

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

May 30, 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 8:40 a.m. in the first 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 1:55 p.m.

MINUTES - The minutes of the March 28, 2003 Public Session were approved as distributed.

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. Dr. Walters 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 as determined by the Board. Since the Board members will be in Seaside next week for the OOPA conference, one of them will personally carry a copy of the Stipulated Order to him for a signature. 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 regarding their intentions in these cases. These complaints will remain open.

00-10-04

01-07-01 - The doctor has complied with the stipulations to date and has indicated that he is in the process of completing the remaining requirements. The Board will continue to monitor this physician. These cases will be closed.

01-08-04 - The Board will make recommendations to the doctor in this case regarding choices of record forms. This case will remain open.

02-10-04 - A letter was written to the doctor in this case. No response has been received by the Board. This case will be closed.

02-11-01 - Mr. Plunkett will send a letter specifying the basis of the Board's authority. The Board will also clarify the OAR regarding the prescription release rule. This case will be closed.

03-01-01 - This case will be closed.

03-01-02 - The Board will subpoena the licensee to be interviewed at the next Board meeting. This case will remain open.

03-02-01 - Another letter will be written concerning the Board's determination in this case. This case will remain open.

03-03-01 - This case will be closed.

03-03-02 - A letter will be written to the doctor regarding the Board's determination in this case. This case will remain open.

03-04-01 - A response has been received from the doctor in this case. This case will be closed.

03-05-01 - This case is not ready for review. This case will remain open.

03-05-02 - This case is not ready for review. This case will remain open.

03-05-03 - This case is not ready for review. This case will remain open.

02-06-01 - The Board does not find any optometric error or violation of Revised Statutes and Administrative Rules. This case will be closed.

00-09-05 - This case is closed and is being monitored by the Board.

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

CORRESPONDENCE -

The Board reviewed the letter which Mr. Plunkett had sent to the various schools of optometry regarding their certification of new graduates with regard to injection training and their replies to date. Pacific University does not certify this year's graduates as qualified to use the new oral and injectable formulary. Some of next year's graduates will have had the necessary course work. Indiana does not certify their graduates. UAB indicates that their current graduates do qualify. After the Board reviewed UAB's curriculum, Dr. Hamel made a motion that the Board accept UAB qualifications for 2003 and later graduates. Dr. Walters seconded the motion. The motion carried unanimously. The Board will accept the UAB course OPT 311 as acceptable to satisfy the Lab component of the nontopical requirements.

The Board has received a letter from Nancy Buset, O.D. concerning a discount or the ability to “test out” of the didactic nontopical pharmaceutical agents requirements. The Board will inform Dr. Buset that she may take the TMOD to qualify. The Board cannot discount the course since they don’t sponsor the course.

A. J. Zelada, O.D. has e-mailed the Board concerning which agency is in charge of licensing delivery of contact lenses and medications. The Board will send a copy of the law to Dr. Zelada. Mr. Plunkett will write to the doctor and inform him that while some state boards do regulate this area, the Oregon Board of Optometry does not.

The Board received a letter from Laura Winkel, O.D. She wants to reactivate her license and practice in Hermiston and at various trap club events in Oregon. The Board will not prohibit her from doing refractions at the shooting range. However, she will be encouraged to consider the liability issues involved in giving exams as she has suggested. She will be held to the same standard of care as every other optometrist in Oregon.

PRESIDENT'S REPORT -

Dr. Miller commended the board staff for their efforts in solving the DEA problems. Doctors of optometry in Oregon are now able to obtain a DEA number.

Dr. Miller discussed SELMO with the other Board members. Arbo would review qualifications of doctors applying for a SELMO certificate. Selmo would certify doctors to the highest level of qualification required by any state. States could have the option of accepting the certificate in issuing licensure by endorsement. There would be no advantage to a candidate for licensure by endorsement in Oregon as the process would be more expensive than our current procedures.

EXECUTIVE DIRECTOR'S REPORT -

Accounting/Budgeting: Mr. Plunkett reviewed with the Board the current Balance Sheet, and BTD budget report covering the current biennium, July 1, 2001 through April 30, 2003. He noted that revenue was down \$20,122.00 because of reduced interest income and reduced fees for verifications. Expenses are also under budget, \$26, 257.00. The Board is currently \$6,134.29 to the good.

