

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF OPTOMETRY
VIA VIDEOCONFERENCE**

TIME: 10:30 A.M.

Thursday, February 4, 2021

1 State Board of Optometry
2 February 4, 2021
3
4

5 BOARD MEMBERS:
6

7 Luanne K. Chubb, O.D., F.A.A.O., Chairperson
8 Theodore Stauffer, Executive Secretary, Bureau of
9 Professional and Occupational Affairs, on behalf of
10 K. Kalonji Johnson, Commissioner, Bureau of
11 Professional and Occupational Affairs
12 John A. Godfrey, O.D., Vice Chair
13 Kimberly F. Boyer, O.D., Secretary
14 Pamela Barnhart, Office of Attorney General, Consumer
15 Protection Member
16 Jeffrey B. Becker, O.D.
17 Davis C. Haire, O.D. - Absent
18 Perry C. Umlauf, O.D. - Absent
19 Carl J. Urbanski, O.D.
20 Denise T. Wilcox, O.D., Ph.D.
21
22

23 BUREAU PERSONNEL:
24

25 Ariel O'Malley, Esquire, Board Counsel
26 Carole Clarke Smith, Esquire, Senior Counsel
27 David N. Smith, Esquire, Board Prosecution Liaison
28 Paul J. Jarabeck, Esquire, Board Prosecutor
29 Chris Stuckey, Board Administrator
30 Carolyn DeLaurentis, Deputy Chief Counsel, Prosecution
31 Division
32 Marc Farrell, Deputy Policy Director, Department of
33 State
34
35

36 ALSO PRESENT:
37

38 Jen Smeltz, Republican Executive Director, Senate
39 Consumer Protection & Professional Licensure
40 Committee
41 Jerry J. Livingston, Democratic Executive Director,
42 Senate Consumer Protection & Professional Licensure
43 Committee
44
45
46
47
48
49
50

1 ***

2 State Board of Optometry

3 February 4, 2021

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:30 a.m. the Board entered into Executive Session
7 with Ariel O'Malley, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations and
9 to receive the advice of Board Counsel. The Board
10 returned to open session at 10:30 a.m.]

11 ***

12 The regularly scheduled meeting of the State
13 Board of Optometry was held on Thursday, February 4,
14 2021. Luanne K. Chubb, O.D., F.A.A.O., Chairperson,
15 called the meeting to order at 10:30 a.m.

16 ***

17 Roll Call

18 [Chairperson Chubb requested Ms. Stuckey take a roll
19 call of Board members.]

20 ***

21 Introduction of Audience

22 [Chairperson Chubb requested the introduction of
23 audience members.]

24 ***

25 Approval of Agenda

1 CHAIRPERSON CHUBB:

2 At this time, I would like to have
3 approval of the agenda and entertain any
4 additions or modifications to the
5 agenda. Are there any additions or
6 modifications anyone would like to make?
7 Hearing none.

8 Could I have a motion to approve
9 the agenda?

10 DR. GODFREY:

11 Motion to approve.

12 CHAIRPERSON CHUBB:

13 Thank you Dr. Godfrey. Second?

14 DR. URBANSKI:

15 Second.

16 CHAIRPERSON CHUBB:

17 Thank you Dr. Urbanski. Any further
18 discussion? Hearing none. All those in
19 favor signify by saying aye. Opposed?
20 So moved.

21 [The motion carried unanimously.]

22 ***

23 Approval of Minutes

24 CHAIRPERSON CHUBB:

25 Moving on to approval of the minutes of

1 our last meeting on November 5, 2020.
2 Have all the Board members had an
3 opportunity to read through the minutes
4 and review them?

5 DR. URBANSKI:

6 I will make a motion to approve the
7 minutes from the November 5, 2020 Board
8 meeting.

9 CHAIRPERSON CHUBB:

10 Thank you Dr. Urbanski. Is there a
11 second?

12 DR. BOYER:

13 Second.

14 CHAIRPERSON CHUBB:

15 Thank you Dr. Boyer. Are there any
16 additions or modifications to the
17 minutes?

18 [The Board discussed corrections to the minutes.]

19 CHAIRPERSON CHUBB:

20 Any other modifications or additions?
21 Hearing none.

22 Can we motion to make that
23 adjustment to the minutes?

24 DR. URBANSKI:

25 I will accept that as formally amended

1 as the maker of the motion.

2 CHAIRPERSON CHUBB:

3 Could we have a second on that?

4 DR. BOYER:

5 I second.

6 CHAIRPERSON CHUBB:

7 Any further discussion? Hearing none.

8 All those in favor signify by saying

9 aye. Opposed? So moved.

