

# OREGON BOARD OF OPTOMETRY

## PUBLIC SESSION MINUTES

*September 10, 2010*

**Board Members Present:** Michelle Monkman, O.D., President  
Donald Garris, O.D.  
Robert Mans, O.D.  
Jeffrey Pelson, O.D.  
Karen Knauerhase, Public Member

**Board Members Absent:** None.

**Board Staff:** David Plunkett, Outgoing Executive Director  
Kelly Paige, Incoming Executive Director  
Cathy Boudreau, Administrative Assistant

**Board Legal Counsel:** Lori Lindley, Asst. Atty. Gen.

### **CALL TO ORDER -**

Dr. Monkman called the meeting to order at 8:37 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 meeting was reconvened at 12:08 p.m. The Public Session was adjourned at 1:43 for a hearing on proposed Oregon Administrative Rules 852-020-0045. The Public Session was reconvened at 1:50.

The Board welcomed two guests:

Jessica Lynch, O.D., has been appointed by the Governor to fill the Board position that will be vacant upon the departure of Dr. Michelle Monkman at the end of the month. Dr. Lynch is required to be confirmed by the Oregon Senate, but plans to assume her duties with the Board as of the first of October. Dr. Lynch graduated from the Pacific University College of Optometry, and practices in Hillsboro.

Charles McBride, O.D. had a question of the Board relating to the use of the term "Board Certification." [See below under Correspondence, #2]

**MINUTES** - The Board reviewed the June 25, 2010 Public Session minutes. Ms. Knauerhase moved that the Board approve the minutes as distributed. Dr. Garris seconded the motion. The minutes of the meeting as distributed were unanimously approved by oral vote. The Board reviewed the July 2, 2010 Public Session minutes. Ms. Knauerhase moved that the Board approve the minutes as distributed. Dr. Garris seconded the motion. The minutes of the meeting as distributed were unanimously approved by oral vote.

## RATIFICATION -

**Reactivation and Reinstatements** - the Executive Director approved the following actions since the last meeting of the Board:

- Reinstatement of license to Inactive status: Michael Ohlson, O.D.
- Reinstatement of license to Inactive status: Karen Garrety, O.D.
- Reinstatement of license to Active status: Patrick Ayers, O.D.
- Reactivation of license from Inactive-Military to Inactive status: Clinton Anderson, O.D.
- Reactivation of license from Inactive-Military to Inactive status: Joel Postma, 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. Thirty-three new applicants were approved for licensure.

Ms. Knauerhase made a motion that the Board approve these actions of the Executive Director since the last Board meeting. Dr. Pelson seconded the motion. The motion carried unanimously by oral vote.

## ACTION ON EXECUTIVE SESSION -

**06-08-02** - There have been no additions to the investigative file in this case since June 25, 2009. **The case is closed with an effective date of 6/25/2009.**

**10-01-04** - The Board reviewed patient records in Executive Session. A letter will be sent to the doctor informing him that the records are improved but the Board is still concerned over the issues of legibility and dilation documentation policy. **This case is closed .**

**10-02-01** - This case was closed at the June 25, 2010 meeting. A Final Order on Default was issued on July 12, 2010 along with a cover letter to Dr. Dunn. The Board received a check for \$1,000 for payment of the civil penalty from Dr. Dunn along with a letter requesting that the Board set aside the sanctions pursuant to ORS 683.170. The Board will send the doctor a letter indicating that there is no change in the evidence to show cause to set aside the disciplinary action. **The Board will not set the sanctions aside. This case remains closed.**

**10-05-01** - The Board reviewed patient records in this case. A letter will be sent to the doctor telling him that the investigation is ongoing, and that the Board requires a copy of the entire patient record. In addition, the letter will cite OAR 852-020-0031 (1) and (5) and instruct him to release the contact lens prescription to the patient. **This case will remain open.**

**10-05-02** - Two attempts have been made to contact the complainant requesting details of the complaint. The complainant has not responded since the last meeting. **This case is closed.**

**10-07-01** - A letter was sent to the doctor in this case concerning advertising on the company website which did not indicate the name of the doctor giving eye exams at an optical store. The doctor has changed the website to correct this matter. **This case is closed.**

