

South Carolina Department of Labor, Licensing and Regulation (LLR)
South Carolina Board of Examiners in Optometry
Regular Board Minutes
March 26, 2008
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 111
Columbia, South Carolina

Public notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the 1976 South Carolina Code, as amended, relating to the Freedom of Information Act. A quorum was present at all times. Dr. Williams called the meeting to order at 3:09 p.m.

BOARD MEMBERS PRESENT:

Dr. Robert Neal Williams, President
Dr. Kenneth M. Nash, Vice President
Dr. Deborah A. Long
Dr. Furman Mason Smith
Isaac L. Johnson, Jr., Public Board Member

BOARD MEMBER NOT PRESENT / Excused: Dr. David W. Hamill

IN ATTENDANCE:

Joseph F. Bowen, O.D., License #571
Mrs. Linda Bowen
Mr. Richard P. Wilson, Special Counsel/Program Coordinator,
Recovering Professional Program (RPP)
Ms. Thompson, Recovering Professional Program (RPP)
William W. Spearman, O.D.

SCLLR STAFF PRESENT:

Paula Magargle, Esquire, Office of General Counsel, LLR
Shirley Robinson, Esquire, Legal Advisor to Board, LLR
Sharon Dantzler, Esquire, Office of General Counsel, LLR
Steve Freshley, Investigator, Office of Investigations and Enforcement
Angie M. Combs, Administrator
Janice D. Meetze, Administrative Assistant

A **motion** was made to accept the November 29, 2007 minutes as written. The motion was seconded and passed.

PRESIDENT'S REMARKS

Dr. Williams suspended the order of the agenda to proceed with Hearing Case #2007-1 at 3:10 p.m.

HEARING – CASE #2007-1

Case #2007-1 hearing was recorded and transcribed by Eric Gore, Certified Court Report, Gore Court Reporting. Transcript is available upon request.

Board reconvened in Public Session at 4:50 p.m.

Motion: Mr. Johnson made a motion that Dr. Joseph F. Bowen's license be suspended pending the receipt of an evaluation from RPP. After the Board has received the evaluation, the decision will be made further regarding Dr. Bowen's license. Upon completion of the evaluation from RPP and receipt of same by the Board, the Board will immediately schedule a meeting and Dr. Bowen shall appear for a determination of what action shall be imposed upon his license. Dr. Nash seconded the motion. The motion carried.

Dr. Bowen, Mrs. Bowen, Mr. Wilson, Ms. Thompson, Ms. Magargle, Ms. Robinson, and Mr. Freshley departed the meeting at 4:55 p.m.

Ms. Dantzler entered the meeting at 5:00 p.m.

NEW BUSINESS

RPS (Rapid Pathogen Screening) Adeno Detector and Optometrists in South Carolina: The Board received an inquiry from Lee J. Raykovicz, O.D., Director, Rapid Pathogen Screening, as to whether South Carolina optometrists could obtain a CLIA (Clinical Laboratory Improvement Amendments) waiver to perform the Rapid Pathogen Screening using an Adeno Detector. The RPS Adeno Detector provides the healthcare professional a rapid result that can assist in the diagnosis and management of conjunctivitis. Ms. Dantzler advised the Board. The Board does not endorse products, and a product must be used within the scope of practice. Ms. Combs was asked to respond to Dr. Raykovicz.

Optometrists Performing Thermage: The Board received an inquiry as to whether optometrists could perform Thermage which uses radio waves as a cosmetic treatment to tighten the skin around the eye. Ms. Dantzler advised that treating ocular adnexal disease is within the scope of practice; accordingly, thermage must be delivered within the scope of practice under the supervision of a physician and only to the extent the treatment is for ocular adnexal disease.

Ms. Dantzler departed the meeting at 5:15 p.m.

REPORTS / INFORMATION

Administrative Reports and Information: Ms. Combs reported licensee totals for each type of license as 660 TPA, 29 DPA, and 22 Basic, for a total of 711 licensed optometrists. In South Carolina there are 6 Basic, 7 DPA, and 445 TPA licenses for a total of 458 licensees. Financial information is available upon request.

