

**BOARD MEETING MINUTES
NOVEMBER 6, 2020**

1. CALL TO ORDER.

Dr. Gutierrez called the meeting of the Texas Optometry Board (TOB) to order at 9:01 a.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 Schuttte, O.D.	Member
Ty Sheehan	Member
Rene Pena	Member
Kelly Parker	Executive Director
Vincent Pina	Executive Assistant
Dennis McKinney	Assistant Attorney General

Note, Mr. Sheehan joined the meeting at 9:08 a.m.

3. MINUTES.

The Board reviewed the July 31, 2020 meeting minutes. Ms. Parker pointed out a needed technical change on Page Six. A motion was made by Dr. Cornett to accept the minutes with the change and seconded by Ms. Chambers. The motion passed unanimously. (FOR-9/ OPPOSED-0 /ABSTAIN-0)

4. GENERAL MATTERS.

The Board discussed and considered the Agenda items under General Matters as follows:

- a. **2021 Board Meeting Calendar.** The 2021 meeting calendar was established for the following dates: February 4-5, May 6-7, July 29-30, and November 11-12.

- b. **2021 Exam Dates and Application Dates.** License exam dates are set each year in accordance with the Optometry Act and Board Rule. Ms. Parker presented the Board with the 2021 exam dates and application deadlines. She noted that the residency match date is March 1, 2021. The dates and deadlines are listed below.

<u>Application Deadline</u>	<u>Exam Dates</u>
November 17, 2020	January 1-14, 2021
February 15, 2021	April 1-14, 2021
March 17, 2021	May 1-14, 2021
May 17, 2021	July 1-14, 2021
June 17, 2021	August 1-14, 2021
August 17, 2021	October 1-14, 2021

- c. **Optometry School Liaison Reports.** Dr. Hopping did not have anything to report for the University of Houston school liaison report. Dr. Patrick did not have anything to report for the UIW/Rosenberg School of Optometry school liaison report.
- d. **NBEO/ARBO Report of the Task Force. To Review Alternative Testing. Methodologies During COVID-19.** Dr. Hopping highlighted the findings of the task force report.
- e. **Changes to the Federal Contact Lens Rule.** Dr. Patrick reported on the changes to the Federal Contact Lens Rule. Specifically, noting that the change now requires a patient signature for a contact lens prescription. The patient signature must be maintained in the patient chart. The Board discussed whether the Board needed to consider future rule changes with regard to the federal changes. Ms. Parker noted that pursuant to Board Rule 279.2(b), a contact lens prescription must comply with the requirements of the Texas Optometry Act, Contact Lens Act and the Federal Contact Lens Rule. Therefore, optometrists would need to comply with the changes to the federal Act and no additional Board Rules are required to enforce same. Legal Counsel, Mr. McKinney, agreed with Ms. Parker's interpretation of Board Rule 279.2(b). The Board did not take any further action on this item but noted a reminder should be posted on the Board's website.
- f. **Case Resolution Overview.** Dr. Gutierrez advised that he will be working with Ms. Parker to refine and update case resolution timelines. Dr. Gutierrez asked Ms. Parker to explain the importance of case resolution

metrics for the agency. Dr. Gutierrez anticipated having more information in the coming weeks and before the next meeting for Board Members.

- g. **Board Recognition.** Dr. Gutierrez presented a resolution honoring former Executive Director, Chris Kloeris for his exceptional service and dedication to the Board. Dr. Hopping made a motion to adopt the resolution and present it to Mr. Kloeris. Ms. Chambers seconded the motion. The motion passed unanimously. [FOR-9 / AGAINST-0 / ABSTAIN-0)

5. PUBLIC COMMENT.

The Public Comment period opened at 10:00 a.m. Ms. Parker advised that a written public comment was received from **Dr. Kim** and had been provided with Board meeting materials. No other public comments were provided.

6. BOARD CHAIR REPORT.

Dr. Gutierrez presented the Board Chair Report.

- a. **Quarterly/Electronic Updates.** Dr. Gutierrez advised the Board that Ms. Parker will be sending monthly email updates to Board Members and quarterly email, updates to licensees in addition to the annual Newsletter. Dr. Gutierrez also noted that additional notices may be sent as needed.
- b. **HB2059-Human Trafficking Notifications.** Dr. Gutierrez noted that the human trafficking continuing education requirement is needed for the 2021 license renewal. Staff is monitoring the progress and completion rate of the human trafficking course. Ms. Parker noted that information about the CE requirement as well as links to the continuing education approved courses is listed on the website, was provided as a “reminder” in the 2021 renewal notices and is listed in the August 2020 Newsletter. Mr. Pena encouraged Board Staff to be aggressive with the encouraging compliance with the requirement.

7. EXECUTIVE DIRECTOR’S REPORT.

Ms. Parker presented the Executive Director’s Report.

- a. **Budget Update.** Financials through October 31, 2020 were provided as an attachment in the Board materials.
- b. **Licensure Statistics.** Ms. Parker reported that as of October 30, 2020, there are 4,984 total licensees. Out of the 4,984 licensees, 4,491 are active licenses and 490 are inactive.
- c. **Performance Measures.** Ms. Parker advised that performance measures for Q4 2020 were completed on October 7, 2020. The agency met its measures in most categories. The agency will continue to sharpen its procedures to strive to meet the target goals in both the “Complaints Resolved” and “Average Case Resolution” categories. Ms. Parker also mentioned that some

cases take longer due to complexity which will always impact these two categories.

