

**Ohio State Board of Optometry  
Board Meeting**

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

**October 20, 2010 at 9:30 a.m.**

**President Presiding**

President Barger convened the meeting at 9:41 a.m. The meeting was held in Room West B & C, 31<sup>st</sup> floor of the Vern Riffe Center. Prior to roll call, Dr. Barger publicly expressed the Board's appreciation for the ten years of dedicated service that Dr. Rhonda Riles had provided and the great job she had done in each leadership position. (Dr. Riles' appointment expired September 25, 2010.) Dr. Barger then acknowledged our new Board Member, Leon M. Favede, O.D.

**Roll Call**

Present for the meeting were:

Larry Barger, O.D., Board President  
Dennis Roark, O.D., Board Secretary  
Leon Favede, O.D., Board Member  
Karen Riccio, O.D., Board Member  
Patricia Scharf, Board Member  
Stanley Warn, O.D., Board Member  
Mr. Mike Everhart, Executive Director  
Mr. Jeff May, Investigator

The following persons were also in attendance at the meeting: Linda Fette representing the Ohio Optometric Association, Todd Baker from the Ohio Ophthalmological Society, Nikki Reiss from the law firm of Carpenter, Lipps and Leland, David Corey representing LensCrafters, Kristin Starr and Yvonne Tertel from the Attorney General's Office and Andrew Feltz, O.D.

**Approve Minutes**

President Barger called for a motion on the minutes of the July 7, 2010 Board meeting. Dr. Roark moved to approve the minutes which was seconded by Ms. Scarf. The motion was then passed by the Board.

**New Licensees**

Mr. Everhart advised that there were nine completed applications for licensure as listed in Annex A. After review of the packets Dr. Roark made a motion that the nine applicants

listed in Annex A with all materials submitted be granted Ohio optometric and therapeutic licensure. The motion was seconded by Dr. Riccio and passed by the Board.

There were two applications with missing materials. After review, Dr. Roark moved that the two applicants listed in Annex A with missing material be granted Ohio optometric and therapeutic licensure upon receipt of the necessary items. Dr. Riccio seconded the motion which was passed by the Board.

The Board next reviewed two applicants for licensure reinstatement. Dr. Riccio moved that Darrell Rouse, O.D. be granted reinstatement of his Ohio optometric and therapeutic license. Motion was seconded by Dr. Warn and passed by the Board. Dr. Roark moved that Preston Linley, O.D. be granted reinstatement of his Ohio optometric and therapeutic license upon receipt of license verification from the State of Michigan. Dr. Riccio seconded the motion and it was passed by the Board.

### **Continuing Education**

Dr. Riccio explained the recap on continuing education courses received at the Board office since the July 7, 2010 meeting. (Annex B) There were 83 courses reviewed and approved. Two courses were approved only in part and one course was not approved. Dr. Riccio made a motion that courses 2010-184P through 2010-210P and 2011-005P through 2011-060P be approved as listed. Motion was seconded by Dr. Warn and passed by the Board.

### **Therapeutic Optometry Matters**

There were no drug-induced side effect reports received since the July 7, 2010 meeting.

### **Licensure Matters**

The Board reviewed three waivers of continuing education requirements. The first waiver related to ongoing health conditions of an optometrist. Dr. Riccio moved to approve the waiver which was seconded by Ms. Scharf and then passed by the Board.

The second waiver involved the health of a newborn child and the required care. Dr. Roark made a motion to approve the waiver which was requesting to complete all C.E. hours on-line. Dr. Riccio seconded the motion which was approved by the Board.

The third request was for a very serious health condition. Dr. Riccio moved to approve the request which was seconded by Ms. Scharf and then passed by the Board. Since this optometrist is diagnostically certified he will still be required to complete the required ten hours of pharmacology but may do so on-line.

### **Administration**

Ms. Linda Fette provided the OOA report. She advised Mr. Cornett is currently in Azerbaijan and then discussed the following topics: East/West, defining "essential vision benefit," preparing for school nurse symposium and working with the AOA on two programs.

The Board reviewed a recent inquiry concerning the provision of optometric services through an in-house wellness clinic located at an independent living facility. Dr. Andrew Feltz was present and explained to the Board that this was a HUD facility and was looking at this as a public health care issue. Optometrists would provide their services in conjunction with other healthcare practitioners. The central issue revolved around the prohibition of providing optometric services at a temporary office which is prohibited under ORC 4725.19(B)(15). The Board believed the wellness clinic fit the description of satellite and/or part time office as opposed to a temporary location.

The Board reviewed correspondence sent from the American Optometric Society again, urging the Board to issue a formal opinion in “regards to the usage of and promotion by licensees in your state of the designation Board Certification as defined by the ABO program.” The Board has previously stated that Board certification is independent of established license and regulatory boards and does not confer legal qualification, privilege or license to practice optometry. Further, the Board reiterated its position to monitor board certification and continue to gather available information to ensure any future changes, if appropriate, are done properly.

