

MINUTES

NEVADA STATE BOARD OF OPTOMETRY REGULAR MEETING

November 13th, 2012

Office of the Nevada State Board of Optometry
1000 East William
Suite 109
Carson City, Nevada

A regular meeting of the Nevada Board of Optometry was called to order by Board President, Geoffrey F. Chiara, O.D., at 12:30 p.m. on November 13th, 2012, at the office of the Board of Optometry, 1000 East William, Suite 109, Carson City, Nevada. Ms. Kennedy advised the Board that she had been unable to join Ms. Settlemeyer in on the conference call.

Dr. Chiara asked for public comment.

Ms. Kennedy introduced Dr. Conkey and Gail Conkey, representatives of the Nevada Optometric Association.

Dr. Conkey began his statement by saying the Association had been reviewing Chapter 636 of the Nevada Revised Statutes, and the Association was interested in presenting a Bill to the 2013 Legislature to revise some of the provisions of the Chapter, but that the Association wanted to make sure the Board was in agreement. Dr. Gassen inquired specifically what the Association was proposing. Dr. Conkey responded they were not ready to present specifics. Dr. Chiara asked why the Association had expressed a desire to work with the Board on revisions, but was not ready to present specifics. Dr. Conkey outlined several changes the Association had in mind, but stated proposed changes had not yet been submitted to the Association's lobbyist. Mr. Ling advised the members of the Board that they, as individuals, could not work with the Association, but that any proposals would need to be considered by the Board at a regular meeting. It was

agreed proposed changes put forth by the Association would be submitted to the Board's Executive Director.

Ms. Kennedy asked Mr. Lavers if he wished to address the Board. Mr. Lavers declined.

Identifying themselves as participating by phone were:

Geoffrey Chiara, O.D., Board President
Vincent Gassen, O.D., Board Member
William F. Harvey, O.D., Board Member
Louis Ling, Esq., Board Counsel

Participating and present at the Board office was:

Judi Kennedy, Executive Director
James Conkey, O.D.
Gail Conkey, Executive Director, Nevada Optometry Association
David Lavers

Agenda Item 2. The Minutes of the Board's September 27th, 2012, meeting were presented for approval. Ms. Kennedy pointed to a typo on page 2 of the Minutes, fifth paragraph, where "Mr." Hafter had been referred to as "Dr." Hafter. With that change made, Dr. Gassen moved the Minutes be approved. Dr. Harvey seconded the motion. The vote was unanimous.

Dr. Chiara suggested the Board take a recess to enable Ms. Kennedy to try again to join Ms. Settlemeyer in on the conference call. A recess was taken at 12:49 p.m.

The meeting reconvened at 12:54 p.m. Ms. Settlemeyer had been joined in on the conference call.

Agenda Item 3. Complaint of David Lavers vs. Tami T. Le, O.D.

Mr. Ling advised Mr. Lavers the purpose of Agenda Item 3 was simply to enable the Board to make a determination as to whether or not there is sufficient evidence to go forward, and that Mr. Lavers could not address the Board until after it had rendered a decision in the case. Continuing, Mr. Ling pointed out that Dr. Le's name had not been redacted from the Complaint,

as is the Board's usual policy. He went on to state that her name was required in this particular case so the Board could, through an examination of the records, make a clear determination of the involvement of Dr. Le in Mr. Lavers' treatment. Mr. Ling concluded his remarks by advising Mr. Lavers he could address the Board during the final public comment period.

Dr. Chiara summarized the Complaint for the members. He stated Mr. Lavers had alleged Dr. Le's treatment was negligent. Dr. Chiara continued pointing out that in her response to the Complaint, Dr. Le stated she had not been present during one of Mr. Lavers' visits, and that her interaction with Mr. Lavers on his second visit was limited to the administration of one test.

The Board further discussed the allegations of the Complaint, the response of Dr. Le, and the relief sought by Mr. Lavers. Ms. Settlemeyer pointed out the Board had no statutory authority to order refunds, and that Mr. Lavers was seeking a refund. Ms. Settlemeyer moved the Complaint be dismissed based on lack of jurisdiction and lack of merit. Dr. Gassen seconded the motion. The vote was unanimous.

Agenda Item 4. Accusation of Judi D. Kennedy, as Executive Director vs. Karen Hsueh, O.D.

Ms. Kennedy summarized by advising the Board Dr. Hsueh had failed to file a response to the original Complaint, that based on her lack of response, the Board had voted unanimously that a formal accusation be filed, and that Dr. Hsueh had failed to file a response to the formal Accusation. Dr. Gassen asked if Ms. Kennedy had received the certified mail signature cards indicating delivery had been accomplished. Ms. Kennedy replied in the affirmative. After further discussion, Dr. Gassen moved Dr. Hsueh be found guilty of violating NRS 636.295(12) and NRS 370(1) by failing to give the Board prior written notice of a change in her practice

location. Ms. Settlemeyer seconded the motion. The vote was unanimous. Dr. Harvey moved an administrative fine in the amount of \$400 be assessed. Ms. Settlemeyer seconded the motion. The vote was unanimous.

Agenda Item 5. Application for licensure submitted by Jennifer A. Jensen, O.D.

The Board reviewed the application and the attached explanation. Dr. Harvey stated in reading the explanation submitted with her application, Dr. Jensen had shown no remorse for the events leading to the revocation of her prior license. Ms. Settlemeyer stated she agreed, and that she did not believe it would be in the best interests of the public to allow her application to proceed. Drs. Chiara and Gassen agreed. Ms. Settlemeyer moved her application be rejected. Dr. Gassen seconded the motion. The vote was unanimous.

Agenda Item 6. Report of Legal Counsel.

Mr. Ling reported he calculated the deadline for Dr. Yesnick to file a petition for judicial review was November 26th, 2012, and that he had heard nothing from Dr. Yesnick's attorney.

Agenda Item 7. Report of Executive Director

The Board continued its discussion about the possibility of retaining the services of a lobbyist for the 2013 legislative session. It was decided Mr. Ling would contact several lobbyists and report back to the Board as to whether they would be interested in providing lobbying services.

The Board reviewed and discussed a proposed revision to Policy 3. Dr. Harvey moved the revised Policy 3 be adopted. Ms. Settlemeyer seconded the motion. The vote was unanimous.

Dr. Harvey moved the renewal fees for the 2013-2014 license year remain unchanged. Dr. Gassen seconded the motion. The vote was unanimous.

The Board reviewed and discussed the 2012 Newsletter. Dr. Gassen pointed to a typographical error on Page 2, paragraph 2. With that correction made, Ms. Settlemeyer moved the Newsletter be approved. Dr. Gassen seconded the motion. The vote was unanimous.

The Board reviewed and discussed a lease agreement for a new copier for the Board office. Dr. Harvey moved the agreement be approved. Ms. Settlemeyer seconded the motion. The vote was unanimous.

Agenda Item 9. Dr. Chiara asked for public comment. There was no public comment.

The Board scheduled a meeting for Tuesday, March 26th, 2013, at 12:30 p.m. The meeting will be held via telephone conference.

Dr. Harvey moved the meeting adjourn. Ms. Settlemeyer seconded the motion. The vote was unanimous. The meeting adjourned at 1:31 p.m.

