

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

June 13, 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

Lori H. Lindley, Assistant Attorney General
David W. Plunkett, Executive Director
Cathy M. Boudreau, Administrative Assistant

CALL TO ORDER -

Dr. Walters called the meeting to order at 9:08 a.m. in the Mezzanine Level Conference room at 1900 Hines Street, SE, Salem, OR., 97302. The Public Session was adjourned immediately to Executive Session for the purpose of discussing complaints. The Public Session reconvened at 12:39 p.m.

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

MINUTES - The Board reviewed the March 7, 2008 Public Session minutes. The minutes of the meeting were approved as distributed.

The Board reviewed the April 24, 2008 Public Session minutes. The minutes of the meeting were approved as distributed.

RATIFICATION -

Reactivation and Reinstatements:

Reinstatement of license to Inactive status: James Moore, O.D.

Reinstatement of license to Inactive status: Stephen Nevett, O.D.

Reactivation of license to Active status: Robert Rosenow, O.D.

Reactivation of license to Active status: Paul Jubb, O.D.

Reactivation of license to Active status: James Kitner, O.D.

Reactivation of license to Active status: Steven Wells, O.D.

Reactivation of license to Active status: James Moore, O.D.

Reactivation of license to Active status: Stephen Nevett, 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. Walters read the list of candidates into the record. Ms. Knauerhase made a motion that the Board approve the actions of the Executive Director. Dr. Monkman seconded the motion. The motion carried unanimously.

ACTION ON EXECUTIVE SESSION

06-08-02 - A letter has been 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. The Board will allow six months from the date of the letter for the doctor to reach compliance. This case will remain open.

07-09-02 - Daryn Derstine, OD has signed a Stipulated Final Order accepting the Board's reprimand in this case. Dr. Monkman made a motion that the Board approve and accept the conditions of the Stipulated Final Order as written. Ms. Knauerhase seconded the motion. The motion passed unanimously. This case will be closed.

07-10-01 - A Notice of Proposed Disciplinary Action was sent to the respondent in this case. A contested case hearing has been requested. An Amended Notice of Proposed Disciplinary Action was issued. A request for a contested case hearing was received. This case will remain open.

07-10-03 - A Notice of Proposed Disciplinary Action was issued in this case. A request for a contested case hearing was received. An Amended Notice of Proposed Disciplinary Action was issued. A request for a contested case hearing was received. This case will be scheduled for hearing with the office of Administrative Hearings. This case will remain open.

07-10-04 - A Notice of Proposed Disciplinary Action was issued in this case. A request for a contested case hearing was received. An Amended Notice of Proposed Disciplinary Action was issued. A request for a contested case hearing was received. This case will be scheduled for hearing with the office of Administrative Hearings. This case will remain open.

07-10-05 - A Notice of Proposed Disciplinary Action was issued in this case. A request for a contested case hearing was received. An Amended Notice of Proposed Disciplinary Action was issued. A request for a contested case hearing was received. This case will be scheduled for hearing with the office of Administrative Hearings. This case will remain open.

07-10-06 - A Notice of Proposed Disciplinary Action was issued in this case. A request for a contested case hearing was received. An Amended Notice of Proposed Disciplinary Action was issued. A request for a contested case hearing was received. This case will be scheduled for hearing with the office of Administrative Hearings. This case will remain open.

07-10-07 - A Notice of Proposed Disciplinary Action was issued in this case. A request for a contested case hearing was received. An Amended Notice of Proposed Disciplinary Action was issued. A request for a contested case hearing was received. This case will be scheduled for hearing with the office of Administrative Hearings. This case will remain open.

07-11-01 - A letter was sent to the complainant regarding the Board's determination in this case. The Board did not find any optometric error or violation of Oregon Revised Statute or Administrative Rule. No reply has been received. This case will be closed.

07-12-01 - A letter was sent to the doctor regarding the Board's determination in this case. The doctor has resolved the issues which were of concern to the Board. The doctor will not be renewing her license due to a medical condition. This case can be closed.

08-01-02 - The Board found no optometric error or violation of Oregon Revised Statute or Administrative Rules and noted that the doctor's records are excellent. There is no evidence of malpractice. A letter will be sent to the patient expressing the Board's concern regarding the regretful situation and assure her that the doctor could not have foreseen this current condition. The case will remain open.

08-02-01 - The Board believes that there is sufficient reason to expand the investigation in this case. This case will remain open.

08-02-02 - A letter was sent to the complainant regarding the Board's determination in this case. The Board did not find any optometric error or violation of Oregon Revised Statute or Administrative Rule. No reply has been received. This case will be closed.

