

**Meeting Notice
State Board of Optometry**

February 10, 2005 8:30 a.m.

**Hyatt Regency Crown Center Hotel
2345 McGee Street
Kansas City, Missouri**

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the State Board of Optometry, 3605 Missouri Boulevard, P.O. Box 1335, Jefferson City, Missouri 65102 or by calling 573-751-0814 to ensure available accommodations. The text telephone for the hearing impaired is (800) 735-2966.

Except to the extent disclosure is otherwise required by law, the State Board of Optometry is authorized to close meetings, records and votes, to the extent they relate to the following: Sections 610.021 (1), (3), (5), (7), (13) and (14), RSMo, and Section 620.010.14 (7), RSMo.

The State Board of Optometry may go into closed session at any time during the meeting. When the meeting is closed, the appropriate section will be announced to the public with the motion and vote recorded in open session minutes.

Please see attached tentative agenda for this meeting.

cc: Marilyn Nobbnan, Office of Administration
 Zoe Lyle, Executive Director, Missouri Optometric Association
 Marilyn Williams, Director, Division of Professional Registration
 Joe Driskill, Director, Department of Economic Development

Open Agenda

Missouri State Board of Optometry

February 10, 2005 8:30 a.m.
Hyatt Regency Crown Center Hotel
2345 McGee Street
Kansas City, Missouri

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|-----|---|-----------------|
| 1. | Call to Order | Dr. Nestleroad |
| 2. | Roll Call | Dr. Fowler |
| 3. | Approval of the Agenda | Dr. Nestleroad |
| 4. | Approval of the Minutes <ul style="list-style-type: none">• October 7, 2004• November 9, 2004 – Conference Call | Dr. Nestleroad |
| 5. | Executive Director Report <ul style="list-style-type: none">a. Financial Statementb. CE Courses Approvedc. CE Audit | Mrs. Rimiller |
| 6. | CAC Report | Ms. Stock |
| 7. | Proposed Legislation | Mrs. Rimiller |
| 8. | Issuance of Licenses to Newly Licensed Optometrists <ul style="list-style-type: none">• Review of 9/13/00 Policy | Dr. Nestleroad |
| 9. | Late Renewal of Out-of-State Licensees <ul style="list-style-type: none">• Review of 9/13/00 Policy | Mrs. Rimiller |
| 10. | Waiver of CE Requirements for Newly Licensed Optometrists <ul style="list-style-type: none">• Consider amendment to 4 CSR 210-2.030 | Mrs. Rimiller |
| 11. | New Disabled Person Plate/Placard Legislation <ul style="list-style-type: none">• Review Correspondence from DOR dated 12-16-04 | Dr. Fowler |
| 12. | CPT Codes <ul style="list-style-type: none">• Review 10-11-04 Petition from MoSEPS | Dr. Vanderfeltz |
| 13. | Optometrists Not Renewing 2004-2006 License | Dr. Frier |
| 14. | Future Meeting Schedule <ul style="list-style-type: none">• July• October | Dr. Nestleroad |
| 15. | Other Agenda Items | Dr. Nestleroad |

16. Motion to go into Closed
17. Adjournment

Open Minutes

Missouri State Board of Optometry

February 10, 2005
Hyatt Regency Crown Center Hotel
2345 McGee Street
Kansas City, Missouri

The open meeting of the Missouri State Board of Optometry was called to order by Dr. Danny D. Nestleroad, President, at approximately 8:30 a.m. on Thursday, February 10, 2005, at the Hyatt Regency Crown Center Hotel, 2345 McGee Street, Kansas City, Missouri.

