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

June 13, 2002

Dr. Robert Smalling called the meeting to order recognizing all Board members being present with the exception of Mr. Jaime Guerra, who had a former commitment on this date before taking his position on the Board. Bill Trice, the Board's attorney, was present as well as Mrs. Barbara Martin with the Arkansas Optometric Association, Ann Booker, State Board staff, and Randy Thurman, representing the National Association of Opticians and Optometrists. Mistey Stegenann was a guest filling in for Pam Mize with Wal-Mart. Dr. Roy Ashabranner was in attendance for the disciplinary hearing.

Dr. Hubbard presented the minutes of the April 25, 2002 meeting. Dr. George Haas made a motion that the minutes be approved as is, seconded by Dr. Dale Morris. Motion carried.

The Board meeting entered into a Public Hearing at which time Mr. Bill Trice presented an approved draft of a purposed change to Article VI, dealing with unprofessional conduct. The addition to the regulation states that, " An Optometrist will have 24-hour access to his office and patient records, so that he may provide emergency services to patients when necessary. A failure to have such access would be considered as unprofessional conduct and of danger and harm to his patients." The Board had received, from Barbara Martin executive director for the AOA, a letter endorsing the addition to the regulation. The AOA made the request that the Board set an effective date, so as to give the Optometrists the ability to get in compliance with this change or addition to the regulation. Mr. Trice asked for anyone wishing to speak " for or against" the purposed regulation. Having heard none, the public hearing was closed. There was then a discussion on the wording of the regulation. Dr. George Haas had two purposed changes in the wording. The amended wording is as follows; " An Optometrist shall have 24-hour access to all his or her practice locations and patient records, so that he or she may provide emergency services to patients when necessary. A failure to have such access would be considered as unprofessional conduct and of danger and harm to his or her patients." Dr. Dale Morris made a motion that the amended version of Article VI be approved. Seconded by Dr. Haas. Motion carried. Dr. Hubbard then made a motion that the effective date be August 31, 2002. Seconded by Dr. Haas. Motion carried.

Mr. Trice conducted a disciplinary hearing concerning Dr. Roy Ashabranner. (See Court Report) After much discussion, Dr Flippin moved that Dr. Ashabranner be found guilty of not keeping the Board informed of his practicing location of Sam's Club at Landers Road. Dr. Haas seconded the motion. Motion carried. Dr. Flippin moved that Dr. Ashabranner not be found in violation of the same charge at the location of Dr. Newton at Wal-Mart in Hot Springs. Dr. Haas seconded the motion. Motion carried. On occurrence number three, at Dr. Webb's location at Wal-Mart in Hot Springs, Dr. Flippin moved that Dr Ashabranner not be found guilty of the third instance. Dr. Haas seconded

the motion. Motion carried. Dr. Hubbard moved that Dr. Ashabranner be in violation of the fourth instance of not keeping the Board informed of his location at Wal-Mart Vision Center, Hope AR. Dr. Morris seconded the motion. Motion carried. At this point of the hearing, there was a discussion about the handling of the patient records. Mr. Bill Trice reinforced the fact to the to the Board that patient records do not belong to a building. The records are the responsibility of the practitioner with the protection of the patient in mind at all times. Dr. Flippin moved that Dr. Ashabranner be found in violation of not securing his patient's records. Dr. Haas seconded the motion. Motion carried.

