

STATE OF SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE BOARD OF OPTICIANRY

IN THE MATTER OF:

)	
)	
Board Meeting)	
Discussion of Board Business)	
)	TRANSCRIPT OF DISCUSSIONS
)	
)	
)	
)	

Given before Kathryn B. Bostrom, Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 9:00 a.m., Thursday, March 22nd, 2012, at the offices of the South Carolina Department of Labor, Licensing and Regulation, 110 Centerview Drive, Columbia, South Carolina.

Reported by:
Kathryn B. Bostrom

CAPITAL CITY REPORTING, L.L.C.
Depositions - Hearings - Sworn Statements - Mediation
Nationally Certified Reporters Throughout S.C.

P.O. Box 2281 - Lexington, South Carolina 29071
803.413.2258 - 803.996.0364 fax
E-mail: depo@capitalcityreporting.com
Website: www.capitalcityreporting.com

A P P E A R A N C E S

Board Members: Daniel B. Gosnell (Chairman)
C. Milton Corley (Vice Chairman)
James L. Rhodes
William M. Whitlock

Advising the Board: James C. Saxon, Esquire

Also Present: Angela M. Combs
- Board Administrator
Amy Stutsman
- SC Association of Opticians
Ronnie Harbert
- SC Association of Opticians
Ray Sansbury

Reported by: Kathryn B. Bostrom

In the Matter of Opticianry Board Discussions -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO PROCEEDINGS

Board Discussions 4
Certificate 243

INDEX TO EXHIBITS

There were no exhibits marked.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

CHAIRMAN GOSNELL: Let me call the meeting of the South Carolina Board of Examiners in Opticianry to order held in Columbia, South Carolina March 22, 2012 at 9:00 a.m. Is there a motion that we approve the agenda?

MR. RHODES: I'll make a motion we approve the agenda.

CHAIRMAN GOSNELL: Is there a second?

MR. WHITLOCK: Second.

CHAIRMAN GOSNELL: Is there a motion that we approve the minutes from the September 22, 2011 Board Meeting?

MR. RHODES: I'll move that we accept the minutes.

CHAIRMAN GOSNELL: Second?

MR. WHITLOCK: Second.

CHAIRMAN GOSNELL: All in favor?

ALL MEMBERS: Aye.

CHAIRMAN GOSNELL: Approval of the November 28, 2011's conference call Board Meeting -- is there a motion that we approve this?

MR. RHODES: I'll make a motion we approve.

CHAIRMAN GOSNELL: Is there a second?

MR. WHITLOCK: Second.

CHAIRMAN GOSNELL: All in favor?

1 ALL MEMBERS: Aye.

2 CHAIRMAN GOSNELL: Thank you. The next item on the
3 agenda, this is a hearing to -- do we stay in
4 regular session?

5 MR. SAXON: We do, but I'm going to go close the
6 door.

7 CHAIRMAN GOSNELL: Yeah, okay.

8 MS. COMBS: I'll get it.

9 MR. SAXON: Oh, thank you. Is Mr. McAvoy here?
10 Are you Mr. McAvoy?

11 MR. MCAVOY: I am.

12 MR. SAXON: Mr. McAvoy, if you will have a seat --
13 well, where the microphone is, that will be
14 fine.

15 (Hearings from 9:04 a.m. to 9:50 a.m.)

16 (Off the record from 9:50 a.m. to 10:16 a.m.)

17 CHAIRMAN GOSNELL: Is there a motion to reconvene
18 the South Carolina Board of Examiners in
19 Opticianry?

20 MR. CORLEY: I make a motion that we reconvene.

21 MR. RHODES: And I'll second that.

22 CHAIRMAN GOSNELL: All in favor?

23 ALL MEMBERS: Aye.

24 CHAIRMAN GOSNELL: Okay, we will go down the
25 administrative reports from Angie Combs.

1 MS. COMBS: Okay. We do have a new director. Well
2 Jamie, I guess she's still interim director,
3 right?

4 MR. SAXON: She has not yet been confirmed. Her
5 name is Holly Gillespie --

6 MS. COOPER: Pisarik.

7 MR. SAXON: Pisarik. She was Chief Advice counsel
8 and our boss and has been elevated to
9 director. I think it's going to be a
10 wonderful directorship and also the reason she
11 has not yet been confirmed is the Senate was
12 going to confirm two people at the same time
13 and I think one of the confirmands was or is
14 in the hospital or something and so she won't
15 be confirmed, I guess, until that person is
16 able.

17 MR. RHODES: And her last name is what again?

18 MR. SAXON: Pisarik. P-I-S-A-R-I-K?

19 MS. COOPER: Uh-huh, right.

20 MR. SAXON: But, she also goes by Gillespie, has
21 two young children. Her husband is an
22 attorney. I think you will be pleased. I
23 think you will find her very supportive of the
24 administrators and the staff and boards. I
25 guess that's about all I can tell you.

1 MS. COMBS: Okay, sounds good. Under licensing
2 totals we currently have 90 apprentices, 504
3 licensed opticians and 252 contact lens
4 dispensing opticians.

5 MR. SAXON: What was that last number?

6 MS. COMBS: 252 contact lens dispensing opticians.

7 MR. CORLEY: We finally hit 50%.

8 CHAIRMAN GOSNELL: It's funny how the last five
9 years how that has increased.

10 MS. COMBS: On the Office of Investigations and
11 Enforcement Report, there is one case residing
12 there and I would think there will be an IRC
13 report at our next meeting on that one, but
14 there's just one case. Office of General
15 Counsel Report there are no cases residing in
16 that area. Financial Report, Tab 4, that's
17 the currently the financial report and of
18 course, if you ever have any questions on
19 that, please let me know and I will be happy
20 to, you know, discuss that with you. And we
21 have a board member election. Mac, your term
22 is up this September. There you are. And are
23 you --

24 MR. WHITLOCK: I'm not going to run.

25 MS. COMBS: You're not running, okay. So we --

1 CHAIRMAN GOSNELL: The Board has to vote on that.

2 MR. SAXON: Mac, should we take that personally?

3 MR. WHITLOCK: It's time for somebody else.

4 MS. COMBS: Okay. So I will be sending out notice,
5 election notices. When would you like, I
6 guess we can go ahead and just send that out
7 pretty soon.

8 CHAIRMAN GOSNELL: And when does that expire?

9 MS. COMBS: September 13.

10 MR. CORLEY: We need to go ahead and send that --

11 MS. COMBS: Send out a notice, okay. Actually, we
12 have one because we've got -- the form is out
13 there on the website for the petition and
14 Grant Brown has sent in a petition. He did
15 receive the ten votes or names to, you know,
16 that we needed, right, for this petition. So
17 we do actually have one already, but I will
18 send out the notice here shortly to everyone.
19 That will go out to all licensees, letting
20 everyone know, getting them the chance to
21 vote, explaining that voting process.

22 MR. WHITLOCK: How much is that retirement now?

23 MS. COMBS: What?

24 MR. WHITLOCK: How much do we get paid in
25 retirement?

1 MS. COMBS: Retirement. There's the Statement of
2 Economic Interests, of course, that's every
3 year at this time it will be due for you to
4 complete that and it's required to be
5 completed online. That information is the
6 sheet you want to be take and it should be by
7 your books. It's step by step explanation how
8 to go online, what you need to do. And if you
9 have any questions, you know, just give me a
10 call, but take that with you. And I will
11 remind everyone as it gets closer to the time
12 about that.

13 MR. CORLEY: Do they ask, I can't remember, but
14 online, do they ask for per diem information?

15 MS. COMBS: Yes, per diem. Everyone will be \$70.
16 That has to be the income. That's it under
17 reports.

18 CHAIRMAN GOSNELL: And there's no unfinished
19 business. All right, the next is the election
20 of officers. I open up the floor for
21 nominations.

22 MR. WHITLOCK: I would like to nominate Danny
23 Gosnell, Chairman, and Milton Corley for Vice-
24 Chairman --

25 MR. SAXON: Let's do one at a time.

1 MR. WHITLOCK: All right, I would like to nominate
2 Danny Gosnell for chairman.

3 CHAIRMAN GOSNELL: Is there a second?

4 MR. RHODES: I'll second that.

5 CHAIRMAN GOSNELL: Any opposition? All in favor?

6 ALL MEMBERS: Aye.

7 MR. WHITLOCK: Now, I would like to nominate Milton
8 Corley for Vice-Chairman.

9 CHAIRMAN GOSNELL: Is there a second?

10 MR. RHODES: I'll second it.

11 CHAIRMAN GOSNELL: All in favor?

12 ALL MEMBERS: Aye.

13 (Off the record briefly)

14 MR. SAXON: I don't see any members of the public.
15 In fact, come on up here if y'all would like
16 to. Is that what we're doing next Angie?

17 MS. COMBS: Yes. Everything else -- we've
18 completed everything else.

19 (Off the record briefly.)

20 CHAIRMAN GOSNELL: Amy, is there anything that you
21 would like to say to the Board before we get
22 into the --

23 MS. STUTSMAN: I sent a letter to Angie for things
24 to be presented to be discussed and that's
25 pretty much -- I think that's --

1 MR. SAXON: Amy, if you want to bring those up as
2 we get to them, that's fine too. I mean if
3 it's specific sections.

4 MS. STUTSMAN: Yeah, I don't have a copy
5 unfortunately.

6 MR. SAXON: Can we get some extra copies?

7 MS. COMBS: Yes, let me get --

8 (Multiple speakers)

9 MR. SAXON: Where do I find that Angie?

10 MS. COMBS: Okay, that one you did not -- I'm sorry
11 I did not put that in your book. I can get
12 copies though.

13 MR. SAXON: Would you mind?

14 MS. COMBS: Sure.

15 MR. SAXON: Can we go off the record for just a
16 minute while she makes some copies.

17 (Off the record briefly.)

18 CHAIRMAN GOSNELL: There is one clarification I did
19 want to make on this recommendation from the
20 Association Board concerning the hours is the
21 way that it can be interpreted as nine hours
22 but actually is eight, it's mandated one hour
23 of South Carolina optical law. That would be
24 included in the optical hours, so we are
25 talking about going from, actually increasing

1 it three hours from five hours total to eight
2 hours. Does that make sense?

3 MR. SAXON: Yes. So Jennifer, would you -- so what
4 we would probably do if that suits y'all is
5 maybe just put a comma included in optical
6 hours --

7 CHAIRMAN GOSNELL: Yeah.

8 MR. SAXON: -- found in paragraph A, subparagraph
9 A.

10 CHAIRMAN GOSNELL: Okay.

11 MR. SAXON: Does that suit everybody?

12 CHAIRMAN GOSNELL: Is that right?

13 MR. SAXON: Are we misinterpreting anything?

14 MS. STUTSMAN: No, but it would mandate that they
15 would have to have one hour of law per year,
16 correct?

17 MR. SAXON: Right.

18 CHAIRMAN GOSNELL: Right, yeah.

19 MR. SAXON: I think we just want to make it clear
20 to the licensees that they can include that in
21 their optical hours. It's not going to be
22 something in addition to that.

