

MINUTES

INDIANA OPTOMETRY BOARD

MAY 16, 2007

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Morrow called the meeting to order at 10:00 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:

Douglas C. Morrow, O.D., Member
Natalie Olinger-Stine, O.D., Member
Stephan Van Cleve, O.D., Member
James Hunter, O.D., Member
Carl Golightly, O.D., Member

Board Members Absent:

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.

GOLIGHTLY/OLINGER-STINE
Motion carried 5-0-0

III. ADOPTION OF THE MINUTES FROM THE NOVEMBER 15, 2006 MEETING OF THE BOARD

A motion was made and seconded to adopt the minutes, as presented, from the November 15, 2006 meeting of the Board.

OLINGER-STINE/HUNTER
Motion carried 5-0-0

IV. APPEARANCES

A. CONTINUING EDUCATION

1. **Melissa Melott**
TLC, Inc.
Re: Continuing Education Approval

Ms. Melott appeared before the Board to appeal the denial of continuing education hours for a seminar that was denied because it did not meet the sixty (60) day submission deadline. Ms. Melott admitted that she was aware of the new law and that it was her mistake for not comprehending the new requirements and that it was not just a suggestion. Ms. Melott advised she would be timelier with future submissions but requested the Board overlook her error this time.

Board Action: A motion was made and seconded to grant the hours requested for the program.

VAN CLEVE/OLINGER-STINE
Motion carried 4-0-1
Dr. Hunter abstained

2. **Christine Bolton, O.D.**
Williamson Eye Institute
Re: Continuing Education Approval

Ms. Bolton appeared before the Board to appeal the denial of continuing education hours for three (3) seminars she submitted that were denied because they did not meet the sixty (60) day submission deadline. Ms. Bolton admitted that she was aware of the law but was confused since an optometric society she had worked for now has automatic approval under another law. Ms. Bolton stated that she is clear on the law and asked the Board to grant the hours for the programs.

Board Action: A motion was made and seconded to grant the hours requested for the program.

OLINGER-STINE/VAN CLEVE
Motion carried 4-1-0
Dr. Hunter dissented

B. RENEWAL

1. **Cynthia Lang, O.D.**
Dr. Lang appeared before the Board, as requested, regarding her application for renewal of her optometry license. She advised that although her license has been expired since 2003 she has completed the ninety (90) hours of continuing education and has taken and passed the law exam. Dr. Lang has held a license in six (6) states as she has traveled with her husband who is in the military. Dr. Lang has never been disciplined in any state.

Board Action: A motion was made and seconded to renew Dr. Lang's Indiana optometry license.

GOLIGHTLY/VAN CLEVE
Motion carried 5-0-0

V. ADMINISTRATIVE HEARINGS

- A. **State of Indiana v. Thomas Boone, O.D., License No. 18002742A**
Administrative Cause No. 2002 OB 0002 & 2004 OB 0002
Re: Respondent's Motion to Reinstate

Parties and Counsel Present:

Respondent was present and was not represented by counsel
Shelley Johnson, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Board Members:

Dr. Morrow (Hearing Officer)
Dr. Olinger-Stine
Dr. Hunter
Dr. Van Cleve
Dr. Golightly

Case Summary: On July 17, 2002 the Respondent's license was placed on Indefinite Probation after the Respondent submitted an application for renewal whereby he admitted to a conviction for and OWI in February 2002. The probation order was subject to certain terms and conditions. On February 27, 2003 the Respondent was notified that he was not in compliance with the terms and conditions of the probation order. Respondent failed make a personal appearance at the August 20, 2003 Board meeting. On October 14, 2004, the Board issued a Notice of Proposed Default Order. Respondent failed to respond to the Notice of Proposed Default. An administrative hearing was held on February 9, 2005 concerning a disciplinary complaint filed against the Respondent on May 28, 2004. The Respondent did attend this hearing and the Board after considering the evidence presented and taking official notice of its file in this matter found the Respondent in default. An order was filed March 31, 2005 placing the Respondent's license on Indefinite Suspension for a period of two (2) years. As a condition precedent to reinstatement the Respondent is to submit to a complete addictionology examination by a board certified addictionologist, from the approved list of certified addictionologists maintained by the Indiana Medical Licensing Board. Respondent shall provide a written report concerning his diagnosis, treatment prognosis, and ability to practice competently to be filed by said addictionologist thirty (30) days prior to Respondent's request for reinstatement of his license. Respondent shall present said addictionologist with a copy of this order and receipt and review thereof shall be acknowledged by said addictionologist in his or her written report to the Board. The Respondent testified at this hearing that is undergoing treatment for alcoholism with Dr. Timothy Kelly and had the addictionology assessment and his report was supposed to have already been sent to the Board. The Board had not received the report and could take no action on his request until they have the addictionology report.

Board Action: A motion was made and seconded to continue the hearing until the next meeting.

MORROW/OLINGER-STINE
Motion carried 5-0-0

VI. DISCUSSION

A. Kari Ellen Riina, O.D.
Re: Continuing Education Audit

Dr. Riina has not responded to the Board's last letter of December 11, 2006 asking for more information concerning the continuing education programs she

attended. Dr. Riina was chosen in an audit and submitted a letter and insurance claim that her certificates were destroyed in a flood in her home.

Board Action: A motion was made and seconded to send Dr. Riina a certified letter advising her to respond within thirty (30) days of receipt of the letter or a complaint will be filed with the Attorney General's Office for her noncompliance with the audit.

