



NEW MEXICO BOARD OF EXAMINERS IN OPTOMETRY

New Mexico Regulation and Licensing Department

BOARDS AND COMMISSIONS DIVISION

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MINUTES - SPECIAL BOARD MEETING - AUGUST 8-10, 2008

New Mexico State Bar, 5121 Masthead, NE, Albuquerque, New Mexico

MEMBERS PRESENT: Dr. Richard Zobel, OD, Chairman
Dr. Jane Compton, OD, Vice-Chair
Dr. Thomas Paz, OD, Secretary/Treasurer
Dr. Wayne Hamm, OD, Professional Member
Ben Martinez, Public Member

MEMBERS ABSENT: Barbara Deaux, Public Member

BOARD STAFF: Martha L. Gallegos, Board Administrator
Diane Vigil-Hayes, Exam Administrator

STAFF ABSENT: Mona Valicenti, Asst. Attorney General

I. CALL TO ORDER AND ROLL CALL

Chairman Dr. Zobel called the meeting to order at 10:24 a.m. Roll call was taken and it was determined that a quorum was present.

II. APPROVAL OF AGENDA

Mr. Martinez **MOVED** to approve the agenda. Dr. Hamm **SECONDED** the Motion. Motion **PASSED** by unanimous decision.

III. APPROVAL OF BOARD MEETING MINUTES

A. February 11, 2008 - Dr. Paz **MOVED** to approve the minutes of February 11, 2008. Mr. Martinez **SECONDED** the motion. Motion **PASSED** by unanimous decision.

IV. OLD BUSINESS

A. Procedure Codes Update - Discussion of procedure codes because of denials from Medicare on the surgical procedures that optometrists are allowed to perform. So far, it has only been Trail Blazer denying the claims. Dr. Zobel did write a letter to Trail Blazer Enterprises, which included a copy of the New Mexico Statute. A response was sent from Trail Blazer on July 2, 2008, stating that concerns are being researched and a representative will be sending a full response.

Luke Otero, lobbyist, is talking to Mo Chavez, insurance commissioner in New Mexico. They need something from the board compiling all the correspondence for the past year to submit to the insurance commission. Dr. Zobel suggested a subcommittee to be formed to get some letters sent out. Mr. Martinez **MOTIONED** to request Board approval to form a subcommittee to resolve nonpayment issues with insurance payers regarding the procedures that we are legally able to do according to statute, which had previously been denied. The motion was **SECONDED** by Dr. Hamm. Motion **PASSED** by unanimous decision.

V. NEW BUSINESS

A. Open Meetings Resolution (Revised) - Ms. Gallegos presented the revised Open Meetings Resolution. Mr. Martinez **MOTIONED** to approve the Open Meetings Resolution revised document. Dr. Compton **SECONDED** the motion. Motion **PASSED** by unanimous decision.

B. Ben Martinez - Renewal of Term. Dr. Zobel **MOTIONED** that the Board retain Ben Martinez for another term on the board. Dr. Hamm **SECONDED** the motion. Motion **PASSED** by unanimous decision.

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C. Proposed Rule Change

1) Amend New Rule Part 16 - Authorized Minor Surgical Procedures and Injections - The New Mexico Medical Society has problems with the wording of the new rule. The New Mexico Medical Society is stating that it is not okay for the rule to allow injections. John Anderson spoke on behalf of the New

Mexico Medical Society and offered their input on clarifying injections for the five categories listed in the rule. He stated he would provide their input on how they would like to see the rule to be rewritten and would have it within a few days. Dr. Compton **MOTIONED** that at the next regularly scheduled meeting in January the Board also schedule a public rule hearing at the same time, and as information comes in from the New Mexico Medical Society and other interested parties, that the correspondence be compiled and given to all the board members. Perhaps have a teleconference meeting ahead of time to make sure the correct proposed language is turned in, in time to get published. Mr. Martinez **SECONDED** the motion. Motion **PASSED** by unanimous decision.

D. Continuing Education - Discussion on a request to give continuing education hours for optometrists who volunteer for the Special Olympics. Dr. Hamm **MOTIONED** to deny the request, Mr. Martinez **SECONDED** the motion.

Discussion. A roll call vote was taken: Dr. Zobel-No; Dr. Compton-Yes; Dr. Hamm-Yes; Dr. Paz-Yes, Mr. Martinez-Yes. Motion **PASSED** by majority vote to deny the request. Dr. Compton **MOTIONED** to open up for discussion, continuing education for public service at the next meeting. Mr. Martinez **SECONDED** the motion. Motion **PASSED** by unanimous decision.

The board discussed continuing education for the examiners. This year's exam is a two day exam as opposed to the usual one day exam. Dr. Zobel **MOTIONED** to give clinical examiners eight hours of continuing education for a two day exam and six hours for a one day exam. Dr. Paz **SECONDED** the motion. The motion **PASSED** by unanimous decision.

The New Mexico Optometric Association will be increasing its continuing education hours at the next scheduled annual conference to accommodate the new rules.

Mr. Martinez **MOTIONED** to create a subcommittee to discuss proposed new rules. Volunteers for the new subcommittee are Dr. Paz, Dr. Compton, and Dr. Hamm. Dr. Hamm **SECONDED** the motion. Motion **PASSED** by unanimous decision.