10 [The motion carried unanimously.]

11 ***

12 Report of Board Prosecutor - No Report

13 ***

14 Report of Commissioner - No Report

15 ***

16 Report of Board Counsel

17 [Ariel O'Malley, Esquire, Board Counsel, addressed Act

18 116 regarding carryover of continuing education. She

19 stated carryover is not mandatory and is good for one

20 biennial period. She mentioned the only drawback is

21 during the audit of continuing education, where it

22 requires looking back at a much longer period of time

23 and requires more math regarding continuing education

24 documentation that had been submitted.

25 Ms. O'Malley noted the importance of considering

1 the impact on any other kind of scenario in the
2 future, like a requirement of auditing a certain
3 amount of people or having automation in the
4 Pennsylvania Licensing System (PALS) that turns into
5 auditing everyone.

6 Chairperson Chubb reported that the amount of
7 people the Board audits is consistent across all of
8 the boards in the state. She stated the number of
9 continuing education credits required every 2 years is
10 not burdensome and consistent with other states. She
11 noted the Board made exceptions for people with
12 medical issues and those overseas and does not see a
13 need for carryover at this point.

14 Dr. Urbanski mentioned not being able to utilize
15 the Association of Regulatory Boards of Optometry
16 (ARBO) continuing education (CE) TRACKER to increase
17 the number of licensees audited because it is not
18 compatible with PALS. He expressed concern with Act
19 116, where what is able to be carried over is not well
20 explained and whether a licensee is going to be able
21 to count continuing education twice. He requested
22 more information concerning whether it would require a
23 regulation by the Board.

24 Ms. O'Malley explained that the carryover would
25 only apply to the categories strictly within the

1 control of the Board. She noted it is not the number
2 being carried over but ensuring the math works out and
3 all of the different categories have been met. She
4 commented that it makes recordkeeping for the
5 licensees and the Board more challenging but provides
6 more leeway and flexibility. She recommended putting
7 it in the regulation if the Board decides to entertain
8 the carryover option.

9 Dr. Urbanski requested information regarding how
10 many people applied for extensions or medical
11 exemptions in the last renewal cycle because Act 116
12 would be serving those individuals.

13 Ms. Stuckey commented that she did not believe
14 the Board received any requests for the last biennial
15 period for any extensions or waivers of any kind.

16 Chairperson Chubb mentioned prior Board
17 discussion regarding changing the amount of online
18 continuing education (CE), which would somewhat make
19 this a moot point. She commented that the carryover
20 may be something the Board would want to address at
21 some point in the future.

22 Ms. O'Malley reported the piece of legislation
23 passed, but the Board has the authority to discuss it
24 at a later time. She suggested placing an article in
25 the next newsletter and requesting feedback.

1 Ms. O'Malley addressed the 2021-2022 Legislative
2 Report. She noted House Bill 171 was a reintroduction
3 of a bill similarly introduced in the past session
4 limiting restrictive covenants in health care
5 practitioner employment agreements, specifically with
6 geographical restrictions.

7 Ms. O'Malley noted House Bill 131, which would
8 require a respondent to appear in person for hearings
9 and allow for victim impact statements.

10 Ms. O'Malley addressed House Bill 325 that was
11 introduced last week permitting the Board to issue
12 advisory opinions.]

13

14 Report of Board Chair

15 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,
16 referred to Act 122 and Act 131 on the agenda. She
17 requested Dr. Wilcox provide a synopsis of the changes
18 from when she and Dr. Moon worked with the health
19 department to develop health screenings in the past
20 and the changes moving forward.

21 Dr. Wilcox stated Act 122 passed and is in
22 effect. She addressed her early involvement in 2002
23 in conjunction with the Department of Health, where a
24 pediatric taskforce was developed that included 11
25 optometrists and 2 pediatric ophthalmologists to

1 develop procedures for vision screening in schools.

2 Dr. Wilcox stated the procedures were revised in
3 2019 by Dr. Moon. She mentioned establishing a
4 process called guidelines for the vision screening
5 program for the Pennsylvanian school-age population.

6 Dr. Wilcox reported the bill uses guidelines
7 established by the American Academy of Pediatrics and
8 American Association for Pediatric Ophthalmology and
9 Strabismus and excludes any guidelines established by
10 the American Optometric Association or the American
11 Academy of Optometry.

12 Dr. Wilcox stated the legislation allows for
13 certification of vision screening by the use of a
14 vision screener or a primary eye care provider or
15 ophthalmologist or optometrist. She noted vision
16 screening is not a substitute for comprehensive
17 professional eye examination.

