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Brian Barnett
Executive Director

Meeting Notice

Missouri State Board of Optometry

October 11, 2012 1:00 p.m.

**Chateau On The Lake Resort & Convention Center
415 North State Hwy 265
Branson, Missouri, 65616**

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 be aware that according to Missouri law, the Board can have open discussion and votes only on items included on the open agenda. If there is a topic you would like included on the open agenda, please notify the Board office not less than forty-eight (48) hours prior to the start of the meeting.

Please see attached tentative agenda for this meeting.

cc: Members, Missouri State Board of Optometry
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

**October 11, 2012
Chateau on the Lake
415 North State Highway 265
Branson, Missouri**

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|-----|--|--------------------------|
| 1. | Call to Order | Dr. Vanderfeltz |
| 2. | Roll Call | Dr. Nichols |
| 3. | Approval of the Agenda | Dr. Vanderfeltz |
| 4. | Approval of the Minutes <ul style="list-style-type: none">• June 8, 2012 Board Meeting | Dr. Vanderfeltz |
| 5. | Executive Director Report <ul style="list-style-type: none">a. Financial Statementb. License Statisticsc. ARBO CE Tracker update | Mr. Barnett |
| 6. | ARBO Annual Meeting Report | Dr. Bureman
Dr. Hruza |
| 7. | Board Certification Update | Dr. Bureman |
| 8. | WPS/CMS Restrictions on Scope of Optometric Practice | Dr. Vanderfeltz |
| 9. | Approval of Continuing Education Courses | Dr. Vanderfeltz |
| 10. | Request from MOA to consider change to 20 CSR 2210-2.030 License Renewal | Mr. Barnett |
| 11. | Discussion Regarding Results of Criminal Background Checks | Mr. Barnett |
| 12. | Future Meeting Schedule | Dr. Vanderfeltz |
| 13. | Election of Officers | Dr. Vanderfeltz |
| 14. | Motion to go into Closed Session | Dr. Finklang |
| 15. | Adjournment | |

Open Minutes

Missouri State Board of Optometry

October 11, 2012

**Chateau on the Lake
415 North Highway 265
Branson, MO**

The open meeting of the Missouri State Board of Optometry was called to order by Dr. Vanderfeltz, President, at approximately 1:08 p.m. on Thursday, October 11, 2012, at the Chateau on the Lake, 415 North Highway 265, Branson, MO.

BOARD MEMBERS PRESENT:

Dr. Donald J. Vanderfeltz, President
Dr. Kurt W. Finklang, Vice President
Dr. Michael L. Nichols, Secretary
Dr. Carrie Hruza, Member
Dr. James E. Bureman, Member – left meeting @ 3:59 p.m.

STAFF MEMBERS PRESENT:

Brian Barnett, Executive Director
Rhonda Robinett-Fogle, Processing Technician Supervisor

LEGAL COUNSEL PRESENT:

Earl Kraus, Division Counsel

GUESTS PRESENT:

Lee Ann Barrett, Executive Director, 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 Dr. Bureman and seconded by Dr. Nichols to approve the open agenda. The motion carried unanimously.

APPROVAL OF THE MINUTES

A motion was made by Dr. Nichols and seconded by Dr. Finklang to approve the open minutes of the June 8, 2012 Board meeting as modified. The motion carried unanimously.

EXECUTIVE DIRECTOR REPORT

Financial Statement

Mr. Barnett presented the Board with the following FY-12 year end financial statement as of June 30, 2012:

Beginning Fund Balance – 7/1/11		\$352,936.82		
Revenue (7/1/011 to 6/30/12)		\$18,670.50		
Fund Balance Sub Total		\$371,607.32		\$371,607.32
Appropriations to Board:				
Personal Service		\$57,115.56		
Expense & Equipment		<u>\$42,043.00</u>		
Total Appropriations		\$99,158.56		
Appropriation Expenditures:				
Personal Service		\$48,391.14		
Expense & Equipment		<u>\$9,313.94</u>		
Total Appropriation Expenditures		\$57,705.08		
YTD Transfers from Fund:				
Rent		\$1,706.85		

Dept. Cost Allocation		\$484.81		
OA Cost Allocation		\$876.00		
PR Transfers		\$33,852.95		
Refunds		\$00.00		
FY 11 Transfers Carried Over		\$8,948.93		
Total Transfers from Fund		\$45,869.54		
Total Appropriation Costs and Transfers from Fund:		\$103,574.62		- \$103,574.62
Ending Fund Balance as of 6/30/12				\$268,032.70

