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Governor  
State of Missouri

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Brian Barnett  
Executive Director

## Meeting Notice

### Missouri State Board of Optometry

July 24, 2009                      8:00 a.m.

**Doubletree Hotel and Conference Center  
16625 Swingley Ridge Road  
Chesterfield, Missouri**

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the Missouri State Board of Optometry, 3605 Missouri Boulevard, Jefferson City, Missouri 65109 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 Missouri State Board of Optometry is authorized to close meetings, records and votes, to the extent they relate to the following: Chapter 610.021, subsections (1), (3), (5), (7), (13), and (14), and Chapter 324.001.8 and 324.001.9 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  
Office of Administration  
LeeAnn Barrett, O.D., Executive Director, Missouri Optometric Association  
Jane A. Rackers, Director, Division of Professional Registration

## Open Agenda

### Missouri State Board of Optometry

July 24, 2009 8:00 a.m.  
Doubletree Hotel and Conference Center  
16625 Swingley Ridge Road  
Chesterfield, Missouri

1. Call to Order Dr. Bureman
2. Roll Call Dr. Fowler
3. Approval of the Agenda Dr. Bureman
4. Approval of the Minutes Dr. Bureman
  - September 2, 2008 Mail Ballots
  - February 12, 2009 Board Meeting
5. Executive Director Report Mr. Barnett
  - a. Financial Statement
  - b. Legislation
6. Question regarding optometric advertising in a mall kiosk Mr. Barnett
7. Approval of CE Courses Dr. Fowler
8. ARBO Report Dr. Fowler
9. Discussion on Board Certification Dr. Nichols
10. Future Meeting Schedule Dr. Bureman
  - September 30, 2009 – Lake Ozark
11. Other Agenda Items Dr. Bureman
12. Motion to go into Closed
13. Adjournment

## Open Minutes

### Missouri State Board of Optometry

July 24, 2009

Doubletree Hotel and Conference Center  
16625 Swingley Ridge Road  
Chesterfield, Missouri

The open meeting of the Missouri State Board of Optometry was called to order by Dr. James Bureman, President, at approximately 8:11 a.m. on Friday, July 24, 2009, at the Doubletree Hotel and Conference Center, 16625 Swingley Ridge Road, Chesterfield, Missouri.

#### **BOARD MEMBERS PRESENT:**

Dr. James E. Bureman, President  
Dr. Christy M. Fowler, Secretary  
Dr. Danny Nestleroad, Member  
Dr. Michael L. Nichols, Member  
Ms. Dayna M. Stock, Public Member

#### **BOARD MEMBERS ABSENT:**

Dr. Cathy Frier, Vice President

#### **STAFF MEMBERS PRESENT:**

Brian Barnett, Executive Director  
Bonnie Mengwasser, Executive I

#### **LEGAL COUNSEL PRESENT:**

Earl Kraus, Division Counsel  
Sarah Ledgerwood, Division Counsel

#### **GUESTS PRESENT:**

Karen B. Rosen, O.D.

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**

Mr. Barnett requested that a discussion on the use of the 9700 CPT codes and the small business regulatory fairness training be added to the open agenda. A motion was made by Ms. Stock and seconded by Dr. Fowler to approve the agenda as amended. The motion carried unanimously.

## **APPROVAL OF THE MINUTES**

A motion was made by Ms. Stock and seconded by Dr. Nestleroad to approve the open session minutes of the September 2, 2008 mail ballots and the February 12, 2009 Board meeting as written. The motion carried unanimously.

## **EXECUTIVE DIRECTOR REPORT**

### **Financial Statement**

Mr. Barnett presented the Board with the following financial statement as of May 31, 2009:

<b>Beginning Fund Balance</b>				\$252,937.68
Revenue (7/1/08 to 11/30/08)				\$206,302.50
Estimated Revenue (12/1/08 – 6/30/09)				<u>\$0</u>
Fund Balance Sub Total				\$459,240.18
<b>Appropriations to Board:</b>				
Personal Service	\$55,562.00			
Expense & Equipment	<u>\$42,043.00</u>			
Total Appropriations	\$97,605.00		\$97,605.00	
<b>Appropriation Expenditures:</b>				
Personal Service	\$46,127.81			
Expense & Equipment	<u>\$22,516.91</u>			
Total Appropriation Expenditures	\$68,644.72	\$68,644.72		
<b>Fund Transfers: (Projected for Year)</b>				
Rent & Utilities	\$1,717.21			
General Revenue	\$1,300.00			
Fringe Benefits for Board Staff	\$27,164.26			
DED/MIS	\$591.38			
Refunds	\$800.00			
Professional Registration	\$12,798.75			
O.A. Cost Allocation	\$1,851.52			
FY-2008 Transfers paid in FY-2009	<u>\$9,383.04</u>			
Total Transfers	\$55,606.16	\$55,606.16		
<b>Total Fund Expenditures</b>		\$124,250.88	-	<b>\$124,250.88</b>
<b>Fund Balance Sub Total</b>			=	<b>\$334,989.30</b>
<b>Unexpended Appropriations:</b>				
Personal Service	\$9,434.19			
Expense & Equipment	<u>\$19,526.09</u>			