18 Dr. Wilcox mentioned the act describes vision
19 screening for children moving forward under the
20 Department of Education.

21 Dr. Godfrey questioned why optometry was not
22 involved.

23 Ms. O'Malley explained that there was no way to
24 know because the bill was listed as pediatric health
25 screening and amending the Pennsylvania school code.

1 Dr. Wilcox informed the Board that optometry is
2 not part of this legislation, noting a Health Advisory
3 Board will be established and consulting with the
4 American Academy of Pediatrics and American
5 Association for Pediatric Ophthalmology and Strabismus
6 for their guidelines.

7 Dr. Urbanski suggested Chairperson Chubb, perhaps
8 with the support of the Commissioner, ask for a seat
9 at the table or someone from the Board of Optometry to
10 be involved with the advisory panel.

11 Chairperson Chubb again requested Dr. Wilcox
12 provide information on Act 131 regarding the addition
13 of bioptic driving to visually impaired people in
14 Pennsylvania.

15 Dr. Wilcox addressed legislation for low-vision
16 practitioners, where drivers who have vision between
17 20/100 and 20/200 can become licensed as bioptic
18 drivers in Pennsylvania. She reported an individual's
19 acuity could be at least 20/50 using a bioptic
20 telescope.

21 Dr. Wilcox provided an overview of requirements,
22 including plotted visual fields, 120 degrees of
23 vision, and color vision testing. She noted a
24 driver's permit, 20 hours behind-the-wheel driver
25 training using a bioptic telescope, and then 45 hours

1 later with a licensed driver must be completed before
2 receiving a license.

3 Dr. Wilcox mentioned reaching out all across the
4 state and Veterans Affairs system to locate
5 established driving programs and instructors to make
6 it eligible for residents of Pennsylvania as well as
7 the VA population. She reported the low-vision team
8 at the VA and low-vision doctors are excited about the
9 legislation and happy for the visually impaired to be
10 able to drive.

11 Chairperson Chubb noted no highway driving, and
12 to achieve nighttime driving, an individual must drive
13 for one year during the daytime with no accidents.
14 She also noted no established driving training program
15 in Pennsylvania.

16 Dr. Wilcox mentioned West Virginia has a program
17 that takes individuals from out of state. She noted
18 the need for an instructor in Pennsylvania but
19 believed everyone would get certified because there
20 would be many patients.

21 Dr. Wilcox stated the only person she had been
22 able to identify was Dr. Paul Freeman, who was behind
23 much of the writing in the bill. She commented that
24 Dr. Freeman lives in western Pennsylvania but works
25 with Chuck Huss, a driver rehabilitation specialist in

1 West Virginia.]

2

3 Appointment - Carolyn A. DeLaurentis, Esquire, Deputy
4 Chief Counsel, Prosecution Division Presentation

5 [Carolyn A. DeLaurentis, Esquire, Deputy Chief

6 Counsel, Prosecution Division, provided highlights of
7 the Prosecution Division's work during the past year.

8 She commended staff for all of their hard work to make
9 telework successful. She noted all decisions were
10 made thoughtfully and with the safety of all in mind.

11 Ms. DeLaurentis stated the Board prosecutors made
12 every effort to monitor the restrictions, waivers,
13 policies, and new procedures specific to the practice
14 in each profession regarding challenges imposed on
15 licensees by the COVID-19 pandemic.

16 Ms. DeLaurentis noted the Pennsylvania Licensing
17 System (PALS) to be a lifeline. She stated the Bureau
18 of Enforcement and Investigation (BEI) worked closely
19 with prosecution to continue investigations and figure
20 out the best methods during statewide shutdowns and
21 stay-at-home orders. She also noted the Professional
22 Compliance Office continued opening cases and
23 processing files, and legal assistants had been
24 working a hybrid schedule to ensure mailings and
25 filings were completed.

1 Ms. DeLaurentis commented that the Board, Board
2 staff, and counsel all have adapted to virtual Board
3 meetings and prosecution would continue to work with
4 everyone to ensure efficient and effective
5 presentation and resolution of cases. She mentioned
6 2020 was a year filled with challenges, but the
7 Prosecution Division led by the incredible senior
8 staff rose to the challenge and would continue to do
9 so.

10 Ms. DeLaurentis informed the Board that 46 cases
11 were opened in 2020 and 32 in 2019 with 40 files
12 closed in 2020 for the Board of Optometry. She noted
13 33 open cases as of January 1, 2021. She thanked
14 Timothy Smith for his assistance providing information
15 for 2020.

