

BOARD MEETING MINUTES

November 3, 2022

1. CALL TO ORDER.

Dr. Gutierrez called the November meeting of the Texas Optometry Board (TOB) to order at 12:32 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

Judy Chambers, Secretary/Treasurer

Carey A. Patrick, O.D., Member

John Todd Cornett, O.D. Member

Bill Thompson, O.D. Member

Meghan Schutte, O.D. Member

Ty Sheehan, Public Member

Rene Pena, Public Member (present at 1:22 p.m.)

Janice McCoy, Executive Director

Vincent Pina, Executive Assistant

Dennis McKinney, Assistant Attorney General

3. MINUTES. The Board reviewed the July 28, 2022 meeting minutes. A motion was made by Mrs. Chambers to accept the minutes and seconded by Dr. Patrick. The motion passed unanimously. (FOR – 8/OPPOSED – 0/ABSTAIN – 0)

The Board reviewed the September 8, 2022 meeting minutes. A motion was made by Dr. Thompson to accept the minutes and seconded by Dr. Patrick. The motion passed unanimously. (FOR – 8/OPPOSED – 0/ABSTAIN – 0)

4. BOARD CHAIR REPORT. Dr. Gutierrez presented the Board Chair Report. Dr. Gutierrez reported on plans to modernize licensing process to make it more intuitive and asked Board members to think of ideas for the 2023 Professional Responsibility CE course.

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

a. Optometry School Liaison Reports.

Dr. Schutte provided an update as the liaison for the Rosenberg School of Optometry (RSO). She reported that the accreditation process was complete and the school was accredited through 2030 and the school still had two open faculty positions.

Dr. Cornett provided an update as the liaison for the University of Houston (UH). He reported the school had a graduation rate of 95% and a 93% passing rate on the National Board exam; the school is currently enrolling for the Class of 2027; the Dean has been contacted by UT-Rio Grande Valley about creating an Optometry program; the school has a new CE Director; and faculty was now aware of the opioid CE exemption option in CE Broker.

b. Dr. Gutierrez discussed 2023 Board Meeting dates with the expectation that some of the meetings would be in person if a meeting location could be secured. 2023 Board Meetings will occur on: January 19-20, 2023; April 27-28, 2023; August 3-4, 2023; and November 2-3, 2023.

6. PUBLIC COMMENT. The Public Comment period opened at 12:45 p.m. No public comment was received.
7. EXECUTIVE DIRECTOR'S REPORT. Ms. McCoy presented the Executive Director's Report.

Budget Update. Ms. McCoy provided the Board with a Fiscal Year 2022 End of Year report showing the agency lapsed approximately \$13,000. She presented the Fiscal Year 2023 budget through October 31, 2022 showing the agency had 89.21% of the budget remaining with 83.3% of year left. Ms. McCoy noted the Annual Financial Report was filed on October 24, 2022 and the Legislative Appropriations Request was amended and refiled on October 7, 2022 with a lower exceptional item request of \$59,300.

Performance Measures. Ms. McCoy reported that the Annual FY22 Performance Measures were filed on October 10, 2022. The agency exceeded most of the targets with two exceptions.

Licensing Statistics. Ms. McCoy provided an update on licensing statistics through October 27, 2022.

Total Licenses	5,239 (4,796 active; 439 inactive; 4 retired)
Total OGS	3,934 (3,811 active; 121 inactive, 2 retired)
Military	122

Renewal Season. Ms. McCoy reported the renewal season opened on October 17, 2022 with a total of 2,738 licensees set to renew by December 31, 2022. Through October 27, 2022, approximately 144 licensees had successfully renewed with another 50 licensees who had paid but were not complete because of missing CE or background check. She noted that GT licensees needed to either take 2 hours of opioid CE or mark themselves exempt in CE Broker.

8. COMMITTEE REPORTS.

ADMINISTRATIVE/LICENSING COMMITTEE.

Dr. Cornett, Chair of the Administrative/Licensing Committee, provided the report. The Committee reviewed three applications for licensure: all of which were applications for licensure without examination. Dr. Cornett reported that the Committee moved to approve all applications. Dr. Schutte seconded the motion. The motion passed unanimously. (FOR-8/AGAINST 0/ABSTAIN-0). Committee members discussed updating the LWOE form to ask applicants to attest that requirements were met.

He reported that 39 applicants took the jurisprudence exam with a 100% passing rate. He noted in FY22 Q4 124 licenses had been issued and in FY23 Q1 (first 2 months) 23 licenses had been issued.

CONTINUING EDUCATION COMMITTEE.