Total Unexpended Appropriations	\$28,960.28		-	<b>\$28,960.28</b>
<b>Fund Balance Projected as of 6/30/09</b>				<b>\$306,029.20</b>

Mr. Barnett informed the Board that because of the cost-saving procedures that were implemented this past year, particularly not using outside legal counsel, the Board did not spend approximately \$19,000 of its appropriation. Mr. Barnett reported that if the Board continues to save, he does not think an increase in license fees will be necessary.

Mr. Barnett informed the Board that he contacted Mr. Glenn Bradford regarding the renewal of his legal services contract. Mr. Bradford informed Mr. Barnett that he would need some time to think about renewing his contract, and Mr. Barnett has not heard from him since. Mr. Barnett reported that two attorneys have expressed interest in providing litigation services for the Board; Ms. Loretta Schouten and Mr. David Barrett.

A motion was made by Dr. Nichols and seconded by Dr. Fowler to instruct Mr. Barnett to forward the contract proposals from both Ms. Schouten and Mr. Barrett to the Board for consideration. The motion carried unanimously.

**Legislation**

Mr. Barnett reported that several bills that were introduced during this year’s legislative session didn’t make it very far. Neither of the optometric related bills that were introduced this year got much attention. Mr. Barnett informed the Board that the “Big Government Get off my Back Act” has the potential to affect the Board’s rulemaking ability for the next four (4) years.

Dr. Bureman welcomed Mr. Earl Kraus and Ms. Sarah Ledgerwood to the meeting, and asked that they each tell the Board about their background. Ms. Ledgerwood informed the Board that she came to the Division in May from the Attorney General’s office, where she worked for approximately eight (8) years.

Mr. Kraus informed the Board that he came to the Division in January from the Attorney General’s office, where he worked for approximately eight (8) years. Mr. Kraus mentioned that prior to working for the Division, he did litigation in front of the Administrative Hearing Commission, he dealt with workers’ compensation cases with the Division of Labor, and he also served as counsel for the Ethics Commission.

**QUESTION REGARDING OPTOMETRIC ADVERTISING IN A MALL KIOSK**

Mr. Barnett informed the Board that, in terms of the listing of optometrists through the machine, the system is set up similar to the yellow page phone advertisements. The machine has the ability to list between 250 - 300 optometrists that are geographically closest to the location of the machine. Licensed optometrists have the option to pay to have their name on a preferred provider list. The machine will automatically refer individuals that haven’t had an eye exam in the past two (2) years to an optometrist on

the list. Mr. Barnett was informed that approximately twenty percent (20%) of individuals using the machine do not get referred for an examination.

Dr. Rosen informed the Board that those licensees doing business with any of the four (4) companies that sponsor the machine, will be included on the provider list. Dr. Rosen also reported that St. Louis is the second city this machine has been introduced in; Atlanta, Georgia was the first.

Dr. Bureman questioned who is responsible for the continued accuracy of the machine.

A motion was made by Dr. Nichols and seconded by Dr. Fowler to instruct Mr. Barnett to contact the company to determine the maintenance aspects of the machine, and to also contact the Georgia Board of Optometry to determine if there have been any complaints/concerns regarding the machine located in Atlanta. The motion carried unanimously.

### **DISCUSSION WITH DR. ROSEN**

Dr. Rosen informed the Board that she goes on mission trips to third world countries several times per year. The mission groups require a letter of good standing from the Board for all licensees going on these trips. Dr. Rosen inquired as to whether or not licensees would be required to pay the twenty dollar verification fee prior to receiving a letter of good standing. Mr. Barnett informed Dr. Rosen that the Board office's new policy is to not charge a fee and to provide a different type of letter than what is typically sent to other state boards for verification of licensure.

Dr. Rosen also asked why a newsletter has not been mailed out for so long. Mr. Barnett informed her that the Board office is currently in the process of putting together a newsletter. Mr. Barnett also explained that there are postal issues to take into consideration with regard to sending out mass mailings. Mr. Barnett would like to begin forwarding newsletters electronically. Dr. Bureman suggested that the Board only post newsletters on its website. Mr. Barnett suggested mailing a postcard to all licensees stating that all future newsletters will be posted on the website, and request that all licensees provide the Board office with a current e-mail address.

Dr. Nichols requested that this discussion be added to the next meeting agenda.

### **APPROVAL OF CONTINUING EDUCATION COURSES**

The Board reviewed the list of continuing education courses that were approved since the date of the last meeting. A motion was made by Dr. Fowler and seconded by Dr. Nestleroad that the Board ratify Dr. Fowler's approval of the continuing education programs on the list of applications received since the date of the last meeting. The motion carried unanimously.