23 MS. STUTSMAN: Right.

24 MR. SAXON: Now if you were reading that as a
25 licensee, would that be clear to you if we

1 said it that way, Mr. Sansbury? And I'm
2 sorry, I've not met you. I'm James Saxon.

3 MR. HARBERT: Ron Harbert.

4 MR. SAXON: Nice to see you, Mr. Harbert. Read it
5 if you were a licensee who's new and see if
6 that would tell you that you are mandated one
7 hour of South Carolina optical law per year.
8 Well, how about if we could do optical hours
9 from four to six to include a mandated one
10 hour of South Carolina optical law. I think
11 that might be better.

12 MS. COOPER: It sounds better.

13 MR. SAXON: I think that not only sounds better,
14 but it's a little bit clearer.

15 MS. COMBS: Jamie, could --

16 MR. SAXON: Yes, please.

17 MS. COMBS: -- I make a comment? I remember before
18 when we talked about this, it seemed like it
19 was mentioned that what if someone lives out
20 of state? I mean about them having to come
21 here. Is that an issue? I mean --

22 MR. SAXON: Is this something, y'all would know,
23 this is what y'all would know and we would
24 not. Is this something that can be done by
25 video or teleconference? No, it's not? It's

1 an in-person thing?

2 CHAIRMAN GOSNELL: No, that's right.

3 MR. SAXON: Okay.

4 MS. COMBS: I didn't know if that could be an issue
5 of our licensees that do not live in South
6 Carolina.

7 CHAIRMAN GOSNELL: Well, they still have a South
8 Carolina license, so they would have to follow
9 all of the policies of South Carolina --

10 MS. COMBS: Okay.

11 MR. SAXON: So would it suit everybody to just take
12 out subparagraph ©) and include that in
13 paragraph A -- optical hours from four to six
14 to include one hour of South Carolina optical
15 law per year.

16 MR. SANSBURY: Jamie, what section are we in, I'm
17 sorry?

18 MR. SAXON: We're number 1 (A).

19 MR. CORLEY: On this sheet --

20 MR. SAXON: It's on just the one-page sheet.

21 MR. SANSBURY: Oh, okay.

22 MS. COOPER: It's one of those statutes, 260(B).

23 MR. SAXON: Yeah, if you are looking at the
24 statutes it's 260(B) as in Baker. Is that
25 still the call signal Baker? Able, Baker,

1 Charlie? And so we will read -- I think
2 that's clear, but y'all let me know if you
3 think it's not.

4 MR. SANBURY: Danny, if I could ask a question
5 because I'm kind of late getting in on this
6 because I heard from Angie yesterday morning.
7 Has the Board -- I mean, who has come up with
8 the recommendation of these changes?

9 CHAIRMAN GOSNELL: The Association Board.

10 MR. SANBURY: Okay. And the has the Board itself
11 made any discussion about whether we should --

12 CHAIRMAN GOSNELL: No, I don't think we're ready
13 to, you know, take a vote on it today. We
14 will probably --

15 MR. SANBURY: You're going to discuss it?

16 CHAIRMAN GOSNELL: Yeah, right.

17 MR. SANBURY: What is the, from the Association's
18 standpoint, what was the reason for feeling
19 like that we wanted to raise the continuing ed
20 hours?

21 MR. HARBERT: I mean, because for one thing we feel
22 like we provide a profession to people and you
23 know, if we are going to be professionals,
24 then we should at least have some continuing
25 education where we are more in line with some

1 of the other -- like physical therapy, which
2 is what, 30 to 40 hours and everybody else has
3 all these other hours and here we only have
4 four hours to show up for. You know, really,
5 eight hours probably isn't enough, but at
6 least, it's a start somewhere. You know, if
7 we don't, if we want to be a profession, then
8 we need to, you know, show that in our
9 attendance and to some of our education, we
10 feel like.

11 MR. SANSBURY: And again logistically, I mean I
12 certainly cannot argue that point. How did we
13 propose -- has there been any conversation on
14 how we propose to make this available?
15 Because you know we are such a profession, we
16 are certainly needed in this state. But you
17 have a lot of the folks, you know, because
18 they're employed, you know, they don't run
19 their own -- I mean, how do you let people
20 know about --

21 MR. SAXON: See right now what they can do is,
22 these people, a lot of them are employed. And
23 so they can take one weekend to go there and
24 the State Association provides the hours in
25 one day. Will we still be able to provide

1 them those hours in one day? Are they going
2 to have to split them into more than one
3 weekend to get their hours or is there some
4 other way to get your hours.

5 MS. STUTSMAN: Can I address that? What we
6 proposed is that right now we are doing five
7 hours. We are usually out of there -- we
8 offer it twice a year, one day one offering is
9 a Saturday and one is a Sunday for the people
10 that are in the chains and it's a little bit
11 more difficult, so that's worked well all this
12 time. We are doing five hours now and
13 everybody is usually out by 1:15 at the
14 latest. So what we are proposing is that we
15 go to this eight hour day. It will have an
16 hour and 15 minute break. We'll probably do
17 something like we are doing today and have a
18 boxed lunch brought in. And so everybody will
19 have eight hours and one day if they choose to
20 do it. If not, they still have the option,
21 two opportunities each year. And the law
22 hour, once it goes through and is approved and
23 the ABO approves it, it will be offered at
24 each class, each time we have conference for
25 our CECs. So there would be two opportunities

1 to get it every year. And something that came
2 up earlier is once the member is an
3 Association member they can come to both at no
4 extra charge. So they could do four hours one
5 time or four hours the next, but it's still
6 only a maximum of eight hours of education
7 that day.

8 MR. SANSBURY: For those that need to, they can get
9 it in one day?

10 MS. STUTSMAN: They can get it all in one day. And
11 as it was brought to my attention, that's not
12 much more than our normal working day, so we
13 can get eight hours of education in, I think,
14 without a problem.

15 MR. WHITLOCK: My question, is it's actually going
16 to run more than eight hours. You're looking
17 at ten, 11 hours with getting people to break
18 -- you know and I know. All right, we're
19 going to take a 15 minute break which
20 stretches into about 30 minutes, our breaks
21 do.

22 MS. STUTSMAN: Well, I think we will have to get a
23 little tighter on those issues.

24 MR. WHITLOCK: And getting lunch like you said, an
25 hour and 15 minutes, it takes longer than 15

1 minutes to stamp everybody's CEC down at the
2 door.

3 MS. STUTSMAN: Well, I think we've been able to
4 stream-line that pretty well, don't you,
5 Ronnie? I don't think it takes us --

6 MR. HARBERT: Yeah. And we've got to get more
7 efficient too.

8 MR. WHITLOCK: Yeah, I agree. I'm just bringing
9 this up. It's not going to be eight hours,
10 it's going to be more.

11 MR. SAXON: Well, if I may offer it in contrast, we
12 have to get legal continuing education hours.
13 For instance most government lawyers get them
14 in two sessions. And it will last from about
15 -- registration at 8:00, the program begins at
16 8:30 and we're usually done by 4:30 with an
17 hour for lunch. And they feed us there so you
18 are sort of captive and don't have to go off
19 which takes so much time.

20 MR. WHITLOCK: Sure.

21 MR. SAXON: And that way we get, with those two
22 sessions, we get 14 hours of credit.

23 MR. WHITLOCK: We might also, instead of doing
24 Saturday do two Sundays because you are going
25 to have those people in the chains.

1 MS. STUTSMAN: I think that is something we can
2 look at having it one Saturday and one Sunday
3 works, has seemed to have worked very well.

4 CHAIRMAN GOSNELL: And this will be an Association
5 matter as far as being able to work it out.

6 MS. STUTSMAN: Yeah.

7 MR. SAXON: Of course, all this is contingent on
8 the Legislature passing it.

9 CHAIRMAN GOSNELL: Yeah, right.

10 MR. HARBERT: Well, we've just got to get more, you
11 know, if we're going to deal with people's
12 eyes and stuff like that, we've got to get as
13 professional as we can, you know. And that's
14 one way to do it is, you know, through the
15 education.

16 MR. WHITLOCK: Oh, yeah, I mean I've got no problem
17 with that, but I just --

18 MS. STUTSMAN: Well, I think at some point we will
19 reach a point where we will be doing ten or 12
20 like the other states around us, and at that
21 point, we will have to have two days. But, at
22 this point, I think we could try eight hours
23 in one day and see how it works.

24 MR. SAXON: Ms. Stutsman, you bring up a good
25 point. If the ultimate goal is to go to those

1 hours, this does have to go before the
2 Legislature, would it be better to do that now
3 rather than reopen the Statutes another time,
4 a year or two down the road?

5 MS. STUTSMAN: Our thought pattern and our hope was
6 that since LLR was going ahead and doing this
7 on their own that we could just kind of maybe
8 slide this in and y'all could put this in.
9 Now, whether or not that's something we can do
10 without down the road doing it --

11 MR. SAXON: Now LLR, it's going to have to go
12 before the Legislature, so I'm just throwing
13 that out for whatever it's worth. If your
14 ultimate goal is to go to even more hours, it
15 might be simpler because every time you open
16 your Statutes and Regs, that's I don't want to
17 say cumbersome, but it is an involved process.
18 And just for whatever it's worth, you may want
19 to think about just going ahead and doing --
20 It's sort of like when a business has to raise
21 prices, it's sometimes better to go ahead and
22 raise it to what you need rather than doing it
23 incrementally. But, I don't know if that's
24 the case here, I just want to throw that out
25 as a thought.

1 MR. CORLEY: Question. If we were to say increase
2 it up to 12 hours, 15 hours, whatever, does
3 that mean we would have to put on that many
4 hours or would the Board decide?

5 MR. SAXON: You would have to offer that much.

6 MR. CORLEY: We would have to offer that much.

7 MR. SAXON: Yeah, if you're going to require it --

8 CHAIRMAN GOSNELL: At one time?

9 MR. SAXON: No, you could offer it however you
10 like. I mean you can break it up however you
11 like. For instance I mean, almost every week
12 there is a continuing legal education seminar
13 somewhere. And so you can get it any number
14 of ways. The reason state government lawyers
15 go to the two things is they are inexpensive
16 and the two together will meet all your
17 requirements for the year. So you could do it
18 that way or you can break it up so that people
19 can pick and choose. But I mean that's
20 something y'all can work on yourself with the
21 Association or whatever, however, you want to
22 offer it. Continuing education would not have
23 to be a part of the Statute. Y'all can work
24 out how you want to offer the hours amongst
25 yourselves.

1 CHAIRMAN GOSNELL: What we want to try to do is
2 keep it one day if we can. Because now we are
3 offering people two different options where if
4 you go to 12 hours, you are going to have two
5 day sessions. And our opticians are paid
6 fairly well, but a lot of them just can't
7 afford to have to take off and then spend the
8 night. So I think if we can keep it one day
9 we will be better.

