

Iowa Board of Optometry
Meeting Minutes
January 14, 2010

An electronic meeting of the Iowa Board of Optometry was held on January 14, 2010 at 10:00 a.m. in the Professional Licensure Board Room, Lucas State Office Building, Des Moines, Iowa. The meeting was held in accordance with section 21.8 of the Code of Iowa entitled "Electronic Meetings." The Code states that a government body may conduct a meeting by electronic means only if circumstances are such that a meeting in person is impossible or impractical, and if the governmental body complies with the provisions of section 21.8. The meeting of the Iowa Board of Optometry was called to order at 10:02 a.m.

Members Present on Conference Call: Dr. Christopher Olson, Dr. Michael Ohlson, Dr. Terry Brown (joined the conference call after approval of the minutes), Dr. Barbara Washburn, Dr. Jeffrey Foreman, Carolyn Warkentin and Connie Connolly

Staff Present: Judy Manning (Board Executive), Eileen Gloor (Bureau Chief), Emily Kimes-Schwiesow (AAG), Karla Hoover (Board Staff)

Others Present: Gary Ellis (Iowa Optometry Association)

APPROVAL OF MINUTES

A motion to approve the October 8, 2009 minutes was made by Dr. Jeffrey Foreman and seconded by Carolyn Warkentin. Motion carried unanimously.

PUBLIC COMMENT

Gary Ellis informed the Board of two important items that affect Iowa optometrists. First, legislation was introduced on Monday to change the Optometry statute to allow an Iowa licensed optometrist to prescribe and dispense therapeutic contact lenses. These contact lenses are impregnated with anti-allergy or other medication. They have been classified as a pharmaceutical and not merely a medical device. Before the legislation was introduced the proposed language was reviewed and accepted by both the medical and pharmaceutical societies, so no major obstacles to passage are expected. Secondly, the IOA has received complaints from some optometrists that procedures that have been reimbursed by Medicare for more than 20 years are now being denied with the remark that optometrists are not allowed to do those procedures. IOA is asking for the board's support in reminding WPS that the interpretation of Iowa law should be made by the Iowa Board of Optometry and not the WPS. Mr. Ellis requested an updated letter from the Board stating what procedures Iowa optometrists are lawfully allowed to perform--similar to the document presented in the past (1995) to BCBS (the Medicare carrier 15 years ago). Mr. Ellis has the LCD (local carrier directive) document regarding the position that WPS currently holds. This topic will be discussed more thoroughly under New Business.

REPORTS:

Chair: Dr. Christopher Olson informed the Board that he has been elected to the ACOE (Accreditation Council for Optometric Education), attended their Fall meeting, and completed his consultant training. He will be traveling to Boston for his first site visit in March and will be involved with the accreditation process for optometry schools, colleges, and residency programs for at least the next 3 years.

A continuing item of discussion across the nation is the classification of Latisse and the defining of future pharmaceuticals agents. Some states are like Iowa and allow the prescribing of Latisse by optometrists with an appropriate diagnosis (i.e. hypotrichosis) documented in the record, while others do not allow it arguing it is for cosmetic use only. Dr. Ohlson commented that a classification of cosmetic pharmaceutical agents would be inappropriate.

Concerning the issue of board certification, the Contemporary Issues Committee met and came to the consensus that a “wait and see” approach would be the best for the time being rather than giving a formal opinion with proposed action. It was noted that Nevada has decided that it would be illegal for their optometrists to use the board certified designation. This will be discussed more thoroughly during Old Business.

Board Executive: Judy Manning explained that Senate File 2117, a bill that would change the optometry law to allow optometrists to dispense pharmaceutical contact lenses, is being considered by a legislative sub-committee today. Judy also explained that the Board’s request to change chapter 154 to allow only TPA certified optometrists to practice in Iowa after July 1, 2012 has been included in the Department of Public Health technical amendment bill and hopefully will be passed by the end of the session and signed by the governor.

Bureau Chief: See attached Addendum

AAG: Emily Kimes-Schwiesow informed the Board that the Attorney General’s office has been dealing with the state budget cuts. Each employee in the AG’s Office will be taking 13 days of unpaid furlough. Ms. Kimes-Schwiesow is planning to spend time each meeting discussing a relevant legal issue or part of the Iowa Code that impacts the Board. Today, we reviewed statutory chapters on administrative rules and other pertinent chapters. We are very familiar with Chapter 154 already. Additional chapters discussed today were Chapters 17, 21, and 272c . She reminded us of the difference between Iowa Code (established by the legislature) and Administrative Rules (written by the state board itself). Rules provide further definition of the law and are open to waivers.

