



OREGON BOARD OF OPTOMETRY

September 26–27, 2019 Board Meeting

PUBLIC SESSION MINUTES

Thursday September 26, 2019

Board Members Present: Douglas Walker, OD, President
Derek Louie, OD, Vice-President
Steven Tronnes, OD
Lauren Hunt, OD
Renee Klein, Public Member

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

Board Legal Counsel: Lori Lindley, Assistant Attorney General

Others in Attendance: Tam Nguyen, OD

CALL TO ORDER: Dr. Walker called the meeting to order at 1:27 p.m., in OTE's downstairs conference room. Jennifer Webster, PhD of Business Strategies, Inc. conducted a Strategic Planning session which consisted of a SWOT analysis, narrowing of Board focus and setting of future goals.

The meeting was adjourned at 4:51 p.m.

Friday September 27, 2019

Board Members Present: Douglas Walker, OD, President
Derek Louie, OD, Vice-President
Steven Tronnes, OD
Lauren Hunt, OD
Renee Klein, Public Member

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

Board Legal Counsel: Lori Lindley, Assistant Attorney General

Others in Attendance: Ami Halvorson, OD

Attendance via Conference Call:

Cynthia Rimkeit, OD	Eric Hinds, OD
Rebecca Chown, OD	Loren Reimers, OD
Rebecca Chung, OD	Dawn Damori, OD
Elizabeth Potvin, OD	April Chiu, OD
Erica Heffner, OD	Huong Fearington, OD
Melissa Frost, OD	Lindsay Clunes, OD
Brooke Harkness, OD	Jennifer Tran, OD
Jon Sakuda, OD	Lynn Ueshiro, OD
Audrey Lukey, OD	Alan Labrum, OD
Donald Asay, OD	Jona Johnson, OD
Brandon Becken, OD	Julie Kittock, OD
	Robert Mans, OD

CALL TO ORDER: Dr. Walker called the meeting to order at 8:00 a.m., in OTE’s downstairs conference room. The Public Session was immediately adjourned 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 11:32 a.m.

There was no public comment.

MINUTES: The Board reviewed the minutes of the May 10, 2019 Public Session. Ms. Klein made a motion that the Board approve the minutes as presented. Dr. Louie 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 –**
 - Drew Aldrich, OD
 - Ronald Delano, OD
- **Reactivation Inactive to Active Status –**
 - Carol Rymer, OD

Candidates for Examination and Licensure – The 35 optometrists listed in Dropbox attachment 4 for the September 27, 2019 Board meeting met all the requirements for licensure and were approved by the Executive Director since the last Board meeting.

ACTIONS ON EXECUTIVE SESSION:

Existing Complaints:

2017-1044 -- This case remain open and continue with the investigation.

2019-1108 – This case will be closed with no optometric error and a letter of concern to the OD.

2019-1111 – This case will remain open.

2019-1114 – This case will be closed with a letter of concern to the OD.

2019-1115 - This case remain open and continue with the investigation.

New Complaints:

2019-1116- This case remain open and continue with the investigation.

2019-1117 - This case will be closed with no optometric error and a letter of concern to the OD.

2019-1118 - This case will be closed with no optometric error.

2019-1119 – This case was closed due to Oregon Medical Board jurisdiction.

2019- 1120 – This case will be ratified.

2019-1121 - This case will be closed with no optometric error.

2019-1124 - This case will be ratified.

2019-1126 - This case will remain open.

2019-1129 - This case will be closed with a letter of concern to the OD.

2019-1130 - This case will be closed with no optometric error.

2019-1131 - This case will be closed with no optometric error.

2019-1132 - This case will be closed with no optometric error.

2019-1139 – This case was resolved.

2019-1140 - This case was resolved.

Monitored Cases:

Hoyt – No new information.

Dr. Hunt made a motion to ratify. Ms. Klein seconded the motion. The motion carried unanimously by oral vote.

