

LOUISIANA STATE BOARD OF OPTOMETRY EXAMINERS

Law Office of Taggart and Morton LLC

New Orleans, LA

January 20, 2023

I. Roll Call/Call to Order/Confirmation of posting of notice and agenda

The roll was called at 9:02am with present: Drs. Heitmeier, Avallone, Gerdes, Wroten, LaPoint and Mr. Dale Benoit. Also present were board counsel Mr. AJ Herbert, III, Public Guests and OAL Members.

Declaring a quorum was present, Dr. Heitmeier called the meeting to order.

II. Adoption of Agenda

Upon motion by Dr. Avallone the Agenda was amended to add the 2023 proposed budget for consideration. No objections. Passed unanimously.

Agenda approved as amended.

III. Approval of Minutes

Minutes of 12/02/2022 were approved as amended (Sen Fred Mills added to attendees).

IV. Ms. Kathleen Allen from the Louisiana Board of Ethics

Ms Kathleen Allen presented Ethics Training for Boards & Commissions which will satisfy the state required Ethics Training for 2023 for all board member attendees.

V. Secretary's Report –

a. Finance and Budget Report

Dr. Avallone presented a financial report including a P&L statement, Balance Sheet, and Budget comparison for year 2022 as of December 31, 2022. Also presented was the Proposed 2023 LSBOE Budget. Following discussion, Motion (Avallone/Gerdes)– To accept the 2023 budget as presented. No objections were heard. Passed unanimously.

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- b. License Activity –
 - a. Renewals Ongoing – approx 450 of 2023 license renewal paid
 - b. Applicants/New Licensees - none
 - c. Retirement requests - none
 - d. Endorsement request – Two candidates completed requirements for licensure. Board approved license issue without objection.
 - e. Inactive requests - none
 - f. Hardship requests – board delayed consideration until 2/24/23
 - g. Complaints – none
- c. Required Training
 - a. Ethics Training – Dr. Avallone reported all members completed required training for 2022.
 - b. Sexual Harassment Prevention – Dr. Avallone reported all members completed required training for 2022.

OLD BUSINESS

VI. Louisiana Legislative Audit 2020

- a. general update – see Item VII
- b. Recovery from OAL – Discussed in Executive Session

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VII. Review of the Unresolved Audit findings –

- a. Lack of Controls over Collections – Dr. Avallone reported Controls in place to log payments and reconcile income.
- b. Lack of Written Policies and Procedures – Dr. Avallone reported the lack of written Policies & Procedures was related to the Controls over Collections and Disbursements as indicated to him by the LLA. P & P manual undergoing update to include Controls over Collections and Disbursements.

VIII. Telehealth Rule status

- a. Requirement for a provider to be in the facility – Discussed, no change to rule suggested.
- b. Telehealth Application and Registration fee –
Application Pending Legal approval – Mr. Herbert expressed approval.

Discussion revealed that the Telehealth application and registration should not take place until the proposed rule update is effective.

IX. Dispensing of Pharmaceuticals – Rule status

Reported finished by Mr. Herbert – Under LDH review.

X. CE Rule Status

Updating - Status to be reported by Mr. Herbert.

XI. Alternate Routes of Licensure Testing – Rule Status (NBEO)

Updating - Status to be reported by Mr. Herbert.

On May 6, 2022, following discussion, the board agreed to accept in lieu of taking the State board practical exam, the LSBOE would allow any applicant

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for licensure in Louisiana to submit passing scores on NBEO Part I, II, and III as well as the Injection Skills Examination (ISE), Laser section of LSPE, Surgical section of LSPE. The State Law proctored exams may be taken while in Charlotte at the NBEO or in Louisiana at a LSBOE approved location.

XII. 2021 LLA Update

Not published at time of meeting

XIII. Reciprocity La. R.S. 37:1051

Discussion held. No Reciprocity agreement is in effect for Louisiana between any other state.

XIV. Discussion on Changes to Continuing Education: COPE accreditation, synchronous CE, approved sources, and online CE

Motion to reconsider by Gerdes/Benoit – Yeas (Benoit, Gerdes, LaPoint) Nays (Avallone, Wroten) Motion passes – 3 to 2, President Heitmeier not voting.

Dr. Gerdes presented supporting documents for his opinion.

Resolution offered by Gerdes following amendment to delete “Whereas” paragraphs.

BE IT RESOLVED that the LSBOE utilizes the expertise of the nationally accredited continuing education source COPE (Council on Optometric Practitioner Education). The LSBOE shall approve synchronous in person to be equivalent to a live classroom format.

The LSBOE shall include Synchronous education courses accredited by the Association of Regulatory Boards of Optometry (ARBO) and its Council on Optometric Practitioner Education (COPE).

