



OREGON BOARD OF OPTOMETRY

November 22, 2013 Board Meeting

PUBLIC SESSION

MINUTES

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

Board Member Excused: Rose Thrush, JD

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: None

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 9:05 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), ORS 192.660(i) – review and evaluate the employment-related performance of the executive director, 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 12:55 p.m.

MINUTES: The Board reviewed the minutes of August 9, 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** – Thuy N. Nguyen, 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.
- Ratification of live CE deferral for active duty military member Richard Yoo, OD: Dr. Yoo will be permitted to report three extra hour of continuing optometric education that was completed online with his that is due on December 1, 2013, but must report three more than the required nine hours of CE that has been completed in a classroom or other live format with his renewal in 2014.

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

ACTIONS ON EXECUTIVE SESSION:

13-07-01: The Board is satisfied with the contract that the doctor submitted for their review. They find no violation of Oregon optometry law or administrative rules. This case will be closed.

13-08-01: The services in this case were rendered in Washington, not Oregon. This case is outside of the Board's jurisdiction. The complainant was advised of this, and has already filed a complaint with the state of Washington. This case will be closed.

13-09-01: A letter will be sent to the doctor, advising him that reprimanding children in his practice should be left to the child's parent and suggesting that he revise his protocol with his younger patients.

A letter will be sent to the complainant explaining that although the allegations in the complaint cannot be proved, the Board takes the complaint seriously and the doctor will be advised to be more careful in his responses to young patients. This case will be closed.

13-09-02

13-09-03

13-09-04: Dr. Lynch recused herself from voting in these cases because her business partner has a personal relationship with the doctor who is being investigated. A letter will be sent to doctor requesting the additional test results and photos for the Board's review. These cases will remain open.

13-09-05: A letter will be sent to the complainant explaining the statutory requirements for signage for optometrists, explaining that there is no violation at this location. This case will be closed.

13-09-06: Records have been requested from the medical doctors who treated this patient. A letter will be sent to the optometrist requesting additional patient records, including visual field test results. Ms. DeSouza will scan the records when they arrive from the MDs and send copies to the Board. This case will remain open.

13-10-01: The store owner in this case has complied with all the Board's instructions. No further action is required. This case will be closed

13-10-02: The Board will request that the doctor attend an upcoming meeting for an interview. The Board will request patient records from the patient's medical doctor. This case will remain open.

13-11-01: Records have been requested from the doctor in this case, but have not been received. This complaint is not ready for review. This case will remain open.

Dr. Pelson 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:

Kim Clark, OD – Dr. Clark sent an email inquiry regarding the Federal Drug Administration moving some Schedule III drugs to Schedule II. Ms. DeSouza spoke to Gary Schnabel, Executive Director for the Oregon Board of Pharmacy. He confirmed that the federal agency is considering moving some pain killers currently on Schedule III to Schedule II. This change may affect the Oregon optometry formulary. Mr. Schnabel speculated that a change on the federal level may require a change to Oregon statute in order to continue to allow AT certified optometrists to prescribe the affected agents. A convention of the Formulary Council would have to be called if federal law changes will affect the optometric formulary.

PRESIDENT'S REPORT:

President Mans evaluated the performance of the Executive Director over the past year and made his report to the Board. He finds that Ms. DeSouza's service to the Board has been outstanding. She has been confident and proactive in her representation of the Board and in developing and conducting the Board's business. The staff have told him that they find the current work environment to be positive and productive. The Board expressed their pleasure with Ms. DeSouza's performance as Executive Director.

EXECUTIVE DIRECTOR'S REPORT:

Ms. DeSouza submitted the following reports to the Board:

- **Exhibit B - Accounting/Budget:** 2011-13 R&E Biennial Report – Ms. DeSouza reported

that the budget for the current biennium will need to be adjusted to account for various changes in revenues and expenses. Examples include reduce rent in the new location that has been further reduced because the landlord received an exemption to property tax on the church-owned building because the space that is rented to state agencies. In addition, there will be a reduction to the Board's income from additional practice license fees after the Board adopts the rule changes today to eliminate additional location and multiple-location license fees.

