

# OREGON BOARD OF OPTOMETRY

## PUBLIC SESSION MINUTES

*November 30, 2001*

Present - Joan P. Miller, O.D., President  
Douglas G. Smith, O.D., Vice President  
Candace D. Hamel, O.D.  
John P. Reslock, O.D.

Scott M. Walters, O.D., incoming Board Member

David Plunkett, Executive Director  
Cathy Boudreau, Administrative Assistant

### **CALL TO ORDER -**

Dr. Miller called the meeting to order at 8:20 a.m. in the second floor conference room. The Board adjourned to executive session for the purpose of discussing complaint cases.

The Board held an Administrative Rule Hearing at 1:42 p.m. on proposed changes to OAR 852-20-070. The hearing was concluded at 1:47 p.m.

The Public Session was reconvened at 1:48 p.m.

**MINUTES** - The Public Session minutes of September 28, 2001 were approved as distributed.

Dr. Smith moved that the Board delegate authority to Mr. Plunkett to make decisions on discovery in contested case hearings. Dr. Hamel seconded the motion. The motion carried unanimously.

### **RATIFICATION -**

#### **Candidates for Examination and Licensure -**

The optometrists listed in Exhibit A have 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:

Clinton Anderson, O.D. (Inactive-military to Inactive)

Stacy Simmons, O.D. (Inactive-military to Inactive)

Barbara Briscoe, O.D. (Inactive to Active)

Heidi Sutter, O.D. (Inactive to Active)

#### "Reinstatement of licenses:

Jin Jin Li, O.D. (lapsed Inactive)

Dr. Hamel moved that the Board ratify the actions of the President. The motion was seconded by Dr. Reslock. The motion carried unanimously.

## **ACTION ON EXECUTIVE SESSION**

**00-02-07 -**

**00-07-01 -** A settlement will be attempted in these cases. These cases will remain open.

**00-07-02**

**01-09-05**

**01-10-03-** The investigation will continue in these cases. These cases will remain open.

**00-09-01 -** This case will be closed.

**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 -** The investigation will continue in these cases. These cases will remain open.

**00-10-05**

**01-03-04 -** The doctor will not renew his license in lieu of discipline. A letter will be written to the doctor acknowledging this. This case will remain open.

**01-03-02 -** The investigation will continue in this case. This case will remain open.

**01-03-05 -** A letter will be written to the doctor in this case. This case will remain open.

**01-04-02 -** A letter will be written to the doctor in this case advising him that the Board considers the selling of professional samples to be unprofessional conduct. A copy will be sent to the complainant. A letter will also be written to the consultant that advised the doctor in this case. This case will remain open.

**01-04-05 -** The investigation will continue in this case. This case will remain open.

**01-05-01 -** The Board found no optometric error or violation of Revised Statutes or Administrative Rules in this case. This case will be closed.

**01-08-01 -** The Board found no optometric error or violation of Revised Statutes or Administrative Rules in this case. This case will be closed.

**01-08-04 -** A Notice of Intent to Discipline, Reprimand and Imposition of Civil Penalties, \$1,000.00 pursuant to OAR 852-10-027(12) will be issued in this case. This case will remain open.

**01-08-05** - The Board found no optometric error or violation of Revised Statutes or Administrative Rules in this case. This case will be closed

**01-08-06** - Letters will be written to the complainant and to the doctor in this case. This case will remain open.

**01-09-01** - A letter will be written to the doctor in this case requesting the audio tape. This case will remain open.

**01-09-02** - A letter will be written to the doctor suggesting that he refund the fees to the patient. This case will remain open.

**01-09-03** - The Board finds no optometric error or violation of Revised Statutes or Administrative Rules in this case. A letter will be written to the patient. This case will remain open.

**01-09-04** - Letters will be written to the patient and to the doctor in this case. This case will remain open.

**01-09-06** - This case has been resolved. This case will be closed.

**01-09-07** - This case will be closed.

**01-09-08** - The case has been resolved. This case will be closed

**01-10-01** - This case will be closed.

**01-10-02** - This case will be closed.

**01-10-04** - The investigation in this case will continue. This case will remain open.

**01-04-04** - The Board's attorney will try to contact opposing legal counsel in this case to try to collect the civil penalty.

**01-11-01** - The investigation in this case will continue.

Dr. Smith 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 has received a letter from Michael Coffman, O.D. concerning duplication questions. The Board discussed ORS 683.190 which says that no person may accept lens for duplication except licensed optometrists, and ORS 683.525, regarding the acceptance of lens for duplication, notwithstanding the previous statute. The Board will not send another reply having already answered the inquiry.

The Board discussed a letter from Leland Carr, O.D. concerning the Documentation and Intensive Clinical Skills course. The Board had requested that the optometry school develop a course to answer the need of doctors who are found to have patient records and clinical practice that are below the Board's standard of care. In the proposed course, 8 hours will be record keeping and 32 hours will be clinical retraining. Dr. Smith was concerned about the cost for the combined courses which he thought seemed excessive. Dr. Miller thought that considering the cost for one-on-one instruction, and the infrequency that the courses might be exercised, the cost is not unreasonable. Dr. Hamel suggested that it would seem reasonable to have doctors to attend classes with regular students in order to keep the cost down. Mr. Plunkett will write a letter asking whether regular college courses could be opened up for doctors to attend in order to keep cost down rather than having all classes be one on one. Mrs. Boudreau will investigate the internet courses provided by Vision Services Plan, Pacific University College of Optometry, and Southern California College of Optometry to see if there are courses that will satisfy the requirements of the Board.

