

# OREGON BOARD OF OPTOMETRY

## PUBLIC SESSION MINUTES

*March 28, 2003*

Present - Joan P. Miller, O.D., President  
Candace D. Hamel, O.D., Vice President  
John P. Reslock, O.D.  
Scott M. Walters, O.D.  
John M. Doneth, CFP, Public Member

David W. Plunkett, Executive Director  
Cathy M. Boudreau, Administrative Assistant

### **CALL TO ORDER -**

Dr. Miller called the meeting to order at 8:30 a.m. in the second floor conference room at 3218 Pringle RD. SE, Salem, OR., 97302. The Board adjourned to Executive Session for the purpose of discussing complaint cases. The Public Session was reconvened at 1:00 p.m.

**MINUTES** - The minutes of the December 13, 2002 Public Session were approved as distributed and February 18, 2003 Public Session were approved as corrected.

### **RATIFICATION -**

#### **Candidates for Examination and Licensure -**

The optometrists listed in Exhibit A 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: (None)
- Reinstatement of licenses: Monica Robinson (Inactive)
- Candidates for Examination and Licensure (new licensees):

Dr. Hamel moved to ratify the actions of the President. John Doneth seconded the motion. The motion carried unanimously.

### **ACTION ON EXECUTIVE SESSION**

#### **00-02-07 -**

**00-07-01** - The Board's attorney will contact the individual in these cases to obtain the original signed stipulated order and check for payment of the civil penalty. These cases will remain open.

#### **00-07-02**

**01-09-05**

**01-10-03**

**02-05-03** - The Board's attorney will contact the doctor in these cases and tell him that his current unresponsiveness to their instructions is being perceived as unprofessional conduct and that they are prepared to act on the original Notice of Proposed Disciplinary Action. These complaints will remain open.

**00-10-04**

**01-07-01** - Ms. Lindley will contact the doctor's attorney in these cases and notify them that the Board feels that it is reasonable for the doctor to complete conditions a, b, and c by May 1, 2003 or suffer suspension of his license. A Stipulated Order will be prepared for execution in this matter. These cases will remain open.

**01-08-04** - The Board will review patient records at the next Board meeting. This case will remain open.

**02-06-03** - This case will be closed.

**02-07-01** - This case will be closed.

**02-08-03** - This case will be closed.

**02-09-02** - This case will be closed.

**02-10-04** - A letter of concern will be written in this case in which the doctor will be informed that the Board has received allegations of a pattern of behavior that, if proved, would be considered unprofessional conduct. He will be advised to review the administrative rules OAR 852-10-027(15)(16)(c) regarding unprofessional conduct, and that he may wish to consider professional counseling or continuing education which addresses professional boundaries and behavior. This case will remain open.

**02-11-01** - A letter will be written to the doctor advising him to make corrections to his prescriptive practices. He will be instructed to write a new prescription for the patient in this case and send it to her. He will be told to send a notice to the Board when he has completed this instruction. Letters will also be sent to the office in which he works and to the corporate offices of the clinic. This case will remain open.

**02-11-02** - This case will be closed.

**02-11-04** - This case will be closed.

**03-01-01** - The Board has determined that this is a fee dispute, and although they may not agree with the way that the doctor handled the situation, there is no optometric error or violation of Oregon Revised Statutes or Administrative Rules. A letter will be sent to the complainant. This case will remain open.

**03-01-02** - The Board will review the doctor's patient records, his work schedule, and insurance billings for each of the doctor's offices at the next Board meeting. This case will remain open.

**03-02-01** - The Board will send the doctor in this case a letter of concern stating that after reading your

policy, it appears that you are in violation by not releasing a contact lens prescription at the conclusion of contact lens fitting and the perception is that patients are required to purchase product from him. His policy is confusing to patients. If it is true that he is requiring that his patients purchase contact lenses prior to contact lens prescription release, his policy is not consistent with administrative rule. He cannot require that the patient purchase additional products. He will be instructed to send his revised policy form or explanation of policy. In addition, he will be informed that his prescriptions must be signed, even expired ones. This case will remain open.

**03-03-01** - This case is not ready for review. This case will remain open.

**03-03-02** - This case is not ready for review. This case will remain open.

**01-04-04** - This case is closed and is being monitored by the Board. Ms. Lindley has not been able to find out whether the claim was filed in Bankruptcy Court on the Boards's behalf. She will follow up one more time with Carol Parks to see if she has a copy of a claim. Otherwise, the board will not pursue this any longer.

**00-09-05** - This case is closed and is being monitored by the Board. The staff will call and try to set up an appointment to see whether he is practicing.

Dr. Hamel moved that the Board approve all the above-referenced actions recommended from Executive Session. Dr. Walters seconded the motion. The motion carried unanimously.

## **CORRESPONDENCE -**

The Board has received letters from the Oregon Board of Medical Examiners and Drs. George Cioffi, M.D., Robert Bentley, M.D., and Lisa Dodson, M.D. of the Nontopical Formulary Council concerning the Board's administrative rules on the nontopical formulary. Dr. Miller has drafted replies to both letters. The Board reviewed and approved Dr. Miller's letters in reply.

The Board considered an application for licensure by endorsement submitted by Stephen J. Graham, M.D., O.D. Dr. Hamel moved that Dr. Graham be issued a license with nontopical certification. Dr. Reslock seconded the motion. The motion carried unanimously.

The Board has received a letter from Robert McKenzie, O.D. concerning exemption from DPA/TPA requirements. Dr. Hamel moved that a letter be sent to the doctor explaining that there are no provisions in the law for "grandfathering" or making exemptions to the requirements for DPA/TPA certification. This is the standard of care required of optometric physicians in Oregon at this time. The law is based on good medical reasoning and the advancement of eye care. The hours required for DPA certification have been reduced from what they originally were. The Board appreciates the doctor's passion for optometry, and they encourage him that there is plenty of time to "go for it". He has 15 hours to carry forward for this renewal. If DPA certification is not completed by his renewal, the license will not be renewed. Dr. Walters seconded the motion. The motion carried unanimously.