- d. **2021 License Renewals.** Ms. Parker reported that the 2021 renewal period opened on November 1, 2020. She reviewed the requirements for the 2021 renewal.
- e. **Joint Budget Hearing/Legislative Appropriations Request.** Ms. Parker advised that the Legislative Appropriations Request was filed on September 11, 2020. The Joint Budget Hearing was held virtually on October 29, 2020. Oral and written testimony were provided on behalf of the agency.
- f. **Licensee Scam Alert.** Ms. Parker updated the Board about the recent scam attempts on licensees. An email blast was sent to all licensees regarding the recent scam attempts. An alert is also posted on the website.
- g. **Update COVID-19 response.** Ms. Parker reported that the TOB is now staffed pursuant to the Governor's guidance on staff returning to work. Staff are working from home on most days but a slow, controlled return to office plan is in place. She noted that phones are being answered when staff are in the office. Additionally, Ms. Parker advised that the agency has purchased Google Voice accounts for a term of six months. The Google Voice accounts will allow staff members to provide callers with customer service from home. Ms. Parker noted that this is an increase in customer service efforts since previously the staff was not accepting telephone calls.
- h. **Update on move to Capitol Complex.** To date, no new information has been received from the Texas Facilities Commission.
- i. **Update on TOB staff.** Ms. Parker informed the Board about an anticipated open position due to retirement.
- j. **Annual Report to Board.** The Annual Report will be prepared and circulated to Board Members in November 2020.

8. LEGAL REPORT.

No new report.

9. COMMITTEE REPORTS.

ADMINISTRATIVE/LICENSING COMMITTEE.

Dr. Patrick, Chair of the Administrative/Licensing Committee, reported that two exams were held since the last Board Meeting: August 1-14, 2020: 17 registrants, 16 took the exam and 16 passed; and, October 1-14, 2020: 28 registrants, 26 took the exam and 26 passed. Since the last Board Meeting, 69 new licenses have been issued. The Committee reviewed and approved two Applications for Licensure Without Exam. The Committee also reviewed and recommended approval of the Kentucky College of Optometry.

CONTINUING EDUCATION COMMITTEE.

Dr. Thompson, Chair of the Continuing Education Committee, reported that the Committee reviewed and approved 82 courses, which included three PR hours, 71 GEN hours and 829.5 D/T hours which was an overall total of 903.5 hours. The Committee provided guidance to staff regarding the process for approvals after the November Board Meeting. The Committee plans to consider ways to modernize continuing education tracking and reporting for next year. A list of future professional responsibility course topics for 2021 will be circulated later this month.

INVESTIGATION-ENFORCEMENT COMMITTEE

Ms. Parker provided statistics to the Board regarding complaints and investigations. Since the last Board Meeting,

RULES COMMITTEE

At 10:46 a.m., the Board went into Executive Session to obtain legal advice regarding amendments to Board Rule 279.16 Telehealth Services as authorized by Section 551.071 of the Government Code. The Board returned to Open Session at 11:02 a.m. The Board did not take any action during the Executive Session.

Dr. Hopping, Rules Committee Chair, advised that the Committee voted to recommend to the Board the adoption of proposed amendments to 22 T.A.C. §279.16 Telehealth Services. The intent of the proposed amendments allows optometrists to treat established patients and/or treat new patients, if possible, therapeutically, via telehealth. An optometric telehealth service does not meet the minimum standard of care for the initial examination of a patient for whom an ophthalmic lens prescription is issued. The amendment also adds requirements for informed consent, minimum standards, issuance of prescriptions and security requirements to ensure patient information is protected consistent with Federal and State privacy laws.

Dr. Hopping presented a motion that the Committee's recommendation that amendments be adopted and published in the *Texas Register* with preamble be accepted by the Board. Dr. Thompson seconded the motion. The motion passed unanimously. (FOR-9 / AGAINST-0 / ABSTAIN-0)

COMMITTEE ON PEER ASSISTANCE.

Chair Ms. Chambers reported news from the Professional Recovery Network (PRN) program. PRN is under new leadership and recently held a Fall Seminar. There are four voluntary optometrists in the program. Ms. Chambers advised that she was recently appointed to the PRN Advisory Committee.

100th ANNIVERSARY COMMITTEE.

Dr. Patrick noted that there was no new report of the Committee at this time but hopes to plan to meet in person in the future.

10. QUARTERLY BOARD MEMBER TRAINING.

Ms. Parker and Board Members reviewed the Board's peer assistance program including specifics regarding the Professional Recovery Network (PRN).

11. ANNOUNCEMENTS.

Dr. Gutierrez thanked the Board Members for their time and service. He reminded members to check email and look for information from the Board Office in between meetings regarding updates on case resolution timelines and a final list of the 2021 professional responsibility courses.

12. ADJOURNMENT.

Dr. Patrick moved that the meeting be adjourned, Dr. Hopping seconded and the motion passed.