

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

TIME: 9:01 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
2601 North Third Street
Harrisburg, Pennsylvania 17110

May 9, 2019

State Board of Optometry
May 9, 2019

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

BOARD MEMBERS:

- Carl J. Urbanski, O.D., Chairperson
- Kalonji Johnson, Acting Commissioner of Professional and Occupational Affairs
- Luanne Chubb, O.D., F.A.A.O., Vice Chair
- Kimberly F. Boyer, O.D., Secretary
- Pamela Barnhart, Consumer Protection Member - Absent
- Jeffrey Becker, O.D.
- John A. Godfrey, O.D.
- Davis C. Haire, O.D. - Absent
- Perry C. Umlauf, O.D.

BUREAU PERSONNEL:

- Jacqueline A. Wolfgang, Esquire, Board Counsel
- Dean Picarella, Esquire, Board Counsel
- David Smith, Esquire, Board Prosecution Liaison
- Chris Stuckey, on behalf of Elizabeth Wecker, Board Administrator

ALSO PRESENT:

- Triet Tran, PA Department of State, Fiscal Management
- Kim Adams, Chief of Fiscal Management, Bureau of Finance and Operations, PA Department of State
- Shannon Boop, PA Department of State, Fiscal Management
- Marc Farrell, Deputy Policy Director, PA Department of State
- Riley Cagle, Wanner Associates
- Arion Claggett, Director of Operations, Bureau of Professional and Occupational Affairs
- Brad Shopp, Feinberg Shopp Associates

1 ***

2 State Board of Optometry

3 May 9, 2019

4 ***

5 The regularly scheduled meeting of the State Board
6 of Optometry was held on Thursday, May 9, 2019. Carl
7 J. Urbanski, O.D., Chairperson, called the meeting to
8 order at 9:01 a.m. Kalonji Johnson was not present at
9 the commencement of the meeting.

10 ***

11 Evacuation Announcement

12 [Chris Stuckey, on behalf of Elizabeth Wecker, Board
13 Administrator, reviewed the emergency evacuation
14 procedures for One Penn Center.]

15 ***

16 Roll Call/Introduction of Guests

17 [Chairperson Urbanski requested roll call be taken.
18 Audience members introduced themselves for the
19 record.]

20 ***

21 [Kalonji Johnson, Acting Commissioner of Professional
22 and Occupational Affairs, entered the meeting at 9:02
23 a.m.]

24 ***

25 Approval of Minutes

1 CHAIRPERSON URBANSKI:

2 Has everyone had an opportunity to review
3 the Minutes from the February 7, 2019
4 meeting? Are there any additions,
5 corrections or deletions to be presented
6 at this time?

7 DR. BECKER:

8 Motion to accept.

9 CHAIRPERSON URBANSKI:

10 Thank you, Dr. Becker. Second, please?

11 DR. GODFREY:

12 Second.

13 CHAIRPERSON URBANSKI:

14 Any discussion on the motion to accept
15 the Minutes from the February 7, 2019
16 meeting?

17 Hearing none, all those in favor
18 signify by saying aye? Opposed? Any
19 abstentions?

20 [The motion carried unanimously.]

21 ***

22 Report of Board Prosecutor - No Report

23 ***

24 Report of Commissioner

25 [Kalonji Johnson, Acting Commissioner of Professional

1 and Occupational Affairs, introduced himself and
2 provided a history of his professional background.

3 He introduced Arion Claggett, Director of
4 Operations, Marc Farrell, Deputy Policy Director. He
5 also noted that Stephen Latanishen is the new Director
6 of Intergovernmental Affairs.

7 Acting Commissioner Johnson noted that Board
8 initiatives will be a priority moving forward and he
9 will work to make sure Board members have a "voice
10 that's heard outside of this building".]

11 ***

12 Report of Board Counsel

13 Miscellaneous

14 [Jacqueline Wolfgang, Esquire, Board Counsel, referred
15 Board members to House Bill No. 15 for further review
16 of who can provide telemedicine and clarification of
17 insurance company reimbursement for telemedicine.

18 She referred to language on page eight of the bill
19 which specifically addresses Boards governing
20 healthcare practitioners. Ms. Wolfgang noted the
21 language specifically prohibits Boards from
22 establishing a separate standard of care for
23 telemedicine and instead the standard of care
24 applicable to an in-person encounter would apply to
25 telemedicine.

1 Board members had questions and discussion
2 regarding other language in the bill.]

3 ***

4 Appointment

5 BFO Annual Budget Review

6 [Kim Adams, Chief of Fiscal Management, Bureau of
7 Finance and Operations, Triet Tran and Shannon Boop,
8 Fiscal Management, presented before the Board for
9 discussion of the State Board of Optometry Annual
10 Budget Review.]

11 ***

12 [David Smith, Esquire, Board Prosecution Liaison,
13 exited the meeting at 9:17 a.m.]

14 ***

15 [BFO Annual Budget Review (Continued)

16 [There was discussion with regard to licensee counts,
17 sources of revenue, expenditures, financial status,
18 licensure fees and the OE tracker system. Board
19 members had questions and comments.