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BE IT FURTHER RESOLVED that the LSBOE wishes to provide the best continuing education in the country, fulfilling its mission of public safety, and only utilizing the nationally accredited continuing education source COPE and Colleges of Optometry, to allow a free-market system to determine where optometrist obtain their CE, as recommended by Senator Fred Mills, Chairman of Health and Welfare in the Louisiana State Senate.

BE IT FURTHER RESOLVED that this resolution with a roll call vote be distributed to the committees of Health and Welfare in the Louisiana House of Representatives and the Louisiana State Senate, the Louisiana Black caucus, the Louisiana legislative auditor, the Louisiana Board on governmental ethics and the Louisiana Department of Health.

Roll call vote on above resolution.

Yeas (Benoit, Gerdes, LaPoint) Nays (Avallone, Wroten)

Motion passes – 3 to 2 President Heitmeier not voting.

Discussion was held to accept CE from the National Optometric Association

No objections were voiced. Passed unanimously.

NEW BUSINESS

XV. Discussion on expanding approved sources of CE

Moot - following Item XIV

XVI. Compensation - Dr. Lewis

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Mr. Herbert to provide a contract for Dr. Lewis to continue to provide services relating to the state board exam administered annually.

Discussion regarding exam dates for 2023 was conducted. July 14-15, 2023 was the consensus of the board.

XVII. Applicants from Other States RS 37:1054

Discussion held noting current Licensure by Endorsement Rule and proposed alternate licensing pathway. No action taken.

XVIII. Proposed contract with Deep South Investigation

(Private Investigation services for the LSBOE)

Mr. Herbert submitted a recommendation to accept the proposal he received from Deep South. (\$100-\$150/hr) No objections were voiced. Passed unanimously. Mr. Herbert will provide a contract between Deep South & the LSBOE to be acted upon by the board.

XIX. Discussion on a Limited Active License

Dr. Heitmeier led a discussion to consider a limited active license due to the provider shortage areas in Louisiana. No action taken.

EXECUTIVE SESSION

1:43pm - Motion by Dr. Heitmeier to enter Executive Session.
No objections voiced, Motion Passed unanimously.

2:14pm - Motion by Dr. Gerdes to exit Executive Session.
No objections voiced, Motion Passed unanimously.

XX. Potential Litigation: LLA audit report and mediation status to recover amounts owed the LSBOE, and proposal received from counsel for the Optometry Association of Louisiana with respect to same (La. R.S. 42:17(A)(2) and/or (A)(4)

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- a. General Update - Discussed**
- b. Recovery from OAL – Discussed**

XXI. 2021 LLA Update

See Item XII

XXII. Complaints, Endorsements and Reactivation request

A. Continuation of review or updates of formal complaints

B. Complaints & Investigation of complaints

- i. Barthelemy Optical - Ongoing
- ii. Complaint by John Bollich, OD – Closed
- iii. America’s Best – Closed

C. Reactivation requests

Discussed. Board granted license reactivation following demonstration of adequate continuing education by licensee.

D. Request for Reinstatement from Prior Disciplinary Action

Discussed. Mr. Herbert suggested the licensee be asked to appear before the board prior to any action taken regarding the license.

XXIII. Report on Items Discussed in Executive Session

See Item XXII

No votes taken during Executive Session.

XXIV. Public Comment

No comments from the public were given.

A discussion on the diversity of make-up of the LSBOE board was held. In the discussion, members present could not recall more than one non-white male member and one non-white female member in the past 30 years, The stated makeup of the practicing optometrists in the state is 50% minority, and 67% female. (Percentages not verified) At the previous board meeting in December, board president David Heitmeier

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has suggested research to ascertain the membership makeup over the past 30 years. Board member Dale Benoit asked if the research had been done and Secretary Dr. Gary Avallone said it had not. Benoit put the request in the form of a motion asking that the research be done prior to the next board meeting to identify the race, gender and age of board members for the past 30 years. Secretary Avallone said that other pressing demands of the office would make it difficult to meet that deadline. Benoit asked Avallone for a definitive time frame for the work to be done and when Avallone said he could not commit to a date, Benoit moved that the motion be voted on. It was seconded by Dr. Gerry Gerdes and failed with Roll call vote Yeas (Benoit, Gerdes) Nays (Avallone, LaPoint, Wroten) Motion failed – 2 to 3 President Heitmeier not voting.

XXV. Next Meeting

Next LSBOE Meeting was scheduled for February 24, 2023, at Law offices of Taggart Morton LLC

XXVI. Adjourn

Meeting adjourned at 2:43pm

Signature On File

Gary Avallone, O.D.
Secretary LSBOE

Signature On File

David Heitmeier, O.D.
President LSBOE