The next consideration was a review of current continuing education requirements and a proposal from Dr. Barger to consider allowing Board credit for practice management (PM) and/or ethics jurisprudence (EJ) courses. At the end of the discussion a motion was made by Dr. Riccio to amend the current rules to permit a maximum of two hours practice management and/or ethics jurisprudence in one compliance year and to also remove the limitation of no more than four hours of grand rounds/surgery observation in any one day. The motion was seconded by Ms. Scharf and then approved by the Board. **ATTENTION ALL: THIS MUST NEXT BE FILED WITH THE LEGISLATIVE SERVICE COMMISSION, A PUBLIC HEARING CONDUCTED AT A BOARD MEETING AND A PUBLIC HEARING BEFORE THE JOINT COMMITTEE ON AGENCY RULE REVIEW BEFORE ANY RULE CHANGES WOULD BECOME EFFECTIVE.**

The Board was provided with an update of the upcoming biennial budget. In short, the Board’s current annual appropriation is greater than the annual revenue. There has been an intentional effort to “spend down” the current surplus in the regulatory fund to cover the deficit between the appropriation level and the annual revenue. However, with the current state budget deficit projected at anywhere from 4 to 8 billion, the Board has been informed any current surplus in the Board’s fund will be “swept” and we will be required to ensure we generate enough revenue to cover any appropriation. A review of previous fee increases indicated the Board has not increased any licensure fees since 1995. Based on the current annual revenue projection of approximately \$297,500 and an average appropriation of approximately \$360,000 for the next biennium, the following fee increases were deemed appropriate by the Board:

- Increase the initial application or renewal of a certificate of optometric licensure from \$110 to \$130.
- Increase the topical ocular or therapeutic agents certificate from \$25 to \$45.
- Increase the fees for late C.E. completion, late C.E. submission and/or late licensure renewal from \$75 to \$125.

This means that a therapeutic or diagnostic certified optometrist who was paying \$135 for annual renewal will now pay \$175.

At the conclusion of this discussion Dr. Riccio made a motion to submit the proposed increased amounts to the Office of Budget and Management and the Legislature for approval. The motion was seconded by Dr. Roark and then approved by the Board.

The proposed rates must be presented to both the House and Senate for their approval during presentation of the overall budget and then signed by the Governor before becoming effective. The earliest this would occur is July 2012.

The next item of business concerned a formal opinion request to the Attorney General's office. During the July meeting the Board had requested a draft be prepared for a formal opinion to determine its authority to promulgate rules that regulate the business practices of licensed optometrists. The draft inquiry, prepared by A.A.G. Yvonne Tertel and A.A.G. Kristen Starr, was presented to the Board members for their consideration. At the conclusion of their review, Dr. Riccio moved to send the "draft" formal opinion request, as written, to Attorney General Cordray. The motion was seconded by Ms. Scharf and approved by the Board.

Dr. Roark then noted the fourth word in the second paragraph "sole" did not actually convey the essence of the entire sentence. After a brief discussion the Board decided to replace the word "sole" with the word "independent." Based on this decision, Dr. Riccio moved to change the word "sole" to the word "independent" and forward the amended request to Attorney General Cordray for a formal written opinion. The motion was seconded by Ms. Scharf and with no further discussion the Board approved the motion.

### **Patient Complaint Investigations**

The Board members reviewed the recap of patient complaints received since the July 7, 2010 Board meeting. Fourteen new complaints were received during this period with eight of the complaints being finalized. Two complaints were pending prior to the July 7, 2010 meeting, one was closed due to complainant's failure to cooperate and the other is still pending. (Annex C.)

The Investigator's Activity Report, Annex D, was reviewed by the Board members. In addition to the fourteen complaints that were filed, forty-four on-site inspections were conducted, no advertising violation letters were sent out but three previous violations were completed. Seven office inquiries/office complaints were initiated and completed. The staff traveled 1,287 miles during the period. The Board members also reviewed the summary of completed complaints and had no questions concerning the complaints.

### **Optometric Advertising Violations**

The three advertising violation notification letters that had been sent out have been responded to by the doctors that corrective action was being taken. A list of the violations was provided to the Board for their information. (Annex E.)

### **Approve Expenses**

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

### **Date of the Next Board Meeting**

The Board selected the following meeting dates for 2011: January 12, April 13, July 6 and October 12.

### **Election of Officers**

Dr. Barger called for a motion for nomination of a Board President for 2011. Ms. Scharf nominated Dr. Roark and Dr. Riccio seconded the motion which was then passed by the Board. Dr. Barger then called for a motion to nominate a Board Secretary for 2011. Dr. Roark nominated Dr. Riccio which was seconded by Ms. Scharf. The motion was then passed by the Board.

### **Adjourn**

Dr. Barger made a motion to adjourn the meeting which was seconded by Ms. Scharf. The Board passed the motion and the meeting adjourned at 11:35 p.m.

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Larry Barger, O.D.  
Board President

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Dennis Roark, O.D.  
Board Secretary