E. Letter from Dr. Reber, O.D. - Request to waive continuing education for 2009 renewal. He will be out of the country for 18 months to serve on a mission for his church. Dr. Compton **MOTIONED** that pursuant to 16.16.13.11 NMAC, the Board write a letter granting Dr. Reber's request to waive the 22 hours of continuing education hours for the year 2008-2009. The letter would need to be turned in with his renewal in lieu of the continuing education. Dr. Hamm **SECONDED** the motion. Motion **PASSED** by unanimous decision.

F. Letter from Kent Schauer, O.D. - Request waiver to attend standard continuing education due to a health condition. Mr. Martinez **MOTIONED** that before the Board could make a decision, Dr. Schauer needs to provide documentation from his caring physician with reference to his condition. Dr. Paz **SECONDED** the motion. The motion **PASSED** by unanimous decision.

G. Letter from David J. Babington, O.D. and S. David Babington, O.D. Requesting a refund of their late fees due to non-renewal notice from theboard office. (See motion under letter H)

H. Letter from William Bruce Bourland, O.D. - Letter protesting the late fee due to non-renewal notice. - Dr. Zobel **MOTIONED** that a letter be sent to both Dr. Babington's and to Dr. Bourland denying their request, with a copy of the section of the rules that supports the denial. Ben Martinez

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SECONDED the motion. The motion **PASSED** by unanimous decision. It was discussed that a hard copy renewal application should be sent out with renewal card for the upcoming renewal.

VI. Sunset Report - Ms. Gallegos informed the board of the upcoming Legislative Finance Committee Meeting.

VII. EXECUTIVE SESSION

Dr. Compton **MOTIONED** to enter into Executive Session pursuant to § 10-15-1(H)(1) through (3) to discuss complaints, licensing matters and issuance of notices of contemplated action, to deliberate in connection with administrative disciplinary hearings, to discuss pending or threatened litigation or updates on pending cases. Mr. Martinez **SECONDED** the motion. Roll call vote was taken: Dr. Zobel, Dr. Compton, Dr. Hamm, Dr. Paz, Mr. Martinez were present and voted in **FAVOR** of the motion. The Board entered into executive session at 12:27 p.m.

A. Case #08-04

The Board came out of Executive Session at 12:55 p.m. Dr. Zobel stated that no matters other than those listed in the original motion were discussed in Executive Session.

VIII. DECISION ON MATTERS DISCUSSED IN EXECUTIVE SESSION

A. Case #08-04 - Mr. Martinez **MOTIONED** that the Board has no precedence nor jurisdiction on any financial dispute concerning this complaint. Request for the case to be dismissed and closed. Dr. Compton **SECONDED** the motion. Motion **PASSED** by unanimous decision.

IX. ADMINISTRATOR'S REPORT

A. Regulation and Licensing Department Update (Standing Agenda Item) - Ms. Gallegos informed the Board of the changes at Regulation and Licensing. She also informed the Board that she will be working with the IT Division about getting an updated program to prepare for the exam.

B. License Statistics - Renewal - Ms. Gallegos informed the Board of a non-renewal optometrist report. She stated she needed to look into it further because the report did not seem accurate.

C. FY08 Budget Status - Ms. Gallegos presented the FY09 budget. Mr. Martinez **MOTIONED** for the Board to request a resolution and pass the resolution to move the FTE's to 1.5 instead of .8. Dr. Compton **SECONDED** the motion. Motion **PASSED** by unanimous decision. There was a discussion about requesting funding for a second exam.

Dr. Compton **MOTIONED** to put in a request for funding for one board member and one staff person to go to the ARBO conference once a year and have it as a regular line item. Dr. Paz **SECONDED** the motion. Motioned **PASSED** by unanimous decision.

X. SCHEDULE NEXT MEETING

January meeting to be announced.

XI. RECESS TO ADMINISTER CLINICAL EXAM

Dr. Compton **MOTIONED** to recess the meeting to administer the clinical exam and reconvene Sunday, August 10, 2008 at New Mexico Eyecare, located at 5200 Wyoming Blvd., Ste 210 in Albuquerque, New Mexico. Dr. Hamm **SECONDED** the motion. Motion **PASSED** by unanimous decision.

When the exam was completed, the special meeting was reconvened on Sunday August 10, 2008 at 1:27 p.m. Board members not present were Barbara Deaux and Ben Martinez.

XII. APPROVAL OF EXAM RESULTS

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Dr. Hamm **MOTIONED** to accept the exam results. Dr. Compton **SECONDED** the motion. Motion **PASSED** by unanimous decision. Dr. Compton **MOTIONED** to notify licensees of their results within 30 days. Dr. Paz **SECONDED** the motion. Motion **PASSED** by unanimous decision.

XIII. ADJOURN

Dr. Compton **MOTIONED** to adjourn the meeting. Dr. Hamm **SECONDED** the motion. Motion **PASSED** by unanimous decision. The meeting adjourned at 1:55 p.m.

BOARD APPROVED AT THE NOVEMBER 17, 2008 BOARD MEETING