



## OREGON BOARD OF OPTOMETRY

December 6, 2019 Board Meeting

### PUBLIC SESSION MINUTES

**Board Members Present:** Douglas Walker, OD, President  
Derek Louie, OD, Vice-President  
Lauren Hunt OD  
Ami Halvorson, 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:** David Wolf, Interim OOPA Director

**Attendance via conference call:** Chris Pierce, OD  
Cameron Hoover, OD

**CALL TO ORDER:** Dr. Walker called the meeting to order at 9:01 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 12:28 p.m.

**MINUTES:** The Board reviewed the minutes of the September 26 & 27, 2019 Public Session. Dr. Louie made a motion that the Board approve the minutes as presented. Ms. Klein 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 Active Status – None**
- **Reinstatement to Inactive Status - None**
- **Reactivate Inactive to Active Status – None**

**Candidates for Examination and Licensure** - The 6 optometrists listed in Dropbox 3.2 under Board Stats and Ratifications for December 6, 2019 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 will be monitored.

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

**2019-1115** – This case will be closed with no optometric error and a letter of concern to the OD regarding appropriate boundaries and request licensee take a board approved ethics course of at least 4 hours.

**2019-1116** – Notice of proposed discipline with a \$750 civil penalty.

**2019-1126** – This case will be closed.

New Complaints:

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

**2019-1145** – This case will be closed ratifying staff's decision.

**2019-1146** – This case will be closed with no optometric error and a letter of concern to the OD.

**2019-1147** – This case will be closed with no optometric error and a letter of concern to the OD.

**2019-1148** – This case will be monitored.

**2019-1152** – This case will remain open.

**2019-1153** – This case will be closed.

**2019-1154** – This case is moving forward to ratify notice of penalty.

**2019-1155** – This case will be closed

## Monitored Cases

**14-07-02** -- Board accepts the submitted volunteer hours.

Dr. Hunt made a motion to ratify the actions in Executive session. 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 3.1 for December 6, 2019 meeting attachment, which detailed the Board's financial position at the end of October 31, 2019. The Board is running close to budget. The Board's total income is \$19,000 more than last year. The Board has about \$6,000 more in cash and accounts receivables. The Board's expenses compared to budget are about on budget. The overall net loss for the year to date is around \$7,500. There have been some expenses due early in the year such as DAS Risk Management expenses and fees for technology. The bill for the financial review has not been received yet. Ms. Sneed said the budget is looking good.

- **Board Activities Report**

Licensing at the end of November 2019 was 1,148 which included an increase in active licensees of 11 and a decrease in inactive licensees of 42. Ms. Sneed stated that an aging demographic of licensees deciding to not continue practicing is contributing to the rise in lapsed and/or retired licenses. Six new licenses were issued by examination since September 2019. Dr. Louie asked about the reason CE Audit compliance for October 2019 was only 62.5%. Ms. Sneed said it is simply licensees not responding timely or missing documents. The CE Audit letter expressly states the timeline for response.

- **Office Updates**

The office update was included in Dropbox 3.3 for December 6, 2019. Ms. Sneed has been helping several other Boards look into the Thentia licensing system and assist them with the OSCIO approval process. OBO staff is moving to DAS payroll services. Their costs are lower than our current online payroll system. DAS will run OBO's first payroll on February 1, 2020 for January payroll.

## BOARD MEMBER REPORTS:

**Continuing Optometric Education:** The continuing education offerings approved since the last meeting were presented to the Board in Dropbox 3.2 for December 6, 2019. Dr. Louie stated he reviewed and approved over 60 hours of CE. Dr. Louie attended a PMOS meeting where a discussion regarding the acceptance and non-acceptance of nontraditional CE programs put on by medical doctors/ophthalmologists commenced with an attendee. His opinion is that the rules are the rules. MD associations provide CE in a different format. Dr. Louie said he is not disputing the validity of the education they provide, our standards for OD's are just higher than for MD's. They recognize public health courses as a category, we do not. Dr. Louie feels if we allow MD CE, it could affect optometric education currently being offered. Dr. Halvorson stated she gets great information from attending MD CE events. Dr Walker asked if the Board might

allow for a new CE category for medical continuing education with a maximum amount of hours allowable. Ms. Sneed said further discussion needs to be done around what would qualify and would they be Board approved. Dr. Walker suggested Dr. Halvorson and Dr. Louie work together to gather more background information on the matter. They both agreed to collaborate.

