



OREGON BOARD OF OPTOMETRY

July 24, 2015 Board Meeting

PUBLIC SESSION MINUTES

- Board Members Present:** Jeffrey Pelson, OD, President
Molly Cardenal, OD, Vice President
Jessica Lynch, OD
Douglas Walker, OD
- Board Staff:** Shelley Sneed, Executive Director
Cathy Boudreau, Executive Assistant
- Board Legal Counsel:** Lori Lindley, Assistant Attorney General
- Absent:** Catherine Webber, Public Member
- Others in Attendance:** Candace Hamel, OD, Oregon Optometric Physicians Association Liaison; Steve Tronnes, OD; David Beisiegel, OD; Bradley Smith, OD.

CALL TO ORDER: Dr. Pelson called the meeting to order at 9:10 a.m., in the first floor conference room at 1500 Liberty Street SE, Salem, Oregon, 97302. The Public Session was adjourned at 9:12 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 1:03 p.m.

MINUTES: The Board reviewed the minutes of the March 6, 2015 Sessions. There was no discussion and the Board made no changes or additions to the minutes. Dr. Cardenal made a motion that the Board approve the minutes as presented. Dr. Walker seconded the motion. 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** – Tina Geis, OD
Joshua Goulding, OD
- **Reinstatement to Inactive Status** – Hilary Hawthorne, OD
Michael Moore, OD
- **Reactivation to Active Status** – Taira Enewold, OD

Candidates for Examination and Licensure - The optometrists listed in Exhibit A met all the requirements for licensure and were approved by the Executive Director since the last Board meeting.

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

ACTIONS ON EXECUTIVE SESSION:

14-07-02 – Hoyt, Kimberly/OBO: On August 15, 2014, the Board issued an Interim Order in this case, suspending the doctor's license until the Board's requirements are met. The requirements include submission by the doctor to a substance use disorder evaluation by a Board-approved evaluator and abstention by the doctor from use of alcohol, controlled drugs or mind-altering substances unless prescribed by a licensed practitioner for a bona fide medical condition, and upon prior notice to the Board. Licensee agreed not to practice until the Board has accepted the recommendations of the evaluation in writing, and the evaluator confirms the doctor is competent to return to practice. Licensee agreed that any violations of the order may result in further disciplinary action. Subsequently, the Board received a report that the doctor was arrested for DUII and tested a blood alcohol level of .25 while under the conditions of the Interim Order.

On November 7, 2014, the Board voted to issue a Consent Order that would, in part, require a demonstration of six consecutive months of proven sobriety to the Board. The Licensee petitioned the Board to amend the conditions of the Consent Order. On November 26, 2014, the Board voted to modify the terms of the Consent Order approved at the November 7, 2014 meeting to allow the optometrist to return to practice after three months of demonstrated continuous sobriety, given that all the other terms of the consent order are met. The proof of sobriety may pre-date the signed order, but must be acceptable to the Board. The determination of the acceptability of the proof is delegated to the Executive Director.

In accordance with the Consent Order, the doctor resumed practice on April 10, 2015. The Board continues to monitor the doctor's adherence to the terms of the Consent Order.

The Board directed the Executive Director to send Dr. Hoyt a letter as a follow up to the meeting.

This case will remain open.

15-02-01: The Board will send a letter to the doctor in this case reminding him to be careful about the language he uses with patients, and about recommending supplements that he is selling. The doctor must ensure that patient is not told that the supplement is a sure-fix but that it may be beneficial. His patient record should have substantiated the lengthy discussion that he had with the patient about the use of supplements. There is nothing in the record with this patient to substantiate the recommendation of, and subsequent discussion about, supplements.

This case will be closed in public session.

15-06-01: The Board will review additional records in this case at the next meeting.

This case will remain open.

15-07-01: Ms. Sneed will investigate the allegations in this case and report to the Board at the next meeting.

This case will remain open.

Dr. Cardenal made a motion that the Board ratify the actions taken in the Executive Session. Dr. Walker seconded the motion. The motion carried unanimously by oral vote.

CORRESPONDENCE:

- Walmart opticians inquiry about foreign Rx's – Is it permitted for an optician to fill a prescription that originated in another country? AAG Lindley noted that in some situations, an optician might find it is reasonable to fill a foreign prescription. The consensus of the Board is that if a prescription for eye glasses that originates in another country is current, an optician is permitted to fill the prescription. This does not include prescriptions for contact lenses.