ADMINISTRATIVE RULES

Adoption of Chapters 4,14 and 15- Chapter 4 (which is a common chapter) will be revised to add rules regarding license denial and revocation for nonpayment of state debts including court debts and state tax debts. The Department rules became effective in May 2010 and Chapter 4 will adopt these by reference. This change will also add existing rules regarding license denial and revocation for non-payment of child support and school

loans by rescinding Chapters 14 and 15. Dr. Christopher Olson moved that we adopt the changes to Chapters 4, 14 and 15. Dr. Barbara Washburn seconded. Motion carried unanimously.

NEW BUSINESS

Letter from American Board of Optometry A memorandum from the American Board of Optometry declaring the ABO bylaws were issued. The ABO wanted all state boards of optometry to take a special look at their Article II – Type of Corporation; Purposes. The Iowa Board members reviewed and duly noted ABO’s communication.

Can a DPA Certified optometrist sign and receive prescription drug samples? This question came from a drug company who asked for our clarification. After a short discussion, we agreed that this would not be appropriate and may in fact be illegal for the drug company to make the samples available to DPA- only licensed optometrists. We will respond appropriately to the inquiry.

Letter from Stephen Boren, MD This letter asks for an explanation concerning Iowa optometrists’ ability by law to perform certain surgical procedures. He understood the law to allow only the removal of superficial foreign bodies from the eye and adnexa. There was discussion concerning the practice of using surgical procedural codes for non-surgical procedures such as aberrant eye lash removal. There was also considerable discussion concerning respect for the Iowa Board of Optometry’s interpretation of the optometry laws by the previous medical director of Medicare. For the past 15 years Iowa optometrists have performed and been properly reimbursed for the current procedures in question, without detriment to Iowa citizens. In 1995, the board sent the medical director (at that time) a letter containing a list of procedural/surgical codes that Iowa optometrists were allowed to perform. Mrs. Kimes-Schwiesow did not recommend that we send a similar letter listing specific procedures that a carrier should reimburse. She reiterated that our job as a board is to make sure that our licensees can do the procedures. We should not get involved with reimbursement issues--that would be the IOA’s job. Dr. Ohlson moved and Dr. Barbara Washburn seconded that the Contemporary Issues Committee should meet and produce a letter responding to Dr. Boren’s inquiries. Following review by the AAG, it will be sent.

Letter from Gary Fisher, OD Dr. Fisher requested a clarification on what surgical procedures optometrists were allowed to perform since they were now being denied by our Medicare carrier and in the past they were covered. This was reviewed with Dr. Boren’s letter.

OLD BUSINESS

Letter from Craig Steinberg, American Optometric Society: Dr. Craig Steinberg, OD, JD would like a formal opinion as to whether or not and to what extent, Doctors of Optometry licensed by our board may represent themselves as “board certified.” Two separate entities (ABO and ABCO) are planning to offer optometrists board certification

in “General Optometry.” This is in addition to the VA board certification program for its residents (ABMO) and the board certification awarded by the COVD. The Contemporary Issues Committee has thoroughly discussed this topic and feel it is best if we take a “wait and see” attitude before making a formal decision. Dr. Mike Ohlson said the official document stating the board certification requirements for “General Optometry” is not yet available. The board certification awarded by COVD has already been in use for years. We will wait on a formal opinion until we see the “General Optometry” board certification requirements.

CLOSED SESSION

Dr. Christopher Olson made a motion to go into closed session in accordance with Chapter 21.5(1)“d” at 11:13 a.m. Motion was seconded by Connie Connolly.

Roll Call: Dr. Christopher Olson, aye; Dr. Michael Ohlson, aye; Dr. Terry Brown, aye; Dr. Barbara Washburn, aye; Dr. Jeffrey Foreman, aye; Carolyn Warkentin, aye; Connie Connolly, aye.

Dr. Michael Ohlson made a motion to return to open session at 11:29 am. Motion seconded by Connie Connolly. Motion passed unanimously.

09-004 : A motion to close this complaint was made by Dr. Terry Brown and seconded by Dr. Michael Ohlson. Motion carried.

NEXT MEETING

The next board meeting will be April 8, 2010. at 9:00, if a hearing is necessary.

ADJOURNMENT

Motion to adjourn at 11:39 am was made by Dr. Terry Brown and seconded by Dr. Mike Ohlson. Motion passed unanimously.

Respectfully submitted by,

Barbara Washburn, O.D.