08-03-01 - A Notice of Proposed Disciplinary Action was sent to the respondent in this case. A contested case hearing has been requested. An Amended Notice of Proposed Disciplinary Action was issued. A request for a contested case hearing was received. Ms. Lori Lindley, AAG, will contact the respondent's attorney to discuss the matter further. This case will remain open.

08-03-02 - A letter will be sent to the patient regarding the Board's determination in this case. This case will remain open.

08-04-01 - The Board will send a Letter of Concern to the doctor in this case. In addition, a letter will be sent to the complainant indicating that the Board has reviewed this complaint and sent a letter of concern to the doctor. This case will remain open

08-05-01 - Because the doctor in this case has an Inactive status license to practice optometry in Oregon and poses no threat to the public at this time, the Board will wait for the investigation of cases to be resolved in Washington before acting on this case. This case will remain open.

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

CORRESPONDENCE -

The Board reviewed a letter from Robert Franz, O.D. in which he requested an exception to the 2009 AT/ATI requirement for license renewal. The Board has no means by which to make an exception to the requirement for AT certification. A letter will be sent to the doctor in that regard, noting that the Board does not feel that the expense in time and resources to become AT certified are excessive. In addition, the course hours are valid for continuing education for license renewal.

A Wal-Mart Vision Manager has sent e-mail correspondence to the Board concerning whether they could do vision pre-screening in schools. Oregon Revised Statute allows only school and ODOT employees to perform vision screening in lieu of a licensed optometrist. A letter will be sent to say that a pre-screening day may be held at the optical facility with the optometrist present, or the school employees may do the screening at the school; or if the a school employee has a suspicion regarding eye issues, the child may be referred to a doctor for an exam.

The Board received a fax communication from Sarah Kane, O.D. regarding Trivex materials for children's safety glasses. She was concerned about whether the material meets acceptable standards for safety. The Board is under the impression that Trivex meets acceptable standards for safety. Dr. Kane will be so informed.

Richard Gardner, O.D. sent a letter to the Board regarding approval of the ACMO examination in lieu of the 2002 or later TMOD examination for nontopical pharmaceutical certification. The Board inquired of the NBEO as to the comparability of the two examinations. The NBEO is not prepared to make a statement regarding the comparability at this time; however, they will do so upon the Board's specific request. The Board will make a written inquiry of the NBEO, but the answer may not be available prior to the next administration of the twenty-three hour didactic AOT course. The Board will inform Dr. Gardner that they may not have an answer before the next didactic course. Ms. Knauerhase made a motion that if the NBEO determines that the ACMO examination is comparable to the 2002 or later TMOD, the Board will accept their opinion of the evaluation and allow substitution of the ACMO examination in lieu of the twenty-three hour didactic AOT course requirement for AT and ATI certification. Dr. Monkman seconded the motion. The motion carried unanimously.

The Board was asked to evaluate whether the Alaska Optometric Association TPA Amplification Course is comparable to the Oregon AOT didactic course. Dr. Ken Eakland, O.D., Associate Dean for Clinical Programs at Pacific University College of Optometry, was consulted concerning this matter. Dr. Eakland indicated that the course is essentially identical to the Oregon course. Dr. Vorpahl made a motion to accept the Alaska Optometric Association TPA Amplification Course as comparable to the Oregon AOT didactic course. Dr. Monkman seconded the motion. The motion carried unanimously.

A letter has been received on behalf of Trevor Irish, O.D. concerning the equivalency of his coursework in residency with NSU Oklahoma College of Optometry for meeting the Oregon ATI certification requirements. Information was received from Michelle Welch, O.D. at NSU Oklahoma College of Optometry concerning the content of this coursework. Dr. Monkman made a motion to accept the injection coursework completed by Dr. Irish as equivalent to the required seven-hour injection lab for ATI certification in Oregon. The motion was seconded by Dr. Garris. The motion carried unanimously.

The Board has received an application for licensure from Lindsay Clunes, O.D. Dr. Clunes was in attendance at the Board meeting. Dr. Walters informed Dr. Clunes that he must complete his application in order for the Board to consider his application for licensure. He must submit eighteen hours of continuing optometric education and letters of verification from the other states in which he has held licenses. The action plan which Dr. Clunes submitted does not address the Board's concerns regarding his competency. His plan should be more specific regarding the steps he would voluntarily take to ensure the Board that his practice will meet the standard of care in Oregon in order to protect the public interest.

PRESIDENT'S REPORT -

Dr. Walters thanked the Board for the newsletter articles which were submitted and noted that it had been distributed.

