

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

February 2, 2001

Present - Joan P. Miller, O.D., President
 Douglas G. Smith, O.D., Vice President
 Candace D. Hamel, O.D.
 John P. Reslock, O.D.
 Jill A. Tanner, Public Member

 David Plunkett, Executive Director
 Cathy Boudreau, Administrative Assistant

CALL TO ORDER -

Dr. Miller called the meeting to order at 8:45 a.m. in the second floor conference room of the Morrow Crane Building. The Board adjourned to executive session for the purpose of discussing complaint cases.

The Public session was reconvened at 1:45 p.m.

MINUTES - The minutes of the Public Session minutes of October 27, 2000, and December 7, 2000 were approved as distributed.

RATIFICATION -

Candidates for Examination and Licensure -

The optometrists listed in Exhibit A have met all the requirements for licensure and were approved by the Board President since the last Board meeting.

The following licensing actions were approved by the Board President since the last Board meeting:

"Reactivation of licenses:
 Gary Gouger, O.D. (Inactive to Active)

"Reinstatement of licenses:
 Noel Eng, O.D. (lapsed Inactive to Active)
 Joseph Trull, O.D. (lapsed Military to Inactive)
 Richard Rutledge, O.D. (lapsed Military to Inactive)

Dr. Smith moved that the Board ratify the actions of the President. The motion was seconded by Dr. Hamel. The motion carried unanimously.

The Board considered the petition of Jeremy Graziano, O.D. for reinstatement to active status. Dr. Smith moved that the petition be granted. Dr. Reslock seconded the motion. The motion passed unanimously.

ACTION ON EXECUTIVE SESSION

99-05-01 - Dr. Smith moved that the Board issue a Final Order by Default in this case. Dr. Hamel seconded the motion. The motion carried unanimously. This case will be closed.

00-02-07 -

00-07-01 - A Notice of Intent to Discipline, Imposition of Civil Penalties, \$1000 per violation pursuant to OAR 683.180(7) will be issued as approved by the Board at the October 27, 2000 meeting. These cases will remain open.

00-05-01 - The Board did not find any optometric error or violations of statute or administrative rule. This case will be closed.

00-06-01 - This case will be closed.

00-07-02 - A letter will be written to the doctor in this case, instructing the doctor to follow up with the patient. This case will remain open.

00-08-01 - The Board did not find any optometric error or violation of statute or administrative rule. This case will be closed.

00-08-02 - The Board did not find any optometric error or violation of statute or administrative rule. This case will be closed.

00-08-04 - The Board has reopened this case. Ms. Tanner moved that the Board issue a Notice of Intent to Discipline and Imposition of Civil Penalties, \$1,000, pursuant to 683.140(6) and OAR 852-10-027(14). Dr. Reslock seconded the motion. The motion carried unanimously. This case will remain open.

00-09-01 - The Board does not find any error or violations of statute or administrative rule. A letter will be written to the patient. This case will remain open.

00-09-02 - The investigation will continue in this case. This case will remain open.

00-09-04 - This case will be closed.

00-09-05 - A date for hearing will be set in this case. This case will remain open.

00-09-06 - The doctor has brought his advertising into compliance. This case will be closed.

00-10-02 - A letter will be written in this case instructing the doctor to attend a record keeping course. This case will remain open.

00-10-03 - A letter will be written to the doctor in this case. This case will remain open.

00-10-04 - A letter will be written in this case instructing the doctor to attend a record keeping course. This case will remain open.

00-10-05 - The investigation will continue in this case. This case will remain open.

00-10-01 - This case will be closed

00-11-01 - This case will be closed.

00-12-01 - The investigation will continue in this case. This case will remain open.

00-01-03 - The investigation in this case will continue. This case will remain open.

A letter will be written to Daniel Beckner, OD suggesting that he send a copy of the Oregon Administrative Rules that applies to therapeutic pharmaceutical agents to Caremark in Texas. He will be advised that although he may have authority to prescribe, the pharmacist may not be required to fill the prescription in another state. A copy of the appropriate rule will be forwarded to the doctor.

Dr. Smith moved that the Board approve all the above referenced actions recommended from Executive Session. Ms. Tanner seconded the motion. The motion carried unanimously

CORRESPONDENCE - The Board discussed a letter from J. L. Lawson, O.D. regarding referral of diabetic patients. He posed a question about whether there had been a violation of ORS 683.03(5), discrimination against optometrists. Mr. Cowan suggested that it may be appropriate for the Board to address the insurance company in question to ask for clarification in light of the aforementioned statute in order to gather any pertinent information before addressing the issue further. A letter to the Oregon Health Plan may be constructive as they are the contractor for the services. Ms. Tanner suggested that Mr. Cowan research the jurisdiction of the statute, and he will report at the next Board meeting.

Licensure by Endorsement - Peter D. Bergenske, O.D.: Dr. Miller reviewed the circumstances of Dr. Bergenske's petition for licensure. She referred to a letter from a former examiner for the State of Wisconsin who wrote from memory a summary of the exam given at the time that Dr. Bergenske was licensed. Dr. Miller and Dr. Hamel felt that the exam was more comprehensive than the one presented by Oregon at that time. Dr. Hamel moved to grant licensure by endorsement on condition that he passes the law and administrative rule exam. Dr. Smith seconded the motion. The motion carried unanimously.

