1. **Roll Call/Call to Order/Confirmation of posting of notice and agenda**

The roll was called at 9:30am with present: Drs. Gerdes, Avallone, Wroten, LaPoint, Richardson, Sehon, and Mr. Many Lopez. All board members present. Also present were board counsel Mr. AJ Herbert, III, Public Guests/OAL Members.

Declaring a quorum was present, Dr. Gerdes called the meeting to order.

1. **Governance**

**a. Seating of new board members and welcoming remarks**

Dr. Diedra Richardson, Dr. Keith Sehon & Mr. Manny Lopez were seated. Gerdes pointed out that the LSBOE now has two minority members better reflecting those who are represented and represents the progress and inclusivity of this board. Each new member briefly addressed the board with an introduction and personal background. A picture was taken to commemorate the occasion.

**b. Introduction and welcoming remarks**

Dr. Gerdes Welcomed the new board members and reviewed the mission of the LSBOE. He also reviewed the guidance of the LSBOE with laws and rules, pointing out that statutes trump rules. He mentioned some sources of LSBOE revenue and that all funds collected are public money. He also referenced the LLA and the two current lawsuits. He noted recent changes in laws over the last two years. (Acts 313 & 194) He stated his goal is to maintain independence of the LSBOE from any private entity presently and in the future.

**c. Recognition of previous Board members**

(Delayed due to previous board member absence.)

Dr. Gerdes presented Dr. Heitmeier with a plaque and gavel which he noted was purchased with his own personal funds.

1. **Adoption of Agenda**

Motion to adopt agenda (Shon/Lopez) - approved/adopted without amendment or objection. Passed unanimously.

1. **Approval of Minutes**

The minutes from 06/08/23 were previously distributed by email for review. Dr. Wroten offered edits of typos, “trading” vs “training”, no amendments or objections were heard. Motion (Wroten/LaPoint) to approve 06/08/23 minutes with edits - Pass unanimously.

Motion (Avallone/Richardson) to approve 7/15/23 minutes pending review of audio file by board counsel. Passed unanimously.

1. **Secretary’s Report**
2. Finance and Budget Report

Dr. Avallone presented financial reports including a P&L statement, Balance Sheet, and Budget/Actual expense comparison through June 2023. Discussion was held regarding the increased legal fees budget leading to a deficit at year end. It was pointed out that there was a surplus in that account at year end 2022 due to 2022 legal fees being billed in 2023 which combined with the $75K budget increase of legal fees will lead to an overbudget amount in 2023. A discussion was held regarding board CPA remote participation. It was decided to have the CPA participate from time to time after the contract has been finalized and signed. Dr. Gerdes pointed out that the CPA will continue to reconcile collected income with expected income to satisfy the LLA and ensure proper income is received.

Motion (Avallone/Wroten) to change accounting software to QuickBooks Online with 3 User capability for nominal monthly fee (aprox $30/mo for 1st 12 mo) due to the discontinuation of support by Intuit for the current QuickBooks product use. Passed unanimously.

License Activity –

* + 1. Renewals – none

Approx. 47 delinquent licensees, possible deaths or retirements or moved out of state, all subject to license suspension following formal hearing

Motion (Avallone/ Wroten) to begin the process of license suspension by sending Notice of Hearing to all appropriate licensees. Passed unanimously.

* + 1. Applicants/New Licensees –45 applicants tested, all passed, 37 licenses issued
    2. Retirement – no new requests
    3. Endorsement request – no new applications
    4. Inactive requests - no new requests
    5. Hardship requests no new requests
    6. Request for Reinstatement following Disciplinary Action – TBD in Executive Session
    7. Complaints – TBD in Executive Session

1. Required Training
   * 1. Ethics Training –all new members must complete required training for 2023.
     2. Sexual Harassment Prevention – Dr. Avallone reported no members completed required trading for 2023. Request for training link submitted.

**OLD BUSINESS**

1. **Louisiana Legislative Audit 2020/2021**

Dr. Gerdes inquired regarding a letter to the LLA outlining corrective actions proposed by Dr. Heitmeier. Mr. Herbert will follow up with Dr. Heitmeier to discover if the letter has been sent and also ask Dr. Heitmeier to provide a copy to the LSBOE.

Dr. Gerdes inquired as to where the Policies and Procedures manual is housed. Dr. Avallone responded by the P & P manual has been distributed to each board member in the past and can be done so again. Dr. Wroten suggested that the P & P manual be loaded to the website with access restricted to board members only. Dr. Avallone will research that idea and report to the board.

