

Thank you for the opportunity to attend the NBEO/ARBO Annual Meeting in Seattle this past June 21-23, 2015.

NBEO Report (National Board of Examiners in Optometry)

To recap for those of you new to the Board, there is a testing center in Charlotte, NC, The National Center for Clinical Testing (NCCTO) that has been offering all 4th year optometric students their Part III Clinical Skills Examination (CSE) since August 2012. They also offer the Injection Skills Examination (ISE) even though just 12 states require ISE. They currently have a committee working on the inclusion of a LASER and Surgery Skills Examination. This would include Nd:YAG LASER posterior capsulotomy (Neodymium: Yttrium, Aluminum, Garnet), LPI (LASER Peripheral Iridotomy), SLT (Selective LASER Trabeculoplasty), and suturing skills.

The testing center unfortunately has had an increase in cheating in 2014 and 2105. There were 11 cases of cheating in 2014 and 15 cases in 2015. Prior to this there were less than 2 cases per year. The NBEO has tasked Dr. Nancy Petersen-Klein with working on remedying this issue. There is a video she has produced that all candidates must watch prior to testing to assure that the students know the ramifications of their behavior on the test. Because of this, 500 questions were struck from the test costing \$800,000 or \$1,600.00 per question. 20%-35% of test questions are reused with each administration. They are looking to expand and reformat the type of test questions in the future. These are pencil and paper exams and they are looking to segue into a computerized version. To move to a computer-based exam, quite a few questions must be cut. The USMLE (United States Medical Licensing Examination) has 322 items down from the 900 items there used to be. The NBEO is looking at cutting ~100 items to make the move to a computerized test. If they don't cut this many questions, the computerized exam would take 9 hours! Currently there are 414 questions for the CSE section alone.

The TMOD (Treatment and Management of Ocular Disease) is incorporated into the Part II, PAM test (Patient Assessment and Management) but is available as a stand-alone test as well. The PAM has 350 computer-based questions and is administered by the testing company Pearson Vue. Part I, ABS (Applied Basis Science) has 500 questions taken in 4 sections at the student's optometry school.

COPE (Council on Optometric Practitioner Education)

COPE is an organization that assists Member Boards in the accreditation of Optometric CE. As optometry continues to seek equality and equivalency within the healthcare arena, COPE has recently revised their standards upward for a provider to get COPE approval. Effective July 1, 2015, there must be a post-course test to verify learning for all "distance-learning courses." An accredited school of optometry, medicine, pharmacy, or osteopathy must review the post-course test and answer key. This test must include a minimum number of questions based on the length of the course: 0.25 hour/unit requires a minimum of 3 questions, 0.50 hour/unit requires a minimum of 5 questions, and 1.00 hour/unit requires a minimum of 10 questions. They are also requiring specification of minimums for

credit hours earned and the time of the instruction. There are 2 options for this new accreditation process; one for larger organizations and one for smaller ones. They are driving education to move from knowledge-based to competency-based; or to move knowledge into action. They are attempting to measure "Learning Outcomes". "What did you learn?" (measures knowledge). And "What will you change in your practice?" (moving towards measuring compliance)? And once this move is complete, COPE is seeking a letter of equivalency from the ACCME (Accreditation Council for Continuing Medical Education). They are still pursuing joint inter-professional accreditation of CE with other healthcare providers. Pennsylvania currently accepts CME as their CE. This didn't require any additional legislation on their part as this is built into their Practice Act. (What is Wisconsin's position regarding acceptance of non-optometric CE?)

Apparently the AOA is not thrilled with the changes that COPE is making. They cite that COPE is not "accredited" and that these proposed changes are not transparent. BUT, as attorney Dale Atkinson, General Council For ARBO pointed out, Dr. David Cockrell, AOA President sits on his State Board and has for 20 years. He believes this association is a direct conflict of interest...

Along the lines of CE, many states have expanded the rights and responsibilities of optometrists to include things like epinephrine injections, flu shots, vaccinations, and minor surgeries. California not only does the afore-mentioned, but OD's there may perform LASER procedures for glaucoma. With this expansion of duties, states are requiring continuing education in painkillers, CPR, and even cultural competency. The recommendation was made that State Boards should consider adding to their CE requirements classes in Ethics. Oregon also has a policy for accepting CE for Surgery Clinic Observation. (Should we look into this for codifying our requirements here in WI?)

ACOE Report (Accreditation Council on Optometric Education)

This is an entity of the AOA and establishes and maintains and applies standards for professional OD programs, optometric residency programs, and optometric technician programs. They accredit 22 optometric programs currently. There are 3 new schools in various stages of development; one at Alderson Broaddus University in Phillips, WV and one at Midwestern University, in Chicago, IL both in the first stage of development and a school in Pikeville, KY in the second stage of development. Now that there are so many programs it is difficult finding qualified professors AND qualified applicants. Applicants have a 1.5 to 1 chance in getting accepted into school. OAT (Optometry Admission Test) scores are falling, as have the GPA's of entering students. (Future problem for State Boards to get and maintain "Minimally-qualified" professionals?)