BOARD MEMBERS PRESENT:

Dr. Danny D. Nestleroad, President
Ms. Dayna M. 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. Alice Wortman, Assistant Attorney General
Mr. Glenn Bradford, Private Legal Counsel

GUESTS PRESENT:

Sharon Stiles, Lewis, Rice & Fingersh, L.C.
Zoe W. Lyle, Missouri Optometric Association

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 Ms. Stock and seconded by Dr. Fowler that the agenda be approved as printed. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

APPROVAL OF MINUTES

A motion was made by Dr. Frier and seconded by Ms. Stock that the open minutes of the October 7, 2004 meeting be approved as written. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

A motion was made by Dr. Fowler and seconded by Dr. Frier that the open minutes of the November 9, 2004 conference call meeting be approved as written. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

EXECUTIVE DIRECTOR REPORT

Financial Statement

Mrs. Rimiller presented the Board with the following financial statement for FY-05 as of November 30, 2004.

Beginning Fund Balance				\$264,811.80
Revenue (7/1/04 to 11/30/04)				<u>\$256,899.25</u>
Fund Balance Sub Total				\$521,711.05
Appropriations to Board:				
Personal Service	\$40,631.40			
Expense & Equipment	<u>\$42,604.00</u>			
Total Appropriations	\$83,235.40		\$83,235.40	
Appropriation Expenditures:				
Personal Service	\$14,120.53			
Expense & Equipment	<u>\$14,597.26</u>			
Total Appropriation Expenditures	\$28,717.79	\$28,717.79	<u>\$28,717.79</u>	
Fund Transfers: (Projected for Year)				
Rent & Utilities	\$2,048.92			
General Revenue	\$10,225.25			
Fringe Benefits for Board Staff	\$17,788.43			
Hancock	\$0.00			
DED/MIS	\$2,108.00			
Refunds	\$440.00			
Professional Registration	\$17,697.43			
O.A. Cost Allocation	\$2,504.47			
FY-2004 Transfers paid in FY-2005	<u>\$4,919.63</u>			
Total Transfers	\$57,732.13	<u>\$57,732.13</u>		
Total Fund Expenditures		\$86,449.92	-	\$86,449.92
Estimated Revenue (12/1/04 – 6/30/05)			+	\$8,195.75
Fund Balance Sub Total			=	\$443,456.88
Unexpended Appropriations:				
Personal Service	\$26,510.87			
Expense & Equipment	<u>\$28,006.74</u>			

Total Unexpended Appropriations	\$54,517.61		\$54,517.61	\$54,517.61
Fund Balance Projected as of 6/30/05				\$388,939.27

Mrs. Rimiller noted the reason for the large amount of revenue. The majority of the Board's revenue is generated through its renewal fees and FY-05 is a renewal year. Mrs. Rimiller also provided the Board with a copy of the new five-year fund balance projections. It was noted that the Board will study the five-year projections more fully at the July meeting to determine the need for a reduction in renewal fees. Mrs. Rimiller pointed out that the Board's fund should never get to a level where money is taken from the Board's fund and deposited into the general revenue fund. By law, the sweep would only occur when the money in the Board's fund exceeds three times its appropriations. Mrs. Rimiller also mentioned that Governor Blunt is asking all state agencies to submit a plan for proposed cuts in their FY-05 and FY-06 budgets. This is only an exercise at this time, but Mrs. Rimiller reported that the exercise is for a plan to reduce spending by 5%, 10%, 15%, and 20%.

CE Courses Approved

Mrs. Rimiller presented the Board with a listing of the continuing education courses that were approved since the Board's last meeting. A motion was made by Dr. Fowler and seconded by Dr. Vanderfeltz that the continuing education programs contained on the list be approved. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

CE Audit

Mrs. Rimiller reported that there was a slight delay in the issuance of the continuing education audit letters this year. The MIS staff working for the Division that runs the program for the random selection of licensees to be audited has been extremely busy with the HB 600 program. There were, however, 341 audit letters mailed on February 8, 2005. The letters are usually sent out in early January. The audit letters for the optometrists on discipline will be sent out early next week. Mrs. Rimiller also reported that the Board will be short on staff due to Kelly Maddox resigning effective February 16, 2005. The position will be posted and Mrs. Rimiller will be looking for a replacement in the next several weeks.

