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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF OPTOMETRY

TIME: 10:34 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2525 North 7th Street

CoPA HUB, Eaton Conference Room

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Thursday, May 9, 2024

State Board of Optometry
May 9, 2024

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BOARD MEMBERS:

- Luanne K. Chubb, O.D., F.A.A.O., Chairperson
- John A. Godfrey, O.D. Vice Chairperson
- Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs
- Denise T. Wilcox, O.D., Ph.D., F.A.A.O., Secretary
- Ester Blair, Esquire, Deputy Attorney General, Health Care Section, Consumer Protection Member
- Jeffrey B. Becker, O.D.
- Perry C. Umlauf, O.D.
- Marc Berson, O.D.

BUREAU PERSONNEL:

- Shawn J. Jayman, Esquire, Board Counsel
- Jacqueline A. Wolfgang, Esquire, Regulatory Counsel
- Paul J. Jarabeck, Esquire, Senior Board Prosecutor
- Gregory S. Liero, Esquire, Board Prosecution Liaison
- Shakeena Chappelle, Board Administrator
- Andrew LaFratte, MPA, Deputy Policy Director, Department of State

ALSO PRESENT:

- Ted Mowatt, CAE, Vice President, Wanner Associates, on behalf of Pennsylvania Optometric Association
- Jennifer A. Keeler, CAE, Executive Director, Pennsylvania Optometric Association
- Autumn Karper, Sargent's Court Reporting Service, Inc.

1 ***

2 State Board of Optometry

3 May 9, 2024

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 10:00 a.m. the Board entered into Executive
7 Session with Shawn J. Jayman, Esquire, Board Counsel,
8 for the purpose of conducting quasi-judicial
9 deliberations and to receive the advice of counsel.
10 The Board returned to open session at 10:30 a.m.]

11 ***

12 The regularly scheduled meeting of the State
13 Board of Optometry was held on Thursday, May 9, 2024.
14 Luanne K. Chubb, O.D., F.A.A.O., Chairperson, called
15 the meeting to order at 10:34 a.m.

16 ***

17 Roll Call of Board Members/Introduction of Attendees
18 [Shakeena L. Chappelle, Board Administrator, provided
19 a roll call of Board members and an introduction of
20 attendees. A quorum of Board members was present.]

21 ***

22 [Shawn J. Jayman, Esquire, Board Counsel, informed
23 everyone that the meeting was being recorded, and
24 those who continued to participate were giving their
25 consent to be recorded.

1 CHAIRPERSON CHUBB:

2 Any objections? So moved.

3 [The motion carried unanimously.]

4 ***

5 Approval of Meeting Minutes

6 CHAIRPERSON CHUBB:

7 Motion to approve the minutes from the
8 last meeting in February 2024.

9 DR. UMLAUF:

10 So moved.

11 DR. GODFREY:

12 Second.

13 CHAIRPERSON CHUBB:

14 Any discussion on the minutes for the
15 last meeting?

16 [The Board discussed corrections to the minutes.]

17 DR. UMLAUF:

18 So we're moving to accept the minutes
19 with the amendment. Second to that?

20 DR. GODFREY:

21 Second.

22 MS. CHAPPELLE:

23 Dr. Chubb, yes; Dr. Godfrey, aye;
24 Commissioner Claggett, aye; Dr. Wilcox,
25 yes; Ester Blair, abstain; Dr. Becker,

1 [The motion carried. Ester Blair and Perry Umlauf
2 abstained from voting on the motion.]

3 ***

4 Report of Board Prosecutors

5 [Gregory S. Liero, Esquire, Board Prosecution
6 Liaison, presented the Consent Agreement for Case No.
7 21-52-011203.]

8 MR. JAYMAN:

9 Based on Executive Session
10 deliberations, I believe the Chair
11 would entertain a motion to approve the
12 Consent Agreement for Case No. 21-52-
13 011203.

14 CHAIRPERSON CHUBB:

15 Is there a motion to accept?

16 ACTING COMMISSIONER CLAGGETT:

17 So moved.

18 DR. GODFREY:

19 Second.

20 MS. CHAPPELLE:

21 Dr. Chubb, aye; Dr. Godfrey, aye;
22 Commissioner Claggett, aye; Dr. Wilcox,
23 aye; Ester Blair, aye; Dr. Becker, aye;
24 Dr. Umlauf, aye; Dr. Berson, aye.

25 [The motion carried unanimously. The Respondent's

1 name is Daniel T. Walker, O.D.]

