

MINUTES OF THE MEETING OF THE
BOARD OF OPTOMETRY
July 10, 2015

ROLL CALL

The meeting of the Board of Optometry was called to order at 8:34 a.m. by Dr. Kim Baxter, Chairman, at Staybridge Suites, 2701 Fletcher Avenue, Staybridge Board Room, Lincoln, NE. The agenda was sent to the Board members and other interested parties prior to the meeting. The following members answered the roll call:

Kim Baxter, O.D., Chairman
Jeffrey Pape, O.D., Vice-Chairperson (via telephone)
Robert Vandervort, O.D.
Michael J. O'Hara, JD, PhD, Secretary

A quorum was present and the meeting convened. Also present were: Kathie Lueke, Program Manager; Vonda Apking, Health Licensing Coordinator; Ed Vierk, Assistant Attorney General.

ADOPTION OF AGENDA

O'Hara moved, seconded by Vandervort, to adopt the agenda with the Chairman having the ability to rearrange as necessary. Voting aye: Baxter, O'Hara, Pape, Vandervort. Voting nay: none. Motion carried.

The Board gave their condolences to Dr. Vandervort for the passing of his father.

APPROVAL OF MINUTES

January 30, 2015

O'Hara moved, seconded by Vandervort, to approve the January 30, 2015, minutes as presented. Voting aye: Baxter, O'Hara, Pape, Vandervort. Voting nay: none. Motion carried.

May 19, 2015 – Conference Call

O'Hara moved, seconded by Vandervort, to approve the conference call minutes of May 19, 2015 as presented. Voting aye: Baxter, O'Hara, Pape, Vandervort. Voting nay: none. Motion carried.

INVESTIGATIONAL REPORTS – CLOSED SESSION

Vandervort moved, seconded by O'Hara, to go into Closed Session, at 8:36 a.m., to review investigational reports. Voting aye: Baxter, O'Hara, Pape, Vandervort. Voting nay: none. Motion carried.

O'Hara moved, seconded by Vandervort, to return to Open Session at 9:08 a.m. Voting aye: Baxter, O'Hara, Pape, Vandervort. Voting nay: none. Motion carried.

Suzanna Glover-Ettrich, Department Legal, joined the meeting.

Dave McBride, Executive Director, Nebraska Optometrists Association and Ed Schneider, OD joined the meeting.

ASSOCIATION OF REGULATORY BOARDS OF OPTOMETRY

Report ARBO 2015 Annual Meeting

Pape provided some highlights from the ARBO Meeting. A written report is available upon request.

Call for Committee Volunteers

This is informational only. If an individual Board member wishes to be a Committee volunteers, they should fill out the application on their own.

COUNCIL ON OPTOMETRIC PRACTITIONER EDUCATION (COPE) POLICY CHANGES

O'Hara provided the Board with background on changes proposed by COPE to accreditation standards. Dave McBride, Nebraska Optometric Association, informed the Board this has been a topic of discussion for their board of directors and for AOA, with concerns expressed about the propriety of a licensing body handling accreditation of required C.E. and concerns about the comprehensive scope of the proposed standards and the burdens it would put on C.E. providers. He indicated NOA could be an administrator under the proposed standards but probably could not afford to be a provider. Questions were raised that accreditation for other professions is not connected to licensing bodies. Vandervort voiced his concerns. This will not improve continuing education. Vandervort is upset with ARBO because the Boards didn't get to vote on programs being offered to members and then those programs being required of all members. Baxter mentioned that this type of policy change will increase costs for all and is concerned ARBO is going down the wrong path. Vandervort suggested O'Hara share the Board's concerns with the ARBO Board of Directors.

PRACTICE QUESTION – IS IT LEGAL TO ADVERTISE FREE EYE EXAMINATIONS

The regulations lays out the requirement in 172 NAC 120-006.02 item 26a. The states that it could be unprofessional conduct if the advertise doesn't include either that there is a "minimum purchase required" or that "no minimum purchase is required". Glover-Etrich would avoid just stating free eye examination. A complaint would need to be submitted. Baxter can let the individual know that they could contact the Department to file a complaint.

Pape left the meeting at 10:36 a.m.

FEDERAL TRADE COMMISSION VS. NORTH CAROLINA DENTAL BOARD SUPREME COURT OPINION – HOW DOES THIS OPINION AFFECT NEBRASKA BOARDS

The Department explained in their memo to Nebraska Board's; that it would be prudent for boards to examine the process they follow when deciding whether to issue a cease-and-desist order. In the future, if your board is presented with an allegation of unauthorized practice, we recommend that the board consult closely with its legal counsel to determine the most appropriate manner in which to proceed. Glover-Etrich explained that the Department will not be issuing Cease and Desists letters. The Attorney General's office will be looking at each case individually to determine whether a Cease and Desist letter is warranted and does not go against the Supreme Court opinion.

SET NEXT MEETING DATE

The next Board meeting is scheduled for October 30, 2015, at the Staybridge Board Room, starting at 8:30 a.m.

ADJOURNMENT

O'Hara moved, seconded by Vandervort, to adjourn the meeting at 10:48 a.m. Voting aye: Baxter, O'Hara, Vandervort. Voting nay: none. Absent: Pape. Motion carried.

Respectfully submitted,

(Signature on file with the Department)

Michael J. O'Hara, JD, PhD, Secretary
Board of Optometry