Dr. Avallone reported contact with Ms. Elizabeth Thorton from the LLA office who has suggested that the 2022 & 2023 audits be combined due to lack of staffing in the LLA office. A discussion was held regarding the combination of audits years. Board counsel will contact Ms. Thorton to discuss the matter and get a written decision for the record.

1. **Telehealth - Rule status**

Mr. Herbert reports the Telehealth (SB 66) has passed and completely changed telehealth in Louisiana. Deletions and additions were made to the previous telehealth rule including changes to definitions and fees. The new rule does allow any board to promulgate more stringent rules if so desired. The proposed rule draft was distributed for review and the topic will be continued and discussed at the next board meeting including fee structure. According to Mr. Herbert the LSBME has set their fee at $150 for in state providers & $300 for out of state providers.

1. **Dispensing of Pharmaceuticals – Rule status**

Mr. Herbert reports the Notice of Intent will be published in the next issue (August) of the Louisiana Register then Public Comment to continue the legislative promulgation process. Dr. Wroten gave a brief overview of the rule for the benefit of the new board members. There was a discussion regarding Schedule II N prescribing authorization for optometrists as opposed to Hydrocodone only medications. Mr. Herbert will research the topic.

1. **CE Rule Status**

The Governor signed SB 210 (Act 194). An updated proposed rule was distributed for review which sync’d the new proposed rule with the new law. Dr. Avallone expressed confusion in understanding the law/rule and requested clarification of the rule so to administer the law. A discussion ensued regarding the law/rule and license renewal. Dr. Gerdes suggested that board members send possible edits to him, and discussion will continue on this matter at the next board meeting.

1. **Alternate Route of Licensure (NBEO) – Rule Status**

Motion (Gerdes/Lopez) The board approves the rule with the addition of passage of TMOD requirement and state law exams which can be taken in Charlotte or Shreveport and to proceed with promulgation. Passed unanimously.

1. **State Board Exam/Dr. Lewis Contract Status**

Completed. Waiting for signatures

1. **ARBO Contract Status**

Mr. Herbert reports the need to change the ARBO proposed agreement to state approved contract form being governed by North Carolina law to Louisiana law and add a termination without cause clause. Mr. Herbert to communicate with Lisa Fennel regarding completion of contract. Motion (Avallone/Sehon) to approve ARBO contract subject to changes recommended by board counsel. Passed unanimously.

1. **CPA Contract Status**

Mr. Herbert will re-send to Dr. Avallone the revised contract including language that both parties must agree upon any increase in fees charged from year to year. Dr. Avallone to communicate with CPA regarding completion of contract.

1. **Executive Director Status**

Mr. Herbert will send a letter to the AG and BOE requesting review of the Secretary contract with consideration of the Secretary as voting board member.

1. **License Applicant Information Release**

Dr. Gerdes reviewed the release of private data of candidate information to a third party relative to the State Board Exams being conducted in Shreveport July 14-15, 2023. Dr. Gerdes suggested an inquiry into how the release occurred in an effort to avoid any future information release. Dr. Avallone presented background information on the long history of cooperation between the LSBOE, and the third party and that candidate information was released to the third-party representative by Dr. Avallone staff without Dr. Avallone’s knowledge. Dr. Avallone accepted responsibility for the information release and reports corrective action has been taken to prevent further unauthorized release of information from the LSBOE office. Motion (Gerdes/LaPoint) to begin an inquiry regarding information release discussed above. Passed unanimously. Dr. Sehon volunteered to lead an inquiry into the release of information during the July 2023 State Board Examinations. Motion (Gerdes/Richardson) to appoint Dr. Sehon to lead the information release inquiry. Passed unanimously (Avallone abstained)

1. **Senate Bill 210**

Stricken due to redundancy with Item IX

**NEW BUSINESS**

1. **Hiring an Executive Director to administer LSBOE operations**

Dr. Gerdes stated that the LSBOE has never had an Executive Director. Hiring an ED would legitimize the LSBOE. An ED would report to the LSBOE and not be part of the decision-making body. Dr. Gerdes expressed interest in hiring an ED that would have a nice building and a nice sign and space for board meetings. Dr. Gerdes reference the current Secretary contract at $75K/year with a six-month notice requirement for termination without cause and called for discussion. Dr. Avallone reviewed how the 75K/year ($6,250/mo.) came about, i.e., previous salaries for Secretary and Administrative assistant, office rent and utilities. So that current Secretary contract expense is virtually equivalent to previous cost for same services. Dr. Avallone also mentioned a nice sign and building will probably cost more than current expenses. Mr. Lopez questioned if a new ED should be in the Optometry profession. Dr. Gerdes expressed a preference that a new ED is not involved in Optometry so has to stay neutral citing non-specific past difficulties. Dr. Gerdes reviewed the process required to hire an ED. Dr. Wroten expressed concerns regarding the fiscal impact of hiring an ED. Dr. Gerdes stated that he did not expect to pay both an ED and the current Secretary contract concurrently after respecting the six-month notice requirement of the Secretary contract. Mr. Herbert pointed out that there should be some overlap during a transition period from Secretary to ED. Discussion continued.

