

# OREGON BOARD OF OPTOMETRY

## PUBLIC SESSION MINUTES

*December 10, 2008*

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

Lori H. Lindley, Assistant Attorney General  
David W. Plunkett, Executive Director  
Cathy M. Boudreau, Administrative Assistant

### **CALL TO ORDER -**

Dr. Walters called the meeting to order at 8:56 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 Public Session reconvened at 12:29 p.m.

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

**MINUTES** - The Board reviewed the September 19, 2008 Public Session minutes. The minutes of the meeting were approved as distributed.

### **RATIFICATION -**

#### **Reactivation and Reinstatements:**

Reactivation of license to Active status from Inactive: Jonathan Thomas, O.D.  
Reactivation of license to Inactive status from Inactive-Military: Michael Young, O.D.  
Reinstatement of license to Inactive status: Tawna Roberts, 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. Walters read the list of candidates into the record.

**COE requirements of Chad Lusk, O.D.** - The Board waived the COE requirements for Dr. Lusk due to his serious health problems. The Board noted that, in spite of his situation, Dr. Lusk did, eventually, complete the required number of hours of continuing education.

**Stipulated Order Granting a Limited License for Lindsay C. Clunes, O.D.** - A Stipulated Order was signed and executed according to the instructions of the Board at the last meeting, granting Lindsay C. Clunes, OD a limited license.

**Hiring of Kafoury Government Relations (Stephen Kafoury)** - The Board will hire Mr. Kafoury jointly with the other Semi-Independent licensing boards.

Dr. Vorpahl made a motion that the Board approve the actions of the Executive Director. Ms. Knaurhase seconded the motion. The motion carried unanimously.

## **ACTION ON EXECUTIVE SESSION**

**06-08-02** - The investigation in this case will continue. This case will remain open.

**07-10-01** - The Board's determination is that individual may not hold himself out to be an optometrist in any way or perform any of the work covered by ORS 683.010 to 683.335, including, but not limited to using business cards which include OD, optometric physician or doctor of optometry, any pre-testing or pre-evaluation of any patient, signing of prescriptions, fitting of contact lenses, contact lens care instructions, evaluation of the fit of contact lenses on the eye. He may manufacture and dispense glasses and contact lens, cut lenses, use appliances to measure lenses for the purpose of manufacture and dispensing, take pupil distance measurements, segment height measurements, assist in lens and frame selections, adjust glasses and dispense contact lenses. A Civil Penalty of \$1,000 will be assessed. This case will remain open.

**07-10-03** - This case is scheduled to proceed to hearing on January 22<sup>nd</sup> and 23<sup>rd</sup>, 2009. Ms. Lindley will continue to seek a settlement prior to that date. The Board will require the \$1000 civil penalty, but will allow the doctor to make two payments of \$500.00 each, over 90 days. This case will remain open.

**07-10-04** - Anna Moran, OD agreed to our Stipulated Final Order on November 18, 2008. This case can be closed.

**07-10-05** - The Board will not remove or change the notice of intent to discipline in this case. Ms. Lindley will contact the attorney and move forward to schedule a hearing. This case will remain open.

**07-10-07** - The Board will move forward to hearing in this case. This case will remain open.

**08-01-02** - The Board reviewed the records again in this case at the request of the patient. Their findings do not change their previous determination that there is no evidence of any optometric error or violation of Oregon Revised Statutes or Administrative Rules. This case will be closed.

**08-02-01** - The Board's investigation has not provided any evidence of violation of Oregon Revised Statutes or Administrative rules. This case will be closed

**08-03-01** - A pre-hearing conference is scheduled for 1/5/09 in this case. The Board delegates to Ms. Lindley and Mr. Plunkett authority to negotiate a settlement as discussed in Executive Session. This case will remain open.

**08-05-01** - The Board is concerned that licensee appears to have lied on his renewal application but they will not take any action until more information is available from the Washington State Board of Optometry where he is currently under investigation. The licensee does not practice in Oregon. This case will be closed and monitored.

**08-07-01** - 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.

**08-07-03** - The Board's investigation concluded that there is no longer any unauthorized sales of contact lens in this case. This case can be closed.

**08-08-01** - 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.

**08-09-01** - The Board's investigation concluded that there is no longer a advertising violation in this case. This case can be closed..

**08-09-02** - The complainant in this case has written to the Board indicating that she has resolved the problem directly with the physician. This case will be closed.

