

**Ohio State Board of Optometry  
Board Meeting**

**Vern Riffe Center  
77 S. High Street  
Columbus, Ohio**

**January 21, 2009 at 9:30 a.m.**

**President Presiding**

Rhonda Riles, O.D., Board President, convened the meeting at 9:40 a.m. The meeting was held in Room East B, 31<sup>st</sup> floor of the Vern Riffe Center.

**Roll Call**

Present for the meeting were:

Rhonda Riles, O.D., Board President  
Larry Barger, O.D., Board Secretary  
Karen Riccio, O.D., Board Member  
Dennis Roark, O.D., Board Member  
Ms. Patricia Scharf, Board Member  
Beth Workman, O.D., Board Member  
Mr. Mike Everhart, Executive Director  
Mrs. Nancy Ott, Administrative Assistant  
Mr. Jeff May, Investigator

The following persons were also in attendance at the meeting: Mr. Rick Cornett and Brenda Montecalvo, O.D. representing the Ohio Optometric Association, Ms. Kathy Bockbrader from the Attorney General's Office, Todd Baker from the Ohio Ophthalmological Society and Basil Castrovine from WalMart.

**Approve Minutes**

President Riles called for a motion on the minutes of the October 2, 2008 Board meeting. Dr. Workman made a motion to approve the minutes that had previously been mailed to all Board members for review. Ms. Scharf seconded the motion and it was passed by the Board.

**New Licensees**

Mr. Everhart advised that there was one complete application for licensure as listed in Annex A. After review of the packets Dr. Workman made a motion that the one applicant listed in Annex A with all material submitted be granted Ohio optometric and therapeutic licensure. The motion was seconded by Dr. Barger and passed by the Board.

Dr. Barger made a motion that the one applicant listed in Annex A with missing material be granted Ohio optometric and therapeutic licensure pending receipt of the required material. Dr. Roark seconded the motion and it was passed by the Board.

Dr. Barger made a motion that Sean Claffie, O.D. be granted Ohio optometric and therapeutic licensure via endorsement pending receipt of his required missing material. Dr. Workman seconded the motion and it was passed by the Board.

The Board next reviewed one applicant for licensure reinstatement. Dr. Roark moved that David Brown, O.D., be granted reinstatement of his Ohio optometric and therapeutic license which was seconded by Dr. Barger and passed by the Board.

The Board next reviewed one applicant for licensure reinstatement who was required to successfully complete Part III of the NBEO exams. Dr. Roark moved that Kenneth Gortz, O.D., be granted reinstatement of his Ohio optometric and diagnostic license which was seconded by Dr. Barger and passed by the Board.

### **Continuing Education**

Dr. Roark explained the recap on continuing education courses received at the Board office since the October 2, 2008 meeting. (Annex B.) There were 75 courses reviewed with one of those courses not approved.

Dr. Roark made a motion that courses 2008-205P through 2008-206 and 2009-028P through 2009-101P be approved as listed. Motion was seconded by Ms. Scharf and passed by the Board.

### **Therapeutic Optometry Matters**

Dr. Barger provided an overview of one drug-induced side effect report since the October 2, 2008 meeting. (Annex C.)

### **Licensure Matters**

President Riles called for a motion for the Board to enter Executive Session to consider the investigation of charges against a licensee. Dr. Barger moved that the Board enter Executive Session to consider the investigation of charges against a licensee. He requested that Mr. Everhart and Mr. May remain in the room. Dr. Workman seconded the motion.

President Riles directed Mr. Everhart to take a roll call vote: President Riles, yes; Secretary Barger, yes; Dr. Riccio, yes; Dr. Roark, yes; Dr. Workman, yes; Ms. Scharf, yes. The motion was passed and the Board entered Executive Session at 10:07 a.m. Executive Session ended at 10:20 a.m. and the Board returned to open session.