Dr. Patrick, Chair of the Continuing Education Committee, provided the report. She reported that several courses had been submitted for approval. Dr. Patrick reported the Committee approved 14 hours of Continuing Education - 13 diagnostic therapeutic, 4 general, 5 opioid, and 2 controlled substance. She discussed recommendations for topics to include in the 2023 Professional Responsibility CE course. Dr. Gutierrez asked that Board members send any ideas for professional responsibility topics to Dr. Patrick by November 17, 2022. Mrs. Chambers moved that the CE Courses recommended by the Committee be approved. Dr. Thompson seconded the motion. The motion passed unanimously. (FOR-8/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. 2022-00098. The motion was seconded by Dr. Patrick. The motion passed unanimously. (FOR-8/AGAINST-0/ABSTAIN-0)

At 1:04 p.m., the Board went into Executive Session to discuss confidential investigation information and consult with legal counsel concerning legal matters involving case number 2022-00098. The Board returned to Open Session at 1:22 p.m. Dr. Gutierrez reported the Board did not take any action during the Executive Session.

Dr. Gutierrez reported that Mr. Pena was now present.

Dr. Gutierrez requested Ms. McCoy summarize the recommendations of the Investigation-Enforcement Committee for Case No. 2022-00098. Ms. McCoy reported the following:

In case Number 2022-00098, 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. Respondent shall take and submit proof of successful completion of continuing education from a reputable organization no later than six months from the date of the fully executed Order. The course shall be on the subject of good clinical practice guidelines which include the topics of informed consent and ethics. Respondent shall submit the course to the Executive Director prior to taking the course for approval.

Mr. Sheehan moved to accept the recommendations of the Investigation-Enforcement Committee related to Case Number 2022-00025. The motion was seconded by Dr. Patrick. The motion passed unanimously. Dr. Hopping, Dr. Cornett, and Mrs. Chambers abstained from the vote. (FOR-6/AGAINST-0/ABSTAIN-3)

Ms. McCoy provided a summary of investigative activity to the Board regarding complaints and investigations for FY22 Q4 – total number of cases closed: 42, average days to close – 51.5, total number of inspections conducted: 10, and penalties assessed: 8. For the first two months of FY23 Q1 - total number of cases closed: 16, average days to close – 57, total number of inspections conducted: 0, and penalties assessed: 0.

She reported there are 20 cases currently open: 5 at SOAH, 4 awaiting informal conference, 11 pending, and 1 that was for Board review today.

Ms. McCoy reported the previous Executive Director had issued two administrative fines between the July board meeting and August 31, 2022. A \$300 fine related to unlicensed activity and a \$300 fine related to non-compliance with Sec. 351.353 of the Optometry Act. Dr. Thompson moved to approve the administrative penalties assessed by the previous Executive Director. Mrs. Chambers seconded the motion. The motion passed unanimously. (FOR-9/AGAINST 0/ABSTAIN-0).

RULES COMMITTEE.

Dr. Hopping, Rules Committee Chair, reported that the Rules Committee is proposing the following for publication in the Texas Register with preamble and for submission to the Governor's Office for approval:

- Proposal: Amendments to 22 TAC Chapter 277.1, 277.2, 277.3, 277.4, 277.5, 277.6, 277.10, 277.11, and 277.12. Dr. Patrick seconded the motion. The motion passed unanimously. (FOR-9/OPPOSE-0/ABSTAIN-0)
- Proposal: Close Quadrennial Rule Review for Chapter 277. Dr. Cornett seconded the motion. The motion passed unanimously. (FOR-9/OPPOSE-0/ABSTAIN-0)
- Proposal: Amendments to 22 TAC Chapter 279.1, 279.2, 279.3, 279.4, 279.11, 279.12, 279.13, and 279.15. Dr. Patrick seconded the motion. The motion passed unanimously. (FOR-9/OPPOSE-0/ABSTAIN-0)
- Proposal: Close Quadrennial Rule Review for Chapter 279. Mr. Pena seconded the motion. The motion passed unanimously. (FOR-9/OPPOSE-0/ABSTAIN-0)

Dr. Hopping reported on the progress of the Rules Committee related to the Quadrennial Rules Review for Chapter 280 and expected a proposal to be presented at the January Board meeting.

COMMITTEE ON PEER ASSISTANCE.

Mrs. Chambers reported that the TOB has 4 optometrists (three volunteer enrollments and one Board ordered) in the Professional Recovery Network (PRN) program.

9. QUARTERLY BOARD MEMBER TRAINING. Ms. McCoy provided a quarterly board member training on the Texas Legislative Process. The training included a PowerPoint presentation that will be shared with Board members.
10. ANNOUNCEMENTS. Dr. Gutierrez stated 2023 Board Committee appointments will be made prior to the January 2023 meeting. He announced that the next scheduled meeting is set for January 19-20, 2022. Dr. Gutierrez again asked Board members to send any ideas for professional responsibility topics to Dr. Patrick by November 17, 2022
11. ADJOURNMENT. Dr. Patrick moved that the meeting be adjourned and Dr. Hopping seconded the motion. The motion passed unanimously. The meeting was adjourned at 1:42 p.m. (FOR-9/AGAINST 0/ABSTAIN-0).