PRESIDENT'S REPORT:

- OBO liaison to OOPA – Dr. Pelson deferred to Dr. Walker who believes that there should be a representative from the Board as a liaison to Oregon Optometric Physicians Association. He made a motion to appoint a liaison from OBO to OOPA. Ms. Sneed said that, in her experience, it is better to have an employee of a board rather than a board member act in that capacity to avoid the appearance of impropriety or having the ability to speak on behalf of the entire Board. Ms. Boudreau noted that, historically, the Board's executive director has built relationship and communicated with OOPA. Dr. Cardenal and Dr. Lynch prefer to continue with that current arrangement. Dr. Pelson prefers that a staff member continue to build relationship with OOPA, and to let the OOPA liaison carry back information and relay relevant information to OBO. Dr. Hamel, current OOPA liaison, offered to relay information back to the OOPA. Dr. Walker withdrew his motion to formalize a liaison position from the Board.
- AOA Discussion of COPE Accreditation – Dr. Pelson deferred to Dr. Walker who gave the Board an update on the discussion between the American Optometric Association (AOA)

and Associated Regulatory Boards of Optometry (ARBO) about ARBO doing continuing optometric education (COE) accreditation. Dr. Walker is concerned about the political and financial ramifications of these decisions by ARBO. He will keep the Board informed about future developments. Ms. Sneed asked whether the Board should write a letter to ARBO explaining that the Board has discretion about whether to use COPE in the COE approval process. Dr. Walker does not believe that course of action is necessary at this time. Dr. Hamel pointed out that, historically, ARBO has not been open to influence by the opinions that differ from their objectives, and that they seem to have lost the view of the original mission of being of service to regulatory boards of optometry.

EXECUTIVE DIRECTOR'S REPORT:

Ms. Sneed submitted the following reports and updates to the Board:

- **Exhibit B - Accounting/Budget:** 2013-15 R&E Budget Report and Balance Sheet – Ms. Sneed has used a new format for her report, and asked the Board to make any suggestions they would like to improve on her report. Starting with the balance sheet, she pointed out that the Board's total current assets are nearly 5% higher than last year at this time. Ms. Sneed added an accrual for compensated absence liability on the balance sheet. That item shows what the Board would be required to be pay out if any of the staff were to leave. This is a recent change to the report, so it doesn't show any offset for the prior year. During the upcoming financial review, Ms. Sneed will work with the reviewer to delete the obsolete payroll liabilities.

The Profit & Loss Budget to Actual report shows that the Board's income is 5% higher than budgeted.--miscellaneous revenue is the primary driver of that increase. That account includes the reimbursements from the Landscape Contractors Board and Oregon Travel Experience. LCB reimbursed OBO for the time that Ms. Sneed worked for them after her hire at OBO. Ms. Hendricks is working on a temporary assignment at OTE, so they are reimbursing OBO for her time there. Licensing revenues are up nearly \$3,400 as compared to last year. Other fees and income are more than \$4,000 greater than budgeted as well.

With regard to expenses, Payroll and OPE expenses are 86% of budget. That's due to the Executive Director transition and the fact that some of these costs weren't paid by OBO after Ms. DeSouza went to OTE. Ms. Sneed made some other changes to the chart of accounts, so there are some expenses that won't be easily compared. For the most part the Board is underspending except in telecommunications and technology. Those were expected increases due to the agency moving to DAS for telecommunications and computer services. The agency had a net income of \$4,220 versus a budgeted loss of nearly \$42,000.

The Profit & Loss Previous Year comparison shows that the agency's income was 5% less than last year. Payroll & related expenses were 4.45% higher than last year, which is primarily due to step increases for staff. Office expenses are up 35% for a total of \$2,500. That's due to some additional postage and printing and a few other cost categories. Telecommunications and technology is nearly \$6,000 higher than last year. Legal expenses are higher than last year, primarily due to the staffing change and AAG

Lindley's involvement in the hiring process for the new executive director. The agency's overall net income is \$14,387 less than the previous year.

- **Exhibit C - Board Activity Report:** The Board reviewed the report for the current period. Ms. Sneed pointed out the increase in new licensees due to recent graduations.
- **Office Update:** Ms. Sneed thanked the Board for allowing her to work part-time at the Landscape Contractors Board during her transition to the Board of Optometry. She reported that since her arrival, she has been pleased with staff performance. On March 26, 2015, she and previous Board executive director Nancy DeSouza attended Dr. Walker's Senate confirmation hearing. She said it was a great opportunity to meet him before he began his tenure on the board. She has successfully completed LEADS training and received access to the OCJIN & eCourts systems in order to do licensee background checks. She also successfully worked with U.S. bank to transition signing authority on the bank accounts and credit cards.

