

**MINUTES**

**INDIANA OPTOMETRY BOARD**

**FEBRUARY 15, 2006**

**I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM**

Dr. Benavente called the meeting to order at 9:00 a.m. in the Indiana Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 25-24-1-2.

**Board Members Present:**

Jorge A. Benavente, O.D., President  
O. Oren Olinger, O.D., Secretary  
Merle Pickel Jr., O.D., Member  
David Phillips, O.D., Member  
Linnea M. Robbins-Winters, O.D., Member  
Peter Henderson, Consumer Member

**State Officials Present:**

Cindy Vaught, Board Director, Professional Licensing Agency  
Kristine Yarde, Assistant Board Director, Professional Licensing Agency  
Rebecca Walker, Deputy Attorney General, Attorney General's Office

**II. ADOPTION OF THE AGENDA**

A motion was made and seconded to adopt the agenda, as amended.

**PHILLIPS/ROBBINS-WINTERS**

Motion carried 5-0-0

Mr. Henderson was not present

**III. ADOPTION OF THE MINUTES FROM THE NOVEMBER 9, 2005 MEETING OF THE BOARD**

A motion was made and seconded to adopt the minutes, as presented, from the November 9, 2005 meeting of the Board.

**ROBBINS-WINTERS/OLINGER**

Motion carried 5-0-0

Mr. Henderson was not present

**IV. ADMINISTRATIVE RULE HEARING**

Re: LSA Document #05-184

Duties of Optometrists to Designate the Manner and Circumstances of Use of the Title "Optometrist" and its Abbreviation in Conjunction with their Name

**Participating Board Members:**

Dr. Benavente, Hearing Officer  
Dr. Olinger

Dr. Pickel  
Dr. Phillips  
Dr. Robbins-Winters  
Peter Henderson  
Rebecca Walker, Deputy Attorney General

A rule hearing was held at 9:20 a.m. by the Board to hear testimony from members of the public regarding the proposed rule.

Dr. Doug Morrow spoke as an optometrist who has concerns regarding the limitations the rule would impose on Optometrists in private practice. He is opposed to section (d) which would limit an Optometrist to only titling him/herself as an O.D. and not being able to advertise to the public their specific areas of specialties. Dr. Morrow feels the current rule is working well and does not require a change. Dr. Morrow stated that an optometrist who works only treating medical conditions should be allowed to advertise as a medical optometrist. He feels it merely describes what they do and the public would understand that better and it would not be misleading. Dr. Morrow also discussed optometrists who obtain certifications for specialties should be identified to the public so they do not go to an optometrist that does not treat their condition and therefore have to be referred to another optometrist.

Dr. Natalie Olinger-Stine spoke as an optometrist who is opposed to section (d) of the proposed rule. Dr. Olinger-Stine feels this rule is too limiting and would ultimately require a financial burden on optometrists to change signage, stationary, and advertisements.

Dr. David M. Wilson spoke as an optometrist who is opposed to section (d) of the proposed rule. Dr. Wilson has concerns regarding potential access problems.

Jim Zieba, Executive Director, Indiana Optometric Association feels that section (d) of the proposed rule would affect optometrists who have specialties in areas such as low vision, and pediatrics. Mr. Zieba is opposed to section (d) and feels it is not misleading the public but rather helps them make decisions about which optometrist may suit their needs the best. Mr. Zieba noted for the Board that specialty certifications are done by national entities not by the state and noted it is already illegal for an optometrist to identify him/herself as an Optometric Physician.

Dr. Robbins-Winters stated she had no problems with advertisements that point out specific conditions the optometrist will treat but she is not comfortable with optometrists titling his/herself as something other than an O.D.

Dr. Benavente stated the spirit of this rule was to address the problem of some optometrists who advertise in a misleading way holding them out as "superior" or something more than an optometrist. He made clear the rule was not meant to create limitations but rather keep optometrists from classifying or advertising however they choose.

Peter Henderson stated he still feels there should be some wording in the rule to address the concerns Dr. Benavente mentioned.

As a result of these discussions four Board members not including Dr. Benavente and Peter Henderson said they would reject section (d) of the proposed rule but would have further discussions on adding wording to the rule later concerning specialties and certifications.

**Board Action:** A motion was made to not adopt the proposed changes as requested by the Board, but to adopt the updates as designated by the Legislative Service Agency.  
OLINGER/PHILLIPS  
Motion carried 6-0-0

## V. PERSONAL APPEARANCES

### A. Robert Teeter, O.D.

Dr. Teeter did not appear before the Board, as requested, regarding his application for licensure. Dr. Teeter also did not appear as requested for the November 9, 2005 meeting. At that time the Board decided to give him an opportunity to appear at this meeting or to give him the opportunity to withdraw his application for licensure. Dr. Teeter is a 2005 graduate from Illinois College of Optometry and has completed National Boards Part I, II, III and TMOD. Dr. Teeter is currently licensed in the state of Illinois. Dr. Teeter responded positive to question #5b regarding two (2) convictions.