**Budget:** Ms. Klein had no budget committee report to share as budget information was previously discussed in the Executive Director's report. Dr. Louie confirmed the net loss of \$9,000. Ms. Klein corrected Dr. Louie and said that the net loss was around \$7,500 and is less than budgeted.

**Legislative:** Ms. Sneed submitted the 2020 Legislative calendar for informational purposes only if the Board were to initiate legislation, which she said OBO is not.

**Administrative Rules:** No discussion

**Personnel:** This position will be filled by Board member Ami Halvorson, OD.

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

**Vision Therapy Update** – Dr. Gabby Marshall shared through Dr. Hunt a report from the Utah Board of Optometry regarding Vision therapy and its role in optometry. Dr. Marshall inquired about a potential statute change to include vision therapy for Oregon optometrists in aiding with insurance claims. Ms. Sneed said that the Board does not deal with insurance but perhaps we make it clearer that vision therapy falls within an ODs scope of practice. AAG Lindley commented that if it treats the eye, then isn't it covered under scope of practice? Ms. Lindley reminded the Board that if they feel vision therapy falls within their scope of practice, then they can expand the scope. Ms. Klein noticed that the Utah Optometry Board report suggested that the regulation of Vision Therapists be brought under the optometry board. She sees this as a huge undertaking that would certainly require statute and other changes if Oregon decided to do the same. Dr. Walker asked Dr. Hunt if she would reach out to the Utah Board to gather more information. Ms. Sneed asked if there was an interest in drafting a rule change to include vision therapy in the scope of practice and that it can be delegated to trained staff. Dr. Walker suggested more work be done before the next meeting. Dr. Hunt will draft some rule language before the next Board meeting.

**Retired Volunteer Status License** –Dr. Doug Smith from southern Oregon requested that the Board consider creating a volunteer license based on the Oregon Medical Board Emeritus License model. Dr. Louie was not opposed to the idea but felt the CE requirement should remain the same as for active licensees. He questioned about how records would be kept and what would happen if the OD decided to go active status again. He said that when he has worked in the Casey Eye Institute mobile van that the records go with the patient. Ms. Sneed commented on the fee Dr. Smith suggested of \$75. She said our fee would be \$227 because many of the requirements for volunteer licensure will be the same as an active status such as tracking CE. OBO would be responsible for assuring no compensation was being received. Ms. Sneed will send out a survey to all licensees to determine the level of interest in a Retired Volunteer status license. Dr. Walker suggested seeing if other boards are considering this type of status before OBO pursues the matter.

**Rule Change Approvals** – Ms. Sneed drafted rules after the last Board meeting regarding telehealth, CE changes and military waivers and they were published and put out for public comment. Ms. Sneed will make a change regarding cultural competency wording from “will be used” to “may be used”. A motion was made by Ms. Klein to move the October 2019 rules filing to permanent rule making. Dr. Hunt seconded the motion. The motion carried unanimously by oral vote.

**Multiple practice location organization proposed rule change** – Ms. Klein asked if we have a definition of “multiple practice locations”. Ms. Sneed said she tried to define the term under notice of place of practice. Dr. Walker commented that an OD needs to know who they are working for and who is in charge of records so that a patient can access them. Dr. Louie feels that if a practice has a centralized record system, they should not be fined for not reporting each location. Ms. Sneed said that if there is interest from the Board, she could file rules to discuss at the next board meeting. She also asked the Board if they wanted her to include in the rule wording about OD’s who do fill-in work at locations. Dr. Walker said he wanted to wait and discuss fill-in work at the next meeting.

