



OREGON BOARD OF OPTOMETRY

January 9, 2015 Board Meeting

PUBLIC SESSION MINUTES

Board Members Present: Robert Mans, OD, President
Jeffrey Pelson, OD, Vice President
Jessica Lynch, OD
Molly Cardenal, OD
Catherine Webber, Public Member

Board Staff: Nancy DeSouza, Executive Director
Cathy Boudreau, Executive Assistant
Debbie Hendricks, Accounting/Licensing Specialist

Board Legal Counsel: Thomas Cowan, Assistant Attorney General

Others in Attendance: None

CALL TO ORDER: Dr. Mans called the meeting to order at 10:00 a.m., in the first floor conference room at 1500 Liberty Street SE, Salem, Oregon, 97302. The Public Session was adjourned at 10:02 a.m. to Executive Session for the purpose of discussing investigations 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) and (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 12:34 p.m.

MINUTES: The Board reviewed the minutes of the November 7, 2014 and November 26, 2014 Public Sessions. There was no discussion and the Board made no changes or additions to the minutes. Dr. Pelson made a motion that the Board approve the minutes as presented. Dr. Cardenal seconded the motion. The motion carried unanimously by oral vote.

RATIFICATIONS:

Reactivation and Reinstatements – The following actions were approved by the Executive Director or the Board President since the last meeting of the Board:

- **Reactivation to Active Status** – Rory Murphy, OD
- **Reinstatement to Inactive Status** – Valerie Sharpe, OD

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. Mans read the names of these doctors for the record.

Dr. Cardenal made a motion that the Board ratify these actions by the Executive Director regarding licensure made since the last Board meeting. Ms. Webber seconded the motion. The motion carried unanimously by oral vote.

The Board discussed the issuance of signed wall certificates to new licensees. Dr. Mans expressed that he appreciates having this form of document and hopes that new licensees will make the effort to obtain one. Ms. DeSouza suggested that the Board send one to each new licensee at no charge if an order is placed within 90 days of licensure. The Board agreed and directed staff to do so.

ACTIONS ON EXECUTIVE SESSION:

14-07-02 – Hoyt, Kimberly/OBO: On August 15, 2014, the Board issued an Interim Order in this case, suspending the doctor's license until the Board's requirements are met. The requirements include submission by the doctor to a substance use disorder evaluation by a Board-approved evaluator and abstention by the doctor from use of alcohol, controlled drugs or mind-altering substances unless prescribed by a licensed practitioner for a bona fide medical condition, and upon prior notice to the Board. Licensee agreed not to practice until the Board has accepted the recommendations of the evaluation in writing, and the evaluator confirms the doctor is competent to return to practice. Licensee agreed that any violations of the order may result in further disciplinary action. Subsequently, the Board received a report that the doctor was arrested for DUII and tested a blood alcohol level of .25 while under the conditions of the Interim Order.

On November 7, 2014, the Board voted to issue a Consent Order that would, in part, require a demonstration of six consecutive months of proven sobriety to the Board. The Licensee petitioned the Board to amend the conditions of the Consent Order.

On November 26, 2014, the Board voted to modify the terms of the Consent Order approved at the November 7, 2014 meeting to allow the optometrist to return to practice after three months of demonstrated continuous sobriety, given that all the other terms of the consent order are met. The proof of sobriety may pre-date the signed order, but must be acceptable to the Board. The determination of the acceptability of the proof is delegated to the Executive Director.

The Board continues to monitor the doctor's adherence to the terms of the Consent Order.

This case will remain open.

14-09-03:

14-09-04: The Board finds there has been no violation of Oregon Revised Statutes or Oregon Administrative Rules in these cases. Letters will be written to the parties in the investigation.

These cases will be closed.

14-09-05: The Board reviewed the information acquired in this investigation and finds there has been no optometric error or violation of Oregon Revised Statutes or Oregon Administrative Rules in this case. Letters will be written to the doctor and complainant.

This case will be closed.

14-10-01: The Board finds there has been no optometric error or violation of Oregon Revised Statutes or Oregon Administrative Rules in this case. A letter will be written to the doctor.

This case will be closed.

14-10-02: The Board reviewed the information acquired in this investigation and finds there has been no optometric error or violation of Oregon Revised Statutes or Oregon Administrative Rules in this case. Letters will be written to the doctors and complainant.

