

## **Meeting Notice**

### **Missouri State Board of Optometry**

**July 14, 2006      8:30 a.m.**

**Sheraton Hawthorn Park  
2431 N. Glenstone  
Springfield, Missouri**

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Except to the extent disclosure is otherwise required by law, the Missouri 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.

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:      Members, Missouri State Board of Optometry  
         Glenn Bradford, Attorney-at-Law  
         Laurie Morris, Office of Administration  
         Missouri Optometric Association  
         Alison Craighead, Director, Division of Professional Registration  
         Gregory A. Steinhoff, Director, Department of Economic Development

Posted: 06/14/06  
Time: 9:00 a.m.

## Open Agenda

### Missouri State Board of Optometry

July 14, 2006 8:30 a.m.

**Sheraton Hawthorn Park  
2431 N. Glenstone  
Springfield, Missouri**

1. Call to Order Ms. Stock
2. Roll Call Dr. Vanderfeltz
3. Approval of the Agenda Ms. Stock
4. Approval of the Minutes Ms. Stock
  - February 9, 2006
5. Executive Director Report Mrs. Rimiller
  - a. Financial Statement
  - b. Rulemaking Status Report
  - c. CE Courses Approved/Rejected
6. Legislation for 2007 Mrs. Rimiller
7. Background Checks Dr. Nichols
  - Proposed Rule Changes
8. ARBO Annual Meeting Report Dr. Fowler and Dr. Nestleroad
9. Future Meeting Schedule Ms. Stock
  - February 2007
10. Board Travel Ms. Stock
  - CAC Annual Meeting – October 17-20, 2006
11. Renewal of Legal Services Contract Ms. Stock
12. Election of Officers Ms. Stock
13. Other Agenda Items Ms. Stock
14. Motion to go into Closed Dr. Fowler
15. Adjournment

Posted: 06/14/06  
Time: 9:00 a.m.

# Open Minutes

## Missouri State Board of Optometry

July 14, 2006  
Hawthorn Park Hotel  
2431 North Glenstone  
Springfield, Missouri

The open meeting of the Missouri State Board of Optometry was called to order by Ms. Dayna Stock, President, at approximately 8:30 a.m. on Thursday, July 14, 2006, at the Hawthorn Park Hotel, 2431 North Glenstone, Springfield, Missouri.

### **BOARD MEMBERS PRESENT:**

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

### **STAFF MEMBERS PRESENT:**

Sharlene Rimiller, Executive Director  
Justin C. Smith, Executive I  
Kelly Reinkemeyer, Licensure Technician II

### **LEGAL COUNSEL PRESENT:**

Mr. Glenn Bradford, Attorney At Law

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**

Ms. Stock requested that the Board hold open item #11, renewal of legal services contract, until after the closed meeting. A motion was made by Dr. Nestleroad and seconded by Dr. Fowler that the agenda be approved as written. Motion carried 6-0.

### **APPROVAL OF MINUTES**

A motion was made by Dr. Fowler and seconded by Dr. Nestleroad that the minutes of February 9, 2006 open meeting be approved as written. Motion carried 6 to 0.

### **EXECUTIVE DIRECTOR REPORT**

#### **Financial Statement**

Mrs. Rimiller presented the Board with the following fiscal year 2006 financial statement as of May 31, 2006.

<b>Beginning Fund Balance</b>				\$425,541.23
Revenue (7/1/05 to 05/31/06)				\$19,463.75
Fund Balance Sub Total				\$445,004.98
<b>Appropriations to Board:</b>				
Personal Service	\$49,410.20			
Expense & Equipment	\$42,054.00			
Total Appropriations	\$91,464.20		\$91,464.20	
<b>Appropriation Expenditures:</b>				
Personal Service	\$39,559.32			
Expense & Equipment	\$35,038.19			
Total Appropriation Expenditures	\$74,597.51	\$74,597.51	\$74,597.51	
<b>Fund Transfers: (Projected for Year)</b>				
Rent & Utilities	\$1,802.11			
General Revenue	\$3,900.00			
Fringe Benefits for Board Staff	\$24,156.65			
Hancock	\$0.00			
DED/MIS	\$1,960.78			
Refunds	\$900.00			
Professional Registration	\$16,359.83			
O.A. Cost Allocation	\$965.28			
FY-2005 Transfers paid in FY-2006	\$6,828.50			
Total Transfers	\$56,873.15	\$56,873.15		
<b>Total Fund Expenditures</b>		<b>\$131,470.66</b>	-	\$131,470.66
Estimated Revenue (1/1/06 – 6/30/06)			+	\$2,927.25
<b>Fund Balance Sub Total</b>			=	<b>\$316,461.57</b>
<b>Unexpended Appropriations:</b>				
Personal Service	\$9,851.88			
Expense & Equipment	\$7,565.81			
Total Unexpended Appropriations	\$17,416.69		<b>\$17,416.69</b>	\$17,416.69
<b>Fund Balance Projected as of 6/30/06</b>				<b>\$299,594.88</b>