20 Mr. Tran referred members to the Budget Review for
21 further discussion of fund balances. He noted that
22 any unused monies in the budget will go back into the
23 Board's account. Mr. Tran turned to a comparison
24 chart for discussion of expenses from fiscal year 2006
25 forward.]

1 ***

2 Report of Board Counsel (Continued)

3 Miscellaneous

4 [Jacqueline Wolfgang, Esquire, Board Counsel, referred
5 Board members to Senate Bill No. 391 which modernizes
6 the Optometric Practice and Licensure Act. Ms.

7 Wolfgang compared this bill to the one introduced last
8 session and asked members to review that information.

9 She stated the Board would have authority to
10 approve drugs instead of DOH, and further stated that
11 the previous bill was unclear as to who would be
12 approving the process. The bill also allows
13 prescription of certain Schedule II drugs and modifies
14 the injection language. Ms. Wolfgang asked that
15 members review the bill.

16 Ms. Wolfgang also asked that members review the
17 FDA Approval/Status drug list enclosed in the agenda.]

18 ***

19 Report of Board Chair

20 DOH Request for Approval of Vyzulta®

21 [Carl J. Urbanski, O.D., Chairperson, noted a letter
22 was submitted to Secretary Levine on April 2, 2019 for
23 approval of Vyzulta® for the treatment of glaucoma
24 which is similar to Latanoprost that is currently
25 approved.]

1 Chairperson commented that in the past calendar
2 year 51 courses from non pre-approved providers were
3 approved. Ms. Wolfgang noted that the new regs do
4 allow for a process wherein the Board would have the
5 ability to preapprove providers on a biannual basis.]

6 ***

7 Joint Press Releases

8 [Chairperson Urbanski stated a contact lens press
9 release, as was done in the past with the Department
10 of Health, has been drafted and sent on to the Public
11 Relations office for review. Another press release
12 pertaining to refractive technology has also been
13 drafted and is under legal review.]

14 ***

15 Oxervate® (cenegermin-bkbj) Ophthalmic Solution

16 [Chairperson Urbanski noted that Oxervate® was
17 approved for use by optometrists and published in the
18 Pennsylvania Bulletin on April 20, 2019.]

19 ***

20 FTC Seeks Additional Public Comment on Proposed
21 Changes to the Contact Lens Rule

22 [Chairperson Urbanski stated the Contact Lens Rule
23 originally passed several years ago is being reviewed
24 by the FTC. He noted the FTC proposed multiple
25 changes to the law which would place additional burden

1 on licensees regarding the release of the contact lens
2 prescription and requiring the doctor to have the
3 patient sign a form that they received the
4 prescription which would need to be kept on file for
5 seven years.

6 Comments were received by the FTC regarding the
7 proposed rule so they've made some changes and are now
8 seeking comment on those changes. One area the
9 Commission is requesting comment on is the requirement
10 that a prescription be automatically provided to the
11 patient upon completion of a contact lens fitting, and
12 also that an additional copy of the patient's
13 prescription be provided to a designated agent of the
14 patient within 40 business hours of receipt of the
15 request.

16 He discussed further changes to the proposed rule
17 regarding prescription alterations and a mechanism
18 that would allow patients to present their
19 prescriptions directly to the seller.

20 Chairperson Urbanski stated that for the period of
21 2011 to 2016, the FTC received complaints from 309
22 consumers out of approximately 200 million contact
23 lens prescription issues, half of which were unrelated
24 to any violation of law.

25 He noted a change was proposed by the FTC in 2016

1 which would mandate every one of more than 50,000 eye
2 doctors in the U.S. to obtain from each of the 45
3 million American contact lens-wearing patients, a
4 signed document that they had received their
5 prescription.

6 Chairperson Urbanski noted that it has been
7 estimated by the FTC that a new mandate would cost the
8 industry \$10.5 million annually or \$18,000 per doctor
9 per year.

10 The Chairperson suggested that if this Board would
11 like to offer comment, that it be done in a timely
12 manner before the deadline.]

13 ***

14 Report of Regulatory Counsel

15 [Jacqueline Wolfgang, Esquire, Board Counsel, referred
16 Board members to the Status Report attached to the
17 agenda for further review. She indicated there were
18 no public comments received on proposed regulations
19 but noted that IRRC did comment on CE matters and the
20 OE Tracker which would be reviewed by the regulatory
21 committee for further discussion at the next meeting.

22 She referred to the Status Report for discussion
23 of the child abuse reporting requirements regulations
24 which are still pending. Ms. Wolfgang noted the
25 volunteer license package is still pending for

1 regulatory review.]

2 ***

3 Report of Board Administrator

4 [Chris Stuckey, on behalf of Elizabeth Wecker, Board
5 Administrator, referred members to the letter sent to
6 Dr. Gerald Olson concerning his membership on the
7 Board. It was noted that Dr. Olson is no longer on
8 the Board and no Board member appointments are pending
9 at this time.

10 Ms. Stuckey referred to a letter sent to Joyce
11 Urbeck, ACOE Director, for further discussion.

12 Ms. Stuckey reminded Board members of the deadline
13 for financial disclosure forms. She noted three areas
14 of mandatory training include security awareness,
15 sexual harassment prevention and workplace violence
16 prevention.]

