



## OREGON BOARD OF OPTOMETRY

August 28, 2020 Board Meeting

### PUBLIC SESSION MINUTES

**Board Members Present:** Derek Louie, OD, President  
Lauren Hunt, OD, Vice-President  
Ami Halvorson, OD  
Douglas Walker, 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 via Skype for Business:**

Craig Bowen, OD	Aaron Severson, OD
Kristen Neville, AOTA	Michael Falcon, OT
Caitlyn Ozier, Attorney	David Jacobs, MD
	Chris Markus

**CALL TO ORDER:** Dr. Louie called the meeting to order at 9:04 a.m. via Skype for Business due to COVID-19. The Public Session was adjourned at 9:04 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 12:31 p.m.

**MINUTES:** The Board reviewed the minutes of the May 18, 2020 Public Session. Dr. Hunt made a motion that the Board approve the minutes as presented. Dr. Walker 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.

**PUBLIC COMMENT:** Kristin Neville, Occupational Therapy Association of Oregon, typed via Skype that she had a question about additional language regarding Vision Therapy. Dr. Louie said that she will be able to comment when we discuss item #6 under Items for Consideration in the agenda.

## **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
- **Reinstate to Active Status** - None
- **Reactivate Inactive to Active Status** –
  - April Napier, OD

**Candidates for Examination and Licensure** - The 42 optometrists listed in Open Regulate Governance Board Meeting Agenda item 3.2 met all the requirements for licensure and were approved by the Executive Director since the last Board meeting.

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

## **ACTIONS ON EXECUTIVE SESSION:**

Existing Complaints:

**2017-1044** – This case will remain open.

**2019-1111** – This case will remain open.

**2019-1134** – This case will remain open.

**2019-1154** – Dr. Louie made a motion to accept the amended proposed order. Dr. Hunt seconded the motion. The motion carried unanimously by oral vote.

**2020-1158** – This case will remain open.

**2020-1162** – This case will remain open.

New Complaints:

**2020-1178** – This case will remain open.

**2020-1179** – This case is closed with no optometric error and a letter to the patient.

**2020-1180** – This case is closed with a motion from Dr .Louie to ratify the final order. Dr. Hunt seconded the motion. The motion carried unanimously by oral vote.

**2020-1181** – This case is closed with a letter of concern to both the OD and the patient.

**2020-1182** – Dr. Louie made a motion to issue a notice of penalty with a letter of reprimand, fine and additional CE requirements. Dr. Halvorson seconded the motion. The motion carried unanimously by oral vote. This case will remain open.

**2020-1183** – Dr. Louie made a motion to issue a notice of penalty with a letter of reprimand, fine and additional CE requirements. Dr. Hunt seconded the motion. The motion carried unanimously by oral vote. This case will remain open.

### **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 in Open Regulate Governance Board Meeting item 3.1 that detailed the Board’s financial position at the end of June 30, 2020. The Board’s cash position was \$62,000 more than last year mainly due to lag time between DAS payroll processing and paying the associated costs. DAS has now caught up their billing and the past due payroll payments have been made. The profit and loss statements show the Board’s total income is \$10,000 more than last year and \$16,000 less than budget. Our expenses are about \$15, 000 less than budgeted. The overall net loss for the first year of the biennium is \$5,800.
- **Board Activities Report**

Licensing as of August 4, 2020 was 1,163, which included an increase of 20 active licensees and a loss of 7 inactive licensees. A total of 42 new licenses were issued since the last board meeting that needed to be ratified. Dr. Louie made a motion to ratify the 42 licensees and one license reactivation. Dr. Walker seconded the motion. The motion carried unanimously by oral vote. Dr. Halvorson approved 20.5 hours of continuing education using the new Thentia CE approval system.
- **Office Updates**
  - The OBO staff has continued to successfully operate remotely from their home offices since March 16, 2020. Staff has been able to process a large number of licenses, renewals and other routine functions timely and efficiently. Thentia was able to implement the new online CE course submittal portal since the last Board meeting. OBO staff has been working on the licensee record scanning project, going into the office for half days once a week on scattered days.

### **BOARD MEMBER REPORTS:**

**Continuing Optometric Education:** Dr. Halvorson reported that she has been utilizing the new system for CE approval through Thentia and it is working well.

**Budget:** There was no budget committee report made.

**Legislative:** Dr. Walker asked if anyone had any legislative questions. Ms. Sneed asked him if he knew if OOPA was talking about NBEO testing options due to COVID. Dr. Walker said he was not aware of any formal discussions.