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, Dropbox for September 27, 2019 meeting attachment 3 that detailed the Board's financial position at the end of June 30, 2019. The Board's cash position is \$4,374 more than last year. The Board's total income is \$5,202 more than budgeted for the biennium. Total income is \$54,835 more than last year. The fee increases have contributed to the positive financial position of the Board. Expense compared to last year are about \$7,000 less. Payroll costs are \$12,000 more than last year. The overall net income for the last year of the biennium was \$5,291.79. The net loss for the biennium was \$51,515 instead of the budgeted \$92,474.
- **Board Activities Report**
 - Licensing at the end of September 2019 was 1,152. Thirty-five new licenses were issued since the last meeting at the end of May. There were 15 new complaints since the end of April 2019. Ms. Sneed commented on the number of new licensees and the number of inactive licensees declining due to age and retiring.
- **Office Updates**
 - The office update was included in Dropbox attachment #5. Ms. Auman has been maintaining the day to day operations. Ms. Sneed gave an update that her main focus has been the new licensing system during the last quarter. She will need to get with the licensing vendor, Thentia, and finalize the last steps of implementation regarding the Board meeting module. Currently, Board meeting materials are being uploaded into Dropbox for Board member access.

BOARD MEMBER REPORTS:

Continuing Optometric Education: Dr. Louie stated he had reviewed over 80 hours of continuing education for approval. Dr. Louie met with OBO staff and Dr. Eakland from Pacific University to discuss Licensure by Endorsement options which will be discussed later under Items for Consideration. Dr. Louie also received a request from Dr. Eakland to give Pacific University staff CE credit for reviewing COPE CE courses for posting online through Pacific for accuracy, content and educational objectives. He feels it would be difficult to determine the amount of CE hours that would be eligible for credit for reviewing courses. Currently, if you are a reviewer for COPE courses, it is volunteer and no CE credit is given. Dr. Louie personally gets compensated from the Board for 10% of the total amount of hours he spends reviewing CE. He also noted that if credit were to be allowed for Pacific University reviewers then it would need to

be approved for everyone reviewing CE. He advised that CE credit not be allowed for review work. Dr. Hunt commented that she feels CE credit is for acquiring new information and that reviewers are determining information for credit which they already know. Dr. Walker suggests a letter to Dr. Eakland stating the Board does not see a reason to pursue this matter at this time.

Budget: Ms. Klein had nothing to report. Ms. Sneed reported that DAS instituted Cost of Living increases as of July 1, 2019 and since OBO follows DAS personnel policies, staff received Cost of Living increases. Dr. Walker asked if a budget amendment needed to be done because of the payroll increases. Ms. Sneed said that she has the authority to move money between account codes and will continue to watch budget to see if she needs to do an amendment later.

Legislative: A number of bills will be discussed under New Business.

Administrative Rules: No discussion.

Personnel: No discussion.

ITEMS FOR CONSIDERATION/DISCUSSION:

Dr. Jansen fee waiver request: Dr. Bradley Jansen requested a fee waiver for not reporting leaving a practice location timely. He had multiple locations listed under an umbrella location and was charged “per location” for not reporting all of them. He feels that is excessive. Dr. Tronnes feels that is a valid complaint. Ms. Sneed says our rules are very specific and state reporting must be “per location”. She suggest the Board could change the address change penalty rule from “per location” to “per legal entity”. Dr. Walker asked if there could be a maximum fee amount. Ms. Sneed said currently the fees are staggered over a seven year period. – the first violation fee is \$75, the second is \$100 and subsequent violations are \$200 each. Ms. Sneed suggested we could make a max fee of \$500 in a seven year period. She asked the Board if the maximum would only be for location change fees.

Dr. Walker’s opinion regarding this matter was he would consider this one failure and not penalized for each location. AAG Lindley worries about OD’s that have been fined in the past coming back to the Board for their money back. Ms. Sneed agreed and stated that if the Board wanted to make a rule change it should be from here forward. Dr. Louie agreed with a maximum amount charged for not reporting when leaving multiple locations. Ms. Sneed is concerned about how the new system will assess the fees correctly for multiple locations and a maximum fee amount. Ms. Sneed asked the Board for clarification on what they are looking for regarding a rule change. Dr. Louie proposed adding wording to the rule regarding OD’s who practice at multiple locations under a single entity and potentially a limit to the fee. Dr. Walker said this will be tabled until the next Board meeting and information is gathered.