She attended a presentation for soon-to-be graduates at Pacific University College of Optometry with Dr Cardenal. The presentation discussed the Board and the students' responsibilities as new Oregon licensees.

At her initiation, the Board has joined the Council on Licensure, Enforcement and Regulation (CLEAR). Ms. Sneed attended a webinar presented by CLEAR on a recent North Carolina Board of Dentistry case. This case that has led to some interesting reflection on regulatory boards and their activities.

In the past few months, Ms. Sneed has attended the all-agency directors meetings, Semi-Independent Board Association (SIBA) meetings, and the Health Board Directors meetings. She sees these as opportunities to hear what is happening in larger agencies, with other state health boards and get to meet her colleagues. She has networked with the director at Oregon Optometric Physicians Association and been invited to speak at the OOPA conference in May 2016. She has spent time with AAG Lindley and taken the opportunity to use her expertise as she gets to know the Board's authority.

Ms. Sneed and Public Member Catherine Webber have been attending an online processing work group with other small agencies. The group has identified a database system that is currently being used by the Oregon Health Licensing Agency. It's a very flexible system that may be useful for the smaller agencies in the group who are looking for a new system with the flexibility to handle online applications, online license renewals, continuing education reporting and online payment. The group met and had a web session with the firm's owner and will schedule a demonstration with the Health Licensing staff to walk through how the system is used from a user perspective.

In that same regard, Ms. Sneed and staff had a conference call and a meeting with a representative of GL Solutions about their online database and processing system. This company offers another option that the agency could use to handle our licensing data and to provide online applications.

The OBO staff met with Robert Wofford of NW Payroll Services about using QuickBooks for renewal form emailing and Intuit credit card payment processing. Ms. Sneed has applied for an Intuit credit card processing account as an interim step to offering online processing and to accepting credit cards without the agency taking on the liability of holding on to credit card numbers.

Ms. Sneed and Ms. Boudreau met with a staff member from DAS Enterprise Technology Solutions about upgrading the Board's website. They also attended a Sharepoint basics webinar. Sharepoint is the computer system used for the state's website design and maintenance. Ms. Sneed has submitted the required documentation to redesign the website and move it to the state system. She is waiting for the final documents and approval before the redesign process will begin.

Ms. Sneed sent out an online survey of OBO customer service and proposed online processing and communications to licensees. To date, 306 responses have been received. 297 were submitted electronically and 9 were paper responses. She submitted a summary of the survey results to the Board.

On June 25th the 2015-17 budget rule was finalized. Email and postcards were sent to every licensee for their feedback. No questions or comments were submitted on the proposed agency budget.

Ms. Sneed has been in discussions with the Nursing Board about an interagency agreement which would allow them to do the Board's biennial LEDS check of all licensees. The agreement and work will be finalized in July.

Ms. Hendricks began working on a temporary part-time assignment with Oregon Travel Experience after they had a catastrophic computer system issue. She's working her regular number of hours here and then adding some time at their agency. The agreement will continue through the end of 2015.

The Board's financial review is scheduled to begin October 5, 2015. The contract had already been signed by the previous executive director. The report is expected to be completed and submitted on or before December 31, 2015.

In early May, Ms. Sneed sent out the first Board newsletter of her tenure. It was sent by email with hard copies mailed to approximately 35 licensees for whom we don't have email addresses.

BOARD MEMBER REPORTS:

Continuing Optometric Education: The continuing education offerings approved since the last meeting were presented to the Board in Exhibit D. Dr. Lynch made a motion that the Board ratify approval of these courses. Dr. Cardenal seconded the motion. There was no discussion. The motion carried unanimously by oral vote. Dr. Lynch gave an overview of the COE review process for Dr. Walker and the doctors in attendance.

Budget: There was no budget committee report made at this time.

Legislative: There was no legislative committee report made at this time. Dr. Pelson appointed Dr. Walker as the Legislative committee chairperson.

Administrative Rules: There was no administrative rules committee report made at this time.

Personnel: There was no personnel committee report made at this time.