AOSA Report (American Optometric Student Association)

There are over 7,200 students in optometry schools in the USA, Canada and Puerto Rico!

Telemedicine Policy by The Center for Connected Health Policy

This is an independent, public interest organization that strives to advance state and national telehealth policies by conducting research, policy analysis, and provide assistance and education. Telehealth can be defined as three different entities, live video, store/forward and/or remote monitoring. Reimbursement for live video is occurring in 46 states. Reimbursement for store/forward is happening in nine states. Remote patient monitoring has fourteen states that currently get reimbursed. 27 states and DC now have “private payer parity laws”. FSMB (Federation States of Medical Boards) Interstate Licensure Compact for Multiple State MD Licenses creates an interstate commission to implement an expedited licensure process. (We live in a mobile society.) Nine states have now passed the language: Alabama, Idaho, Montana, Minnesota, Nevada, South Dakota, Utah, West Virginia, and Wyoming. Nine more states have pending legislation to adopt the language. (What are the ramifications for “eye exams” being signed off by a doctor who now will be able to get expedited licensure in multiple states but never sees the patient?? Think how this may impact who signs off on eyeglass/contact lens prescriptions for EyeNetra and Opternative.) There are over 200 bills in 42 states regarding reimbursement, telehealth professional standards (need for in-person exam, prescribing, etc.), pilot projects, and cross-state licensing. HR 2066 (Rep Harper) Telehealth Enhancement Act of 2015 authorizes an ACO to include coverage of telehealth and remote patient monitoring as supplemental health care benefits to the same extent as in a Medicare Advantage Plan. It also recognizes telehealth services and remote patient monitoring in the national pilot program on payment bundling. It includes the originating site for telehealth care (but without receiving payment of a facility fee), to be any critical access hospitals, sole community hospitals, home telehealth sites, as well as others. (Will optometry be included?)

The Veterans Administration has screened 1.75 million retinal images for veterans since 2006. In 2013 alone, 260,00 people with diabetes were imaged and these images were sent to a screener. It is estimated that 75 million virtual visits have been made in North America in 2014.

Twelve states have NO telemedicine parity laws. Wisconsin is one of these states! (We need to have rules outlining Telemedicine policies for Wisconsin!)

Issues for State Licensure Boards

- 1- How to reconcile the utilization of virtual, “boundary-less” health modalities with geographically-bounded legal restrictions
- 2- How to monitor and assure professional standards of confidentiality and privacy given the “electronic highway” (HIPAA)
- 3- Who regulates the development of new technologies and their utilization by whom

4- How to assure compliance with federal antitrust laws when regulations are developed and promulgated by market participants

Regulatory Cases Update

Review of the top regulatory cases by Dale Atkinson, legal counsel for ARBO occurred during this meeting. He pointed out that more and more frequently, conflict of interest is becoming an issue in society in general and the health professions in particular. He pointed out that Board authority is dictated by the individual State, and as such, certain problems could arise. He also made the suggestion that at every Board meeting, certain statistics should be reported and review of the various projects that the Board was involved in should be in the Agenda. This allows for more transparency and provides direction for the Board. He also pointed out a valuable resource for state Executive Directors. The National Policy Summit on Professional Regulation is held yearly and was held July 23, 2015 in Washington, D. C. this year.

In referencing the North Carolina Board of Dental Examiner's vs. FTC case, he pointed out that in our Practice Act, we must make sure we adopt clear policy to displace competition and (if agency controlled by active market participants) provide active State supervision. He also asked the very pointed question, "why are we fearful of opening the Optometry Practice Act?" Dale also suggested that conflict of interest, or even the perception of a conflict of interest, is a very real issue motivating many lawsuits. In an effort to protect the public we serve, he recommends performing a criminal background check on all new licensees and again on all licensees on a regular basis. BUT as he pointed out, we must have the statutory authority to be able to do so.

Another issue he brought up was Colorado's marijuana law. What does our state law say regarding our ability for us to prescribe this when/if this legislation becomes our law?

ARBO Report (Association of Regulatory Boards of Optometry)

ARBO provides programs for accreditation of CE courses, tracking and auditing OD attendance of CE, assistance with license mobility, among other duties. Members include our 50 states plus DC, along with Guam, Puerto Rico, the Virgin Islands, Australia, New Zealand, and the Canadian Provinces.

As is customary, Member Boards were asked to complete 3-questions and include this in their annual report to ARBO. 39 states completed this report and sent 30 delegates to represent them. Eight other states sent delegates but did not send in any report; this included Wisconsin. Four of the 10 Canadian Provinces sent a written report with Alberta and British Columbia sending delegates. Australia and New Zealand sent both reports AND delegates. To sum, 107 individuals, including 79 delegates from 41 Member Boards attended. This was the most well attended meeting yet breaking all attendance records. This annual meeting is the opportunity for Member Boards to connect with each other, to provide support and feedback to the Board of Director's, and to continue to define the role of licensing boards, as

optometry aligns with other health professions in the ongoing effort of improving the health of the people we are entrusted to serve.