Mrs. Rimiller noted that the biennium sweep is not reflected in this financial statement. The Office of Administration has not yet requested the transfer of that money (\$10,269.23) from the Board's fund. Dr. Nichols asked if there were any time stipulations for the Office of Administration to withdraw the funds. Mrs. Rimiller said that she would check on the answer and get back to the Board. She noted that the five-year fund balance projections reflect the reduced renewal fee and the fund appears to remain healthy for the five year period. Mrs. Rimiller stated that the DED-MIS transfer that is shown on the financial report should be reduced after the transition to the new department on August 28, 2006. She also noted that the professional services have increased this fiscal year due to the increased use of private counsel and the very limited use of the Attorney General's Office. Dr. Fowler asked what the refund category

was used for. Mrs. Rimiller stated that appropriation is used if an applicant or licensee submits the wrong fee. A refund is issued if appropriate.

### **Rulemaking Status Report**

Mrs. Rimiller reported that the changes to the rule on license renewal (4 CSR 210-2.030) to add one new continuing education provider, which is the National Optometric Association, and to add provisions to allow continuing education credit for licensees that present at COPE-approved programs, and for licensees enrolled in an accredited residency program, and the rule on fees (4 CSR 210-2.070) to reduce the biennial renewal fee from \$220 to \$150 for fiscal year 2007 went into effect on June 30, 2006.

### **CE Courses Approval**

Mrs. Rimiller asked for a motion to ratify the approval and rejection decisions on the continuing education courses that had been submitted to the Board since the date of the last meeting. A motion was made by Dr. Fowler and seconded by Dr. Vanderfeltz that the Board ratify approval and rejection of the continuing education that had been submitted to the Board since the date of the last meeting. The motion passed 6 to 0.

### **LEGISLATION FOR 2007**

Mrs. Rimiller provided last year's legislative proposal to the Board and asked if the Board is ready to pursue the legislation in 2007. The Board discussed including a proposal in the legislation to increase the mandatory continuing education requirements for renewal.

Dr. Vanderfeltz made a motion to raise the continuing education requirement to thirty two (32) hours for each continuing education reporting period effective with the 2008-2010 renewal cycle. The motion was seconded by Dr. Nestleroad. The motion passed 6 to 0.

Dr. Vanderfeltz made a motion to pursue last year's legislative proposal and include the proposal to increase the continuing education, and bring it back to the Board for further consideration after the Department sends it back with their response and before it is taken to the legislature. Dr. Fowler seconded the motion. The motion passed 6 to 0.

### **BACKGROUND CHECKS**

The Board reviewed the information presented by Dr. Nichols regarding the potential of conducting criminal background checks on all applicants for licensure. He stated that the Board used to require criminal background checks but due to the exorbitant amount of time involved in processing the prints - up to 12 weeks at one point - the Board eliminated the requirement. Dr. Nichols stated that there are now a number of digital fingerprinting locations within the State through Identix, and this service can reduce the processing time to approximately 5 days. Dr. Nichols asked if section 43.543 which references criminal background checks requires fingerprinting by professional licensing institutions. He said that the statute could be interpreted as a requirement with no discretionary authority. Mr. Bradford said that based on the wording in the statute, fingerprinting could be interpreted as a requirement for all potential professional licenses.

Dr. Nichols made a motion to proceed with the necessary rule changes to re-implement criminal background checks on all new applicants for licensure. Dr. Frier seconded the motion. The motion passed 6 to 0.

### **ARBO ANNUAL MEETING REPORT**

Dr. Fowler and Dr. Nestleroad provided a report on their attendance at the Association of Regulatory Boards of Optometry (ARBO) Annual Meeting held in Las Vegas, Nevada on June 18-20, 2006. Dr. Fowler stated that she found the board member training facilitated by the legal council of ARBO very interesting. She stated that she was very surprised by the leniency of her opinion of what is considered conflict of interest. Dr. Fowler stated that the Board should be aware of the burden of proof required for discipline. Mr. Bradford pointed out that there are two forms of burden of proof – beyond a reasonable doubt, and based on the evidence provided. For purposes of licensure, the Board would only decide on the basis of evidence. Dr. Fowler expressed her concern regarding the fact that the Board does not have any authority over non-licensees who are practicing Optometry. Mrs. Rimiller stated that the Board typically issues cease and desist letters in unlicensed practice cases and refers the case to the Prosecuting Attorney. Mrs. Rimiller pointed out that in order to gain authority over unlicensed activities, legislation would have to be written and passed, and suggested that such a change may be better served on a division-wide proposal for all licensed professionals. Dr. Fowler asked Mrs. Rimiller to speak with other Directors about this and administrative fines for inclusion on the October agenda for further discussion. Dr. Fowler stated that the National Board is always looking for examiners.

Dr. Fowler and Mrs. Rimiller discussed well being issues in the profession of Optometry. Mrs. Rimiller stated that with legislation and money it could be possible to institute a program to assist impaired practitioners. She stated that currently the Missouri Dental Board has a well being program at a cost of \$54,000 annually. Dr. Nichols stated that at this point, the Board would have to weigh the costs with the use due to the fact that currently their profession does not have an overwhelming need for the program. Mrs. Rimiller was directed to check with other states to see what is happening in this area.