Mr. Everhart advised the Board that they had before them a Consent Agreement on Case 2007-15 involving an optometrist who entered a guilty plea in the United States District Court for the Northern District of West Virginia to the offense of tax evasion, in violation of Title 26 United States Code 7201, an act constituting a felony. President Riles called for a

motion on the proposed Consent Agreement. Dr. Roark moved to accept the proposed Consent Agreement in Case 2007-15. Ms. Scharf seconded the motion. President Riles directed Mr. Everhart to take a roll call vote on the motion. President Riles, yes; Secretary Barger, yes; Dr. Riccio, yes; Dr. Roark, yes; Dr. Workman, abstain; Ms. Scharf, yes.

The Board had received two separate written requests to waive late fees for late submission of C.E. and/or renewal of certificates. The Board received and considered both requests but concurred that all fees submitted to the Board are non-refundable and therefore the requests were denied. Both licensees will be notified in writing of the Board's decision.

The Board received a C.E. waiver request from an Ohio optometrist who is currently providing optometric services in Ethiopia. The optometrist requested the latitude to take all his 2009 required C.E. hours on-line due to his current situation. Dr. Roark moved that the request be approved. Dr. Workman seconded the motion which was approved by the Board.

### **Administration**

Mr. Everhart informed the Board that the annual ARBO dues had been paid and reminded them of the Annual Meeting in Washington, DC, June 21-23, 2009. At the present time there is available funding but it was recommended to wait until later to finalize any travel plans due to budgetary considerations.

The Board reviewed literature from the AOA on actions taken by the Accreditation Council on Optometric Education and also an article on a draft model for optometric board certification.

Mr. Rick Cornett, representing the Ohio Optometric Association, introduced Dr. Brenda Montecalvo. She will be the OOA member representative at our Board meetings. Mr. Cornett informed the Board that the OOA was conducting statewide meetings on board certification; he then discussed the Health Simplification Act and other legislative matters.

The Annual Report for the 2008 calendar year was given to each Board member for their perusal. Mr. Everhart asked that any changes, corrections, etc. be provided to the staff no later than January 26<sup>th</sup>.

The Board reviewed several questions posed by a local attorney who was reviewing a proposed lease agreement for an Ohio optometrist. Specifically, the attorney asked "can the Board state their policy in sharper focus including examples of leases that are not in violation?" The Board decided it was unable to be more specific than what already existed in our related law, rule and policy which had previously been provided to the attorney. However, based on the conversation, Dr. Barger made a motion to assign a task force to review relevant information concerning optometric leases and provide the information to the full Board for their review and further consideration. The motion was seconded by Dr. Workman and passed by the Board. The following Board members volunteered to work on this task and provide an overview to the Board at the April meeting: Dr. Riccio, Dr. Riles and Dr. Roark. Mr. Everhart will coordinate the date for all involved including Ms. Starr from the Attorney General's Office.

The Board had been requested to consider a “scope” issue involving Visual Evoked Potential, CPT Code 95930. After a brief discussion the Board concurred this procedure was within the scope of an Ohio optometrist and Mr. Everhart was directed to confirm this information to the inquirer.

A second scope issue was presented involving a new drug recently approved by the FDA to be used as a product to promote eyelash growth. “Latisse,” manufactured by Allergan, Inc., received FDA approval in December and should be available by prescription starting in the first quarter of 2009. Latisse contains the active ingredient of the glaucoma drug Lumigan, which is also made by Allergan. Eyelash growth is a known side effect of Lumigan but the two drugs are used differently. “Lumigan is an eye drop and Latisse gets dabbed along the lash line on the upper eyelids to promote longer, thicker, darker lashes.”

Since an Ohio optometrist who is therapeutically certified is permitted to treat abnormal conditions of the visual system, the Board determined the use of Latisse would be appropriate for treating an abnormal condition of the visual system, i.e. hypotrichosis, as long as it is so documented in the patient records.

