



OREGON BOARD OF OPTOMETRY

August 9, 2013 Board Meeting

PUBLIC SESSION

MINUTES

Board Members Present: Robert Mans, OD, President
Jeffrey Pelson, OD, Vice President
Molly Cardenal, OD
Rose Thrush, JD

Board Member Excused: Jessica Lynch, OD

Board Staff: Nancy DeSouza, Executive Director
Cathy Boudreau, Executive Assistant

Board Legal Counsel: Lori Lindley, Assistant Attorney General

Others in Attendance: None

CALL TO ORDER: Dr. Mans called the meeting to order by telephone conference call at 9:00 a.m., at 1500 Liberty Street, SE, Suite 210, Salem, Oregon. The Public Session was adjourned at 9:02 a.m. to Executive Session for the purpose of discussing complaints and consultation with legal counsel.

During Executive Session the Board considered consumer and Board-initiated complaints and investigations as authorized by ORS 192.660(2)(f)(k), and consulted with legal counsel as authorized by ORS 192.660(2)(h). No official Board action was taken in Executive Session; all Board actions are made in Public Session.

The Public Session was reconvened at 9:46 a.m.

MINUTES: The Board reviewed the minutes of May 10, 2013 Public Session. There was no discussion and the Board made no changes or additions to the minutes. Dr. Cardenal made a motion that the Board approve the minutes as presented. Ms. Thrush seconded the motion. The motion carried unanimously by oral roll-call vote.

RATIFICATIONS:

Reactivation and Reinstatements – There were no license reactivations or reinstatements since the last meeting.

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. Pelson made a motion that the Board ratify the actions by the Executive Director regarding licensure made since the last Board meeting. Dr. Cardenal seconded the motion. The motion carried unanimously by oral roll-call vote.

ACTIONS ON EXECUTIVE SESSION:

13-04-01: There is insufficient evidence to proceed. This case will be closed.

13-06-01: The Board will send a letter to the doctor expressing their concern that there was no explicit documentation of dilation or scleral depression in the patient's record. The Board finds no optometric error or violation of Oregon Revised Statutes or Administrative Rules. This case will be closed.

13-07-01: A letter will be sent to the complainant explaining that the Board finds no optometric error in the patient's care. A letter will be sent to the doctor requesting a copy of the contract that the doctor entered into with the coupon company. This case will remain open.

Dr. Cardenal made a motion that the Board ratify the actions taken in the Executive Session. Ms. Thrush seconded the motion. The motion carried unanimously by oral roll-call vote.

CORRESPONDENCE:

Ron Guiley, OD inquired about whether payments may be received by an optometrist for providing referrals. The Board will reply to Dr. Guiley, citing OAR 851-010-0035 which prohibits accepting or giving of fees for referrals. The Board will include an article in the next newsletter on this topic and will cite this inquiry.

The Board received an inquiry from Caytey Steele regarding whether it is within the scope of an optometrist's license to order laboratory tests, and whether an optometrist may perform finger pricks to draw blood for testing. The Board will reply to Ms. Steele and explain that it is within the scope of an optometrist's license to order lab tests as deemed necessary by them for the diagnosis and treatment of ocular health problems. In addition, an optometric physician who has the Advanced Therapeutics with Injections certification (ATI) may perform the finger prick necessary to obtain the blood sample, as long as the physician follows the precautions outlined by the Centers for Disease Control (CDC). The Board discussed circumstances that may necessitate this type of lab order. Dr. Cardenal stated that changes in blood glucose can cause a high refractive shift. Dr. Pelson agreed with Dr. Cardenal and also stated that his office orders lab tests to assist in making referrals to an appropriate medical practitioner.

Chris Johnson, OD, asked the Board whether Intensive Pulse Therapy is within the scope of an optometrist's practice. Dr. Cardenal noted that no tissue is being removed with this process, which differs from the use of lasers. She believes that it would be hard to say it is outside the scope of optometry practice. Drs. Mans and Pelson agree. The Board will reply to the doctor and

explain that there is nothing that prohibits an optometrist from using the procedure.

The Board received a question about recordkeeping for vision screening from Joseph Neron, OD. The Board agrees that if the doctor is providing vision screening and has stipulated to the participants that an examination is not being conducted, a doctor-patient relationship has not been established and no records must be retained by the OD.

PRESIDENT'S REPORT:

None.

EXECUTIVE DIRECTOR'S REPORT:

Ms. DeSouza submitted the following reports to the Board:

- **Exhibit B - Accounting/Budget:** 2011-13 R&E Biennial Report, 2011-13 Biennial Balance Sheet. Ms. DeSouza submitted the final report for the 2011-2013 biennium to the Board for their review. She pointed out that the Board's reserves have increased rather than decreasing as was anticipated. She expects to propose at a future meeting that the Board eliminate the fee for the Multiple-Location license, beginning in January 2014. If the Board agrees, every licensee would receive a primary license and a portable multiple-location license at no additional cost with their annual renewal. The practice location reporting requirements would not be changed. The elimination of this fee would reduce the Board's projected 3013-15 income by \$47,000, thereby reducing the Board's surplus and benefitting the licensees.