Dr. Nestleroad gave an update on the different Committees within ARBO. He stated that the Council on Optometric Practitioner Education (COPE) Committee had 2,500 courses reviewed last year and 1,300 courses were approved. COPE currently has 94 reviewers, representing 35 state boards, who have completed the required training. Dr. Nestleroad informed the Board that COPE is currently looking for reviewers if anyone is interested. The Council on Endorsed Licensure Mobility for Optometrists (CELMO) was formed to assist state licensure boards in reviewing applications from other jurisdictions in order to create a uniform manner of licensure between states. CELMO issues a certificate based upon credentials. Currently CELMO has issued 6 certificates and have 27 applications in process. Dr. Nestleroad would like to add information from CELMO to the October meeting agenda. Dr. Fowler and Dr. Nichols agreed that the clearinghouse provided though CELMO is a good idea for the profession. Dr. Nestleroad stated that the OE Tracker is growing very quick, and he believes it is the future of continuing education tracking. Dr. Nestleroad informed the Board that Sherry Cooper provided the State Government Relations Center report. He stated that Ms. Cooper believes that the

current jurisprudence examinations are not meeting their intent. Dr. Nestleroad stated that the Board could consider informing the applicants of the problematic portions of the law, give the practitioner a chance to ask questions about the law, and have the applicant sign an affidavit stating that they have read and understand the laws. Mrs. Rimiller was asked to make this an agenda item at the October meeting. Dr. Nestleroad reported that currently there are 131 Optometric residencies in the United States. He also asked that the Board add a section to the upcoming newsletter asking licensees to become National Board of Optometry clinical examiners and COPE reviewers.

Dr. Vanderfeltz pointed out that when he came on the Board, he went through the process to become a COPE reviewer, and encouraged others to do the same.

Dr. Nestleroad stated that, in his opinion, the Board should send the same representative to the ARBO meeting each year in order to get them into the structure.

### **FUTURE MEETING SCHEDULE**

The Board set its next meeting on Thursday, February 15, 2007, in Kansas City, Missouri.

### **BOARD TRAVEL**

A motion was made by Dr. Frier and seconded by Dr. Fowler to send Dayna Stock to the Citizen Advocacy Center (CAC) Annual Meeting on October 17-20, 2006, in Williamsburg, Virginia. The motion passed unanimously. Dr. Nichols will not be able to attend the CLEAR Conference on September 14-16, 2006, in Alexandria, Virginia. Dr. Fowler stated that she would attempt to rearrange her schedule to attend in Dr. Nichols' place.

### **ELECTION OF OFFICERS**

A motion was made by Dr. Vanderfeltz to nominate Dr. Fowler as President of the Missouri State Optometry Board. Dr. Nestleroad seconded the motion. The motion carried unanimously. There being no further nominations, Dr. Fowler was declared President of the Board by acclamation.

A motion was made by Dr. Nestleroad to nominate Dr. Vanderfeltz as Vice President of the Missouri State Optometry Board. Dr. Fowler seconded the motion. The motion carried unanimously. There being no further nominations, Dr. Vanderfeltz was declared Vice President of the Board by acclamation.

A motion was made by Dr. Vanderfeltz to nominate Dr. Nichols as Secretary of the Missouri State Optometry Board. Dr. Nestleroad seconded the motion. The motion carried unanimously. There being no further nominations, Dr. Nichols was declared Secretary of the Board by acclamation.

Ms. Stock notified the Board that it was an honor to serve as their President the past year.

### **CLOSED SESSION**

A motion was made by Dr. Fowler and seconded by Dr. Nestleroad 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, approval of closed session minutes, 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. Nichols, Dr. Nestleroad and Ms. Stock. Motion carried 6 to 0.

### **DISCUSSION OF LEGAL SERVICES**

The Board discussed Glenn Bradford's proposal for legal services for fiscal year 2007. Mr. Bradford is asking for an increase in his hourly rate, from \$90 to \$105. A motion was made by Dr. Nestleroad and seconded by Dr. Fowler that the Board renew Mr. Bradford's contract for fiscal year 2007 and give him the increase requested. The motion passed 6 to 0.

### **APPLICATION FOR LICENSE RENEWAL**

Mrs. Rimiller discussed the application for license renewal that will be mailed to current licensees in early August. Mrs. Rimiller explained that the questions regarding criminal history were revised for clerical purposes. She asked if the questions regarding licensure in other states were needed. Dr. Fowler stated that the Board should ask those questions for informational purposes. Mrs. Rimiller stated that the Board is going to institute online renewal this year. The applicant will enter the website address, log in with their license number and individual PIN number for security.

### **ADJOURNMENT**

There being no further business to be brought before the Board at this time, a motion was made by Dr. Nichols and seconded by Dr. Nestleroad that this meeting adjourn. Motion carried 6 to 0. The meeting adjourned at approximately 4:00 p.m.

**Respectfully submitted,**

**Justin C. Smith, Executive I**

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**Sharlene Rimiller, Executive Director**

**Approved by the Board on: \_\_\_\_\_**