

**New Jersey State Board of Optometrists
Regular Session Minutes
June 20, 2007**

A regular meeting of the New Jersey State Board of Optometrists was held at 124 Halsey Street, Newark on the 6th floor on Wednesday, June 20, 2007. Leonard Steiner, O.D., President of the Board, announced that pursuant to the Open Public Meetings Act, Chapter 321, P.L., notice of this meeting was prepared in the office of the Board and mailed out to the Secretary of State, the Attorney General, the Star Ledger, the Record, the Press of Atlantic City, the Asbury Park Press, and the Trenton Times. The meeting was called to order at 9:00 A.M. A roll call was taken and the following attendance was recorded:

PAUL BENT Present
GIGETTE COLLAZO HARFST, O.D. Present
GORDON COMPTON Absent
RICHARD FAVREAU, O.D. Present
MITCHELL FINK, O.D. Excused
JOHN FLORIO, O.D. Present
LEONARD STEINER, O.D. Present

Also present were: CARMEN RODRIGUEZ, Deputy Attorney General; LISA PETROWSKI, Assistant to the Executive Director; SUSAN GARTLAND, representative of the Division of Consumer Affairs.

Michael Veliky, O.D., President of the New Jersey Society of Optometric Physicians and Debra C. Lienhardt, Esq., from the firm WolfBlock Brach Eichler attended the Public Session Meeting.

I. Public Comment

II. Approval of Regular Session Minutes

A. May 9, 2007

A motion was made by Dr. Harfst and seconded by Dr. Favreau to approve the May 9, 2007 Regular Session Minutes as amended. A vote was taken and the motion carried by a unanimous vote.

III. New Business

A. Senate No. 2653

(Synopsis - Extends, by three years, the collection of annual surcharges for the Medical Malpractice Liability Insurance Premium Assistance Fund.) - Introduced May 14, 2007

A motion was made by Dr. Favreau and seconded by Dr. Harfst to advise the Division of Consumer Affairs legislative liaison that it opposes S-2653 as it is currently written. The New Jersey State Board of Optometrists is very concerned about escalating malpractice premiums and the effect on the consumer who needs to obtain the necessary services from these doctors. The Board of Optometrists believes in developing ways of controlling medical malpractice premiums. Just charging everyone in the State an assessed monetary amount does not solve the underlying problem of the escalating medial malpractice premiums. Within the legislation there needs to be mechanisms to determine the underlying causes for the increasing premiums and to develop and implement practical answers to control the increasing premiums. A vote was taken and the motion carried by a unanimous vote.

B. Letter from Ann Chang, O.D.
RE: Request for refund of late fee

Dr. Chang wrote the Board and requested a waiver of the two hundred dollar (\$200.00) renewal late fee. Dr. Chang advised the Board that she was unaware that the Division of Consumer Affairs renewal website was not compatible with Mac OS Software and her renewal payment was not processed due to the incompatibility. Dr. Chang further advised the Board that she discovered in May of 2007 that her optometric license was not renewed because of the incompatibility and immediately renewed her optometric license on a PC with the \$200.00 late fee as it was after the April 30, 2007 deadline.

A motion was made by Mr. Bent and seconded by Dr. Harfst to deny Dr. Chang's waiver request. The Board noted that the Division of Consumer Affairs renewal website clearly states, "This site should only be accessed using Microsoft Internet Explorer on a Windows PC". A vote was taken and the motion carried by a unanimous vote.

C. Letter from Edward Campell, O.D.
RE: Current Procedural Terminology (CPT) Codes

This matter was tabled until the Board's August 15, 2007 meeting.

D. Letter from Taras W. Spivak, O.D.
RE: Current Procedural Terminology (CPT) Codes

This matter was tabled until the Board's August 15, 2007 meeting.

E. State Board of Medical Examiners
Physician Assistant Advisory Committee
Requirements for Issuing Prescriptions for
Medications; Special Requirements for Issuance of CDS
Proposed Amendments: N.J.A.C. 13:35-2B.12
From the June 4, 2007 New Jersey Register

The Board reviewed the Physician Assistant Advisory Committee Requirements for Issuing Prescriptions for Medications; Special Requirements for Issuance of CDS Proposed Amendments and considered it informational.

F. New Jersey State Board of Ophthalmic Dispensers
and Ophthalmic Technicians
Record of Prescriptions Filled; Advertising
Proposed Amendments: N.J.A.C. 13:33-5.1 and 7.1
From the June 4, 2007 New Jersey Register

A motion was made by Dr. Florio and seconded by Dr. Harfst to advise the New Jersey State Board of Ophthalmic Dispensers and Ophthalmic Technicians that the New Jersey State Board of Optometrists supports the changes in its regulations as it is good for the protection of the public. A vote was taken and the motion carried by a unanimous vote.

G. Letter from Todd C. Brower, Esq. on behalf of the New Jersey Academy of Ophthalmology to Stephen Nolan, Acting Director of the Division of Consumer Affairs RE: New Jersey State Board of Optometrists' Current Procedural Terminology (CPT) Code list

A motion was made by Dr. Favreau and seconded by Mr. Bent to go into Executive Session to seek legal advice from the Board's attorney concerning Mr. Brower's letter. A vote was taken and the motion carried by a unanimous vote. After discussion the Board returned to Public Session to continue the meeting.

