

Minutes

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

October 9, 2008

Dr. Morris opened the meeting with all Board members present except Dr. Haas and Dr. Flippin. Ann Booker, Board secretary, was not present due to a family illness. Bill Trice Board Attorney was present. Dr. Tim Norton, Dr. Roy Ashabranner, Dr. Charles McWaters, Dr. Dinner, Dr. Ridings, Dr. Jaros, Dr. Reeves, Mike Mitchell, Mr. Holliman, Mr. Smith, Mr. Siebold, Vickie Farmer, and Dr. Allison Hall were in the audience. Dr. Haas and Dr. Flippin arrived just after the meeting was opened for business.

Dr. Coffee made a motion to accept the minutes of the last meeting as printed, Dr. Smalling made a second and the motion passed.

Dr. Ashabranner and Dr. Norton were in full compliance with the Medical Foundation orders. They are to attend the next Board meeting in December.

Mr. Trice addressed Mike Mitchell's request to dismiss the charging documents against J. C. Penny setting themselves out to practice optometry in a misleading advertisement. Mr. Mitchell said US Vision had placed the ad with J.C. Penny's phone numbers and logo. After discussion it was decided to leave the charging document as presented and allow Mr. Mitchell to consult with his clients as to their relationship with US Vision.

Dr. Hubbard made a motion for a continuance of the J. C. Penny hearing until the next meeting to allow Mr. Trice and Mr. Mitchell to determine J. C. Penny's involvement. Mr. Trice is to gather information for the Board then pole the Board, if he feels necessary, before December hearing. Dr. Coffee made the second and the motion passed.

Mr. Trice welcomed Dr. McWaters attorney, Mr. Holliman to the Board meeting. A discussion ensued concerning patient records, employer doctors filing Medicaid and Medicare claims in their name instead of the examining/employee doctor when the examining doctor is not a Medicaid or Medicare provider. Dr. Ridings and Dr. Jaros discussed their billing to Medicaid. They both had notified Medicaid of the irregularity and were in the process of complying with Medicaid's request for corrective action. Dr. Reeves discussed her involvement in patient record transfers from Dr. McWaters. Dr. McWaters apparently had not followed the proper protocol to notify patient of the transfer.

Mr. Trice interviewed Mr. Larry Siebold, a Pearl Vision optician concerning Dr. McWaters lease next door at MaCain Mall location. Mr. Smith of the Mitchell law firm represented Pearl. Mr. Siebold said there was a trial run with Dr. McWaters to see if he

liked the arrangement before he was to sign a lease. All other doctors in the past had signed lease arrangements. The space was not leased to Dr. McWaters after the trial period. Sherry Merriman was identified as the regional representative responsible for drawing up lease agreements.

Dr. Haas asked to see the past lease arrangement with Pearl Doctors. Mr. Smith said he would obtain the leases he could and present them to the Board. He felt a subpoena was needed. Mr. Trice is to obtain the leases and present them to the Board before the next meeting.

Dr. Hass requested Dr. Freshour and Dr. Fendley be present at the next Board meeting to discuss their past Pearl arrangements.

Mr. Trice stated Dr. Mc Waters had lost the advocacy of the Medical Foundation by not taking his ADHD medication, Ritalin. They felt if untreated impaired cognitive function might prevent him from performing his duties as and OD. No illegal drugs had been found in his test. Dr. Dinner recommended Neuropsychological testing to rule out other disorders that might be present preventing Dr. McWaters from taking the needed medications.

Mr. Trice was instructed by the Board to continue the suspension of Dr. McWaters license effective today, as directed by a previous Board vote until Neuropsychological testing can be arranged. The results are to be presented to the Board prior to the next Board meeting/hearing if completed.

Dr. Flippin requested a Board rule to address retiring doctors and patient records. Mr. Trice was instructed to present a couple of draft rules at the next Board meeting for consideration.

Dr. Smalling made a motion a letter be drafted by the Board to present to interested parties concerning our satisfaction with Mr. Trice's representation for the Board and the desire to continue our relationship with Mr. Trice. It should address the desire of the Board to continue counsel outside the AG office. Dr. Hubbard made a second and the motion passed.

Dr. Coffee made a motion the Board be paid one-day expenses and travel for the Board meeting. Dr. Smalling made a second and the motion passed.

Dr. Morris adjourned the meeting.

Dr. Dale Morris, President

Dr. Kenneth Hubbard, Jr., OD, Secretary