



OREGON BOARD OF OPTOMETRY

February 10, 2017 Board Meeting

PUBLIC SESSION MINUTES

Board Members Present: Molly Cardenal, OD, President
Derek Louie, OD
Douglas Walker, OD
Steven Tronnes, OD
Catherine Webber, Public Member

Board Staff: Shelley Sneed, Executive Director
Melissa Auman, Administrative Coordinator

Board Legal Counsel: Lori Lindley, Assistant Attorney General

Others in Attendance: Janet Baker, Oregon Optometric Physicians Association (OOPA);
Gary and Treasure Wheeler, ODs; Renee Klein

CALL TO ORDER: Dr. Cardenal called the meeting to order at 9:05 a.m., in OTE's downstairs conference room. The Public Session was adjourned at 9:07 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 12:44 p.m.

MINUTES: The Board reviewed the minutes of the September 9, 2016 Public Session. Dr. Louie made a motion that the Board approve the minutes as presented. Dr. Tronnes seconded the motion. There was no discussion and the Board made no changes or additions to the minutes. 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:

- Reinstatement/Reactivation of license:
 - Reinstatement to Active Status –
 - David Carkner, OD

Candidates for Examination and Licensure - The 10 optometrists listed in Attachment P-B met all the requirements for licensure and were approved by the Executive Director since the last Board meeting.

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

ACTIONS ON EXECUTIVE SESSION:

16-08-01-- This case will be closed. Ms Sneed and Ms. Lindley will work together on public education fliers.

16-08-02-- This case will be closed.

16-09-01-- This case will be closed with approval of the Stipulated Final Order.

16-09-02 – This case will be closed with the approval of the Stipulated Final Order.

16-10-01 – This case will be closed.

16-11-01 – This case will be closed with a letter to the doctor.

16-11-02 – This case will be closed with a letter to the doctor.

16-11-03 – This case will be closed with letters to the parties that the prescription was written by an ophthalmologist, a medical doctor. The Board does not have jurisdiction over medical doctors.

16-12-01 -- Steven Porter, OD (AT-1723). The case will remain open and a notice of proposed discipline will be sent. The OD will be required to take 4 hours of Board approved record management courses as well as have 6 months of mentoring/chart review. Board initially suggested chart review be done once a month for 6 months The Board then suggested eight random chart pulls no less than 2 times, having Ms. Sneed pick names from OD appointment lists. The Board suggests OD send initial records to the Board for the next 2 meetings after licensee completes the 4 hours of training.

16-12-02 – This case will be closed with a warning letter to be sent to the OD to check on the legality of signing medical marijuana cards. Letters will be sent to the patient and OD that no optometric error was found and that OD met the standard level of care for treatment.

16-12-03 – This case will remain open until a response from a subpoena and the respondent can be served the second notice. Ms. Sneed may need to hire a courier server or can hire a Sheriff to serve the papers for \$35.

16-12-04 – This case will be closed.

16-12-05 – The Board approved a \$250 penalty for late response to CE/CPR audit to be assessed and final order by default to be issued.

17-01-01 – This case will be closed with a letter to the patient that no optometric error was found and that the situation seemed to be a customer service issue. A letter will be sent to the OD that he might consider reviewing protocols for conflict management and patient communication in the practice.

Monitored Cases

14-07-02 -- No new information on this case.

16-03-03, 04, 05 – A motion was made by Dr. Walker for the approval of the Consent Order and the motion was seconded by Ms. Webber. No votes in opposition. Ms. Sneed can sign and send to the OD. OD will need to let the Board know which of the three options will be chosen to meet the 18 hours of CE requirement. These cases will remain open for monitoring.

Other:

Dr. Cardenal needed to leave the meeting early. Nominations for Vice President were discussed. Dr. Tronnes nominated Dr. Walker. The vote was unanimous. Dr. Walker was elected Vice President. Dr. Cardenal was nominated by Dr. Walker to remain President. The vote was unanimous. Dr. Cardenal to remain President and Budget chair. Dr. Louie is Continuing Education chair, Dr. Walker is the Legislative chair and Dr. Tronnes was appointed as the Personnel chair.