Mr. Barnett informed the Board he provided them with an end of the year fiscal report as the Board is barely into FY13 and there is currently little to show. Mr. Barnett stated the Optometry Board done very well in FY12. Mr. Barnett said for the Board to end with \$268,032.70 at the end of a non renewal year is excellent. Mr. Barnett said the Board picked up a bit more revenue than what was estimated for last year, about \$5,000.00 in license fees. Mr. Barnett reported the fund balance is very healthy and is in no danger of being swept. Mr. Barnett stated the Board is right in the middle of the renewal cycle and this is the big revenue generator. Mr. Barnett said if the Board can maintain the expenditures at the current level they have been set at for the last couple years, he would like for the Board to entertain the idea of a modest fee decrease for the 2014-

2016 license renewal. Mr. Barnett stated the Board is not currently in any danger of being swept; however, in the five year projection the Board will start getting close to that threshold. Mr. Barnett feels it is good message to send to licensees, that the Board is being a good steward of its resources and then passing savings back to its licensees. Mr. Barnett stated the Board spent just a little over one half of their appropriation and this is fantastic!

Mr. Barnett stated he would also like the Board to explore the possibility of increasing the board per diem from \$50.00 to \$75.00 a day at an upcoming Board meeting, and the Board concurred to place it as a discussion item on the February 14, 2013 open board agenda.

Mr. Kraus informed the board members that increasing the board per diem would require a legislative change. Mr. Kraus also spoke on the appropriation regarding the new licensure system. At the present time, Mr. Kraus stated he believes they want to ensure that they are going to have the appropriation before they go out and submit it for bid, so they are trying to get out of the Office of Administration/IT Department; a commitment in writing that the money will be available from year to year as it will take a number of years to create and implement the system and that is where the appropriation comes from typically. However to date, Mr. Kraus stated the attempt to get this commitment has been unsuccessful, so he believes the approach now is they are considering to go strait to the legislature and asking for the appropriation directly.

Mr. Barnett spoke on appropriation/direct fund transfers to the Board and then he explained how the Legislature decided they wanted agencies to put a dollar amount on the unknown/unpredictable expenses. Mr. Barnett said this shows how closely the Legislature scrutinizes board's fiscal activities.

License Statistics

Mr. Barnett provided a written licensure statistical report for the board's review. Mr. Barnett stated as the board talked about last fall; the new licenses is down a little bit, but it does not look like it is going to be a problem this year because 9 months into the year we was back up to 51 and had 8 pending. Mr. Barnett stated the Board is going to be right at the 60 mark again and that is basically the board's average. Mr. Barnett stated the big number to watch will be how many licenses will expire this year and see what type of a trend we will end up with. Dr. Nichols stated he feels there will be a downward trend, as there will be two factors that will play a big role in renewal this year, one is the economy and two is the large amount of optometrists that will be retiring. Dr. Vanderfeltz asked Mr. Barnett the current statistics on renewal and Mr. Barnett stated to date that sixty percent (60%) of the licenses has renewed which is quite a bit higher than two years ago at this time. Mr. Barnett said that sixty percent (60%) at this date is an excellent renewal rate.

ARBO CE Tracker Update

Mr. Barnett stated that the Board spoke at prior meetings about utilizing the ARBO Tracker as part of the continuing education audit process. Mr. Barnett said the Board would like to eventually conduct a one hundred percent (100%) audit of licensees and is looking for a mechanism that will minimize the work input for this type of audit.

Mr. Barnett informed the Board of a conference call between office staff and ARBO. Mr. Barnett stated ARBO staff was easy to work with and tailored a report for the Board that shows the total number of COPE hours for our licensees. Mr. Barnett stated this report is a step in the right direction; however, in terms of doing a one hundred percent audit, it does not get us exactly where we need to be. Mr. Barnett said the Non-COPE approved hours is actually going to be our biggest stumbling block as his concern is that we pull the ARBO report, and they show some COPE hours and they also show some Non-COPE hours, staff would still need to contact the licensees to research the Non-COPE hours.

Dr. Nichols said that it sounds like we are not quite there and it is a work in progress but we should keep working on this process as technology advances. Mr. Barnett concurred and said whereas not only as the technology evolves, but as more importantly the practitioners comfort level with the technology evolves as well, he definitely sees the board's ability to utilize ARBO OA Tracker to aid in a one hundred percent audit in the future.

Dr. Hruza announced that as of last week, she is serving on the OA Tracker Committee and her first conference call is scheduled for October 17, 2012. Dr. Hruza spoke about a new OE Tracker application that was created and stated they are continually trying to develop new things to try to make it more user friendly.