10 MR. CORLEY: You could do an hour every week, you
11 know, area rep meeting.

12 MR. WHITLOCK: Well, you can have so many hours of
13 that --

14 CHAIRMAN GOSNELL: I think too from this
15 Association -- we would have to approve it,
16 but I think we are getting to the point if we
17 get into eight hours or so, maybe two hours
18 online --

19 MR. SAXON: We've really been outside of what --

20 CHAIRMAN GOSNELL: Yeah.

21 MR. SAXON: But if I may offer, for instance, the
22 continuing legal education. It could be
23 offered in Columbia, Greenville, Charleston,
24 wherever, but it is also streamed by video so
25 the people in Greenville can be in a room with

1 a proctor and they're listening to the same
2 lectures that the people in Columbia are
3 listening to in person. And the people in
4 Charleston are listening to it. And that may
5 be something y'all want to do. You do have
6 someone there to check to make sure that they
7 are there and they don't sneak out.

8 MR. CORLEY: Who is that done through?

9 MR. SAXON: The Bar Association.

10 MR. WHITLOCK: But is that a technical college it
11 is done through?

12 MR. SAXON: No.

13 MR. WHITLOCK: The Bar Association?

14 MR. SAXON: The Bar Association.

15 MR. HARBERT: So do you say now is the time we need
16 to bring it up about the hours or is this
17 something --

18 MR. SAXON: I'm just pointing out. As a lawyer,
19 I'm just -- I don't really have a dog in the
20 hunt, but I just wanted to point that out as
21 something you may want to do. And Jennifer,
22 I'd like Jennifer to bring something to your
23 attention too, if y'all don't mind.

24 CHAIRMAN GOSNELL: Sure.

25 MS. COOPER: If y'all have the Statutes, I'm

1 looking at 40-38-260, and this is how I tried
2 to incorporate your changes.

3 MR. WHITLOCK: Which one was that again?

4 MR. SAXON: 260.

5 MR. WHITLOCK: 22-60?

6 MR. CORLEY: Section 40-38-260.

7 MR. SAXON: 260. Do y'all have that?

8 MR. COMBS: Yes.

9 MS. COOPER: And if you will look down at (B), it
10 says an optician or apprentice annually shall
11 attend a minimum of four hours. I struck that
12 and put six there, of continuing education
13 courses or meetings. One hour -- now I don't
14 know if you want to change this phrase here,
15 but one hour which may be in office management
16 or administration and then I added a comma and
17 put and one hour of which shall be -- or maybe
18 I should say must be -- in South Carolina
19 optical law per year.

20 MR. SAXON: And it may make a difference, of course
21 renewals are every other year now.

22 MS. COMBS: Right. See that has not been
23 incorporated into --

24 MS. COOPER: Oh, that's --

25 MS. COMBS: -- their Practice Act. It still shows

1 annual in their Practice Act --

2 MR. SAXON: Right. That's going to be changed
3 because --

4 MS. COMBS: We need to change that.

5 MR. SAXON: Renewals are now every other year?

6 MS. COOPER: Right.

7 MR. SAXON: So it's a two year renewal period.

8 MR. HARBERT: And also the two hours on the contact
9 lenses, is also in that same section.

10 MS. COOPER: Yeah, I changed that.

11 MR. SAXON: Jennifer's got that in there.

12 MS. COOPER: I struck one and put two additional
13 hours continuing education courses at least.

14 MR. SAXON: That's why she's here as the guru.

15 MS. COOPER: And there's also a section on
16 continuing education in your regs -- 96-108,
17 and I've pretty much incorporated the same
18 changes there.

19 MR. SAXON: One of the problems that y'all may be
20 aware of that the large number of boards who
21 are going through the legislative process this
22 year, their statutes and regs didn't match.
23 You know, the statute might say one thing and
24 be contradicted completely by the regs or vice
25 versa. So part of the clean up is to make

1 sure that one doesn't contradict the other.
2 If you require so many hours in the statutes,
3 then the regs ought to have that same number
4 of hours so that a licensee knows -- I mean
5 the statutes always control over a reg, but a
6 licensee may not know that and it's not
7 completely clear. It's not legally as clean
8 as we would like it to be, so that's one of
9 the things that would be done too is to make
10 sure your statutes and regs don't contradict
11 each other. It would be up to the Board to
12 decide which you want. You know, you may
13 think oh, well, I like the way the reg reads
14 better, so let's incorporate that into the
15 Statute, right? Or vice versa and the Board
16 can decide that.

17 MS. STUTSMAN: My next question and this may not be
18 the appropriate time, but if we do decide to
19 at some point in time like other people and
20 like you've said that you do legally, you view
21 the hours of streamed video, does that have to
22 be incorporated --

23 MR. SAXON: No.

24 MS. STUTSMAN: So we wouldn't have to go back and
25 do that? Excellent.

1 MR. SAXON: No.

2 MS. STUTSMAN: So we can decide that and then just
3 run with it?

4 MR. SAXON: Yes, because the only reason you would
5 have to reopen it is if this were just say in-
6 person hours or whatever. And I think the
7 Board and -- the Boards can no longer make
8 policies, but they can interpret their law.
9 So the interpretation can be that video
10 streaming is okay. And frankly, you are
11 getting the same thing you are just not in
12 person. I mean, you are listening to the same
13 lecture. And maybe, you know, logistically it
14 can be fixed so that the people who are
15 viewing it remotely can ask questions and
16 have, you know -- I mean things are so -- I
17 think this might even be done, and I'm not
18 sure about this, so I can be incorrect, but I
19 think public ETV helps with that because they
20 are so good at closed circuit things. And
21 they have the -- what am I trying to say?
22 They've got the means for doing that readily
23 at hand. I'm not sure the Bar uses those,
24 uses that, but I know that there are other
25 groups who do. So that's just one option

1 that's available, I think at fairly reasonable
2 costs. In South Carolina we are blessed to
3 have an ETV service that covers the entire
4 state, which is not the case in every state,
5 so that could be helpful.

6 MS. STUTSMAN: Thank you.

7 MR. SAXON: But that's a great question. You don't
8 want to do anything that forces you to re-open
9 the statutes and regs unless you just have to.

10 MS. STUTSMAN: Thank you.

11 MR. SAXON: Could we go off the record for just a
12 second?

13 CHAIRMAN GOSNELL: Sure.

14 (Off the record briefly.)

15 CHAIRMAN GOSNELL: This is a little off the subject
16 but pertains to this is that you mentioned
17 that Grant Brown who had submitted his
18 application -- I don't -- And he is the one
19 that is sort of putting together this law for
20 us and I don't think that would be advisable
21 for a Board member to be giving a report,
22 would you think?

23 MR. SAXON: It would be all right.

24 CHAIRMAN GOSNELL: Would that be all right? I just
25 wanted to make sure that that would be, you

1 know, be alright.

2 MR. SAXON: I think it's okay.

3 CHAIRMAN GOSNELL: Yeah, okay.

4 MR. SAXON: I don't think that's a conflict of
5 interest because the Board is to oversee the
6 profession so that's part of that, so I think
7 that would be fine.

8 CHAIRMAN GOSNELL: Okay, all right, sir. There was
9 another question that -- about keeping of
10 medical records and I don't know if that's
11 anywhere in our regs?

12 MS. COMBS: It's in regs.

13 CHAIRMAN GOSNELL: Is it?

14 MS. COMBS: Yeah, in the regulations --

15 MR. CORLEY: Yeah, three years.

16 CHAIRMAN GOSNELL: It is in there, three years?

17 MR. SAXON: If it's in your regs, you probably want
18 it in your statute too. In the statute
19 controls.

20 MS. STUTSMAN: My question about the three years,
21 that when doctors have to do it seven years
22 and we're only keeping it three years, is that
23 an adequate amount of time to hold onto the
24 records?

25 MR. SAXON: I think you have a very good point. I

1 think seven years has become sort of the norm,
2 not just for professional boards and
3 commissions, but for all sorts of things from
4 taxes and everything. Seven years seems to be
5 the popular number, so that may be something
6 you want to consider too.

7 MR. SANBURY: Jamie, is there a way, talking about
8 the medical records -- what we are seeing, of
9 course, is the insurance stepping in and
10 saying if we will be a provider, you must
11 maintain records for this length of time. So
12 they are somewhat dictating at times.

13 MR. SAXON: You may want this to be a part of the
14 process to sort of see what they think about
15 it -- not to have them control you because you
16 always want the Board and the Associations to
17 --

18 MR. SANBURY: Well, my point was, is there a way
19 to work the verbiage that would basically set
20 a standard on what it would be in today's
21 terms, but have the verbiage in such a way
22 that it would require by certain health
23 institutions, blah, blah, blah, blah, for that
24 to be changed we don't have to go back in the
25 regs and change it again.

1 MR. SAXON: Yes, there are ways to -- there are
2 ways to do that.

3 MR. CORLEY: What medical records would we have?

4 MR. SAXON: Huh?

5 MR. CORLEY: What medical records would we have?

6 CHAIRMAN GOSNELL: As an optician.

7 MR. CORLEY: What medical records will be on my
8 patient's card when they order a pair of
9 glasses?

10 MR. SAXON: Anything from a script --

11 MR. SANSBURY: Why would you not want it to match
12 what your doctor's --

13 MR. CORLEY: No, the doctor writes a prescription -
14 -

15 MR. SAXON: Right.

16 MR. CORLEY: I make a copy of that prescription and
17 the frames that they purchase and the charges
18 that I made, what type of lens, I've got that.
19 To me, that falls under vision plan category,
20 not a medical insurance category situation.

21 MR. SAXON: Well, we might be --

22 MR. CORLEY: Because I don't have anything medical.

23 MR. SAXON: Well, we might be phrasing it
24 incorrectly and it doesn't necessarily mean
25 medical, but your client records.

1 MR. CORLEY: Yeah.

2 MR. SAXON: If you don't want to call it medical
3 records, just call it client records or
4 however you want to put it, that you should
5 have those available for so many years.

6 MR. CORLEY: Well, under vision plans, they say you
7 get X number of dollars, that's it. It
8 doesn't matter what procedures you do, the
9 medical plans, every procedure you do, you get
10 a payment. But, vision plans, you don't. You
11 know, that's where the big difference comes in
12 at.

13 MR. SANSBURY: Well, it would be --

14 MR. CORLEY: The doctor has the medical, you know.

15 MR. SANSBURY: Well, it can be an individual
16 decision. I know Am-Med is one of them that
17 we do a lot with and they are very stringent
18 requirements. It don't match what we've got
19 here, but it doesn't matter because y'all can
20 put whatever you want in here, but if I want
21 to keep them longer because of the
22 requirements, and that's just what I'm going
23 to do. But, when we talk about trying to be
24 in compliance, I just thought if you had a way
25 to verbiage it so you wouldn't have to go back

1 into the statutes and regs every time the
2 industry was to make a change.

3 MR. SAXON: And we can look at what some of the
4 other professions, what kind of language they
5 use. There are lots of ways to do that. And
6 we like to phrase things in ways that don't
7 make you re-open stuff, because that's a
8 cumbersome process.

