

MINUTES
INDIANA OPTOMETRY BOARD
AUGUST 15, 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., President
Natalie Olinger-Stine, O.D., Secretary
Stephan Van Cleve, O.D., Member
James Hunter, O.D., Member
Carl Golightly, O.D., Member

Board Member Absent:

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 MAY 16, 2007 MEETING OF THE BOARD

A motion was made and seconded to adopt the minutes, as presented, from the May 16, 2007 meeting of the Board.

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

IV. ADMINISTRATIVE HEARINGS

A. State of Indiana v. Thomas Boone, O.D., License No. 18002742A
Administrative Cause No. 2002 OB 0002 & 2004 OB 0002
Re: Request for Reinstatement of Optometry License

Parties and Counsel Present:

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

Participating Board Members:

Dr. Morrow (Hearing Officer)

Dr. Olinger-Stine

Dr. Hunter

Dr. VanCleve

Dr. Golightly

Case Summary: Respondent appeared before the Board requesting reinstatement of his optometry license. Candace Backer, Director of the Continuing the Care Program, testified on behalf of Dr. Boone. Dr. Boone has been enrolled in the program since May 11, 2007 and has submitted to random urine drug screens which have been negative. He has seen an addictionologist and had individual counseling sessions with her. She testified that Dr. Boone has remained sober and in compliance with the program. Ms. Backer recommends that Dr. Boone is ready to return to the practice of optometry. The State reviewed the Respondent's disciplinary history with the Board and stated that the preconditions for reinstatement have been met. Dr. Boone testified that all the work he has done with the therapists has helped him to fully see his problem and what he has to do to stay recovered. Respondent entered into evidence exhibit "A" which is a letter from his addictionologist, Timothy Kelly, M.D., which endorsed the Respondent's claim that he will likely maintain successful recovery of his alcohol dependence. Respondent entered into evidence exhibit "B" which is a sign-in sheet of AA meetings he has been attending since May 2007. Respondent entered into evidence exhibit "C" which is a letter to the Board from Andrew Jones, O.D. explaining he has offered Dr. Boone a career opportunity as an associate in his practice and feels that Dr. Boone is prepared to practice. The Board asked if there was a clause within Dr. Boone's contract with Ms. Backer which required her to report to the Board or the Attorney General's office in the event he has a relapse. She explained that there is no such clause but she is not opposed to having the Respondent sign a waiver which will allow her to report any relapse to the Board. The State asked that should the Board decide to reinstate the Respondent's license, that he be placed on probation with terms and conditions and to have a provision added to his contract that the Board be notified in the event of a relapse.

Board Action: A motion was made and seconded to reinstate Dr. Boone's license on Indefinite Probation subject to the following terms and conditions:

1. The Respondent's request for reinstatement is granted and therefore his license to practice optometry is reinstated on INDEFINITE PROBATION. Respondent may petition the Board to have the probationary order withdrawn after a period of one (1) year.
2. The Respondent's practice of optometry shall be governed by the following TERMS AND CONDITIONS:
 - a). Failure to comply with any requirement of probation may subject Respondent to a show cause hearing before this Board and the imposition of further sanctions.
 - b). Respondent must comply with all laws and rules regulating the practice of optometry, as well as the general statutory provisions that apply to all the health professions.
 - c). Respondent must keep the Board apprised of the following information and update it as necessary:
 - 1). Current home address, mailing address and residential telephone number;

- 2). Place of employment, employment telephone number, and name of supervisor;
- 3). Occupation title and work schedule, including the number of hours worked per week; and,
- 4). Any change in the status of employment.

d). Respondent shall cause his employer to submit monthly reports to the Board advising the Board of Respondent's professional competence, sense of responsibility, work habits, mental attitude, and ability to work with others.

e). Respondent shall notify the Board in writing of any relapse within twenty-four (24) hours of its occurrence.

f). Respondent shall successfully complete his current contract with the "Continuing the Care" program and follow all treatment recommendations including, but not limited to, AA attendance, counseling and drug testing. Respondent shall cause his primary counselor to report to the Board on a monthly basis concerning his progress.

g). Respondent shall appear before the Board as requested.

h). Respondent must meet any necessary and additional requirements to renew his expired license including the completion of any required continuing education requirements and payment of any late fee assessed.

