

**STATE BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS
AND OPHTHALMIC TECHNICIANS PUBLIC SESSION MINUTES
September 12, 2007**

The September meeting of the Board was convened in accordance with its notice to the Secretary of State, The Bergen Record, The Record of Hackensack, Trenton Times, Courier Post and Star-Ledger and was conducted in accordance with the provisions of the Open Public Meetings Act.

President Cohen convened the meeting at 9:15 a.m. A roll call was taken and the following attendance was recorded for these minutes:

PRESENT: Linda Cohen, Joseph Grodman, Michael Higgins, Gary Iavarone, Jerry McMullin, and John Valeri, Esq.

EXCUSED OR ABSENT: Jane Kenny

PUBLIC ATTENDEES: NONE

Also in attendance: Dorcas K. O'Neal, Executive Director, Susan Berger, Deputy Attorney General, Monica Carrington, staff.

I. APPROVAL OF PUBLIC MINUTES

The Board reviewed the Public Session Minutes for July 11, 2007. On a motion by Gary Iavarone, seconded by Joseph Grodman, the minutes were unanimously approved as corrected.

On a motion by John Valeri, seconded by Joseph Grodman, the Board adjourned to public and moved in to Executive Session for the purpose of receiving counsel.

The Board reconvened in Public Session.

II. OLD BUSINESS

NONE

III. APPRENTICE MATTERS

a. The Board reviewed a letter from Desiree Flores requesting to be excused from the September 2007 examination due to personal family reasons. On a motion by Jay McMullin seconded by Joseph Grodman, it was the consensus of the Board to grant the second and final extension for the Qualifying Technical Examination. Ms. Flores will be advised that she must sit for the March 2008 examination or return her apprentice permit.

b. The Board reviewed a letter from Renata Nannetti, New York State licensee withdrawing her application for the September 2007 Ophthalmic Dispensers due to the inability to secure child care for an overnight examination and requesting a refund of the \$300.00 paid for the exam. On a motion by Michael Higgins seconded by Jay McMullin, the Board unanimously approved a full refund of \$300.00.

c. The Board reviewed a letter from Robert Zimmerman Temporary Ophthalmic Dispenser #333 requesting to be excused from the September 2007 examination due to the Jewish Holidays. On a motion by Michael Higgins seconded by Gary Iavarone, the Board to granted an extension to the March 2008 examination.

IV. LEGISLATION/REGULATION

a. The Board reviewed a Legislative Summary of Bills previously reviewed by the Board as informational.

b. The Board reviewed the National Association of Optometrists and Opticians comments regarding N.J.A.C. 13:33-5.1 and 7.1 Record of prescriptions filled; advertising. Chuck Manning , Regulatory Analyst will respond to the comments.

c. The Board reviewed the Opticians Association of New Jersey comments regarding N.J.A.C. 13:33-5.1 and 7.1 Record of prescriptions filled; advertising. Chuck Manning , Regulatory Analyst will respond to the comments.

d. The Board reviewed the Proposed Amendments N.J.A.C. 13:33-5.1 and 7.1 Record of Prescriptions filled; Advertising. On a motion by Michael Higgins seconded by Gary Iavarone, the Board unanimously adopted the regulations, to be published in the New Jersey Register.

V. NEW BUSINESS

a. Luxottica Retail Regional Managers Willis Cipriano and Debbie Peters and the Regional Vice President Al Winnick attended the meeting at the invitation of the Board with Counsel Greg Bevelock to discuss how managers of Sears locations in New Jersey may ensure compliance with New Jersey laws governing the practice of Ophthalmic Dispensing. There is a total of 21 Sears locations in New Jersey. Ms. Peters oversees four locations and has 14 or 15 licensees. Mr. Cipriano oversees 17 locations.