CORRESPONDENCE:

The Board reviewed the following correspondence:

- FARB Advocacy Talking Points – Letter was informational.
- ARBO CE accreditation letter – Letter was informational.
- Register Guard Article from 9/17/16 – The article was reviewed and Ms. Sneed stated that the OD mentioned was NOT sanctioned by OBO. The Board was never contacted by the reporter and the Register Guard reported the information incorrectly.
- Oregon Board of Pharmacy – Correspondence pertained to pharmaceutical dispensing rules and does not seem to affect OD's.
- John Wachter of American Board of Optometry letter – Letter of inquiry as to Oregon State Optometry Scope of Practice procedures. Dr. Cardenal was confused by the letter but directed Ms. Sneed to respond with the rule language regarding scope of practice.

EXECUTIVE DIRECTOR'S REPORT:

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

- **Accounting/Budget**
 - The Board packet included a memo and financial reports (attachment P-H) that detailed the Board's financial position at the end of December 31, 2016. The Board had a net loss at the end of the fiscal year of \$56,213, which was about \$43,000 more than last year but \$50,000 less than budgeted. The Board's cash position is nearly \$40,000 less than the previous year due to the net loss. The Board continues to maintain nearly 12 months of operating reserves.
- **Board Activities Report**

Licensing at the end of January, 2017 was 1,239, which is lower than typical months. Seven new licenses were issued since September 1, 2016 by examination. At the end of January, 2017, 14 complaints were carried over and pending.
- **Office Updates**
 - The office update was included as attachment P-J. Rules were filed with the Secretary of State and a budget rule hearing was held on 1/4/17. Ms. Sneed prepared tort claim responses for the two claims filed and submitted them to DAS Risk Management on the Board's behalf. Ms. Sneed also attended a PMOS meeting with Molly Cardenal on December 1, 2016, on law/ethics. In December Ms. Sneed completed the Leadership Oregon program and attended graduation on 1/20/17. On January 25, 2017, Ms. Sneed attended a small boards and commission meeting held by the new DAS director, Katy Coba and her staff. The group was educated on DAS programs and staff, and discussed topics of interest to small boards and commissions.
 - As of the end of December the Board is now set up with the new credit card vendor and the system was tested with the eLite online licensing system. Staff finished testing the eLite online licensing system and the system was fully implemented with February license renewals.
 - December 27, 2016 was Debbie Hendricks last day at OBO. After reviewing over 30 applications for our Administrative Coordinator position and interviewing five candidates, Melissa Auman from OTE was hired. Melissa had a full day of training with Debbie and officially started work on January 1, 2017.

BOARD MEMBER REPORTS:

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

Budget: The proposed 17-19 Budget is a deficit budget. Dr. Louie made a motion that the Board adopt the proposed budget for 2017-19. Dr. Tronnes seconded the motion. The motion carried unanimously by oral vote.

Legislative: At this time Dr. Cardenal had to leave and thus turned the meeting over to Dr. Walker. The topic of telehealth, a form of telemedicine, was raised in regards to Senate Bill 786. Dr. Walker turned the discussion over to Janet Baker, Executive Director of OOPA. Ms. Baker has concerns that the bill is too open-ended and too broad. She questions what other boards are doing. The Governor has asked that Boards do not take any action or give information without the Governor's advisors approval. There is not enough time to amend it at this point. Ms. Baker, Ms. Sneed and AGG Lindley will meet and discuss the scope and ramifications of the proposed bill.

Administrative Rules: No discussion

Personnel: No discussion

PRESIDENT'S REPORT:

No Discussion since Dr. Cardenal had left the meeting.

