



OREGON BOARD OF OPTOMETRY

November 2, 2018 Board Meeting

PUBLIC SESSION MINUTES

Board Members Present: Douglas Walker, OD, President
Derek Louie, OD, Vice-President
Molly Phan, OD
Renee Klein, Public Member

Board Members Absent: Stephen Tronnes, OD (Excused)

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

Board Legal Counsel: Lori Lindley, Assistant Attorney General

Others in Attendance: Janet Baker, OOPA

Attendance via Conference Call: Shannon Seymour, OD

CALL TO ORDER: Dr. Walker called the meeting to order at 9:00 a.m., in OTE's downstairs conference room. The Public Session was adjourned at 9:01 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 12:35 p.m.

MINUTES: The Board reviewed the minutes of the August 3, 2018 Public Session. Dr. Phan 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 Inactive Status – None**
- **Reinstatement to Active Status - None**
- **Reactivate Inactive to Active Status – None**

Candidates for Examination and Licensure - The 10 optometrists listed in elite Board Update 3.2 for 11/2/18 met all the requirements for licensure and were approved by the Executive Director since the last Board meeting.

Dr. Walker 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:

2017-15 – This case will remain open.

2017-16 – This case will remain open.

2017-19 – Dr. Phan made a motion to issue a final order including \$250 Civil Penalty and \$2,173 for recouping costs incurred by the Board or, in lieu of monetary recoupment, 15 hours of community service in eye or vision care to be completed within one year. Dr. Louie seconded the motion. The motion carried unanimously by oral vote.

2018-16 - This case will be closed with no discipline and with a letter of concern to the doctor.

2018-17 – This case will be closed, no optometric error.

New Complaints:

2018-26 – Dr. Walker recused himself from this case for potential conflict. This case will be closed with no optometric error and letters to both parties.

2018-27 – This case will be closed.

2018-28 – This case will be closed.

2018-29 – This case will remain open.

2018-30 – This case will remain open. Dr. Phan made a motion to issue a notice of proposed discipline with a \$500 Civil Penalty and letters to both parties. Ms. Klein seconded the motion. The motion carried by unanimous oral vote.

2018-31 – This case will be closed and referred to the Oregon Medical Board.

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, elite Financial Report 3.1, that detailed the Board's financial position at the end of September 30, 2018. Ms. Sneed stated this was the first time OBO's cash flow has dipped below \$30,000. The Board's \$200,000 CD investment comes due November 25, 2018. Ms. Sneed has been looking into interest rates amongst different financial institutions and is finding there is not much difference between them. She advises remaining with our current bank. Ms. Klein suggests lowering the amount of the CD since the Board's cash flow is lower. Ms. Sneed and Ms. Klein will work together to structure the move of the money into a new 6 or 12 month CD.
 - The balance sheet shows that our cash position is \$55,000 less than last year, which is consistent with the last meeting's financial statements. According to the profit and loss statements, the Board's licensing income compared to budget is down 2.5%. Expenses compared to budget are significantly lower. The overall net loss to date was \$1,052.22, nearly break even. The Board continues to maintain nearly 12 months of operating reserves.
- **Office Updates**
 - The office update was included in elite 3.3 for 11/2/2018. Ms. Sneed is working with DAS IT to switch the office DAS connection to a VPN network, which is a virtual direct link to DAS as compared to the current external Citrix web-based system which has been causing issues with our connection to Quick Books.

PRESIDENT AND COMMITTEE REPORTS:

Continuing Optometric Education:

Ms. Sneed presented an inquiry from Oregon Health Authority about whether the Board would accept a one hour CE course on pain management presented by OHA. Ms. Baker added that the course is a requirement specifically for DEA licensed optometrists who prescribe opioids. Ms. Baker asked if the Board would approve this one hour of pain management as one of the 18 hours of CE required for Oregon licensure. Dr. Louie sees no problem with acceptance of the course if the normal criteria for CE review are met. Dr. Walker suggests this one hour be included in the required 18 hours of CE and not an additional hour. Ms. Sneed stated that if they submit the CE for review and it is approved, then the course would be acceptable for all licensees

to take. Ms. Sneed questioned if the course would be CE type Pain Management, TMOD or Other. Dr. Louie said he would have to see what the course looked like when it was submitted.

Dr. Phan made a motion to approve the CE hours Dr. Louie approved and which were presented in elite 3.2 for 11/2/2018. Ms. Klein seconded the motion. The motion carried unanimously by oral vote.

