

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

November 30, 2007

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

David W. Plunkett, Executive Director
Cathy M. Boudreau, Administrative Assistant

CALL TO ORDER -

Dr. Walters called the meeting to order at 9:10 a.m. in the Mezzanine Level Conference room at 1900 Hines Street, SE, Salem, OR., 97302. President Walters immediately convened the Public Hearing for the proposed changes to OAR 852-001-0001, 0002, 852-050-0006 and 852-80-030. The Public Meeting reconvened at 9:22 a.m.

Mr. Wayne Schumacher from the Oregon Optometric Physicians Association was in attendance.

MINUTES - The Board reviewed the September 7, 2007 Public Session minutes. The minutes of the meeting were approved as distributed.

RATIFICATION -

Reactivation and Reinstatements:

Reactivation of license to Active status: Shannon Downey, O.D.
Reactivation of license to Active status: Kim Matkevich, O.D.
Reactivation of license from Inactive-Military to Inactive status, Amy Postma, O.D.
Reinstatement of license to Active status: Jeremy Graziano, 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. Vorpahl made a motion that the Board approve the actions of the Executive Director. Dr. Monkman seconded the motion. The motion carried unanimously.

The Public Session was adjourned at 10:54 a.m. to Executive Session for the purpose of discussing complaints. The Public Session reconvened at 3:05 p.m.

ACTION ON EXECUTIVE SESSION

06-08-02 - Ms. Lindley will contact the doctor's attorney to request additional information. She will also check the business licenses for the counties in which the corporation is operating. This case will remain open.

07-02-01 - The Board will request additional patient records for review at the next Board meeting. This case will remain open.

07-05-02 - Ms. Knauerhase made a motion that the Board release information to other investigative entities as necessary to assist them in their investigation pursuant to ORS 676.177. Dr. Vorpahl seconded the motion. The motion passed unanimously. Dr. Garris moved that the Board issue a Default Final Order, Imposition of Civil Penalty of \$20,000 for the unlicensed practice of optometry. Dr. Monkman seconded the motion. The motion carried unanimously. This case will be closed.

07-05-04 - The Board did not find any violations of Oregon Revised Statutes or Administrative Rules. A letter will be sent to the doctor suggesting that the use of a steroid on an eye with an epithelial defect, especially with a patient who had a history of herpes, may not be the best choice. An antibiotic for twenty-four to forty-eight hours prior to instituting any steroid would be a better choice. A letter will be sent to the complainant telling her that a letter has been sent to the doctor named in the complaint addressing her concerns and thanking her for bringing them to the Boards attention.

07-07-01 - Karen Knauerhase moved that the Board issue a Default Final Order, Reprimand and Imposition of Civil Penalty to the doctor in this case for the unlicensed practice of optometry. Dr. Monkman seconded the motion. The motion carried unanimously. This case will be closed.

07-07-02 - A Notice of Proposed Disciplinary Action was issued to the doctor in this case. The doctor's attorneys have prepared and sent to the Board a Stipulated Final Order that the doctor has agreed to sign. Dr. Vorpahl moved that the Board respond with an amended Stipulated Final Order which more accurately reflects their findings of fact. The motion was seconded by Karen Knauerhase. The motion carried unanimously. This case will remain open.

07-09-01 - A Letter of Concern was sent to the doctor in this case. A written response was received from doctor. No additional information had been obtained. This case will be closed.

07-09-02 - A letter will be sent to the doctor advising him that, pursuant to ORS 683.140(e), and OAR 852-060-025(d)(g), it is unprofessional conduct, gross ignorance or inefficiency in the profession to employ directly or indirectly an unlicensed optometrist. The Board will request documentation of how many of the affected patients have been re-examined. This case will remain open.

07-10-01 - The Board will send an investigator to this office to obtain additional information in the case. This case will remain open.

07-10-02 - Two attempts have been made to obtain details from the complainant in this case. Since no details have been furnished, this case will be closed.