Bureau of Professional Licensure
Bureau Chief Report
1/01/10 – 3/31/10

- 1. Legislation and rulemaking** The 2010 legislative session convened on January 11. The funnel dates that allow bills to progress were February 12 and March 5. The 80th day of the session will be March 31. Primary issues addressed by the legislature include health care health care reform and the state budget. The Bureau of Professional Licensure submitted four requests for legislative changes in the Department's 2010 Technical Bill. These were for the Boards of Barbering, Cosmetology, Respiratory Care and Optometry. As we receive requests to make statutory changes or administer new licensure boards, I submit legislative assessments and fiscal notes with the input of the board executives, and we attend legislative subcommittee meetings upon request. When proposed legislation impacts with other boards such as medicine or nursing, the boards work together to provide consistent information regarding the impact of a proposed bill on public protection. When administrative rule changes are reviewed by the year round Administrative Rules Review Committee, the Board Executives provide information about the content of the changes, outcome of the public hearing, and public comment received. In some instances, Board members participate in the meetings to provide a professional perspective and articulate how rule changes proposed by the board benefit public protection.
- 2. Budget** The Department will continue to evaluate and respond to the impact of the overall state budget on public health services and workforce in SFY10. To date, IDPH has not experienced a substantive reduction in force. Our professional licensure staff is taking either 5 or 7 mandated unpaid days through June 30, depending on whether they are contract or non-contract employees. Thus far, all requests for the boards' professional memberships have been approved. No travel request for board members or staff may be submitted. PL staff members have been diligent in selecting furlough days that are spread over the coming months to assure the person who serves as their backup is informed about priority issues, allowing our work to progress as seamlessly as possible. Although the absence of any staff member is felt in an environment as busy as ours, we do not anticipate the boards will be significantly disadvantaged by the budget restrictions and we do not anticipate changes in our staff through the remainder of this fiscal year.
- 3. Activities of the Bureau Outreach and Compliance Educator** Marvin Firch has met with the 19 boards to describe the purpose of this new position and offer his services to improve compliance with Iowa's

licensure statutes and rules. Marvin is currently accepting invitations to present information about the work of the licensure boards. He is developing educational materials that will be accessible to the public to better explain the complaint and disciplinary processes, and reinforce the link between licensure and public protection. Several boards have identified projects that target Marvin's availability to travel within the state and meet with licensees, professional organizations, employers, students, and consumers. I encourage you to tap into his expertise and his focus on the positive aspects of licensure.

- 4. New Look on the Boards' Public Web Pages** The Bureau has changed the look of two public web pages to make information more accessible and easier for users to navigate. Since 2001 the boards have posted, on their individual Discipline and Public Actions page, those documents related to board actions that are public by law. Until now, the only way users could access information was by calendar year. This often made it difficult to link items that extended into another year. Under the new Channels system, users may select a board and sort disciplinary and public actions by licensee name, date, or location. The system does not provide a search option. However, users may use the Ctrl F function to insert a name that will be highlighted on the list. This option allows our Discipline Office staff to manage web postings, eliminating the need to submit requests to our IM Bureau. As in the past, public actions taken before October 2001 are available in hard copy and via CD. Additionally, the Bureau is using the Channels system to post meeting agendas, minutes, and related documents together under the date of the board meeting. Under the new system, which is also managed by our own staff, information will be available for the current year, the upcoming year, and the past year. Users who seek minutes from meetings two or more years in the past will be directed to contact the board office.
- 5. Internship Opportunity Posted** The Bureau has posted an internship opportunity for a graduate student to develop a program designed to educate salon owners, managers, and employees on matters related to Cosmetology licensure rules. In this case, the Bureau is interested in an individual who is familiar with Asian languages and customs. If such an intern is found, he/she will formulate a written plan to integrate a special populations component into other licensure boards' educational materials, and will recommend enhancements to board websites that increase their usefulness to diverse populations.
- 6. Measures of Success** Twice each year the Bureaus are required to report how well they have met performance measures. Our 19 boards have met or exceeded projected their targets for both licensure and discipline. The Bureau prints renewal notices and licenses in house,

and licensure fees are processed and reconciled every business day. During SFY2009, the Bureau printed and mailed 22,177 licenses and wallet cards. In almost 100% of cases, printing and mailing is conducted within three business days when all required items are on file in the board office. In SFY09, the 19 boards in total received 415 complaints. The boards respond to 100% of signed complaints. Throughout the year, total of 213 cases were referred to the Department of Inspections and Appeals for investigation and 202 investigations were completed. Our ability to work efficiently is largely the result of experienced staff and the commitment of board members to assuring public protection through licensure, rulemaking, and discipline of incompetent or unethical practitioners. On behalf of our Bureau I would like to thank you for the work you do and encourage you to help us identify areas for improvement.

7. **Microsoft 2007** The Department of Public Health upgraded to Microsoft 2007 in fall 2009. Board members are encouraged to consider a similar upgrade in order to receive materials.