16 Ms. DeLaurentis addressed enforcement actions
17 with 4 total cases that resulted in discipline in 2020
18 for the Board of Optometry. She reported 4 warning
19 letters, 1 fine, 1 suspension, 4 revocations or
20 voluntary surrenders, and 2 mandatory continuing
21 education actions in 2020.

22 Ms. DeLaurentis discussed 2020 overall
23 prosecution as a whole. She noted 44 immediate
24 temporary suspensions in 2020. She mentioned 6 of the
25 1,223 opened COVID-19 cases are for the Board of

1 Optometry in 2020. She reported the total number of
2 open cases as of January 1, 2021, was 12,250 and the
3 total number of cases opened overall in 2020 was
4 13,394, which is down from 2019 at 16,295. She noted
5 13,274 files were closed in 2020.

6 She noted most general COVID complaints involved
7 alleged violations of the Governor's orders, Secretary
8 of Health orders, CDC guidelines, Board guidelines,
9 masking requirements, and social distancing
10 requirements.]

11 ***

12 Report of Regulatory Counsel

13 [Ariel O'Malley, Esquire, Board Counsel, informed the
14 Board that drafted regulations were currently under
15 internal review. She noted working hard on making any
16 additional edits to general revisions and hoped to
17 send those onto the Independent Regulatory Review
18 Commission (IRRC) agenda for review.

19 Ms. O'Malley requested scheduling a Regulatory
20 Committee meeting at the end of the May Board meeting
21 to discuss any additional regulatory packages. She
22 mentioned prior discussion regarding additional
23 changes to the continuing education provision.]

24 ***

25 Report of Board Administrator - No Report

1 ***

2 New Business - Pharmaceutical Committee

3 CHAIRPERSON CHUBB:

4 The Pharmaceutical Committee proposed
5 additions to the formulary. Did
6 everyone have a chance to read them?

7 Do I have a motion to approve these
8 proposed additions to the formulary?

9 DR. WILCOX:

10 I move.

11 CHAIRPERSON CHUBB:

12 Thank you Dr. Wilcox. Is there a
13 second?

14 DR. GODFREY:

15 Second.

16 CHAIRPERSON CHUBB:

17 Thank you Dr. Godfrey. Discussion?

18 [The Board discussed the motion.]

19 CHAIRPERSON CHUBB:

20 Any other comments, additions that we
21 would want to consider for the future?
22 Hearing none.

23 Can we vote to approve the
24 additions of these medications to our
25 formulary? All in favor? Any opposed?

1 [The motion carried unanimously.]

2

3 New Business - Association of Regulatory Boards of
4 Optometry Annual Meeting

5 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson, noted
6 the Association of Regulatory Boards of Optometry
7 Annual Meeting June 20-22, 2021, in Anaheim, CA, in
8 conjunction with the American Optometric Association
9 Meeting.]

10

11 CHAIRPERSON CHUBB:

12 I would like to express interest in
13 attending, if someone else would like to
14 attend as well or if something occurs
15 and I cannot, go in my place, but to
16 have our Board involved in the national
17 meeting, whether virtual or in-person,
18 and we would consider a motion to
19 approve that.

20 DR. WILCOX:

21 I move to approve that you attend if you
22 want to and the cochair if the state
23 opens up travel.

24 CHAIRPERSON CHUBB:

25 Thank you. Is there a second to the

1 motion?

2 DR. URBANSKI:

3 Second.

4 CHAIRPERSON CHUBB:

5 Thank you Dr. Urbanski. All in favor?

6 Opposed? Hearing none.

7 [The motion carried unanimously.]

8 ***

9 Adjournment

10 CHAIRPERSON CHUBB:

11 I would consider today's meeting

12 adjourned.

13 ***

14 [There being no further business, the State Board of
15 Optometry Meeting adjourned at 11:30 a.m.]

16 ***

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Optometry meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Optometry meeting.



Kelly Gallick,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF OPTOMETRY
REFERENCE INDEX

February 4, 2021

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

| TIME | AGENDA |
|-------|-------------------------------------------------------------------------------------------------------------|
| 9:30 | Executive Session |
| 10:30 | Return to Open Session |
| 10:31 | Official Call to Order |
| 10:32 | Roll Call/Introduction of Audience |
| 10:33 | Approval of Minutes |
| 10:36 | Report of Board Counsel |
| 10:54 | Report of Board Chair |
| 10:58 | Report of Regulatory Counsel |
| 11:10 | Appointment- Carolyn A. DeLaurentis, Esquire, Deputy Chief Counsel, Prosecution Division Presentation |
| 11:22 | Report of Regulatory Counsel |
| 11:24 | Miscellaneous |
| 11:30 | Adjournment |