Items for Consideration/Discussion:

- Electronic documents for primary source verification of licensure in other states: The consensus of the Board is that staff may accept electronic verifications in conjunction with a follow up phone verification or online verification of the license information received from the originating state.
- Information about Blink in-home vision testing has been sent to the Board. Dr. Pelson feels that these services creates a false sense of security for patients, and are not good patient care. Dr. Hamel warned that the Board will probably see more of these services advertised with advances in technology.
- A question was received from a licensee about protocol for recreating corrupted EMR exam records. The Board recommends that the doctor put forth the best effort to recreate the exam record, and to document everything that happened during the exam. If pertinent data needs to be re-acquired the doctor should give the patient a new exam.
- Ms. Sneed asked the Board to discuss ORS 683.260(1), which prohibits a member of an optometric educational institution from being on the Board. This statute dates from a time when the Board administered the state clinical licensing exam. AAG Lindley suggested that it may be a topic for discussion by OOPA for a legislative change.
- Potential rule changes:
 - Adding Board compensation rates to OAR 852-005-0015 to make the Board's written policy publically available. Currently, the Board compensates members at the rate of \$100 per day or \$12.50/hour. The Board member who reviews COE is compensated \$12.50 per hour for 10% of the total CE hours reviewed. Ms. Sneed will draft a proposed rule change.
 - Updating 852-020-0035-Scope of Practice for Optometrists with regard to prescribing in light of the new hydrocodone legislation. Ms. Sneed will draft a proposed rule change.
 - Ms. Sneed asked whether the Board is interested in looking into conducting national versus state background checks. Such a change would require a change to OAR 852-050-0025 which specifically requires state background checks. Expanded background checks are allowed under ORS 676.303(3), and have been suggested by a former OBO member as a valid requirement prior to optometry licensure. AAG Lindley said that Oregon State Police perform fingerprint checks, which could be required by the Board. The Chiropractic Board does currently require these checks for their applicants, as do the Boards of Dentistry and Board of Massage Therapists. She recommended that, if the Board opts to adopt this change to their licensing requirements, the rules should lay out the process and fees that are required. Ms. Sneed and AAG Lindley will craft some sample rules and explore costs for the Board, and will make a report at the November meeting.
 - OAR 852-050-0016 defines an electronic signature in a section that is related to place of practice. Do we need to change the location so that the electronic signature rules apply to other notifications? AAG Lindley does not think this is a necessary change.
 - Public Records Requests pursuant to ORS 192: Ms. Sneed would like to establish fees for copying records and a form for the request of public records. She will submit a proposed rule change to the Board.

The Board took a brief recess at 3:14 p.m. The Public Session Reconvened at 3:25 p.m.

ITEMS FOR BOARD ACTION:

- Review and approval of injection course work from University of Alabama, School of Optometry for ATI certification. - Dr. Lynch made a motion to approve the injection course work submitted from the UAB School of Optometry as meeting the Board’s requirements for injection endorsement. Dr. Cardenal seconded the motion. There was no additional discussion and the motion carried by unanimous oral vote.
- Review and approval of injection course work from Oregon Optometric Physicians Association in conjunction with Pacific University College of Optometry for ATI certification. Dr. Cardenal made a motion to approve the injection course work submitted by OOPA and PUCO as meeting the Board’s requirements for injection endorsement. Dr. Walker seconded the motion. There was no additional discussion and the motion carried by unanimous oral vote.
- The Board reviewed the information that has been received regarding electronic license verifications from the state of Pennsylvania. The consensus of the Board is that staff may accept electronic verifications in conjunction with a follow up phone verification or online verification of the license information submitted from the originating state.
- Ethics and Boundaries Assessment Examination: Ms. Sneed submitted information about a program that some boards are using as a tool in cases of discipline and board-sanctioned rehabilitation of licensees. She had an orientation with the author of the program where she learned that this is a rigorous process and that there are a series of tests the participant is required to pass before they are considered to have successfully completed the program. In addition to the licensee, the licensing board is notified of the test results. The licensee is responsible to cover the expenses for the course and exams. Both AAG Lindley and Ms. Sneed think would be a valuable tool for the Board to use in appropriate disciplinary cases. The Board would like Ms. Sneed to sign up for access to the service.

UNFINISHED BUSINESS: There was no unfinished business before the Board.

OTHER BUSINESS:

Future Meetings:

- Friday February 12, 2016
- Friday May 6, 2016
- Friday August 19, 2016
- Friday November 18, 2016

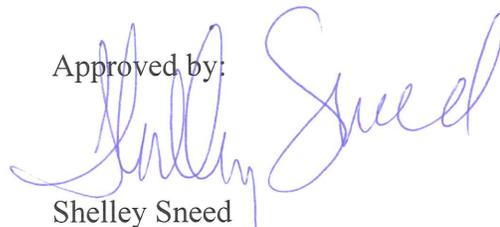
ADJOURNMENT: There was no further business to come before the Board, and President Pelson adjourned the meeting at 3:53 p.m.

Minutes prepared by:



Catherine M. Boudreau
Executive Assistant

Approved by:



Shelley Sneed
Executive Director