**Administrative Rules:** Dr. Hunt pointed out #6 under Items for Discussion in regards to Vision Therapy and clinical observation to be discussed later in the agenda.

**Personnel:** No discussion

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

- **Rulemaking review and approval – adding language regarding Vision Therapy in scope of practice** – Ms. Neville of the AOTA commented that the AOTA was asking for an additional amendment to clarify that the language would not interfere with another profession's ability to provide services in regards to vision as long as it was within that profession's scope of practice. Occupational therapists provide services within an OD's treatment program to folks with low vision issues. AOTA felt it was important to put this clarification into the rule language. Mr. Falcon, a clinical Occupational Therapist, stated that it is common for OT's to use Vision Therapy and it is currently within their scope of practice. OTAO, he said, wants to make sure that the rule language does not exclude occupational therapists. Dr. Louie asked Mr. Falcon if OT's usually consult with OD's in regards to treatment plans. Mr. Falcon said yes, quite often they even send for referral to neuro optometrists. Dr. Hunt inquired if there is anything explicitly written in the OT rules that state vision therapy/rehabilitation is within their scope of practice. Ms. Neville stated that according to OAR 339-01-0005 under the definition of occupational therapy, it states that visual factors are included within their scope of practice. Dr. Hunt asked Ms. Lindley if she has seen this type of request from OTAO at any other time. Dr Hunt was wondering if it is within occupational therapist's scope then why do we need to write it into our rule. Ms. Lindley said she has not seen it put into a rule before. She has seen something similar added into statute but not into a rule. She is not sure if OBO needs to write it into our rule because OT' rules already cover it. Ms. Sneed reiterated that OBO's intention was not to exclude other licensed healthcare professionals from practicing vision therapy within their scopes of practice. Ms. Sneed also brought up that any changes made to the rule would require the rule making process to begin again. Dr. Hunt prefers to have the rule stand as written. Drs. Louie, Walker, Halvorson and public member Renee Klein verbally all agreed to have the rule stand as written. With board agreement on the rule as written, Ms. Sneed will file permanent rules.
- **CE credit for clinical observation** – Dr. Edwards, OD, submitted a request for credit for clinical observation for such things as contact lens or binocular vision practices much like OBO's surgical CE observation. Dr. Hunt stated that the protocol would be the same as with surgical observation, allowing a total of 5 hours between surgical and clinical observation. Dr. Louie wants to make sure that clinical partners do not get credit for observation in their own clinics. Dr. Halvorson suggested that a licensee's own place of practice would be excluded from being an acceptable place of observation. Ms. Sneed asked the board to consider making an amendment to the rule, it will be reviewed by Drs.

Hunt and Halvorson and then she will file rule changes for review at the November meeting. All board members agreed.

- **Strategic Plan check-in** – Ms. Sneed asked for help from any of the Board members with firming up the strategic plan with strong plans for moving forward. Dr. Louie and Dr. Hunt offered to help Ms. Sneed.
- **ARBO annual meeting update** – Dr. Louie and Ms. Sneed attended the ARBO annual meeting virtually. (See notes in Governance Board Meeting item #6.4) Dr. Louie questioned whether, in the future, the Board needs to spend money on physically attending these meetings or not. Dr. Walker feels that sometimes the value of attending in-person is the networking with others in the profession. Dr. Hunt asked Ms. Sneed about a note regarding ARBO’s new COPE categories and if that is going to require new rule making. Ms. Sneed said we are just waiting on more information. Dr. Hunt asked Dr. Louie about COPE categories which are currently unacceptable; EJ, PM, and PB, and whether we will be looking into whether any of those should be changed in status. Dr. Louie said it might be time to reexamine specifically accepting Public Health courses.
- **NBEO Exam access – AOA article** – Information only.
- **Review ACOE actions** – Information only.
- **Upneeq Drug Approval** – Ms. Caitlyn Ozier, attorney with King & Spalding, representing RBL pharmaceuticals regarding the drug Upneeq had submitted a letter to the Board. Upneeq is a FDA approved ophthalmic topical drug for droopy eye lids. Her client is wanting to ensure that the drug falls into category 16 as “other” in the formulary and is approved by the Board for optometric use. Dr. Walker asked Dr. David Jacobs, MD, about the form of application. Dr. Jacobs stated in the study it was one drop applied once daily in the morning for 12 weeks. Dr. Louie asked if the efficacy rates were through 12 weeks. Dr. Jacobs said the efficacy was through 6 weeks for improvement. Dr. Louie asked if there were any adverse reactions. Dr. Jacobs said there were three serious adverse reactions in the entire study and deemed not related to the study drug. Dr. Halvorson asked about testing on glaucoma patients. Dr. Jacobs said glaucoma patients were included in the study and no ocular increase in pressure was noted. Dr. Walker questioned Ms. Lindley about the Board’s current rule about topical formulary. Ms. Lindley said that category 16 in the formulary is a catch-all category for “other agents” as approved by the Board. She said the Board must make sure the drug does not fall into unallowable agents as listed in 852-080-0030. Dr. Louie and Dr. Hunt did not feel it was unallowable. Ms. Lindley suggested asking the Council on Pharmaceutical Formulary to update the formulary to include this and other new optometric drugs. Dr. Walker confirmed that the Board accepts Upneeq as an acceptable drug and it is within optometric scope of practice and currently falls into category 16 of the listed OBO formulary.
- **Rolston scope of practice question** – Dr. Rolston, OD, posed a question to the Board as to whether an ATI licensee can do Chalazion incisions, remove skin tags, lance conjunctival cysts, perform incision/biopsy or steroid eyelid incisions. Ms. Lindley said

