

Open Minutes

Missouri State Board of Optometry

October 7, 2004
Hilton - Frontenac
1335 South Lindbergh Blvd.
St. Louis, Missouri

The open meeting of the Missouri State Board of Optometry was called to order by Dr. Danny Nestleroad, President, at approximately 8:30 a.m. on Thursday, October 7, 2004, at the Hilton - Frontenac, 1335 South Lindbergh Boulevard, St. Louis, Missouri.

BOARD MEMBERS PRESENT:

Dr. Danny D. Nestleroad, President
Ms. Dayna Stock, Vice President
Dr. Christy M. Fowler, Secretary
Dr. Cathy Frier, Member
Dr. Don Vanderfeltz, Member

STAFF MEMBERS PRESENT:

Sharlene Rimiller, Executive Director
Bonnie Mengwasser, Executive I

LEGAL COUNSEL PRESENT:

Ms. Kristi Flint, Assistant Attorney General

GUEST

Kristen Nou, Lewis, Rice & Fingersh, L.C.

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

A motion was made by Dr. Frier and seconded by Ms. Stock that the agenda be approved as printed, which includes new item numbers 9 and 10. Motion carried 5 to 0.

APPROVAL OF MINUTES

The Board reviewed the following open minutes:

July 15, 2004
July 27, 2004 – Mail Ballot

A motion was made by Dr. Frier and seconded by Dr. Fowler that the open minutes for the July 15, 2004 Board Meeting be approved as written. Motion carried 5 to 0.

A motion was made by Dr. Frier and seconded by Dr. Vanderfeltz that the open minutes for the July 27, 2004 Mail Ballot be approved as written. Motion carried 5 to 0.

EXECUTIVE DIRECTOR REPORT

Financial Statement

Mrs. Rimiller presented the Board with the following financial statement for Year End FY-04.

Beginning Fund Balance				\$349,392.19
Revenue (7/1/03 to 6/30/04)				\$21,721.25
Fund Balance Sub Total				\$371,113.44
Appropriations to Board:				
Personal Service	\$39,697.00			
Expense & Equipment	\$42,604.00			
Total Appropriations	\$82,301.00			
Appropriation Expenditures:				
Personal Service	\$35,206.08			
Expense & Equipment	\$26,545.50			
Total Appropriation Expenditures	\$61,751.58	\$61,751.58		
Fund Transfers: (Actual for Year)				
Rent & Utilities	\$2,242.89			
General Revenue	\$4,499.41			
Fringe Benefits for Board Staff	\$12,144.06			
Hancock	\$0.00			
DED/MIS	\$2,022.05			
Refunds	\$0.00			
Professional Registration	\$13,277.60			
O.A. Cost Allocation	\$2,244.16			
FY-2003 Transfers paid in FY-2004	\$8,119.92			
Total Transfers	\$44,550.06	\$44,550.06		
Total Fund Expenditures		\$106,301.64		\$106,301.64
Ending Fund Balance				\$264,811.80

Mrs. Rimiller made a suggestion that the Board consider lowering the renewal fee for the next renewal period. She noted that the Board's fund balance increased by \$47,514.57 for the last two-year period. If the fund exceeds three times the amount of the total appropriations from the Board's fund, the excess will be swept to general revenue. Mrs. Rimiller noted that the Board now has a \$220 fee for a two-year renewal, and the Board could consider lowering the fee to \$180 or \$200. Mrs. Rimiller suggested that the Board Members take some time to discuss this issue at the July or October 2005 Board Meeting.

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 purpose was to combine the two rules into one rule, eliminating the need for 210-2.081, and to eliminate obsolete examination requirements. The proposed rule and proposed rescission became effective on September 30, 2004.

Renewal Report

Mrs. Rimiller reported that as of September 20, 2004, 62.33% of the Optometry renewal applications had been approved by the Division of Professional Registration's Cash Receiving Room (CRR). Dr. Nestleroad questioned how the number of audits is determined. Mrs. Rimiller informed him that the Board determines that number, and the current number is thirty percent. After a short discussion on the audit process, Dr. Nestleroad commented that he is fine with leaving the number of audits at thirty percent. Ms. Stock asked Mrs. Rimiller how many renewal applicants were impacted by HB 600. Mrs. Rimiller informed the Board that she won't have any information regarding the effect of HB 600 until after the renewal cycle. Ms. Stock questioned if the Department of Revenue (DOR) cross-referenced addresses before mailing their HB 600 notices. Mrs. Rimiller informed the Board that yes, DOR gets the addresses from the Division and the licensee has an obligation to inform the Board office of any change in address. It is also the licensee's responsibility to resolve any tax issues with the DOR.

CE Courses Approved

Mrs. Rimiller presented the Board with the list of continuing education courses that were approved since the date of its July meeting. A motion was made by Dr. Vanderfeltz and seconded by Dr. Frier that the Board ratify the approval of the continuing education courses contained on the list provided. Motion carried unanimously. Mrs. Rimiller was asked to inquire about the application for course approval received from Keyes Eye Center. It was sent to the Board by over-night delivery and the date it was signed for is several days earlier than the Board's received date.