9 CHAIRMAN GOSNELL: Have we come to any conclusion
10 on this as far as how we are going to word
11 this?

12 MR. SAXON: I think we have. Would you like to
13 read it to him?

14 MS. COOPER: Oh, for the hours?

15 MR. SAXON: Sure.

16 CHAIRMAN GOSNELL: No, no, for the record keeping.

17 MR. SAXON: Oh.

18 MS. COOPER: Well, in 96-110(A) Patient Records, I
19 can change at least three years to seven. As
20 far as like the electronic records, I can look
21 and see what other boards have done and kind
22 of phrase them along the same lines.

23 CHAIRMAN GOSNELL: We don't want it to be required
24 that we have electronic records.

25 MS. STUTSMAN: We already have some opticians in

1 the state that are doing everything
2 electronically.

3 CHAIRMAN GOSNELL: Yes.

4 MS. STUTSMAN: And that's what brought this
5 question up because I've gotten several calls
6 about it. And they are holding onto their
7 paper trail now also, but wanted to know when
8 they could let go of them, so seven years in
9 conjunction with the electronic basically?

10 MR. SAXON: I think if you say maintain patient
11 records without saying whether they have to be
12 in paper form or electronic form, they are
13 both covered.

14 MS. STUTSMAN: Okay.

15 CHAIRMAN GOSNELL: Right.

16 MR. SAXON: You're right. Everybody is going to
17 electronic nowadays, it's cheaper, it's safer
18 and that kind of thing. But, by maintain --
19 when it says shall maintain patient records,
20 that leaves it open to both.

21 MS. STUTSMAN: Okay.

22 MR. SAXON: And if y'all want to say at least seven
23 years and if we, you know, if we find out -- I
24 mean, if y'all know from insurance carriers it
25 needs to be a different number -- but,

1 Jennifer and I can come up with some language
2 that -- well, when it says at least seven
3 years, that leaves it open for more.

4 MR. CORLEY: You can keep it for more than --

5 MR. SAXON: If it's an insurance carrier or
6 whatever, wants more or if the federal
7 government intervenes or state government says
8 you ought to keep it longer, then that would
9 be provided for in the at least, and then when
10 the Board interprets the law it will be
11 interpreted in light of the current practice.
12 You couldn't go below seven years, that would
13 be the thing. But, if more were required,
14 then that could fit into it by just saying at
15 least. What do y'all think about that?

16 CHAIRMAN GOSNELL: That sounds good.

17 MR. SAXON: I mean so really the only thing you are
18 changing is the number three to the number
19 seven. Does that -- y'all in the practice,
20 does that seem to be the norm? Are people
21 doing that already?

22 MR. WHITLOCK: Keeping them seven years? I kind of
23 look at mine and if a person that hasn't been
24 in five years, I go gosh -

25 MR. SAXON: Uh-huh.

1 MR. WHITLOCK: Because their RXs have expired.

2 MR. RHODES: What constitutes expiration?

3 MR. SANSBURY: What was the reason for the seven
4 years? Where did that come from and what was
5 the reason for the seven years? Where did
6 that come from, go from three to seven, what
7 was the reason for seven?

8 MS. STUTSMAN: It was just brought to my attention
9 by several people that the doctors were seven
10 years or had to, so that's why they wondered
11 why we were just three years if a doctor is --
12 and since it is a doctor prescription --

13 MR. SANSBURY: Yeah, I think you've got a choice,
14 if you say at least three years then do what
15 you want. I mean he can do what he wants to
16 do and I could do what I want to do. I don't
17 know whether you necessarily need to mirror
18 another profession, mandate that it has to be
19 done.

20 MR. SAXON: No, I think you want to do it at least
21 long enough to protect yourselves. And I
22 think seven years has become sort of the norm
23 for most. And let me ask y'all as
24 practitioners, is it onerous?

25 MR. RHODES: I keep mine longer than that or

1 longer.

2 MR. SAXON: Okay. What I was going to ask, is it a
3 lot of trouble to keep it seven years as
4 opposed to three?

5 MR. RHODES: It's just storage.

6 MR. SAXON: If you go to electronic, wouldn't that
7 be less storage space and things like that?
8 Am I right in assuming -- I assume that.

9 MR. SANSBURY: We're 90% electronic now. If we can
10 get the other 10 done, there would be no
11 storage issues at all. With hard copy, you
12 pull them after so many years and put them in
13 storage somewhere. You have access if you
14 need them. Like you said, if they don't come
15 back in with a period of time, you have people
16 to move out of town, passing away and stuff
17 like this, but you -- if it's hard copy,
18 you've got to store the boxes. Electronic is
19 going to be great.

20 MR. SAXON: I think for our office, we keep hard
21 copies for a year. After that, it goes to
22 electronic.

23 MR. WHITLOCK: You put it in storage?

24 MR. SAXON: Electronic storage.

25 MR. WHITLOCK: Okay, electronic storage. But you

1 don't have to keep --

2 MR. SAXON: After a year.

3 MR. WHITLOCK: After a year.

4 MS. COOPER: And that's what I'm moving towards. I
5 still have some old files I need to scan.

6 MR. SAXON: See, we have appeals to worry about, so
7 we keep a hard copy until all appeal processes
8 are finished. And that can take years longer
9 than one year. But, if the appeal periods
10 have ended without anybody filing an appeal,
11 then you would put it on -- you know, save it
12 electronically after a year. We're starting
13 that.

14 MR. WHITLOCK: I have another question, it doesn't
15 have to do with that, but getting back about
16 the one hour of law --

17 MS. COOPER: Yes?

18 MR. WHITLOCK: Don't you have to have an attorney?
19 I don't think a lay person can discuss the law
20 or advise you on the law, right?

21 MR. SAXON: Well, that would be sort of a
22 logistical thing and whoever wants to offer it
23 as a course.

24 MS. STUTSMAN: You have to remember, we're taking
25 laws, rules and regulations and all he's going

1 to be doing is presenting exactly what is in
2 the written form. We're not going to be
3 discussing what's law and what's not as far as
4 if you ask me if you could do something. We
5 wouldn't be doing that in this hour class.
6 We're just basically just going to make sure
7 that the opticians understand the rules and
8 regulations and he will present them in a --

9 MR. SAXON: That's a very good question for safety
10 reasons too. If in a question, if there are
11 questions that come up --

12 MR. WHITLOCK: Are there any questions, well, yeah,
13 I've got a question.

14 MR. SAXON: The person, if he or she is not a
15 lawyer, cannot give legal conclusions without
16 being guilty of practicing law without a
17 license, so the Board can interpret its own
18 statutes and regulations. So if it were a
19 Board member or it may be a situation where
20 you do want a lawyer to teach that hour. But,
21 you're right it could cause a problem, mainly
22 in the questions. You don't want somebody to
23 be guilty in one of your CE's as practicing
24 without --

25 MR. WHITLOCK: That's what I have a problem with

1 because you're always going to have somebody
2 at the end of the session, are there any
3 questions? Everybody in --- are there any
4 questions and if somebody says -- you better
5 believe somebody's going to come up with a
6 question.

7 MR. SAXON: And you might even want to refer
8 somebody to the Board.

9 MS. STUTSMAN: Well, one of the things that when
10 you get your package after we get this totally
11 finished was we were going to ask that we have
12 two Board members and usually every Board
13 member is there when we do classes. So we
14 were going to hope that we could have, you
15 know, two Board members each time to take the
16 questions.

17 CHAIRMAN GOSNELL: No, I don't think that's a good
18 idea.

19 MS. STUTSMAN: And if --

20 MR. WHITLOCK: And if the Board member is
21 interpreting --

22 MS. STUTSMAN: But, at least take the questions and
23 get back to them.

24 CHAIRMAN GOSNELL: One thing that I talked with Amy
25 about is that it probably would be a good idea

1 for whoever is going to present this to
2 present it to the Board.

3 MS. STUTSMAN: That's our game plan as we talked
4 about. We would present it to y'all and give
5 you all the ins and outs that Grant's put
6 together and then it would go to legal, I
7 assume, Jamie? And y'all would make sure that
8 we were doing everything within the letter of
9 the law.

10 MR. SAXON: Part of our purpose is to protect the
11 Board and the licensees.

12 MR. SANBURY: I would like to offer a comment,
13 Jamie, if I could. As past chairman and I
14 served with Danny and these folks for a long,
15 long time. It's y'all's decision but, I think
16 you ought to think about that before you do
17 that because the bottom line is it's
18 interpretation of the law as written. And how
19 many times have we had to try to interpret
20 what it meant when somebody asked the
21 question.

22 MR. SAXON: And you've if you've got five lawyers
23 in a room, you will have five different
24 interpretations.

25 MR. SANBURY: Yeah, and you're not going to have a

1 person that you can train to go out and train
2 these people and say this is the law because
3 we don't know what the law is. Because we
4 have to interpret it all of the time.

5 MR. SAXON: Well, you know --

6 MR. CORLEY: It depends on the situation.

7 MR. SANBURY: I would let them read the laws and I
8 think we provide them with a copy of the law
9 and they become licensed, they can read it.
10 What has been working fine all these years, if
11 somebody has a question, they send it in to
12 the Board and then we get legal counsel to
13 advise us and we come up with an
14 interpretation, but I'm -- that might be --

15 MR. SAXON: Well, this could be a forum for just
16 presenting the law.

17 MS. STUTSMAN: Well, that's basically all we want
18 to do.

19 MR. HARBERT: And that's what it is. It's a
20 presentation because the other states around
21 us now are requiring the law so you would know
22 what the regulations are.

23 MR. SAXON: It can even be formulated so that if
24 there are questions, please ask those of the
25 Board's administrator --

1 MS. STUTSMAN: Or submit them to the Board.

2 MR. SAXON: Right. And Ms. Combs can talk with me
3 or whomever is here way down the line. I hope
4 it will be me for a long time, but, you know,
5 whomever -- And get an answer to that person
6 or to the Association if it's a question that
7 lots of people have or that would help. We
8 could get something out even on our website
9 that would -- we again, can't do policies
10 anymore, but we can do interpretations and say
11 this is how the Board is going to enforce such
12 and such, or whatever.

13 MR. WHITLOCK: Can I say something?

14 MR. SAXON: Yeah.

15 MR. WHITLOCK: You might want to send one of your
16 Board members to like North Carolina and sit
17 on a -- or Georgia. They do in Florida -- and
18 sit in on their law hour and see how they do
19 it.

20 MR. SAXON: That's not a bad idea.

21 MS. STUTSMAN: Now all the surrounding states have
22 law hours.

23 MR. WHITLOCK: Yeah, like I say, it wouldn't hurt
24 to go and visit each state and tape their
25 hours.

1 MR. SAXON: Not each state.

2 MR. WHITLOCK: I'll take Hawaii. Commonwealth,
3 I'll go there.

4 MS. STUTSMAN: We seem to have a lot of interest
5 within our members for -- and you are right,
6 Ray -- and Angie confirmed this. When you
7 pass your test, you get a copy of the rules
8 and regulations. Well, I say this with
9 respect for everybody here. A lot of us, it's
10 been a long time since we passed our Boards
11 and got this and we've looked over it through
12 the years, but I just think we need to be
13 updated. We have so many new opticians that I
14 doubt take the time to look at those. So this
15 would open their eyes, hopefully, to have a
16 clearer understanding of what's written and
17 then they could give us the questions --

18 MR. SAXON: I think one of the most valuable parts
19 of having such a requirement is just what you
20 said -- to bring it to their mind that this is
21 the law, you are responsible for knowing this.
22 As a licensee you are held to a higher
23 standard. That's not a bad thing. It's just
24 one hour.

