

State of New Mexico
Regulation & Licensing Department
BOARD OF EXAMINERS IN OPTOMETRY

10 A.M., Saturday, January 14, 2006
Regulation & Licensing Department
Conference Room
5200 Oakland Avenue NE
Albuquerque, New Mexico

REGULAR MEETING
AGENDA

I. CALL TO ORDER

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

- A. October 12, 2005 Special Meeting Minutes (Email Attachment 1)

IV. OLD BUSINESS

- A. Update on Pharmacy Board Rule on contact Lens Seller Registration & Form
B. OPT Case #2003-05: SETTLEMENT AGREEMENT (Email Attachment 2a, 2b)
C. OPT Case #2003-12 (Email Attachment 3)

V. 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.

A.

VI. NEW BUSINESS

- A. Pharmacy Board Response regarding request from Dr. Zobel concerning the drug Relpax® (Email Attachment 4)
B. FDA's Classification of Plano Colored Contact Lenses
C. Clinical Examiners for 2006 (Attachment 5)

VII. FINANCIAL AND ADMINISTRATOR'S REPORT

- A. Regulation & Licensing Department Update (Standing Agenda Item)
B. License Statistics (Attachment 6)
C. FY06/07 Budget Status (Attachment 7)

VIII. NEXT MEETING SCHEDULED

IX. ADJOURN

State of New Mexico
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BOARD OF EXAMINERS IN OPTOMETRY

10 A.M., Saturday January 14, 2006
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REGULAR MEETING
MINUTES

MEMBERS PRESENT: James Simnacher, O.D., Chair
Jane Compton, O. D., Vice-Chair
Richard Zobel, O. D., Secretary/Treasurer
Thomas Paz, O. D., Professional Member

MEMBERS ABSENT: Barbara Deaux, Public Member
Ben Martinez, Public Member

STAFF PRESENT: Rosemarie Ortiz, Board Administrator

OTHERS PRESENT: Mona Valicenti, Assistant Attorney General, Civil Division
See Sign-In Sheet

I. CALL TO ORDER

At 10:00 a.m. on Saturday, January 14, 2006 Dr. James Simnacher, the Board's Chair, called the regular meeting of the New Mexico Board of Examiners in Optometry to order. The meeting had been properly noticed and upon a roll call it was determined that there was a quorum present to conduct business.

II. APPROVAL OF AGENDA

Dr. Compton MOVED to approve the agenda as amended. The amendment included moving items IV.B and C for discussion under Executive Session. Dr. Zobel SECONDED the motion. The motion passed unanimously.

III. APPROVAL OF MINUTES

A. October 12, 2005 Special Meeting Minutes

Dr. Compton MOVED to approve the minutes as presented. The motion was SECONDED by Dr. Paz. The motion PASSED by unanimous approval.

IV. OLD BUSINESS

A. Update on Pharmacy Board Rule on Contact Lens Seller Registration & Form

Dr. Paz briefly reported to the Board on the status of the proposed changes to the Pharmacy Board Rule on contact Lens Seller Registration and Form. The Pharmacy Board adopted the changes to 16.19.28 NMAC. This change will clarify the requirements for those authorized to sell and/or dispense contact lenses. In addition,

the Pharmacy Board adopted the changes suggested to the registration form

B. OPT Case #2003-05: SETTLEMENT AGREEMENT

Discussed under Executive Session

C. OPT Case #2003-12

Discussed under Executive Session

V. **EXECUTIVE SESSION:** Dr. Paz MOVED 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. Dr. Zobel SECONDED the motion. Roll call vote included Dr. Simmacher, Dr. Compton, Dr. Zobel and Dr. Paz voting for the motion. Motion PASSED.

A. OPT 01, 05-16-05

E. OPT 06, 8-19-05B

B. OPT 02, 6-14-05

F. OPT 08, 9-27-05

C, OPT 03, 7-22-05

G. OPT Case #2003-05: Settlement Agreement

D. OPT 06, 8-19-05A

H. OPT Case #2003-12

Decisions on matters discussed in Executive Session:

A. OPT 01, 05-16-05: Dr. Zobel MOVED to continue investigation and to subpoena records in this case. Dr. Compton SECONDED the motion, which PASSED unanimously. *Ongoing Investigation*

B. OPT 02, 6-14-05: Dr. Compton MOVED to close OPT 01, 6-14-05 due to no jurisdiction. Mr. Paz SECONDED the motion, which PASSED unanimously.

C. OPT 03, 7-22-05: Dr. Compton MOVED to close OPT 3, 7-22-05A due to no jurisdiction. Dr. Zobel SECONDED the motion, which PASSED unanimously.

D. OPT 06, 8-19-05A: Dr. Paz MOVED to close OPT, 6, 8-19-05A due to no jurisdiction. Dr. Compton SECONDED the motion, which PASSED unanimously.