The Board reviewed the requirements for licensed ophthalmic dispensers and licensed ophthalmic technicians as well as apprentice dispensers and apprentice technicians. Counsel Bevelock advised that the company wants to work with the Board. He provided a copy of a memo dated August 10, 2007 from Patrick Phelan, Senior Attorney, Luxottica which was sent to all Sears, Target, and BJ's in New Jersey advising each location of the requirements of law governing the practice of ophthalmic dispensing.

b. The Board reviewed the Division of Law Billing as informational.

c. The Board reviewed Raritan Valley Community College Advisory Committee information regarding its re-accreditation of the Ophthalmic Science Program, as informational.

d. The Board reviewed a letter from Mirande Burris of Walmart Compliance, Bentonville, Arkansas inquiring as to whether a non-licensed person can dispense, verify or take measurements and whether a licensed ophthalmic dispenser is needed if the patient picking up eyeglasses that have been paid for. It was the consensus of the Board to refer Ms. Burris to the current statutes and regulations and to advise her that she should seek legal counsel.

e. The Board reviewed an email from Patti Shanks inquiring as to whether a partnership between an optometrist and an optician is allowed. On a motion by Gary Iavarone seconded by Jay McMullin, the Board unanimously determined to advise Ms. Burris to refer to the Professional Corporation Act which explains which professionals may be allied and advise that she may want to seek counsel.

f. The Board reviewed a letter from Shalom Holtzberg who is currently licensed in New York but does not have an A.A.S. degree in Ophthalmic Science. He requested the Board review his credentials and allow him the opportunity to sit for the Ophthalmic Dispensers Examination.

Pursuant to N.J.A.C. 13:33-2.2(d) 1 and 2, an individual who has worked as an ophthalmic dispenser in another state. . . shall qualify to take the ophthalmic dispenser licensing examination in the state provided that he or she hold an associate degree in Ophthalmic Science from a school accredited by the Commission on Opticianry Accreditation and has four months of experience as a dispenser of prescription eyewear subsequent to the award of the degree and within the immediately preceding five-year period; or has satisfactorily completed 30 credit hours of courses in ophthalmic science including Materials I and II Lecture, Materials I and II lab, Dispensing I and II Lecture, Dispensing I and II Lab, Principles of Optics, Anatomy and Physiology of the Eye and Contact Lens Theory and thereafter has worked as a dispenser of prescription eyewear for three calendar years, the last year of which shall have been within five years of the date of application for examination. Applicants shall obtain a grade of either a "C" or better, or a numerical grade of 70, or better, in all required optical courses.

The Board unanimously determined that Mr. Holtzberg does not meet the requirements and is not eligible for the examination due to lack of education. Mr. Holtzberg will be so advised.

g. The Board reviewed the Opticians Council of Canada and Transitions Optical invitation to meet at Vision Expo West in Las Vegas, in October 2007. It was the consensus of the Board that due to budget restraints, it will decline the invitation.

VI. OTHER BUSINESS

a. The Board discussed the State Board Examination given at Camden County College. It was the consensus of the Board to develop a Request for Proposal (RFP) to bid the practical portions of the examination. Executive Director, Dorcas K. O'Neal will check with Fiscal for a successful bid.

VII. DISCIPLINARY ACTIONS

a. I/M/O Dorothy Niamkey T/A Chic Optique in Red Bank, NJ Certificate of Debt filed on July 25, 2007 with the Superior Court of New Jersey. A Consent Order was filed on April 11, 2007 for Dorothy Niamkey who was cited for violation of N.J.S.A. 52:17B-41.18, unlicensed practice. Penalties were assessed pursuant to N.J.S.A. 45:1-22 and 45:1-25 in the amount of \$2,500.00 for practicing as an ophthalmic dispenser without a license and \$500.00 for improperly advertising that her business employed an "optician". Total penalty of \$3,000.00.

b. I/M/O Douglas Norman T/A Sears Optical in Phillipsburg, NJ - Consent Order filed September 12, 2007 for Douglas Norman TT-1079 who was cited for violation of N.J.S.A. 52:17B-41.18, unlicensed practice. Penalties were assessed in the amount of \$2,500.00.

There being no other business to come before the Board, on a motion by John Valeri, seconded by Gary Iavarone the Public Session was adjourned and the Board convened in Executive Session for the purpose of receiving counsel to review three items of old business, six consumer complaints, two criminal history summaries, two advertisements and one item of other business.

The Board reconvened in Public Session. The next scheduled meeting is October 10, 2007. There being no other business to come before the Board, on a motion by Gary Iavarone seconded by Joseph Grodman the meeting was adjourned at 2:25 p.m.

Respectfully submitted,

Dorcas K. O'Neal
Executive Director