**Board Action:** Since no response has been received, a motion was made and seconded to deny Dr. Teeter's application for optometry licensure based upon his convictions as listed and failure to appear as requested.

### ROBBINS-WINTERS/PICKEL

Motion carried 6-0-0

## VI. OLD/NEW BUSINESS

### A. DEA Numbers for Optometrists

The Board and Jim Zieba, Executive Director, Indiana Optometric Association, shared concerns and specific instances whereby pharmacies are not filling prescriptions written by optometrists without DEA numbers and/or insurance companies are not reimbursing payees or pharmacies for prescriptions from optometrists. Ms. Vaught told the Board at the May 17, 2006 meeting this problem can be discussed more fully because representatives from the Department of Insurance, the Indiana Pharmacy Board, and hopefully the DEA will attend. As it stands now in Indiana optometrists are not entitled to a DEA number because they prescribe therapeutic legend drugs and not controlled substances. Pharmacies should not require a DEA number to fill a prescription and insurance companies should not track the numbers of prescriptions filled according to a DEA number, if they are doing this then prescriptions written by optometrists are not properly represented.

### B. 1-800-Contacts

House Bill 1308 proposes to require a contact lens manufacturer to certify annually that the brand of lenses produced by the manufacturer is available in a commercially reasonable and nondiscriminatory manner within all channels of distribution. Prohibits prescribing or selling a brand of contact lenses that is not certified. This bill has been defeated.

### C. Senate Bill 333

The proposed bill would modify the contact lens rule statute to be the same as the current federal law and eliminate the Optometric Legend Drug Prescription Advisory Committee and transfer their duties to the Optometry Board.

## **VII. DISCUSSION**

### **A. Association of Regulatory Boards of Optometry**

Discussion was held as to whether a member of the Board wishes to attend the ARBO meeting in Las Vegas, Nevada on June 12-18, 2006. It is possible to receive reimbursement of the registration fees by the State. Please contact Ms. Vaught by the end of February 2006 if you wish to represent the Board at the Annual meeting.

### **B. American Optometric Association**

The report was noted by the Board.

### **C. Rick Baron, O.D.**

Dr. Baron wrote a letter to the Board asking if he is able to treat specific medical eye conditions. The Board asked Ms. Vaught to write Dr. Baron a letter stating that the Board will not interpret the laws regarding the scope of practice and to have Dr. Baron contact his own personal attorney for his specific questions. A copy of the statutes and rules will also be mailed with the letter.

### **D. Board Member ID's**

Dr. Benavente expressed a desire to have a state issued ID card to designate the members of the Board. Ms. Vaught explained there has been discussion of getting ID cards for Board Members but it is still something the Professional Licensing Agency is working towards.

### **E. Contact Information for Board Members**

Dr. Benavente wanted current list of email addresses for the Board members. Advisory counsel Ms. Walker urged them to be careful with their correspondence because more than four members having an email discussion constitutes a quorum which makes it a public meeting. This was duly noted by all Board members.

## **VIII. APPLICATION REVIEW**

### **A. Endorsement Applications**

#### **1. Kimberly Ann Grossi, O.D.**

Dr. Grossi has applied for Indiana licensure by endorsement. Dr. Grossi is a 1992 graduate of Illinois College of Optometry and has taken and passed the National Board of Examiners in Optometry (NBEO) Parts, I, II, and TMOD. Dr. Grossi took and passed the VRICS exam which was administered by the NBEO. The state of Illinois required the VRICS examination as part of their state constructed examination. NBEO Part III did not exist at this time. Dr. Grossi holds an Illinois license.

**Board Action:** A motion was made and seconded to grant Dr. Grossi licensure once she has taken and passed the Indiana law examination.

ROBBINS-WINTERS/OLINGER  
Motion carried 6-0-0

**B. Examination Applications**

There were no examination applications for the Board to review.

**C. Faculty Limited License**

There were no faculty limited licenses for the Board to review.

**D. Professional Corporation Applications**

There were no professional corporation applications for the Board to review.

**IX. REPORTS**

**A. Consumer Complaints**

Dr. Robbins-Winters reported that she has reviewed three (3) new consumer complaints since the last meeting of the Board. She advised that all of the complaints have been closed.

**B. Indiana Optometric Association**

Dr. Olinger did not have a report but everyone was encouraged to see the Association's new website at [www.ioa.org](http://www.ioa.org).

**C. Optometric Legend Drug Prescription Advisory Committee**

Dr. Pickel did not have a report as the OLD PAC meeting was scheduled to take place today following the Optometry Board meeting.

**D. Continuing Education**

Dr. Phillips reported he has reviewed approximately four hundred (400) hours of continuing education since November 2005.

**X. ADJOURNMENT**

There being no further business, and having completed its duties, the meeting of the Indiana Optometry Board adjourned at 10:30 a.m.

  
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Jorge A. Benavente, O.D., President

5/17/06.  
Date

  
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Oren Olinger, O.D., Secretary

5/17/06  
Date