The final scope issue for this Board meeting involved the use of dichloroacetic acid to remove skin lesions, warts, skin tags from eyelids and ocular adnexa. The question had been answered at the January 17, 2007 meeting. At that time this particular drug was not considered a topical ocular agent and was not on the optometry’s drug formulary. Additionally the Board recommended the patient be referred so the growth could be removed and a biopsy performed.

Now, without the formulary, the drug might be permissible to be used but the issue concerning appropriate standard of care still remained. The Board decided to table this discussion until they could perform relevant research on the matter and provide more specific guidance at the April meeting.

Mr. Everhart advised the Board that he had been requested by the Optical Dispenser’s Board to review ORC 4725.28(C) and ORC 4725.58. Basically, the two sections have similar language with the former directed at optometrists and the latter at optical dispensers and directs “any supplier who fills a prescription for contact lenses furnished by an optometrist shall furnish the patient with written recommendations to return to the prescribing optometrist for evaluation of the contact lens fitting.” The Board indicated it was relevant that both professions were aware of this provision and the best way to communicate this would be to leave it in each applicable practice act.

The Board was informed that Mr. Everhart participated in the teleconference related to Boards and Commissions fiduciary training in December, 2008. Based on the information from the teleconference and past financial audits the Board/staff is complying with recommendations and standards.

The Board was provided an update of the proposed biennial budget. Discussed was the proposal for employee cutbacks/reductions, the projected \$7.3 billion shortfall in the next two year state budget and the upcoming testimony for the Board’s budget.

Mr. Everhart provided the Board with a summary of HB 648. The new bill requires all state agencies to regulate access to confidential personal information through training, procedures and rules. The Boards are working cooperatively to put all the requirements in place.

All Board members were reminded of the upcoming ethics educational sessions this year. Each member is required to attend the training every other year and sign ups are available on line.

### **Patient Complaint Investigations**

The Board members reviewed the recap of patient complaints received since the October 2, 2008 Board meeting. Eight new complaints were received during this period with six of the complaints being finalized. Seven complaints were pending prior to the October 2, 2008 meeting and six were completed at or prior to this meeting with one complaint pending further investigation. (Annex D.)

The Investigator's Activity Report, Annex E, was reviewed by the Board members. In addition to the eight complaints that were filed, fifty-three on-site inspections were conducted and fifteen office inquiries/office complaints were initiated and completed. The staff traveled 2,109 miles during the period. The Board members also reviewed the summary of completed complaints and had no questions concerning the complaints.

### **Optometric Advertising Violations**

No advertising violation notification letters were sent out during this period.

### **Other Investigative Matters**

Mr. May presented an overview of the current status of the 2009 license renewals. Twenty-four optometrists had failed to either submit the required continuing education or pay their renewal fee for 2009. Upon contact by the Board two doctors paid their fees, one went inactive, fifteen are out of state and the remaining six were contacted and are not practicing until properly licensed. Certified letters were mailed to those optometrists who have not renewed.

### **Approve Expenses**

A motion was made by Dr. Roark and seconded by Dr. Workman to approve the Board member expenses for this meeting. The motion was passed by the Board.

### **Dates of the Next Board Meetings**

The next Board meeting is April 22, 2009.

### **Board Member Assignments**

Dr. Riles provided a listing of the following Board member assignments for 2009.

Investigation of Complaints	Dr. Dennis Roark Dr. Larry Barger
ARBO, COPE and NBEO Liaison	Dr. Larry Barger Dr. Beth Workman
Continuing Education	Dr. Karen Riccio
Legislation	Dr. Karen Riccio Dr. Dennis Roark
Budget	Ms. Patricia Scharf Dr. Rhonda Riles
OSU Senior Class Re: Laws and Rules	Dr. Karen Riccio
Pharmacology Matters	Dr. Beth Workman

### **Adjourn**

Dr. Workman made a motion to adjourn the meeting which was seconded by Ms. Scharf. The Board passed the motion and the meeting adjourned at 12:10 p.m.

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Rhonda Riles, O.D.  
Board President

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Larry Barger, O.D.  
Board Secretary