2 ***

3 Report of Acting Commissioner

4 [Arion R. Claggett, Acting Commissioner, Bureau of
5 Professional and Occupational Affairs, informed Board
6 members that e-licensure will be deployed on May 31,
7 2024, to give all licensees the ability to print
8 their own license from the dashboard. He noted
9 licenses will also be printed upon issuance.]

10 ***

11 Report of Board Counsel

12 [Shawn J. Jayman, Esquire, Board Counsel, noted
13 the annual reports were sent over to the legislature
14 on April 25, 2024.]

15 ***

16 Report of Board Chairperson - No Report

17 ***

18 Regulatory Report

19 [Jacqueline A. Wolfgang, Esquire, Regulatory Counsel,
20 provided an Optometry Regulatory Status Report for
21 the month of May for the Board's review.

22 Ms. Wolfgang addressed 16A-5217 regarding
23 continuing education. She noted prior Board
24 discussion at the last meeting and referred to the
25 annex for the Board's review.

1 Chairperson Chubb informed Ms. Wolfgang of
2 confusion between the two different documents and the
3 proposed annex with cross-referencing what was
4 discussed at the last meeting. She stated a number
5 of Board members did not have sufficient time to
6 review the documents and requested additional time to
7 review the documents in detail.

8 Ms. Wolfgang offered to have the discussion at
9 the next meeting to allow Board members more time to
10 review the documents. She referred to the annex and
11 the original language from § 23.86, so Board members
12 could reference the current regulation. She noted
13 the annex is the draft proposed regulation and
14 reminded Board members the underlined wording is new
15 language the Board would be proposing and the wording
16 in brackets would be deleted.

17 Ms. Wolfgang mentioned prior Board discussion
18 regarding making the continuing education regulation
19 more user-friendly and easier to understand. She
20 informed Board members the regulation was reorganized
21 to make it easier for the Board and regulated
22 community.

23 Ms. Wolfgang addressed page 7, noting the
24 regulations currently have two different standards
25 for the timeframe with which an applicant could

1 submit a request for continuing education provider
2 approval or course approval.

3 Ms. Wolfgang referred to subsection (b) for
4 course approval, where a continuing education
5 provider would have to submit for approval at least
6 45 days in advance. She pointed out, subsequently,
7 there would be 90 days for the Board's review of
8 Board-approved providers. She questioned whether
9 additional time for review of potential provider
10 approval would be needed or if the Board wanted to
11 make that the same standard.

12 Chairperson Chubb commented that 45 days is
13 sufficient time for the Board to approve a single
14 course for someone without committing to 90 days,
15 because 90 days would prevent certain courses from
16 being added. She stated a Board-approved provider is
17 would be a more extensive, detailed investigation for
18 the review of their credentials.

19 Ms. Wolfgang referred to the 90-day reference in
20 the current regulations at § 23.86(b)(i), noting there
21 were two different standards. She requested
22 confirmation from the Board, and Board members
23 agreed.

24 Chairperson Chubb further explained that one
25 would be a single course of a single provider, where

1 the 90 days would be for a provider who would offer
2 multiple courses.

3 Ms. Wolfgang referred to page 8 under § 23.84(c)
4 regarding course registration, where an application
5 for course approval shall include, but not be limited
6 to, the following information. She questioned
7 whether the language under (9) provider category was
8 appropriate or should be changed.

9 Dr. Becker believed the provider category could
10 be an OD, MD, or DO. He mentioned that many MDs are
11 requesting approval of courses for cataract surgery.

12 Chairperson Chubb noted his comment would fall
13 under (4) faculty names, titles, affiliation,
14 degrees, and asked whether it would be part of the
15 original draft. She believed the provider category
16 would be an institution or a school and was not sure
17 that was irrelevant. She also noted it to be
18 redundant.

19 Dr. Wilcox stated provider might mean an
20 institution. Whereas, faculty names, titles,
21 affiliation, and degrees would not be an institution.

22 Dr. Becker noted all of the reviews over the
23 recent years have come from Northeastern Eye
24 Institute, Eye Care Specialists, the Pennsylvania
25 Optometric Association (POA), and organizations of

1 that nature. He further explained that an
2 institution like Northeastern Eye Institute have
3 other doctors who would be providing lectures.

4 Chairperson Chubb believed (9) is ambiguous and
5 requested the Board be given additional time for
6 clarification.

7 Ms. Wolfgang stated the Board could add some
8 guidance on the application, which does not
9 necessarily have to be in the regulations. She
10 recommended clarifying it in the application form.
11 Board members agreed.