ITEMS FOR CONSIDERATION/DISCUSSION:

- A Power Point training on contested cases and tort claims was presented by AAG Lindley.
- DAS HR Weapon Policy – Because the Board is located on leased state property, the property and parking lot is considered public property. Carrying of weapons on your person or in your car is prohibited while at the Board's office.
- Conference call access for licensees to “attend” Board meetings – Ms. Sneed suggested testing conference calling at the September 2017 meeting. She will send out an email to all active licensees regarding calling in to “attend” the Board meeting and have OOPA announce it as well. Ms. Sneed suggests the Board purchase a web cam. Dr. Walker asked about the potential cost involved.
- OR Public Records Project & Fee schedule – Based on legislation, DAS has a standardized fee schedule. OBO will still set our fees until DAS over-rides and then OBO will do a rule change to adopt the new DAS fee schedule.
- Elite system demo – A demonstration of the new elite system was done. The new renewal process was demonstrated.
- Board appointment & 2017 legislative activity – Board members must notify the Governor's Office any time they testify at the Legislature. Dr. Tronnes will be testifying on Senate Bill 187 on Feb. 14, 2017 on behalf of the Lions Club in support of school funding for vision screening for children. Ms. Sneed will notify the Governor's Office.
- CE Review and potential rule changes – A new CE review form was presented in attachment P-P. Ms. Sneed would like to use the wording “should be” submitted at least 30 days in advance instead of “must” be submitted. That was approved by Board members. The Board approved implementing the new CE request form and all stated requirements. Dr. Walker asked if there were expiration dates for courses. Surgical centers are good for three years after approval. CE courses

expire two years from approval unless the course is continuing and if any changes are made to the course then it needs to be resubmitted for approval. Ms., Sneed will draft and send out rule changes. A rule hearing will need to be set to make the changes.

- ARBO Clinical Skill Exam Survey –ARBO sent a survey with proposed changes to Part III of the NBEO exam. Dr. Walker read off each skill listed and Board members voted to keep or replace said skill as follows:

Binocular Extraocular Muscle Motility Evaluation – Keep
Static Perophera Confrontation Visual Fields - Replace
Near Cover Test and Near Point of Convergence – Keep
Pupil Testing – Keep
Blood Pressure Measurement – Replace
Ophthalmic Lens Evaluation – Keep
Biomicroscopy – Keep
Goldmann Applanation Tonometry – Keep
3-Mirror Gonioscopy – Keep
Collagen Implant Insertion and Removal – Keep
Soft and GP Contact lens insertion, eval and removal – Keep
Retinoscopy – Keep
Distance Subjective Refraction – Keep
Heterophoria and vergence testing at Distance – Keep
Accommodation Testing – Keep
Binocular indirect Ophthalmoscopy – Keep
Dilated Biomicroscopy and non-contact fundus lens eval – Keep
Injections – Keep

Board members responded with “yes” or “no” to an interest in future testing skills. Amsler grid – No Evaluation of all cranial nerves – No Hertel Exophthalmometer – No

- During the ARBO Clinical skill exam survey discussion, Dr. Tronnes suggested the Board consider allowing Practice Management courses for CE. These would include courses on business practices such as HR law, leases, insurance, etc. Dr. Louie questioned how CE evaluation would be done on these types of courses. Ms. Sneed stated that the rules define what constitutes CE and at present, does not include Practice Management courses. Ms. Sneed and AAG Lindley will look into possible legislation to change CE qualifications.

ITEMS FOR BOARD ACTION:

- Approve closing US Bank money market account and new bank/investment account signers – OBO currently has two bank accounts at US Bank, a money market account and a checking account. Dr. Tronnes made a motion to consolidate the two accounts, closing the money market account. Dr. Louie seconded the motion. The motion carried unanimously by oral vote.
- Approve the proposed rule changes:
 - 1) To clarify optometry business requirements and to update our rules for Criminal Records Check and Fitness Determinations – There are new State standards for background checks which provide for Boards to get criminal checks and then determine any action or fitness for licensure at

initial licensing and for reactivation of lapsed licenses over 2 years. Currently the fee is \$45. Ms. Sneed stated that Board members are supposed to have background checks done. Ms. Sneed and Ms. Auman will work on a new policy and present to Board at future meeting.

