

Vermont Secretary of State
Office of Professional Regulation
BOARD OF OPTOMETRY
National Life Building, North, FL 2, Montpelier, Vermont
Approved Minutes
Meeting of March 18, 2009

1. The meeting was called to order at 8:35 A.M.

Members present: Jon Eriksson, O.D. Chairman; Lois Shiozawa, O.D.; and Daniel DaPolito, O.D. Absent: Joyce Zampieri.

OPR Staff present: Larry S. Novins, Board Counsel; Carla Preston, Unit Administrator and Kristy Kemp, Administrative Assistant.

Others present: Brian Mawhinney, OD; Tim Johnson, OD; and Karena Shippe, OD.

2. The Chair called for approval of the Minutes of the November 19th meeting. Dr. DaPolito made a motion, seconded by Dr. Shiozawa, to approve the Minutes of the November 19, 2008 meeting as presented. Motion passed unanimously.
3. Reports

Brian Mawhinney, OD, Timothy Johnson, OD and Karena Shippe, OD members of the Vermont Optometric Association (VOA) attended the meeting to discuss amending the scope of practice for the profession and increasing licensing standards/requirements. Dr. Johnson acknowledged that Office bill, H.86 included some statutory changes to the profession's requirements. He said they believe it would be a good time to consider increasing the minimum standards for licensure and expanding the scope of practice since it is already going before the legislature. He explained that they wanted to ensure that persons coming into Vermont would be required to have met certain standards. He said they would be willing to request an amendment to H.86 under the Board's section. They submitted a proposed amendment to Section 1718, Licensure by Endorsement, for Board consideration which stated, "The Board may issue a license to an applicant who is currently licensed at the highest level of prescriptive authority authorized and currently in good standing..." They suggested offering tiered licenses to reflect specific qualifications so that currently licensed practitioners would not have to take additional coursework or examinations to continue working. They said that if the Board was not ready to support the amendment the VOA would not pursue it at this time. In addition, they wanted to discuss eliminating the requirement for a formulary.

The matter was discussed at length. The Board indicated that as optometrists they agreed that the standards should be high. They noted that all practitioners are being trained at the highest level. However, in its regulatory role of protecting the public, legal concerns, and setting minimum standards that would be different for currently practicing optometrists than for those applying from other states, the Board was not ready to support the amendment as proposed.

The Board noted that all Vermont resident licensees did not attend the refresher course offered in 2004 and therefore are not eligible to treat glaucoma patients independently. Such a course would have to exist if all licensees were required to meet this standard including those applying to Vermont by endorsement. The law protects the public by making it unprofessional conduct for licensees to perform services beyond their training or knowledge.

Dr. Johnson said Maine, New Hampshire and Massachusetts want that minimum requirement and since Vermont is in the middle there could be problems regarding equivalent standards. They did not know for sure if those states were requiring their current licensees to meet the higher standard. Some states are setting a future date at which time all licensees must have obtained the higher level of training. Eventually, persons who have not been trained at the highest level would retire. The VOA wishes to be proactive versus reactive in this matter.

Attorney Novins said that from a legal point of view the proposed amendment to Section 1718 would not be fair as it treats persons coming in to the state differently than those who are currently licensed. He said he is concerned about quick legislative changes that occur without vetting the issue further and identifying the problem.

Attorney Novins said if standards are to be raised they must be raised for all licensees, those applying on the basis of examination and by endorsement. The Board could raise the minimum standards for all applicants to protect the public by amending the examination or eligibility section. The endorsement section would not need to be amended since the examination section sets the minimum standards.

The Board realizes that there are practitioners who continue to practice at the minimum level and would not seek additional training. The Board noted that there is a national move to standardize the requirements and was very supportive of increasing the standards for all applicants. The effective date of the higher standards could be set in the future. Currently licensed practitioners would need to be grandfathered but must practice at their level of training and expertise.

The Board and the VOA both agreed that raising the standards over time is good and will work together to ensure that it is fair and equal. The VOA is welcome to also prepare and submit draft legislation for consideration.

The VOA agreed to submit examples of other states' requirements for minimum qualifications at the higher standard.

The Board indicated that it fully agreed with the elimination of the formulary. Attorney Novins agreed to discuss this issue with the Director and will report back to the Board. Proposed legislative changes would need to be finalized at the Board's September meeting.