**10-07-02** - A letter will be sent to the patient stating that the optometrist has written a letter to the Board suggesting that the situation may have been resolved. The letter will note that the Board finds no optometric error or violation of Oregon Revised Statute or Oregon Administrative Rules on the part of the doctor by failing to provide patient care, and that, through human error, the doctor has lost the examination record as was reported to both the patient and the Board. **This case will remain open.**

**10-09-01** - The doctor in this case is using the title M.D. at his practice. Pursuant to ORS 676.110(b)(A),(B) an individual is prohibited from the use of this title unless licensed by a health professional regulatory board or unless the individual is working under a board-approved residency contract. A letter will be sent to the doctor instructing him to cease the use of the title M.D. in accordance with the statute cited. **This case will remain open.**

#### **MONITORED CASES:**

**08-12-01** - Additional patient records were received and reviewed. The Board will send a letter indicating that the records are much improved and are now acceptable. **The Board will cease monitoring this case.**

**04-06-07** - Additional patient records were received and reviewed at this meeting. The Board will do additional investigation and continue to monitor the doctor until the completion of his probationary period in October 2011.

Ms. Knauerhase made a motion that the Board approve the actions from the Executive Session. Dr. Garris seconded the motion. There was no further discussion. The motion carried unanimously by oral vote.

#### **CORRESPONDENCE**

1) The Board considered an application for licensure by endorsement by Randy Norris, O.D. After comparison of the clinical examination taken by Dr. Norris in his current state of licensure with the examination required in Oregon in the same year, Dr. Monkman stated her opinion that the examinations are comparable. Ms. Knauerhase made a motion to grant licensure by endorsement to Dr. Norris, upon completion of the remaining conditions of his application for licensure. Dr. Pelson seconded the motion. There was no further discussion. The motion carried unanimously by oral vote.

2) The Board has received communication from Michael Rosenblatt, O.D. from the American Optometric Society concerning "Board Certification". The Board had earlier reached consensus that OBO the only entity in the State that is statutorily empowered to determine both initial and continuing competence to practice optometry in the State of Oregon.

Any use of the term “board certified” must be accompanied by clarification of which organization has made the certification and the nature of the certification. The use of the term may not be used to indicate superiority. Ms. Knauerhase stated that the email response by Mr. Plunkett of June 29, 2010 to Sherry Cooper was an accurate reflection of the Board’s position. The Board agreed with Ms. Knauerhase statement and decided by consensus that this position should be reiterated to Mr. Rosenblatt by return correspondence.

**Dr. McBride also had a question on this issue.** He asked the Board if he could make the following statement: “Board certified by the Oregon Board of Optometry, Charles McBride has been in practice for fifteen years.” Ms. Knauerhase, Mr. Plunkett, and Dr. Monkman all replied in the affirmative. Dr. Monkman also affirmed that every optometrist in Oregon that practices is Board certified by the OBO. Cathy Boudreau added that the license states that an OD is AT or ATI certified. Dr. McBride then asked if he could be board certified by the American Board of Optometry at some time in the future. Ms. Knauerhase said he could say that as long as he spelled out the name.

3) The Board reviewed communication from Bruce Weir concerning the OBO licensure of opticians. The Board has no authority at this time to regulate opticians. A letter will be written to Mr. Weir explaining to him that there is nothing the Board can do at this time. They will, however, take his suggestion under advisement. The Board discussed the merits and difficulties of such a legislative change. There was no support on the Board for requiring an optometrist to employ a licensed optician. In the Board’s opinion, if opticians were to be licensed, a physician should be able to employ any other trained and supervised individual to perform optical technician duties without using the title.

They did feel that there is merit to the idea of licensing an individual who would like to be called a licensed optician. They agree that the Board of Optometry seems the logical agency to regulate opticians should such a title act be legislated. The Board asked Ms. Paige to ask Oregon Optometric Physicians Association whether they would oppose any action of the Board in this direction.

4) The NBEO has sent a survey requesting input regarding the Board’s anticipated need for their proposed injections skills testing. The Board is not likely to require this testing. The procedure does not meet the injection certification requirements in Oregon.