This case will be closed.

14-11-01: No information has been received from the complainant in this case.

This case will be closed.

Dr. Pelson made a motion that the Board ratify the actions taken in the Executive Session. Dr. Lynch seconded the motion. The motion carried unanimously by oral vote.

CORRESPONDENCE:

- Kenneth Lafferty, NMD Healthcare Consulting, inquired whether the use of AmbioDisk, the “suture-less overlay amniotic membrane bandage lens for office-based treatment of ocular surface medial issues” is within the scope of practice for Oregon optometrists.

The Board finds the use of AmbioDisk to be within the scope of practice for optometry.

- Michael Hoyt, OD, asked whether the Board approves the use of the Reichert 7CR for measuring inter-ocular pressure (IOP).

The Board agrees that the current standard of care and management of glaucoma is to determine IOP through applanation. Any device that accurately measures IOP by applanation would meet this standard. The Board does not approve individual devices.

PRESIDENT'S REPORT:

- President Mans reported that the Board may soon be recruiting for a new Executive Director. He noted that the process would be discussed in some detail later in the meeting.

President Mans said that he has been challenged, but also very rewarded during his time on the Board, and particularly during his term as President. He expressed his appreciation for the staff and said that he will miss everyone when his term has concluded. He will continue to serve on the Board until his successor has been confirmed by the Senate.

- **Election of Officers for 2015 and assignments:** Nominations were taken for Board President and Vice-President for 2015. Dr. Pelson was nominated for the office of President. Dr. Cardenal and Dr. Lynch were nominated for the office of Vice-President. The election was held by written ballots which were tabulated by Ms. Boudreau. The results were:
President – Jeffrey Pelson, OD
Vice-President – Molly Cardenal, OD
- **Incoming President's Report:** Newly elected President Pelson made the following committee assignments:
 - Continuing Optometric Education: Jessica Lynch, OD
 - Budget: Molly Cardenal, OD, Vice-President
 - Legislative: Open
 - Administrative Rules: Catherine Webber, Public Member
 - Personnel: Jeffrey Pelson, OD, President

EXECUTIVE DIRECTOR'S REPORT:

Ms. DeSouza submitted the following reports and updates to the Board:

- **Exhibit B - Accounting/Budget:** 2013-15 R&E Budget Report and Balance Sheet – Ms. DeSouza submitted the current financial report and approved budget for the current biennium to the Board. She reported that the process for hiring a new Executive Director may incur additional expenses, but could also result in a reduction of other expenses. She noted that there may be other staff changes in the next biennium that would affect payroll, but would likely result in a reduction of the current expenses. Ms. DeSouza reviewed the options that may be available with a move to online renewals and noted that a shared solution to database replacement and a system for online renewals should reduce costs to the Board for that project. Online renewals is on hold, likely until a shared solution is developed or denied by DAS.
- **Exhibit C - Board Activity Report:** The Board reviewed the report for the current period.
- **Recruitment for Board Vacancy:** Dr. Mans has agreed to serve on the Board until his successor has been appointed by the Governor and confirmed by the Senate. Ms. DeSouza received the names of several candidates. She vetted the potential appointees and submitted comments to the Governor's Office. She is hopeful of Senate confirmation of a new Board member in February.
- **2015 Financial Review:** The Board must contract with a new firm to perform the

financial review for 2015. The previous CPA, Valerie Wicklund, has retired and will no longer be available. Pam Stroebel submitted a proposal nearly identical to that which was approved by the Board for 2014, both in content and in cost. If the Board approves the contract with Ms. Stroebel, a release will be signed to permit her to receive the results of the previous Board financial reviews.

The Board approved entering into a contract with Ms. Stroebel to perform the financial review for 2015.

BOARD MEMBER REPORTS:

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

Budget: The budget report was deferred to the later discussion under Board Actions.

Legislative: The Board received a report from Ms. DeSouza about LC 1969 and LC 1971 which have been submitted by legislators on behalf of the Oregon Optometric Physicians Association.

Administrative Rules: Ms. DeSouza reported that the changes to OAR 852 adopted by the Board at the November 7, 2014 meeting became effective on January 1, 2015.

Personnel: There was no personnel report made at this time.