PROPOSED LEGISLATION

Mrs. Rimiller updated the Board on the 2005 Legislative Proposal. The same legislation from last year was re-submitted through the Division/Department approval process, and the Board is waiting for a response. Mrs. Rimiller feels that nothing in the proposed is controversial and that it should be ok to pursue in the next session. Mrs. Rimiller is hopeful that the Board will hear something back from the Department by December 1,

2004. The Board also talked about what the Missouri Optometric Association will pursue in the next session, and what effect their proposal will have on the Board's non-controversial proposal.

CLEAR 2004 ANNUAL CONFERENCE

Dr. Nestleroad and Ms. Stock provided the Board with a report after attending the Council on Licensure, Enforcement and Regulation (CLEAR) 2004 Annual Conference held in Kansas City, Missouri on September 30-October 2, 2004. Dr. Nestleroad first commented on a session titled "Generational Issues and How They Affect the Disciplinary Process." He said there are four generational groups that presently affect the workplace, which are the Traditionalists, Baby-boomers, Generation X, and Millennium groups. Each of these groups has very different ways of reacting to complaints against them. Second, Dr. Nestleroad spoke about the Ontario College of Nurses and the systems approach they used to revamp the manner in which they handled inquiries and complaints. Dr. Nestleroad was also interested in the Virginia Board of Health Professions systematic analysis for board sanctions for various offenses. The system the Virginia Board developed makes it easier for its board members to evaluate each complaint in a consistent manner. Dr. Nestleroad also attended a panel discussion on a group from Nebraska that worked through a multi-professional credentialing reform project to redesign their regulatory system, which was mandated by the Nebraska legislature. They started out by keeping what was good and threw out what was bad in their previous system. They then determined who to regulate by questioning what physical or economic risks professions might provide to the public, the consumers' ability to protect themselves, continued competency, etc.

Ms. Stock reported that she was interested in hearing the perspective of other people around the country on roles of board members, how public members play an important role on the board, etc. Ms Stock also attended a session on consent agreements given by an attorney from Chicago. She thought it was interesting to see, based on hand outs of different examples of wording used throughout the country, that it looked similar to what this Board is already doing with its consent agreements. Ms. Stock felt that she learned something from each session she attended.

FTC CONTACT LENS RULE

Mrs. Rimiller reported that the new Federal Trade Commission (FTC) Contact Lens rules have been implemented. They went into effect on August 2, 2004. She commented that the Board office hasn't received any official complaints from people because they are not getting their contact lens prescriptions. If they call the office with complaints, they are asked to contact the optometrist first.

APPROVAL OF COPE REVIEWER

The Board reviewed the letter received from the Council on Optometric Practitioner Education (COPE) asking if the Board would endorse Thomas E. Eichhorst, J.D. as a COPE Reviewer, only for practice management and jurisprudence. A motion was made by Dr. Vanderfeltz and seconded by Ms. Stock to endorse Tom Eichhorst to serve as a COPE Course Reviewer for Practice Management and Jurisprudence only. Motion carried unanimously.

SCOPE OF PRACTICE QUESTION

The Board reviewed the letter received from Dr. Thomas Stickel with a question regarding scope of practice. Dr. Stickel is asking if an electrolysis instrument can be used for the permanent destruction of eyelash follicles. Dr. Vanderfeltz made reference to CPT code **67825 – Epilation (e.g., by electrosurgery or cryotherapy), double star meaning the optometrist must be TPA certified to provide this service.

OTHER AGENDA ITEMS

Ms. Stock expressed some concerns about voting by mail on some issues. She said that a conference call before voting is preferable to her so she has the benefit of hearing what the other members of the Board have to say. Mrs. Rimiller pointed out that the President has the authority to decide whether to have a conference call or do a mail ballot. Dr. Nestleroad stated that if there is any controversy regarding the issue at hand, he will have a conference call. He also suggested adding the option for Board Members to recuse themselves on mail ballots if one feels they do not have enough information to cast their vote. Mrs. Rimiller stated that recusal is already an option on the mail ballot and suggested that the Board continue with its current way of conducting business in between dates of the Board meetings, keeping in mind Ms. Stock's preference for a conference call.

CLOSED SESSION

A motion was made by Dr. Fowler and seconded by Ms. Stock 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. Nestleroad, Ms. Stock, Dr. Fowler, Dr. Frier, and Dr. Vanderfeltz. Motion carried unanimously.

ADJOURNMENT

There being no further open business to be brought before the Board at this time, a motion was made by Ms. Stock and seconded by Dr. Fowler that this meeting adjourn. Those voting yes: Dr. Nestleroad, Ms. Stock, Dr. Fowler, Dr. Frier, and Dr. Vanderfeltz. Motion carried unanimously. The meeting adjourned at approximately 2:35 p.m.

Respectfully submitted,

Sharlene Rimiller, Executive Director

Approved by the Board on: _____