25 MS. STUTSMAN: Right.

1 MR. SAXON: And we are always, Ms. Combs and I are
2 always available. Now, I cannot give legal
3 advice to licensees, but I can point them to
4 the right places and we can come -- if an
5 interpretation is necessary of what we would
6 do, the Board interprets with my advice. I
7 don't interpret with the Board's advice, so
8 what we would do is at the next Board meeting
9 we would put that on the agenda -- how do
10 y'all read this? And how do we want to
11 publicize how the Board reads this. It would
12 be kind of like that. And then of course the
13 public is here or anybody who's interested can
14 be here. And I think that works better. It
15 protects the Board, it puts everybody on the
16 same page, don't you think Ms. Combs?

17 MS. COMBS: Right, correct.

18 MS. STUTSMAN: I do agree Mac, though. I think
19 that is a good idea that somebody does need to
20 go see what Georgia is doing and North
21 Carolina is doing.

22 (Multiple Speakers)

23 MR. SAXON: Whatever keeps you from having to
24 reinvent the wheel.

25 MS. STUTSMAN: Yeah, exactly. So I think that's a

1 real good idea.

2 MR. SAXON: I'm a big believer of stealing
3 templates from other people.

4 MR. WHITLOCK: If it works for them.

5 MS. COOPER: I have a question. Keep it in mind
6 that annual renewals change into bi-annual.
7 Would that mean that you want twelve hours per
8 the --

9 MR. SAXON: Bi-annually?

10 MS. COOPER: Yeah.

11 MR. SAXON: I think we would probably change it to
12 reflect that it's a two-year period.

13 MS. COMBS: Right, twelve or --

14 MR. SAXON: Let me ask y'all. Do y'all care if
15 somebody gets all those hours in the second of
16 the two years or the first of the two years?
17 Do you care?

18 (Multiple Speakers)

19 CHAIRMAN GOSNELL: Does it matter?

20 MR. HARBERT: It affects the --

21 MS. STUTSMAN: Well, it would affect the law hour.
22 No, yeah, that would be the only bone of
23 contention there.

24 CHAIRMAN GOSNELL: Why would it affect the law
25 hour?

1 MR. SAXON: Per year.

2 MS. STUTSMAN: One hour per year of law.

3 MR. SANSBURY: Well, they could get it one place,
4 one hour, and get the other hour --

5 MR. WHITLOCK: One at the beach and one at the
6 other place.

7 MS. STUTSMAN: Yeah. You mean in the same year?

8 MR. SANSBURY: Yeah.

9 MR. SAXON: The problem is it's probably going to
10 say two hours of South Carolina optical law
11 bi-annually. Would that suit? I mean, is
12 there a reason not to do that?

13 CHAIRMAN GOSNELL: I don't think you should
14 penalize people --

15 MR. SAXON: I don't think the laws are going to
16 change that --

17 CHAIRMAN GOSNELL: Yeah.

18 MR. SAXON: -- often. It could be done both ways.

19 MS. STUTSMAN: Well, what we were looking at --

20 MR. SAXON: And this is free discussion, so don't
21 hesitate to talk.

22 MS. STUTSMAN: What we were looking at is in one
23 session per year we would give the regulations
24 and the next one we would do the other part.
25 So we would cover both in a year period.

1 MR. SAXON: Okay. So Jennifer, could we keep it
2 like this and say for a total of 12 hours bi-
3 annually?

4 MS. COOPER: Yes.

5 MR. SAXON: Or something like that? And that way,
6 I mean, do you want people to break it up
7 between the two years?

8 MS. COOPER: Well, I still have it one hour --

9 MR. HARBERT: You really need them to break it up
10 between the two years.

11 MS. STUTSMAN: Yeah, because they don't need to go
12 two years --

13 MR. SAXON: Logistically.

14 MS. STUTSMAN: Yeah. We don't want them to go two
15 years without any continuing education.

16 CHAIRMAN GOSNELL: I will disagree with that. I
17 think -- if you are going to offer the two
18 hours, I mean, why should you penalize
19 somebody that wants to get all their hours in
20 one year. Since we are on the bi-annual, why
21 would it matter?

22 MR. SANSBURY: Well, think about getting that --
23 covering that law -- I think you are right. I
24 said what I said because of what we've dealt
25 with, but, you know, you've got the young

1 folks getting out and getting licenses, they
2 probably do need to be educated, force fed.
3 Because they're not going to do it on their
4 own. But, every year, every optician has got
5 to sit through that thing every year, the same
6 stuff every year after year after year? There
7 is nothing new going to be coming down the
8 pike?

9 MR. SAXON: And I might add --

10 MR. SANSBURY: I'm just wondering if you should do
11 it every year.

12 MR. HARBERT: It would have to be different though,
13 if it's going to be ABO approved to be able to
14 be accepted.

15 MR. SANSBURY: But how can you make the law
16 different, I mean --

17 MS. STUTSMAN: Well, it's not -- we're not changing
18 --

19 MR. SAXON: That's the consideration I would like
20 to point out to you, is because everything
21 through LLR now is bi-annual, bi-annually.
22 The likelihood of having the Legislature pass
23 something that requires yearly annual,
24 something annual, is not real good, probably.
25 Now, I can't get into the Legislature's mind.

1 I wouldn't dream of it, but that is a
2 consideration that now that everything is done
3 for two year periods, it might make it more
4 difficult to get something passed through the
5 Legislature if it's different than that. I
6 mean, that's -- just to be totally honest.

7 MR. SANBURY: So Daniel, or either Ronnie, whoever
8 can answer this question because you just
9 mentioned this and I don't even think about
10 this stuff, but what qualifies as approved
11 educational hours? So you are saying that
12 whatever we get this year, that the same
13 program next year doesn't qualify?

14 MR. HARBERT: Well no, I'm saying that what the
15 State would offer would possibly, we'll say
16 three different law courses. You know,
17 touching our regulations or our law, the law
18 with opticianry in general, or whatever, and
19 it will be a big -- it would have to be a
20 variation for it to be able to be approved,
21 you know, for the ABO for the following year.
22 I mean, that would be something that's got to
23 be worked out.

24 CHAIRMAN GOSNELL: That's not even a consideration
25 of ABO now. All you would have to do with ABO

1 is show that you are licensed in South
2 Carolina. You don't even have to turn in the
3 hours anymore.

4 MR. CORLEY: Yeah, you just show your renewal card,
5 send them a copy of that along with the
6 renewal fee.

7 CHAIRMAN GOSNELL: You don't have to send in
8 anything.

9 MR. CORLEY: You automatically renew.

10 MR. HARBERT: So then basically, you are saying
11 that the law wouldn't necessarily be an ABO
12 approved law then anyway?

13 CHAIRMAN GOSNELL: It can't be.

14 MR. SAXON: No. It can't be. It has to be
15 legislative approved.

16 MR. SANSBURY: Danny, wouldn't the Board have to
17 approve -- this Board have to approve that
18 hour because --

19 CHAIRMAN GOSNELL: Yeah.

20 MR. SANSBURY: -- the way our continuing ed reads,
21 it has to be ABO approved or, so in this case
22 what the Board would do is just set up an
23 approval for the hour.

24 CHAIRMAN GOSNELL: Yeah.

25 MR. SAXON: It can be phrased Board approved

1 continuing education hours and that can
2 include ABO or whatever the Board decides at
3 any given time -- just say Board approved. I
4 mean, would that be something y'all would
5 want? For instance, if I were drafting a
6 disciplinary order that included a sanction
7 that somebody needed extra education, it would
8 be a Board approved course that would be
9 required. And it would be written exactly
10 that way so that the person doesn't go out and
11 just take whatever. It's something -- the
12 person will call Angie, generally, whomever
13 the administrator is and say okay, this is
14 what I would like to take. Would this meet
15 the requirements of the sanction? And Ms.
16 Combs could tell them yes or no. So that
17 leaves enough flexibility in there so that,
18 you know, there are changes over time and what
19 you want to present to your licensees. And as
20 long as it is Board approved, the flexibility
21 is in there for the Board to decide okay, this
22 is really important this year. Well, five
23 years from now, that might not be important,
24 something else may be important, but it's
25 still covered without having to open up

1 anything.

2 MR. SANBURY: Milton, go back to this thing about
3 the ABO. What did you say, they don't
4 require you to turn in the hours anymore?

5 MR. CORLEY: That's been for years.

6 CHAIRMAN GOSNELL: As long as you're from a
7 licensed state --

8 MR. CORLEY: If you're from a licensed state that
9 requires continuing education, all you have to
10 do is show proof that you renewed in South
11 Carolina, make a photocopy of your little
12 card, send that in along with your check, they
13 renew. Because different states require
14 different education and they looked at it like
15 well, if we are requiring twelve and their
16 state requires four, they got to go somewhere
17 else to get another eight. And at one time
18 they were putting ours I Vision Monday so you
19 could just take the test and send it in, they
20 would accept all of those -- but then, the
21 State Board said well, if you require us to
22 put on continuous education hours, we have to
23 monitor it, they have to sit in that classroom
24 for 50 minutes, you know, why are you so
25 strict on us and everybody can get them out of

1 a magazine now. So then, they say well we'll
2 only take one of those for renewal. Then they
3 went to the, if you are required continuing
4 education, we accept whatever your state
5 requires of them.

6 MR. SANBURY: So these last years when my girls
7 were taking that little form y'all give us,
8 tear off that piece and --

9 MR. CORLEY: Right. They don't have to do that.

10 MR. SANBURY: mail that into ABO, that was a was a
11 waste of my time?

12 MR. CORLEY: Yeah, right.

13 MS. STUTSMAN: I didn't know that either.

14 CHAIRMAN GOSNELL: They've been doing that, what,
15 three or four years now?

16 MR. CORLEY: Oh, it's been a lot longer than that.

17 MR. SAXON: See how much you learn in Board
18 meetings?

19 MR. CORLEY: I would say I've been doing it
20 probably at least ten years.

21 CHAIRMAN GOSNELL: Let me ask you, what time are
22 going to break for lunch?

23 MS. COMBS: I think probably around 12:00.

24 CHAIRMAN GOSNELL: Okay.

25 MR. SAXON: Okay, let me ask this just because I

1 don't know. Is there a desire to later
2 anything in the statutes and regs other than
3 these two things?