12 Ms. Wolfgang referred to § 23.84(e), upon
13 approval of a qualified provider, a provider number
14 will be assigned. Upon approval of any program, a
15 program number will be assigned, except for those
16 providers listed in § 23.81 relating to coverage.
17 She mentioned that whether the Board is assigning a
18 provider number or not is not needed in the
19 regulation. She noted it to be confusing related to
20 the administrative process. She recommended deleting
21 the language as it would not really serve a purpose.

22 Chairperson Chubb asked how the courses would be
23 numbered if it is removed.

24 Ms. Chappelle explained that the approval number
25 is listed on their completion certificates.

1 Dr. Wilcox stated it was important for a provider
2 to know that a number will be assigned upon the
3 approval of the program.

4 Ms. Wolfgang explained that it was more of a
5 procedural and administrative process.

6 Chairperson Chubb mentioned that it did not need
7 to be included since it is done internally, but will
8 get back to Ms. Wolfgang.

9 Ms. Chappelle asked whether it states in the
10 regulations that the certificate has to include the
11 approval number.

12 Chairperson Chubb commented that the provider
13 would still be assigned a number for a course whether
14 the language was in the regulation or not. The
15 number would be required in the electronic system,
16 not just the title of the course.

17 Dr. Wilcox believed the language in the
18 regulations is valuable so qualified providers would
19 be informed that a number would be assigned.

20 Ms. Wolfgang did not want to hold up the
21 regulation and noted the Board could leave it in if
22 they do not agree.

23 Chairperson Chubb offered to provide a decision
24 at the August Board meeting, noting the Board would
25 be able to give input ahead of time if the comments

1 were in a Word document.

2 Ms. Chappelle offered to provide the Word
3 document with the comments after the meeting.

4 Ms. Wolfgang noted being unaware that the Board
5 could not see the comments on the document and would
6 ensure the comments are visible the next time.

7 Ms. Wolfgang referred to § 23.84 (f), programs
8 will be approved only in demonstrated areas of
9 expertise. A change in the area of expertise shall
10 be recorded and communicated to the Board within 60
11 days of that change. The Board will accept a
12 designation that the particular provider is qualified
13 to provide continuing education in all subject matter
14 as set forth in § 23.83. She asked for an
15 explanation of the designation language.

16 Chairperson Chubb commented that only the first
17 sentence is needed where it reads, courses will be
18 approved only in demonstrated areas of expertise, and
19 the rest can be taken out. She also noted it should
20 say, if the original provider assigned that program
21 number changed prior to the presentation, then the
22 Board would need to be notified to confirm its
23 equivalency. She mentioned it is not necessary
24 information, but would make it clear that a numbered
25 course for retina could not be substituted for a

1 glaucoma course under that same number.

2 Chairperson Chubb addressed individual courses
3 versus an entire program. She explained that if the
4 entire program was given by a local society, state,
5 or one of the other preapproved providers that a
6 substitution can be made at the last minute. She
7 noted it is a single provider course, and the lecture
8 would demonstrate their expertise and there would not
9 be a change in expertise. She mentioned that it
10 seems to be an old regulation. She suggested
11 preparing a proposed draft that ends after the first
12 sentence, and Board members agreed.

13 Ms. Wolfgang referred to § 23.84(i) and in
14 informed Board members that she relocated the section
15 that reads, preapproved provider shall also indicate
16 on the certificate of attendance how many credits
17 will apply towards the requirement for renewal of
18 therapeutic or glaucoma certification, to § 23.85(d).

19 Chairperson Chubb commented that (i) may be
20 redundant.

21 Ms. Wolfgang noted they are two different issues.
22 There are standards for providers, and providers do
23 include preapproved providers. She mentioned wanting
24 to make that a standard for those providers as well.
25 She referred to courses, noting it is for an

1 individual provider applying to the Board to obtain
2 approval through course approval.

3 Ms. Wolfgang commented that the current
4 regulations mix the requirements for what was termed
5 programs and now being termed courses, preapproved
6 providers, and Board-approve providers. She wanted
7 to group together the provider requirements and keep
8 course requirements separate, because their standards
9 are a little different.

10 Ms. Wolfgang noted prior Board discussion to
11 include the Neuro-Optometric Rehabilitation
12 Association (NORA) as one of the preapproved
13 providers.