Board Activities Report: Mr. Plunkett reviewed the monthly cumulative report for April, 2003 with the Board. He noted that disciplinary actions are down.

Board Facilities: Mr. Plunkett gave a status report on the new Board office building. Mr. Plunkett reported that he will continue to work on the building project while it seems that it will be of benefit to the Board.

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. Reslock seconded the motion. The motion carried unanimously.

Administrative Rules Committee: The Board held a hearing on proposed changes to OAR 852-05-005,

OAR 852-10-080(1), OAR 852-50-005(3), and OAR 852-70-040. There were no public comments or testimony presented to the Board. Dr. Hamel moved that the Board adopt the proposed budget for the 2003-2005 biennium and the related fee changes per OAR 852-05-005, OAR 852-10-080(1), OAR 852-50-005(3), and OAR 852-70-040. Dr. Walters seconded the motion. The motion carried unanimously.

The Board discussed new proposed changes to the rules concerning continuing optometric education. John Doneth noted that for both his CFP designation and for all his insurance and securities licenses he is required to have both ethics and Oregon law courses. He has to have 2 hours of ethics and three hours of Oregon Law. Mr. Plunkett feels that the idea is valid since in many of the complaints that the Board reviews, the licensees are not familiar with the Board's laws and rules. Mr. Schumaker interjected that he feels it is necessary that the Board have a specific hourly requirement for the ethics course in order to create a state of mind among the licensees. Without the requirement, there is not compulsion for anyone to "put on" that frame of mind. Dr. Miller suggested that the Board present the ethics course themselves.

After discussion, the Board decided to propose a change to OAR 852-70 which will require one COE standard for all optometrists, 20 hours per year, ten of which must be in the treatment and management of ocular disease. A minimum of one hour must be a class pertaining to ethics or Oregon Law and Administrative Rules. Up to ten hours of non-ethics courses may be completed by internet, correspondence or journal.

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

Budget Committee: The Board's budget for 2003-2005 is adopted and will be implemented by the Executive Director.

Legislative Committee: Mr. Plunkett mentioned that Dr. Alan Bates, D.O., a legislative representative from Southern Oregon called the office to ask for the Board's opinion on SB 289. OOPA helped develop the current version of the bill. The bill authorized the use of bioptic or telescopic devices while driving. There are several safeguards which will be in place in order for the individual who might use the device to be able to obtain and maintain a restricted license. Dr. Hamel moved that the Board submit a letter to the governor in support of SB 289. Dr. Walters seconded the motion. The motion carried unanimously.

Mr. Plunkett reviewed that status of several bills which he has been tracking in the legislature.

- HB 2129 - OOPA's bill - it has stalled and is not likely to pass.
- HB 2435 - requires a hearings officer in contested case hearings to award reasonable attorney fees and reasonable expenses to a party other than state agency - it is stalled.
- HB 2526 - repeals the sunset provision on laws creating the hearing officer panel. This has passed and been signed by the governor. There was no opposition presented.
- HB 2637 - provides that a state agency has the burden of proof and must present clear and convincing evidence in all contested case proceedings - it has stalled and is effectively dead.
- HB 3380 - OBO's bill - it is scheduled for a hearing next week.
- HB 3390 - regarding dispute resolution, would establish an Oregon Mediation Program - it stalled after a hearing.

- SB 580 - requires health professional regulatory boards to issue a report to the next legislative session. - died in committee.
- SB 459 - provides that the hearings officer issues the final order for an agency in contested case hearings - it is stalled.
- SB 893 - a fix for the Dearborn case - allows occupational licensing agencies to deny occupational or professional license, or impose discipline on licensee based on conduct that occurs outside the scope of licensed activity but that is substantially related to the fitness and ability of licensee to engage in licensed activity. - has passed out of Senate, is in House committee, may not be dead yet.

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

Unfinished Business: There was no unfinished business.

OTHER: Dr. Miller entertained nominations for Board President. Dr. Hamel moved that John Reslock be the new president of the Oregon Board of Optometry, effective when Dr. Miller's appointment to the Board is concluded. Dr. Walters seconded the motion. The motion carried unanimously.

Dr. Hamel made a presentation to Dr. Miller, honoring her for her service to the Board. She presented a plaque expressing the Board's appreciation for her remarkable efforts on behalf of the public and the profession of optometry.

The next Board meeting is scheduled for September 9, 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