CAC REPORT

Ms. Dayna Stock presented a report to the Board on her attendance at the annual meeting of the Citizen Advocacy Center last October. There were many interesting sessions on continuing competency, mainly for the medical professions. A presentation from the Acting Regional Inspector General for the US Department of Health & Human Services was very relevant. It concerned the National Practitioner Data Bank (NPDB). According to the report, 70% of the content of the data bank is malpractice settlement information. There were no reports from 54% of the hospitals and no reports from 84% of managed care entities. If there was better reporting to the data bank, it would be much more effective. Another interesting session included an evaluation tool to enable boards to self-access their disciplinary and consumer information programs. Ms. Stock provided a copy of the evaluation. She will get together with Mrs. Rimiller to assist her

in completing the evaluation questions. Ms. Stock will work on the project and provide more information at the next meeting.

PROPOSED LEGISLATION

Mrs. Rimiller reported that she presented the Board's proposed legislation to Representative Bob Behnen the first part of January but at this time there has not been a response. According to Kristi Wilson, the Division's director of legislation and budgeting, Rep. Behnen is considering combining all of the Division's legislation into one bill and handling it himself. Mrs. Rimiller reported that she has also shared a copy of the Board's proposal with Rep. Steve Tilley.

ISSUANCE OF LICENSES TO NEWLY LICENSED OPTOMETRISTS

The Board reviewed the policy adopted by the Board on July 15, 2000, regarding the issuance of a new license. The policy says that all applicants, both by examination and by reciprocity/endorsement, licensed effective July 1 of each year will be issued a license with the next year's expiration date. Mrs. Rimiller said that this policy was fine when the Board was renewing licenses each year but now that licenses are only renewed every other year, the new license is being issued, in some cases, without renewal for a two year and four month time period. Additionally, there is also the concern that this policy was never implemented as a rule. A motion was made by Dr. Vanderfeltz and seconded by Dr. Fowler that the Board rescind the policy. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously. Practically, by rescinding the policy, applicants being issued a new license before October 30th of each renewal year (every other year) will be required to renew the license.

LATE RENEWAL OF OUT-OF-STATE LICENSEES

The Board reviewed the policy adopted by the Board on July 15, 2000, regarding the late renewal of licensees not practicing in Missouri. The policy says that between January 1 and April 1 any Missouri licensed optometrist working in another state who fails to renew his or her Missouri license by December 31 can renew the license by paying only a \$100 late fee (in addition to the renewal fee) and by presenting only eight (8) hours of Board approved continuing education. Mrs. Rimiller stated that the policy appears to conflict with Section 336.080, RSMo. A motion was made by Dr. Fowler and seconded by Dr. Vanderfeltz that the Board rescind the policy. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

CE REQUIREMENTS FOR NEW LICENSEES

Mrs. Rimiller informed the Board that new licensees are not required to earn eight (8) hours of continuing education if they took and passed Part III of the NBEO examination in the reporting period. As an example, someone renewing their license in 2004 had to have eight (8) hours of approved continuing education during the period of September 1, 2002 through August 31, 2003 and eight (8) hours of approved continuing education during the period of September 1, 2003 through August 31, 2004. If the licensee had taken and passed the NBEO Part III examination in either of those one (1) year reporting periods, the Board considers that examination as having met the eight (8) hour

CE requirement. Mrs. Rimiller stated that the reason this is being brought before the Board at this time is because Assistant Attorney General Kristi Flint suggested after the October meeting that this needed to be clearly stated in the Board's rule. No action was taken by the Board to change the way staff is accepting the NBEO Part III exam as qualifying for the CE requirements in the year the exam was taken.

