

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

March 7, 2008

Present - Scott M. Walters, O.D., President
Michelle M. Monkman, O.D., Vice President
Wesley N. Vorpahl, O.D.
Donald R. Garris, O.D.
Karen M. W. Knauerhase, Public Member

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

CALL TO ORDER -

Dr. Walters called the meeting to order at 9:20 a.m. in the Mezzanine Level Conference room at 1900 Hines Street, SE, Salem, OR., 97302. The Public Session was adjourned at 9:21 a.m. to Executive Session for the purpose of discussing complaints. The Public Session reconvened at 1:00 p.m.

Mr. Wayne Schumacher, from the Oregon Optometric Physicians Association, and Lindsay Clunes, O.D. were in attendance.

MINUTES - The Board reviewed the November 30, 2007 Public Session minutes. The minutes of the meeting were approved as distributed.

RATIFICATION -

Reactivation and Reinstatements:

Reactivation of license to Active status: Dirk Dittmore, O.D.

Candidates for Examination and Licensure -

The optometrists listed in Exhibit A met all the requirements for licensure and were approved by the Executive Director since the last Board meeting. Dr. Vorpahl made a motion that the Board approve the actions of the Executive Director. Ms. Knauerhase seconded the motion. The motion carried unanimously.

ACTION ON EXECUTIVE SESSION

06-08-02 - A letter will be sent to the doctor in this case outlining the Board's determination and advising him of the necessary steps to avoid further action by the Board. This case will remain open.

07-02-01 - The Board is satisfied that the doctor in this case has complied with their directions. This case will be closed.

07-05-04 - No additional communications have been received in this case. This case will be closed.

07-07-02 - A Stipulated Final Order has been signed in this case. This case will be closed.

07-09-02 - Karen Knauerhase made a motion that a Notice of Proposed Disciplinary Action: Reprimand be issued in this case pursuant to ORS 683.180(7) regarding employing an unlicensed person. Dr. Vorpahl seconded the motion. The motion carried unanimously. This case will remain open.

07-10-01 - Karen Knauerhase made a motion that a Notice of Proposed Disciplinary Action: \$5,000.00 Civil Penalty for holding himself out to be an optometrist and performing duties covered by the optometry statutes without a license pursuant to ORS 683.180(7)(8). Dr. Vorpahl seconded the motion. The motion carried unanimously. This case will remain open.

07-10-03 - Karen Knauerhase made a motion that a Notice of Proposed Disciplinary Action: Reprimand be issued in this case pursuant to ORS 683.180(7) regarding employing an unlicensed person. Dr. Vorpahl seconded the motion. The motion carried unanimously. This case will remain open.

07-10-04 -. Karen Knauerhase made a motion that a Notice of Proposed Disciplinary Action: Reprimand be issued in this case pursuant to ORS 683.180(7) regarding employing an unlicensed person. Dr. Vorpahl seconded the motion. The motion carried unanimously. This case will remain open.

07-10-05 - Karen Knauerhase made a motion that a Notice of Proposed Disciplinary Action: Reprimand be issued in this case pursuant to ORS 683.180(7) regarding employing an unlicensed person. Dr. Vorpahl seconded the motion. The motion carried unanimously. This case will remain open.

07-10-06 - Karen Knauerhase made a motion that a Notice of Proposed Disciplinary Action: Reprimand be issued in this case pursuant to ORS 683.180(7) regarding employing an unlicensed person. Dr. Vorpahl seconded the motion. The motion carried unanimously. This case will remain open.

07-10-07 - Karen Knauerhase made a motion that a Notice of Proposed Disciplinary Action: \$10,000.00 Civil Penalty be issued in this case pursuant to ORS 683.140(e), regarding employing an unlicensed person. Dr. Vorpahl seconded the motion. The motion carried unanimously. This case will remain open.

07-11-01 - A letter will be sent to the patient in this case explaining that the Board does not find any violations of Oregon Revised Statute or Administrative rules. The standard of care in Oregon requires that the doctor perform tests to determine refractive prescription and medical eye health. Requesting the patient's medical history is an expected procedure in a comprehensive eye exam. This case will remain open.

