

South Carolina Board of Examiners in Opticianry
Board Meeting Minutes
May 12, 2022 at 9:00 am
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina

Public Notice of this meeting was properly posted at the Opticianry Board Office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with the South Carolina Freedom of Information Act, Section 30-4-80.

BOARD MEMBER PRESENT:

Mr. Keith Hayes, Chairman
Mr. Grant Brown, Vice Chairman
Ms. Emily Mikell
Mr. Daniel Gosnell
Mr. James Rhodes

SCLLR STAFF PRESENT:

Mary League, Esq., Office of Advice Counsel
Meredith Buttler, Administrator
Ashlynn Kirk, Administrative Assistant

PRESENT:

Robin Reibold, Court Reporter
Francine Lozada
Maria Cessna
Joshua Cessna
Donald Anderson
Ron Harbert, SCAO
Wesley Scott, SCAO

CALL TO ORDER: Chairman Hayes called the meeting to order at 9:02 am.

APPROVAL OF AGENDA

Motion: To approve the agenda.
Brown/Gosnell/Approved.

INTRODUCTION OF BOARD MEMBERS

Mr. Hayes introduced the Board members.

APPROVAL OF EXCUSED MEMBERS

Motion: To approve Mr. Inabinett's absence.
Rhodes/Mikell/Approved

APPROVAL OF BOARD MEETING MINUTES

Motion: To approve February 24, 2022 Board Meeting minutes.
Brown/Mikell/Approved.

STAFF REPORT:

Administrator Report

Mrs. Buttler reported to date, the Board has 501 active in-state optician licensees, 53 active out-state optician licensees, 0 inactive optician licensee, 251 active in-state contact lens dispensing licensees, 21 active out-state contact lens dispensing licensees, 0 inactive contact lens licensee and 136 registered apprentices.

The Board's current cash balance as of March 31, 2022 is \$141,736.94.

Mrs. Buttler reported to the Board the Notice of Election for the Opticianry seat, currently held by Ms. Mikell, was sent in March 2022. Two candidates submitted petitions to the Board for the seat term of May 11, 2022 – May 11, 2026. Ballots and candidate bios were mailed April 29, 2022. Ballots were printed on tamper proof paper per board request. Ballots must be postmarked on or before May 31, 2022. The candidates will be notified following the deadline.

Mrs. Buttler notified the Board that every five years, boards are asked to engage in a regulatory review. The last regulatory review was conducted in 2017. In the coming months, the Board will begin the process of reviewing regulations. Board members are encouraged to begin reviewing the regulations to see and identify any areas that need to be addressed.

Office of Investigations and Enforcement Report

On behalf of Mr. Sanders, Mrs. Buttler reported for the period from February 1, 2022 to April 25, 2022, there 0 active investigations, 0 closed cases and 0 complaints received.

Investigative Review Committee Report

On behalf of Mr. Sanders, Mrs. Buttler reported the IRC Committee did not meet as there were no cases for review.

Office of Disciplinary Counsel Report

On behalf of Ms. Sutusky, Mrs. Buttler reported as of May 2, 2022, there are 0 open cases, 0 pending hearings and agreements, 0 pending closure, 0 appeals.

APPLICATION HEARINGS

a. Francine Lozada

Mrs. Lozada appeared before the Board for a re-examination application hearing. She was not represented by counsel and was sworn in by the court reporter. Applications hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To enter an executive session for legal advice.
Mikell/Gosnell/Approved.

Motion: To return to public session.
Rhodes/Mikell/Approved.

Motion: To approve request to re-examine.
Brown/Mikell/Approved.

Mr. Brown advised Mrs. Lozada that if she were to fail the next attempt, and submit another re-examination request, she will have to come before the Board again showing additional study completed.

b. Svetlana Sushchik

Mrs. Sushchik did not appear before the Board for an application hearing. She was not represented by counsel and approved for Board discussion in her absence. Applications hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To enter an executive session for legal advice.
Mikell/Rhodes/Approved.

Motion: To return to public session.
Mikell/Gosnell/Approved.

Motion: To accept Mrs. Sushchik's education and approve the application.
Mikell/Gosnell/Approved.

Mr. Hayes requested that, regarding the education requirements for licensure, foreign education be on the agenda at the next meeting.

c. Maria Cessna

Mrs. Cessna appeared before the Board for an application hearing. She was not represented by counsel, Mr. Scott served as a witness, and all parties were sworn in by the court reporter. Applications hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To enter an executive session for legal advice.
Gosnell/Rhodes/Approved.

Motion: To return to public session.
Mikell/Brown/Approved.

