



OREGON BOARD OF OPTOMETRY

May 9, 2014 Board Meeting

PUBLIC SESSION MINUTES

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

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

Board Legal Counsel: Lori Lindley, Assistant Attorney General

Others in Attendance: Catherine Webber, nominated Public Member; Scott Kurita, OD;
Donald Asay, OD

CALL TO ORDER: Dr. Mans called the meeting to order at 9:00 a.m., in the first floor conference room at 1500 Liberty Street SE, Salem, Oregon, 97302. The Public Session was adjourned at 9:01 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) 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 1:04 p.m.

MINUTES: The Board reviewed the minutes of February 21, 2013 Public Session. 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. Lynch 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** – Trisha Ann Sagmiller, OD; Anthony Turin, OD; Michael J. Majerczyk OD
- **Reinstatement to Inactive Status** – Mark Balter, 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. Dr. Pelson seconded the motion. The motion carried unanimously by oral vote.

- **Final Order of Discipline** – A Notice of Proposed Disciplinary Action, Letter of Reprimand was issued to Lee Azpiroz, OD since the February 21, 2014 meeting in case number 14-01-03. Dr. Azpiroz did not request a hearing. A Final Order was issued, subject to ratification by the Board, on April 25, 2014. Ms. DeSouza asked the Board to ratify the action taken since the last meeting. There was no discussion or dissent. The action was ratified unanimously by oral roll-call vote.

ACTIONS ON EXECUTIVE SESSION:

13-09-02

13-09-03

13-09-04: These cases were closed at the meeting on February 21, 2014. At the request of the complainant in these cases, and having received additional, pertinent information, the Board reopened these cases. The doctor in these cases attended an interview today in Executive Session, at the Board's request. The Board will require additional documentation from the doctor regarding these investigations, and begin separate investigation of allegations made by the doctor during the interview regarding another practitioner. These cases will remain open.

13-09-06: The Board approved the doctor's proposed remedial action in this case. The actions must be completed by August 20, 2014. This case will remain open.

13-10-02: The doctor was interviewed by the Board in Executive Session, after which, the Board determined that there has been no violation of Oregon Revised Statutes or Administrative Rules. The doctor has addressed the concerns that were raised by the complainant. Letters will be sent to the doctor and the complainant. This case will be closed.

14-01-03 Azpiroz/OBO: A Final Order/Letter of Reprimand was issued on April 25, 2014, to Lee Azpiroz, OD, for unprofessional conduct pursuant to ORS 683.140(c) and OAR 852-060-0027(13), for failure to respond to the Board. The action was ratified by the Board at this meeting. The Board decided to reduce the administrative fees normally associated with the

failure to report practice locations and obtain required additional practice location licenses to \$420, and waived reimbursement of legal fees. The licensee will be notified of the Board's decision by letter. This case will be closed.

14-01-04: The Board did not find any violation of Oregon Revised Statute or Administrative Rules on the part of the doctor. An inquiry will be made regarding additional billing that the complainant has received. Letters will be sent to the doctor and the complainant explaining the Board's determination. This case will be closed.

14-03-01: The doctor has resolved the advertising violations in this case. The Board will not take any additional action. This case will be closed.

14-03-02: The Board will send the licensee a letter of concern, reminding him of his responsibility to report to the Board any actions taken against him by other authorities. He should seek information if he is not sure about his Oregon reporting obligations. This case will be closed.

14-03-03: The Board does not find any optometric error or violations of Oregon Revised Statutes or Administrative Rules. A letter will be sent to the doctor with the Board's determination. This case will be closed.

14-03-04: The Board will send a letter to the doctor regarding the consequences of future failure to report practice locations and failure to display a valid license. This case will be closed.

14-03-05: The Board does not feel that this matter warrants discipline. A letter will be sent to the doctor instructing that the title "doctor" may not be used in a health care setting, regardless of doctoral status, unless that individual is duly licensed to practice in Oregon. This case will be closed.

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

CORRESPONDENCE: There was no new correspondence before the Board.

PRESIDENT'S REPORT: The President welcomed the incoming Public member, Catherine Webber, who is scheduled to be confirmed by the Senate later this month.

EXECUTIVE DIRECTOR'S REPORT:

Ms. DeSouza submitted the following reports to the Board:

- **Exhibit B - Accounting/Budget:** 2013-15 R&E Budget Report and Balance Sheet – The budget for the current biennium will need to be adjusted to accommodate reduced revenues and expenses. The future move to online renewals will require additional changes to the budget.
- **Exhibit C - Board Activity Report:** The Board reviewed the report for the current period.