**08-09-03** - The Board does not believe that this complaint pertains to the optometric practice of the doctor named in the complaint. There is no evidence of optometric error or violation of Oregon Revised Statutes or Administrative Rules. This is a consumer issue which must be otherwise resolved. A letter will be sent to complainant as determined in Executive Session. This case remain open.

**08-11-01** - The Board's investigation concluded that there is no longer any unauthorized sales of contact lens in this case. This case can be closed.

**08-11-02** - A letter will be sent to the patient saying that the Board finds no optometric error or violation of Oregon Revised Statute or Oregon Administrative Rules. This case will remain open.

Dr. Garris made a motion that the Board approve all of the actions, as referenced in the above cases, taken in Executive Session. Ms. Knauerhase seconded the motion. The motion carried unanimously.

### **CORRESPONDENCE -**

Cosmo Salibello, O.D. asked the Board to consider the validity of OE Tracker as proof of completion of continuing education. It is the consensus of the Board that OE tracker is not a primary source of verification information and as such does not meet the Board's requirements.

Mr. Plunkett pointed out that ARBO has developed OE tracker as a means to do the work of state boards. The Oregon Board cannot delegate their authority to another entity. He suspects that there are some optometry boards which are happy to have ARBO do some of their "work" for them in light of budget constraints. He spoke to the probability that there will be some changes in the future regarding the reporting of COE and payment of renewal fees to include credit cards. Many boards are trying to give licensees the opportunity to renew licenses on-line and by credit card. Mr. Plunkett warned that this will be a large and expensive transition.

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

Dr. Walters thanked the Board for serving with him as this is his final meeting with the Board. Drs. Vorpahl and Garris expressed their thanks to Dr. Walters for his leadership and assistance. Ms. Lindley expressed her appreciation for his attention to detail.

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

Mr. Plunkett brought the Board members attention to the Guidelines for Public Officials document included in their packets. He noted that this should prove to be valuable information to them.

**Accounting/Budgeting:** Mr. Plunkett reviewed the Revenue and Expense Budget Report covering the period of from July 1, 2007 through October 31, 2008. License Fees are currently \$10,214 over budget. Miscellaneous Fees are \$7,161 over budget. Revenues are up \$13,584 overall. Payroll is \$7,341 under budget, and the expense total \$17,691 under budget. Over all, the budget is \$31,275 better than budgeted.

Mr. Plunkett reviewed and discussed the Balance sheet with the Board. The Board's current assets include \$50,153 in cash accounts, \$167,000 in Certificates of Deposit and \$5,676 in an investment account. Total liabilities are \$19,800 with \$18,255 of that amount representing accrued PTO.

The Board reviewed the cumulative Board Activities Report for the fiscal year through November 2008. Mr. Plunkett pointed out that the number of active status licensees is at 711. Of these, 75 still have the "T" therapeutic certification. Beginning January 1, 2009 all active status licensees will be required to be "AT" certified in order to retain their active status license. All new licenses will be issued as "AT" or "ATI" licensees beginning 1/1/2009. The number of inactive licensees is remaining stable. At his suggestion, the Board asked Mr. Plunkett to send letters to the inactive licensees to advise them about the AT requirement for Active status.

Mr. Plunkett reviewed the Legislative Fiscal Office review of the Semi-Independent Boards' 2005-2007 Biennium Report to the Governor and Legislative Assembly. It his opinion that there is nothing in the report that is detrimental to the boards. The Board and Ms. Lindley asked whether the document will be used against the boards by the legislature. Mr. Plunkett believes that the boards have been avidly trying to comply with what the Legislature and Legislative Fiscal Office want in these reports. Sometimes an interpretation of law is responsible for the differences of opinion about what the details mean.

The SIBA group has contracted with a lobbyist to represent their interest this session regarding proposed semi-independent government legislation. The group narrowed a field of possible candidates to four individuals, three of whom were interviewed by the executive directors of the semi-independent agencies. Almost unanimously, the directors felt that Stephen Kafoury was the best one of the candidates to represent the group. He has a grasp of the issues already and is willing to do the job for a reasonable price. He has been paid by OBO for the November fee. Other agencies will pick up the payment for the following months of this contract through June, 2009. OBO costs should be between \$1,500 to \$3,000.

## **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.

**Budget Committee:** Mr. Plunkett has prepared the 2009 - 2011 Biennium Budget Schedule which he distributed to the members. He will have the proposed budget ready for the next meeting for the Board members to review in detail. In order to meet the budget deadlines, the Board will meet on 3/13/2009 and on 6/5/2009.

