

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

December 2, 2005

Present - John P. Reslock, O.D., President
 Candace D. Hamel, O.D., Vice President
 Michelle M. Monkman , 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. Reslock called the meeting to order at 9:00 a.m. in the Mezzanine Level Conference room at 1900 Hines Street, SE, Salem, OR., 97302. The Board immediately adjourned to Executive Session for the purpose of discussing complaint cases. The Public Session was reconvened at 1:00 p.m.

Dr. Reslock adjourned the meeting at 1:03 for an administrative rules hearing. The Public Session was reconvened at 1:07 p.m.

MINUTES - The Board reviewed the Public Session minutes of September 9, 2005. The minutes were approved as presented. The Board ratified changes to the minutes of April 1, 2005, and June 24, 2005.

RATIFICATION -

Reactivation and Reinstatements:

1. Reinstatement of license to Inactive status: Shauna Harbison, O.D.
2. Reinstatement and reactivation of license to Active status: Lawrence Reedy, O.D.
3. Reactivation of license to Active status: Charles Dale, O.D.

Dr. Hamel moved that the Board approve the actions of the Executive Director. John Doneth seconded the motion. The motion carried unanimously.

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 names of the new candidates for licensure into the record and moved that the Board ratify the actions of the Executive Director with respect to these licensees. Dr. Hamel seconded the motion. The motion carried unanimously.

ACTION ON EXECUTIVE SESSION

05-04-01 - The Board will close this case, however they will refer back to it in the event of any additional complaints of this nature.

05-04-05 - A response was received from the doctor in this case. This case will be closed.

05-05-02 - The doctor in this case didn't register one of his practice locations with the Board, therefore, an administrative fine of \$100 will be assessed for failure to notify the Board prior to practicing in a location and for failure to notify the Board immediately upon leaving a location. A letter of concern will be sent to him assessing the fine. The Board will request another ten patient records dated after November 5, 2005 for review at the next Board meeting. This case will remain open.

05-05-04 - A response was received from the doctor in this case. This case will be closed.

05-05-05 - A letter will be sent to the store owner reiterating the federal regulations regarding contact lens sales. The Board will notify them that we have reported the occurrences to the FDA and that there are potential liability issues from the resulting eye health issues. The letters will be copied to the FDA and the United States Attorney general. A letter will be written to the State Attorney General's office informing them that there are violations of the federal law in this state, that there are children being harmed, and that the FDA is requesting that the states enforce the federal law. The Board will share the results of its investigation with the other agencies as requested. This case will remain open.

05-05-06

05-05-07 - A letter was sent to the complainants in these cases regarding the Board's determination. A Letter of Concern was written to the doctor. These cases will be closed.

05-05-08 - The complainant in this case confirms that the problem has been resolved. This case will be closed.

05-07-01 - The doctor in this case has indicated that he has resolved the problem to the complainants satisfaction. The Board will confirm with the complainant. This case will remain open.

05-07-02 - The Board will write a letter to the complainant explaining that even though the numbers on the two prescriptions are different, the format is also different and that they are essentially the same prescription. A letter to Dr. Rask will instruct him to either return the glasses or refund the patient's money. This case will remain open

05-09-01 - 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.

05-09-02 - The complainant in this case has received the requested information regarding patient records. This case will be closed.

05-10-01 - The complainant in this case has not sent the complaint forms to the Board. The Board will ask her to sign the records release form so that the Board may determine whether there are extenuating circumstances which would have made her experience so unpleasant. This case will remain open.

05-10-02 - The complainant in this case has not sent the complaint forms to the Board. The Board would like to find out if there has been resolution in this case before closing it. The complainant will be contacted. This case will remain open.

05-11-01 - This case is not ready for review by the Board. This case will remain open.

05-11-02 - A letter will be sent to the store owner reiterating the federal regulations, including a copy of the law. The Board will notify them that we have reported the occurrences to the FDA and that there are potential liability issues from the resulting eye health issues. The letters will be copied to the FDA and the United States Attorney general. A letter will be written to the state Attorney General's office informing them that there are violations of the federal law in this state, that there are children being harmed, and that the FDA is requesting that the states enforce the federal law. The Board will share the results of its investigation with the other agencies as requested. The physician who reported the violation will be informed that he is a mandatory reporter and should make a report to the FDA. This case will remain open.

05-12-01 - A letter will be sent to the store owner reiterating the federal regulations, including a copy of the law. The Board will notify them that we have reported the occurrences to the FDA and that there are potential liability issues from the resulting eye health issues. The letters will be copied to the FDA and the United States Attorney general. A letter will be written to the state Attorney General's office informing them that there are violations of the federal law in this state, that there are children being harmed, and that the FDA is requesting that the states enforce the federal law. The Board will share the results of its investigation with the other agencies as requested. The physician who reported the violation will be informed that he is a mandatory reporter and should make a report to the FDA. This case will remain open.

05-12-02 - A letter will be written to the doctor in this case about the proper transfer of patient record custody. This case will remain open.

05-12-03 - The Board will send a letter to the doctor to inquire what her job description at OHSU entails to determine whether she should currently have an Oregon license. This case will remain open.

Dr. Hamel moved that the Board ratify the actions of the Board during executive session. Dr. Walters seconded the motion. The motion carried unanimously.