- **Updates:**
- **Training for Board leadership:** Ms. DeSouza and Dr. Cardenal each attended training in Portland. The topics discussed included an Ethics Law Summary and a Political Activity Overview for Public Officials. Ms. DeSouza distributed copies of the handouts to the Board.
- **State Management:** Ms. DeSouza is in a workgroup discussing the reclassification of state management positions. She will report the final decisions to the Board.
- **Semi-Independent Agency Report:** This report was submitted on April 1, 2014. It included Valerie Wickland's 2011-13 financial review.
- **Common Credentialing Advisory Committee:**
 - Ms. DeSouza expects a staged rollout of the program, with two-year participation waivers allowed. She expects the Board will request and receive a waiver because of database limits.
 - The costs of the system will not be collected through the licensing boards.
- **Technology investigation/planning:**
 - The State website oregon.gov has changed in format. The state email system will be changing to oregon.gov, and OBO will change suffixes this summer.
 - Online renewals are still a goal for 2015. The Board will likely offer a dual system for at least one year with the goal of phasing-out paper renewals. Longer-range plans are to digitize paper records and developing an online application process.
 - Website redesign in anticipation of online renewals will be explored with NIC, the State of Oregon's contractor, which already runs successful licensing systems in Oregon.
- **August Meeting:** The Board will consider:
 - Online renewal CE submission. Does the Board want to use a system of Attestation instead of original source documentation? If attestation, what percentage should be reviewed or audited? Currently, a licensee receives a phone call and/or a letter with only a late fee if errors or deficits are noted and not rectified. If the Board adopts a system of attestation, will there be further consequences for misreporting? If so, will discipline actions be involved?
 - Will the costs of processing credit cards be passed through to licensees, or included as part of renewal? A rough estimate of projected costs are less than \$6 per transaction x 1,300 transactions/yr x 2 = \$15,600/biennium.
 - Budget revision planning – the Board has experienced changes to its finances including:
 - Reduced rent,
 - No unemployment payouts expected in the future,
 - Potential costs for database development, scanning services, increased staff hours during conversions,
 - Reduced revenues from no additional/multiple license fees,
 - Costs of credit card processing.
- **August Rulemaking Hearing:** Topics for change and discussion will include:
 - Discussions for supervision rule changes;
 - Signing of prescriptions;
 - Changes to CE requirements for Active Status licensees who are overseas as active duty military personnel;
 - Budget rebalancing
 - CE Reporting requirements in keeping with online renewals.

- **Legislative update**
 - SB 1561 – regarding pharmacy dispensing licenses, has been deferred to a workgroup.
- **OOPA discussions:** Ms. DeSouza will meet with Dr. Candace Hamel from OOPA to discuss:
 - Board member successor to Dr. Mans
 - Supervision requirements for delegation
 - Changes to CE reporting requirements.
- **Board Member Succession:** The Governor has officially announced the nomination of Catherine Webber for the Public Member position on the Board. The Senate confirmation hearings and votes on nominees are scheduled for May 28-30

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. Pelson seconded the motion. There was no discussion. The motion carried unanimously by oral 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:

- Signatures on prescriptions – The Board allows the signature on a prescription to be conveyed by stamp, electronically, or otherwise, and initialized by the person giving out the prescription if a copy is dispensed between examinations.
- Allergy testing by ODs – A patch test has been used by ophthalmologists; an optometrist in Lebanon wants to perform testing to diagnose and treat allergies as related to the eye. Dr. Pelson believes that whether the procedure is within the scope of optometry or not is a gray area. Ms. DeSouza will research. She is awaiting a response from the Pharmacy Board, and report back to the Board in August.
- Overseas active military live CE – The Board will allow Active-status licensees actively deployed overseas with the military to take all of their required CE hours online if they attest that they are unable to attend sufficient live CE.

ITEMS FOR BOARD ACTION: There are no additional items for Board Action.

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

portable multiple-location license **OTHER BUSINESS:**

Future Meetings: August 1, and November 7.

ADJOURNMENT: There was no further business to come before the Board, and President Mans adjourned the meeting at 2:15 p.m.

Minutes prepared by:



Catherine M. Boudreau
Executive Assistant

Approved by:



Nancy DeSouza
Executive Director