Introduction to the Board meeting proposal/rule change with public comments: Dr. Louie recapped the proposal that would require new licensees to attend an in-person introduction to the Board meeting. Public comment has been against such a proposal. The Board’s intent with the proposal was to minimize the incidents of inability to follow Board rules and potential resulting penalties. Dr. Walker said there was some good feedback from public comment. He acknowledged that logistics for those practicing in rural areas can be a challenge as well as the loss of income from being out of the office while attending the required meeting. Ms. Sneed

reiterated that the original proposal was that the meeting must be completed within the first 12 months of initial licensure for new licensees but that it had been extended to 18 months. The Board had discussed tying the training in with a GWCO presentation for easier accessibility to attend. Ms. Sneed feels it is important to have a chance to meet face-to-face with new licensees and for the licensees to meet staff. OBO staff is still getting licensees reporting COPE CE courses which are not acceptable by the Board and which are listed on the CE reporting pages but not being read. Using technology to provide an introduction had been suggested but Ms. Sneed pointed out that technology costs money and takes staff, which OBO does not have. She said the rules have been filed as proposed and so the Board needs to decide to leave them as is or choose to modify them, in which case the rules would need to be filed again. If the Board takes no action then nothing happens.

Janet Baker, OOPA Director, commented via conference call that OOPA feels this proposal causes a hardship on a majority of licensees. OOPA feels it is a limited problem and the solution is to crack down on the licensees who are disregarding the rules by enforcing the fees and penalties. Dr. Louie suggested putting the rule on hold and concentrate on giving a course at Pacific University, GWCO and elsewhere in the state on ethics. AAG Lindley thought about the Board considering having those who are not following the rules to retake the Oregon law exam. Ms. Baker said she felt the OOPA members would support that suggestion. At the conclusion of the discussion, Ms. Sneed said she will focus in the next 12 months in making a presence at optometric groups in the state such as Lane Optometric Association, OOPA, Eastern Oregon optometric organization, PMOS and in Southern Oregon.

Licensee Facility vs. Company name: Ms. Auman received an inquiry from a licensee who works in a Vision Works that is not her practice name. She was wondering how she should list her practice on her license – with Vision Works or under her own name. Ms. Sneed says which would help the public better to find their OD? Dr. Walker said that some licensees work as independent contractors within a company name such as Wal-Mart. He said we need to do more research into this matter and see what possibilities there are for printing licenses.

Endorsement Licensure Options: Prompted by a potential applicant who took the TMOD prior to 2002 and had been practicing in another state without incident, Dr. Louie, Dr. Tronnes and Dr. Eakland from Pacific University met with OBO staff in September to discuss the options for licensure by endorsement instead of taking the TMOD. Currently, OBO rules state if a licensee took the TMOD test portion prior to 2002, then they must take a 23 hour didactic AOT course. If the licensee has never taken the TMOD, then they are required to take and pass a 23 hour didactic course plus a 100 hour TPA course as well. Pacific University's COPE approval for their 23 hour AOT course has expired. It will take between 12-18 months for them to rewrite and submit a new course for approval. Dr. Louie informed the Board that Dr. Eakland said that in the interim, he could open up online the old course which was approved by the Board previously for applicants to take and pass to qualify for the TMOD part. The 23 hours would not qualify for continuing education hours. All 23 hours of the modularized course would need to be taken and a proctored exam passed to meet the TMOD requirement. Ms. Sneed confirmed that the Board consensus was to OK Pacific University to open up the 23 hour didactic AOT online course for applicants who have taken the TMOD prior to 2002 to meet the AOT licensing requirement but that the 23 hours will not qualify for CE credit.

SB 854 & 855- Immigrant and refugee licensees and use of TIN vs. SSN: Ms. Sneed informed the Board members that these Senate bills were new legislation passed that looked at

immigrants and refugees from other countries with technical degrees and the challenges they face in obtaining licensure in Oregon. The bills are currently just gathering information about health agencies' licensing challenges and our current process. She researched with ARBO and NBEO requirements for applicants who are not ASCO graduates from optometric schools in the United States. OBO can sponsor such applicants so they can take the NBEO exams within 12 months and once they pass, Oregon could decide to license them. The challenge, Ms. Sneed said, would be that even though they were licensed in Oregon, they could not get licensure anywhere else. Regarding the TIN number versus a Social Security number, OBO's new licensing system accepts a nine digit number and will accept either one.