Licensure by Endorsement - Richard Zoller, O.D.: The Board reviewed the report from the State of Washington of the examination that Dr. Zoller took, comparing it to the required exam in Oregon at the same time. His National Board scores were also taken into consideration. Dr. Reslock moved to grant licensure by endorsement on condition that he passes the law and administrative rule exam. Dr. Hamel seconded the motion. The motion passed unanimously.

PRESIDENT'S REPORT - Dr. Miller did not submit a report at this time.

EXECUTIVE DIRECTOR'S REPORT -

Accounting/Budgeting - Mr. Plunkett submitted and the Board reviewed the budget report covering the current biennium, July 1, 1999 through December 31, 2000.

Board Activities Report - Mr. Plunkett submitted and the Board reviewed the monthly cumulative report for December 2000 and January 2001.

Audit Report: An audit had been conducted on Board activities from July 1, 1998 through June 30, 2000. Mr. Plunkett noted that the Audit Report was included in the Report to the Governor and Legislative Assembly.

Biennial Report to the Governor and Legislative Assembly: A copy of the Report to the Governor and Legislative Assembly was presented for the Board's review. The Board's report is required by statute by the beginning of each legislative session. Mr. Plunkett reviewed the report and mentioned that he likes to make broad distribution of this kind of information, particularly to legislators who have been involved in legislation affecting the Board.

COMMITTEE REPORTS -

Continuing Education - The committee recommended ratification of continuing education courses approved since the last Board meeting, including designation of those continuing education offerings that are acceptable for TPA. Dr. Hamel moved that the COE which had been reviewed and approved since the last meeting be ratified. Dr. Reslock seconded the motion. The motion carried unanimously.

Dr. Hamel reported that she discovered that a presenter of a course held a mail order PhD. She also mentioned that she was concerned that COPE is again approving courses that are presented by non-doctorates. Dr. Miller mentioned that she has been in touch with Jim Vrac and that he assured her that it is important that Oregon be satisfied with the COPE process. COPE will reverse their decision to approve courses taught by non-doctorates if it means keeping Oregon happy. The New Jersey board has contacted Dr. Miller to let her know that they have the same concerns.

Dr. Gary Kappel, O.D. presented an explanation of a course for which he is requesting approval. He expressed his opinion that optometrists should be working in conjunction with other professions, such as nutritionists, osteopaths, and medical doctors. He feels that optometry is behind in the understanding of nutrition and how it affects eye health and would like to update the profession in this regard. Dr. Kappel has applied for COPE approval. COPE initially denied approval but Dr. Kappel is appealing their decision. Dr. Hamel and the COE committee will review the notebook which was left by Dr. Kappel and report back the Board.

Budget Committee - A copy of the proposed 2001-2003 Biennium Budget was presented to the Board for review and approval. Dr. Smith briefly discussed the budget proposal documents and asked Mr. Plunkett to elaborate on the proposed budget and factors affecting it. The Board discussed at length the proposals and suggested that perhaps license fees should be raised more than Mr. Plunkett has proposed to bring about a balanced budget. The Board is reluctant to draw on reserves. Ms. Tanner does not think that an increase to \$185 a year will be hard to swallow. Dr. Hamel feels that a license at that price is a bargain. Dr. Reslock moved that the proposed fee increase be changed from \$120.00 per year to

\$145.00 per year. Dr. Hamel seconded the motion. The motion carried unanimously. Dr. Smith moved to go forward with the proposed budget as amended. Ms. Tanner seconded the motion. The motion carried unanimously. The administrative rule hearing and the next board meeting will be scheduled for the same date so that the Board can be present.

Legislative Committee - The Board discussed the Board's three Legislative concepts which have been approved by DAS for drafting by Legislative Counsel:

SB 408 (LC 1052) (963-2) Licensure by endorsement.

SB 404 (LC 1035) (963-3) Extends disciplinary authority of the Board.

(LC 1147) (963-1) Modifies disciplinary authority of the Board. The Governor's office denied filing this concept.

Administrative Rules Committee - There was no report from the Administrative Rules Committee at this time.

Personnel Issues - There was no report from the Personnel Committee at this time.

UNFINISHED BUSINESS - There was no unfinished business before the Board.

OTHER - Wayne Schumaker of OOPA presented to the Board information regarding SB 45. He mentioned that there was a summit meeting with the OMA and the Oregon Academy of Ophthalmology to invite discussion regarding the reasons why optometrists should use oral and injectable drugs. Mr. Schumaker explained some amendments that OOPA will make to the bill.

Dr. Smith expressed to Mr. Schumaker the opinion of the Board regarding the wording of the bill. The suggestion was made that the phrase "with the advise of the Pharmacy Board" be added to the text. He noted that the board would favor the least deletions from the existing statute. Mr. Cowan suggested that wording be provided that would make the supervisory authority of the Board very clear. Dr. Miller asked whether OOPA will take issue with the Board if the implementation of the legislation is gradual. Dr. Scott Nearing assured the Board that OOPA will not be concerned since the Board has a history of including the association in these discussions. Ms. Tanner was reluctant to grant endorsement of the bill immediately and would like to go on record as to how each member of the Board stands with regard to SB45.

ADJOURNMENT -

There was no further business to come before the Board. Dr. Hamel moved to adjourn the meeting. Dr. Reslock seconded the motion and President Miller adjourned the meeting at 4:12 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau
Administrative Assistant

David W. Plunkett
Executive Director