

MINUTES

NEVADA STATE BOARD OF OPTOMETRY REGULAR MEETING

May 12th, 2015
Cox Pavilion – Conference Room 2
University of Nevada Las Vegas
4505 Maryland Parkway
Las Vegas, Nevada

A regular meeting of the Nevada State Board of Optometry was called to order by Board President, Vincent A. Gassen, O.D., at 9:06 A.M. on May 12th, 2015, in Conference Room 2, Cox Pavilion, University of Nevada Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada.

Present were:

Vincent A. Gassen, O.D., Board President
William F. Harvey, O.D., Board Member
Chen K. Young, O.D., Board Member
Sherese Settlemeyer, Board Member
Judi D. Kennedy, Executive Director
Louis Ling, Esq., Board Counsel
Spencer Quinton, O.D., Nevada Optometric Association
Hilaire Pressley, Nevada Optometric Association
Amel Youssef, O.D.
Jacob Hafter, Esq., Counsel for Dr. Youssef
John Siems, M.D.

Dr. Gassen asked for public comment. There was no public comment.

Agenda Item 2. The Minutes of the Board's March 24th, 2015, regular meeting were presented for approval. Dr. Young moved the Minutes be approved as drafted. Ms. Settelmeyer seconded the motion. The vote was unanimous.

Agenda Item 3. Complaint of Howard Stephan vs. Optometrist "C".

Dr. Gassen advised the Board one of the allegations of Mr. Stephan's complaint is that the eye examination he received from Optometrist C was not thorough. After lengthy discussion, the Board concluded that based on the records before it, the examination was thorough, but that it had been accomplished in large part using electronic devices which can be properly operated at some physical distance from the patient. However, the Board further concluded that Optometrist C was lacking in his communication with Mr. Stephan. The Board noted that when Mr. Stephan voiced his displeasure to the managing optometrist where Optometrist C practices, a more traditional follow-up examination was conducted at no cost to Mr. Stephan. The Board determined the allegation that no dilation was offered to Mr. Stephan vs. the response of Optometrist C that Mr. Stephan declined the test, was up in the air, and that there was no proof to support either position. The Board expressed concern regarding the allegation that Optometrist C handed Mr. Stephan's prescription directly to an employee of the retail optical store located next to the practice.

Dr. Harvey moved the Complaint be dismissed. Dr. Young seconded the motion. The vote was unanimous. Dr. Young moved a letter of caution be sent to Optometrist C addressing both the failure to communicate with Mr. Stephan during the examination and the handling of Mr. Stephan's prescription at the conclusion of the examination. Dr. Harvey seconded the motion. The vote was unanimous.

Agenda Item 7. Consideration of and potential action regarding the Application for License Renewal submitted by Amel Youssef, O.D. (License #449).

Mr. Ling advised the Board Dr. Youssef's license had been suspended pursuant to NRS 636.370 because she submitted the application for renewal and the renewal fee, but did not submit the required continuing education information on or before February 28th, 2015. Mr. Ling continued by stating he and counsel for Dr. Youssef had had conversations regarding the administrative suspension and that he had agreed Dr. Youssef could continue to practice optometry until such time as the Board could review the issue.

Mr. Hafter stated he believed Dr. Young should recuse himself from the discussion because he has locations within close proximity of Dr. Youssef's location. After discussion, it was determined recusal was not warranted.

Dr. Gassen asked why the certificates of continuing education submitted by Dr. Youssef reflected she completed all thirty hours of CE March 17th, 2015. Dr. Gassen continued pointed out the CE certificates submitted were for courses she completed after she received notice of the suspension of her license. Dr. Youssef contended the date appearing on the certificates was the same because all the courses were electronically submitted on that day.

There was discussion about CE Dr. Youssef had previously completed for submission with her renewal. Dr. Youssef stated it was the responsibility of a former employee to electronically retain the records of the CE, but that the employee subsequently left her employ, and that Dr. Youssef was not able to access the information. Mr. Hafter stated he believed the Board should find that not only did she submit the CE, but that the Board needed to make a finding that the tardiness of the CE was administrative in nature,

and that Dr. Youssef had completed the courses in a timely manner. Dr. Gassen stated there would need to be more proof to make such a finding, that lifting the suspension would be acceptable, but without further proof no such a finding could be made. Dr. Gassen moved accept the CE submitted and to restore Dr. Youssef's license to "good" status. Drs. Gassen and Harvey voted in favor; Dr. Young and Ms. Settlemeyer voted against the motion.

Mr. Hafter renewed his request that Dr. Young recuse himself, and that the Board not only restore Dr. Youssef's license, but expunge her record of the suspension. Dr. Gassen and Ms. Settlemeyer restated their belief that without proof from the provider, no finding could be handed down indicating Dr. Youssef had completed CE in a timely manner based solely on her contention that CE previously completed could not be located. Drs. Harvey and Young expressed concern that the certificates submitted reflected Dr. Youssef had taken 30 hours CE in a 24 hour period. After further discussion of the date on the certificates, Mr. Ling agreed with Mr. Hafter the certificates should be accepted based on the provider's certification and that Dr. Youssef had satisfied the statutory requirement for 30 hours CE to renew her license. Dr. Young and Ms. Settlemeyer stated they were confused about the nature of the first motion. Mr. Ling offered further explanation. Dr. Gassen moved the suspension of Dr. Youssef's license be lifted based on the submission of the CE. Dr. Harvey seconded the motion. The vote was unanimous.

Mr. Hafter once again stated the Board records should reflect no suspension had occurred. After discussion, the Board stated it would review CE subsequently produced by Dr. Youssef in support of her contention that she had completed CE in a timely manner, but that proof could not be located. The Board agreed to allow Dr. Youssef until the end of the

2015 calendar year to produce the proof of CE completed before the February 28th, 2015, statutory deadline.

Agenda Item 4. Complaint of Judi D. Kennedy, as Executive Director vs. Optometrist “D.”

The Board reviewed the documents before it. Noting Optometrist “D” had submitted the proposed administrative fine, Dr. Harvey moved the complaint be disposed of based on resolution. Ms. Settlemeyer seconded the motion. The vote was unanimous.

Agenda Item 5. Complaint of Judi D. Kennedy, as Executive Director vs. Optometrist “E.”

The Board reviewed the documents before it. Noting Optometrist “E” had submitted the proposed administrative fine, Dr. Harvey moved the complaint be disposed of based on resolution. Dr. Young seconded the motion. The vote was unanimous.

Agenda Item 5. Complaint of Judi D. Kennedy, as Executive Director vs. Optometrist “F.”

This matter was continued to the Board’s next regular meeting.

Agenda Item 8.

The Board reviewed and discussed the proposed language for the revision of NAC 636.290. Dr. Harvey moved the language be accepted. Dr. Young seconded the motion. The vote was unanimous.

Agenda Item 9. Report of Legal Counsel.

Mr. Ling offered a brief explanation of a Federal Trade Commission case involving the Dental Board in South Carolina.

Agenda Item 10. Public Comment.

There was no public comment.

The Board confirmed a meeting to be held via telephone conference on July 14th, 2015. The Board scheduled a regular meeting to be held in Reno, on September 15th, 2015.

Dr. Young moved the meeting adjourn. Dr. Gassen seconded the motion. The meeting adjourned at 10:45 a.m.