

**Ohio State Board of Optometry  
Board Meeting**

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

**April 21, 2010 at 9:30 a.m.**

**President Presiding**

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

**Roll Call**

Present for the meeting were:

Larry Barger, O.D., Board President  
Dennis Roark, O.D., Board Secretary  
Karen Riccio, O.D., Board Member  
Rhonda Riles, O.D., Board Member (arrived at 9:45 a.m.)  
Patricia Scharf, Board Member  
Stanley Warn, 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: Rick Cornett and Linda Fette representing the Ohio Optometric Association; Patrick Phelan representing Luxottica Retail and the National Association of Optometrists and Opticians; Ms. Kristen Starr from the Attorney General's Office and Todd Baker from the Ohio Ophthalmological Society.

**Approve Minutes**

President Barger called for a motion on the minutes of the January 20, 2010 Board meeting. Dr. Roark made a motion to approve the minutes that had previously been mailed to all Board members for review. Dr. Riccio seconded the motion and it was passed by the Board.

**Executive Session**

President Barger called for a motion for the Board to enter Executive Session to discuss a matter that is subject to pending or imminent court action. Dr. Roark moved that the Board enter Executive Session to discuss a matter that is subject to pending or

imminent court action. He asked that Ms. Starr, Mr. Everhart and Mr. May remain in the room. Dr. Riccio seconded the motion.

President Barger asked Mr. Everhart to take a roll call vote. President Barger, yes; Secretary Roark, yes; Dr. Riles, absent; Dr. Riccio, yes; Dr. Warn, yes; Ms. Scharf, yes. The motion was passed and the Board entered Executive Session at 9:43 a.m.

The Board entered Executive Session at 9:43 a.m. and returned to open session at 10:00 a.m.

### **New Licensees**

Mr. Everhart advised that there were three completed applications for licensure as listed in Annex A. Mr. Everhart reminded the Board that one of the applicants, Debra Behmer, O.D. was required to successfully pass Part II of the National Boards due to being out of practice for several years. After review of the packet Dr. Roark made a motion that Dr. Behmer be granted Ohio optometric and therapeutic licensure. The motion was seconded by Dr. Riccio and passed by the Board.

Dr. Riccio made a motion that the Mary Furgerson, O.D. and Julie A. Tracey, O.D. be granted Ohio optometric and therapeutic licensure. The motion was seconded by Ms. Scharf and passed by the Board.

Dr. Riles made a motion that Kimberly Castellucci, O.D. be granted Ohio optometric and therapeutic licensure upon receipt of her criminal background checks. Dr. Riccio seconded the motion and it was passed by the Board.

The Board next reviewed two applicants for licensure reinstatement. Dr. Roark moved that Shelia Fuller, O.D. and Robert Dinga, O.D. be granted reinstatement of their Ohio optometric and therapeutic licenses. Motion was seconded by Dr. Riccio and passed by the Board.

### **Continuing Education**

Dr. Riles explained the recap on continuing education courses received at the Board office since the January 20, 2010 meeting. (Annex B) There were 49 courses reviewed and approved. One course was approved only in part.

Dr. Riles made a motion that courses 2010-099P through 2010-147P be approved as listed. Motion was seconded by Dr. Roark and passed by the Board.

### **Therapeutic Optometry Matters**

There were no drug-induced side effect reports received since the January 20, 2010 meeting.

## **Licensure Matters**

The Board considered two applications for waiver of continuing education requirements. The first request was due to a prolonged illness. After review of the waiver Dr. Roark moved to approve the application. Ms. Scharf seconded the motion and it was approved by the Board. The second request was due to the optometrist being out of the country for an extended period of time. Dr. Riccio moved to approve the request and Ms. Scharf seconded the motion which was then approved by the Board. Both licensees will still be required to complete the ten hours of pharmacology.

## **Administration**

Dr. Barger advised the Board that the annual ARBO meeting is being held in June. The Board was advised there was adequate funding to send both Dr. Barger and Mr. Everhart to this conference.