Motion (Gerdes/LaPoint) to hire an Executive Director within the next six months. No objections. Passed unanimously.

Motion (Gerdes/LaPoint) to exercise the six months’ notice for termination of Secretary contract without cause upon receipt of written notice by current Secretary. Dr. Wroten expressed concern regarding any possible delay in the ED hiring process and termination of the Secretary’s contract. Dr. Avallone expressed a willingness to continue on current terms as long as necessary until the end of his term as member of the board.

Discussion continued regarding next steps for hiring including preparing an RFQ by Mr. Herbert and publication in a state journal. The RFQ will be presented to the board for review and approval before publication.

1. **Board Communications**

Dr. Gerdes expressed a desired to institute automatic forwarding for emails delivered to the LSBOE email account ([lsboe@yahoo.com](mailto:lsboe@yahoo.com)).

Motion (Gerdes/Sehon) to override any previous motion directing LSBOE email for the Secretary to share the LSBOE email password with Dr. Gerdes so that automatic forwarding and receiving of LSBOE emails may be started. No objections. Passed unanimously.

Mr. Herbert reminded the board that all emails delivered to the LSBOE email account are public record and recommended that any email being forwarded not be directed to a personal email account.

Dr. Gerdes expressed the desire to have website access for posting agendas, removing banners & links, and updating laws. Dr. Avallone expressed to Dr. Gerdes the need for caution to be exercised. No objections were heard. Mr. Lopez recommended to the board cyber security training and will research the availability of such.

Dr. Avallone brought to the attention of the board that two emails were sent out to Louisiana Optometry licensees on July 21 & 29 at the expense (approx. $230.00) of the board to K-team printing after Dr. Heitmeier was no longer President of the board. Those emails also, contained invalid information such as titling himself as President and Dr. Gerdes as President-Elect. Dr. Heitmeier was no longer President of the LSBOE following the election of Dr. Gerdes on July 15, 2023, and the LSBOE has only two officer titles, i.e., President and Secretary Treasurer. There has never been a President -Elect recognized in the LSBOE. It was also previously pointed out to Dr. Heitmeier and now to the board that the LSBOE has the capability to broadcast to all licensees professional appearing email messages at no cost. Mr. Herbert mentioned previous discussion of communications. Dr. Gerdes and Avallone remembered discussion on October 28, 2022. Dr. Avallone read the minutes from that meeting “Discussion was held regarding individual member communication budgets. Opinions varied and no consensus was agreed upon therefore no individual budget was approved. It was agreed that any communication regarding policy or issues discussed during board meetings come from the President of the board.” Dr. Avallone inquired if the board wished to ask for reimbursement from Dr. Heitmeier for the cost of the previously mentioned emails. No interest was expressed by any board member. No action was taken.

1. **Board Custodian of records**

Dr. Gerdes stated that whoever is running the board should have access to the records. Dr. Avallone agreed that daily access to all records is necessary to accomplish the duties of administering the LSBOE. Dr. Gerdes suggested digitizing records and Dr. Avallone reported that the optometrist records have been undergoing scanning and digitizing but the task is ongoing.

**EXECUTIVE SESSION**

Motion (Wroten/Avallone) – No objections. Passed unanimously. (Entered 12:58 pm)

1. **Litigation:**

**A. By OAL v Heitmeier, et al No C-729018 19th JDC State of**

**Louisiana**

**B. By LSBOE v OAL et al No. C-729434 19th JDC State of Louisiana**

**XV. Complaints**

**A. Complaints & Investigation of complaints**

**i. Ongoing**

**ii. New**

**B. Reactivation requests**

**C. Request for Reinstatement from Prior Disciplinary Action**

**EXECUTIVE SESSION – (**Exited 1:40 pm**)**

**XVI. Report on Items Discussed in Executive Session**

Mr. Herbert reports no actions & no votes taken during Executive Session

**XVII. Public Comment**

No comments received

1. **Next Meeting**

Board members agreed that the next meeting/hearing will be scheduled for September 22, 2023 (September 18, 2023, if room unavailable on 9/22923).

**Adjourn**

Meeting adjourned at 1:58 pm

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Gary Avallone, O.D. Gerald “Jerry” Gerdes, O.D.

Secretary LSBOE President LSBOE