Budget:

Ms. Sneed stated that for the second time this budget cycle, the agency has no net income and has a net loss. Primary costs are staffing and related costs. \$5,000 is budgeted for computer replacements. \$10,000 is budgeted for the required annual financial review. Insurance costs have increased due to large case costs amongst semi-independent agencies

Cash at the end of the 19-21 biennium leaves the Board with about 5 months of operating capital. Ms. Sneed says that the Board is seeing a decline in inactive licenses. She suggests re-educating licensees as to what the advantages of maintaining an inactive license status are. Dr. Walker asked when the budget needs to be approved. Ms. Sneed said rule making needs to be submitted by 11/15/2018 so the Board can approve at the February 2019 meeting. It needs to be approved by July 1, 2019 at the latest.

Dr. Walker asked Ms. Klein if she had any comments. Ms. Klein said she had discussed the budget with Ms. Sneed earlier and felt the budget was as tight as it could be. Ms. Lindley said the DOJ was considering a flat fee model for all agencies but she felt this may not be advantageous for small agencies. An area of cost that Ms. Sneed discussed was the credit card processing fees run through Intuit. Ms. Baker commented that OOPA has recently signed on with Merchant Advocate credit card processor. They are a neutral processor who gets paid by what they save the client in fees. Ms. Baker suggests they might save OBO money on processing fees.

Ms. Klein made a motion for Ms. Sneed to commence with the rule making process and accept the budget. Dr. Phan seconded the motion. The motion carried unanimously by oral vote.

Legislative:

Ms. Baker presented an update on telehealth. She has been meeting with the Oregon Ophthalmology Association for the past year to talk about online technologies. The purpose of the conversations has been to reach a consensus that would broaden the impact of the OBO legislative bill to include ophthalmology. The purpose is to make it so difficult that outside online contact lens companies will not want to do business in Oregon. OOPA is trying to narrow their interest in doing business in Oregon. OOPA and OAO has met with approximately 95% of the state legislators and they are very concerned about online contact lens and the potential patient harm and very excited about OOPA, OAO and OBO working together.

Ms. Sneed inquired if OOPA was working with the Oregon Medical Board, as she knows they are investigating telehealth as well. Ms. Baker said no, she feels to do so would appear as if they were skipping over the ophthalmology association (OAO). Ms. Sneed feels it is important to include the OMB by sharing the information and keeping them informed of the process. Dr. Walker asked about the timeline. Ms. Baker said it is in the legislative concept phase right now. She said it is a short bill and more than likely they will work out more of the details in the rule making process.

Administrative Rules:

Dr. Tronnes was not in attendance. Ms. Sneed asked the Board for guidance and consistency regarding licensee legal names being printed on licenses. The issue is primarily with

female licensees changing their names due to marriage, wanting to keep their maiden name on their license. Dr. Louie brought up the question of electronic license verifications and credentialing and how changing one's name affects these. He wants to be assured that the public will be able to search for a particular optometrist. Dr. Phan feels that if a doctor changes their name to include their maiden name as their middle name, then the Board should print it that way. Ms. Sneed suggested that we print first and last legal name on licenses unless the doctor requests in writing to use their full legal name including middle name. She will file rules to reflect the change.

Personnel:

Dr. Phan will do Ms. Sneed's review in January 2019.

ITEMS FOR CONSIDERATION/DISCUSSION:

A motion to approve the rule changes for fee increases as of January 1, 2019 was made by Dr. Louie. Dr. Phan seconded the motion. The motion carried unanimously by oral vote.

Ms. Klein made a motion to allow Ms. Sneed to refile 2017-19 permanent rules regarding the 2017-19 budget. Dr. Louie seconded the motion. The motion carried unanimously by oral vote.

Centenarian Recognition - Ms. Auman brought to the Board's attention that an optometrist, Dr. Alexander, was 105 years old and still paying inactive license fees. Ms. Sneed and Ms. Auman would like to honor him as a Centenarian optometrist. Ms. Lindley suggests putting a picture of him in the newsletter. Ms. Sneed suggests going to Portland where he resides and presenting him with a certificate. She would like to consider reducing the fee for licensees over a hundred years old. Ms. Baker would like to partake in the presentation of the certificate to Dr. Alexander. The Board asked Ms. Sneed to present Dr. Alexander with a certificate.

Ms. Sneed stated that ARBO is planning on starting to download CE from the OE tracker through a data feed in January 2019. This will not cost licensees anything. This will possibly include courses through OOPA that are approved but are not COPE approved. Dr. Walker inquired about the cost. Dr. Louie says there is a cost to access the OE tracker system.

