



## OREGON BOARD OF OPTOMETRY

May 7, 2021 Board Meeting

### PUBLIC SESSION MINUTES

**Board Members Present:** Lauren Hunt, OD, President  
Ami Halvorson, OD, Vice-President  
Derek Louie, OD  
Patrick Ayres, OD  
Laurie Goolsby, Public Member

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

**Board Legal Counsel:** Lori Lindley, Assistant Attorney General

**Others in Attendance:** Lynn Ueshiro, OD    Crystal Edison, OD    Alex Hutzell, OD

**CALL TO ORDER:** Dr. Hunt called the meeting to order at 9:10 a.m. The meeting was held via MS Teams due to COVID-19. Public Session was adjourned at 9:10 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.

**MINUTES:** The Board reviewed the minutes of the February 12, 2021 Public Session. Dr. Ayres 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**
- **Reactivate Inactive to Active Status –**
  - Lydia Stender, OD
  - Rebecca Chung, OD

**Candidates for Examination and Licensure** - The 10 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. Hunt 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:**

### **Existing Complaints**

**C2019-1111** – This case will remain open.

**C2019-1134** – This case will remain open.

**C2019-1158** – This case will be closed with no optometric error.

**C2019-1182** – Dr. Louie made a motion to close this case and ratify the stipulated order. Ms. Goolsby seconded the motion. The case will be closed.

**C2019-1183** – Dr. Ayres made a motion to close this case and ratify the stipulated order. Dr. Halvorson seconded the motion. The case will be closed.

### **New Complaints**

**C2021-1210** – This case was administratively closed.

**C2021-1211** – This case was administratively closed.

**C2021-1212** – This case will be closed with no optometric error.

**C2021-1213** – This case was administratively closed.

**C2021-1214** – Dr. Louie made a motion to close this case and ratify the stipulated order. Dr. Ayres seconded the motion. The case will be closed.

**C2021-1215** - This case will be closed with no optometric error.

**C2021-1216** – This case will be closed with no optometric error.

**C2021-1217** – This case will remain open.

**C2021-1218** – This case will remain open.

**C2021-1219** – This case was administratively closed.

**C2021-1220** – This case will be closed with no optometric error.

**C2021-1221** – This case will remain open.

**CORRESPONDENCE:** None

### **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 the Open Regulate Governance 5/7/2021 Board Meeting item 3.1 that detailed the Board’s financial position at the end of March 31, 2021. The balance sheet shows the Board has nearly \$11,000 more than last year. Ms. Sneed informed the Board that the numbers look off because of DAS payroll processing. It is taking several months for DAS to bill us for payroll costs. There is nearly \$67,000 in accounts payable that is owed to DAS for payroll costs incurred but not billed. By next month costs will be more aligned Ms. Sneed said. The Boards total income is \$7,000 more than last year and \$7,700 less than budget. There is over \$9,000 in miscellaneous revenue and interest income that wasn’t budgeted. Much of this was from discipline and civil penalty revenues. The overall net loss to date is \$12,973. It is about \$7,000 less than budgeted. Dr. Hunt made a motion to review and approve the financial report. Dr. Halvorson seconded the motion. The motion carried unanimously by oral vote.
- **Board Activities Report**
  - Licensing at the end of April 2021 was 1,139, which is 5 licensees less than this time last year. Thirty seven applications were received since July 1, 2020. Ten new licenses were issued and needed to be ratified. There were two reactivations from inactive to active status. Dr. Halvorson reviewed and approved 57 hours of CE courses. Dr. Hunt made a motion to ratify these actions. Dr. Louie seconded the motion. The motion carried unanimously by oral vote.
- **Office Updates**
  - OBO staff continues to keep daily operations going remotely from home. Office staff continues to work on licensee record scanning with each staff member spending half a day a week in the office. Dr. Louie asked if it was possible to reduce office space as

a result of the scanning project. Ms. Sneed said it takes a lot of time to scan each individual file. She might look into hiring a temp to help scan. Ms. Sneed stated she was involved in a SIBA subcommittee that interviewed and selected a new financial reviewer for the Boards. Moss Adams was the preferred contractor.

## **BOARD MEMBER REPORTS:**

**Continuing Optometric Education:** Dr. Halvorson reviewed 57 hours of CE courses.

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

**Legislative:** Dr. Ayres gave a legislative update on several bills which died in the legislative process. One bill would have given OD's permanent authority to give vaccinations and the other bill was to expand the scope of practice which received pushback from the ophthalmology community. OOPA is optimistic for next year's legislative session. Dr. Louie asked if it was a coincidence that the legislature "ran out of time" or was it intentional. Dr. Ayres said perhaps it was strategic but he could not say for certain.

**Administrative Rules:** Dr. Hunt will discuss later in the meeting.

**Personnel:** There was no Personnel committee report.

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

- **Strategic Plan review** – No new information.
- **KP request about clinical and surgical observation** – Currently the rules are written that employees cannot observe at their own place of practice or related sites. Dr. Halvorson said it has already been decided that an OD cannot do observation where one works. She feels it is not right for an OD to get paid at work while getting continuing education. Dr. Hunt said that her opinion is that CE is meant to open up opportunities for learning outside of work. Dr. Hunt asked Dr. Halvorson, who works for a PCLI, how clinical and surgical observation works in her environment. Dr. Halvorson said at PCLI they do not qualify for CE hours if it is part of their job. Dr. Ayres suggested a stipulation that CE must be "offsite" to eliminate getting credit for being at your own work location. Dr. Hunt asked Dr. Ayres if he felt independent OD's might feel they had a disadvantage over OD's who work in large organizations and didn't have access to on site observation. Dr. Ayres said he did not believe they would feel disadvantaged. Dr. Hunt asked Dr. Halvorson to write up some ideas to present at the next Board meeting.
- **Administrative Rules filings:**
  - **CL Prescriptions rule changes** – Held from February to see if the FTC passes the federal changes. Dr. Louie said the rule changes are moving forward. Ms. Sneed said the rules filing just needs an effective date and then can file permanent rules. Dr. Louie suggested the Board put Oregon rules in line with Federal rules. Dr. Hunt suggested 3 months ahead to align paperwork. Dr. Ayres felt 90 days was reasonable. Dr. Hunt made a motion to file permanent rules to comply with FTC rules effective in 90 days. Ms. Goolsby seconded the motion. Dr. Ayres raised the question as