**French-Friedrich case #2017-1047** – Follow up on this case where licensee negotiated to do volunteer work in lieu of payment for CE/CPR audit discipline. Board approved the volunteer time submitted.

**Cosmetic contact lens bust** – Informational only about federal action against illegal contact lens sales.

**Dr. Chan volunteer/temporary license request** – Dr. Chan is practicing in British Columbia, Canada, but wants to volunteer with Casey Eye Institute and Pacific University on an outreach trip in March 2020. She does not have an Oregon license. She is requesting a volunteer or temporary status license. Dr. Louie feels this is similar to the previous retired volunteer license status discussion. He feels the challenge is that Dr. Chan does not have an Oregon record as a practitioner. Ms. Sneed stated that this would have to go through a rule change. Dr. Hunt commented she feels this would open up a whole new set of challenges. Dr. Walker concluded the conversation by saying the Board applauds Dr. Chan for wanting to volunteer but the Board currently does not have a temporary license status.

**Committee Assignments** – Dr. Halvorson will replace Dr. Tronnes on the Personnel Committee.

**Strategic Plan Review** – Ms. Sneed presented an overview of the SWOT analysis facilitated by Jennifer Weber on September 26 & 27, 2019. She said that between now and the next board meeting she plans to calendar some items about who is doing what and the timeline of such items. Dr. Walker said he wants to make sure the plan is on the agenda for each meeting.

## **New Business:**

**Optometric applicants to matriculants article** – Information only. Dr. Wolf, Interim OOPA Director, felt the article leads him to believe there is pressure on the universities to prepare their students to pass the national board exams. Dr. Louie saw that the accreditation council put in

new criteria as to the percentage of students who enroll who must pass the national boards within six years to remain accredited. He recalled it is 80% of those enrolled must pass the national board exams or the institution risks losing accreditation.

**Harbison Fill-in locations** – Dr. Harbison asked the Board for clarification on how she is to report her last day of a fill-in position when she may not know when the last day is that she may be called to fill-in. Ms. Sneed reminded the Board that currently the rules say that a licensee has to report within 14 days prior to the end date of practice but not later than the last effective day of practice. After Board discussion, Ms. Sneed clarified that the “effective” date is the date the OD decides to quit working at the location, not the last day they are physically there. Dr. Louie suggested putting an ending date 2 weeks out from when the OD decides to stop filling-in. Ms. Sneed, in addition, discussed the challenge of not answering a licensee’s legal questions. According to information she gathered at a Public Law conference, Board staff should not answer any questions about laws and rules. AAG Lindley said that rather than answer yes you can do this or no you can’t do that – refer them to the rules and have them apply them to their situation. Ms. Sneed wanted the Board to be aware that there are times that staff cannot give a definitive answer to a licensee’s questions, particularly questions about business structure or legal questions. Some licensees may see this as uncooperative but staff cannot give legal counsel.

**2017-2019 Financial Review** – The 2017-2019 Financial Review was attached in Dropbox #14. There was a finding that the revenue reports could not be produced in the old elite system. There was a comment about an entry to cleanup a \$27 discrepancy in the check reconciliation after the close of the biennium and there were some rounding errors. Ms. Sneed requested Board approval to send the review response on behalf of the Board. Ms. Klein made a motion to approve. Dr. Halvorson seconded the motion. The motion carried unanimously by oral vote.

**FUTURE MEETINGS:**

- Friday January 31, 2020 – Officer elections
- Monday, May 18, 2020
- Friday, August 28, 2020
- 

**ADJOURNMENT:** There was no further business to come before the Board, and President Walker adjourned the meeting at 2:33 p.m.

Minutes prepared by:

Approved by:

Melissa Auman  
Administrative Coordinator

Shelley Sneed  
Executive Director