

NEVADA STATE BOARD OF OPTOMETRY



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MINUTES OF A REGULAR MEETING OF THE NEVADA STATE BOARD OF OPTOMETRY TELEPHONIC MEETING Tuesday, December 5, 2017, at 12:00 noon

***INDICATES ACTION TAKEN.**

The telephone conference commenced at 12:03 p.m.

1. Public Comment - Dr. Havins offered comments regarding A.B. 474 of the 2017 Legislative Session, which make significant changes to the requirements to prescribe controlled substances. He offered a PowerPoint presentation to help educate optometrists of the new requirements and expressed hopes that it be widely distributed. He offered the Board his permission to use his materials in any way it seems appropriate. There was no other public comment.
- *2. Dr. Young called the meeting to order, and noted the presence of Drs. Smith and Austin, as well as Public Member Ms. Settelmeyer. Also present were Candace Herling, Lea Cartwright, Dr. Weldon Havins, Dr. Kevin Wogalter and Caren C. Jenkins, Executive Director.
- *3. Consideration of minutes of September 22, 2017 Board meeting. Dr. Austin recommended changing a typo on Item No. 7 to indicate that the TMOD exam must be taken after 1993. MOTION by Dr. Smith, SECONDED by Mrs. Settelmeyer to approve the minutes as corrected. Dr. Austin abstained from voting, as he was not present at the meeting. Motion passed. Unanimous among those voting.
- *4. Board Structure - The Board welcomed the Governor's appointment of Dr. Jeffrey Austin to succeed Dr. William Harvey. A discussion ensued regarding Ms. Settelmeyer's service to the Board, and that the Governor had not yet announced whether she or another person would be appointed as Public Member.

Thereafter, Dr Smith moved, and Ms. Settlemeyer seconded that Dr. Chen Young be elected President of the Board. Motion passed unanimously. Dr. Austin then moved and Ms. Settlemeyer seconded that Dr. Mariah Smith be elected Vice-Chair of the Board. Motion passed unanimously. Then Dr. Smith moved and Dr. Young seconded that Dr. Jeff Austin be elected Financial Officer of the Board. Motion passed unanimously.

Authorized signers on the Board's bank accounts shall be President Chen Young, OD, Vice-President Mariah Smith, OD, Financial Officer Jeffrey Austin, OD and Executive Director Caren Jenkins. One signature is required for expenditures under \$5,000.00. Sums expended over that amount must either be pre-approved as part of the Board's annual budget or the check must have two authorized signers.

*5. Consideration of just and sufficient cause to hear Complaints.

- a. Complaint 18-01- upon discussion of the allegations, the Board discussed that the complaint centered on a customer service and staff issue rather than a violation of statute. Motion by Dr. Smith, seconded by Dr. Austin that just and sufficient cause does not exist to move the complaint to a hearing, and dismissal is warranted. Unanimous vote to dismiss.
- b. Complaint 18-02 - the Board considered the complaint and the licensee's response, and discussed that the licensee's communication with the patient could have been improved but there did not seem to be any statute or regulation implicated. Motion by Dr. Smith, seconded by Dr. Austin that just and sufficient cause does not exist to move the complaint to a hearing, and dismissal is warranted. Unanimous vote in favor of the motion.
- c. Complaint 18-03 - Upon review of the complaint, with no response provided by the licensee, the Board expressed a desire to have staff investigate the allegations further and hear evidence on the matter. Dr. Smith moved and Dr. Austin seconded that just and sufficient cause exists to move the matter to an evidentiary hearing regarding the alleged violations of statute and regulation in the Complaint. Unanimous.
- d. Complaint 18-04 - Upon review of the complaint, with no response provided by the licensee, the Board expressed a desire to have staff investigate the allegations further and hear evidence on the matter. Dr. Smith moved and Ms. Settlemeyer seconded that just and sufficient cause exists to move the matter to an evidentiary hearing regarding the alleged violations of statute and regulation in the Complaint. Unanimous.
- e. Complaint 18-05 - Upon discussion of the allegations, the Board discussed that the complaint centered on a customer service and staff issue rather than a violation of statute. Motion by Dr. Smith, seconded by Dr. Austin that just and sufficient cause does not exist to move the complaint to a hearing, and dismissal is warranted. Unanimous vote to dismiss.