5) The NBEO has informed the Board that the administration of the Part III exam will be changing to a single test site. The Board is of the opinion the proposed changes will present a significant disadvantage to students living in the west. Travel to North Carolina for these students will most likely create prohibitive expenses and place an undue burden on these graduate students. Dr. Monkman suggested that the examination should continue to be offered in more than one region to avoid onerous costs to students in the west. After discussion, the Board asked Dr. Monkman to consult with staff in composing a letter to the NBEO expressing their position.

6) The Board discussed communication from Ken Eakland, O.D. at Pacific University College of Optometry concerning the AOT didactic course. Dr. Eakland would like to know if the Board would consider approving a presentation of the course in an online setting and deem the course comparable to the previously held class-room setting courses for the purpose of qualifying doctors for AT or ATI certification. The attendance at the live presentations has dwindled in recent administrations and is becoming cost prohibitive for the sponsors.

The most recent presentation of the course was video recorded and could be offered in segments, with the final examination to be completed in a live, proctored setting. The consensus of the Board is that the concept is a good one that they would like to see available. A letter will be sent to Dr. Eakland conveying their support of the proposal.

7) The Board reviewed communication from Stanley Teplick, M.D. concerning the Summer 2010 OMB newsletter article about co-management. The Board will be watching for any legislation regarding this subject. No action is required at this time.

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

There was no report submitted at this time.

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

**Accounting/Budgeting:** Mr. Plunkett reviewed the Revenue & Expense Budget Report covering the period of July 1, 2009 through June 30, 2010. He noted that this will be his final report to the Board and encouraged them to ask any questions at this meeting. The Board's current revenue is at \$281,273, down only slightly from the budgeted amount of \$282,670. There is a drop in budgeted investment income, which is down nearly 47%. Several sources of revenue are higher than projected, including license verification fees, and new license application fees. Total revenue is over budget by \$7,416 which is an increase of 2.29% overall. On the expense side, the Payroll expenses are over budget, as was expected at this point, due to additional salaries paid out in this biennium. This figure will come back into line as the biennium progresses and at the end of the term, there should not be any deficit.

OPE expenses are \$23,420 under budget due largely to the decrease in PERS expenses for Mr. Plunkett since his retirement, and because Debbie Hendricks had a period at the beginning of her employment in which she did not qualify for PERS. The total payroll expenses are \$256,317 compared to the budget of \$253,181. There should be a surplus in this area by the end of the biennium.

Services and Supplies are inline with the budget, with the only unexpected item due to out-of-state travel to bring a candidate in to interview for the Executive Director position. Office Expenses are under budget \$3,654. Fees paid for Attorney General services are down by \$2,983. These fees are determined by the kinds of investigative cases that come before the Board. As the Board is aware, Audit Charges were much higher than had been anticipated in this budget period. Mr. Plunkett advised the Board that work on the budget for the next biennium should begin early in 2011, and that the amount allocated for audit expenses should be less than paid this year. As has been discussed with the Board previously, the overall feeling of the SIBA group is that the member boards should opt for a financial review rather than an audit. This review process would be less expensive than a financial audit. At this time, total Services and Supplies expenses are under budget \$3,093. Mr. Plunkett predicted that the Board should have a healthy budget surplus by the end of the biennium.

Mr. Plunkett submitted an updated Balance Sheet to the Board that reflects a transfer of funds to the Fidelity investment account. The total assets in checking, money market and investment accounts are currently \$255,536. The Board asked whether there is a problem with cash flow each month to cover payroll and other expenses. Mr. Plunkett pointed out that since the Board moved to monthly renewals, the Board's income has evened out and regularly covers the expenses.

The majority of expenses come due at the end of the month. PERS drafts the Board's bank account, generally, around the twelfth of the month. The balance of the checking account varies during the month based on the number of renewals received. Mr. Plunkett explained the procedure that is used by Debbie Hendricks to deposit to the Board's banking account each day using an electronic system. He has consulted regularly with Dr. Garris regarding the state of the Board's finances including transferring of money to the investment account.

The Board discussed the need for a written accounting and budget policy in order to clarify procedures and expectations in the future. The Board will work with Ms. Paige to establish these policies and put them in writing.

