

OREGON BOARD OF OPTOMETRY

PUBLIC SESSION MINUTES

February 22, 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.

David Plunkett, Executive Director
Cathy Boudreau, Administrative Assistant

CALL TO ORDER -

Dr. Miller called the meeting to order at 8:12 a.m. in the second floor conference room. The Board adjourned to executive session for the purpose of discussing complaint cases. The Public Session was reconvened at 4:33 p.m.

MINUTES - The Board made a correction to the Public Session minutes of November 30, 2001. The minutes were approved as corrected.

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:
Powell Carpenter, O.D. (Inactive to Active)
- Reinstatement of licenses:
Thomas Ellison, O.D. (lapsed Inactive)
Kevin Osborne, O.D. (lapsed Active)

Dr. Hamel moved to ratify the actions of the President. Dr. Walters seconded the motion. 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.

01-11-01 - The Board found no violation of Oregon Revised Statute or Administrative Rule. A letter

will be written to the complainant. This case will be closed.

00-07-02

01-09-05 - A Notice of Intent to Discipline was issued in these cases. The Board will offer to negotiate the terms of resolution with the doctor. These cases will remain open.

01-10-03- The investigation will continue in this case. This case 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 - Dr. Hamel moved to issue a Notice of Intent to Discipline, Revocation of License in these cases. Dr. Miller seconded the motion. Dr. Walters and Dr. Reslock opposed the motion. Dr. Reslock moved to issue a Notice of Intent to Discipline, Suspension of License for a period of one year, to include passing the NBEO examination parts II, and III, and the Oregon Law and Administrative Rules examination, participation in a thirty-two hour record keeping course. The Notice will also require psychological counseling with a licensed psychologist or psychiatrist who is pre-approved by the Board. The counseling must occur two to four times a month for six months during the period of suspension or until the doctor is dismissed by the counselor. Quarterly reports must be provided to the Board, with proof of psychological fitness to practice optometry prior to resuming practice. The suspension will be followed by a period of one year probation with periodic record review by the Board during that time. The doctor will be assessed a \$10,000 civil penalty. The motion was seconded by Dr. Walters. The motion carried unanimously.

00-10-05

01-03-04 - The Board will monitor these cases until the doctor's renewal. These cases will remain open.

01-03-02

01-10-04- The investigation will continue in these cases. These cases will remain open.

01-03-05 - This case will be closed.

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

01-04-05 - This case will be closed.

01-08-04 - Dr. Hamel moved that the Board issue a Final Order by Default, Reprimand and Imposition of Civil Penalties, \$1,000.00 pursuant to OAR 852-10-027(12), and to subpoena twenty patient records from the doctor in this case. The motion was seconded by Dr. Reslock. The motion carried unanimously. This case will remain open.

01-08-05 - The Board will send a letter to the complainant in this case. This case was closed at the last meeting.

01-08-06 - This case will be closed.

01-09-01 - A letter will be written to the doctor regarding his communication with his patients and requesting an unedited audio tape of the doctor's conversations with the complainant. The doctor will be asked whether a prescription has been released to the patient. This case will remain open.

01-09-02 - A letter will be written to the patient indicating that the doctor has agreed to refund the cost of the lenses if the patient will return them to the doctor's office. This case will remain open.

01-09-03 - This case will be closed.

01-09-04 - This case will be closed.

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

01-12-01 - This case will be closed.

01-12-02 - This case will be closed.

01-12-03 - The investigation will continue in this case. This case will remain open.

01-12-04 - This case will be closed.

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

Dr. Hamel moved that the Board approve all the above referenced actions recommended from Executive Session. Dr. Reslock seconded the motion. The motion carried unanimously

CORRESPONDENCE -

The Board discussed a letter from Floyd Geller, O.D. He inquired about an exemption from certification to use pharmaceutical agent. There are no provisions in the optometric law for issuing limited licenses. At the time that TPA certification is required for licensure he will probably be able to continue to perform the duties that he currently does in the doctor's office, but will not be able to hold himself out to be an optometrist. A letter will be sent to Dr. Geller.

