To be discussed in Executive Session

NEW BUSINESS

XIII. Discussion of Communication budget for each Board Member

Discussion was held regarding individual member communication budgets. Opinions varied and no consensus was agreed upon therefore no individual budget were approved. It was agreed that any communication regarding policy or issues discussed during board meetings come from the President of the board.

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XIV. Discussion on changes to Continuing Education: COPE accreditation, synchronous CE, approved sources, and online CE

Motion 1 (Gerdes/Benoit) as amended - a maximum of 8 hours of continuing education may be from an asynchronous or non-interactive course that has been accredited by the Council on Optometric Practitioner Education and may be applied to the required non-TPA courses. Passed 3-2 (YEA-Avallone, Benoit, Gerdes NAY-Anastasio, Wroten) Dr. Heitmeier did not vote as President.

Motion 2 – Withdrawn

Motion 3 – (Gerdes/Benoit) A maximum of 8 hours of continuing education may be from a synchronous or interactive in person or virtual course that has been accredited by the Council on Optometric Practitioner Education and may be applied to the required TPA or non-TPA courses. The instructor and learner must be in the same space at the same time. Access to immediate feedback is required. Failed 3-2 (YEA- Benoit, Gerdes NAY-Avallone, Anastasio, Wroten) Dr. Heitmeier did not vote as President.

XV. Reciprocity

Dr. Heitmeier led a discussion regarding Reciprocity. No Reciprocity currently exists between Louisiana and any other state.

XVI. Legal counsel for LA Senate Health & Welfare committee comments

Dr. Anastasio began a discussion regarding a telephone call that took place between he and Mrs. Christine Peck, legal counsel for the Senate Health & Welfare committee, regarding communication between a LSBOE member, Dr. Gerdes, and his state senator. The discussion centered around two potential pieces of legislation that were being considered and Mrs. Peck asked for Dr. Anastasio's thoughts on them. One considered item was to create a bill to be

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considered that would require all continuing education for optometrists to be from only accredited sources. The second piece of legislation would create two additional positions on the LSBOE one to be held by the President of Southern Law School and the other by a member of the Louisiana Medicaid program. After discussion Dr. Anastasio agreed to bring the items before the board for discussion as Mrs. Peck was hoping for some guidance on the board's thoughts on the potential legislation. Dr. Anastasio then read an e-mail from Mrs. Peck with some of her thoughts on the matter. Dr. Gerdes explained that his efforts were as a private individual and not as a member of the LSBOE and were designed to increase the number of LSBOE members in an effort to increase diversity by adding an attorney from Southern Law School and a second public member. Several board members joined the discussion with varied opinions with Dr. Avallone pointing out that the LSBOE has a history of diversity even prior to the expansion of the board to six members. No consensus of opinion was reached on the matter other than that Dr. Gerdes is free to contact his state representatives as a private citizen of Louisiana anytime.

XVII. District Election Ballots

District 4 ballots have been mailed to all known Licensees residing in those District four parishes. Ballots are due today and will be counted following the LSBOE meeting. A discussion was held regarding how to make ballots more secure. Dr. Avallone will discuss with the printer and advise the board.

EXECUTIVE SESSION

Motion by Dr. Wroten (2nd Dr. Anastasio) to enter Executive Session.

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No objections voiced, Motion Passed unanimously.

Motion by Dr. Wroten (2nd Dr. Anastasio) to exit Executive Session.

No objections voiced, Motion Passed unanimously.

XVIII. Potential litigation

Motion by Dr. Heitmeier (2nd by Dr. Anastasio) LSBOE to approve a tolling agreement, recommended by counsel, with the OAL, regarding potentially shared public funds, to delay the process until March 2023, which should include an agreement to allow no invoice from the LSBOE to the OAL for potentially shared public funds repayment. No objections were voiced. Motion passed unanimously.

XIX. 2021 LLA Update

In review process with LLA office. Nothing published as of this date.

XX. Complaints, Endorsement and Reactivation request

A. Complaint by Dehlice Shelton – dismissed August 12, 2022

B. Complaints & Investigation of complaints

i. Complaint against Barthelemy's Optical by Allyson Fisher, OD - PI still searching for location to serve

ii. Complaint by John Bollich, OD _Status ???

iii. Complaint against America's Best (Shreveport) – Status ???

C. Endorsement requests

a. Dr. Selvin Gnanakkan – Scheduled to take law exams November 2, 2022 at WK Eye Institute, Shreveport with Dr. Stephen Lewis to proctor exam.

b. Dr. Lauren Murphy – Approved to accept endorsement application

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D. Reactivation request

- b. Dr. Geoffrey Paterson – the board agreed to reactivate the “T” license of Dr. Paterson provided all fees are paid & current.

XXI. Report on Items Discussed in Executive Session

See Items XVIII through XIX

Motion (Heitmeier/Wroten) to open an investigation on Luisa Andara, OD regarding expired CDS license as notified by the Pharmacy board.

Mr. Herbert led a discussion on requests of the board for guidance on:

- A. Taxation advice – Refer to the Dept of Revenue, no opinion given
- B. Definition of “substantial financial interest” – LSBOE defines as any interest

XXII. Public Comment

None

XXIII. Notice of Ballot counting to follow LSBOE meeting

Following the tally of ballots, per statute, the Governor will be advised of the nominees garnering the top three vote totals.

XXIV. Farewell Address – Dr. Anastasio

XXV. Next Meeting

December 2, 2022 – Time TBD Location - TBD

Adjourn – 7:02 pm

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Gary Avallone, O.D.
Secretary LSBOE

David Heitmeier, O.D.
President LSBOE