that Oregon optometrists' scope of practice does not include invasive or laser surgery. Dr. Walker said as long as an OD does not have to close with a suture the procedure is within scope of practice. Ms. Sneed will respond that the listed procedures appear acceptable but will tell the OD to reference OAR 852-080-0030.

#### **NEW BUSINESS:**

- **Review of Continuity Plan** – Ms. Sneed reviewed the continuity plan which was adopted by the Board several years ago. It was very helpful with the COVID-19 situation. Ms. Sneed updated the links and information due to the changes in our current licensing system and is seeking approval of the updated plan. Dr. Walker asked what the most challenging part of the plan. Ms. Sneed said that recently staff purchased new computers and that she had purchased a laptop and Ms. Auman was purchased a desktop computer. Ms. Auman had several pieces of equipment in addition to the computer that had to be loaded up and transferred to her home; regardless, the transition went very smoothly. Ms. Sneed said that as soon as Thentia completes a final module, then staff will update office processes for continuity. Dr. Hunt made a motion to accept the updated Continuity Plan. Dr. Louie seconded the motion. The motion carried unanimously by oral vote.
- **Office lease extension** – Ms. Sneed informed the Board that the office lease is coming up. She said that as long as we have as many paper files as we have, we need the space for file cabinets until we can scan the files. She talked with Jim Denno, Executive Director of Oregon Travel Information Council, the agency OBO subleases from, and he is confident that they will be staying in their current location at least through the end of the next biennium. If, at the following biennium, they need to combine their two floors of offices into one floor, then OBO would need to consider a new location. Ms. Sneed proposed moving forward with our current sublease. Dr. Walker asked if the lease extension is for one year. Ms. Sneed said it is a ten year extension. Dr. Louie said it seems like a long time to commit. Dr. Hunt asked if there is a penalty for terminating early. Ms. Sneed proposes a three year sublease with OTIC and then reevaluate at the end of that time. Drs. Louie, Halvorson and Walker agreed.
- **Licensee complaint (Harbison)** – Dr. Louie feels Dr. Harbison should not get a refund for her renewal. Dr. Hunt said it is not our policy to issue refunds. Ms. Klein said it is clear in our rules that there are no refunds. Ms. Sneed will send Dr. Harbison a letter stating the Board is not able to honor her request for a refund.
- **Proposed 2021 meeting schedule** –
  - Friday, February 5, 2021 (Ms. Lindley cannot meet Feb. 5, 2021. Meeting will be rescheduled to February 12, 2021.)
  - Friday, May 7, 2021 (Tentative)
  - Friday, August 6, 2021 (Ms. Lindley cannot meet Aug. 6, 2021. Meeting will be rescheduled to August 27, 2021.)
  - Friday, November 5, 2021
- **OHA SHIP** – Information only.

#### **FUTURE MEETINGS:**

- Friday, November 6, 2020

**ADJOURNMENT:** There was no further business to come before the Board, and President Louie made a motion to adjourn the meeting. Dr. Walker seconded the motion. The meeting was adjourned at 2:21 p.m.

Minutes prepared by:

Approved by:

Melissa Auman  
Administrative Coordinator

Shelley Sneed  
Executive Director