S.C. Jurisprudence Examination: The examination was administered to nine candidates (included three endorsement candidates) immediately preceding the meeting today, March 26, 2008.

Branch Registration Applications: Applications were received from Dr. Deborah M. Amoroso, Hilton Head Island, SC, and Dr. Aleque S. James, Rock Hill, SC. A **Motion** was made to approve the branch office location applications. The motion was seconded and passed.

Association of Regulatory Boards of Optometry (ARBO) 89th Annual Meeting: A summary Agenda for the June 22-24, 2008 ARBO meeting and room rate information for Seattle, Washington was made available; federal hotel reimbursement rate is \$152.00. Dr. Williams and Ms. Combs will discuss if a Board member will be attending the ARBO meeting.

ARBO Request to Add OE (Optometric Education) Tracker Number to Licensees' Files: Ms. Combs advised that ARBO has requested member boards to add a unique six-digit OE Tracker Number to

REPORTS / INFORMATION continued

electronic or paper files used to store licensee information. An OE Tracker number has been assigned to all optometrists by ARBO and can be used to track received continuing education hours. Ultimately, the final decision would be governed by the Agency; Ms. Combs will report back to the Board their decision.

Economic Interest Forms: Ms. Combs reminded the Board that forms are due by April 15, 2008.

Upgrade Reminder Letters: Certified letters have recently been sent to in-state Basic and DPA licensees to remind them that by October 1, 2008 all South Carolina licensed optometrists must have meet all requirements for a TPA license upgrade. The Board concurred that the out-of-state licensees should be sent a reminder letter one more time prior to the deadline date. Notices and reminders have previously been sent to all licensees.

Board Member Appointment Update: The Board's office is awaiting the official Board member appointments from the Governor's Office. Dr. Hamill's term expires April 24, 2008 and is not seeking reappointment.. Dr. William Spearman was the lone nominee to fill that upcoming vacant position. Dr. Smith, term expiration date March 9, 2008, and Dr. Williams, term expiration date June 30, 2008, were eligible for reappointment and both uncontested nominees. All names have been submitted to the Governor for appointment.

News Media Contact: Ms. Combs advised the Board that Agency policy stipulates if contacted by the news media then instruct the person(s) to contact the Communications and Governmental Affairs Division of LLR.

Bill to Amend Department of Consumers Affairs Law: Ms. Combs attended a committee meeting concerning a Bill to Amend Department of Consumer Affairs Law that relates to illegally dispensing contact lenses. The amendment would provide relief in the Administrative Law Court for a contested case. Ms. Combs will verify passage of the Bill.

S.C. Spending Transparency: Governor Sanford has issued an Executive Order directing the Comptroller General's office to develop and operate a single, searchable website accessible at <https://ssl.sc.gov/SpendingTransparency> at no cost to the public that provides information regarding expenditures of State agencies. Individual Board member/staff travel expenditures are listed.

Rural Ophthalmologists and Optometrists Program Study Report: In Dr. Hamill's absence, and as a committee member, Dr. William Spearman reported that the committee was charged to report to the House and Senate by January 15, 2008 addressing the need for rural eye care. A recommendation was made to reduce the committee size to three ophthalmologists and three optometrists. After identification of areas of need in the state, it was evident that several counties do not have existing eye care. The report has been jointly submitted with no response to date.

Continuing Education Course Approval: The University of North Carolina Eye Symposium sponsored by the School of Medicine was approved and will be accepted in the unlimited hours category. Teleconference CE sponsored by UAB and Review of Optometry is acceptable in the limited category. Dr. Smith agreed to review continuing education courses as Dr. Williams assumes his role as Board President.

UNFINISHED BUSINESS

Review Response to Administrator's Notice of Possible Advertising Violations: Nine optometrists recently received correspondence from Ms. Combs concerning possible violation of S.C. Optometry Law by actively or passively participating in an advertisement campaign being run by their employer. A response was received that immediate modifications would be made to include reference to the regular eye exam price of \$39.00 when promoting the "free" eye exam offer in all future printed and television advertising; all advertising will clarify that there are no dispensing fees with the purchase of ophthalmic materials. Ms. Combs shared this reply with Ms. Dantzler. Ms. Dantzler has recommended compliance monitoring and filing individual complaints if there is non-compliance with the Practice Act.

