

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

September 13, 2002

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 8:54 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 2:36 p.m.

MINUTES - The minutes of the July 24, 2002, and August 16, 2002 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.

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

- Reactivation of licenses:
Nicole Laske, O.D.
- Candidates for Examination and Licensure

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 individual in these cases has not returned the signed Stipulated Agreement. The Board will investigate further to determine whether there have been additional violations if the Stipulated Agreement is not signed. These cases will remain open.

00-07-02

01-09-05

01-10-03

02-05-03 - A letter will be sent to the doctor in these cases reiterating the conditions set out by the Board. These cases will remain open.

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

00-10-02 - This case will remain open until the doctor has completed the recommended course.

00-10-04

01-07-01 - A Notice of Proposed Disciplinary Action will be issued in these cases. These cases will remain open.

01-03-02

01-10-04

02-04-05 - A letter will be sent to the doctor in these cases reiterating the conditions set out by the Board. These cases will remain open.

01-08-04 - A letter will be sent to the doctor. The Board will further monitor the doctor in this case. This case will remain open.

01-09-01 -

01-12-03 - These cases will be closed.

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

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

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

02-04-01 - This case will be closed.

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

02-04-03 - This case will be closed.

02-04-04 - The Board finds no optometric error or violation of Oregon Revised Statute or Administrative Rule. A letter will be written to the complainant. This case will remain open.

02-05-01 - The Board finds no optometric error or violation of Oregon Revised Statute or Administrative Rule. A letter will be written to the complainant. This case will remain open.

02-06-01 - This case will be closed.

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

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

02-07-01- The Board recommends that, if the patient can't tolerate the current prescription, that the lenses be returned, keeping the frame. The doctor should refund the patient the fee for the lenses, \$320.00, and the collection fee of \$52.52. He must immediately discontinue soliciting patients for Amway or be disciplined for unprofessional conduct. This case will remain open.

02-06-03 - The Board will impose a fine of \$50.00 for failure to maintain patient records and \$50.00 for failure to notify the Board of change of practice location. The doctor will be instructed to make payment in the amount of \$75.00 to National Vision and instruct then to stop billing the patient for the exam since no record of the exam exists. This case will remain open.

02-09-02 - The Board will write a letter to the vendor informing them that their practice is in violation of Oregon law. The investigation will continue. This case will remain open.

01-04-04 - The Board's attorney will try continue to try to resolve and collect the civil penalty in this case. This case has already been closed.

00-09-05 - The Board will continue to monitor to determine whether the doctor complies with the terms of the Stipulated Agreement.

Dr. Walters 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 an application from Beverly Jue-Smith, O.D. for licensure by endorsement. Dr. Miller noted that the California clinical exam was probably more rigorous than Oregon's. The Board voted unanimously to grant licensure to Dr. Jue-Smith by endorsement.

Mr. Plunkett asked how a candidate for endorsement licensure will be evaluated for certification to use nontopical pharmaceutical agents. The consensus of the Board was that since there are only a few states that allow NTPA each candidate who applies for certification as an endorsement applicant will be assessed on a case by case basis.

The Board reviewed an application from Bradley Louis, O.D. for licensure by endorsement. The Board voted unanimously to grant licensure to Dr. Louis.

The Board reviewed a letter from Theron Karrick, O.D. concerning the TPA requirements. Mr. Plunkett forwarded the TPA course to Dr. Karrick.

The Board determined that the combination of California's required 85 hour course and the 20 hour glaucoma course are not equivalent to the Oregon Board's requirement of 100 hours for TPA certification. The major difference is about 15 hours of hands-on clinical procedures. Rather than taking a 100 hour course to obtain TPA certification, it may be more cost-effective for a doctor to hire a tutor and take the TMOD.

The Board discussed a letter from Mari Garner, O.D. concerning payment of an address notification fee. She doesn't want to pay the fee because her address of record is her home address. Mr. Plunkett explained that the Board has honored requests that home address be used as address of record. An administrative rule that is proposed closes the "loophole" between the practice location and address of record. Dr. Garner will not be fined at this time.

The Board reviewed a transcript of a phone message from Craig Bowen, O.D. He was not happy about the fee for failure to notify the Board of change of practice location.

Dr. Rick London is requesting licensure by endorsement and needs to complete his TPA certification. Dr. Hamel and Dr. Miller reviewed the 85 hour course that Dr. London completed in California and determined the content of the 15 hours needed to complete the requirement for Oregon. The Board voted unanimously to accept the recommended 15 hour content and to require that the course be taught by Nada Lingle, O.D. or Carol Timpone, O.D. at Pacific University, or by the school in California that provided the original 85 hour course.

