

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

December 16, 2004

Dr. Dale Morris, President, called the meeting order. All Board members with the exception of Mr. Guerra were present. Board Executive Director, Dr. Howard Flippin, Board office secretary, Ann Booker, and Board attorney, Bill Trice were also present. Dr. Morris recognized meeting attendee's Dr. Harry Denison, Amy Denison, Randy Thurman, Holly Pattar, Barbara Martin, Mark Stodola, Carrol Walker, and Karen Walker, OD.

Dr. Hubbard presented the minutes of October 22, 2004.

Dr. Coffee made a motion to approve the minutes as written, seconded by Dr. Haas. Motion passed.

Dr. Flippin discussed reports from the Arkansas Medical Foundation. Dr. Rocky Heath and Dr. Roy Ashabranner have not received advocacy to end their license suspension. Dr. Mc Waters signed a five-year contract to end February 18, 2007 and is in compliance with his contract.

Mr. Bill Trice discussed procedures dealing with complaints. He recommended that a complaint from a patient be attached to records requested from the doctor creating a packet of information for the Board. Each packet should be sent to the Board before the meeting to be read and assessed. During the Board meeting, each packet should be discussed by an identifying number as to how the Board should proceed. During the dialogue, it should be decided whether the action violated the practice act or a rule and regulation. If it did not violate the law, then the Board should not address the complaint. If it is viewed the complaint violates the law, then there are three ways to address the complaint. The Board can invite the doctor to a Board meeting for discussion with the Board, initiate an investigation of the complaint, or proceed with a disciplinary hearing. If a complaint identifies a significant risk to the public it would be reviewed prior to an upcoming Board meeting. The Board agreed to follow this practice of complaint review.

Upon Ms Stephanie Spivey of Wal-Mart late arrival, Dr. Morris opened the public hearing for Contact Lens Prescription Regulations as required by the 2003 Arkansas State Legislature revision of code 17-90-109.

Dr. Harry Denison, President of the AOA, spoke in favor of the contact rule on behalf of the Arkansas Optometric Association. He based his comments on the law requirement of the Board to formulate the contact lens rule. He reviewed the eye health and safety issues of non-professionals dispensing and selling contact lenses to the public with resultant eye infections and ulcerations.

Ms. Spivey spoke against the regulation for Wal-Mart. She based her comments on the fact that some other states do not require on line sellers to be regulated and do not require only optometrist and ophthalmologist to sell contact lenses. She stated that Wal-Mart had procedures in place to protect the public. She outlined several areas of change she recommended to the Board and presented the Board with a copy of her comments on the rule.

Dr. Morris closed the contact lens rule hearing, and

Dr. Haas made the motion the contact lens rule and regulation pass as presented. Dr. Coffee made a second and the motion passed unanimously.

Dr. Karen Walker requested the Board consider accepting a non-profit corporation with other than optometrist board of directors to hire or provide free eye care for indigent patients. After a lengthy discussion, the Board explained an optometrist couldn't work for anyone other than an optometrist or an ophthalmologist under any circumstances. Mr. Trice explained the law and various corporate structures to Dr. Walker.

Dr. Haas discussed additional Board testing of applicants to determine competence. After discussion, the Board decided to table the issue.

Dr. Haas initiated discussion of corporate control of optometric practice after one verbal complaint by a doctor of undue outside influence on his practice. He presented criteria that follow the IRS regulations, which determine self-employment verses employee. A draft rule was presented for the Board to consider at the next Board meeting.

Dr. Smalling made a motion to approve one day and night expenses for Dr. Haas, to attend the ARBO meeting at SECO in Atlanta. Dr. Hubbard seconded and the motion passed.

Dr. Morris and Dr. Smalling will also attend the meeting in Atlanta.

Dr. Flippin asked the Board to request Mr. Guerra to withdraw his resignation letter and Dr. Smalling commended his service to the state by serving on the Optometry Board.

Dr. Smalling made a motion the Board sends a letter of encouragement to Mr. Guerra to remain on the Board at this crucial time. Dr. Morris seconded, motion passed.

The next Board meeting was scheduled to February 10, 2004 in Little Rock and a tentative schedule of 2005 meeting dates was presented.

Dr. Coffee made a motion to approve Board members payment of one day's expenses plus mileage. Mr. Shirley seconded and the motion was approved.

The meeting was adjourned.

Dale Morris, OD, President

Kenneth Hubbard, Jr., OD, Secretary