ITEMS FOR BOARD ACTION:

- **Discussion and adoption of 2015-17 Biennium budget** - Ms. DeSouza reviewed the proposed budget for 2015. She reported that a hearing was held that morning. Licensees were notified of the proposed budget changes and the hearing by a mailing sent on October 10, 2014. No comments were received regarding the budget and no one appeared for the hearing.

Ms. DeSouza reviewed the planned changes and subsequent expenditures in technology, online renewals, and digitizing of Board records. She noted that the Board has sufficient reserves to cover these expenses, and that the goal is to spend down the reserves in keeping with the Board's general decision to reduce level of reserves through moves to increase benefits to licensees or to reduce their costs.

The Board asked whether the Legislature will need an explanation of the financial surplus. Ms. DeSouza explained that she provides a detail of the Board's budget issues, including the reserves, in the biennial report to the Governor and Legislature.

AAG Cowan stated that the issue of excessive financial reserves is also a topic of discussion in other agencies, and that the Board of Nursing and the Pharmacy Board have had discussions about ways to spend reserves down.

Ms. Webber made a motion that the Board adopt the proposed budget for 2015-17. Dr. Cardenal seconded the motion. The motion carried unanimously by oral vote.

Items for Consideration/Discussion:

- **Number of allowed hours of clinical observation CE credit** – Ms. DeSouza relayed Ms. Boudreau’s question and asked whether the number of CE hours permitted for the observation of surgical procedures should be changed in light of the removal of the requirement for live CE. The Board does not wish to make any changes at this time.
- **Electronic documents for primary source verification** – In the licensure process, both for new applicants and reactivating licensees, the Board currently receives verification of other state licenses in writing from the source state. The state of Pennsylvania professional licensing program has notified the Board that it will no longer issue written license verifications, and that only electronic verifications will be available in the future. Ms. DeSouza questioned the security of online reporting for our primary source verification responsibilities. She asked whether the Board wants to begin to accepting electronic verifications. At the Board’s instruction, Ms. DeSouza will request additional information from Pennsylvania regarding the security of their verification changes and processes. Ms. Webber will evaluate their response to determine what security standard is being used. The Board can make a determination at the next meeting.

The Board took a brief break at 1:46 p.m. The session reconvened at 1:50 p.m.

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

OTHER BUSINESS:

Potential recruitment for executive director position: Ms. DeSouza reported that she may be leaving the Board to take a new position, pending finalization and acceptance of an employment offer. If accepted, she offered to help with the transition to a new executive director. She suggested that with the agreement of the new employer she could develop a continuing resolution to allow her to continue essential functions until her successor is in place.

Ms. DeSouza suggested that the Board may want to consider contracting with a qualified retired healthcare board director if necessary for workload issues until the recruitment is complete. With the Board’s direction she will work with DAS Executive Recruitment to fill the position. Ms. DeSouza believes that the current salary range is fair and adequate to attract qualified candidates, but that the Board may set a higher salary if needed to hire the successful candidate, which is allowed under the semi-independent statutes.

The Board directed Ms. DeSouza and Catherine Webber to represent the Board during the recruitment process with DAS. The position will be posted as “Open until filled” to ensure the time necessary to attract desirable candidates. AAG Cowan suggested that the Board involve AAG Lori Lindley in the recruitment and selection process because of her extensive experience. The screening panel will consist of Catherine Webber, AAG Lindley, and Ms. DeSouza. They will direct DAS in providing applicant names and materials for review, and will determine who receives a screening interview. The panel will forward finalist candidates to the full Board for

interview. Ms. Webber will conduct the reference checks prior to the finalist interviews so the full Board may decide to make an offer the same day as the interviews if they so choose.

A schedule for screening and final interviews will be developed and communicated to the Board for a special meeting, likely in March.

Future Meetings:

AAG Lindley has a conflict for the meeting scheduled on April 17, 2015. The Board will alter the schedule for the remainder of the year.

- April 10, 2015
- July 24, 2015
- October 23, 2015

ADJOURNMENT: There was no further business to come before the Board, and President Mans adjourned the meeting at 2:11 p.m.

Minutes prepared by:

Approved by:

Catherine M. Boudreau
Executive Assistant

Nancy DeSouza
Executive Director