

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

August 29, 2002

Dr. Robert Smalling, President, called the meeting to order with all Board members being present. Also present was Mr. William Trice, State Board attorney. Barbara Martin with the Arkansas Optometric Association was present as well as Randy Thurman representing the National Association of Opticians and Optometrists. Pam Mize with Wal-Mart and Ann Booker, State Board staff was present. Also in attendance were Dr. Charles McWaters and Dr. Roy Ashabranner. Dr. Daniel Burt, a recent graduate, was waiting in the foyer.

Dr. Hubbard presented the minutes of the June 13, 2002 meeting. Dr. Dale Morris made a motion that the minutes be approved as is, seconded by Dr. George A. Haas. Motion carried.

Dr. Flippin presented Dr. Daniel Burt's file to the Board, with Dr. Burt's request to take the State Board Exam on this date. The application was dated July 12 with the deadline date being June 1, 2002. The Board discussed and decided that since the Examination will be given in February as well as July, that there be no exception for Dr. Burt to take the test. Dr. Haas made a motion that the Board let Dr. Burt's application stand for taking the test in February. Dr. Hubbard seconded the motion. Motion carried. Dr. Burt was then invited into the Board meeting and informed of the Board's decision. The doctor was given the choice of having his application in pending as well as the fee paid, or the Board agreed to refund his examination fee in full. Dr. Burt said he would let the Board office know his decision in the near future.

The Board then attempted to review Dr. Roy Ashabranner's practice plan. Mr. Trice gave a step-by-step version of what the Board expected of Dr. Ashabranner. The doctor was not prepared to present such a plan but did have a written statement of his locations as well as a statement from Dr. Brent James saying he has the patient records. Mr. Trice suggested that Dr. Ashabranner send the Board a draft of what he intends to send out to the patients, when leaving a location. Dr. Hubbard requested that, prior to the next Board meeting, Dr. Ashabranner should send an order of his plan to the Board office. Dr. Ashabranner agreed to the terms and plans to attend the next Board meeting on Friday, November 1st at the Holiday Inn in Springdale, AR.

Dr. Smalling recognized Dr. Charles McWaters being present and asked did he have anything for the Board to review. Dr. McWaters was there just to inform the Board of his present location of Wal-Mart in Jacksonville, working with Dr. Foster.

Mr. Trice presented a reply letter from Dr. Larry McNamara's attorney, concerning LMI Safety, Inc. After some discussion, Dr. Hubbard said that it would be interesting to know about the cash flow and whom the checks are actually written to and how the corporation operates. At this point, let the minutes reflect that the Board authorized an investigation on this matter.

Dr. Flippin gave an update on the 24-hour access forms being turned in. There are only about 26 doctors that have not turned their form back into the Board office. Doctors outside the state or retired doctors, are excluded from this number. Also, at this time, there are thirty doctors requesting the jurisprudence correspondence course. The total number of doctors still needing this one-hour stands at 123, which needs to be acquired by the end of the year. Dr. Haas made a motion that the Fall meeting be approved for the jurisprudence course. Dr. Hubbard seconded the motion. Motion carried. After much discussion about the five jurisprudence courses that have already been given, Dr. Flippin made a motion that the Board approves a jurisprudence course to be held in Jonesboro, AR. Dr. Morris seconded the motion. Motion carried. Dr. Smalling stated that he would plan to be there with Dr. Flippin to present this course.

Mr. Trice conducted a long discussion on the investigations, being conducted at this time, on people selling contacts over-the-counter to the public. He explained all the different outcomes that could happen if the Board wishes to bring these people up on charges. Dr. George Haas made a motion that the Board brings these people being investigated up before the Board for a hearing. Dr. Dale Morris seconded the motion. Dr. Smalling requested that the charged individuals be present as well as their inventory of products. Motion carried. The Board decided that this hearing would be scheduled for November 7 at 1:30 P.M in the office of the Attorney General.

Mr. Trice shared a request he had from a doctor's ex-wife, with allegations involving substance abuse. After some discussion, Dr. George Haas made a motion that the Board authorizes an investigator to take a statement from the woman. Mr. Trice would supply the report and then the Board could bring charges if necessary. Dr. Hubbard seconded the motion. Motion carried.

Dr. George Haas presented a possible new rule governing the keeping of patient records. After much discussion about the Law, Mr. Trice agreed to re-draft the ruling and send it to the Board office, at which time Dr. Flippin will send a copy to all the Board members. Then perhaps, the Board will have a hearing on the new rule at the December meeting. Dr. Flippin informed the Board that he would be attending a meeting on September 10th that would up-date the Board on how to do license renewals over the Internet.

There was a discussion on possible changes in the Law to eliminate the different levels of drug certifications. Mr. Trice pointed out how this problem, with time, will take care of itself since all new licensees are coming in as Optometric Physicians. Mr. Trice agreed to bring a draft to the next meeting concerning licensure.

Dr. Smalling, Dr. Haas, and Dr. Flippin all attended the ARBO meeting in New Orleans. At that time, Dr. Smalling was elected to the ARBO Board. The ARBO Board office has been moved to St. Louis, MO. The first Board is scheduled for September 14th in St. Louis.

Dr. Haas had an item involving Pearl Vision Express at the McCain Mall, in North Little Rock. He presented an ad in the phone book, in the contact lense section, that seemed to be in violation of the Law. No doctor's name is mentioned in the ad therefore, Dr. Haas felt that this ad is illegal advertising, should be stopped. Dr. Haas made a motion for the Board to set up a public hearing to bring these people before the Board for violation of the statute 1790-101 subtitle B and also 1790-104. The public hearing will be scheduled for the November 7th Board meeting. Dr. Ken Hubbard seconded the motion. Motion carried. After Mr. Trice pointed out that this ad is a violation of advertising not function, the Board decided to withdraw the motion. Dr. Flippin made a motion for the previous motion to be withdrawn. Dr. Haas seconded the motion. Motion carried.

Dr. Haas had another concern with Witherspoon Optics. Mrs. Susan Witherspoon, who runs this operation, does not have an optician's license nor is she a licensed optometrist. The doctor that is there is present only 1½ day per week. Mr. Trice suggested an investigation to see if the independent doctor is truly rendering the treatment and billing for his services. Dr. Hubbard made a motion that the Board authorizes an investigation of Witherspoon Optics. Dr. George Haas seconded the motion. Dr. Smalling ask for any further discussion, at which time Dr. Howard Flippin pointed out that there had already been an investigation in the past and he felt that the busines s is now in compliance. The vote was taken with all in favor, except Dr. Flippin's vote of "No". Motion carried.

Dr. Dale Morris moved that the Board members be paid for one day of expenses, plus mileage. Mr. Jaime Guerra seconded the motion. Motion carried. Dr. Smalling shared some news about Mr. Jack Grayson, former consumer member in Star City. Mr. Grayson has been diagnosed with Lou Gehrig's disease.

The tentative date for the next Board meeting will be Friday, November 1, 2002 at the Holiday Inn in Springdale, AR.

Meeting adjourned.

Robert Smalling, O.D., President

Kenneth Hubbard, Jr. O.D., Secretary

