

BOARD MEETING MINUTES

February 9, 2024

CALL TO ORDER.

Dr. Hopping called the February meeting of the Texas Optometry Board (TOB) to order at 8:44 a.m.

ROLL CALL. A roll call vote was taken and quorum was present for the meeting.

Ronald L. Hopping, O.D. Chair
John Todd Cornett, O.D. Member
Steve Nguyen, O.D. Member
Carey Patrick, O.D. Member
Rene Peña, Public Member
Meghan Schutte, O.D. Member
Mala Sharma, Public Member
Bill Thompson, O.D. Member
Janice McCoy, Executive Director
Dennis McKinney, Assistant Attorney General

Judy Chambers, Public Member was absent.

MINUTES. The Board reviewed the November 3, 2023, meeting minutes. A motion was made by Dr. Thompson to accept the minutes as drafted and seconded by Dr. Cornett. The motion passed unanimously (FOR – 8/OPPOSED – 0/ABSTAIN – 0).

BOARD CHAIR REPORT. Dr. Hopping presented the Board Chair Report. He welcomed the two new members to the Board, discussed updated committee assignments including the creation of the Investigation-Enforcement workgroup, reminded members to file their Personal Financial Statement by April 30, 2024, and asked members to keep vigilant about ideas for the 2025 Professional Responsibility Course.

ELECTION OF OFFICERS. Dr. Hopping opened the floor for nominations for Board officers. A motion was made by Dr. Cornett to nominate Dr. Thompson as Assistant Presiding Officer and seconded by Dr. Schutte. No other nominations were received and Dr. Thompson was elected. A motion was made by Dr. Thompson to nominate Mrs. Chambers as Secretary-Treasurer and seconded by Dr. Cornett. No other nominations were received and Mrs. Chambers was elected.

PUBLIC COMMENT. Dr. Hopping solicited public comment. No comments were received.

GENERAL MATTERS.

Optometry School Liaison Reports: Dr. Schutte provided an update as the liaison for the Rosenberg School of Optometry (RSO). She reported that RSO had no major updates, but the Dean had a question regarding whether a Dean's affidavit was required for the application process. Dr. Schutte will report back to the Dean that the affidavit is no longer required. Dr. Cornett provided an update as the liaison for the University of Houston College of Optometry (UHCO). He reported Dean Twa was busy with ordinary business and he would be undergoing his five year review this year.

Strategic Plan: Ms. McCoy shared that the Strategic Plan would be due this Spring. In the absence of instructions, she asked that the Board consider allowing Dr. Hopping to approve the Strategic Plan if the due date falls prior to the next Board meeting. Mrs. Sharma moved that Dr. Hopping be authorized to approve the Strategic Plan on behalf of the Board if it is due prior to the May Board meeting and seconded by Dr. Cornett. The motion passed unanimously (FOR – 8/OPPOSED – 0/ABSTAIN – 0).

Annual Training: Ms. McCoy reported that the annual training required by the Texas Optometry Act was distributed to the members via email on February 1, 2024. She asked that all Board members sign the acknowledgment that they received access to the annual training.

EXECUTIVE DIRECTOR’S REPORT. Ms. McCoy presented the Executive Director’s Report. She reported that through January 31, 2024, the Board had 58% of its budget remaining with 58% of the year remaining. She reported the agency filed its FY24Q1 Performance Measures on January 8, 2024, and explained, as usual, the agency was out of range on a few measures – including time to close complaints.

She reported that as of February 1, 2024, there were 5,120 total licensees (4,781 active; 332 inactive; 7 retired), of which 4,004 were OGS (3,892 active; 108 inactive, 4 retired) and 115 were military. The renewal season opened on October 16, 2023 for licensees with a Dec 31 2023 expiration date.

She reported that she had presented a program on the licensing process to UHCO fourth year students via zoom on February 6, 2024.

LEGAL REPORT.

Mr. McKinney presented an update on the lawsuit styled Anthony Nguyen, O. D v Texas Optometry Board stating the District Court denied the PTJ because the Austin Court of Appeals recently issued a decision interpreting the deadline less strictly than the plain language of the statute. The attorney handling the case expects the hearing on the merits to take place in July 2024.

The Board did not take any action on SOAH Docket 514-22-08281 or 514-22-08282 as the Administrative Law Judge still has not issued a final Proposal for Decision.

COMMITTEE REPORTS.

ADMINISTRATIVE/LICENSING COMMITTEE.

Dr. Patrick, Chair of the Administrative/Licensing Committee, provided the report. She reported in FY24 Quarter 1, 37 licenses had been issued and 1202 licenses had been renewed. For FY24 Quarter 2 (partial), she reported 7 new licenses had been issued and 1235 licenses had been renewed. There were 150 licenses in expired status (failed to renew by December 31, 2023). Finally, she reported Dr. George Payne, Jr. of Levelland and Dr. Donald Semler of San Antonio had passed away.

Dr. Patrick provided the remainder of her report in the form of a motion. The Committee moved to approve one application for licensure without examination (LWOE) and to cancel two licenses that had been issued but the initial licensing fee had not been paid. As the motion came from a

committee, it did not need a second. The motion passed unanimously (FOR – 8/OPPOSED – 0/ABSTAIN – 0).