Dr. Carr queried the Board about the requirements for optometric physicians on staff at PUCO who may wish to include the new nontopical formulary in their practice. There are some doctors who have applied for licensure by endorsement and Dr. Carr wondered whether one doctor who was licensed in a state which also permits nontopical pharmaceutical agents would be able to be NTPA certified without additional course requirements. Mr. Plunkett reminded the Board that there is no such thing as an institutional license as mentioned by Dr. Carr. In 2000, the Board notified PUCO that a physician at the University should not practice beyond the scope of the license held either in Oregon or another state. The same will hold true for the NTPA certification. Dr. Miller feels that if a doctor is TPA certified in another state, and he or she takes the NTPA course, they should be allowed to practice at PUCO. If a doctor is licensed in a state which allows nontopical agents and presents the certification requirements from that state and the requirements are equivalent to our requirements, then that doctor may not have to take the course. Any other doctors will have to take the course in addition to the remaining requirements for licensure in Oregon. Mr. Plunkett will compose a letter to Dr. Carr which will be reviewed by Dr. Miller.

Mr. Plunkett requested that Dr. Hamel ask Wayne Schumaker to send the NTPA workshop outline to the Board for approval.

Mr. Plunkett sent email to Dr. Carr asking what it would take to be DPA certified. Dr. Carr outlined an extensive 10 hour course that would equip doctors. Dr. Miller thought that 5 to 10 hours with an assessment would be ample. If the doctor could pass the test, based on the NBEO clinical skills format, then some of the lab portion of the course could be waived. The didactic portion would be 6 hours with 4 hours of lab which could be passed by a proctored exam.

PRESIDENT'S REPORT -

Dr Miller reported to the Board that she has completed Mr. Plunkett's performance review today. Dr. Miller also reported that she had met with the Board of Medical Examiners regarding the Oregon Administrative Rules pertaining to NTPA's. Mr. Plunkett asked Dr. Hamel. whether the NTPA workshop scheduled for October, 2002 is filled by applicants. She replied that it is. There will be another lab offered in February and possibly at the OOPA convention next year.

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 July 31, 2002. Mr. Plunkett noted that the Board is thirteen months into the biennium and revenue is almost \$15,000 under budget. Inactive License renewal income, license verification, and interest income are primarily responsible. Expenses are \$21,822 under budget. The net difference is \$6,853 to the good.

Board Activities Report: The Board received the monthly cumulative report for August 2002. Mr. Plunkett reviewed the report with the Board.

Board Facilities - Mr. Plunkett updated the Board on the status of the building. The administrators of the three Boards are waiting for a development agreement from the Department of Justice which will satisfy the Boards and the developers. There is some work being done at the building site.

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 that the Board ratify the actions of the COE committee. Dr. Walters seconded the motion. The motion carried unanimously.

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

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

Administrative Rules Committee: Mr. Plunkett reviewed the proposed rule changes regarding multiple location licenses in OAR 852-50-005. In the next budget year the fee would be increased to \$60.00 from \$40.00. There would still be a requirement to notify the Board of all practice locations.

OAR 852-50-018 defines the official address of record. The practice location is automatically the address of record, unless the licensee asks for their home address to be address of record. In those cases, notice must be given if there is a change of home address, in addition to notice of change of practice location.

OAR 852-10-027 expands the definition of unprofessional conduct. The rule change will add the failure to notify the Board of change of practice location and failure to retain or make appropriate transfer of the care of patient records to the definition of unprofessional conduct. OAR 852-10-051 clarifies the responsibility of an optometrist to notify the Board of changes in practice location and to either retain or transfer custody of patient records to another practicing optometrist that is licensed in Oregon.

Dr. Reslock suggests that fines be added to the failure to transfer custody of patient records identical to the fines for failure to notify the Board of change of address. Dr. Miller suggests that since the action is unprofessional conduct the amount of the fee should be left to be determined at the time of the violation, the fine could exceed the amount for change of address violation.

John Doneth was excused at 4:34 p.m.

Dr. Walters moved that the Board file a notice of rule change on the divisions as discussed. Dr. Hamel seconded the motion. The motion carried unanimously.

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

Unfinished Business: The Board did not discuss any additional unfinished business.

OTHER - The next Board meeting is scheduled for December 13, 2002.

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 4:34 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau
Administrative Assistant

David W. Plunkett
Executive Director