The Board President, Dr. Steiner, explained that in 1992 when the scope of practice of optometrists expanded in New Jersey, specifically in the area of utilizing and prescribing topical pharmaceutical agents, insurance providers were unsure as to which CPT codes New Jersey licensed optometrists could utilize to bill for services within their expanded scope of practice. The Board began keeping a list of CPT codes in order to assist insurance providers.

The list of CPT codes that the Board kept was given to insurance providers who requested clarification and assistance from the Board concerning this issue. Through the past years, the list was seldom asked for and seldom given to insurance providers or licensees. If a licensee was having difficulty receiving reimbursement from an insurance provider for services rendered, the Board has given the list to the licensee in order to provide clarification. The list has never been given to a consumer. The Board opined that insurance providers now have a good understanding as to which CPT codes New Jersey licensed optometrists could utilize to bill for services and the list that the Board kept has served its purpose. A motion was made by Dr. Harfst and seconded by Mr. Bent to immediately rescind the list of CPT codes that the Board kept and immediately stop dissemination of this list. A vote was taken and the motion carried by a unanimous vote.

IV. Old Business

A. Response from James Selph, O.D.
RE: Continuing Education

Dr. Selph wrote the Board and requested a waiver of the continuing education requirement for renewal of his optometric license due to his severe medical condition.

As per the Board's request, Dr. Selph advised the Board that he has not taken any continuing education credits and has not practiced optometry from February 24, 2006 through the present. Dr. Selph also provided the Board with a letter from his treating physicians, Howard A. Kiernan, Jr., MD and Gail S. Williams, MD, concerning his medical condition.

A motion was made by Dr. Favreau and seconded by Mr. Bent to waive 30 of the required 50 continuing education credits. The Board will grant Dr. Selph a 90 day extension to complete the remaining 20 continuing education credits. The Board will permit Dr. Selph to obtain the remaining 20 continuing education credits from internet and/or correspondence courses. A vote was taken and the motion carried by a unanimous vote.

V. For Your Information

A. Memorandum from the New Jersey Prescription Blank Unit
RE: Modifications made to the New Jersey Prescription Blanks

The Board reviewed the modifications made to New Jersey Prescription Blanks and will advise the New Jersey Prescription Blank Unit that it noted that there was no prescription blank with the language, "NOT VALID FOR CONTROLLED SUBSTANCES. VALID FOR TOPICAL PHARMACEUTICAL AGENTS (IF TPA CERTIFIED) AND PRESCRIPTION EYEWEAR ONLY.", pursuant to N.J.A.C. 13:38-2.4(f). The Board will advise the New Jersey Prescription Blank Unit that it also noted that the DEA number was printed on the prescription blanks and should be left blank. The Board understood that the DEA number would be filled in when a prescription is written for a controlled substance.

B. New Jersey State Board of Medical Examiners
March 14, 2007 Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' May 14, 2007 Disciplinary Matters Pending Conclusion and considered it informational.

C. New Jersey State Board of Medical Examiners
April 11, 2007 Open Board Minutes

The Board reviewed the New Jersey State Board of Medical Examiners' April 11, 2007 Open Board Minutes and considered them informational.

D. New Jersey State Board of Medical Examiners
May 9, 2007 Disciplinary Matters Pending Conclusion

The Board reviewed the New Jersey State Board of Medical Examiners' May 9, 2007 Disciplinary Matters Pending Conclusion and considered it informational.

E. New Jersey State Board of Medical Examiners
May 9, 2007 Open Board Agenda

The Board reviewed the New Jersey State Board of Medical Examiners' May 9, 2007 Open Board Agenda and considered it informational.

F. New Jersey State Board of Medical Examiners
June 13, 2007 Open Board Agenda

The Board reviewed the New Jersey State Board of Medical Examiners' June 13, 2007 Open Board Agenda and considered it informational.

G. Letter from Todd C. Brower, Esq. on behalf of the New Jersey Academy of Ophthalmology to Stephen Nolan, Acting Director of the Division of Consumer Affairs RE: New Jersey State Board of Optometrists' Current Procedural Terminology (CPT) Code list

The letter from Todd C. Brower, Esq. on behalf of the New Jersey Academy of Ophthalmology was directed to Stephen Nolan, Acting Director of the Division of Consumer Affairs and the New Jersey State Board of Optometrists was copied on the letter and not sent the letter directly. A motion was made by Dr. Harfst and seconded by Dr. Favreau to move this matter to New Business as the Board would like to discuss this matter although they were not sent the letter directly for a response. A vote was taken and the motion carried by a unanimous vote.

Upon a motion made by Dr. Harfst and seconded by Dr. Favreau, the Board voted to go into Executive Session to discuss the following matters involving investigations or violations of the Board's enabling act, the Uniform Enforcement Act and/or Board regulations.

1. Fourteen matters filed with the Board which requires review and additional recommendations with regard to investigations and/or actions.
2. Four matters where additional information has been submitted to the Board concerning pending investigations.

VI. Adjournment

A motion was made by Dr. Harfst and seconded by Dr. Favreau to adjourn the Regular Session Meeting at 2:30 P.M. A vote was taken and the motion carried by unanimous vote.

Respectfully submitted,

Leonard Steiner, O.D.
Board President