Mr. Cornett, representing the OOA, addressed the Board. He spoke about the Ohio Health Information Partnership, Health Benefit Exchange (HBE), Health Insurance Exchange (HIE), upcoming primary election, AOA Congress and the loss of 34 association members due to the board certification issue.

The Board was provided a draft copy of the Spring Newsletter/C.E. reminder. The staff was requested to add information clarifying the Board's position on the use of Latisse and also the current status of board certification in relation to licensure and renewal.

The next item was a discussion of the proposed rules on "authorized business entities" i.e. leasing at commercial locations. Mr. Patrick Phelan had previously submitted correspondence (Annex C) on behalf of the National Association of Optometrists and Opticians. The letter provided "additional information concerning hours of coverage provisions and company policies regarding doctors who occasionally deviate from agreed hours of coverage for personal or professional hours."

The Board and Mr. Phelan/NAOO have agreed to disagree on what each entity believes is the appropriate level of autonomy/professional judgment for determining hours to be worked. Mr. Phelan did indicate Luxottica was attempting to finalize a policy/training for their managers involving hours and changes in work schedules and would attempt to have the policy available for the Board at the July meeting.

Mr. Everhart provided the Board with a copy of a letter from Auditor of State Mary Taylor. The letter confirmed that all audits will be conducted on a biennial basis and the cost (estimated at \$6,000) will now be paid from the Board's budget. This will be a new budget expense item that will have to be considered for the 2012-2013 budget proposal.

The ten "cost savings days" that each Board staff member was assessed for fiscal year 2010 and fiscal year 2011 will not actually save the Board any money. The Office of Budget and Management will actually be taking the "savings" from the Board's budget

and allocating it to other state expenditures. So while the 30 days of salary and fringe benefits for each of the fiscal years is a reduction to the staff, it is still an expense for the overall board budget.

Mr. Everhart explained that the upcoming biennial budget for fiscal years 2012 and 2013 will be an extremely difficult and challenging effort for everyone. A tremendous amount of "one-time monies" were utilized to complete the current budget and without that funding being available again it will create extreme hardships. Additionally, if the current surplus in the optometry's rotary fund is raided it will result in an immediate need to raise license fees. It has been strongly hinted that this will occur so the staff will watch this very closely.

The Board was informed that the proposed rules for the "confidential personal information" have been completed. Mr. Everhart is scheduled to attend a review session on these rules on April 27, 2010 and barring any unforeseen changes the staff would proceed with filing the rules with JCARR.

### **Patient Complaint Investigations**

The Board members reviewed the recap of patient complaints received since the January 20, 2010 Board meeting. Seven new complaints were received during this period with four of the complaints being finalized. Three complaints were pending prior to the January 20, 2010 meeting and one was completed prior to this meeting and two remain pending further investigation. (Annex D.)

The Investigator's Activity Report, Annex E, was reviewed by the Board members. In addition to the seven complaints that were filed, thirty-three on-site inspections were conducted, one advertising violation letter was sent out and is pending. Nine office inquiries/office complaints were initiated and completed. The staff traveled 1,099 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 one advertising violation notification letter that had been sent out is pending a response from the doctor. A list of the violations was provided to the Board for their information. (Annex F.)

### **Other Investigative Matters**

The Board was informed about information sent to an Ohio optometrist that Focus Laboratories/U.S. Compounding will no longer be able to ship Nurev, the Dapiprazole Hydrochloride Dilation Reversal Drops into Ohio. The Ohio State Board of Pharmacy has adopted the position that allowing a clinic to maintain compounded products as office stock is "outside the spirit of compounding pharmacy."

**Approve Expenses**

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

**Date of the Next Board Meetings**

The date of the next Board meeting is July 7, 2010.

**Adjourn**

Dr. Riles made a motion to adjourn the meeting which was seconded by Dr. Roark. The Board passed the motion and the meeting adjourned at 11:50 a.m.

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Larry Barger, O.D.  
Board President

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Dennis Roark, O.D.  
Board Secretary