

BOARD MEETING MINUTES

July 28, 2022

1. CALL TO ORDER.

Dr. Gutierrez called the July meeting of the Texas Optometry Board (TOB) to order at 1:03 p.m.

2. ROLL CALL.

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

Mario Gutierrez, O.D. Chair

Ronald L. Hopping, O.D. Vice Chair

Carey A. Patrick, O.D., Member

John Todd Cornett, O.D. Member

Bill Thompson, O.D. Member

Meghan Schutte, O.D. Member

Rene Pena, Public Member

Kelly Parker, Executive Director

Vincent Pina, Executive Assistant

Melissa Juarez, Assistant Attorney General

Absent - Judy Chambers, Secretary/Treasurer and Ty Sheehan, Public Member

3. MINUTES. The Board reviewed the May 6, 2022 meeting minutes. A motion was made by Dr. Thompson to accept the minutes and seconded by Dr. Hopping. The motion passed unanimously. (FOR – 7/OPPOSED – 0/ABSTAIN – 0)

4. BOARD CHAIR REPORT. Dr. Gutierrez presented the Board Chair Report. Dr. Gutierrez reported on the Glaucoma Complaint process reporting that in his opinion it was working well.

5. GENERAL MATTERS. The Board discussed and considered the Agenda item under General Matters as follows:

a. Optometry School Liaison Reports.

Dr. Schutte was asked to give an update on behalf of the Rosenberg School of Optometry (RSO). She reported on the new Dean appointments that occurred during 2022 and that RSO is currently short-staffed but looking to fill positions quickly.

Dr. Cornett provided an update as the liaison for the University of Houston (UH). He reported he has spoken with the Dean regarding Rule 273.5 who is thankful for allowing students to practice. The Dean also shared that Dr. Sam Quintero passed in July. The Dean asked about getting email addresses of licensees. Ms. Parker stated email addresses are confidential. The Dean reported the PR course fee was reduced to \$75.

b. Dr. Hopping presented an ARBO meeting report based on his written report submitted to the board.

6. PUBLIC COMMENT. The Public Comment period opened at 1:15 p.m. No public comment was received.

Approved 11/3/2022

7. EXECUTIVE DIRECTOR’S REPORT. Ms. Parker presented the Executive Director’s Report.

Budget Update. Ms. Parker provided the Board with financial information prepared by the Board Accountant through July 21, 2022. Ms. Parker noted that the agency participates in the PMP program and fees may need to be increased due to the amount owed to the Pharmacy Board. She noted there will be EOY funds and will be using the funds to pay bonuses to staff and pay Expert Fees.

Licensing Statistics. Ms. Parker provided an update on licensing statistics through July 25, 2022.

Total Licenses	5,155 (4,714 active; 438 inactive; 3 retired)
Total OGS	3,876 (3,755 active; 120 inactive, 1 retired)
Military	123

Ms. Parker noted the monthly jurisprudence exams greatly increased the workload on the licensing staff member and increased customer service needs of applicants. Ms. Parker noted that the license process was impacted by the office relocation and continues to be impacted by piecemeal submissions. One person is no longer enough to take on licensing tasks alone.

Performance Measures. Ms. Parker reported the agency met all Q3 performance measures. She noted that the increased number of cases at the State Office of Administrative Hearings will impact the days to resolution measure.

Legislative Appropriation Requests. Ms. Parker reported the agency must file its legislative appropriation requests by Friday, July 29, 2022. Requests will include increases to staff salary, funds for a staff training budget, funds for enhancement to the enforcement program, and other funds to support Health Professions Council (HPC).

Office Relocation. Ms. Parker reported the agency successfully relocated to the new George H.W. Bush Building issues with parking, mail, and other concerns remaining.

8. LEGAL REPORT. None provided.

9. COMMITTEE REPORTS.

ADMINISTRATIVE/LICENSING COMMITTEE.

Dr. Cornett, Chair of the Administrative/Licensing Committee, provided the report. He reported that 137 applicants took the jurisprudence exam and all but one passed and that the committee discussed implementation of Rule 273.5 and referring it back to the Rules Committee for direction. The Committee reviewed two

applications for licensure: both of which were applications for licensure without examination. Dr. Cornett reported that the Committee moved to approve both applications. Mr. Pena seconded the motion. The motion passed unanimously. (FOR-7/AGAINST 0/ABSTAIN-0).

CONTINUING EDUCATION COMMITTEE.

Dr. Patrick, Chair of the Continuing Education Committee, provided the report. She reported that several courses had been submitted for approval – four of which were asked to be further reviewed. Dr. Patrick reported the Committee moved to approve 29 hours of diagnostic therapeutic continuing education and 3 hours of general continuing education. Dr. Thompson seconded the motion. The motion passed unanimously. (FOR-7/AGAINST 0/ABSTAIN-0).