07-10-03 - A letter will be sent advising the doctor that, pursuant to ORS 683.140(e), and OAR 852-060-025(d)(g), it is unprofessional conduct, gross ignorance or inefficiency in the profession to employ

directly or indirectly an unlicensed optometrist. The Board will ask for documentation of the letter, with an affidavit of mailing, which was sent to the patients to initiate a re-examination. The Board will ask how many patients have been reexamined to date. This case will remain open.

07-10-04 - A letter will be sent advising the doctor that, pursuant to ORS 683.140(e), and OAR 852-060-025(d)(g), it is unprofessional conduct, gross ignorance or inefficiency in the profession to employ directly or indirectly an unlicensed optometrist. The Board will ask for documentation of the letter, with an affidavit of mailing, which was sent to the patients to initiate a re-examination. The Board will ask how many patients have been reexamined to date. This case will remain open.

07-10-05 - A letter will be sent advising the doctor that, pursuant to ORS 683.140(e), and OAR 852-060-025(d)(g), it is unprofessional conduct, gross ignorance or inefficiency in the profession to employ directly or indirectly an unlicensed optometrist. The Board will ask for documentation of the letter, with an affidavit of mailing, which was sent to the patients to initiate a re-examination. The Board will ask how many patients have been reexamined to date. This case will remain open.

07-10-06 - A letter will be sent advising the doctor that, pursuant to ORS 683.140(e), and OAR 852-060-025(d)(g), it is unprofessional conduct, gross ignorance or inefficiency in the profession to employ directly or indirectly an unlicensed optometrist. The Board will ask for documentation of the letter, with an affidavit of mailing, which was sent to the patients to initiate a re-examination. The Board will ask how many patients have been reexamined to date. This case will remain open.

07-10-07 - A letter will be sent to the company advising that, while they cannot employ an optometrist, they can enter into a contractual agreement only with a licensed optometrist and that particular care should be given to checking references and license status. They will be informed that patient examination records belong to the optometrists. Board staff will send letters to the patients represented by the records received from the company advising that they be reexamined. This case will remain open.

07-11-01 - This case is not ready for the Board to review. This case will remain open.

Dr. Monkman moved that the Board approve the actions take in executive session. Dr. Vorpahl seconded the motion. The motion carried unanimously.

CORRESPONDENCE -

The Board reviewed correspondence from Ron Guiley, O.D. concerning use of medical marijuana by Oregon optometrists for treatment of glaucoma. The Board has determined that this agent does not fit into the approved drug formulary.

The Board has received correspondence from Dawne Griffith, O.D. concerning the collection of co-management fees. The Board is not aware of anything in the Oregon optometry law that prevents the collection of fees by the surgeon, however, a preferable policy is for each physician to bill separately to avoid any appearance of a “kick-back”.

The Board has received an application for licensure by endorsement from James E. Sheedy, O.D., Ph.D. Dr. Walters recommends that Dr. Sheedy be granted licensure by endorsement of his California clinical

examination. Dr. Sheedy has passed the didactic course in Oregon. His license could be issued at AT level of certification. Karen Knauerhase made a motion to approve the endorsement of Dr. Sheedy's California clinical examination in order for him to be licensed in Oregon. Dr. Monkman seconded the motion. The motion carried unanimously.

PRESIDENT'S REPORT -

Dr. Walters has been contacted more than once by John Kohler at ARBO, who has been made himself available to come explain ARBO's programs. Dr. Walters has not made a commitment to him because these programs do not fit the needs of the OBO. Mr. Plunkett surmised that a problem that ARBO is having is trying to find ways to increase revenue since they are not part of the NBEQ, and are unable to generate funds from examinations. He feels that these programs being offered are not the mission of ARBO and that Oregon does not have a need for the programs beyond COPE.

Dr. Walters reminded the Board that a newsletter has not yet been published, but that he would like one to be sent out by early 2008. Dr. Monkman volunteered to write an article pertaining to the mandatory reporting of child abuse. The Board would like clarification of the law regarding the requirement for employees of optometrists to report situations outside of the office. Mr. Plunkett will ask Ms. Lindley for clarification about whether staff are mandatory reporters also. The Board discussed the possibility that credit for ethics could be granted for continuing education about this topic. Ms. Knauerhase said that she will find out if the Bar Association approved continuing education on this topic is available for optometrists.