17 ***

18 Old Business - None

19 ***

20 New Business

21 [Dean Picarella, Esquire, introduced himself as the
22 Board's new Counsel. He provided a brief history of
23 his educational and professional background.]

24 ***

25 Miscellaneous

1 Board Meeting Dates

2 [Chairperson Urbanski referred Board members to the
3 attached Proposed 2020 Meeting Dates for review.]

4 ***

5 Other

6 [Chairperson Urbanski thanked members for serving on
7 the Probable Cause Committee, Regulations Committee
8 and Continuing Education Committee.]

9 ***

10 Newsletter Update (Dr. Boyer)

11 [Kimberly F. Boyer, O.D., Secretary, noted the
12 newsletter clarifies the opioid continuing education
13 requirement under ABC-MAP.

14 Ms. Wolfgang recommended that the Board put
15 together the opioid continuing education in two
16 different areas. She further recommended that
17 licensees certify on their renewal application that
18 they have completed the appropriate CE, and she would
19 provide language if requested.

20 With regard to the complaint process, Ms. Wolfgang
21 suggested that under Section 7(f) of the Act, the law
22 does have mandatory reporting requirements which
23 should be clarified in that section, and that she
24 would provide that language if requested.

25 Ms. Wolfgang suggested that with regard to

1 continuing education, a paragraph should be added that
2 the Board has current proposed regulations that are
3 pending.

4 Chairperson Urbanski noted that from a practicing
5 standpoint, he has received questions regarding how
6 long patient records need to be preserved and whether
7 electronic signatures are adequate as appropriate
8 signatures.

9 Dr. Chubb noted she frequently receives calls
10 about what's mandatory and what's not mandatory with
11 regard to reporting decreased vision and lost vision
12 as it pertains to driving. Ms. Wolfgang noted she
13 would be glad to review a newsletter article compiled
14 by the Board with regard to the legal standards of the
15 matter.

16 Members discussed at what point to report visually
17 impaired drivers to PennDOT. Dr. Chubb noted that
18 there is a gray area in the language regarding the
19 matter. Ms. Wolfgang, with the Board's approval and
20 in coordination with PennDOT, will research the law
21 and outline what that law is for the next newsletter.

22 Marc Farrell, Deputy Policy Director, along with Dr.
23 Boyer and the Board Administrator would work together
24 to get the article drafted.

25 Dr. Becker noted that, per information available

1 on PennDOT's website, the doctor not reporting can be
2 held liable.]

3 ***

4 ARBO Meeting Update and Survey (Dr. Chubb)

5 [Luanne Chubb, O.D., explained to new members the
6 purpose of the American Regulatory Board of Optometry
7 (ARBO). She stated it's a combination of all the
8 state boards, including New Zealand, Australia and
9 Canada that meets once a year for a two-and-a-half-day
10 meeting for discussion of the optometry profession.

11 Chairperson Urbanski commented that the Board
12 completes an annual survey from ARBO which asks a
13 series of questions regarding any issues, complaints
14 and other matters.

15 He further commented that executive directors and
16 board administrators are now welcome to attend
17 meetings and that the bylaws have been changed to
18 allow an executive director or board administrator to
19 sit on the ARBO Board of Directors.

20 Acting Commissioner Johnson supported sending two
21 Board members to future ARBO meetings.]

22 ***

23 Public Comment Period - None

24 ***

25 Adjournment

1 CHAIRPERSON URBANSKI:

2 Is there a motion for adjournment?

3 DR. UMLAUF:

4 Motion.

5 CHAIRPERSON URBANSKI:

6 Dr. Umlauf. Second?

7 DR. GODFREY:

8 Second.

9 CHAIRPERSON URBANSKI:

10 Dr. Godfrey. Thank you. All those in
11 favor? Any opposed? Any abstentions?

12 [The motion carried unanimously.]

13 ***

14 [There being no further business, the State Board of
15 Optometry Meeting adjourned at 10:20 a.m.]

16 ***

17 [Chairperson Urbanski noted that a regulatory
18 committee meeting and drug review committee meeting
19 would be held following the commencement of this
20 meeting.]

21

22

23

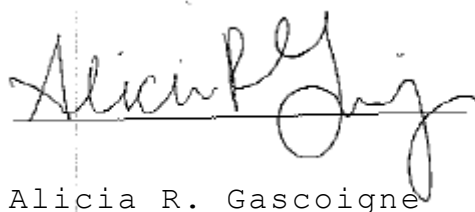
24

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
26

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.



Alicia R. Gascoigne
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF OPTOMETRY
REFERENCE INDEX
May 9, 2019

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
9:01	Official Call to Order
9:01	Audience Members Introduced
9:02	Adoption of Minutes
9:04	Report of Commissioner
9:06	Report of Board Counsel
9:15	Appointment - BFO Budget Review
9:29	Report of Board Counsel (Continued)
9:32	Report of Board Chair
9:43	Report of Regulatory Counsel
9:45	Report of Board Administrator
9:51	New Business
9:52	Miscellaneous
10:20	Adjournment