CONTINUING EDUCATION COMMITTEE. Dr. Schutte provided her report in the form of a motion. The Committee moved to approve 11 total reviewed courses (comprising 9 DT hours and 8 opioid hours). As the motion came from a committee, it did not need a second. The motion passed unanimously (FOR – 8/OPPOSED – 0/ABSTAIN – 0).

INVESTIGATION-ENFORCEMENT COMMITTEE.

The Chair asked for a motion to go into Executive Session regarding Complaint #2024-00002. At 9:14 a.m. Dr. Nguyen so moved and was seconded by Dr. Thompson (FOR – 8/OPPOSED – 0/ABSTAIN – 0).

The Chair announced the Board would go into Executive Session to discuss and consult with legal counsel concerning Complaint #2024-00002 as authorized by Texas Government Code 551.071. At 9:26 a.m., the Chair announced “the Board is now in Open Session. The Board did not take any action during Executive Session.”

Upon return from Executive Session, the Board took a ten-minute break. At 9:35 a.m. the Board returned from break. (Note: Dr. Patrick will now be shown as absent.)

Dr. Hopping requested Ms. McCoy summarize the recommendations of the Investigation-Enforcement Committee for Case No. 2024-00002. Ms. McCoy reported the following:

In Case No. 2024-00002, the Investigation-Enforcement Committee recommends that the Respondent shall pay an administrative monetary fine of \$1,000.00 no later than six months from the date of the fully executed Order and ordered the respondent to pay restitution to the complainant for costs associated with the initial visit and prescription.

Dr. Thompson moved to accept the recommendations of the Investigation-Enforcement Committee related to Case No. 2024-00002. The motion was seconded by Dr. Cornett. The motion passed unanimously. Dr. Hopping and Dr. Schutte abstained from the vote. (FOR-5/AGAINST-0/ABSTAIN-2)

Ms. McCoy provided a summary of investigative activity to the Board regarding complaints and investigations for FY24 Q1: Total Number of Cases closed: 14 / Average Days to Close in Quarter: 127 / Total Number of Inspections Conducted: 0 / Penalties Assessed: 1 (by Board). For the first two months of FY24 Q2: Total Number of Cases Closed: 7 / Average Days to Close in Quarter: 8 / Total Number of Inspections Conducted: 0 / Penalties Assessed: 1. She reported there were 20 cases currently open: 10 at SOAH (3 awaiting final PFD and 7 awaiting hearing), 1 for Board review and 9 under investigation, including 1 glaucoma case.

She reported she issued 1 penalty of \$250 resulting from Standard of Care issues arising from Board review of inspection reports. Dr. Nguyen moved to approve the penalty assessed by the Executive Director. The motion was seconded by Mr. Pena. The motion passed unanimously (FOR-7/AGAINST-0/ABSTAIN-0).

RULES COMMITTEE. Dr. Thompson provided a report in the form of a motion. He moved the Board propose to open a Quadrennial Rules Review for Chapters 271, 272, 273 and 275 through publication in the Texas Register. As the motion came from a committee, it did not need a second. The motion passed unanimously (FOR – 7/OPPOSED – 0/ABSTAIN – 0).

Dr. Thompson reported the Committee also discussed creating guidelines for patient records when a practice closes and 22 TAC 277.8 related to emergency suspension. Finally, the committee received an update on the status of 22 TAC 279.1 and 279.3 which were proposed for publication at the November 2023 meeting.

COMMITTEE ON PEER ASSISTANCE.

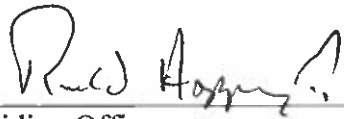
Dr. Schutte reported that the Board has three optometrists (two volunteer enrollments and one Board ordered) in the Professional Recovery Network (PRN) program.

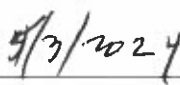
Dr. Cornett offered some insight he received from a colleague who had recently left the PRN program. Notably, voluntary enrollments include a five-year commitment, professional peer programs have a much higher success than treatment facilities, and there are some costs to the enrollees for participating in the program.

ANNOUNCEMENTS. Dr. Cornett mentioned as chair of the Investigation-Enforcement Workgroup he would be surveying members on the findings required under Texas Optometry Act Chapter 351.353 to gauge how each member ranks the findings in terms of importance when reviewing standard of care cases. Dr. Hopping reminded members the next Board meeting would be in Austin on May 2-3, 2024.

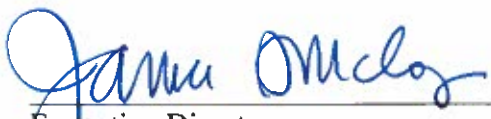
ADJOURNMENT. Dr. Schutte moved that the meeting be adjourned and Dr. Cornett seconded the motion. The motion passed unanimously. The meeting was adjourned at 9:57 a.m. (FOR-7/AGAINST 0/ABSTAIN-0).

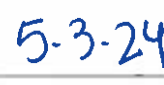
Approved:



Presiding Officer


Date



Executive Director


Date