

**Ohio State Board of Optometry
Board Meeting**

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

July 7, 2010 at 9:30 a.m.

The Board conducted a Public Hearing on rules related to Confidential Personal Information prior to the Board meeting.

President Presiding

Larry Barger, O.D., Board President, convened the meeting at 9:41 a.m. The meeting was held in Room West B & C, 31st 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
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 representing the Ohio Optometric Association; Ms. Leah Basobas O'Carroll from the Attorney General's Office, Todd Baker from the Ohio Ophthalmological Society, David Corey representing LensCrafters and Nikki Reiss from the law firm of Carpenter, Lipps and Leland.

Approve Minutes

President Barger called for a motion on the minutes of the April 21, 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.

New Licensees

Mr. Everhart advised that there were 53 completed applications for licensure as listed in Annex A. After review of the packets Dr. Roark made a motion that the 53 applicants listed in Annex A be granted Ohio optometric and therapeutic licensure. The motion was seconded by Dr. Riccio and passed by the Board.

Dr. Riles made a motion that the five applicants listed in Annex A with missing material be granted Ohio optometric and therapeutic licensure pending receipt of the required material. Dr. Riccio seconded the motion and it was passed by the Board.

The Board next reviewed two applicants for licensure reinstatement. Ms. Scharf moved that Brad Louis, O.D. be granted reinstatement of his Ohio optometric and therapeutic license. Motion was seconded by Dr. Riccio and passed by the Board. Dr. Roark moved that Helen Fathali-Dashti, O.D. be granted reinstatement of her Ohio optometric and therapeutic license upon receipt of the remaining required hours of C.E. Dr. Riles seconded the motion and it was passed by the Board.

Continuing Education

Dr. Riles explained the recap on continuing education courses received at the Board office since the April 21, 2010 meeting. (Annex B) There were 39 courses reviewed and approved. One course was approved only in part. Dr. Riles made a motion that courses 2010-148P through 2010-183P and 2011-001P through 2011-003P 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 April 21, 2010 meeting.

Licensure Matters

The Board received one application for waiver of continuing education requirements. The waiver involved a medical waiver due to recent surgeries and recovery time. After review of the available medical information and certification from the optometrist's physician, Dr. Roark moved to accept the current 18 hours the optometrist had accumulated and to waive the remaining 7 hours. The motion was seconded by Dr. Riccio and approved by the Board.

Administration

Dr. Barger gave a brief update on the investigation that is being conducted by NBEO concerning allegations of cheating on the Part I test conducted on March 16-17, 2010. The investigation has confirmed that a number of students at an optometry school organized a piracy scheme at the request and encouragement of a faculty member. The memorized exam items were organized in a thorough and systemic fashion for the purpose of sharing them with future exam candidates.

Dr. Barger provided the Board with an overview of his recent attendance at the ARBO Annual Conference. He discussed updates on the ABO, long distance/mobile learning, legal issues, COPE, etc.

Mr. Cornett, representing the OOA, spoke on the following topics: state budget issues, upcoming general election, Supreme Court hearing on the Tobacco Fund, Ohio's grant for Prevent Blindness, American Board of Optometry, National Committee for Quality Assurance (NCQA) and East/West Conference.

The Board was provided copies of an ABO website posting provided by Dr. Jonathan Warner. The letters and website postings were shared with the members as requested by Dr. Warner.

The Board next received a letter from Patrick J. Phalen, Senior Attorney, Luxottica Retail. Included with the letter was a policy statement entitled "Voluntary Guidelines Regarding Co-Location of Optometrists and Optical Dispensers." (This is relative to the on-going dialog involving the Board's proposed rule 4725-5-10.) Mr. Phalen was not available for this meeting but Board members were able to ask questions and/or present concerns to both David Corey and Nikki Reiss.

During previous discussions relative to this topic, there had been statements that the Board would be sued should they proceed with the proposed rules. Based on this concern the Board directed Mr. Everhart to draft a request to the Ohio Attorney General's office for a formal opinion to determine if in fact the Board has the legal authority to implement proposed Rule 4725-5-10. Mr. Everhart will work with the Board's Assistant Attorney General to create the draft proposal. The Board will review the "draft" at the October 20, 2010 meeting and determine a course of action at that time.

Mr. Everhart presented the Board with financial information concerning the upcoming budget for fiscal years 2012 and 2013. The Board was advised that the Office of Budget and Management had previously stated they would "sweep" any remaining monies in the Board's rotary fund which would then necessitate an increase in licensure fees. The information provided will help guide the Board when it is time to develop the next budget.

Patient Complaint Investigations

The Board members reviewed the recap of patient complaints received since the April 21, 2010 Board meeting. Four new complaints were received during this period with three of the complaints being finalized. Five complaints were pending prior to the April 21, 2010 meeting and four were completed prior to this meeting and one remains pending further investigation. (Annex C.)

The Investigator's Activity Report, Annex D, was reviewed by the Board members. In addition to the four complaints that were filed, thirty-eight on-site inspections were conducted, four advertising violation letters were sent out of which one was completed and the other three are pending. Five office inquiries/office complaints were initiated and completed. The staff traveled 1,247 miles during the period. The Board members also reviewed the summary of completed complaints and had no questions concerning the complaints.

Optometric Advertising Violations

Of the four advertising violation notification letters that had been sent out, one has been responded to by the doctor that correction action was being taken and the other three are pending a response from the doctors. A list of the violations was provided to the Board for their information. (Annex E.)

Other Investigative Matters

The Board reviewed an inquiry asking: "Is the performance of meibomian gland probing within the scope of an Ohio optometrist?" At the end of their discussion the Board came to the following conclusion:

The probing of the meibomian gland would be considered within the scope of a therapeutically certified Ohio optometrist. Therefore, while probing would be permissible, you should not infiltrate any human tissue during the procedure. The Board cautioned that infiltrating human tissue is considered an "invasive procedure" and therefore prohibited. This response did not attempt to answer the efficacy of the treatment nor appropriate education/training to perform this procedure.

Approve Expenses

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

Date of the Next Board Meeting

The date of the next Board meeting is October 20, 2010.

Adjourn

Dr. Riccio made a motion to adjourn the meeting which was seconded by Dr. Riles. The Board passed the motion and the meeting adjourned at 12:05 p.m.

Larry Barger, O.D.
Board President

Dennis Roark, O.D.
Board Secretary