A letter was received from Jonathan Warner, O.D. concerning mail order and internet contact lens sales. Letters were also received from David Wolf, O.D. concerning 1-800 Contacts. The Board will retain this correspondence in the event that it may be useful in the future to document mail order contact lens company abuses of Oregon Law. Wayne Schumaker explained Oregon Optometric Physician Association's interest in developing legislation that would restrict these companies and their ability to continue their sales. OOPA feels that OBO should have authority to do something about the misuses of mail order sales. Mr. Plunkett noted that the consumer protection division of the attorney general's office would not uphold the law because they tend to want to open up more venues to consumers rather than restrict them.

The Board reviewed a letter from Alan Pearson, O.D. requesting a waiver of the late fee for not completing his renewal application in a timely manner. The Board will not waive the late fee, since the means were available for the doctor to complete the COE requirement.

The Board received a letter from Praveen Sontha, O.D. concerning requirements for licensure in Oregon. The Board will write to the doctor explaining that the statute in Oregon does not allow the Board to grant licensure unless the candidate has graduated from a Board approved school of optometry.

The Board discussed a communication from the Board of Pharmacy concerning optometric physician dispensing of pharmaceutical agents. Mr. Plunkett read the pharmacy law regarding dispensing of drugs by physicians. The Board of Medical Examiners law has specific criteria that medical doctors must adhere to if they want to dispense. The Board will contact the Pharmacy Board explaining that the Oregon Administrative Rules specifically states that qualified optometrists may use, administer and prescribe, but does not address dispensing.

The Board reviewed a letter from Robert Murphy, an inmate from Snake River Correctional Institution. The Board will write a letter to Mr. Murphy telling him that the Board does not know of any remedy for his circumstances. They will recommend that he contact the Veteran's Administration.

PRESIDENT'S REPORT -

Dr. Miller reported to the Board regarding the Council on Optometric Nontopical Formulary status. At the last meeting of the Council, all the council members had signed off on the draft of the proposed formulary as written by Mr. Plunkett, with the exception of Dr. Dodson. Mr. Plunkett hadn't yet heard from Dr. Dodson. The Board reviewed the proposed formulary. Dr. Reslock expressed his appreciation for the work done by Dr. Miller and the Council.

The Board discussed the clinical competency criteria for certification of optometric physicians to use, administer, and prescribe the pharmaceutical agents listed on the proposed Optometric Nontopical Formulary. Dr. Miller said that she will not be able to support a "grandfathering" of licensees to use the new formulary. Dr. Hamel was like-minded. Dr. Walters asked whether some of the recent seminars would qualify as part of the educational requirements. Dr. Miller is in discussion with Dr.'s Carr and Casser at Pacific University College of Optometry regarding possible educational requirements. Mr. Plunkett relayed suggestions by Dr. Doug Smith, O.D. that a CPR component be included, and that the course involve 32-60 hours for current TPA licensees. He further recommended that the material should be new course work. A medical practitioners CPR course could be required. Dr. Miller would like to review some of the language of statutes or regulations from other states which currently permit a nontopical formulary. She would like to see something that energizes the profession.

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 December 31, 2001.

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. Reslock seconded the motion. The motion carried unanimously.

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

Legislative Committee: Mr. Plunkett reported that legislative concepts are due to DAS by April 15, 2002. Dr. Miller asked to trade committee assignments with the administrative rules committee since she will not likely be on the Board for the next legislative session. Dr. Walters was agreeable to the trade. Dr. Walters will now chair the Legislative Committee. Mr. Plunkett suggested that the concept which was not heard during the last session could be resubmitted. Mr. Plunkett will review the language of that draft.

Administrative Rules Committee: Dr. Miller will now chair the Administrative Rules Committee.

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

Unfinished Business: There was no unfinished business.

OTHER - The next Board meeting is scheduled for April 19, 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 6:04 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau
Administrative Assistant

David W. Plunkett
Executive Director