The Board then entered into the penalty phase of the hearing. Dr. Morris moved that Dr. Ashabranner be charged $500.00 for each of the two counts for a total fine of $1,000 to be paid within (1) year from the date of this Order. Dr. Hubbard seconded the motion. Motion carried. Dr. Haas made a motion that Dr. Ashabranner pay the Board a fine of $500.00 and be suspended for a period of thirty (30) days. Said suspension and fine are stayed for so long as Dr. Ashabranner complies with the following conditions of stay over the next year. (A) He will pay the fine of $1,00.00 within one (1) year from the date of the Order. (B) He will report at each meeting of the Board to inform the Board of his compliance with the Optometrist Practice Act and the rules and regulations of the Board. (C) He will inform the Board within twenty (20) days the location of his practice, giving the address and phone number. (D) He will prepare a plan and present it to the Board on the keeping of records, the storing of records, the matter of disbursing of said records on ceasing to practice at that location, and a copy of the notice he sends to patients upon his failure to practice at that location. Upon Roy L. Ashabranner, O.D. complying with the conditions of stay for a period of one (1) year, the suspension and fine of $500.00 will be eliminated and his license will be unencumbered. Upon a violation of the conditions of stay within one (1) year, the Board will conduct a hearing to determine whether he has violated the same, and if he has, the thirty (30) day suspension and $500.00 fine will go into effect. Dr. Hubbard seconded the motion. Motion carried. Hearing closed.

Dr. Flippin provided a roster of all doctors that have attended the jurisprudence courses up to this time. Dr. Haas made a motion that the Board approves any presentation of the jurisprudence course. Dr. Hubbard seconded the motion. Motion carried. Dr. Hubbard made a motion that the Board approve the Fall CE meeting in Springdale, AR. Dr. Haas seconded the motion. Motion carried. Dr. Haas made a motion that the Board has a Board meeting on Friday, November 1, 2002 in Springdale, AR. Starting time will be set at a later date. Seconded by Dr. Hubbard. Motion carried.

Dr. Flippin informed the Board that at the present time checks required two signatures. He suggested that stay in effect. Dr. Morris made a motion that the there would be four authorized signatures on the checking account, President, Vice-President, Secretary/Treasurer, and Executive Director. Any two signatures would be required on any check. Dr. Haas seconded the motion. Motion carried.

Dr. Haas led a discussion dealing with doctors notifying the Board of any "fill-in" work. Dr. Haas felt that after today's disciplinary hearing, it is crucial that the Board address the issue of who is responsible for the care of patients and their records. Mr. Trice then touched on the confidential aspect of a patient's record. He explained how facts could be

obtained by an insurance company or others from a medical information bank without the patient even knowing. No action was taken, at this time, on the doctor's suggestions.

After much discussion about how corporations are allowed to operate, Dr. Haas made a motion that the Board investigates LMI Corp. as well as Dr. Larry Mc Namara to see if he is properly equipped for a mobile office. Dr. Hubbard seconded the motion. Motion carried.

Dr. Flippin supplied a list of applicants taking the Board Examinations on Saturday, July 13, 2002, 9:00 AM at Baptist Eye Center. Dr. Dale Morris will be giving the Jurisprudence test, and Dr. Hubbard supervising the Therapeutic test. There was a special request made to the Board by Dr. Mercy Elahi, from Monroe, LA. She is interested in taking the up coming exams, but has not passed Part I of the National Boards. Dr. Haas made a motion that the Board deny Dr. Elahi's request to take the State Board Examination in July. Dr. Hubbard seconded the motion. Motion carried.

Dr. Haas made a motion that all present Board Officers continue to serve in the same capacity for the coming year. That being Dr. Robert Smalling, President, Dr. George Haas, Vice-President, Dr. Kenneth Hubbard, Secretary/Treasurer. Dr. Flippin seconded the motion. Motion carried. Dr. Hubbard then presented a rough draft of the newsletter to be mailed out in July.

There was much discussion about contact lenses being sold out of business without any licensed Optometrist there to care for the patients. Dr. Hubbard made a motion that the Board authorizes the Executive Director to hire an investigator to look into this matter. Dr. Morris seconded the motion. Motion Carried.

Dr. Dale Morris moved that the Board members, present for the meeting, be paid for one day of expenses plus mileage. Seconded by Mr. Shirley. Motion carried. Dr. Morris also moved that any Board member that needs to come for the night before the Exams are given on July 13, be paid for expenses. Dr. Haas seconded the motion. Motion carried.

The tentative date for the next Board meeting will be Thursday September 12, 2002 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