to whether the patient acceptance must be a paper document or a verbal acceptance. Dr. Louie responded that his HR department was trying to determine if the FTC intent was a verbal or paper acceptance as well. Following the discussion, the motion passed unanimously by oral vote.

- **Draft rules to require quiz with online CE (Pre-recorded or non-interactive)** – Ms. Sneed inquired of Board members how many questions to review per hour of online CE should there be. The Board decided five questions per ½ hour of CE or 10 questions per one hour. Dr. Hunt made a motion to refile rules with the question revisions. Dr. Ayres seconded the motion. The motion passed unanimously by oral vote.
- **Remove 30 day approval limitation** – Dr. Hunt said this rule would give OD's more than 30 days to get material gathered for non-COPE CE approval. Ms. Sneed shared that she has had COPE approved courses submitted but they were from non-COPE approved sponsors so the OD has had to ask the sponsor to get the event COPE approved or cannot submit the hours. Ms. Sneed suggested a 12 month period. Drs. Louie and Halvorson and Ms. Goolsby agreed with 12 months. Dr. Hunt made a motion to authorize Ms. Sneed to change the rules to 12 months. Dr. Ayres seconded the motion. The motion passed unanimously by oral vote.
- **Draft proposed rules to clarify gross ignorance and inefficiency** – AAG Lindley started off the conversation with saying this is a bare bones start to reviewing and clarify the Board's language regarding gross ignorance and inefficiency. Ms. Sneed said that the Board had had several standard of care cases lately and that a licensee was very upset by the language in the rule. AAG Lindley said the language is in the statute and cannot be deleted. Dr. Louie suggested a subsection that would better clarify where the Board looks might help licensees. AAG Lindley said that she and Ms. Sneed have been working on better wording and that no other board has the language of "gross negligence and inefficiency". She suggested Ms. Sneed check with other state boards for their wording. Ms. Sneed will query other boards and will research their statutes.
- **SB 758 adds OD's to medical marijuana** – Ms. Sneed will continue to watch this bill. It has been sent to the Senate Ways & Means committee.

## NEW BUSINESS:

- **OBO acceptance of AMA PRA category 1 courses held virtually during COVID** – Dr. Halvorson said that currently the rule is in person for credit. Dr. Louie added that at the time the rule was made the intent was live in person so not have any questions but now, during COVID, he feels live or in person is acceptable. Ms. Sneed said she can still file COVID rules exceptions and ask to have it retroactively filed to the date of the Governor's Executive Order to allow acceptance for live virtual training or in person.
- **PD (pupillary distance) request** – Dr. Hunt reminded the Board that a request from a member of the public for pupillary distance numbers to be included in prescriptions was discussed at the last Board meeting. The Board decided that the PD measurement was best determined by an optician after the patient had chosen

a frame. Dr. Hunt had commented she did not feel that measuring PD was part of critical care for OD's. Ms. Sneed had replied to the public member that the Board, after discussing the matter, had decided to not require PD measurements on eyeglass prescriptions. The public member who originally made the request was disappointed in the decision and requested again that the Board re-explore amending OAR 852-020-0029 or otherwise issuing rules that require an eyeglass prescription in Oregon to include the pupillary distance value if the patient requests it. Dr. Louie said in his opinion this would place an extra burden on OD's and not on others who write prescriptions. Dr. Hunt added that she thought it was not advisable to make a permanent rule for a temporary COVID situation. Dr. Louie asked if there was an entity that regulates spectacles. Dr. Hunt thought perhaps a consumer protection agency. She asked Ms. Sneed to respond to the inquiry and make suggestions as to where the public member might direct his concerns outside the Board.

- **Procedure question regarding paracentesis** – OOPA asked the Board if ocular paracentesis is an allowable procedure on an emergency basis. Dr. Halvorson felt that if it was an emergency situation with high pressures and a potential for blindness resulting in a patient and that ophthalmology was not available, that it would be acceptable for an OD to perform paracentesis. She said an OD can even “burp” the wound to relieve pressure without the use of a needle. Dr. Ayres said paracentesis is not technically “entering the eye”. Dr. Louie asked if the Board could say it is allowable sometimes and based on certain situations or locations. Ms. Sneed asked if the AOA started publicizing that the OBO is allowing this, how does the Board protect themselves. AAG Lindley said she would feel better taking some time to investigate past legislation and DOJ advice regarding invasive procedures. She suggested talking to Dr. Erickson and Dr. Buckingham at Pacific University who both teach injection courses. The matter will remain open for further discussion at the next Board meeting per Dr. Hunt.

#### **FUTURE MEETINGS:**

- Friday, August 27, 2021
- Friday, October 29, 2021

**ADJOURNMENT:** There was no further business to come before the Board, and President Hunt adjourned the meeting at 2:09 p.m.

Minutes prepared by:

Approved by:

Melissa Auman  
Administrative Coordinator

Shelley Sneed  
Executive Director