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

V. APPEARANCES

A. CONTINUING EDUCATION

1. **Jamie Lanhan**
Eye Center of Southern Indiana
Re: Continuing Education Approval

Ms. Lanhan appeared before the Board to appeal the denial of a continuing education program that was held May 7, 2007. The program was denied because it was not submitted sixty (60) days prior to the date of the program as required by law. Ms. Lanham explained she started her position with the Eye Center of Southern Indiana in January and was not told of the new law that went into effect the previous September. She explained she would adhere to that law for future submissions but asked the Board to grant approval of this program since thirty-nine (39) optometrists attended.

Board Action: A motion was made and seconded to approve the program pending review of the course content by Dr. Hunter.

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

B. APPLICATION

1. Kelly Patrick Dice, O.D.

Dr. Dice appeared before the Board, as requested, regarding his application for optometry licensure. Dr. Dice is a 2005 graduate of Southern College of Optometry and has taken and passed National Board of Examiners in Optometry Parts, I, II, III and TMOD. Dr. Dice is currently licensed in the state of Tennessee. On his application he answered "yes" to a question asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Dr. Dice explained that in 1998 he was cited for a misdemeanor of driving under the influence of alcohol. He completed the requirements the court ordered and insisted it was an isolated occurrence which is not characteristic of his personal or professional conduct.

Board Action: A motion was made and seconded to grant Dr. Dice an optometry license.

GOLIGHTLY/HUNTER
Motion carried 5-0-0

2. Mark A. Houser, O.D.

Dr. Houser appeared before the Board, as requested, regarding his application for optometry licensure. Dr. Houser is a 2006 graduate of Indiana University and has taken and passed the National Board of Examiners in Optometry Parts I, II, III and TMOD. On his application he answered "yes" to question 4 asking, "Are you now being, or have you ever been, treated for drug and alcohol abuse?" He explained on his 21st birthday May 16, 1989 his mother smelled alcohol on him and checked him into a 30 day treatment program for alcohol. He also answered "yes" to question 5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" He explained in July 2002 he let his 9 year old son stay in the car with the dog while he ran into the store to buy milk and claimed he was gone for only 6 minutes. That evening a Bloomington police officer came to his house and asked him about the incident advising a citizen had called 911 earlier that day reporting a child locked in a car and gave his license plate number. The officer explained he responded to the call but did not locate the vehicle. The officer explained he would have to report the incident to Child Protective Services and they may follow-up. CPS followed up and told him that would be the end of it. He stated three months later he was served with a summons to appear in court and the DA refused to dismiss the charge instead insisting on a plea agreement or trial. He was a student and did not have the money to go to trial so he completed one year of probation and the charges were dropped. Dr. Houser submitted a copy of the Dismissal Order for the Board's record.

Board Action: A motion was made and seconded to grant Dr. Houser an optometry license.

VAN CLEVE/GOLIGHTLY
Motion carried 5-0-0

C. RENEWAL

There were no renewal applications before the Board.

VI. DISCUSSION

A. Kari Ellen Riina, O.D.

Re: Continuing Education Audit

The Board has given Dr. Riina several chances to respond to their requests and produce proof of completion of continuing education courses for the period of 4/1/2004 to 4/1/2006. Dr. Riina has failed to provide that information. The Board discussed their options of filing a complaint with the Attorney General's office or granting a hardship waiver since Dr. Riina claims that all of her documentation was destroyed in a flood in her home. The Board feels that several other methods could have been used to track down and obtain copies of the certificates from the sponsors.

Board Action: A motion was made and seconded to file a complaint against Dr. Riina with the Attorney General's Office.