E. OPT 06, 8-19-05B: Dr. Paz MOVED to close OPT, 6, 8-19-05B due to no jurisdiction. Dr. Compton SECONDED the motion, which PASSED unanimously.

F. OPT 08, 9-27-05: Dr. Paz MOVED to close OPT, 8, 9-27-05 due to no violation of the Board's statute or rule. Dr. Zobel SECONDED the motion, which PASSED unanimously.

G. OPT Case #2003-05: Settlement Agreement: The following changes were suggested by board members regarding OPT Case #2003-05:

Line 21:

A. Jurisdiction:

The Respondent is an Optometrist, [formerly](#) licensed with the State of New Mexico and subject to the jurisdiction of the Board pursuant to the Optometry Act, NMSA 1978 §§61-2-1 through §61-2-18 and Title 16 NMAC, Chapter 16 of the New Mexico Board of Optometry Rules and Regulations.

Line 86:

[The complaint and this Agreement are public records within the meaning of the Inspection of Public Records Act, NMSA 1978, Section 14-2-6\(E\) \(1993\). Other data, communication, and information acquired by the Board relating to this matter shall be public as provided by the New Mexico Optometry Act.](#)

Upon the agreement of Dr. West and receipt of his signature on Settlement Agreement OPT #2003-05, the Board of Examiners in Optometry will finalized the agreement.

- H. OPT Case #2003-12: Ms. Ortiz was directed to send a letter to Dr. Muncey's attorney indicating the disciplinary log has been removed and the situation has been addressed.

VI. NEW BUSINESS

- A. Pharmacy Board's response regarding request from Dr. Zobel concerning the drug Relpax®: Ms. Ortiz informed board members of the Pharmacy Board's response to Dr. Zobel's inquiry regarding the use of the drug Relpax®. The Pharmacy Board sent a letter dated December 12, 2005. In summary, the letter reported the Food and Drug Administration (FDA) approved indication for the use of Relpax® (Eletriptan Hydrobromide) is according to the AHFS (American Hospital Formulary Service) Drug Information 2005, for the acute treatment of attacks of migraine with or without aura in adults; and according to Drug Facts and Comparisons, updated monthly, for acute treatment of migraine with or without aura in adults. The Pharmacy Board deferred to the Optometry Board to determine whether or not the prescribing of Relpax® falls within an optometrist's scope of practice.

Discussion was held on this issue. Members determined Relpax® is not a controlled substance listed under I or II. Optometrists can prescribe oral antibiotics and prescribe for eye conditions, as the treatment is therapeutic and associated with vision care.

Dr. Zobel MOVED to recognized Relpax® as a medication that can be prescribed by optometrists. Mr. Paz SECONDED the motion, which PASSED unanimously.

- B. FDA's Classification of Plano Colored Contact Lenses:
Dr. Simnacher informed board members the FDA has determined that decorative (colored) contact lenses are considered contact lenses. President Bush signed the Decorative Contact Lens Bill effective November 9, 2005.

- C. Clinical Examiners for 2006
Members reviewed the current list of examiners. Dr. Simnacher proposed to remove Dr. Eachus. Dr. Compton proposed to add Dr. Dean and Dr. Clatanoff to the list of examiners. Ms. Ortiz was informed that Dr. Jones, Dr. Magnus and Dr. Dean have offered their facility to proctor the clinical practicum exam in August of 2006.

VII. FINANCIAL AND ADMINISTRATOR'S REPORT

- A. Regulation & Licensing Department Update: Ms. Ortiz informed board members that Superintendent Jaramillo has accepted the Cabinet Secretary position with the General Services Department. Edward J. Lopez has been appointed as Superintendent for the Regulation & Licensing Department.

B. License Statistics: Ms. Ortiz referred members to the License Statistics Report in their meeting packet. The statistics are as follows:

Number of Active Optometrists	294
Number of Diagnostic Certification	4
Number of TPA Certification	49
Number of Advanced Systems Certifications	241
Number of Inactive Optometrists	106
Number of Expired Optometrists	40
Number of Retired Optometrists	5

C. FY06/07 Budget Status:

Ms. Ortiz referred board members to the budget summary reflecting the board's current budget status. Ms. Ortiz informed the Board there have been minimal expenses to date. Ms. Ortiz informed board members she has asked Ernie Patterson, Exam Contract, to start working towards creating a windows based exams. Currently the exam is DOS based. Ms. Ortiz would like to keep the exam as up to date with technology as possible.

VIII. NEXT MEETING SCHEDULED:

The next meeting is schedule for the second weekend in coordination with the NM Optometric Association meeting in May 2006. Ms. Ortiz will determine the dates of this conference and inform members of dates to consider.

IX. ADJOURN

Dr. Zobel MOVED to adjourn the meeting at 12:45 pm. Dr. Compton SECONDED the motion, which PASSED unanimously.

Rosemarie L. Ortiz

8/11/06

Submitted by Rosemarie L. Ortiz

Date

James Simnacher

8/11/06

Approved by James Simnacher, OD, Chairman

Date