**Legislative Committee:**

Dr. Vorpahl reported to the Board regarding legislative concepts that will become bills from the House Health Care Committee which are of interest to the Board.

LC 889 - This bill will increase per diem to board members. There will be an effect to the Board's budget. At this time, the Board has power to set fees. This bill may take away the power of the Board. However, if the Board remains semi-independent, there may be an exemption. Ms. Lindley will investigate to see if the Board will be exempt.

LC1150 - Changes the make-up of board to three professionals and two public members. The Board prefers four professionals and two public members. Karen Knauerhase is willing to testify as a public member to the value of having a majority of professionals who are experts in the different fields. Many of the health boards are against the provisions in this bill.

LC1151- Semi-Independence termination will affect Optometry, Physical Therapy and Massage licensing boards. The fiscal impact to the Board will be very great. The other SIBA boards support the health boards in lobbying against this bill. Mr. Plunkett will send talking points to the board members to use regarding this bill. Mr. Schumacher stated that there are a number of people who are not in agreement with this legislation, however a lot of work will be required in the Legislature.

LC1152 - Standardizes health boards members length of terms. All appointments go to 4 year terms. It requires Senate confirmation of the governor's appointments of board members. This process has been viewed as a waste of time and an unnecessary formality.

LC1153 - All health boards will have to develop impaired professional program. OBO doesn't really need the provisions of this bill, but would be required to have a program anyway.

LC1163 - Requires collections of information from licensees for reporting to other agencies. It doesn't affect the Board at this time.

LC1458 - Limits the authority of licensing boards to require of competency evaluations of licensees.

LC1459-- Prohibits boards from recovering costs for contested case hearings. This would be very damaging to the Board.

LC1595 – Changes the reporting period for SIBA's Report to the Governor and Legislative assembly. This would not adversely affect the board

**Administrative Rules Committee:**

The Board considered a revision to Division 70, Continuing Optometric Education which will allow for 30 minute courses to be approved based on content. A public hearing must be held regarding the proposed changes and one will be scheduled at the next board meeting.

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

**UNFINISHED BUSINESS:**

Dennis Colson, O.D. was licensed by endorsement. His application for licensure included a disclosure that the Idaho Board was conducting an investigation in a complaint case regarding him. The case has been concluded and Dr. Colson has submitted the Stipulated Agreement that he has entered into with that board. The Board reviewed the Idaho agreement and does not believe the action in Idaho should affect Dr. Colson's Oregon licensure. Karen Knauerhase made a motion to continue Oregon active status licensure for Dennis Colson, OD. Dr. Monkman seconded the motion. The motion carried unanimously.

There was no discussion on consideration of changes to ethics/Oregon law and rule course requirement (OAR 852-70- 010(1)(b)). This topic will be continued.

Wayne Schumacher shared with the Board that he recently attended a meeting of the International Executive Directors of Optometry Associations. A topic of discussion was board certification of optometrists. ARBO wants to be the entity responsible for all credentialing and certification of optometrists. There was a great deal of concern on the part of the executive directors about ARBO filling this roll.

**OTHER:**

**Election of Officers:**

The floor was opened to nominations for Board President. Dr. Vorpahl nominated Dr. Monkman. Dr. Garris seconded the nomination. The Board elected Dr. Monkman unanimously as President. Dr. Monkman asked for nominations for Vice-President. Dr. Garris nominated Dr. Vorpahl. Ms. Knauerhase seconded the nomination. The Board elected Dr. Vorpahl unanimously as Vice-President.

Dr. Monkman, speaking on behalf of all Board members and staff, expressed appreciation for Dr. Walters' service. She presented him with a plaque as a parting gift.

Dr. Monkman then make her committee chair appointments as follows:  
Dr. Garris - Budget Committee; Dr. Vorpahl - Legislative Committee; Ms. Knauerhase - Personnel Committee; incoming member, Robert Mans, OD - Administrative Rules Committee. Dr. Monkman will remain as chair of the Continuing Education Review Committee.

The next Board meeting was scheduled for March 13, 2009.

**ADJOURNMENT -**

There was no further business to come before the Board and President Monkman adjourned the meeting at 2:30 p.m.

Prepared by,

Reviewed by:

Catherine M. Boudreau  
Administrative Assistant

David W. Plunkett  
Executive Director