

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

December 12, 2002

Dr. Robert Smalling, President of the Board, called the meeting to order with all Board members being present. Mr. William Trice, State Board attorney, was also present. Dr. Howard Flippin, Executive Director, as well as Ann Booker, State Board staff was in attendance. Mrs. Barbara Martin with the Arkansas Optometric Association was present. Other visitors included Mr. Bryan Banks with Wal-Mart and Mr. Randy Thurman representing the National Association of Opticians and Optometrists. Also present, Jerry Himes and Marlin Freeman from the Optician Board as well as Connie Harrell from the office of the Attorney General.

Dr. Kenneth Hubbard presented the minutes of the last meeting and made a motion that the minutes of November 7, 2002 be approved as is. Dr. Dale Morris seconded the motion. Motion carried.

Mr. Trice brought the Board up to date on the investigative report for 4-U-Beauty Supply and Sunny's located in Blytheville, Arkansas. Mr. & Mrs. Chin Hak Chong request was that they be fined accordingly without a public hearing. Dr. Dale Morris made a motion that the Board accept the offers of \$2,000 payment per store, statement of guilt and supply the Board with the source of their product. Dr. Coffee seconded the motion. After much discussion, Dr. Morris withdrew his motion and Dr. Coffee withdrew the second. Dr. George Haas moved that the Board authorized Mr. Trice, in lieu of a public hearing; the offenders would be have to be present and permitted to acknowledge guilt, pay their fine, and turn over any inventory to the Board. Dr. Dale Morris seconded the motion. Motion carried.

Dr. Robert Smalling asked if anyone present wanted to speak for or against the issue of Article VI- Section Q involving the preparations, securing, and distribution of patient records. Having none, the public hearing was closed.

Mr. Trice made an addition to read as follows, "or to those individuals or entities authorized by law or Federal Regulation to receive the same." Dr. George Haas made a motion to adopt the changes to the proposed Article. Dr. Coffee seconded the motion. Motion carried. There was then a vote by the Board on the whole amended Article VI. All were in favor, motion carried. Dr. George Haas made a motion that Article VI becomes effective 1/1/03. Dr. Ken Hubbard seconded the motion. Motion carried.

The Board was scheduled to review Dr. Roy Ashabranner's practice plan, but due to the doctor not being present, Dr. George Haas made a motion to have Dr. Ashabranner served with a notice of hearing and appear before the Board on February 13, 2003. Dr. Kenneth Hubbard seconded the motion. Motion carried.

The Board reviewed the Witherspoon Optical report and, after much discussion, Mr. Trice suggested that each Board member further study the report and then take an individual vote as to whether to bring charges against Witherspoon Optics for the selling of glasses and contacts without a licenses.

Mr. Trice reviewed the changes in the proposed statues regarding licensure and adding a section to the present law that states from this point on, the Board will only issue licenses for Optometric Physicians. The individuals that are presently licensed prior to July 1, 2003 that do not meet the standards for licensure for Optometric Physician, may continue to renew the license of an Optometrist, but may only practice in the manner prescribed by the rules of the Board. The Board supports this Bill and authorized Dr. Haas and Mr. Trice to go forward with that support to the legislature.

Dr. Smalling made a change in the tentative schedule for the calendar year of 2003. The March 27<sup>th</sup> board meeting has been changed to reflect March 13, 2003.

Mr. Trice presented a letter to Wal-Mart in which he had contacted an attorney who is involved in the compliance area at Wal-Mart. Mr. Trice had supplied her with a statement of the law and a series of questions that he thought she could provide concerning the advertisement. Wal-Mart is not objecting to the ad but was surprised that their name was even on the ad since the ad was truly a B&L advertisement. Mr. Trice is waiting for further response from Wal-Mart.

Dr. Flippin presented the question concerning a doctor having an Arkansas license, but practicing in a primary office outside the state. What would the guidelines be for that doctor to have a branch office in Arkansas? The Board had much discussion concerning the different aspects of branch and primary offices. Dr. George Haas shared what the Law says about a doctor being in his primary office for 20% of the time.

Dr. Flippin shared his concern about the 75 doctors that have not complied with obtaining the one-hour Jurisprudence continuing education. Dr. Flippin reminded the Board that there is a correspondence course available but this could become a real issue come February 1, 2003.

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

The time for the next Board meeting is scheduled for Thursday, February 13, 2003 in the office of the Attorney General, at 1:30 P.M.

Meeting adjourned.

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Robert Smalling, O.D., President

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Kenneth Hubbard, Jr., O.D., Secretary