Gerald Melore, O.D. has written to the Board requesting exemption from Nontopical certification course requirements based on his previous training and licensure. Dr. Melore has been licensed for some time in North Carolina which has allowed an advanced systemic formulary in the scope of optometry practice. The Board recently granted Dr. Melore licensure by endorsement of his North Carolina license. Dr. Walters moved that the Board approve Dr. Melore's application for nontopical certification

based on his North Carolina license certification. Dr. Reslock seconded the motion. The motion carried unanimously.

The Board discussed a letter from Todd Sheldon, O.D. The doctor has requested that the Board approve him to proctor future injection labs. Dr. Miller worked in the October, 2002 injectable lab in which Dr. Sheldon participated. She thought that Dr. Sheldon would be qualified to proctor the injection labs. The Board will thank him for his letter, and tell him that they are comfortable with his credentials.

The Board received E-mail from John Barringer, O.D. asking whether the Board would approve his prior injection training for certification to use the nontopical formulary. The Board would like him to take the injectable lab. His experience was too long ago, and it does not appear to have been in ocular injection. A letter will be written to Dr. Barringer.

### **PRESIDENT'S REPORT -**

Dr. Miller addressed the status of DEA approval for Oregon optometric physicians. She related her personal experience with the DEA, having had her application returned unapproved. She has been told by a DEA representative that her application is now being processed. Dr. Miller has prepared a fact sheet which is being sent to doctors who have been certified to use the nontopical formulary.

### **EXECUTIVE DIRECTOR'S REPORT -**

**Accounting/Budgeting:** The Board reviewed the current balance sheet and BTD budget report covering the current biennium, July 1, 2001 through February 28, 2003. Mr. Plunkett reviewed the financial report to date with the Board. The Board is under budget on the revenue side because of declining numbers of inactive licensees, reduced interest income and reduced fees for verifications since the information is now on the website. Expenses are also under budget. The Board is currently \$2,999.00 to the good.

**Board Activities Report:** The Board and Mr. Plunkett reviewed the monthly cumulative report for February, 2003. Mr. Plunkett noted that the Board has certified 40 optometrists thus far to use the nontopical pharmaceutical agents. Beginning next month, the report will include the NTPA numbers. He reviewed the year end report and compared it to the 2001 year end report. Even though the board picks up new licensees, the totals continue to decline. He mentioned that the NBEO has notified the Board that candidates for the Part III exam must have passed Parts I and II first.

**Board Facilities:** Mr. Plunkett gave a status report on new Board office. The project is still progressing, with some difficulties. Mr. Plunkett mentioned that he plans to attend the legislative hearing on a bill (HB 3380) which will remove obstacles regarding the potential property ownership by semi-independent Boards. This bill will make it clear that a semi-independent board has the ability to own and finance property acquisition. He is hopeful that some of the other boards will also testify.

## COMMITTEE REPORTS -

**Continuing Optometric Education:** The committee recommended ratification of continuing optometric education courses approved since the last Board meeting, including designation of acceptable TMOD offerings. Dr. Hamel moved to ratify the review of the courses. Dr. Walters seconded the motion. The motion carried unanimously.

**Budget Committee:** Mr. Plunkett presented, and the Board reviewed and discussed, the proposed 2003-2005 Biennium Budget. Mr. Plunkett explained the revenue fund code sheet that he had prepared for the Board. He told the Board that he had already cut about \$20,000 from the proposed expenses. Most of the Board's expenses are of a fixed nature. There are three areas of expense which will fluctuate: facility expense, personnel, and Attorney General costs. The revised proposal presented by Mr. Plunkett includes a license fee increase in the second year of the biennium. This would reduce the amount of the deficit in the second year. After discussion, John Reslock moved that the license fee be increased to \$240 per year beginning 7/1/03 and that the Board adopt a balanced budget. Dr. Hamel seconded the motion. The motion carried unanimously. A hearing on the proposed rule changes will be held on the date of the next Board meeting.

**Legislative Committee:** The Board reviewed and discussed legislation which may affect the Board including:

HB3380: A hearing on this bill is scheduled for 4/10/03. It will modify the ability of semi-independent boards to finance the acquisition of property.

SB580: This bill is a continuation of legislation which was passed last session. Mr. Plunkett is concerned because this legislation will greatly increase fees and responsibility. The Board would be required to recruit licensees of minority ethnicity.

SB 3390: This bill creates a mediation entity which is comprised of volunteer professionals. It came out of the governor's task force.

Dr. Reslock excused himself and left the meeting at 2:30 p.m.

**Administrative Rules Committee:** The Board reviewed proposed revisions to OAR 852-05-005, OAR 852-10-080(1), OAR 852-50-005(3). The revisions will adopt a proposed budget, and change fees accordingly.

**Personnel Committee:** There was no report from the Personnel Committee.

### Unfinished Business:

Dr. Hamel moved that the Board draft an amended administrative rule to change the CPR designation required for nontopical certification, to the Red Cross Healthcare Practitioners - Level III CPR course or its equivalent, upon expiration of the current card. Dr. Walters seconded the motion. The motion carried unanimously.

**OTHER** - The next Board meeting is scheduled for May 30, 2003.

**ADJOURNMENT -**

There was no further business to come before the Board. Dr. Walters moved to adjourn the meeting. Dr. Hamel seconded the motion and President Miller adjourned the meeting at 3:00 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau  
Administrative Assistant

David W. Plunkett  
Executive Director