- Board Activity Report (*Exhibit C*) – Ms. DeSouza reviewed the report with the Board, pointing out changes in numbers of licensees. She noted that the number of complaints has increased in recent months.
- **Updates**
 - **Pharmacy Dispensing Outlets:** Ms. DeSouza reported that last year the Pharmacy Board asked the Department of Justice for an interpretation of statutes regulating drug dispensing machines. The response from DOJ was much broader than was expected. In brief, according to the opinion, a licensed practitioner may give a patient a pharmaceutical agent during a procedure, and that is not considered “dispensing,” but if the patient is given a drug to take home, it is considered dispensing. This opinion, when enforced by rules now being drafted by the Pharmacy Board, will require an optometrist who dispenses or sells Latisse, glaucoma medications, or other agents from their practices to obtain a pharmacy dispensing license from the Pharmacy Board. Samples may continue to be offered to patients as long as the doctor follows accepted sample management protocol. Ms. DeSouza will inform Candace Hamel, OD, at Oregon Optometric Physicians Association of the changes.
 - **Common Credentialing Advisory Committee:** Ms. DeSouza is member of this committee organized as a result 2013 SB 604. This bill requires all Oregon health-related boards who have licensees who are credentialed to provide as-yet-unspecified real-time information including primary source verification of licensure documents and professional status to the Oregon Health Authority for inclusion in a database that will be developed as a central source for credentialing organizations. Kathleen Haley, Executive Director of the Oregon Medical Board also is on the advisory committee. Both boards’ directors are working with the committee to raise concerns about the potential workload impacts and costs of different methods of implementing the requirements of the bill, which become effective January 1, 2016. Ms. DeSouza asked the Board how many optometrists are credentialed with more than one insurance panel, and whether they must apply separately with each one. Dr. Mans explained that, if an optometrist is on more than one panel, he or she may use the services of a central credentialing company that collects the applicants’ information and disseminates it to various panels, or the doctors may choose to fill out all the applications themselves.
 - **SOS Performance Audit of 17 Health Licensing Boards:** The draft report from performance audit by the Secretary of State Audits Division has not yet been received.
 - **Financial Review:** As the Board previously approved, Valerie Wicklund, CPA will again perform the required biennial financial review for the Board in January or February 2014.
 - **Raymond Alexander, OD:** Dr. Alexander is currently the longest living licensee in

Oregon, having recently celebrated his 100th birthday. Ms. DeSouza reported that she visited the doctor and his wife at their home in Lake Oswego. She presented Dr. Alexander with a certificate in the name of the Board and will be publishing an article about the doctor with a photograph of him in the next newsletter.

- **Other:** Ms. DeSouza recently attended a class about contested case hearings that was presented by the Department of Justice. She found the instruction to be very beneficial, and believes that it will assist her in preparing cases in the future. Ms. DeSouza also will teach a law class at the Oregon Optometric Physicians Association conference on February 28, 2014. She and the staff plan to attend the class together. The iPads used by the Board members for distributing and reviewing documents will be updated to IOS7.

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: Ms. DeSouza will meet with Dr. Cardenal following the meeting today to review the Board's bank statements in her role as Budget chair.

Legislative: Ms. DeSouza reports that she is aware of no bills that will affect the Board, but that this may change as we move closer to the February short session.

Administrative Rules: Today the Board will be considering changes to OAR 852-050 and 852-010 regarding additional and multiple practice location licenses and elimination of related fees. Ms. DeSouza explained the proposed rule changes and what the effects will be for licensees and the Board. Each Active status licensee, for the fee of \$323, will receive a primary license and a portable multiple location license at no additional cost. Additional copies of the portable multiple location certificates may be purchased for \$25. No comments regarding the proposed changes were received at the Board's office. New licensee stock is ready and invoices for licensees who renew January 1, 2014 will reflect the changes adopted today. The Board discussed license display requirements, which will not change with today's action.

Personnel Committee: No additional report or discussion.

Consideration/Discussion:

- Issues regarding live CE for overseas Active-status military licensees. Ms. DeSouza told the Board that this may be an ongoing issue for the Board to consider, and that a variance could be considered in the future for Active status licensees who are also military personnel, serving overseas.

ITEMS FOR BOARD ACTION:

- Discussion and vote on changes to Board policy and OARs regarding additional and multiple practice location licenses; elimination of related fees. Dr. Lynch made a motion that the Board adopt changes to OAR 852-010-0080, and OAR 852-050-0005 and 0016 to eliminate the requirement that doctors purchase additional-location and multiple-location licenses, and related changes to the Board's fee schedule. Dr. Pelson seconded the motion. The motion passed unanimously by oral vote.

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

OTHER: Proposed dates for 2014 meetings: February 7, May 9, August 8, and November 7.

ADJOURNMENT: There was no further business to come before the Board, and President Mans adjourned the meeting at 2:18 p.m.

Minutes prepared by:



Catherine M. Boudreau
Executive Assistant

Approved by:



Nancy DeSouza
Executive Director