Dr. Mans asked AAG Lindley whether any of the other boards that she represents have fees for additional licenses. AAG Lindley stated that this is the only Board that she is aware of that requires such a fee. Ms. DeSouza stated that the fee seems to be a carry-over from a time when doctors were not as mobile in their professional practice. Dr. Mans asked whether a doctor would still be able to obtain additional copies of a license. Ms. DeSouza noted that that current rules allow for the purchase of additional copies of a portable multiple-location license. Ms. DeSouza will prepare the proposal and draft rule-change for the Board's meeting in November.

- **Exhibit C - Board Activities Report:** Ms. DeSouza submitted the most recent Board Activity report to the Board, including the changes in numbers of licensees and complaints. She suggested that a contributor to the low number of complaints is because of the diligence by staff to educate licensees about their responsibilities under Oregon Revised Statutes and Administrative Rules and working with callers to understand their rights and the Board's authority.
- **Updates:**
Biennial Financial Review: Valerie Wicklund submitted a proposal to complete the required review for the Board. Ms. DeSouza will request approval of the expenditure under Other Business later in the meeting today.

Board Office Move: There were a number of problems with the computer system change-over since the Board moved to its new location. An apology has been posted on the Board's web for delays in responding to e-mails. Applied Logic has not been able to forward emails received by the Board between June 19 and June 27, and they may be permanently lost. Software glitches have necessitated some workarounds, but in general, staff are getting accustomed to the new system and processes are improving.

Staff Leave: Each of the Board staff will be taking staggered leave time over the next two months.

Legislative Summary: The cultural competency bill passed, but allows flexibility in implementation. The Board had already made rule changes to allow approval of optometry-related continuing education that will address cultural competency. The Board may choose to either add one hour to the current optometry COE requirement, or allow/require an approved course in the years opposite the required optometric ethics/law course currently required. A bill was passed that requires mandatory vision screening for all elementary school-aged students, which may be performed by an optometrist or trained personnel selected by the school district. Ms. DeSouza will prepare a full legislative report for the newsletter.

BOARD MEMBER REPORTS:

Continuing Optometric Education: The continuing education offerings approved since the last meeting were presented to the Board in Exhibit D. Dr. Pelson made a motion that the Board ratify approval of these courses. Ms. Thrush seconded the motion. There was no discussion. The motion carried unanimously by oral roll-call vote.

Budget: No additional report or discussion.

Legislative: No additional report or discussion.

Administrative Rules: No additional report or discussion.

Personnel Committee: No additional report or discussion.

Consideration/Discussion:

- The Board discussed the reporting successful completion of disciplinary requirements to the National Data Bank upon request of the disciplined licensee, and agreed to adopt this in practice.
- When vision screening is performed by an optometrist, must they retain patient records? AAG Lindley asked whether optometrists are diagnosing and treating the eye in these screenings. If so, there is a record-retention requirement, if not there can be issues of confusion because a doctor is performing the screening, especially with second-language individuals. She asked what is done at a screening. Ms. DeSouza asked whether vision screening is actually practicing optometry when performed by a doctor. Dr Cardenal said that there can be many levels of screening. For example, the Board recently responded to WalMart that their employees may only do a test that measures visual acuity. Anything else

is considered the practice of optometry. Dr. Pelson said that when they do vision screenings, a form is given to the parent or guardian that explains that this is only a vision screening, not an eye examination. No patient records are maintained and no business cards are given out. He said that sometimes tests other than visual acuity are performed, but the results are sent home with the person being tested, or their guardian. It was agreed that as long as the patient or guardian is told that only a screening is being provided, no patient records are required to be kept by the OD.

ITEMS FOR BOARD ACTION:

- Authorize Contract for Financial Review by Valerie Wicklund, CPA: A proposal was made by Ms. DeSouza for the contracted cost of \$9,000, with a \$1,000 contingency for any unforeseen time-expenses incurred. Any additional overages would require Board approval. Dr. Mans made a motion that the Board approve the expenditure for the financial review by CPA Wicklund. Dr. Pelson seconded the motion. The motion carried unanimously by oral roll-call vote.

- The Board set dates for 2014 meetings:
 - February 7
 - May 9
 - August 8
 - November 7

UNFINISHED BUSINESS: There was no unfinished business before the Board.

OTHER:

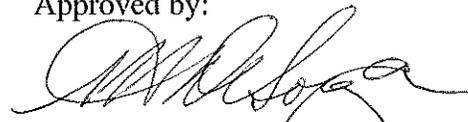
ADJOURNMENT: There was no further business to come before the Board, and President Mans adjourned the meeting at 10:50 a.m.

Minutes prepared by:



Catherine M. Boudreau
Executive Assistant

Approved by:



Nancy DeSouza
Executive Director