

NEVADA STATE BOARD OF OPTOMETRY



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Public Board Member

MINUTES OF A REGULAR MEETING OF THE NEVADA STATE BOARD OF OPTOMETRY TELEPHONIC MEETING Friday, September 22, 2017, at 9:00 a.m.

***INDICATES ACTION TAKEN.**

1. Public Comment - none.
2. Welcome and Call to Order, Roll Call – all members present, plus Deputy Attorney General Peter Keegan, Esq., Executive Director Caren C. Jenkins, Esq., and Bridget Kelly, Esq., counsel for Respondent David Yesnick (Agenda Item No. 4).
- *3. Consideration of minutes of July 21, 2017 Board meeting. MOTION by Mrs. Settelmeyer, SECONDED by Dr. Smith to approve the minutes as presented. Unanimous.
- *4. Approval of final Stipulated Settlement of Complaint Nos. 17-03 and 17-05 (consolidated). Dr. Young stated that Respondent is as qualified as any O.D. to undertake a DMV evaluation without reliance on any OT evaluation or services. The DMV form requires answers to objective questions. It is the State DMV's responsibility to determine whether the applicant's skill and ability meet the requirements based on the O.D.'s visual acuity report. However, if the form asks the O.D. to recommend that the applicant is or is not OK to drive, and Dr. Yesnick feels he cannot make a positive recommendation, he should be required to inform the patient that any O.D. can repeat the evaluation and that the patient should seek such services. This will counteract some of the public's perception of Respondent's desire to engage patients in OT services and enhance the public protection duty of the Board.

Dr. Young recommends adding a requirement that if Respondent recommends against "passing" the patient in his subjective determination of his or her ability to drive, he must inform the patient of his or her right to seek services from another eye care professional to consider the

DMV form. MOTION by Mrs. Settlemeyer to accept the proposed stipulated Settlement presented with the revisions proposed by Dr. Young, SECONDED by Dr. Young, Unanimously passed. Bridget Kelly, Esq., appearing on behalf of Respondent, expressed Respondent's acceptance of the Stipulation with its revised terms.

*5. **For Possible Action.** Executive Director's report (Caren C. Jenkins).

*A. Financial Report/Audit Report – Ms. Jenkins directed the Board's attention to the bank statements, and reported that the auditor is expected to deliver the biennial audit within 2 weeks. She has spoken with the Legislative Audit Division, and although late biennial audit reports often trigger the requirement for annual audits, Ms. Jenkins is confident that the annual requirement can and will be waived.

B. Website and Renewals Report – Ms. Jenkins announced the 2018-19 renewal forms are now available on the website and 4 renewals have already been processed for next year. She reported that, since July 1, 2017, the Board has received 12 new license applications (both new and endorsement), 13 TPA applications and 4 glaucoma applications via the website. As of the meeting date, there are 495 current active and inactive O.D. licensees in the state.

C. Consideration of Board members and appointments. – Dr. Harvey's term will expire on October 31, 2017, or as soon as his replacement is named. We will be sad to see him go after all of his years of service to the profession and the Board. The governor has posted the opening on the Board and Commission's website, and his appointments secretary is vetting applicants. We hope to hear about an appointment to fill his shoes shortly. We also believe that Sherese Settlemeyer has communicated her interest in being re-appointed to the Board for another term, as her term as Public Member is also expiring.

D. Other reports to the Board. – Ms. Jenkins has filed the quarterly licensing and discipline reports to the Legislative Counsel Bureau, as well as all other reporting that has been requested.

6. Subcommittee on Statute and Regulation Review report (Dr. Smith, Chair) – Dr. Smith reported that she has engaged and coordinated several O.D.s to develop suggested changes to law and policy, and should have a written compilation to share shortly.

*7. Request to extend TMOD timeline for endorsement applicant. Ms. Jenkins presented a letter requesting an exception to the statutory requirement that an applicant for a TPA certification in Nevada must have taken and passed the TMOD exam after January 1, 1993. She received the request and supporting letters from an applicant who took and passed the exam a mere 5 months before that date. The Board undertook a discussion about what changes may have taken place as of the 1993 date, but was uncertain how or why that date became embedded in statute. As a result of a lack of substantial evidence to support an exception, Dr. Smith MOVED and Dr. Young SECONDED a motion that the Board decline to make the exception in this instance, instead relying on the statute as written. Unanimous.

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

9. Public Comment – none.

*10. Adjournment MOVED by Dr. Young, SECONDED by Mrs. Settlemeyer at 9:55 a.m., passed unanimously.

***INDICATES ACTION TAKEN.**

Board Approval on 12/5/2017



Caren C. Jenkins, Executive Director