HUNTER/OLINGER-STINE
Motion carried 5-0-0

B. Rick Baron, O.D.
Re: Review of Ruling

Dr. Baron appeared before the Board because he is upset that his censure was reported to the National Practitioner Databank. The censure was a result of a complaint filed June 12, 2003 concerning his use of the term "medical optometrist" in a newspaper advertisement. That term was not a recognized title under the Indiana Code. Dr. Baron felt the statement was not misleading because he diagnosed and treated ocular pathology but nevertheless agreed to cease using it. The Board gave a verbal censure and Dr. Baron understood that meant nothing would go in writing. He told this Board he felt singled out and asked that they void his censure and report that to the databank so that this discipline will not affect his professional life. Advisory counsel, Rebecca Walker, explained to Dr. Baron that anytime a discipline is imposed there is always a written Findings of Fact and Order and it is federal law to report any discipline even a verbal censure. She further explained that his time has expired for an appeal of that discipline but she will try and review the options that are available to the Board. Therefore the Board is unable to make a decision at this meeting.

C. Beleta Dianne Evans, O.D.
Re: Renewal of Optometry License

The Board reviewed the renewal application of Dr. Evans. She has been practicing in California for the last eleven (11) years and has completed the 165 hours of continuing education needed to renew. Ms. Vaught asked the Board what they will want from practitioners who are expired more than three (3) years and wanting to renew.

Board Action: A motion was made and seconded to grant the renewal of her expired license upon taking and passing the law examination.

GOLIGHTLY/VAN CLEVE
Motion carried 5-0-0

Ms. Vaught asked the Board what would be required from practitioners who are expired more than three (3) years to renew their license. The Board requested that the following information be requested for future renewal applicants who are expired for more than three (3) years:

- a) If the practitioner has an optometric legend drug certificate from the state they are currently practicing.
- b) The number of hours per week he/she has been working since the expiration of the license.
- c) The number of continuing education hours that is required since the expiration of the license.

- d) If there has been disciplinary action taken in any state they hold or have held a license.

D. Association of Regulatory Boards of Optometry

The Board reviewed a letter from ARBO concerning the social security administration's final rule on optometrists as "acceptable medical sources" for the purposes of disability and determining blindness.

E. Administrative Rule Changes

The rules committee has been working on streamlining the former OLDPAC rules with the IOB rules. There was a discussion changing the sixty (60) day submission deadline rule and granting credit to presenters of continuing education programs.

VII. APPLICATION REVIEW

A. Endorsement Applications

There were no endorsement applications for the Board to review.

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.

VIII. REPORTS

A. Consumer Complaints

Dr. Van Cleve reported he has reviewed twelve (12) consumer complaints all are recommended to be closed.

B. Indiana Optometric Association

Dr. Golightly did not have a report regarding the IOA nor did Executive Director, Jim Zieba.

C. Continuing Education

Dr. Hunter has reviewed and approved 164.5 hours for IOB credit and 124 hours for legend drug credit of which he denied 10 hours and approved 114 hours.

IX. OLD/NEW BUSINESS

A. LSA Document #07-59 - Readoption of Rules

Ms. Vaught explained to the Board that their rules expire every seven (7) years. The rules would need to be readopted without changes because the changes they are seeking will not be completed by the time the rules expire. The Board considered and discussed the impact and requirements these rules would impose on small businesses.

The following rules will expire and need to be readopted without changes:

- 852 IAC 1-1.1-3 Application form
- 852 IAC 1-1.1-5 Information not received; effect
- 852 IAC 1-2.1 Reciprocity
- 852 IAC 1-3-1 Optometric procedures; patient records; "grossly incompetent"
- 852 IAC 1-5.1-1 General responsibilities
- 852 IAC 1-6-1 Misleading identification as to license status
- 852 IAC 1-8-1 Definitions
- 852 IAC 1-8-5.1 Written examination; passing score
- 852 IAC 1-11-1 Duties and responsibilities of optometrists
- 852 IAC 1-12 Professional conduct; standards
- 852 IAC 1-14 Reinstatement
- 852 IAC 1-15 Notification of Practice Location
- 852 IAC 1-16-4 Standards for approval
- 852 IAC 1-16-5 Penalty for noncompliance
- 852 IAC 2-1 Definitions
- 852 IAC 2-2 Continuing Education
- 852 IAC 2-3-1 Applicability
- 852 IAC 3-1 General Provisions
- 852 IAC 3-2 Definitions
- 852 IAC 3-3-2 Patient's physician notification

After considering the factors pursuant to Indiana Code 4-22-2.5-3.1(c), the Commission has determined that the following rules impose costs and requirements on small businesses:

- 852 IAC 1-2.1-2 Application file; contents
- 852 IAC 1-2.1-4 Written examination
- 852 IAC 1-3-1 Optometric procedures; patient records; "grossly incompetent"
- 852 IAC 1-5.1-1 General responsibilities
- 852 IAC 1-6-1 Misleading identification as to license status
- 852 IAC 1-11-1 Duties and responsibilities of optometrists
- 852 IAC 1-12 Professional Conduct; Standards
- 852 IAC 1-14-1 Reinstatement
- 852 IAC 1-14-2 Petitions for reinstatement; filing fee
- 852 IAC 1-15 Notification of Practice Location
- 852 IAC 1-16-5 Penalty for Noncompliance
- 852 IAC 2-2-2 Course Approval
- 852 IAC 3-1-2 Legend drugs not listed in the formulary
- 852 IAC 3-1-3 Certified optometrists required
- 852 IAC 3-1-4 Injectable prohibition
- 852 IAC 3-3-2 Patient's physician notification

Board Action: A motion was made and seconded to readopt the rules.

MORROW/OLINGER-STINE
Motion carried 5-0-0

X. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Optometry Board adjourned at 1:00 p.m.



Douglas C. Morrow, O.D., President

8/15/07

Date



Natalie Olinger-Stine, O.D., Secretary

8/15/07

Date