4 MS. COMBS: Oh, yes, definitely.

5 CHAIRMAN GOSNELL: That's just the --

6 MR. SAXON: This is just a taste -- a short taste
7 of what's to come?

8 MR. CORLEY: It's going to be more than one
9 meeting.

10 MS. COMBS: How long has it been since the law's
11 been changed?

12 MR. CORLEY: '98.

13 MS. COMBS: So since '98.

14 MR. SAXON: What we have done, the reason I ask
15 that is a logistical question -- what we've
16 done is set aside a meeting that has nothing
17 else on it but that, no other agenda items but
18 this. And of course, this is noticed like
19 every other meeting so the public and the
20 Association can come, and interested persons,
21 but we do nothing but discuss -- and we go
22 section by section for both statutes and regs.
23 And if you want to break it up, you can do one
24 session for statutes, one for regs. And
25 Jennifer and I would be here --

1 MS. COOPER: And put them on the screen so
2 everybody can see it.

3 MR. SAXON: And she can mark through things,
4 underline things, color things. I couldn't do
5 any of it, but she can do all of it and that's
6 a very helpful --

7 MR. CORLEY: Now if this is addressed in our regs,
8 but not addressed in the statute, would these
9 go in the statutes, right?

10 MR. SAXON: Yes, sir.

11 MR. CORLEY: Okay, because like our continuous,
12 well not our continuous education component,
13 but the formal -- like the career progression
14 course and that type stuff, I don't know if
15 you could interpret that into the statute as
16 part of the the requirement for license.

17 MS. COMBS: I know we have discussed that before --

18 MR. SAXON: Well, sometimes the statute can say as
19 found in regulation or as promulgated in the
20 Board's regulations. Isn't that right,
21 Jennifer?

22 MS. COOPER: Yeah.

23 MR. CORLEY: I don't know if that's in that one.

24 MR. SAXON: That's what I'm saying. We can put it
25 in the statute. You don't necessarily have to

1 have every little thing that's in the
2 regulations mimicked in the statute, but you
3 can refer, the statute can refer to the
4 Board's ability to set up a regulation that
5 deals with this issue.

6 MS. COOPER: And the regulations are really, in my
7 opinion, the supplement to the Practice Act
8 and just kind of explain it further.

9 MR. CORLEY: I know they weren't meant to take the
10 place of them.

11 MR. WHITLOCK: Getting back to the law. The only
12 reason I'm saying that we get an attorney to
13 do that, is because an attorney, no offense
14 meant, can take that one sentence and y'all
15 can talk about that one sentence for an hour.

16 MR. SAXON: We're paid by the word.

17 MR. WHITLOCK: I know. What I'm getting at --
18 (Off the record briefly)

19 MS. STUTSMAN: Well, again, this was just basically
20 to open your eyes and make sure they have
21 enough information that they can go to the
22 right person if there's a question.

23 MR. SAXON: Which is what -- that's a win-win
24 situation.

25 MS. STUTSMAN: Right, exactly. The more

1 information the better off you all are.

2 MR. SAXON: It protects the licensee, it protects
3 the public, it protects the profession which
4 is what we are all about.

5 MS. STUTSMAN: Now, that being said, is it outside
6 of your scope of what you could do if we did
7 this, would you be a person that we could have
8 sit in, so we --

9 MR. SAXON: Probably not.

10 MS. STUTSMAN: So that would be a conflict, so we
11 would have to find someone --

12 MR. SAXON: It might not be, that's something I
13 would have to investigate because frankly it's
14 a novel situation.

15 CHAIRMAN GOSNELL: It's so much gray area.

16 MR. SAXON: But, I'll find out what I can.

17 MS. STUTSMAN: Great, thank you. There was one
18 other thing that Ronnie just brought up that
19 we had addressed and I will just sort of throw
20 it out there. One of the reasons we were
21 interested, we feel there's a huge need for
22 the law, but we were also trying to find ways
23 to get our Association members to come to our
24 continuing education classes so that they
25 could know exactly what was going on in South

1 Carolina and that seemed to be a way to get
2 people to stay in South Carolina for their
3 education. So, that was another one of the
4 reasons we were looking at a law class.

5 MR. WHITLOCK: How many licensed opticians do we
6 have in the Association?

7 CHAIRMAN GOSNELL: Probably a little less than 400.
8 Around 400 probably counting, you know, there
9 are some people that are honorary members.

10 MR. SAXON: 400?

11 CHAIRMAN GOSNELL: Yeah.

12 MR. WHITLOCK: That means you've got 80%.

13 CHAIRMAN GOSNELL: Yeah.

14 MR. WHITLOCK: 80% belong to the Association.

15 CHAIRMAN GOSNELL: Right, yeah.

16 MR. WHITLOCK: You go to any other state, you ask
17 the other states, and when I was the
18 president, we would go to the OAA meetings and
19 I think, we had like 84% participating.
20 That's unheard of in other states.

21 CHAIRMAN GOSNELL: Well, see --

22 MR. WHITLOCK: They would love --

23 CHAIRMAN GOSNELL: See most states, they charge for
24 a Association membership, plus they charge for
25 their education where if someone's a member of

1 the Association, they get their education
2 free.

3 MR. SAXON: Oh, that's great.

4 CHAIRMAN GOSNELL: So that's why we --

5 MS. STUTSMAN: Soiled's a win-win.

6 CHAIRMAN GOSNELL: -- have been able to keep it --
7 it's not because they are so hip on the
8 Association, but it's an advantage to them --

9 MR. SAXON: Well if the offered one component of
10 the law hour, there's something that we have
11 in almost every continuing legal education
12 program. And that is sort of an overview of
13 what's happened in the past, cases that may
14 affect opticians and the like. You know, if
15 there's been a case that went before the
16 Supreme Court or the Appellate Court you can
17 talk about that case and how it affects your
18 licensees. Or any other case that may not be
19 specific toward opticians or ophthalmologists
20 or optometrists or whatever, but may have an
21 effect on the business. And all that can be
22 included. And all that's very helpful in
23 knowing because, you know, you try to keep up
24 with the law, but, you know, you are doing --
25 keeping up your practice and you're seeing

1 clients and you know, sometimes it's hard to
2 do all that. But if you've got a presentation
3 that offers it, that can be very helpful I
4 would think. And some years it may be nothing
5 more than talking about the cases that have
6 happened in the year.

7 MR. WHITLOCK: Right.

8 MR. SAXON: And in the years in the past.

9 MR. WHITLOCK: Past cases. That could fill up a
10 whole hour --

11 MR. SAXON: Or a heads up about upcoming cases that
12 you expect are going to be before one of the
13 courts.

14 MR. WHITLOCK: That could fill up the whole hour on
15 the law right there, a little past case that
16 came before the Board.

17 MR. SAXON: Absolutely.

18 MR. WHITLOCK: Something like that. Don't do what
19 they did.

20 MR. HARBERT: There was a guy that talked in
21 Columbia one time who was telling about
22 different things where people got injured or
23 whatever, you know, about why he didn't push
24 glass lenses and stuff like that.

25 MR. SAXON: I'm sorry, I couldn't hear you.

1 MR. HARBERT: I was saying that we actually had an
2 hour on this one time in Columbia where a guy
3 was actually representing opticianry and he
4 talked about the different cases where a guy,
5 you know, had gotten glass in his eye and
6 different things like that, why he wouldn't
7 recommend glass lenses for opticians to sell.
8 So it, you know, it was a while back and it's
9 probably been 15-20 years ago.

10 MR. SAXON: And sometimes you may want to have as
11 the presenter an attorney who often represents
12 opticianers.

13 CHAIRMAN GOSNELL: That would be rare.

14 MR. SAXON: As soon as that came out of my mouth, I
15 realized y'all almost never have anybody in
16 trouble. That's probably a narrow field. As
17 you can see from Angie's report earlier today
18 how few disciplinary problems y'all have,
19 which is wonderful.

20 MR. WHITLOCK: I can only remember two attorneys
21 while I've been on the Board, two different
22 attorneys.

23 CHAIRMAN GOSNELL: That's the only time that
24 they've been represented by. One was a Wal-
25 Mart employee.

1 MR. WHITLOCK: That's the only ones I can remember.

2 CHAIRMAN GOSNELL: Okay, how do we want to get this
3 started? Angie, what do you think the best
4 way we can --

5 MS. COMBS: Jamie, what would you suggest at this
6 point? I know there will be more than one
7 meeting. I mean, should we -- are there
8 certain topics that we want to address today?
9 I know there are some hot spots, obviously
10 that everybody knows about, or start from the
11 beginning and see what we can do and know that
12 next time, Jennifer, we can do the on-screen
13 and that type of thing.

14 MR. SAXON: Generally, I'm in favor of just
15 starting from the very beginning and with the
16 very first section. I mean, there are not
17 going to be changes to a lot of sections.

18 MS. COMBS: Right. Correct.

19 MR. SAXON: I think that's the -- and if you want
20 to do that, I mean if you want to start that
21 today, that's fine. If you want to just limit
22 it to the two things on this sheet today and
23 then just schedule a meeting where we start
24 from scratch.

25 CHAIRMAN GOSNELL: Well, we sort of planned on --

1 because she's got lunch planned for us, so we
2 might as well --

3 MR. SAXON: Okay, that's fine. That's fine with
4 us. We're here.

5 CHAIRMAN GOSNELL: -- get started and --

6 MR. SAXON: But, I do recommend starting from the
7 very beginning so you don't go from, you know
8 --

9 MS. COMBS: Makes sense.

10 MS. COOPER: And if Angie, if you could send me
11 everybody's email later, I can email all the
12 drafts when it's done.

13 MS. COMBS: Okay.

14 MR. SAXON: And did y'all hear that? But, keep in
15 mind that when that's done, that draft is for
16 you and you only, so don't distribute that
17 because it is only a draft, and problems can
18 occur when drafts get out into the public
19 because they -- not everybody understands that
20 a draft is not a final product. And so if she
21 sends you something, please keep that amongst
22 yourselves so that we can discuss it. That's
23 not to hide anything from anybody, it's to
24 avoid confusion and conflict.

25 CHAIRMAN GOSNELL: Where do we start? The laws and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

-

MR. SAXON: The statutes, your statutes begin with 40-38-5. Generally what we've asked, you know is has anybody seen anything that needs to be changed or added or deleted or whatever. Angie, does everybody have this?

MS. COMBS: Yes, everybody should have a copy.

MR. SANBURY: I've got to excuse myself for just a minute --

MS. COMBS: Sure.

MR. SANBURY: I'll be right back.

MR. SAXON: You want to just go off the record?

(Off the record from 11:28 a.m. to 11:36 a.m.)

MR. SAXON: Is everybody okay with 40-38-5?

MR. RHODES: The one question I have is where it says if there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control.

MR. SAXON: That's Chapter 38, your chapter. Chapter 1 is the one we euphemistically called the engine. It's the same for all the boards.

MR. RHODES: All the boards, okay.

MR. SAXON: Shall I mark that as okay?

MR. WHITLOCK: Yes.

MR. SAXON: That section is okay? That's just my

1 little shorthand if we're not changing
2 anything. And Angie, correct me if I'm wrong,
3 but I don't know we can do anything to change
4 38-10, can we?