2) Approve rule change for fee schedule for public records

3) 2017-19 Budget – Ms. Sneed noticed typo on the budget rule where 2019 had typo of 2017. AGG Lindley said this does not require a budget rule change.

The Board verbally voted to approve these rule changes.

- Elect a new Board Vice President – Dr. Walker nominated as Vice President by Dr. Tronnes earlier in the meeting and unanimously approved.
- Approve ED having authority to sign legal agreements for CE/CPR audit date penalties with Board ratification. Ms. Sneed requests that the delegated authority letter issued to her at her hire be amended giving her the authority to sign legal agreements for CE/CPR audit date penalties (civil penalties) which would be sent to the licensee and then would go to the Board for ratification at the next Board meeting. Ms. Sneed will amend the letter and bring it back to the next meeting for Board approval.

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

OTHER BUSINESS:

- Progressive prescription question – Ms. Sneed received a voicemail from an OD asking about the standard of practice regarding progressives and if a prescription includes a specific type of progressive, is that an actual component of the prescription or can the OD office filling the prescription change the progressive with patient ok? AGG Lindley says it is part of the prescription. After discussion, Board determined that in order to change the prescription it must have the dispensing OD's approval.
- Senate Bill 786 – Board previously discussed this bill during Legislative Committee Board report.
- Clinical Observation for CE credit – A licensee tried to claim credit for clinical observation at renewal. Currently OBO only accepts approved surgical observations up to 5 hours. Ms. Sneed raised the question to see if the Board wanted to approve clinical observation for CE. Dr. Louie questioned how he would judge the quality of the observation. He stated it would need to be done on a case by case basis based on the type of observation such as co-management of eye disorders. The sponsor would need to apply for approval ahead of time as with surgical observation. After discussion, Dr. Walker suggested the Board continue to only accept surgical observation for CE. The Board agreed.
- Reading Glasses Store question – Ms. Sneed received an email from an individual inquiring about using a machine that determines strong eye/weak eye for reading glasses by patient self-assessment. His question was whether this would be construed as practicing optometry. The Board was not sure what he was asking but Ms. Sneed will respond to him saying that with the limited information the Board was given, they felt it could be considered practicing optometry.

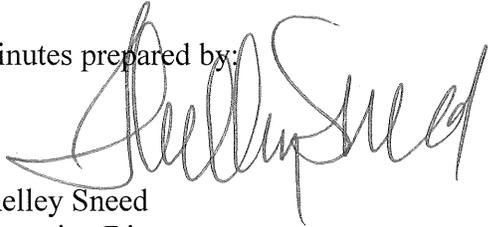
- Nebraska Board of Optometry question – The Chairman of the Nebraska Board of Optometry sent an email inquiring about how the Oregon Board of Optometry has dealt with issues concerning eyelid injections and minor surgical procedures required for the treatment of cysts or infected/inflamed glands of the eyelid. The Board directed Ms. Sneed to respond that in recent history OBO has never had to deal with this issue.
- Discipline on website – Currently the Board’s policy is to keep records of discipline on the website for 15 years. The old Access database gave information for longer periods of time. Ms. Sneed asked the Board if they want the new elite system to show more than 15 years of discipline. AGG Lindley says it is fine to drop the information from elite after 15 years if there has been no discipline and if there has been to have the site state “call the Board for other discipline”.

FUTURE MEETINGS:

- May 19th, September 8th, November 3rd in the OTE conference room.

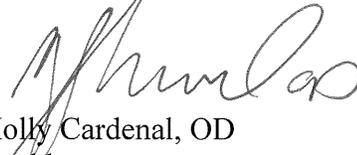
ADJOURNMENT: There was no further business to come before the Board, and Vice President Walker adjourned the meeting at 4:14 p.m.

Minutes prepared by:



Shelley Sneed
Executive Director

Approved by:



Molly Cardenal, OD
President