**Board Activities Report:** Mr. Plunkett reviewed the Board Activity Report for the year ending June 30, 2010. He noted an increase in active status licensees to 730 for the period. The majority of these have ATI certification. The number of inactive licensees is 489 putting the total number of licensed optometrists at 1,219. He noted that this number fluctuates throughout the year, but an overall decrease may be expected as the number of inactive licensees also decreases. He pointed out that the number of jurisprudence exams administered by the Board has decreased and he predicted that the number will eventually be zero since the NBEO now offers the exam online. There has also been a decrease in the number of continuing education courses reviewed as more courses are approved by COPE. The Board reviewed twenty new complaints during the year. The Board closed twenty-two cases; two of these resulted in disciplinary action. The Board had no additional questions with regard to this report.

**LEDS background checks on licensees:** Ms. Paige submitted a proposal to the Board regarding doing criminal background checks on licensees using the LEDS system and she reviewed the content of the proposal. She suggested that the Board review the proposal more thoroughly before the next Board meeting at which time she would like for them to consider voting on the issue. The cost of criminal background checks on all licensees would be \$67.00 per year. A list of action items (included in the proposal) must be accomplished in order to establish LEDS authorization for the Board. The Board's staff would be fingerprinted in order to be able to query the system, but licensees would not have to be fingerprinted. Ms. Paige is currently LEDS certified and could act as the coordinator for the Board. The Board inquired about the staff time required to input the information on the system. Ms. Paige explained the input process and response time. In her proposal, she also noted that 13 of 20 Oregon Health Professional Licensing Boards require background checks and/or fingerprinting for licensees. Washington and California currently fingerprint new applicants for licenses to practice optometry. In addition, OBO's current new application and renewal forms request information on criminal conduct, but the agency has no means of verifying the truthfulness of the response.

Ms. Lindley stated that another of her client agencies (also a health-related licensing board), recently implemented criminal background checks using the Law Enforcement Data System. That Board found that applicants for new or renewal licenses were not being truthful with the Board when they answered questions on their applications regarding past criminal behavior.

Not only was the Board uncovering activity that would disqualify applicants from the profession, they were also finding many instances of applicants lying to the Board about the nature or number of their infractions. Conducting criminal background checks (and fingerprinting licensees) is the norm among Health Professional Regulatory Boards. Having this procedure serves to protect the public from unscrupulous applicants. The Board will review Ms. Paige's document for the next meeting.

**OBO office lease:** Mr. Plunkett has renegotiated the lease in the current office location. The new per square foot price will be reduced to \$1.00, a rollback from the current cost of \$1.12/sq.ft., plus about \$.45/sq.ft. for cleaning and maintenance expenses. The annual increase for these CAM costs will drop from 3% to 2% per year, for 5 years. The new lease includes an option to terminate with 180 days notice. Dr. Garris made a motion to approve the new lease as negotiated. Ms. Knauerhase seconded the motion. There was no discussion. The motion carried unanimously by oral vote. The Board authorized Mr. Plunkett to sign the lease as presented.

Mr. Plunkett reviewed the history of the Board in trying to purchase a building for office space. The Board of Architects Examiners is interested in owning a building again and their executive director is exploring the availability of buildings. They would like to be in the downtown Salem core, which has not a favorable consideration for the OBO because of accessibility and parking restrictions. As more acceptable options are presented, the Board may want to consider entering into a purchase in order to preserve capitol.

## **COMMITTEE REPORTS -**

### **Continuing Optometric Education:**

Dr. Monkman made a motion 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. There was no discussion. The motion carried unanimously by oral vote.

### **Budget Committee:**

There is no current report from the budget committee.

A Resolution was presented to the Board for their approval which will establish new authorized signatures at US Bank to include Kelly Paige, Executive Director; Robert, Mans, O.D., Board President; and Donald Garris, O.D., Budget Committee Chair.

Ms. Knauerhase made a motion that the Board adopt the resolution to change signature authority for US Bank as proposed. Dr. Pelson seconded the motion. There was no discussion. The motion carried unanimously by oral vote.

