

Minutes
Arkansas State Board of Optometry
Office of the Attorney General
Little Rock, AR

June 26, 2003

Dr. Robert Smalling, President of the Board, called the meeting to order, and all Board members were present. Dr. Howard Flippin, executive director and Ann Booker, state employee, as well as Mr. Trice, the Board's attorney was present. Other guests included Mrs. Barbara Martin, executive director with the Arkansas Optometric Association as well as the Association's President, Dr. DeAnne Witherspoon. Mr. Jim Bona, Board's investigator as well as a court reporter was present. Sara Israel, attorney and Mr. Bill Stovall, incoming speaker of the house, Stephanie Spivey with Wal-Mart and Mr. Courtney Sheppard with Government Solutions was also in attendance.

Dr. Hubbard presented the minutes of the Board meeting from May 1, 2003 and made a motion that the minutes be approved as presented. Dr. George Haas seconded the motion. Motion carried.

Mr. Trice conducted a hearing involving Mr. Robert Hamilton d/b/a Harrison Eyeglass located in Harrison, AR. At the conclusion of the hearing, Dr. Dale Morris made a motion that Mr. Hamilton be found guilty of violating the Optometrists Practice Act. More specifically, he has sold and supplied contact lenses or held himself out as being able to do so on at least 28 separate occasions. Dr. Coffee seconded the motion. Motion carried. As a result of the above violations of the Optometric Practice Act, Dr. George Haas made a motion that Robert Hamilton, d/b/a Harrison Eyeglass will pay to the Arkansas State Board of Optometry a civil penalty of \$500.00 for each of the 28 transactions or a total amount of \$14,000.00. Dr. William Coffee seconded the motion. Motion carried. Said civil penalty is to be paid to the Board within thirty days from the date of the order. Dr. Haas then made a motion that a copy of the Board hearing be referred to the Board of Opticians for proceeding and possible violation of the state optician law. Dr. Morris seconded the motion. Motion carried.

Mr. Trice conducted a review of the practice plan for Dr. Roy Ashabranner. The doctor confirmed that he is now practicing with Dr. Gregory Pierangeli in Jonesboro, Arkansas. Dr. Ashabranner also works with Dr. Max Horner in Paragould, AR. Dr. Ashabranner shared the agreement he has between the doctors and himself, pertaining to who owns the patient records and what would happen to those records, should Dr. Ashabranner leave those offices. Mr. Trice made some suggestions to Dr. Ashabranner as to how this agreement could still be more complete and under contract. He also suggested that the doctors, Dr. Ashabranner is working for should communicate by letter to the Board office that they are responsible for the patient records and that the patients Dr. Ashabranner see are actually their patients. Dr. Ashabranner was informed of the next Board meeting on August 28, 2003 in the State Board office in Searcy, AR. The doctor plans to be present.

Dr. Flippin approached the Board again with the matter of increasing the fee for license verification. He had done some research and felt that the Board's charge of \$125.00 per diskette is a fair fee at this time. The Board decided to table this issue until Dr. Flippin can get a list of what other States are charging.

Dr. Flippin brought the Board up to date on his attending PEER committee of the legislature to ask for appropriations to cover additional investigative expenses for fiscal year 2003. This request by the Board has been approved.

After much discussion about the questions, most often asked by optometrists, concerning patient records, Dr. George Haas made a motion that a list of the questions and answers be sent to all licensed optometrists along with a copy of Article VI Section Q of the Rules and Regulations of the Arkansas State Board of Optometry. Dr. Coffee seconded the motion. Motion carried.

Dr. Smalling and Dr. Flippin reported on their attending the ARBO meeting in San Diego. Thirty six other states were represented. The two new Board members are Jack Terry from West Virginia, and Bob Easton from Florida. Dr. Smalling encouraged the other Board members to attend the next ARBO meeting scheduled to be held in Orlando, Florida.

Dr. George Haas informed the Board that he was continuing his study to formulate new rules and regulations that implement the recent changes in the optometry law. Dr. Haas plans to have a working draft ready for discussion at the August Board meeting.

The Board reviewed the ten applicants scheduled to take the exams on July 12, 2003 at 9:00 am. A list was provided with the applicants' names and addresses. The exams will be given in the educational center on Baptist campus. There will not be a regular Board meeting on that Saturday.

Mr. Trice reviewed the numerous complaints being gathered against Dr. R. L. Heath. The Board office had just received Dr. Heath's responses to the complaints, prior to the meeting. The records as well as the complaints will be sent to a prospective expert optometrist to review and give his opinion as to whether they violate regulations or the practice act. The second area of this review involves possibly over prescribing of medication. When the Board office receives these reports, they will be sent to each Board member. There may be a phone poll as to whether to bring charges, or in the case of the prescribing, to vote an emergency suspension of the doctor's ability to prescribe.

Dr. Flippin had a request from Dr. Roger Baker to present a jurisprudence class, July 22nd in Jonesboro, AR. Dr. Dale Morris made a motion that the Board approves the request. Seconded by Dr. William Coffee. The motion carried by a vote of four to two.

Dr. Flippin presented a question that had been sent to the Board, "Can an Optometric Physician do corneal stromel punctures?" Dr. Hubbard moved that the Board stated "Yes" to that question. Dr. George Haas seconded the motion. Motion carried.

Dr. Flippin shared a complaint that had been sent to the Board office from a Medicaid recipient that was filed by Dr. Jerry Shue. This complaint dealt with a child's eyes being checked without a parent of guardian's permission. This complaint will be forwarded to the Medicaid Fraud Division for an investigation. There was also another complaint from Arkansas Blue Cross Blue Shield concerning Dr. Malcolm Hutchins. Mr. Trice suggested that he would call BCBS for the file, the records in question then be collected and reviewed to see if any charges need to be filed.

Dr. Haas had an RX on Family Vision Clinic, located in Little Rock, with three doctors names listed and only one DEA number. The doctors listed were Edwin Dunaway, O.D, Huel Heath, O.D., and James Stuckey, O.D. Dr. Haas made a motion that the Board invite these three doctors to the next Board meeting and discuss their prescribing habits and the type of prescription forms that they utilize. Dr. Hubbard seconded the motion. Motion carried.

Dr. Dale Morris made a motion that all Board Officers continue to serve in the same capacity for the coming year. (Those officers being Dr. Robert Smalling, President, Dr. George Haas, Vice-President, and Dr. Kenneth Hubbard, Secretary/Treasurer.) The officers were re-elected by acclamation. Dr. William Coffee seconded the motion. Motion carried.

Dr. Morris moved that the Board members be paid for one day of expenses plus mileage. Seconded by Dr. Coffee. Motion carried.

The next Board meeting is scheduled for Thursday, August 28, 2003 at 1:30 P.M. in the Board office located in Searcy, AR.

Meeting adjourned.

Robert Smalling, O.D. President

Kenneth Hubbard, Jr., O.D. Secretary