**Maine Board of Optometry**

**113 State House Station**

**Augusta, Maine 04333**

**MINUTES OF August 4, 2023**

**BOARD MEETING**

CALL TO ORDER: The meeting was called to order by Dr. Nadeau, O.D. at 9:00a.m. Members present Thomas Nadeau, O.D, Parise Chamberland, O.D, James Smith, O.D. and James Murphy, Public Member.

Others present Tina Carpentier, Office Specialist II, Elizabeth Stivers, Assistant Attorney and ­­­three ­­­­­citizens and 14 citizens on zoom. Absent: Paul Cote, O.D.

OLD BUSINESS:

Action on Minutes of May 12, 2023, Meeting: A motion was made by Dr. Chamberland, second by James Murphy to accept the minutes as written.

The motion passes 4 in favor and 0 opposed.

NEW BUSINESS:

**LD 1956: An Act to Amend the Laws Governing Optometrists**: The Board listened to two Stakeholders comments that came to the meeting and one Stakeholder that commented on Zoom. We also receive 30 emails from Stakeholders. The Board will have a meeting to go over all Stakeholders comments and make any changes to LD 1956 on September 8, 2023.

**Email from Dr. LaBree:** The Board reviewed the email dated June 7, 2023, inquiring if an online eye exam constitutes a valid prescription.

A motion was made by Dr. Nadeau, seconded by Dr. Smith to send a letter stating that the Board directs Dr. Labree to its statutory provision that addresses the minimum prescription requirements at 32 M.R.S. § 2417. The Board further directs Dr. LaBree to the standards for a minimum eye examination are found at 32 MRSA § 2417(3). It appears from the information received that the prescription was made based solely on the diagnosis of a refractive error as generated by a kiosk as defined under Maine law. The section defining kiosk is found at 32 M.R.S. 2411(9). Assuming this is correct, the prescription does not appear to meet the standards articulated under 32 MRSA § 2417(4) (A-1) (5).

The motion passes 4 in favor and 0 opposed.

**Email from Dr. Hadden**: The Board reviewed the email dated June 22, 2023, inquiring whether the Board’s statutes permit a fully virtual practice within a Walmart.

A motion was made by Dr. Nadeau, seconded by Dr. Chamberland to send a letter stating that the Board cannot provide legal advice. However, we can direct you to the standards for a minimum eye examination at 32 MRSA § 2417(3); the minimum prescription requirements at 32 MRSA § 2417(4) with particular attention to 32 MRSA § 2417(4)(A-1)(5) which prohibits the issuance of a prescription for ophthalmic lenses or contact lenses based solely on a diagnosis of a refractive error of the human eye as generated by a kiosk; the definition of “kiosk” at 32 MRSA § 2411(9); and the “kiosk law” at 32 MRSA § 2421(3) which references 32 MRSA § 2435.

The Board statute currently permits telehealth and directs your attention to Title 32, subchapter 6.

The motion passes 4 in favor and 0 opposed.

**Email from Roxanne Hilton:** The Board reviewed the email dated June 22, 2023, inquiring if the Board’s statute constitutes whether or not an optometrist may procure controlled substance.

A motion was made by James Murphy, seconded by Dr. Smith to send a letter to Roxanne Hilton and direct her to 32 M.R.S.A. § 2430, the enabling statute for use of therapeutic pharmaceutical agents.

The motion passes 4 in favor and 0 opposed

**COMPLAINTS:**

**2023-OPT-19177** After presentation and discussion, a motion was made by James Murphy, seconded by Dr. Smith to dismiss the complaint on the ground that there was no evidence of violations of Board Laws and Rules.

The motion passes 3 in favor and 1 abstained (Dr. Chamberland)

**2023-OPT-19219**: After presentation and discussion, a motion was made by Dr. Nadeau, seconded by James Murphy to issue a letter of warning.

The motion passes 3 in favor and 1 abstained (Dr. Chamberland)

**PRESIDENT’S REPORT:**  Dr. Nadeau thanked to Board for all their hard work.

**SECRETARY’S REPORT:** Secretary sent another email dated July 17, 2023 to Boards and Commissions asking why we have not had any appointed Members of the Board.

ADJOURNED: A motion was made by ­­­­­­­­­James Murphy seconded by Dr. Smith to adjourn the meeting at 11:55 a.m.

The next meeting will be held on September 8, 2023.

Respectfully submitted,

Tina Carpentier

Office Specialist II, Maine Board of Optometry