

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

December 11, 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 Charles Nuckles, O.D., Dr. Richard Presley, of Success Vision in Little Rock; David Witherspoon and Mrs. Barbara Martin, both with the Arkansas Optometric Association; Sara Israel, attorney with Mitchell-Williams; Paul Lewis with the Governor's office; Courtney Sheppard with Government Solutions; and Thomas Heed, Pauline Tureman, Darrell Whiteside, Pam Mize, and John Rollins, all with Wal-Mart.

Dr. Hubbard presented the minutes of the Board meeting from October 17, 2003 and made a motion that the minutes be approved as presented. Dr. George Haas seconded the Motion. Motion carried.

Mr. Trice reviewed the investigative report concerning Dr. Rocky L. Heath and the rescheduling of the hearing due to three new issues. The issues being as follows: one that Dr. Heath was prescribing without benefit of a valid DEA permit, second issue, of over prescribing schedule medication for the type of the optometric treatment he was giving the patient and three that Dr. Heath was prescribing medication that didn't have anything to do with optometric care at all. Mr. Trice assured the Board of the safety of the public, in that after all the investigating reports, Dr. Heath is not practicing anywhere at this time. The medical files have been reviewed. Dr. George Haas made a Motion, seconded by Dr. Kenneth Hubbard and Motion carried. As follows:

"That the Board authorized Mr. Trice to amend the charging documents to include the three new issues. The disciplinary hearing involving Dr Heath will be scheduled for the meeting of February 12, 2004."

Mr. Trice conducted an informal visit with Dr. Charles Nuckles, licensed optometrist in Little Rock, AR. The Board had some concerns with an advertisement that named Dr. Nuckles as well as Dr. Presley's Vision Express. There was a lengthy discussion of what exactly is the set up between Dr. Nuckles and Dr. Presley. Dr. Smalling voiced his main concern being that Dr. Nuckles' name as well as his license is being exposed to something that Dr. Nuckles doesn't have a lot of control over. (As if one selling his license for rental space.) The Board felt that the ad in question was deceptive as well as very misleading. Mr. Trice tried to stress to Dr. Nuckles that the more control he has over his practice and his employees, the better off he will be. Dr. Richard Presley addressed the Board and stated that he would be more than willing to clean up the contract between him and Dr. Nuckles.

Mr. Trice reviewed the appeal on Robert Hamilton and told the Board that this appeal is still on track in Boone County, Harrison, AR. This all should be finished by mid February. Dr George Haas informed the Board that Robert Hamilton had also been brought up before the Board of Opticians. Mr. Trice also brought the Board up to date on Mrs. Susan Witherspoon's civil penalty being reduced to judgment. Mrs. Witherspoon has communicated with the court and Judge Tim Fox conducted a hearing and entered a judgment in favor of the Board. Mr. Trice has sent a request asking Mrs. Witherspoon if she wants to agree to a payment plan for the \$5,000 owed.

Mr. Trice informed the Board that the matter involving Dr. Malcolm Hutchins has been resolved. The complaining parties now have a copy of their records and have moved to Florida. Therefore, a hearing will not be required at this time.

Dr. Flippin shared a complaint on Dr. Joe Collins. The confused patient billing is the issue in this matter and not the quality of care. The patient and doctor are negotiating and hopefully this matter will be resolved before the next Board meeting.

Dr. George Haas updated the Board on the rules and regulations for contact lens release. This project is still under study. Dr. Haas will keep the Board posted on this matter.

Dr. Flippin had an advertisement by Dr. Joe Templeton that he shared with the Board. Dr. George Haas made a Motion, seconded by Dr. Dale Morris and Motion carried. As follows:

“That the Board invites Dr. Joe Templeton to the next Board meeting, to discuss the ad in question.”

Dr. Flippin presented a letter sent to the Board office from Dr. Keith Scott. The letter listed questions Dr. Scott has and Mr. Trice stated that a lot of the questions are not related to the practice act or the rules and regulations. After much discussion, the Board decided to turn this issue over to the Arkansas Optometric Association, for their review.

After a discussion about mobile branch offices, Dr. Hubbard made a Motion, seconded by Dr. William Coffee, Motion carried. As follows:

“That a member of the Board gather information about mobile office practices and formulate into an amended rule, to be reviewed by the Board Attorney.”

Dr. Hubbard agreed to present to the Board at the next meeting information he obtains to oversee itinerant offices.

Dr. Smalling asked for comments about the jurisprudence correspondence course. Dr. Flippin had included in each Board members folder, comments from some doctors, concerning the course. Dr. Smalling asked Dr. Coffee to review the current correspondence test and make changes for the year 2004.

Dr. Flippin then reviewed with the Board the license renewal process as well as the requirement for the one-hour jurisprudence course. After discussion, Dr. Coffee Moved, seconded by Dr. Haas, Motion carried. As follows:

“That if a doctor sends in the renewal without proper documentation, the renewal packet will be retain in the Board office and he or she will be contacted and informed of the additional required documents. In addition, the office will send a warning notice on or about January 20, 2004, to the list of doctors that the Board office has not received their renewal packet.”

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, February 12, 2004 at 1:30 P.M. in the Office of the Attorney General, Little Rock, AR.

Meeting adjourned.

Robert Smalling, O.D. President

Kenneth Hubbard, Jr., O.D. Secretary