07-12-01 - A letter was sent by certified mail to the doctor in this case. Ms. Knauerhase moved that, if the doctor does not responded to this letter by March 13, 2008, the Board issue a Notice of Intent to Discipline: Reprimand and Civil Penalty - \$10,000 pursuant to OAR 852-10-051(3)(4); and 852-50-018 for failures to notify the Board of changes of addresses of record and patient record custody. If the doctor resolves the situation within the 21 days of the letter, the Board delegates authority to Mr. Plunkett to negotiate a satisfactory resolution.

08-01-01 - Two attempts have been made to obtain details from the complainant in this case. Since no details have been furnished, this case will be closed.

08-01-02 - Details of the complaint have not been received from the complainant. This case is not ready for the Board to review. The case will remain open.

08-02-01 - The Board will continue the investigation in this case. This case will remain open.

08-02-02 - A letter will be sent to the complainant in this case explaining that the Board did not find any violation of Oregon Revised Statute or Administrative Rule. This case will remain open.

08-02-03 - The complainant in this case has indicated that the situation has been resolved. This case will be closed.

08-03-01 - Ms. Knauerhase made a motion that the Board issue a Notice of proposed Disciplinary Action: Reprimand and \$5,000 Civil Penalty pursuant to ORS 683.140(1)(e) (employing any unlicensed optometrist to perform any work covered by ORS 683.010 to 683.335); 683.140(1)(c) (unprofessional conduct, or for gross ignorance or inefficiency in the profession); 683.140(1)(h) (permitting another person to use the optometrist's license); 683.140(1)(i) (using advertisements that do not indicate that a licensed optometrist is practicing at the advertised location or locations or advertising optometric services without having a licensed optometrist at the location) and OAR 852-60-027(3) (unprofessional conduct in aiding an unlicensed person in the practice of optometry.)

Ms. Knauerhase made a motion that the Board approve all of the actions take in executive session. Dr. Vorpahl seconded the motion. The motion carried unanimously.

CORRESPONDENCE -

Ken Eakland, OD, Associate Dean for Clinical Programs at Pacific University College of Optometry has requested that the Board approve a course which will be offered at the university to a small number of students who wish to be ATI certified prior to the date when the next scheduled ATI Injection Lab. The course at Pacific will be modeled after the seven-hour lab which has previously been approved by the Board for ATI certification. Dr. Monkman made a motion to approve the course, acknowledging that it is comparable to the course required for ATI certification Ms. Knauerhase seconded the motion. The motion carried unanimously.

PRESIDENT'S REPORT -

Dr. Walters indicated the need for publication of the newsletter in the next quarter. Several ideas for articles have been suggested, including verification of a doctor's license status before hiring an optometrist, the Oregon Revised Statute which prohibits an unlicensed optometrist from performing any of the tasks covered by the optometry statute, and the proper handling of records custody to ensure the protection of the patients.

EXECUTIVE DIRECTOR'S REPORT -

Accounting/Budgeting: Mr. Plunkett reviewed the Revenue and Expense Budget Report covering the period of from July 1, 2007 through January 31, 2008. Mr. Plunkett pointed out that the total revenue in the current report is \$130 over budget while the total expenses were \$18,473 under budget. The net result was an excess of \$18,603. At the November 30, 2007 meeting the Board inquired about the charges on the Intra-Agency line. After research, Mr. Plunkett reported that the expenses were an annual fee paid for mail services. Mr. Plunkett reviewed the Board's Balance Sheet as of February 27, 2008 with the members.

In reviewing the Board Activities Report, Mr. Plunkett pointed out that the total number of licensees is currently 1,217. Of these, 686 hold active status licenses and 531 hold inactive licenses. The number of TPA doctors is decreasing as doctors apply for AT and ATI certification. There have been thirty-three new licenses issued since July 1, 2007, three of which were granted by endorsement.

Report to the Governor and Legislative Assembly: A copy of the report which was submitted to the Governor and Legislature on January 4, 2008 was distributed to the Board. Mr. Plunkett explained that the report is required every two years, in the even numbered years, the next one being due in 2010. The Board must address specific topics required of the Board by statute. A copy of the previous audit report is included, since the time frame addressed by the report precedes the Board's most recent audit. Mr. Plunkett noted that the Legislative Fiscal Office is required now to review the semi-independent agency reports an issue a report on that review to the Legislature's JLAC Committee. Mr. Plunkett feels that this is a legitimate requirement which was overdue for implementation.