5 MS. COMBS: No, I don't think so. I think that's -
6 -

7 MR. SAXON: I think that's going to be that way.
8 Jennifer, are you aware of any changes in the
9 engine that would affect this?

10 MS. COOPER: No, but I probably need to go back and
11 look.

12 MR. SAXON: Okay. Jennifer will look at that and
13 if there's something that has been a part of
14 the engine's clean-up that needs to be
15 reflected in this, we will bring it to your
16 attention.

17 MS. COOPER: And I don't think a Congressional
18 District has had a look at this either.

19 MR. SAXON: So we're at Definitions?

20 MR. CORLEY: Do we want to add something here about
21 contact lens dispensing?

22 MR. SAXON: Oh, okay -- you might.

23 MS. COOPER: Yeah, it's not in your regs.

24 MR. CORLEY: I mean, you know, back in 2007, we
25 were asked to give a position or a definition

1 of what we considered as a Board to be
2 dispensing of contact lenses. You know, I
3 don't know if we need a definition in there or
4 what the definition of contact lens dispensing
5 is.

6 MS. COOPER: I think in number 5 -- or I may go
7 through and renumber them and put them in
8 alphabetical order because they're not in
9 alphabetical order right now.

10 CHAIRMAN GOSNELL: I would think something to the
11 effect that an optician who has a contact lens
12 license may dispense contact lenses under the
13 supervision of an optometrist or an
14 ophthalmologist.

15 MR. SAXON: That could be a part of 1, couldn't it
16 Jennifer?

17 MS. COOPER: Uh-huh.

18 CHAIRMAN GOSNELL: Yeah.

19 MR. RHODES: What's the difference between
20 spectacles and eyeglasses? Aren't they the
21 same?

22 MR. WHITLOCK: You wear spectacles and I wear
23 eyeglasses.

24 MR. SANSBURY: What it says in here an optician --

25 (Multiple speakers)

1 MR. SAXON: I think it is old-fashioned versus
2 modern.

3 MR. CORLEY: You wear spectacles on St. Patrick's
4 Day and you wear eyeglasses to church.

5 MR. SAXON: No, that's creating a spectacle. Well,
6 how would y'all like it phrased for contact
7 lens dispensers or those who can dispense
8 contact lenses? And if this is something
9 y'all want to think of and come up with a
10 definition later, we can do that.

11 MR. CORLEY: Have you ever read that?

12 MR. SAXON: No, sir.

13 MR. CORLEY: That was what we determined back in
14 2007.

15 MR. SAXON: Well, it may be a situation where --
16 Jennifer, go to 40-38-300.

17 MS. COOPER: Okay.

18 MR. SANSBURY: Jamie, 40-38-270 discusses contact
19 lenses --

20 CHAIRMAN GOSNELL: Uh-huh.

21 MR. SAXON: What was that last number?

22 MR. SANSBURY: 40-38-270.

23 MR. SAXON: 270. And then this refers to 300 as
24 well. Okay. So you might want to put it
25 under 270. Well, I don't know Jennifer, where

1 do you think, because this is the definition?

2 MS. COOPER: Yeah, if it's a definition, it should
3 probably go in the definitions section.

4 MR. SAXON: All right, we're looking at the Board's
5 --

6 MR. SANSBURY: If I could ask, Milton, the issue we
7 have with opticians and then opticians that
8 have contact lens license.

9 MR. CORLEY: Right.

10 MR. SANSBURY: So what's the difference? In other
11 words, I think that is why some of this
12 verbiage got changed, scattered around.

13 MR. CORLEY: See, that's what WalMart wanted to
14 know and that's the reason we hammered this
15 out. There's a difference between ringing up
16 and transferring a lens. There's a difference
17 in taking in that prescription, pulling the
18 lenses, verifying the prescription. That's
19 what pharmacists would do. Okay, once he puts
20 it in that bag and puts it over here in the
21 alphabetical bins, then any employee can pick
22 it up when that customer comes in and hands it
23 to them.

24 MR. SANSBURY: What's the verbiages on, I guess my
25 question, and I remember us going through

1 that, you know, when the folks, the opticians,
2 the two hundred something, however many of
3 them there are that are now contact lense
4 licensed, what does that, how does that
5 differentiate them legally from opticians?

6 CHAIRMAN GOSNELL: They can take it off the shelf
7 if it's written on the prescription and pack
8 it up and someone else could deliver it. But
9 if --

10 MR. CORLEY: They are supposed to have a contact
11 lens license in order to do that.

12 MR. SANBURY: Right.

13 MR. CORLEY: Now, right after we came out with this
14 -- I don't know if you ever went into any
15 WalMarts or not, they had a little sign
16 posted: We cannot accept contact lens
17 prescriptions at this time. Our opticians,
18 our contact lens persons are not present. You
19 have to come back at 3 o'clock. Because I
20 went in several WalMart's and they had it
21 posted.

22 MR. SAXON: Gentlemen, ladies, is there anything in
23 this paper that you handed me that was
24 effective 2007 that has changed or needs to be
25 changed?

1 MR. CORLEY: No.

2 CHAIRMAN GOSNELL: I don't think so.

3 MR. SAXON: Is it the Board's pleasure that
4 Jennifer and I use what is contained in here
5 to put into the definitions section?

6 CHAIRMAN GOSNELL: Uh-huh.

7 MR. WHITLOCK: Absolutely.

8 CHAIRMAN GOSNELL: Yeah.

9 MR. SAXON: All right, and if you don't mind, we'll
10 just fit it in where it seems to make the most
11 sense and when it's sent to you, of course,
12 just -- these are drafts. We can go through
13 as many drafts as you want to. We are not
14 going to do anything without the Board's
15 approval, of course. But --

16 MR. CORLEY: I think we went through about five
17 drafts --

18 MR. SAXON: We probably did. But, I do think it's
19 useful to have it, especially since Boards are
20 no longer allowed to issue policies. I think
21 it's better to have it in here.

22 MS. COMBS: Yeah, we pulled that from what's on the
23 website.

24 MR. SAXON: Right. So by including it here, it
25 lets everybody what's okay and what's not,

1 which is the whole purpose of it in the first
2 place. Jennifer, what's the date on that?

3 MS. COOPER: It says effective January 28, 2007.

4 MR. SAXON: January 28, 2007, okay. All right, so
5 are we through with subsection 20?

6 MR. CORLEY: Addressing Jimmy's question, do we
7 need spectacles, eyeglasses in the first
8 sentence? Or can we just say eyeglasses?

9 MR. SAXON: You know, I don't see the need for
10 having both of them, do y'all?

11 CHAIRMAN GOSNELL: No.

12 MR. RHODES: Which one do you want to use,
13 spectacles or eyeglasses?

14 MR. SAXON: To me it's like old folks in my little
15 hometown would call earrings earbobs, but you
16 know it's the same thing.

17 MR. CORLEY: We might as well clean it up.

18 CHAIRMAN GOSNELL: Yeah.

19 MR. SAXON: That just make me think of those things
20 like Benjamin -- like you see in the old --

21 MR. CORLEY: Just strike the word spectacles.

22 MR. SAXON: Spectacles. It's written there twice,
23 I think. At least twice that I see. Now, you
24 watch, we'll make somebody mad for doing that.

25 MR. RHODES: So we're not going to have spectacles

1 anymore, they are all eyeglasses.

2 MR. SAXON: They're all eyeglasses.

3 MR. RHODES: We can't go to church.

4 MR. CORLEY: Ray, you helped with that revision on
5 that one, okay?

6 MR. SAXON: That went out with hats and gloves, I
7 think.

8 CHAIRMAN GOSNELL: When we go to the next section,
9 one thing I would like to have included in
10 that is that we've had an issue with people
11 before wearing nametags that would have their
12 name and optician underneath it and if we
13 could add some way --

14 MR. SAXON: How about who displays a sign, wears a
15 nametag, or in any way advertises himself --
16 and I would like, with your pleasure, to clean
17 up language to make it -- and this is not a
18 politically correct thing I'm trying to do,
19 but I would like to recognize that there are
20 lots of women in the profession and so where
21 it says himself, I would like to say himself
22 or herself. Is that okay?

23 CHAIRMAN GOSNELL: That would be fine.

24 MR. RHODES: Now, where it says wearers of
25 prescriptions from licensed physicians or

1 optometrists --

2 MR. SAXON: Where are you?

3 MR. RHODES: Still on Section 1. 40 at 38-20
4 number 1.

5 MR. SAXON: Okay, going back, okay.

6 MR. RHODES: Yeah, it says prescriptions from
7 licensed physicians, would that be
8 ophthalmologist instead of physicians?

9 MR. SAXON: I am sorry, I'm not seeing it.

10 MR. RHODES: Second sentence --

11 MR. SAXON: Oh, I got it, got it.

12 MR. SANSBURY: Second --

13 MR. SAXON: So you would like that to say
14 ophthalmologists?

15 MR. CORLEY: You know there are also physicians
16 that can write any prescription they want.

17 CHAIRMAN GOSNELL: Yeah, uh-huh.

18 MR. SAXON: So would you like it to say physicians,
19 ophthalmologists, or optometrists and just add
20 that instead of striking something?

21 MR. WHITLOCK: It's physician --

22 MR. SANSBURY: Ophthalmologist are physicians.

23 MR. SAXON: Yeah, I really -- I don't know that you
24 need to do that because they've got the MD,
25 right?

1 MR. WHITLOCK: Yeah, they've got the MD.

2 MR. SAXON: I'd probably just leave it alone. All
3 right, so back to 30, we are changing, we are
4 adding wears a nametag and after himself we'll
5 add or herself. And what we will probably do
6 is Jennifer and I will go through and anytime
7 it strictly refers to a male, we'll switch it
8 so that it covers both sexes.

9 MR. SANBURY: Jennifer, on line, on that same
10 paragraph line 3, it repeats spectacles and
11 eyeglasses. Again do you just want to take
12 spectacles out?

13 MS. COOPER: Yes.

14 MR. SAXON: We're going to take that out anywhere
15 we see it. Just as an aside, I think part of
16 the testing for any licensee it should be to
17 spell ophthalmologist three times fast. Okay,
18 are we okay then with number 30? You look
19 like you want to say something?

20 MR. HARBERT: I mean, should we even open our
21 mouths in this time?

22 MR. SAXON: Of course. Yes.

23 MR. HARBERT: I guess, because we were discussing
24 this on the way up here. There are some
25 ophthalmologists offices and some optometrists

1 offices that are advertising opticians in
2 their places that are not opticians. They are
3 dispensing people to work for them that are
4 not opticians. No licenses, they just brought
5 them either off the street or whatever to
6 deliver glasses under their license. Do we
7 cover --

8 MR. SAXON: That's already covered.

9 MR. HARBERT: I mean do we cover under
10 ophthalmologist --

11 MR. SAXON: That's covered and there should be
12 complaints filed against those folks.

13 MR. HARBERT: Okay, so there should be.

14 MR. SAXON: That's already covered under the law.

15 MR. HARBERT: Okay.

16 MR. SAXON: So whenever someone, I mean y'all are
17 welcome to file complaints, y'all can bring it
18 to Angie's attention. Administrators can file
19 complaints as well as the general public.