2020 Board Meeting Schedule:

Friday, February 7, 2020 – AAG Lindley has a conflict.

Friday, May 8, 2020 – AAG Lindley has a conflict.

Friday, August 14, 2020

Friday, November 6, 2020

Ms. Sneed will propose alternative dates at the next meeting.

NEW BUSINESS:

Updated Board Policies & Procedures – A motion was made by Dr. Hunt to approve the DAS Personal Auto Use policy (see Dropbox attachment #11). Dr. Louie seconded the motion. The motion carried unanimously by oral vote.

Updated Delegated Authority letter: Dr. Hunt made a motion to approve changes to update the Delegated Authority letter (see Dropbox attachment # 12) to authorize Ms. Sneed to file on behalf of the Board. Ms. Klein seconded the motion. The motion carried unanimously by oral vote.

Rule Change Proposals:

- **Retired Volunteer Status License** – Dr. Walker tabled the topic for now.
- **Military fee waiver** – (Dropbox attachment #14) Oregon currently waives renewal and late fees for active military licensees. The Department of Defense recently had a change in policy requiring active military to have at least one unrestricted paid license. If Oregon is the only license the licensee has, they have been contacting us to waive the fee waiver. Ms. Sneed proposes they still denote that they are military for data collection purposes and that a checkbox be added on the renewal form that they are choosing to waive the waiver and pay the fee. Ms. Sneed asked the Board to review the draft rules before she files the rule change.
- **Military Spouse Temporary license** - Ms. Sneed explained about another bill that was passed regarding military spouses that are OD's. (See Dropbox attachment #15) Oregon already had a fast track process for military spouses. Ms. Sneed made the few changes to the rules to comply with the new bill.
- **Telehealth rule-making - Passage of SB 129:** (see Dropbox attachment #16) AAG Lindley suggested Ms. Sneed add in section 020-0050 under Scope of Practice the wording "same standard of care as if in an office" to be more specific in addition to an optometrist following the rules and laws of Oregon. Ms. Sneed will make the change to the rules and send to AAG Lindley and Janet Baker, Director of OOPA, for review and comments before filing.

- **CE Rules Changes:**

- **Cultural Competence rule-making:** Ms. Sneed reviewed HB 2011 requiring at least one hour of cultural competency CE be completed every other license renewal period beginning 6/30/2021. Ms. Sneed highlighted that the law states at least one hour and asked the Board is they wanted to note a maximum amount of cultural competency hours. Dr. Louie said licensees could take 9 hours of cultural competency in addition to the required 9 hours of TMOD for renewal. OHA is working on several cultural competency courses to be offered in addition to a course already approved by the Board.
- **Pain Management rule-making:** HB 2265 requires optometrists to take a one -time one hour pain management course through Oregon Health Authority beginning 1/1/2020. Dr. Louie feels the one time one hour Pain Management CE course is valuable enough to be in addition to the required 18 CE hours for renewal. Ms. Sneed said the bill reads that it is part of the 18 hour requirement. She asked the Board for their opinion as to whether the hour should be considered TMOD continuing education. Drs. Louie and Tronnes agreed it should be a TMOD hour. The course is administered online through the Oregon Pain Management Commission. Ms. Sneed will include the information and access to the course on the OBO website and through the renewal system.

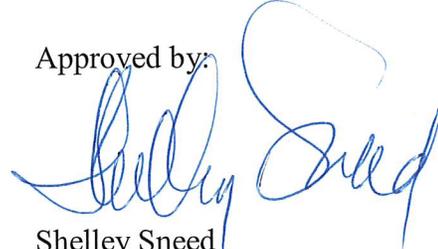
ADJOURNMENT: There was no further business to come before the Board, and President Walker adjourned the meeting at 1:09 p.m.to continue with the Board Strategic Planning session

Minutes prepared by:



Melissa Auman
Administrative Coordinator

Approved by:



Shelley Sneed
Executive Director