NEW DISABLED PERSON PLATE/PLACARD LEGISLATION

The Board reviewed the December 16, 2004 correspondence received from the Division of Motor Vehicle and Drivers Licensing regarding the new disabled person plate/placard legislation. Under Section 301.142.1, RSMo, optometrists are allowed to certify individuals as being physically disabled for the purpose of obtaining disabled license plates and placards. The Department of Revenue (DOR) has revised its physician's statement and asks that the revised form be used effective January 1, 2005. The DOR is asking for the Board's assistance in disseminating this information to our licensees. It was the consensus of the Board to include this information in the next newsletter and include the criteria that would enable a person to obtain disabled person license plates or windshield placards. Ms. Lyle asked that the Board also include an article in the newsletter on the criteria for tinted windows because there are still a lot of questions that optometrists have regarding the prescription of tinted windows.

OPTOMETRISTS NOT RENEWING 2004-2006 LICENSE

The Board was presented with a list of optometrists that did not renew their license for the 2004-2006 licensing period. Mrs. Rimiller stated that the Board in the past has not taken any action to investigate whether or not the non-renewed optometrists are practicing optometry in Missouri with an expired license, but she has always taken the list to the Board to see if they know of anyone on the list that should have renewed. Mrs. Rimiller was asked to check on the licensure status of Dr. Andrea Border because it was thought that she did not renew her license last year.

FUTURE MEETING SCHEDULE

The Board scheduled its next meeting on July 14, 2005 at the Lake of the Ozarks. Mrs. Rimiller was asked to use the Country Club Hotel as the hotel of preference at the Lake.

The Board scheduled the date of its fall meeting on October 6, 2005 in Branson. This is the annual convention of the Missouri Optometric Association (MOA) and in the past the Board has always scheduled its fall meeting in conjunction with the MOA meeting. The MOA is meeting at the Chateau on the Lake.

OTHER AGENDA ITEMS

Dr. Nestleroad asked that staff review the minutes of past meetings and if there is any other written policies currently in existence, they be included on the July agenda for further consideration.

The Board discussed the concept of a paperless agenda. Mrs. Rimiller explained how it works for the Dental Board and that the Division's MIS staff would have to support the program. Mrs. Rimiller said that she could try and do a pilot program

for the July meeting to see how the Board adapts and the future of the paperless agenda could be discussed more fully after it is tested.

CLOSED SESSION

At approximately 10:27 a.m., a motion was made by Ms. Stock 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. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

CPT CODES

The Board returned to open session at approximately 10:50 a.m. to review the petition received from the Missouri Society of Eye Physicians and Surgeons (MOSEPS) questioning the Board's authority to approve/use certain CPT codes. A motion was made by Dr. Vanderfeltz and seconded by Dr. Frier that the Board remove the CPT codes from the website temporarily for further review and that a letter be sent to MOSEPS explaining that if the Board decides to publish the list again in the future, the invalid codes along with the lab codes and 99302 will be deleted from the list. The motion and the second to the motion were withdrawn.

A motion was made by Dr. Vanderfeltz and seconded by Dr. Fowler that the Board delete all the invalid codes from the CPT codes approved for use by optometrists (68820, 68830, 92280, 95881, 95882, and 99178), delete all the lab codes (87015 through 87999), and delete 99302. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

A motion was made by Dr. Vanderfeltz and seconded by Dr. Frier that the Board place the remaining CPT codes on the list under study for further review by the Board at its July meeting and that the Board remove the CPT codes from its website and not utilize these codes in any official capacity until the matter is discussed more fully in July. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously.

Dr. Vanderfeltz was appointed as a committee of one to review the codes and come back to the Board in July with his recommendations.

CLOSED SESSION

At approximately 11:40 a.m., a motion was made by Ms. Stock and seconded by Dr. Fowler 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. Fowler, Dr. Vanderfeltz, Dr. Nestleroad 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. Fowler and seconded by Ms. Stock that this meeting adjourn. Those voting yes: Dr. Frier, Dr. Fowler, Dr. Vanderfeltz, Dr. Nestleroad and Ms. Stock. Motion carried unanimously. The meeting adjourned at approximately 4:05 p.m.

Respectfully submitted,

Sharlene Rimiller, Executive Director

Approved by the Board on: _____