After detailed discussion regarding the ARBO OE Tracker, the Board instructed office staff to pull a total COPE hour report from the OE Tracker during the first part of November to see how many licensees actually has thirty-two (32) COPE hours logged in the system and then to pull the same report at the end of the year and place that information on the next board meeting agenda.

A motion was made by Dr. Bureman and seconded by Dr. Nichols to conduct the continuing education audit as it has been done in the past by pulling thirty three percent (33%) of active licensees at random in January 2013 to be audited. The motion carried unanimously.

ARBO ANNUAL MEETING REPORT

Dr. Bureman commended Dr. Hruza on her participation at the Association of Regulatory Boards of Optometry (ARBO) conference. Dr. Bureman announced it was impressive and appreciated to see Dr. Hruza's very positive attitude in wanting to be involved with ARBO and her willingness to serve on committees.

Dr. Bureman also stated that there have been some issues between ARBO and the American Optometric Association (AOA) over the last couple of years. Dr. Bureman explained the actual voting process and outcome for the Board of Director's position. Upon conclusion of the meeting, Dr. Bureman felt both ARBO and AOA took steps in the right direction towards compromise. Dr. Bureman informed the Board he will be remaining on the Optometric Competence Committee, International Affairs Committee, and the Judicial Council/Resolutions Committee.

Dr. Hruza stated the ARBO conference was an awesome meeting! Dr. Hruza said with her being the newest member of the Board, it was a great learning experience for her to understand regulatory boards and the uniqueness of the states. Dr. Hruza stated not only will she be serving on the OE Tracker Committee; she will be on the National Board Exam Review Committee (NBERC) as well. Dr. Hruza announced the ARBO Conference next year will be held June 23-25, 2013 in San Diego, CA and that the AOA Conference begins June 26, 2013.

BOARD CERTIFICATION UPDATE

Dr. Bureman reported the Clinical Competency Committee is in the process of putting together a test that could be used as a tool for individual state boards for maintenance of licensure; however, it is still in the developmental stage. Dr. Bureman informed the Board that he has a conference call this evening to discuss the test. Dr. Bureman stated the beta test will be set up by the National Board of Examiners in Optometry (NBEO), it is a matter of taking a test, seeing where your deficiencies are, then having a program to upgrade your deficiencies, and then have a re-assess test to see if you have met the standards. Dr. Bureman stated this is much different than what the American Board of Optometry (ABO) is looking at; however, that does not mean that the ABO certificate of competency would not suffice. Dr. Bureman stated there will be uses for the test other than for maintenance of licensure; it could also be used for remediation. Mr. Barnett stated the push for competency testing is more on a national level versus state; groups like the Citizens Advocacy Committee (CAC) believes healthcare professionals of all sorts need to, for protection of the public, need something better for maintenance of licensure. Dr. Bureman stated the test is still a work in progress; however, probably sometime next week he will be able to forward the board members a synopsis on the competency test and he stated the process could take years to design in such a way that it is fair.

WPS/CMS RESTRICTIONS ON SCOPE OF OPTOMETRIC PRACTICE

Dr. Vanderfeltz announced that on October 1, 2012 he received an email indicating WPS will be the only Medicare contractor for nine states. Dr. Vanderfeltz stated this is the only contractor that is known to have an optometric services, local coverage determination (LCD). Dr. Vanderfeltz said along with Chiropractors, Optometrists are the only professions that have been singled out to restrict practice. Dr. Vanderfeltz informed the Board he is a member of an Advisory Committee; the four states in his group are Iowa, Nebraska, Kansas, and Missouri. Dr. Vanderfeltz stated the Committee has been working with this issue for three years. Dr. Vanderfeltz said after a long while

there was finally a meeting that was set up with the AOA and CMS in Baltimore, Maryland. Dr. Vanderfeltz read his October 1, 2012 email to the Board and indicated if you now go into the WPS website and look at local coverage determination, the optometry services has been stricken, if you go into local policies, there are no optometry services listed. Visual fields and other individual ones are there, but the optometry services, that restricted Optometrists on several things is no longer valid.

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. Finklang and seconded by Dr. Hruza that the Board ratify Dr. Finklang's approval of the continuing education programs since the date of the last meeting. The motion carried unanimously.

REQUEST FROM MOA TO CONSIDER CHANGE TO 20 CSR 2210-2.030

The Board received a written request from Lee Ann Barrett, OD, Executive Director of the Missouri Optometric Association to request that the Board consider a rule change regarding continuing education (CE) requirements for optometrists newly licensed by examination.