Return to NEW BUSINESS

Action Taken When Not Compliant with Continuing Education Audit: Notices with instructions to renew online will be generated August 2008. Discussion followed regarding the establishment of Board criteria for questionable audit results and how to proceed in the event that a licensee's CE does not meet Board standards. **Motion:** Dr. Nash made a motion that if the renewal audit is deemed questionable, the licensee would be granted until January 1st of the next calendar year to meet the requirements and must pay a \$50.00 administrative late fee or license will lapse on January 1st. The motion was seconded and passed.

Term "Independent Doctor of Optometry" and License Coverage – SC Board of Examiners in Opticianry Inquiry: The South Carolina Board of Examiners in Opticianry has inquired as to the validity of an independent optometrist acting as the licensed coverage in the absence of a licensed optician. When an optical business does not hire an optician or have one on duty, it often considers the consenting independent doctor of optometry to be its licensed coverage. The Board concurred that a licensed optometrist that delegates tasks must do so according to the Optometry Practice Act. The Board offered the opinion that if two separate business licenses exist, the independent doctor of optometry could not be considered a direct supervisor. Ms. Combs will further consult with the Opticianry Board's attorney concerning this issue.

Request Unlimited CE Hours Classification for Education Seminars – Society of Professional Optometrists: A request has been received from Dr. Shuman, President, Society of Professional Optometrists, a Georgia corporation which provides continuing education for optometry licensure renewal, asking the South Carolina Board of Optometry to classify this organization as a sponsor in the unlimited continuing education category. The Board felt this organization does not meet the requirements to fall in the unlimited hours category as stated in the South Carolina Optometry Regulations. Board Regulations now stipulate that courses can be approved if the sponsor can demonstrate that the course is COPE approved and a member of the State Optometry Board from the state wherein the course is offered is present to attest to the enforcement of attendance.

Term Optometric Physician: Dr. Williams informed the Board that in the S.C. Optometric Association's information publication, "The Delineator", it recently stated that the State Board has ruled that optometrists can call themselves optometric physicians. The Board decided in 2001 not to pursue a Regulation change concerning this issue and would not discipline South Carolina licensees for using the term "optometric physician." No ruling was established.

NEW BUSINESS continued

Therapeutic Medicated Contact Lenses and Optometrists – Inquiry/Dr. Peter Candela: On behalf of the South Carolina Optometric Association, Dr. Candela inquired as to whether the Practice Act would allow optometrists to use/dispense/stock/treat/charge patients for therapeutic medicated contact lenses. The Board determined that the fitting, prescribing, and sale of therapeutic lenses fall within the scope of practice of optometry. Dr. Williams will discuss the matter with Dr. Candela.

License Lapse Date for Basic & DPA Licenses/TMOD Examination Fall Administration – Inquiry: Ms. Combs received an inquiry asking if Basic & DPA licensees with an expiration date of October 1, 2008 could practice until results had been received from the December 3, 2008 administration of the TMOD, noting that scores could take up to six weeks to be released. The Board concurred that per S.C. Optometry Law a licensee must be in compliance with proof of passage of the TMOD and all upgrade requirements by September 30, 2008 in order to practice after that date; however, the Board agreed to waive the late fee when licensee renews after receiving a passing score on the TMOD and completes renewal requirements..

ANNOUNCEMENTS

The next administration of the South Carolina Jurisprudence Examination is scheduled for Wednesday, June 11, 2008, 2:00 p.m., 110 Centerview Drive, Kingstree Building, Room 105, Columbia, South Carolina.

The next regularly scheduled Board Meeting is June 11, 2008, 3:00 p.m., 110 Centerview Drive, Kingstree Building, Room 111, Columbia, South Carolina.

There being no further business or announcements, Dr. Williams adjourned the meeting at 6:30 p.m.

Meeting recorded and minutes transcribed by Jan Meetze, Administrative Assistant.

Respectfully submitted by Angie M. Combs, Administrator