4. Hearings/Stipulations - None
5. Legislation/Rules

Attorney Novins updated the Board as to the status of H.86. Additional legislative issues were discussed above.

6. Licensing

- a. The applicants listed below are applying on the basis of endorsement from Florida and are also licensed in Minnesota. The requirements of those states were reviewed to determine which endorsements the applicants met. Based on the Board's findings, the applicants were approved for licensure with endorsements in DPA, TPA and Glaucoma.

Rafael Borges, OD

Jennifer Borges, OD

6. Licensing - continued

- b. The Board reviewed the information from Dr. Robert C. Bauman concerning his co-management of five new glaucoma patients. Dr. Bauman submitted the names of six patients, five of whom were acceptable. Based on the information submitted, the Board found that Dr. Bauman had met the requirements and may treat glaucoma patients independently.
- c. The Board reviewed the request from Andrew Ishak, O.D. to determine whether he met the requirements to treat glaucoma patients based on his Maryland license. He also requested approval for continuing education credits. The Board reviewed Maryland's current laws and rules to determine if the requirements were substantially equivalent to Vermont's requirements. The Board found that the State of Maryland does not allow for independent treatment of glaucoma patients. If Dr. Ishak received the proper training he would need to co-manage five new glaucoma patients. According to OPR's records, Dr. Ishak did not take the Vermont course offered in 2004. Dr. Ishak will be asked to provide evidence of his training regarding the treatment of glaucoma patients so that the Board can determine whether it is substantially equal to Vermont's requirements.

The Board reviewed the information Dr. Ishak submitted concerning his request for 30 hours of continuing education credits based on his involvement in the design of an ophthalmic filter to reduce risk of AMD. Although the Board can appreciate the time and effort in such an accomplishment, credits cannot be awarded to presenters. In addition, such matters are not approved by The Council on Optometric Practitioner Education (COPE). Based on the information submitted, the Board voted to deny Dr. Ishak's request for approval of 30 hours of continuing education credit.

7. Newsletter topics

Dr. Eriksson will cover the results of the audit for co-management and treating glaucoma in his Chairman's report. Topics to be covered would include the results of requests for additional drugs on the formulary, proposed legislative changes, a reminder for licensees to contact the Secretary of State's Office versus board members independently, OPR's new licensing system (eLicense), statistics, etc. The Board will also encourage licensees to voluntarily send in their evidence of having treated five newly diagnosed glaucoma patients in collaboration with an ophthalmologist prior to renewal time.

8. Correspondence

- a. The Board reviewed the February 17, 2009 Email from Diane Fulton regarding Visual Evoked Potential CPT. The Board indicated that the scope of practice does not prohibit this test. Practitioners must possess the proper training and knowledge to perform the test. Insurance matters do not fall within the Board's jurisdiction.
- b. The Board reviewed the March 16, 2009 Email from Dr. Stephen Feltus requesting clarification of Latisse (Allergan bimatoprost). The Board concluded that because this drug is a topical agent it is automatically a permitted drug which can be prescribed. The drug is used in the treatment of hypotrichosis. The use of Latisse does not require separate approval.

9. Association of Regulatory Boards of Optometry, Inc. - Correspondence

- a. The Board reviewed the information regarding the 2009 Annual Meeting.
- b. The Board reviewed and noted miscellaneous correspondence from ARBO.

10. American Optometric Association - Correspondence
11. National Board of Examiners in Optometry - Correspondence
12. Public Comment
13. Other Business Introduced by the Board

The Board discussed whether there was a need to differentiate and identify licensees who completed the glaucoma training (March 2005) and are eligible to begin co-management of five new glaucoma patients from those who had completed those requirements and had obtained Board approval to treat glaucoma patients independently. The Board noted that it would be important to track the names of the licensees who had completed the requirements noting that it should include licensees who graduated in 2003 and are exempted from those requirements. The Board believed that distinguishing the two on the Web site for the benefit of the public would not be necessary. Ms. Preston will consult with other management personnel to determine how best to track that information in eLicense.

14. The next meeting of the Board is scheduled for Wednesday, June 3, 2009 at 8:30 AM. The following meeting in 2009 is scheduled for September 16th.
15. There being no further business the meeting was adjourned at 11:30 A.M.

Respectfully submitted,

Carla Preston
Unit Administrator
Office of Professional Regulation