## **ARBO REPORT**

Dr. Fowler provided a report to the Board on her attendance at the 90<sup>th</sup> Annual ARBO Meeting in National Harbor, Maryland. Dr. Fowler stated that all of the state boards are dealing with similar issues. Dr. Fowler informed the Board that there was a discussion regarding summary suspension authority, and asked if the Missouri State Board of Optometry has the ability to do this. Mr. Barnett informed the Board that it does not have summary suspension authority, but that the Board could pursue an injunction to remove a practitioner from practice prior to an Administrative Hearing Commission hearing if the practitioner posed a threat to the safety of patients.

Dr. Fowler asked if complaint information is considered to be public information. Mr. Barnett explained that complaint information is not considered public, and the only information the staff is authorized to release is public disciplinary action. Dr. Fowler asked if a list of expired licensees is published in any way. Mr. Barnett informed the Board that a list of expired licensees is typically included in the newsletter, but it isn't published in any other fashion.

Dr. Fowler informed the Board that effective July 1, 2009, ARBO began charging optometrists a twenty dollar fee to print a copy of their OE tracker record, but that state boards can access the information for free. Dr. Fowler also reported that the National Board of Examiners in Optometry (NBEO) is working on adding injection testing to its exam in 2011.

Dr. Fowler mentioned that during a presentation at the ARBO Annual Meeting, Missouri was listed as one of eleven (11) states that ARBO administers an online law exam for. Dr. Fowler said that when she saw that information, she was not aware of it, and asked that Mr. Barnett contact ARBO to determine if they are administering the Missouri law exam online.

## **DISCUSSION ON BOARD CERTIFICATION**

Dr. Nichols reported to the Board on the proposed Board Certification process developed by the Joint Board Certification Project Team. Dr. Nichols presented the Board with a copy of the motion developed by the American Optometric Association (AOA) House of Delegates, which states that the AOA endorses the concept of Board Certification. Dr. Nichols informed the Board that when the certification process goes into effect, it will require some additional staff input in order to verify licensure status, etc. for the AOA.

## **DISCUSSION ON THE USE OF 9700 CPT CODE SERIES**

Dr. Bureman informed the Board that Dr. Frier submitted a question regarding whether or not optometrists are able to use the 9700 CPT codes, which are typically used for managing patients with neural injuries, such as stroke victims and car accident victims. Dr. Bureman asked that Mr. Barnett contact the executive director of the Missouri Board of Occupational Therapy to determine if its members had a position on whether or not optometrists could use these codes. The response Mr. Barnett received from the

executive director was that the Missouri Board of Occupational Therapy will be meeting soon, and she would like to discuss this topic with the board members before giving an opinion.

Mr. Barnett informed the Board that CPT codes are the copyrighted property of the American Medical Association. Mr. Barnett reported that, based on the opinion of the National Physical Therapy Association, as long as the procedure being provided is within the scope of practice of that healthcare provider and the billing accurately reflects that service, any healthcare provider should be able to bill for the 9700 CPT codes.

A motion was made by Dr. Nichols and seconded by Dr. Fowler that it is the Board's opinion that as long as the service being provided is within the scope of practice of optometry and the billing accurately reflects the service provided, the Board feels it is acceptable to bill under the 9700 CPT codes. The motion carried unanimously.

### **SMALL BUSINESS REGULATORY FAIRNESS BOARD TRAINING**

Mr. Barnett provided a brief explanation of the Small Business Regulatory Fairness Board. Mr. Barnett informed the Board that he will e-mail a copy of the Small Business Regulatory Fairness training presentation to each member, and he requested that once they have reviewed the presentation, they send him confirmation.

### **FUTURE MEETING SCHEDULE**

The Board instructed Mr. Barnett to look into the possibility of changing the date of the fall meeting to Thursday, October 1, 2009 instead of Wednesday, September 30, 2009.

Dr. Nestleroad requested that Mr. Barnett distribute a financial statement to the Board via e-mail on a monthly basis.

### **CLOSED SESSION**

A motion was made by Dr. Fowler and seconded by Dr. Nestleroad to move into closed session pursuant to chapter 610.021, sections (1), (3), (5), (7), (13) and (14), and chapter 324.001.8 and 324.001.9, 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. Bureman, Dr. Fowler, Dr. Nestleroad, Dr. Nichols and Ms. Stock. The motion carried 5 to 0.

### **OPEN SESSION**

The Missouri State Board of Optometry returned to open session at approximately 2:47 p.m.

### **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. Fowler that this meeting adjourn. The motion carried unanimously. The meeting adjourned at approximately 2:48 p.m.

**Respectfully submitted,**

**Bonnie Mengwasser, Executive I**

A handwritten signature in black ink that reads "Brian Barnett". The signature is written in a cursive style with a horizontal line underneath it.

**Brian Barnett, Executive Director**

**Approved by the Board on: October 1, 2009**