VAN CLEVE/OLINGER-STINE
Motion carried 5-0-0

B. Association of Regulatory Boards of Optometry

Dr. Hunter attended the ARBO meeting held in Boston June 24-26 where 47 states were represented including 3 from Canada and 1 from Puerto Rico. Dr. Hunter reported on several items of discussion:

- CELMO, Council on Endorsed License Mobility for Optometrists, this would allow optometrists to easily move from state to state for those states that have this in their laws.
- ACMO, Advanced Competency in Medical Optometry, this is a test being given by the NBEO that will have a wider scope in the future and contains patient assessment modules.
- OCCE, Optometric Continuing Competency exam, the pilot NBEO administration will be at the 2008 AAO and could possibly be used in lieu of continuing education in certain circumstances.
- CEE, Continuing Education with Examination, replaces TQ.
- DOCK, Demonstration of Ophthalmic Cognitive Knowledge, this will require 300 hours of continuing education, two open book exams, and one 150 question test.

VII. CONTINUING EDUCATION

A. Cornea Research Foundation of America

Re: Application for Recognition as an Approved Organization

The Board reviewed a letter from the Cornea Research Foundation asking the Board to approve them as an "automatically approved" organization to provide continuing education to optometrists so that they will not have to submit applications in the future.

Board Action: A motion was made and seconded to deny the request of the Cornea Research Foundation to be considered an "automatically approved" sponsor.

OLINGER-STINE/VAN CLEVE
Motion carried 5-0-0

VIII. APPLICATION REVIEW

A. Endorsement Applications

1. Mark E. Kosciuszko, O.D.

The Board reviewed the endorsement application file of Dr. Kosciuszko who is a 1982 graduate of Ferris State University and has taken NBEO Parts I, II, and TMOD. He submitted a state constructed examination score report from the state of Michigan where he holds an active license.

Board Action: A motion was made and seconded to grant Dr. Kosciuszko an optometry license upon passing the Indiana law examination.

VAN CLEVE/GOLIGHTLY
Motion carried 5-0-0

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. Van Cleve reported he has reviewed four (4) consumer complaints. He recommended that all complaints be closed. He asked Ms. Vaught to get an update from the Attorney General's Office about the status of a complaint against 1-800-CONTACTS.

B. Indiana Optometric Association

Jim Zieba, Executive Director of the Indiana Optometric Association, spoke to the Board about the ongoing issue of optometrists having difficulty getting prescriptions filled by pharmacies due to the fact they do not have a DEA number.

C. Continuing Education

Dr. Hunter has reviewed 34.5 hours for IOB credit and approved 30.5 of those hours. He reviewed 9 legend drug hours and approved 5 of those hours.

IX. OLD/NEW BUSINESS

A. Rick Baron, O.D.

Ms. Walker, updated the Board concerning the situation of Rick Baron, O.D. Dr. Baron is upset that a verbal censure was given to him by the Board in October 2003.

It was reported to the Healthcare Integrity and Protection Data Bank (HIPDB). Ms. Walker explained that Federal law requires the reporting of any discipline levied against a practitioner. He can submit a 2000 word subject statement to the data bank to explain his side which will be attached to the data entry. Dr. Baron could have had an attorney represent him at the time of his 2003 hearing and he could have appealed the decision at that time however it is too late for an appeal now. The data bank entry cannot be removed and the Board cannot take action to change it.

B. Continuing Education and Rule Making

The Board held discussion concerning continuing education and rule making. Dr. Van Cleve feels the sixty (60) day submission requirement for sponsors submitting applications is a hardship on the sponsor. Dr. Golightly spoke about making a rule requiring practitioners to have two (2) hours of continuing education in the area of record keeping/medical coding to ensure doctors are doing things legally and in full compliance with Medicare and Medicaid to avoid trouble with fraud.

X. ADJOURNMENT

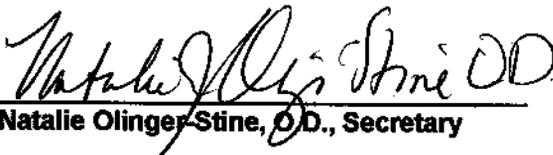
There being no further business, and having completed its duties, the meeting of the Indiana Optometry Board adjourned at 12:30 p.m.



Douglas C. Morrow, O.D., President

11/14/07

Date



Natalie Olinger-Stine, O.D., Secretary

11/14/07

Date