- f. Complaint 18-06 - Upon discussion of the allegations, the Board discussed that the complaint centered on a communications issue rather than a violation of statute. Motion by Dr. Austin, seconded by Dr. Smith that just and sufficient cause does not exist to move the complaint to a hearing, and dismissal is warranted. Unanimous vote to dismiss.
- g. Complaint 18-07 - Upon review of the complaint, the Board expressed a desire to have staff investigate the allegations further and hear evidence on the matter. Dr. Smith moved and Ms. Settelmeyer seconded that just and sufficient cause exists to move the matter to an evidentiary hearing regarding the alleged violations of statute and regulation in the Complaint. Unanimous.
- h. Complaint 18-08 - upon discussion of the allegations, the Board discussed that the complaint did not allege sufficient facts to result in a violation of statute. Motion by Dr. Austin, seconded by Dr. Smith that just and sufficient cause does not exist to move the complaint to a hearing, and dismissal is warranted. Unanimous vote to dismiss.
- i. Complaint 18-09 - upon discussion of the allegations, the Board discussed that the complaint did not allege sufficient facts to result in a violation of statute. Motion by Dr. Austin, seconded by Ms. Settelmeyer that just and sufficient cause does not exist to move the complaint to a hearing, and dismissal is warranted. Unanimous vote to dismiss.
- j. Complaint 18-10 - upon discussion of the allegations, the Board discussed that the complaint did not allege sufficient facts to result in a violation of statute. Motion by Dr. Austin, seconded by Dr. Smith that just and sufficient cause does not exist to move the complaint to a hearing, and dismissal is warranted. Unanimous vote to dismiss.

*6. Executive Director's Report

A. Financial Report/Audit Report – Ms. Jenkins directed the Board's attention to the bank statements, and recommended that the Board purchase a bond on the Executive Director that would cover one year of Board operations in the amount of \$200,000. A discussion ensued, and Dr. Austin moved and Ms. Settelmeyer seconded that the Board should purchase a \$200,000 bond, and that the Board's annual budget should be adjusted to include that expenditure. Unanimous. Ms. Jenkins then presented an oral report of the renewals and licensee numbers to date, and reported that the one-year, 2017 audit of the agency is underway with Steele CPAs.

B. Website and Renewals Report – see above.

C. Other reports to the Board – none.

7. Subcommittee on Statute and Regulation Review report (Dr. Smith, Chair) – Dr. Smith asked the members to review the materials she presented for discussion and action at the Board's next meeting.

*8. Request to extend TMOD timeline for endorsement applicant - Ms. Jenkins introduced Dr. Wogalter who explained his circumstance and asked the Board to address his TMOD date, which preceded the statutory requirement for testing. He claimed that re-taking the TMOD exam presented a hardship and asked the Board to allow his application with his current scores. Motion to deny Dr. Wogalter's request by Dr. Smith, seconded by Dr. Austin, citing that moving the "line" for one licensee would create problems. Ayes: Smith, Austin, Young. Nays: Settlemeyer. Motion passed. Dr. Wogalter requested that the Board attempt to change the statute in the future.

9. Announcements and requests for future Board consideration – none.

10. Public Comment – Dr. Young thanked the Board for its trust and faith in his leadership of the Board in the coming year, welcomed Dr. Austin as a member, and thanked Ms. Settlemeyer for her dedication to the Board over the past 9 years.

*11. Adjournment moved by Dr. Smith, seconded by Dr. Austin. Unanimous. Next meeting February 20, 2018 at 9:00 am in Reno.

***INDICATES ACTION TAKEN.**

Board Approval on February 20, 2018



Caren C. Jenkins, Executive Director