COMMITTEE REPORTS -

Continuing Optometric Education: Dr. Monkman moved that the Board ratify the continuing optometric education courses approved since the last Board meeting, including designation of acceptable TMOD offerings. Dr. Vorpahl seconded the motion. The motion carried unanimously.

Budget Committee: The fiscal audit for the biennium ending June 30, 2007 was conducted by Merina & Company, LLP the second week of January. The audit report was distributed to the Board. Mr. Plunkett reported that this recent audit was the hardest one he's experienced because of the amount of time involved and detail of the auditors review. Dr. Garris joined Mr. Plunkett as part of the exit conference held with the audit firm and the Audits Division. He said that the review and report were "glowing".

An outcome of the audit is that the Board is now required to have journal entries reviewed and approved by someone other than the one who enters the information. Mr. Plunkett cited examples of entries from the adjusting journal entries list which had been previously been recorded. He suggested that Kathy Hanson could be trained to make the routine entries and he could review and approve them. He discussed some entries which might occur that would not be routine. Mr. Plunkett suggested that he would continue to do the non-routine entries and bring them to the Board for review and approval. Dr. Monkman made a motion that the Board delegate authority to Mr. Plunkett to train Kathy Hanson to make routine journal entries and review her entries and that Mr. Plunkett would make the non-routine entries which will be reviewed and approved by the chairperson of the budget committee. The motion was seconded by Ms. Knauerhase. The motion carried unanimously.

Legislative Committee: Dr. Vorpahl reported that, as a result of the Nursing Board situation, there continues to be legislative discussion about an oversight entity for all health boards. He noted that such an undertaking will not be an easy task. Rep. Greenlick has indicated that he wants a bill which can be introduced in the next legislative session. Meetings will continue among the concerned parties.

Mr. Plunkett recapped some of the issues being discussed at the meetings. One of the concerns of this legislative committee is the lack of diversion programs. Although this is a serious concern for some professions, many boards do not have problems dealing with substance abuse. Another issue under discussion is the idea of a new oversight entity under which all boards would be subjected. There is a proposal for more public members on boards, even considering requiring a majority of members being public members. The health boards workgroup will soon begin meeting monthly. He recommended that the boards be prepared for these issues.

Administrative Rules Committee: Drafts of proposed administrative rules changes to OAR 852-01-002(9), and 852-80-030(10) were distributed to the Board. Contact lens which deliver medication will very soon be approved by the FDA. The rule changes would establish that these devices are within the scope of practice of optometry in Oregon and allow Oregon optometric physicians to prescribe and dispense these therapeutic contact lens. Dr. Walters suggested that the words “a tiny thin” be changed to “thin” and that the words “a lens designed to fit on or over the cornea of the eye” be incorporated. He pointed out some grammatical errors to be corrected. Dr. Vorpahl made a motion that the Board propose changes to OAR 852 in accordance with the draft as corrected. Dr. Garris seconded the motion. The motion carried unanimously. A hearing will be scheduled for the next board meeting.

Wayne Shumaker pointed out that optometrists are prohibited from selling drugs, and these devices will be medicated. Mr. Plunkett does not think that there is a prohibition in our statute to the selling of the devices by optometrists, however this will have to be researched and the licensee's will have to be notified. Mr. Shumaker thinks that the situation will have to be made very clear to optometrists if they are not permitted to sell these lenses.

PERSONNEL COMMITTEE:

There was no report from the Personnel Committee.

UNFINISHED BUSINESS:

The Board previously considered changes to the ethics/Oregon law and rule course requirement (OAR 852-70- 010(1)(b). Dr Walters noted that no new research has been done on this issue, but noted that the idea of broadening the scope of what topics will satisfy the requirement will be explored.

OTHER:

Dr. Walters invited Dr. Clunes to address the Board if he wished. Dr. Clunes indicated that he just wanted to let the Board see his face and that he would apply for licensure before the next meeting.

The next Board meeting was scheduled for June 13, 2008.

ADJOURNMENT -

There was no further business to come before the Board. President Walters adjourned the meeting at 1:51 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau
Administrative Assistant

David W. Plunkett
Executive Director