A Resolution was presented to change the signature authority on the Board investment account with Fidelity to the Board President, Robert Mans, O.D. Ms. Knauerhase made a motion that the Board adopt the resolution to change signature authority for the Fidelity account as proposed. Dr. Pelson seconded the motion. There was no discussion. The motion carried unanimously by oral vote.

Ms. Knauerhase made a motion that the Executive Director be allowed to make expenditures of up to \$1,000 without prior Board approval for non-regular billed expenditures. Expenditures such as rent, payroll, and Department of Justice invoices would not require Board approval. She noted that the motion is to include expenditures on the Board credit card. Expenditures over \$1,000 may be authorized by the joint approval of the Board President and Budget Chairperson. Dr. Pelson seconded the motion. There was no discussion. The motion carried unanimously by oral vote.

Ms. Knauerhase made a motion that monthly reports be sent by the Executive Director to all Board members to include copies of the Revenue and Expense sheet and copies of the check register. Dr. Mans seconded the motion. There was no discussion. The motion carried unanimously by oral vote.

The Board will establish a new credit card account for office expenses. Dr. Monkman will sign the resolutions that will delegate authority for investigations and administrative rulemaking to the new Executive Director

#### **Legislative Committee:**

There is no current report from the legislative committee. The OBO does not have any legislative concepts prepared for the upcoming legislative session, which is scheduled to begin January 2011.

#### **Administrative Rules Committee:**

The Board considered the adoption of proposed administrative rules for Requirements for Business Entity Organization, OAR 852-020-0045. The Board held a hearing on the proposed rules today. Ms. Knauerhase made a motion that the Board adopt the proposed changes included in OAR 852-020-0045 with the correction of the addition of a space in paragraph 1 between "63" and "67". Dr. Pelson seconded the motion. There was no discussion. The motion carried unanimously by oral vote.

**Personnel Committee:** There was no report from the committee at this time.

Dr. Garris asked whether, in light of the new individuals on the Board and on staff, the Board might invite Dr. Monkman to return to the next few meetings of the Board to offer her expertise and experience. Ms. Lindley told the Board she believes that in order to allow Dr. Monkman to be present at the Executive Session, she would have to be engaged as a consultant.

Ms. Knauerhase made a motion that the Board engage Michelle Monkman, O.D. as a consultant for a period extending from 10/1/2010 through 3/31/2010. Dr. Garris seconded the motion. There was no further discussion. The motion carried unanimously by oral vote.

Ms. Knauerhase made a motion to engage Mr. Plunkett to complete the discipline report for the executive director peer review, to complete an article for the newsletter, and to apprise Dr. Mans about the Fidelity account. Dr. Pelson seconded the motion. There was no discussion. The motion carried unanimously by oral vote.

**UNFINISHED BUSINESS:**

Ms. Knauerhase nominated Robert Mans, O.D., to serve as Board President. Dr. Mans was elected by unanimous oral vote. Dr. Mans nominated Donald Garris, O.D. to serve as for Vice-President for the Board. Dr. Garris was elected by unanimous oral vote.

Dr. Mans made the following appointments for Committees chairpersons:

- Continuing Optometric Education: Jessica Lynch, O.D. – incoming Board member
- Budget Committee: Donald Garris, O.D.
- Legislative Committee: Jeffrey Pelson, O.D.
- Administrative Rule Committee: Robert Mans, O.D.
- Personnel Committee: Karen Knauerhase, Public Member

Dr. Mans presented Dr. Monkman with a plaque to acknowledge her service to the Board, thanking her for her expertise and dedication during her term. Dr. Monkman expressed her gratitude and her good wishes to the Board.

Ms. Paige presented Mr. Plunkett with a framed print, and thanked him for retiring so that she could have the opportunity to take over this great job.

**OTHER:** The Board scheduled the next regular meetings for November 5, 2010 and January 7, 2011.

**ADJOURNMENT** - There was no further business to come before the Board and President Mans adjourned the meeting at 4:40 p.m.

Prepared by:



Kelly Paige, Executive Director, from minutes originally prepared by Cathy Boudreau, Administrative Assistant, and a partial transcript prepared by Ms. Boudreau.