CORRESPONDENCE -

The Board reviewed an application for license by endorsement from William W. Shirk, O.D. and one from Timothy G. Boreing, O.D. Dr. Walters had previously reviewed the applications and gave his recommendations to the Board. Dr. Monkman moved that the Board approve the petitions of these candidates for licensure by endorsement. Dr. Hamel seconded the motion. The motion carried unanimously.

PRESIDENT'S REPORT -

Dr. Reslock presented John Doneth with a plaque for his service to the Board on this, his last meeting with the Board. He has served the Board as the Public Member since April, 2002. The Board expressed their sincere appreciation to him for his service.

EXECUTIVE DIRECTOR'S REPORT -

Accounting/Budgeting: Mr. Plunkett reviewed the Revenue and Expense Budget Report with the Board, covering the period from July 1, 2005 through October 31, 2005. Mr. Plunkett reported that actual numbers for the biennium to date were \$9,833.66 better than budgeted.

Dr. Hamel inquired about the increase in data processing expenses. Mr. Plunkett explained that the charges were for computer personnel to set up a backup system, server, and firewall for the Board. This is the first time the Board has owned these systems. Previously, the Board shared server function with other boards in the Morrow Crane Building. With regard to the backup system, the tapes are rotated daily and the most current one goes home with a staff member daily.

Dr. Walters inquired about the increase in insurance costs. Mr. Plunkett explained the Board pays the the premium at the beginning of each quarter. Mr. Doneth asked whether there are any PERS surprises expected? Mr. Plunkett said that the intent of the recent legislative reforms, was that agency costs would go down, but they have actually gone up. He anticipates that the costs will go down in a few years when market adjustments are made. Dr. Reslock asked what attorney costs would be in a contested case. Mr Plunkett said that the Board could expect to pay \$10,000 for a one day hearing. The costs would increase in the case of a longer hearing. The Board keeps a reserve for legal costs such as these.

Mr. Plunkett had prepared a report on the Board's money market account from 2003 to the current date which the Board reviewed. It was noted that the account has been very stable over that period of time. The current balance in bank accounts is \$180,163.88.

Mr. Plunkett mentioned to the Board that the Landscape Architects Board has recently been audited and the report won't be particularly favorable. That board didn't pay close enough attention to the activities of their administrator. There may be criminal proceedings brought against this individual. The Optometry Board previously made a loan to this board in order to help the semi-independent agency out of a difficult situation. This loan was repaid in full. The current administration of that board has been very open with the legislature about their progress. Mr. Plunkett wanted to be sure that the Board is aware of the situation before the report is made public.

Board Activities Report: Mr. Plunkett reviewed the Board Activities Report ending October, 2005. To date there are 1220 total licensees. Of these, 658 have Active status, and 350 are AT certified.

Wayne Schumaker from the Oregon Optometric Physicians Association reported that there would be an AT didactic class in the fall of 2006 as well as an injection lab. There are plans for an additional didactic class in 2007.

Nontopical Formulary Council: A meeting of the Council was held on October 26, 2005 at the Board's office in Salem. Dr. Hamel referred the Board to the meeting minutes which will be revised to reflect that Dr. Carr was not in attendance due to illness. The Council recognized in their discussion that they had fulfilled the original legislative mandate. Dr. Hamel conveyed the most recent recommendations of the Council to the Board noting the suggestion that a survey be done by the Board to inquire about the usage of the formulary and any related problems. It was also advised that the Board consider allowing physicians to be certified to prescribe oral pharmaceutical agents without the requirement of being certified to do injections. Dr. Walters suggested that to satisfy the Council's recommendations and to meet the Board's goals, the Board might move toward requiring that TPA certification include oral agents, and AT certification also include injectable agents. The move could be completed in three to five years. Dr. Reslock would like to set the time frame to complete the transition in three years. Mr Plunkett will begin to write the necessary rules. The Board will hold the public rule hearing at the next meeting.

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. Walters seconded the motion. The motion carried unanimously.

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

Legislative Committee: Dr. Hamel mentioned that the legislature is still talking about meeting every year instead of every other year. The Board will explore legislation which would allow the Board to take action against those businesses that are selling colored, plano or decorative contact lenses without a prescription.

Administrative Rules Committee: The Board held a hearing on proposed revisions to OAR 852-010-0025, 0027, and 0028. Dr. Walters moved that the Board adopt the changes as proposed. Mr. Doneth seconded the motion. The motion carried unanimously.

The Board discussed additional rule changes which are now required regarding discovery in contested cases because of legislation passed last session. A Notice of Proposed Rulemaking will be filed by the 15th of December for publication in the January Bulletin. Dr. Hamel made a motion to approve the language of the proposed rule changes. Dr. Monkman seconded the motion. The motion carried unanimously.

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

Other:

Mr. Plunkett made reference to the article that he had sent to the Board regarding Medical Malpractice. Dr. Hamel suggested that the Board contact Pacific University to remind them that they must notify the Board of malpractice claims as self-insurers. Dr. Walters suggested that the Board ask on the annual renewal form whether a physician is employed by a healthcare facility and whether they have had any malpractice claims in the past year.

The next Board meeting was scheduled for March 17, 2006

ADJOURNMENT -

There was no further business to come before the Board. President Reslock adjourned the meeting at 2:18 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau
Administrative Assistant

David W. Plunkett
Executive Director