There were opportunities for Executive Directors and Administrators to have their own sessions apart from the general session to discuss their staff experiences with electronic processes, their state initiatives, legal issues related to electronic processes, and an update on OETracker and its uses for Member Boards. In addition to these separate sessions, individual delegates met in smaller interstate groups to discuss current events in optometry as well as news and issues from our respective jurisdictions.

The 3 questions were:

- 1.) What is your Board's policy or rule regarding CE requirements for license renewal for active duty military personnel and their spouses?

Most states did NOT have a policy regarding military personnel in particular. Many would take requests on a case-by-case basis for the individual but not for their spouse. However, Minnesota participated with six other health licensing boards in reaction to the prior legislature's passing of a Temporary Military Permit law requiring an acting or temporary license for military exceptions. By completing this legislative action, the board avoided expensive rule making standards. (Are we able to do this??) Michigan also will exempt military personnel from CE, but not their spouse. (This is where online CE would really alleviate anyone from getting the appropriate amount of hours required!)

- 2.) Does your Board regulate the dispensing of spectacle/optical products?

Most states do NOT have a Rule regarding this other than specifying the prescription for such originate with a "valid" provider within the state. Most of the laws cited had to deal with deceptive advertising. Areas outside of the USA have various levels of regulation.

- 3.) Does your Board have a policy or rule regarding social media?

Most states do not explicitly have a policy or rule regarding this. Interestingly enough, Australia does and New Zealand is working on one. Saskatchewan spells out their policy in detail. (Do WE need to do this?)

Other interesting news includes Saskatchewan now pays for annual diabetic eye exams, Australia and New Zealand now allow recent graduates to treat glaucoma. New Zealand also changed their laws to grant OD's the same prescribing rights as physicians, dentists, and midwives. In the UK, nurses are allowed to give intravitreal injections. New Mexico, like California allows OD's to administer epinephrine injections. New Mexico passed a bill that added that the New Mexico Board of Optometry has the SOLE authority to determine what constitutes the practice of optometry "in accordance with the provisions of the Optometry Act and has sole jurisdiction to exercise any other powers and duties under that Act. No other Board or agency or other 'entity of the State' has the right to determine what constitutes the practice of optometry." (We need to check in with the

Pharmacy and Medical Boards here in Wisconsin...) A number of states are in the middle of Rules rewriting projects or have completed them in the last year. Most states pointed out that due to the reclassification of hydrocodone and hydrocodone-containing drugs, they did undertake measures to once again allow their OD's to prescribe these medications again. CE audits and license renewals are continuing to see a move toward going totally online. This allows states to free up their staff for other endeavors and to assure that the population they serve has professionals meeting at least minimum requirements.

Not only in the legal update session, but also in the individual state breakout sessions, there was great interest in "EyeNetra", a "Smartphone-powered Optometry Auto-refractor, Lensometer & Phoropter," and "Opternative" eye exams. VSP Vision Care President, Jim McGrann has joined EyeNetra's Board of Director's. Much of the discussion revolved around individual states' laws, protection of the public, informed consent, and jurisdiction of Optometry Boards. Questions arose surrounding these issues such as; does our State Law allow a non-licensed person to refract? Does our Board have authority over unlicensed practice? Do we have jurisdiction over someone who is licensed in another state? What constitutes an "eye exam" in our state? Do these technologies satisfy the requirements of our laws? He also recommended we get a letter of opinion from our Attorney General on vision "kiosks", and to have the AG take "non-licensed providers" to court. West Virginia and Michigan have recently passed legislation prohibiting these technologies in their states. (What is OUR policy regarding this?)

There is much to consider moving forward within our profession and for our Board. We must be proactive in protecting our citizens, but also in assuring that Optometry and optometrists remain valuable players in this ever-evolving health care arena. This is to ensure that the people we serve and protect can benefit from our services and make our State a shining example to the rest of the nation and now the whole world.

The next ARBO/NBEO meeting is to be held in Boston, June 26-28, 2016. Optometry regulatory board members, board staff, public members, and attorneys can all attend this meeting. I would respectfully request the State to consider sending additional Board members and State staff to attend this next meeting. As our society and healthcare become more global, we must remain ready to embrace and anticipate change and stay abreast of the regulatory challenges that can ensnare us as a Board. It is never more important than in our noble profession of Optometry! Notwithstanding budget constraints, this is a worthy venue that facilitates that.

Thank you again for the opportunity to be able to attend this very important and informative meeting.

Respectfully Submitted,

Ann Meier Carli, O.D.
Optometry Examining Board Chair

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