INVESTIGATION-ENFORCEMENT COMMITTEE.

Dr. Hopping moved to go into Executive Session to discuss confidential investigation information and consult with legal counsel as authorized by Section 551.071 of the Government Code related to Case No. 2022-00025. The motion was seconded by Dr. Patrick. The motion passed unanimously. (FOR-7/AGAINST-0/ABSTAIN-0)

At 2:00 p.m., the Board went into Executive Session to discuss confidential investigation information and consult with legal counsel concerning legal matters involving case number 2022-00025. The Board returned to Open Session at 2:23 p.m. Dr. Gutierrez reported the Board did not take any action during the Executive Session.

Dr. Gutierrez requested Ms. Parker summarize the recommendations of the Investigation-Enforcement Committee for Case No. 2022-00025. Ms. Parker reported the following:

Case Number 2022-00025

Ms. Parker reported the Investigation-Enforcement Committee recommends that the Respondent's Optometric Glaucoma Specialist certificate be REVOKED and the Respondent may not reapply as an Optometric Glaucoma Specialist for at least six months from the date of the executed Order and only if Respondent is fully compliant with this Order. Respondent shall successfully retake and pass a glaucoma certification course prior to making reapplication to the board for privileges an Optometric Glaucoma Specialist. Respondent shall be subject to Optometric Glaucoma Specialist application process and pay all application fees associated with same. Within six months from the date of this fully executed Order, Respondent shall shadow a fellowship-trained Glaucoma Specialist, ophthalmologist, for a total of 16 hours. Respondent is required to complete this shadowing experience in order to maintain licensure as a therapeutic optometrist regardless of the revocation of her glaucoma certification. The hours obtained may not be used as continuing education credit. Respondent shall take and submit proof of successful completion of eight hours of continuing education from the Optometric Glaucoma Society prior to December 31, 2022 and in conjunction with the upcoming renewal cycle for her therapeutic license. Respondent shall successfully take and pass the Texas Jurisprudence examination within six months from the date of the fully executed Order and prior to making reapplication for glaucoma privileges.

Respondent shall pay an administrative monetary fine in the amount of \$2,500.00 no later than six months from the date of the fully executed Order and prior to reapplication for privileges as an Optometric Glaucoma Specialist.

Dr. Thompson moved to accept and second the recommendations of the Investigation-Enforcement Committee related to Case Number 2022-00025. The motion passed unanimously. Dr. Gutierrez, Dr. Cornett, and Mr. Pena abstained from the vote. (FOR-4/AGAINST-0/ABSTAIN-3)

Ms. Parker provided a summary of investigative activity to the Board regarding complaints and investigations since the last Board meeting. She reported there were 36 open cases, 16 cases had been closed since the last meeting and 61 inspections had been performed. Further, there were two cases waiting for informal settlement conference and five complaints at the State Office of Administrative Hearings. She reported there were two total cases related to glaucoma and the investigation process is working well.

Ms. Parker reported she had issued five administrative fines all related to inspection related cases. The five fines were all \$300 each were related to non-compliance with 351.353 of the Optometry Act and non-compliance with the Healing Arts Act. The fines were recommended by the Board member reviewers. Dr. Patrick moved to approve the administrative penalties assessed by the Executive Director. Dr. Hopping provided the second. The motion passed unanimously. (FOR-7/AGAINST 0/ABSTAIN-0).

RULES COMMITTEE.

Dr. Hopping, Rules Committee Chair, reported that the Rules Committee moved to adopt new §273.17 Emergency Management requiring CPR or BLS for initial licensure and renewal licensure as of January 1, 2023, with minor modifications from the initial publication. Minor Changes include changing §273.17(a) (2) “Services” to “Support”. Dr. Schutte seconded. (FOR-7/AGAINST 0/ABSTAIN-0).

Dr. Hopping reported the Rules Committee approved the publication in the Texas Register the Texas Optometry Board’s Notice of Intent to review Chapter 280, Therapeutic Optometry.

COMMITTEE ON PEER ASSISTANCE.

Ms. Parker reported that the TOB has six optometrists (five volunteer enrollments and one Board ordered) in the Professional Recovery Network (PRN) program.

10. QUARTERLY BOARD MEMBER TRAINING. Ms. Parker provided a quarterly board member training on staff review. The training included an overview of staff names and positions.
11. ANNOUNCEMENTS. Dr. Gutierrez and other Board members thanked Ms. Parker for her service upon her resignation as Executive Director. He announced that the next scheduled meeting is set for November 3-4, 2022.

12. ADJOURNMENT. Dr. Hopping moved that the meeting be adjourned and Dr. Patrick seconded the motion. The motion passed unanimously. The meeting was adjourned at 2:49 p.m. (FOR-7/AGAINST 0/ABSTAIN-0).