Ms. Sneed commented on an ARBO handout explaining a new program called CELMO – Council on Endorsed Licensure Mobility for Optometrists. The program gathers and evaluates the credentials on an optometrist to be sure they meet specific licensing requirements. Ms. Sneed asked about the Board's consideration of the CELMO program for endorsement license applicants. If they met CELMO requirements, would we consider this for endorsement licensing? This would be beneficial for licensees who have taken NBEO prior to 2002 or not at all and who have trouble qualifying for an AT license. Dr. Walker wants to monitor the issue and discuss further at another meeting.

Contact Lens refill question – The staff has been getting several questions regarding refilling expired prescriptions for contact lenses. Ms. Sneed shared her response to OD's when asked. Dr. Walker feels this requires patient education about contact lens prescriptions and refill times and to why frequent exams are necessary.

Information on ACOE pre-accreditation guidelines was presented.

Review of Optometry Scope of Practice Article - Ms. Baker informed the Board that OOPA is looking at expanding the scope of practice and wanted to know the Board members opinion on whether they wanted the scope to expand and whether it was worth the time and effort to do so. Dr. Phan feels it is important for new graduates and doctors to master the current scope of practice for optometrists before expanding scope to new things.

Craniofacial Therapy – Dr. Walker said that this topic was brought to the Board several years ago. He says it can be used for brain surgery and some eye problems, but is not considered a mainstream practice. A current licensee has recently asked about it and scope of practice. Dr. Phan commented that she feels this falls within the practice of chiropractors or doctors of osteopathy. She questioned where someone goes to train for this type of treatment. Ms. Lindley feels, without looking further into it, that this is not within the scope of practice for optometry. She also does not think you need a license to perform this type of therapy.

Ms. Sneed, along with consultation with Ms. Lindley, has already responded to the inquiry before bringing it before the Board for discussion. Dr. Walker directed Ms. Sneed to respond to the inquirer that the Board has had a discussion regarding craniofacial therapy and at this time there have been no consumer complaints for the Board to address.

Retainer Medical Practice – Dr. Walker has been following the concept of direct primary care for several years and wanted to bring it before the Board. It follows a subscription model where an amount is charged monthly for a list of certain medical coverages. Communication between doctor and patient is done via email, texts or in person. This model allows for a lower number of patients to be seen by a doctor and development of strong doctor/patient relationships. Dr. Walker wanted to see if the Board had any interest in pursuing this model legislatively. He encouraged board members to investigate the subject of direct primary care further.

For information only – Dr. Kirk Halvorson was elected to the ARBO board as a COPE reviewer.

NEW BUSINESS:

Replacement Licensing System – OBO instituted our current licensing system in January 2016. Ms. Sneed stated that our vendor is not very responsive. Ms. Sneed received an email from a Canadian company called Thentia, which operates systems for regulatory boards and banks in Canada. They are attempting to break into the US market and want to pick 3 boards to offer their system setup free of charge with a \$1,500 monthly fee. They have their own project managers and business analysts. Ms. Sneed asked for more information from them.

Currently there are a total of three licensing system options that various Oregon Boards are investigating. Each offers us more independence and more control in the system. All three options would transfer data over and each would host. The staff has been engaging in demos of the various systems. Ms. Sneed is leaning towards Thentia. The State of Oregon Enterprise Security needs to sign off on the security aspects of each system. Ms. Sneed's timeline is to have a decision made and a new system in place by the end of the contract with BES Technologies on June 30, 2019.

FUTURE MEETINGS:

- February 8, 2019 (possible meeting in Portland)
- May 10, 2019
- August 9, 2019
- November 8, 2019

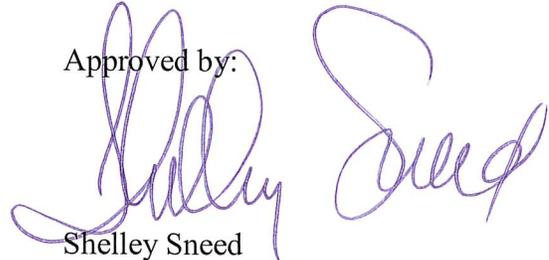
ADJOURNMENT: There was no further business to come before the Board, and President Walker adjourned the meeting at 3:12 p.m.

Minutes prepared by:



Melissa Auman
Administrative Coordinator

Approved by:



Shelley Sneed
Executive Director