Mr. Plunkett mentioned that the governor's office had informed him that it has made a selection for appointment of a Board member to replace Dr Walters. Dr. Walters has agreed to stay on through December 2008. Mr. Plunkett will request that the Governor's office make the appointment to coincide with this time frame.

EXECUTIVE DIRECTOR'S REPORT -

Accounting/Budgeting: Mr. Plunkett reviewed the Revenue and Expense Budget Report covering the period of from July 1, 2007 through April 30, 2008. Mr. Plunkett noted that the total revenue in the current report is \$255,138 which is \$2,730 over budget. The total expenses were \$237,544, which is \$19,915 under budget. The net excess is \$22,645. All of the accounts are pretty much in line with the budget for the biennium. The audit expense charges came in at \$4,917. In the future the audit process may be more like a review, but the expenses to the Board may not be reduced. In reviewing the current balance sheet, Mr. Plunkett pointed out that the value of the Board's investments is \$168,558.

Mr. Plunkett pointed out, in the Board Activities Report, there are still have 102 licensees who are not AT or ATI certified. He mentioned that, according to Wayne Schumacher of Oregon Optometric Physicians Association, the majority of physicians who have registered for the advances therapeutic courses in August 2008 are from out of state.

Mr. Plunkett mentioned that there is a new agency, the Oregon Healthcare Workforce Institute, which is a non-profit organization with a focus on recruiting and increasing the number of health care workers. There is not a shortage of optometrists in Oregon, but there is a shortage of other professional healthcare workers. The institute is planning to collect licensing renewal information from health boards to aid in the identification and recruitment of health care workers. This may impact the OBO even though there is not a shortage of optometrists. If we are required to participate, the OHWI will want us to request additional information at license renewal time from licensees which will be entered into their database. That data will probably be reported to the legislature and will be considered as part of their discussion on this matter.

At the last House Healthcare Committee meeting at the Legislature, Chaired by Representative Mitch Greenlick, it was evident that semi-independence is being looked at in a negative light. Enforcement, diversion programs, board member accountability to the Governor, the board member appointment process, composition of the boards, and board compensation are all being looked at by this committee. Mr. Plunkett spoke to Representative Ron Mauer after the meeting concerning these issues. He also sent information about semi-independence to Representative Dennis Richardson but he has not heard back from either of them. Mr. Schumacher also spoke to Representative Richardson. Representative Greenlick wants to formulate an omnibus bill to handle these various issues regarding boards. This bill will be introduced at the next legislative session. Mr. Plunkett noted that boards will need to be prepared to move quickly with regard to these issues.

The Legislative Fiscal Office has a new project to study performance measures in semi-independent boards. An intern from UCLA will be leading this project for the LFO Office. The current health policy analyst in the governor's office has been attending all the health board meetings and is trying to put something in place where the boards will report their disciplinary actions to DAS. There have been remarks made about whether semi-independent boards will remain in that status too much longer.

The Public Session was suspended at 1:29 p.m. for a scheduled Public Hearing on proposed administrative rules. The meeting was reconvened at 1:40 p.m.

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. Ms. Knauerhase seconded the motion. The motion carried unanimously.

Budget Committee: The Budget Committee had no report.

Legislative Committee: Dr. Vorpahl reported that Representative Greenlich does plan to present bills around health board issues at the next legislative session. Mr. Plunkett noted that OOPA will present a bill changing the age of majority for optometry.

Administrative Rules Committee: . An administrative Rules Hearing was held today regarding proposed changes to OAR 852-01-009(a)(b)(c) and 852-80-010, to allow Oregon optometric physicians to prescribe and dispense therapeutic contact lens.

Dr. Vorpahl made a motion to adopt the changes to OAR 852-01-009(a)(b)(c), and 852-80-010 as proposed. Ms. Knauerhase seconded the motion. The motion carried unanimously.

PERSONNEL COMMITTEE:

Dr. Garris has distributed performance evaluation forms for Mr. Plunkett to Board members. Dr. Walters asked that the Board members fax the completed forms to his office. He will meet with Mr. Plunkett before the next Board meeting.

UNFINISHED BUSINESS:

The Board previously considered changes to the ethics/Oregon law and rule course requirement (OAR 852-70- 010(1)(b)). No additional information is available at this time. The topic will be tabled for a future meeting.

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 September 19, 2008.

ADJOURNMENT -

There was no further business to come before the Board. President Walters adjourned the meeting at 1:46 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau
Administrative Assistant

David W. Plunkett
Executive Director