

NEVADA STATE BOARD OF OPTOMETRY



MINUTES OF PUBLIC MEETING

December 10, 2020

- 1. Call to Order.** President Chen Young, O.D. opened the telephonic meeting at 12:03 p.m. and asked for public comment. No public comments were offered.
- 2. Call to Order and Roll Call.** President Chen Young, O.D., Vice President Mariah Smith, O.D., Jeff Austin, O.D., and Drew Johnson were all in attendance. Also present were Executive Director Caren C. Jenkins, Board Counsel Asheesh Bhalla, Esq., and Licensing Specialist Nancy Padilla. Public attendees included Antonia Siciliano, O.D., Steve Girisgen, O.D., Harlan Kopolow, O.D. and NOA Executive Director, Terri Ogden.
- 3. Consideration and approval of the minutes of the October 13, 2020, Board meeting.** All members having had an opportunity to consider the proposed minutes, Dr. Johnson moved, and Dr. Smith seconded the motion to adopt the minutes without correction. Unanimous passage.
- 4. Board consideration of COMPLAINT NO. 21-10 regarding the alleged actions of ANTONIA SICILIANO, O.D., License No. 1003.** While Respondent had admitted to having issued a prescription without holding OPAC certification while substituting for other optometrists in Nevada (NRS 636.286(3)), the Board must determine whether disciplinary action should be taken in light of the circumstances of the Complaint. Executive Director Jenkins provided an overview and explained that the Complaint appeared to have been brought as retribution for a separate legal action between Complainant and Respondent. Considering the difficulties between these parties, the Executive Director's initial recommendation was dismissal of the action. After Dr. Siciliano presented her defense and the Board completed its questioning, Ms. Jenkins explained that if the Board found that a violation exists, the least onerous discipline would be a public reprimand. Dr. Siciliano highlighted that the Complaint was filed with the Board a significant time after the alleged conduct, but shortly after she had filed an action against the complainant in small claims court. Related communications between the parties have been nasty. As a result, the Complaint appears wholly retaliatory.

After all Board members' questions were satisfied, Dr. Austin recognized that, since the incident, Dr. Siciliano had obtained her OPAC certificate. He supports dismissal of the Complaint.

Dr. Smith expressed that Dr. Siciliano clearly violated the optometry laws and admitted that she was unclear about her authority to prescribe. Dr. Smith also explained that when an optometrist writes a prescription for a medication that also could be used for diagnostic purposes, it is being used as a therapeutic, and OPAC certification is required. Dr. Smith recommended that the Board require Dr. Siciliano to show a new-found clarity about the law by retaking and passing the Nevada Law Exam.

Member Drew Johnson and President Young both aligned with Dr. Austin's suggestion to dismiss the complaint, and identified their preferred remedy as somewhere between Dr. Austin's and Dr. Smith's positions.

Dr. Austin moved to impose a public reprimand without discipline, but Ms. Jenkins explained that a public reprimand, by its nature, constitutes discipline and would need to be reported to the National Practitioners Data Bank, and could result in detrimental outcomes for Dr. Siciliano. Dr. Austin withdrew his motion.

Member Johnson then moved to dismiss the Complaint. Dr. Austin seconded the motion. Three members voted in favor of the motion, and Dr. Smith opposed. Motion carried.

Dr. Young asked that a reminder of the prescribing laws be included in the next newsletter.

5. Consideration and possible action regarding expiration of eyeglasses prescriptions.

Currently, Nevada law is silent about when eyeglass prescriptions expire. Executive Director Jenkins provided a survey of other jurisdictions completed by ARBO in 2018 and an informal update that she compiled. Many states already impose 1 year, 2 year, or different standard expiration dates for eyeglasses. The prescribing doctor may indicate a shorter expiration based on the patient's medical status.

Drew Johnson advocated in favor of imposing a 2-year standard expiration on eyeglasses prescriptions unless a medical reason exists for a shorter period. He pointed out that half of the states have a two-year maximum for eyeglass prescriptions, but no excess of instances of eye illnesses, or blindness have resulted.

Dr. Young thanked Mr. Johnson for raising the issue and clarified that a licensee can extend or renew a prescription to two years or write the eyeglass prescription for any length of time. Dr. Young recommended the Board adopt a Board Policy to 1.) Require a comprehensive eye examination be completed before an eyeglasses prescription may be provided to a Nevada patient, and 2.) Require that prescription expiration dates longer or shorter than 2 years be based on the patient's health status. Dr. Young also recommended that any prescription expiration law (or other legislation affecting eye-health, such as telehealth) that the Board might pursue must apply equally to optometrists, ophthalmologists, and opticians, so all operate under the same rules.

Dr. Austin supported Dr. Young's comprehensive eye exam requirement and proposed moving forward with adopting a related Board policy.

Dr. Smith pointed out that Nevada Legislators disfavor agency-made policies and that such policies

are not laws. The concept in Board Policies may help consumers understand the perils of online eye exams, but because the Board has no ability to enforce the policy against non-licensees, the step does not further the public health.

Executive Director Jenkins suggested that the Board delegate authority to Mr. Johnson and Dr. Young to act upon this concept at the upcoming legislative session if the opportunity arises. If a bill is heard where an amendment could be made, they will then need the authority to act. If the opportunity does not present itself in 2021, the Board and NOA could work toward bringing a measure to the 2023 legislature.

Dr. Smith moved to authorize Ms. Jenkins, upon conferring with Mr. Johnson and Dr. Young, to present an amendment if an opportunity becomes available so long as the changes apply to all eye care professionals, and, alternatively to prepare to move forward in 2023 with a comprehensive bill. Dr. Austin seconded the motion. All voted in favor. Motion carried. Dr. Young asked Mr. Johnson to shepherd the effort through the 2023 session, and he agreed to do so.

6. Executive Director's Report:

- **Audit status:** The audit, which was due to LCB's Audit Division on December 1, is still under construction and has not been delivered by Steele and Associates CPAs. It is expected to be completed before the end of the year.
- **License statistics report:** The report will be provided at the next meeting.
- **Office operations during pandemic:** The office staff continues to work remotely. Calls are being forwarded to the Executive Director's cell phone, and both the Executive Director and Licensing Specialist are able to access email and all documents from their homes. US Mail is being checked not less than 2 times per week. This arrangement will continue until the Nevada governor provides further guidance.

7. Announcements/requests for future consideration. The next Board meeting is scheduled for February 9, 2021, beginning at noon by telephone.

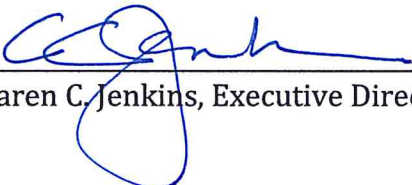
8. Public Comment. No public comment was offered.

9. Adjournment. Motion to adjourn by Dr. Smith, seconded by Dr. Austin. Unanimous motion carried at 1:19 p.m.

FY 2021 Remaining regular meeting schedule:

Tuesdays at Noon by telephone: February 9, April 13, June 8, 2021

These minutes were considered and adopted by majority vote at the Nevada State Board of Optometry meeting on February 9, 2021.



Caren C. Jenkins, Executive Director