With regard to a letter from National Vision, Inc., inquiring about record keeping requirements in light of the Uniform Electronic Transactions Act, Dr. Miller noted that after discussion and conference with legal council, the Board has come to the conclusion that nothing in statute or rule precludes the use of electronic records. The Board will be making rules to establish standards for acceptable software for the purpose of electronic record keeping. An example of a concern that they would be trying to avoid would be software programs that default to a "normal" answer for questions in which no information is inserted. The Board will define the criteria and it will be the responsibility of the doctors to be in compliance.

The Board discussed a letter from Michael R. Duenas, O.D. concerning scope of optometry relating to diabetes. The statute says that optometrists are allowed to use any means except surgery. The Board will send him a copy of the statute.

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

Dr. Miller wrote a column for the newsletter which will be sent out soon which deals with ethical issues. The newsletter should be sent out in the next month.

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

**Accounting/Budgeting:** The Board reviewed the current Balance Sheet and BTB budget report covering the current biennium, July 1, 2001 through October 31, 2001. Mr. Plunkett reviewed the financial reports with the Board and noted that revenue is at close to 90% of budget. Renewal of inactive licensees is a little bit down and interest income is down due to market conditions. Overall, the Board is \$2,056.00 to the good when compared to budget.

Dr. Smith mentioned that the line item for Attorney General costs is on target now, but will change if there is a contested case hearing. Mr. Plunkett agreed that Dr. Smith was correct, and that although the Board has had no experience with the Hearing Officer Panel, he had heard unsatisfactory reports from other boards. The chief hearing officer would like to have the sunset clause of the legislation which enacted the hearing officer panel removed so that it would be permanent.

**Board Activities Report:** Mr. Plunkett reviewed the report with 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 that the Board ratify the actions of the COE committee. Dr. Smith seconded the motion. The motion carried unanimously.

Dr Hamel asked the Board's consideration of a request for approval of a web course by Monica Slivar, O.D. Dr. Miller wondered about her credentials as an expert to present the material. Dr. Hamel thought her background wasn't of concern and noted that a criteria for a presenter is that one has to be an OD, although not the very best. The board will consider the material after the website is up and is able to be reviewed.

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

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

**Administrative Rules Committee:** The Board considered proposed administrative rule revisions to OAR 852-20-070, and OAR 852-10-022 and 023. The Board held a hearing on OAR 852-20-070 today. No comments were received on OAR 852-10-022, 023 when there was a hearing on this rule other than one from Dr. Knutson. He was concerned that the background of doctors be checked before licensing is issued. Mr. Plunkett has reworded the rule to include language which will require an inquiry of both the national databases and the ARBO practitioner database. Dr. Hamel moved that the Board adopt the proposed revisions to OAR 852-10-022 and 852.10-023. Dr. Smith seconded the motion. The motion carried unanimously. Dr. Hamel moved that the Board adopt the proposed revisions to OAR 852-20-070. Dr. Reslock seconded the motion. The motion carried unanimously.

**Personnel Committee:** With regard to the revision of the Personnel Policies Manual pertaining to pay increases, Mr. Plunkett reviewed possible policy manual changes. He recommended that the Board adopt the first option. With this revision the bonus at the top of the pay scale and the salary schedule would be eliminated. There would be no minimum or maximum limits on salaries. After discussion, Dr. Reslock moved to revise the manual as suggested by Mr. Plunkett. Dr. Hamel seconded the motion. The motion carried unanimously. Mr. Plunkett asked the Board revise the salary schedule retroactive to July 1, 1998 (the date the salary schedule was adopted by the Board) to include the CPI increases that occurred each year. Dr. Smith moved to adopt the revision. Dr. Hamel seconded the motion. The motion carried unanimously.

**Election Of Vice-President:** Because Dr. Smith's term as Board member is now complete, the Board now must select a new Vice-President. Dr. Smith nominated Dr. Hamel to fill the post. Dr. Reslock seconded the motion. The motion carried unanimously. The new committee assignments for the Board are as follows:

Legislative: Joan Miller, O.D.

Budget: John Reslock, O.D.

Administrative Rules: Scott Walters, O.D.

COE: Candace Hamel, O.D.

Personnel: not assigned at this time.

**Unfinished Business:** The Board has received names for the Council on Optometric Nontopical Formulary from the Board of Medical Examiners. The Pharmacy Board will be meeting on Wednesday, 12/5/01 and will make their appointment at that time. A meeting date and time will be established as soon as the appointment is made. Mr. Plunkett suggested that the meeting be held at Pacific University College of Optometry. Having the meeting at the optometry school would give the participants the opportunity to see what the school is teaching so the participants can be brought up to date on what the students are learning. He also suggested that the format be similar to the topical formulary meetings that included an evening meeting to let everyone get a chance to get to know one another, followed by a working meeting the next day. Dr. Hamel suggests that meeting be held on one day, with a lunch buffet, and tour in the morning, and a working meeting in the afternoon. Wayne Schumacher, Executive Director for OOPA voiced his support for the idea that the meeting be held on Pacific University campus. The Board will send out a letter as soon as the final appointment is made with some potential dates so that it can be scheduled as soon as possible. Dr. Miller and Mr. Plunkett will contact Dr. Carr to see which dates will work for the school.

**OTHER** - The next Board meeting is scheduled for February 22, 2002.

**ADJOURNMENT -**

There was no further business to come before the Board. Dr. Smith moved to adjourn the meeting. Dr. Hamel seconded the motion and President Miller adjourned the meeting at 3:44 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau  
Administrative Assistant

David W. Plunkett  
Executive Director