14 Dr. Becker stated NORA falls under the Council on
15 Optometric Practitioner Education (COPE), and almost
16 all of the courses from NORA are COPE-approved
17 courses. He noted including COPE and the Optometric
18 Extension Program (OEP) and so forth, and the
19 president of NORA talked to Board Counsel.

20 Ms. Wolfgang did reach out to Charles Shidlofsky
21 at NORA, but was informed that NORA was not
22 interested in becoming a preapproved provider as they
23 are covered through other mechanisms.

24 Ms. Wolfgang referred to § 23.86 under sources of
25 continuing education and asked Board members to focus

1 on the areas being proposed for the Board to delete
2 by the next meeting. She explained that she is
3 separating out the sources of continuing education
4 hours by listing. She noted the Board does not need
5 to revise the preapproved providers language but will
6 need to review the Board-approved providers under
7 (b).

8 Ms. Wolfgang noted (c) is reevaluation and
9 rescission to explain each provision, and (d) is
10 continuing education courses. She also noted (e),
11 (f), (g), (h), and (i) deal with methods of
12 continuing education and proposed separating sources
13 of continuing education as far as whether they are a
14 provider or offering the course versus methods of
15 continuing education, which is in person,
16 asynchronous, clinical conferences, and so forth.

17 Ms. Wolfgang referred to § 23.86(i)(5) regarding
18 courses within the optometric curriculum offered by
19 an accredited school of optometry, where it should
20 account for no more than 25% of the required biennial
21 credits. She read (e), where continuing education
22 credit may be awarded for attending programs to
23 include lectures and college or university courses,
24 noting 50% is allowed and asked what the difference
25 is between 50% versus 25%.

1 incorporated in the new § 23.86.

2 Ms. Wolfgang referred to the retention of
3 continuing education records under (b), where
4 approved course providers, preapproved providers, and
5 Board-approved providers shall retain documented
6 evidence of attendance and satisfactory completion of
7 courses and certificates of attendance for a minimum
8 of four years.

9 Ms. Wolfgang referred to § 23.88, where licensees
10 have to retain records for six years and noted a
11 different standard for licensees compared to
12 providers.

13 Chairperson Chubb asked whether other boards have
14 their retention for six years.

15 Ms. Wolfgang offered to research the matter and
16 provide that information.

17 Dr. Wilcox asked whether a course provider would
18 know to keep records of someone's attendance for four
19 years and whether it would be in their application
20 when applying to become a course provider. She noted
21 it is in the regulation, but asked whether it is on
22 the application.

23 Ms. Wolfgang believed the application references
24 the regulations but offered to look into whether it
25 is on the application.

1 It was noted the POA kept all continuing
2 education (CE) certificates before the Optometric
3 Education (OE) TRACKER. It does not keep CE
4 certificates anymore. A problematic area would
5 probably be the local societies providing CE if they
6 are not using OE TRACKER. It was recommended local
7 societies be informed to keep track of the attendees.

8 Acting Commissioner Claggett commented that the
9 addition of retaining the information on the
10 application would not be a problem.

11 Ms. Chappelle noted the Board does not audit them
12 and does not have any providers right now. She asked
13 whether the process of changing the application and
14 regulations would be worth it.

15 Ms. Wolfgang commented that it is interesting
16 that the Board does not have any, noting there is an
17 an application for providers on the website and was
18 not sure why it was not being utilized. She asked
19 how many course requests or applications were
20 received yearly.

21 Ms. Chappelle noted receiving six applications
22 for courses from January to the present. She stated
23 most optometrists use COPE, because it is listed in
24 their regulations as a preapproved provider.

25 Chairperson Chubb noted having 11 preapproved

1 providers that do not need to submit anything, which
2 constitutes the majority of continuing education.
3 She mentioned a rare provider will ask for
4 Pennsylvania approval, but yet would be lecturing at
5 a national meeting that requires a state-approved
6 course.

7 Dr. Wilcox commented that four years would be
8 adequate for the doctor and provider.

9 Ms. Wolfgang offered to provide information
10 regarding other states. She noted the provider
11 application does instruct the provider to review the
12 Board's continuing education regulations at § 23.82
13 through § 23.90. She noted the Board could expand
14 upon that specifically stating that the certificates
15 must be retained.

16 Ms. Wolfgang asked Board members to review the
17 regulations to ensure all bases are covered, so she
18 could send the regulation out as an exposure draft
19 after the next Board meeting. She further explained
20 that stakeholders will have 30 days to comment. The
21 Board will make revisions and send the exposure draft
22 out again as proposed, make revisions again, and then
23 publish it as final to hopefully move forward to be
24 approved.