In Dr. Barrett's letter she states, currently under 20 CSR 2210-2.030 License Renewal, the regulation stipulates O.D.'s that have taken and passed Part III of the NBEO examination prior to November 1st are required to earn sixteen (16) hours of CE to renew their license. Since NBEO has restricted their test taking location to North Carolina only, many students are forced to take Part III of the exam prior to Missouri's November 1st start of the reporting period. Dr. Barrett stated this puts those newly licensed O.D.'s at a distinct disadvantage of having to earn sixteen (16) hours of CE having been in practice for only a few short months. Therefore, Dr. Barrett stated the MOA would ask that the Board consider changing the requirement to exempt those O.D.'s earning a license by examination from CE requirements in the reporting period in which they are initially licensed.

Mr. Krauss discussed House Bill NO. 1135 (effective date August 28, 2012) with the Board, which requires a periodic review of all of the board's rules every five (5) years, another section of the Bill; 536.041, states what agencies must do when they receive a request to change a rule, to implement a new rule, or to repeal a rule. Mr. Krauss and the Board discussed procedurally the new law.

In their detailed discussion regarding 20 CSR 2210-2.030 and House Bill NO, 1135, the Board considered the following.

(1) Whether the rule continues to be necessary, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;

(2) Whether the rule is obsolete, taking into consideration the length of time since the rule was modified and the degree to which technology, economic conditions, or other relevant factors have changed in the subject area affected by the rule;

(3) Whether the rule overlaps, duplicates, or conflicts with other state rules, and to the extent feasible, with federal and local governmental rules;

(4) Whether a less restrictive, more narrowly tailored or alternative rule could adequately protect the public or accomplish the same statutory purpose;

(5) Whether the rule needs amendment or rescission to reduce regulatory burdens on individuals, businesses, or political subdivisions or eliminate unnecessary paperwork; and

(6) Whether the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference meets the requirements of section 536.031.

Upon the conclusion of the board's discussion, the following motions were made.

A motion was made by Dr. Nichols and seconded by Dr. Bureman to proceed with a rule change that would exempt those O.D.'s earning a license by examination from CE requirements in the reporting period in which they are initially license. The motion carried unanimously.

A motion was made by Dr. Bureman and seconded by Dr. Nichols to proceed with a rule change that would allow any hours acquired beyond the required thirty-two (32) CE hours to be carried forward into the next C.E. reporting period, not to exceed sixteen (16) hours. The motion carried unanimously.

DISCUSSION REGARDING RESULTS OF CRIMINAL BACKGROUND

Dr. Nichols contacted Mr. Barnett regarding criminal background checks. The University of Missouri – St. Louis College of Optometry recently began doing background checks for their applicants and is looking to the Board for guidance on some things that might disqualify a student. The Board instructed Mr. Barnett to respond to the Dean at University of Missouri informing him the issue was discussed at the board level; however, the Board is unable to create a list as these instances are handled on a case by case basis. The Board also instructed Mt. Barnett to provide the Dean with a copy of Chapter 336 section 336.110.

FUTURE MEETING SCHEDULE

Dr. Vanderfeltz announced the next board meeting is scheduled for Thursday, February 14, 2013 at 11:00 a.m. in Kansas City, MO at the Sheraton Hotel, and the following Board Meeting is scheduled for Friday, June 7, 2013 at 9:00 a.m. in Jefferson City, MO.

The Board also scheduled a tentative board meeting date for Thursday, October 10, 2013 at 1:00 p.m. in St. Louis, MO at the Ball Park Hilton.

ELECTION OF OFFICERS

A motion was made by Dr. Finklang and seconded by Dr. Hruza to nominate Dr. Vanderfeltz as President. There being no further nominations, Dr. Vanderfeltz was declared President of the Board by acclamation.

A motion was made by Dr. Bureman and seconded by Dr. Nichols to nominate Dr. Finklang as Vice-President. There being no further nominations, Dr. Finklang was declared Vice-President of the Board by acclamation.

A motion was made by Dr. Bureman and seconded by Dr. Finklang to nominate Dr. Hruza as Secretary/Treasurer. There being no further nominations, Dr. Hruza was declared Secretary of the Board by acclamation.

CLOSED SESSION

At approximately 3:31 p.m., a motion was made by Dr. Finklang and seconded by Dr. Nichols 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. Vanderfeltz, Dr. Finklang, Dr. Nichols, Dr. Hruza and Dr. Bureman. The motion carried 5 to 0.

RECONVENE

The Board reconvened in open session at approximately 4:19 p.m.

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. Hruza that this meeting adjourn. The motion carried unanimously. The meeting adjourned at approximately 4:20 p.m.

Respectfully submitted,

Rhonda Robinett-Fogle, Processing Technician Supervisor

Brian Barnett, Executive Director
Approved by the Board on: