



## OREGON BOARD OF OPTOMETRY

May 18, 2020 Board Meeting

### PUBLIC SESSION MINUTES

**Board Members Present:** Derek Louie, OD, President  
Lauren Hunt OD, Vice-President  
Douglas Walker, OD  
Ami Halvorson, OD  
Renee Klein, Public Member (joined later in meeting)

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

**Board Legal Counsel:** Lori Lindley, Assistant Attorney General – Not in attendance

**Other in attendance via Skype:**

Amy Van Heel, OD	Jennifer Crown, OD
Cat Merritt, OD	Chynna Tang, OD
David Beisiegel, OD	Terri Vasche, OD

**CALL TO ORDER:** Dr. Louie called the meeting to order at 9:01 a.m. via Skype. The Public Session was adjourned at 9:02 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. via Skype.

**MINUTES:** The Board reviewed the minutes of the January 31, 2020 Public Session. Dr. Walker made a motion that the Board approve the minutes as presented. Dr. Halvorson 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 to Inactive Status – None**
- **Reinstatement to Active Status - None**
- **Reactivate Inactive to Active Status –**
  - Steven Tronnes, OD

**Candidates for Examination and Licensure** - The 4 optometrists listed in Drop Box 3.2 met all the requirements for licensure and were approved by the Executive Director since the last Board meeting.

**ACTIONS ON EXECUTIVE SESSION: 2017-1044** – This case will continue to be monitored.

**2019-1111** – This case is ongoing.

**2019-1134** – This case is ongoing.

**2019-1148** – This case was closed.

**2019-1154** – This case is ongoing.

**2020-1158** – This case is ongoing.

**2020-1162** - This case is ongoing with a letter to the OD.

**2020-1163** – This case was closed with a letter of concern to the OD and no optometric error.

**2020-1164** – This case was ratified and closed.

**2020-1165** – This case was closed with a letter to the patient and no optometric error.

**2020-1166** – This case was closed with a letter to the OD.

**2020-1167** – The case was ratified and closed.

**2020-1168** – This case was closed administratively.

**2020-1172** – This case was closed.

**2020-1173** – This case was closed.

## **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, Drop Box 3.1 for May 18, 2020 that detailed the Board's financial position at the end of April 30, 2020. The Board's cash position is \$22,600 more than last year. This is primarily due to the time lag between DAS payroll processing and the time it takes DAS to bill us for the payroll costs, currently 30-45 days. OBO's payroll for April and May has been processed but not billed yet. The Board's total income is \$20,000 more than last year and \$13,000 less than budget. Our expenses compared to budget are \$55,000 less than budgeted primarily due to payroll costs which have not rolled through yet. The overall net income for the fiscal year to date is \$20,132. That's about \$16,000 more than last year and \$42,000 better than budget.

- **Board Activities Report**

- Licensing as of May 5, 2020 was 1,134, which is lower than last year. We have a total of 4 more active licensees than last year. We lost a few active military status licensees due to their changing over to active status because of a new military requirement. Staff has been seeing more inactive licensees not renewing because they are nearing retirement age. Four new licenses were issued since Dec. 17, 2019.
- Dr. Halvorson has been busy approving 53.5 hours of CE between 2/1/2020 – 4/30/2020. One of the things that Ms. Sneed and Dr. Halvorson have done since COVID-19 was to extend the expiration date of online courses to December 31, 2020, if the presenters and curriculum remain the same.
- CE audit compliance has been up and down. Dr. Louie asked why that can happen and Ms. Sneed said typically the reason a licensee is out of compliance is because a licensee forgets to submit one course certificate.

- **Office Updates**

- The office update was included in Drop Box 3.3 for May 18, 2020. Since the last meeting Ms. Sneed completed and submitted the biennial Governor's report which is required of all semi-independent state agencies.
- OBO was the first state agency at the onset of COVID-19 to use the Governor's new rules suspension process. Ms. Auman, while processing new license applicants, noticed that the Board's applicant requirement for a hands-on CPR course at initial licensure was unable to be completed by new applicants due to the fact that CPR sponsors were not providing hands-on training due to COVID. Our rules suspension removed that hands-on requirement for initial licensure, allowing applicants to take an online CPR course. Any new licensee that uses this rule suspension will be required to take a hands-on course at their next CPR renewal. Our licensing system vendor added a field to track who will need hands-on in the future.
- Ms. Sneed filed temporary rules to allow the Board to take disciplinary action against any licensee that does not follow an Executive Order during a disaster. Permanent rules will be filed before the next Board meeting for approval.
- In the middle of March 2020, due to the COVID pandemic, OBO staff moved operations to their homes and set up telecommuting. Office equipment was moved which allowed the daily operations of license printing and record scanning to continue. Staff was issued state cell phones for multi-factor authentication processes to access the DAS computer network.
- Ms. Sneed has been working with Thentia on several remaining items regarding the licensing implementation such as email integration and an online CE module. We will

- not be doing a Quick Books integration as it has not been successful in other places. Ms. Auman will continue to do a daily journal entry into Quick Books.
- On March 10, 2020, Ms. Sneed presented a 1 hour law course in The Dalles. It was well attended. There were several other in person ethics courses scheduled but they were postponed due to COVID. Ms. Sneed will be working on recording electronically an ethics course which will allow licensees an opportunity to take a law course online.
  - Dr. Walker asked about how the State budget, which undoubtedly will be adversely affected by COVID-19, will affect OBO. Ms. Sneed said there have been conversations at weekly agency directors meetings about budget. OBO is not directly affected by general fund changes. The state has been working with unions about possible furlough days. Because OBO follows DAS personnel policies, we would need to follow them if a decision was made to implement furlough days. Furlough days would positively affect our budget. OBO still has about 6 months of operating reserves. If there are major layoffs and optometrists do not need to be licensed in Oregon, then that would affect us financially. Staff currently has been seeing the normal amount of licensee fees and renewals coming in, which is surprising given the situation.

## **BOARD MEMBER REPORTS:**

**Continuing Optometric Education:** Dr. Halvorson discussed an email received from Dr. Albert Edwards (see Drop Box 4.1) requesting CE credit for clinical observation similar to how OBO allows 5 hours of CE for surgical observation. Dr. Halvorson said Dr. Edwards made it sound like clinical and surgical observation was allowed in the past. Dr. Louie didn't think that was ever the case. He said he was not sure if any state allowed just clinical observation for acceptable CE. Dr. Louie had mixed feelings; he acknowledged Dr. Edwards has valuable patient encounters which licensees could learn from, but if the board allows clinical outpatient observation at say a retinal clinic as CE, then why not at any clinic like contact lens, visual function, etc. Dr. Louie would want to think about it more, but he did not feel huge support for the idea.

Ms. Sneed had talked with Dr. Edwards. She questioned how the Board would write standards for everyone, and not just for Dr. Edwards who has a specialty that is intriguing. Ms. Sneed suggested asking Dr. Edwards to write some standards to be reviewed by the Board. Dr. Halvorson asked if we have an application for surgical observation. Ms. Sneed said it is the same application as for CE course approval. Dr. Louie would like to look at other state's CE observation standards to review. Ms. Sneed will reach out to ARBO to see if any other states have standards for clinical observation that they can share.

(Ms. Klein joined the Skype meeting at this point of the agenda.)

**Budget:** Ms. Klein asked Ms. Sneed about the financial report and why the payroll was two months behind since she was not online earlier in the meeting. Ms. Sneed said it has taken a bit of time for DAS to fully get OBO on board. The bills should come timelier in the future. Ms. Klein mentioned the IT costs are more than we had anticipated and now we are paying for cell phones for the staff. Ms. Sneed mentioned that prior to COVID-19, DAS had talked about a 30% increase in fees, including IT costs. Ms. Sneed said that Landscape Contractors Board, another

semi-independent board, has a non-DAS computer support provider. Ms. Sneed said the challenge with an outside IT provider is that they have to meet the DAS security requirements, but it might be something OBO could look at.

**Legislative:** Dr. Walker discussed a copy of the Dentistry Board competency evaluation rules they use. Ms. Sneed will write up draft rules for the August 2020 Board meeting for Board members to review. Dr. Louie asked Ms. Sneed to reach out to ARBO and inquire if any other state boards have competency evaluation forms, rules and processes.

**Administrative Rules:** No discussion

**Personnel:** No discussion

#### **ITEMS FOR CONSIDERATION/DISCUSSION:**

- **LEDS audit results** – The outcome of the biennial audit report was positive. Ms. Sneed said they were happy with the way we manage data and manage access to Ms. Sneed’s computer which is considered a LEDS terminal. There were a few recommendations regarding our policies and we will update those since we are in process of updating licensing system change too. Ms. Sneed will work on those.
- **Strategic plan check in** – Discussion tabled until next meeting.
- **Rulemaking review and approval** –
  - **CE rules allowing CME and changing the submission timing** – These rules have been put out for rule making, no one attended the rule hearing. Ms. Sneed stated she did get some comments. Dr. Hunt and Dr. Halvorson worked on the change for CE rules to allow CME. Ms. Sneed said our rules require in-person attendance. She questioned if CME courses are allowed online now due to COVID. Dr. Louie stated that the reason online CME was not included was because there is plenty of online CE courses that can be utilized during COVID and later on for OD’s that are COPE approved. Dr. Louie doesn’t think we need to change the CME to online. Ms. Sneed said the rules will stay as they are.
  - **Adding language regarding Vision Therapy in scope of practice** – Ms. Sneed shared that there were some sensitive comments regarding the drafted rule language. If there needs to be some changes the rules will need to be redrafted, posted again and reapproved. Ms. Sneed went over some of the changes and comments that other optometrists had submitted. Dr. Halvorson talked about Dr. Frasier Horn’s comment about concern excluding allied health profession practitioners by limiting the vision therapy to optometrists only. Dr. Hunt said that other folk’s suggestions seemed helpful and she brought up past concerns about the more specific the language gets, the more limiting it is as well. She doesn’t want to see the language of the rule be too limited so we do not have to make changes continually in the future as the practice of optometry changes. Dr. Louie suggested changing the wording to include “the practice of optometry includes ‘but not limited to...’”. Dr. Hunt said she could create another draft to review for the next meeting including parts of the language that were suggested. Dr. Walker will help on the revised language. Ms. Sneed will file revised language by July 1, get public comment and then the board can review at the August meeting. Ms.

Sneed will file permanent rules on the CME language and submission timing based on comments received.

- **Changes to Unprofessional Conduct to give OBO authority to enforce Executive Orders** – Ms. Sneed said that temporary rules were filed on April 15, 2020 and the rules now need to be filed permanently. There were no objections from the board members and she will proceed with permanent filing of the rule.

#### **NEW BUSINESS:**

- **Business Continuity Plan** – This was previously approved by the Board, Ms. Sneed just needs to update links and information due to the new licensing system vendor. She will send the updated plan out before the August board meeting for board member approval.
- **Washington Optometry Board Eye Exam Policy Statement and Guideline for Appropriate Use of Technology** – Ms. Sneed said she isn't sure if the board is ready to do anything with this yet, but during research she was doing about telehealth and the COVID-19 situation, she found that our current statutes state that telehealth does not include telephone calls. With COVID, OD's are providing tele optometry via phone calls as follow-ups with patients that they do not have to see their eyes. Ms. Sneed wants to reach out to OOPA about looking at the language and making changes to the statute.
- **Governor's Report** – Ms. Sneed has submitted the report and it was sent to the board for review. There were no comments.
- **ARBO fee reduction query results** – Ms. Sneed had a request to see if any other states had done fee reductions due to COVID-19. Based on the ARBO query, there haven't been a lot of states that have done that. Ms. Sneed said the Board will watch as the COVID situation progresses and changes, to see if that is something we need to consider.
- **AOA's Telehealth Guidance** – Informational only.
- **Governor's Framework for Re-opening Oregon** – Informational only.
- **Dr. Schmidt request** – Dr. Schmidt submitted a question about antibody testing. Dr. Louie asked if anyone knew of a practice that was doing this. Dr. Hunt and Dr. Halvorson felt this type of testing was within optometry scope of practice. Dr. Walker felt Dr. Schmidt was asking about sample collection, not about testing. Ms. Sneed will respond to Dr. Schmidt that the Board discussed the issue and agreed that sampling is within optometrists' scope of practice with the current laws and rules.
- **Public Member Renee Klein** – Ms. Sneed presented a goodbye clock to Ms. Klein in appreciation for her service as a public member on the Board. Ms. Klein will remain on the board until a replacement public member can be found. Thank you Renee!

#### **FUTURE MEETINGS:**

- Friday, August 28, 2020
- Friday, November 6, 2020

**ADJOURNMENT:** There was no further business to come before the Board, and President Louie adjourned the meeting at 1:38 p.m.

Minutes prepared by:

Approved by:

Melissa Auman  
Administrative Coordinator

Shelley Sneed  
Executive Director