25 Ms. Wolfgang informed Board members the revisions

1 will be made based upon their discussion. She asked
2 Board members to read through the regulation and
3 suggested reviewing the existing regulations versus
4 the proposed. She offered to highlight all of the
5 deleted text to make it clear.

6 Chairperson Chubb requested Board members have
7 the revised version at least 30 days before their
8 meeting or sooner.

9 Acting Commissioner Claggett stated the Ms.
10 Chappelle could send the revised version to Board
11 members as soon as Ms. Wolfgang completes the
12 updates. He mentioned the importance of everybody
13 reading the regulation and being prepared to keep
14 things moving forward.]

15

16 Report of Board Administrator

17 [Shakeena L. Chappelle, Board Administrator,
18 requested Board approval for 2025 Board meeting
19 dates.]

20 CHAIRPERSON CHUBB:

21 Motion to accept the proposed 2025
22 Board meeting dates of February 13, May
23 8, August 7, and December 11.

24 ACTING COMMISSIONER CLAGGETT:

25 So moved.

1 DR. GODFREY:

2 Second.

3 MS. CHAPPELLE:

4 Dr. Chubb, aye; Dr. Godfrey, aye;
5 Commissioner Claggett, aye; Dr. Wilcox,
6 aye; Ester Blair, aye; Dr. Becker, aye;
7 Dr. Umlauf, aye; Dr. Berson, aye.

8 [The motion carried unanimously.]

9 ***

10 New Business - Newsletter Outline

11 [Denise T. Wilcox, O.D., Ph.D., F.A.A.O., Secretary,
12 proved an outline of the newsletter and asked Board
13 members to review the outline and submit comments.]

14 ***

15 New Business - DEA Information Discussion

16 CHAIRPERSON CHUBB:

17 This relates to a hydrocodone situation
18 that was brought up. Based on
19 discussions in Executive Session, it is
20 my understanding that the Board would
21 entertain a motion to table this topic
22 to get more information.

23 Do I have a motion?

24 CHAIRPERSON CHUBB:

25 Motion to table the topic while you

1 investigate further information about
2 this subject.

3 ACTING COMMISSIONER CLAGGETT:

4 So moved.

5 DR. BERSON:

6 Second.

7 MS. CHAPPELLE:

8 Dr. Chubb, aye; Dr. Godfrey, aye;
9 Commissioner Claggett, aye; Dr. Wilcox,
10 aye; Ester Blair, aye; Dr. Becker, aye;
11 Dr. Umlauf, aye; Dr. Berson, aye.

12 [The motion carried unanimously.]

13 ***

14 Miscellaneous

15 [Denise T. Wilcox, O.D., Ph.D., F.A.A.O., Secretary,
16 asked why people have applied to be a member of the
17 Board but nothing is moving.

18 Acting Commissioner Claggett noted that people
19 applying to the Board is the responsibility of
20 Governor Shapiro's Office.]

21 ***

22 Adjournment

23 CHAIRPERSON CHUBB:

24 Is there a motion to adjourn the May 9,
25 2024 State Board of Optometry Meeting?

1 ACTING COMMISSIONER CLAGGETT:

2 So moved.

3 DR. GODFREY:

4 Second.

5 ***

6 [There being no further business, the State Board of
7 Optometry Meeting adjourned at 11:46 a.m.]

8 ***

9

10 CERTIFICATE

11

12 I hereby certify that the foregoing summary
13 minutes of the State Board of Optometry meeting, was
14 reduced to writing by me or under my supervision, and
15 that the minutes accurately summarize the substance
16 of the State Board of Optometry meeting.

17

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19



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Autumn Karper,

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Minute Clerk

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Sargent's Court Reporting

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Service, Inc.

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STATE BOARD OF OPTOMETRY
REFERENCE INDEX

May 9, 2024

TIME

AGENDA

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10	10:30	Return to Open Session
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12	10:34	Official Call to Order
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14	10:34	Roll Call/Introduction of Attendees
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16	10:36	Approval of the Agenda
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18	10:36	Approval of Minutes
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20	10:42	Report of Prosecutors
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22	10:42	Report of Board Administrator
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24	10:43	Report of Acting Commissioner
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26	10:45	Regulatory Report
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28	11:43	New Business
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30	11:45	Miscellaneous
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32	11:46	Adjournment
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