Newsletters will be sent electronically to as many optometrists as have given the Board email addresses. Mr. Schumaker suggested that there are services that could be used to send electronic mail to avoid spam blocking by some servers. He will send Mr. Plunkett information about the companies.

Dr. Walters suggested that another article for the newsletter should address the verification of a doctor's license status before hiring an optometrist.

EXECUTIVE DIRECTOR'S REPORT -

Accounting/Budgeting: Mr. Plunkett reviewed the Revenue and Expense Budget Report covering the period of from July 1, 2007 through September 30, 2007. Mr. Plunkett noted that the total revenue in the current report is \$2,796 over budget while the total expenses were \$5,617 under budget. The net result was an excess of \$8,414. The Board discussed the charges on the Intra-Agency line with Mr. Plunkett. He speculated that the coding for that line item may be incorrect and said that he would investigate. He noted that the current balance sheet shows \$235,691 total assets.

Mr. Plunkett reviewed the Board Activities Report and pointed out that the number of licensees is holding steady. The number of TPA doctors is down to 150 as of this report. The Board noted that the format of the report has changed. Mr. Plunkett explained that the report is now in a fiscal year format to make the data easier to decipher when creating reports to various other state agencies.

Mr. Plunkett reported to the Board that because of some criticism at recent legislative hearings about the lack of interaction between health boards, these agencies are now meeting on a regular basis. Mr. Plunkett meets with this newly formed group as well as with the semi-independent boards' group. He was interviewed, as planned, with Rep. Greenlich's staff since the last Board meeting. Mr. Plunkett's

impression was that the legislative staff had reached some incorrect conclusions from the meeting, since they are not familiar with the operations of small, and more specifically, semi-independent, boards. Mr. Schumacher commented that he has learned that Rep. Greenlich's committee is of the opinion that semi-independence has some economic advantages, based on David's input. The committee is concerned that the health boards have a consistent way of dealing with impaired providers. Optometry has no program and has not, in the past, had a need for one based on the nature of the profession.

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. Dr. Vorpahl seconded the motion. The motion carried unanimously.

Dr. Ron Guiley has asked whether the Eye Surgery Institute can be approved for COE credit for optometrists to "shadow" doctors at the institute. The Board feels that it would be appropriate for the Institute to submit a request for surgical observation approval as other surgical facilities have. Observation of other procedures may be granted credit as grand rounds and they should request credit for these rounds separately. The certificate of completion must list the specialties that the doctor has attended and grant an hour credit for an hour of observation.

Budget Committee: The fiscal audit of the biennium ending June 30, 2007 will be conducted by Merina & Company, LLP in December. Mr. Plunkett reported that a date has not been set as yet, but that he is expecting to hear at any time that the auditors are coming. Auditors may contact some of the Board members. They are required to follow a different procedure than in the past.

Legislative Committee: Dr. Vorpahl asked Mr. Schumacher, representative from OOPA, about legislation for the 2009 session. Mr. Schumacher stated that OOPA is considering legislation in 2009 which would mandate eye exams or vision screening for students in K through grade 3. Mr. Plunkett is not yet aware of any legislation related to the Board which is planned for the special session or for 2009.

Administrative Rules Committee: The Board has proposed amendments to OAR 52-001-0001, 0002; 852-050-0006, and 852-80-030. A hearing was held today regarding the proposed changes. Dr. Vorpahl moved that the Board adopt the changes as proposed. Dr. Garris seconded the motion. The motion carried unanimously.

Dr. Walters told that Board that he ran into a retired physician who is doing philanthropic work. This physician inquired about an emeritus license for individuals who work out of the country in this capacity. Mr. Plunkett explained to the Board that legislation would be required to create this sort of license. Dr. Vorpahl is concerned that the standard of care would not be maintained if no COE is required for licensure.

PERSONNEL COMMITTEE:

There was no report from the Personnel Committee.

OTHER:

The next Board meeting was scheduled for March 7, 2007.

ADJOURNMENT -

There was no further business to come before the Board. President Walters adjourned the meeting at 3:11 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau
Administrative Assistant

David W. Plunkett
Executive Director