Motion: To accept Mrs. Cessna's education and approve the application.
Gosnell/Mikell/Approved.

d. Donald Anderson

Mr. Anderson appeared before the Board for a reinstatement application hearing. He was not represented by counsel, Mr. Harbert served as a witness, and all parties were sworn in by the court reporter. Applications hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion: To enter an executive session for legal advice.
Mikell/Gosnell/Approved.

Motion: To return to public session.
Mikell/Brown/Approved.

Motion: To approve request for reinstatement.
Mikell/Brown/Approved.

NEW BUSINESS

a. **Clarification: SC Code of Law 40-38-240(2)(c)**

Mr. Hayes stated the Board office has requested clarification regarding SC Code of Law 40-38-240(2)(C). The clarification of “two years” is needed and Mrs. Buttler asked the Board if an applicant in a non-licensing state needs to work two consecutive years as an optician, two years immediately preceding the application date, or if not immediately preceding the application, how far back? The Board questioned what documentation is required to be submitted showing work experience. Mrs. Buttler stated documentation showing work in opticianry industry is required and the Board has the ability to revise the regulations to be clearer regarding this. Mr. Brown stated that submitting paystubs is not satisfactory proof of working as an Optician in a non-licensing state.

Motion: To approve applicants from non-licensing states must be engaged in practice as an optician for two cumulative years within five years immediately prior to the application date.
Brown/Mikell/Approved

Motion: To approve an applicant applying from a non-licensing state, the application would need to include a notarized statement from their employer verifying that they have been engaging in the practice of opticianry for the time period required and providing details of the work performed.
Brown/Mikell/Approved.

b. **Regulation Amendments: Regulations 10-27 and consideration of amending Regulations 96-104(3)**

At the Board meeting February 24, 2022 the Board had approved a notice of drafting for amendments to Chapter 27. The notice of drafting was published in the State Register’s March 2022 volume. Mrs. Buttler presented the proposed amendments to Chapter 27 for Board approval.

Motion: To approve the amendments as presented.
Mikell/Brown/Approved

Ms. League advised that the Board will be going through regulatory review as this year. Ms. League recommended the Board, as part of the regulatory review, look at revising the regulation regarding applicants from non-licensing states, following the guidance from today's previous discussion regarding the two year timeframe parameters and work experience verification.

Mr. Hayes asked when the regulatory review will start. Mrs. Buttler stated that the Board could begin the review at the next meeting or the members can appoint a committee to go through the regulations and report back to the Board.

Mr. Hayes stated a concern regarding the length of time the review process took in previous years. Mr. Brown stated concerns that in the past the major changes were dropped and did not go through. Ms. League advised that incident was regarding Statute, which the Boards had not received proper guidelines from legislature and did not have authority to make those changes. The Association would be the entity to assist in submitting and advocating for statutory changes.

Mr. Scott representing the Association, stated he would be happy to work with Board and Mrs. Buttler regarding the statutes.

c. License and Registration Requirement Videos-

Due to technical difficulties, Mrs. Buttler will be sharing the links to the Optician Apprenticeship videos with Board members via email. Mrs. Buttler advised that there are three additional videos in process. Ms. Kirk stated additional videos are regarding Optician Applications, Contact Lens Dispensing Applications, and Continuing Education.

Mr. Brown inquired what the status of CE Broker mandatory use and if notices of registering for CE Broker have been sent to licensees. Mrs. Butter advised that for the 2023 Renewal licensees are being asked to activate their free CE Broker account. The licensees are not required to show CE compliance in CE Broker for the upcoming 2023 renewal. Depending on how the account activation goes, the Board office will reassess plans to move forward with implementing mandatory use of CE Broker for the 2025 renewal. Mr. Hayes requested more notices to be sent to licensees regarding the Activation of the free CE Broker account.

PUBLIC COMMENTS

Scott Wesley, of the SCOA, shared concerns that out of state active licensees were not receiving ballots for the current Board seat election. The statute states all licensed opticians in this state. Mr. Wesley is inquiring if the ability to vote is a matter of residency vs. licensing. Mr. Wesley pointed out in the previous Board minutes from August 1, 2019 under staff reports, that all active licenses would receive a ballot. The Board agreed that those with

active licenses, resident or non-resident, have the right to vote. The Board office will pull a mailing list of licensees with out of state addresses, and will mail ballots to those licensees. Licensees with out of state mailing addresses will be provided a 3 week extension, to June 15, 2022, for ballot submission.

ANNOUNCEMENTS

No announcements.

ADJOURNMENT

Motion: To adjourn.

Brown/Mikell/Approved.

The meeting was adjourned at 11:18 am.