20 MS. COMBS: We have issued cease and desist in the
21 past in that same situation.

22 MR. SAXON: We can only take, do sanctions against
23 licensees because a license is all we can
24 affect. But we can do the cease and desist And
25 also, if someone is -- if a licensee is aiding

1 and abetting someone that -- then, that could
2 cause that person to be disciplined as well,
3 am I right?

4 MS. COMBS: That's correct.

5 MR. SAXON: But, that's already covered, that's a
6 good question.

7 MR. SANSBURY: Sorry, I was reading something. I
8 was reading ahead. So what's already covered?
9 If they do what?

10 MR. SAXON: If someone is practicing basically
11 without a license, under somebody else's
12 license. We call that aiding and abetting.
13 It's license lending sort of.

14 MR. SANSBURY: And maybe I didn't catch this right,
15 but obviously in our statute, optometry is
16 excluded. In other words, so what --

17 MR. CORLEY: What they are talking about -- All
18 right, for example across the street from me I
19 had an ophthalmologist one time and he was
20 running the picture of a young lady in his add
21 saying that she is an optician. She was not an
22 optician. She worked under his license, but
23 he was advertising her as an optician.

24 MR. SANSBURY: You weren't talking about anything
25 having to do with work?

1 MR. CORLEY: No, uh-huh.

2 MR. SANSBURY: But advertising --

3 MR. CORLEY: Right.

4 MR. SANSBURY: Now, I'm there.

5 MR. SAXON: Well usually the law is not -- is
6 offering to do it or doing it are treated the
7 same way, so that would be covered.

8 MR. RHODES: It would be like my daughter in my
9 office. She can't call herself an optician.

10 MR. SAXON: Shall we move on to 50?

11 MR. CORLEY: Well, we don't have any choice on
12 that, do we?

13 MR. SAXON: Not much.

14 MR. CORLEY: Sounds okay to me.

15 MR. SAXON: Would you like a quick answer or would
16 you rather me expound awhile? Can we go off
17 the record?

18 (Off the Record briefly).

19 MR. SAXON: So where are we now, Jennifer?

20 MS. COOPER: Um--

21 MR. SAXON: Well, we're back on the record now.

22 MS. COOPER: I was asking a question about
23 examinations. It looks like we start going
24 into that in section 230.

25 CHAIRMAN GOSNELL: Yeah.

1 MR. SAXON: So we're at number 60 now.

2 MS. COOPER: Uh-huh.

3 MR. SAXON: I don't see any need -- do y'all see
4 any need to change that?

5 MR. CORLEY: 60, 70 or 80.

6 MR. SAXON: Okay.

7 MR. WHITLOCK: On 70, just to back up to the Board
8 shall examine.

9 MR. SAXON: Or provide --

10 MR. WHITLOCK: Or provide. So would we take out
11 examine, because we don't examine anymore.

12 MR. SAXON: Well, that --

13 MR. CORLEY: Well we want to have that option to if
14 we --

15 MR. SAXON: And y'all are technically examiners in
16 opticianry, so I don't know if I would change
17 that. That or there changes everything.

18 MR. RHODES: Do we need to add anything about
19 apprentices up in 48-60, that definition or --

20 MR. SAXON: Would an apprentice not be covered
21 under applicants for the practice of
22 opticianry? Is this, in fact, prerequisite --

23 MR. RHODES: Yeah.

24 MR. SAXON: I think I would leave it alone then.

25 Angie, please feel free to chime in whenever

1 you have a thought or idea.

2 MS. COMBS: Oh, I will. Thank you.

3 MR. SAXON: This is a communal effort. Now, 90 is
4 just common sense. Y'all know that if one of
5 you files a complaint, you can't participate
6 in the hearing? So I don't know that you need
7 to change that. Number 100 is what many
8 Boards have an opportunity to do. You can go
9 to the Administrative Law Court. If for
10 instance, if Angie has issued a cease and
11 desist and somebody persists you can to the
12 Administrative Law Court and say this person
13 continues to flaunt under the Board's
14 provisions and we need you to step in.

15 MR. WHITLOCK: Did you just add that?

16 MR. SAXON: No, it's there.

17 MR. WHITLOCK: Oh, okay.

18 MR. SAXON: Because believe it or not some people
19 don't listen those cease and desists.

20 MR. CORLEY: That's covered in the engine.

21 MR. WHITLOCK: That's where you're enjoined.

22 MR. SAXON: Enjoined. Sounds benign. If you will
23 notice A(2), that covers what you were talking
24 about earlier. An optician practicing under
25 somebody else's license.

1 MS. COOPER: Number 3 talks about advertising.

2 MR. SAXON: Yeah, 3 talks about advertising too.

3 Yeah. Yeah. Should we add the word after --
4 could we -- Has cause to be published,
5 advertised, or circulated directly? Would
6 y'all -- what do y'all think about that?

7 MR. SANSBURY: What, what number?

8 MR. SAXON: We're A(3), where it says has cause to
9 be published or circulated directly or
10 indirectly, put after published comma,
11 advertised, comma. What do y'all think about
12 that?

13 MR. WHITLOCK: That's fine. We had a case where a
14 person, they were in the yellow pages, and it
15 said optician and that person was not an
16 optician. In an ophthalmologist's office.

17 MR. SAXON: Now, this may be a question for the
18 Board for Angie. Number 4 says, has failed to
19 provide and maintain reasonable sanitary
20 facilities. Okay, this is the sort of grammar
21 nerd in me. Is it reasonable -- is it a
22 facility that's both reasonable and sanitary
23 or reasonably sanitary? I just don't know.

24 MR. SANSBURY: We probably defer to legal counsel.

25 MR. SAXON: I think if it's supposed to read the

1 way it says, I'd just put a comma between
2 reasonable and sanitary. You want the
3 facility to be --

4 MR. RHODES: Reasonable and sanitary.

5 MR. SAXON: But, see, I don't know what y'all
6 originally meant. Was anybody around in 1982
7 and 1998 when y'all -- 1982 was when it was
8 originally done. Should it say reasonably
9 sanitary? I think it should be sanitary
10 beyond reason.

11 MR. RHODES: I think we ought to do away with
12 reasonable then, is that what you are saying?

13 MR. SAXON: Or reasonable comma, I don't know what
14 that would mean though, what is a reasonable
15 facility? Can anybody help me here?

16 (Multiple speakers)

17 MR. SANSBURY: So we're not responsible for -- Have
18 you ever had a complaint?

19 MR. SANSBURY: No.

20 MR. CORLEY: I think we got the golden spatula
21 award.

22 MR. SAXON: I really would like to -- I mean, I
23 know it -- but I would either take out
24 reasonable -- there are three options: 1)
25 take out reasonable; 2) put a comma between

1 reasonable and sanitary; or 3) or change
2 reasonable to reasonably.

3 CHAIRMAN GOSNELL: Leave it out.

4 MR. SANSBURY: I say take it out.

5 MR. SAXON: Take it out? All right. From the
6 gallery?

7 (Multiple speakers)

8 MS. COOPER: Who would determine sanitary? I guess
9 DHEC?

10 MR. SAXON: I think the Board could interpret that.
11 I mean if a member of the public, for
12 instance, went into a facility and found it to
13 look dirty or nasty or unkempt, they could
14 file a complaint and one of our investigators
15 could go and they could decide, you know,
16 bring it to the Board or the IRC is this
17 sanitary or not? I don't know that we want to
18 put in definitions what sanitary means. Let's
19 just let it mean the dictionary definition.

20 MR. RHODES: I never really thought of it.

21 MR. SANSBURY: Jamie, could I ask this question? I
22 heard you mention you were going to make these
23 original changes and then send us copies. Are
24 y'all going to do like they did before, like
25 to highlight what you were going to insert --

1 MR. SAXON: That's right.

2 MR. SANSBURY: -- so we will know that this is what
3 you are saying?

4 MR. SAXON: Anything inserted will be underlined.
5 Anything removed will be struck through but so
6 that you can still read it and you will know
7 what's struck through. Anything -- if you add
8 a whole section, then that whole section will
9 be underlined. Soiled will show both the old
10 and the new.

11 MR. RHODES: And would fees be, like number 5,
12 would that be like payments?

13 MR. SAXON: Payments from a client.

14 MR. WHITLOCK: Or anything of value, wouldn't it?

15 MR. SAXON: I don't know that I would add that. I
16 mean, tell me what you are thinking. What is
17 your thought process there?

18 MR. CORLEY: Mac does a lot of bartering.

19 MR. WHITLOCK: Because people do barter. A pair of
20 glasses for forty pounds of shrimp, oh, okay.

21 MR. SAXON: I don't think -- I think I would just
22 leave that alone. How about fees or other
23 remunerations?

24 MR. WHITLOCK: There you go. I knew he had a
25 better way to say it.

1 MR. SAXON: That's why they pay lawyers the big
2 bucks. May I suggest something in number 7?
3 Or is there anything in 6 that you want to
4 address?

5 MR. RHODES: What's the or at the end of it?

6 MR. SAXON: Oh, that's just because it's part of 1-
7 7 --

8 MR. CORLEY: Just continuing --

9 MR. SAXON: It's just a grammatical thing.

10 MR. RHODES: Okay. So 7 is a continuation of 6?

11 MR. SAXON: No, sir. It's just 1,2,3,4,5 -- See,
12 it goes with number A, a licensee when it's
13 established upon a satisfactory showing of the
14 Board that the licensee has done any one of
15 these or all of these, or whatever, any one of
16 them is enough. I would suggest changing in
17 number 7 toward the end of that first line
18 where it says and coercive to and/or coercive.
19 Because something could be untruthful and
20 coercive, but it doesn't have to be both.
21 But, the way this reads, it almost has to be
22 both, and I don't know that you want it to
23 mean both.

24 MR. SANSBURY: Danny, why didn't you catch that
25 last time?

1 CHAIRMAN GOSNELL: Do what?

2 MR. SANBURY: When we did it last time, why didn't
3 you catch it then?

4 CHAIRMAN GOSNELL: Because you were talking too
5 much.

6 MR. WHITLOCK: Because Burt was probably talking --

7 MR. SANBURY: No, Burt wasn't involved, thank
8 goodness. We would have never gotten it done.

9 MR. RHODES: B would be pretty self-explanatory.
10 If you're not crazy, you're okay.

11 MS. COOPER: We were on 110, but I think we
12 finished with it.

13 CHAIRMAN GOSNELL: So the Board would have the
14 authority to fine a former licensee if he ever
15 were in violation of anything?

16 MR. SAXON: What that covers is someone could have
17 a lapsed license but had violated the statutes
18 and regs while licensed.

19 CHAIRMAN GOSNELL: Oh, okay.

20 MR. SAXON: And so you can -- the action if the
21 person doesn't have a license could range from
22 do not renew or before renewal he or she must
23 do such and such. And that's the same for all
24 the Boards. And for instance, a licensee can
25 voluntarily surrender his or her license in a

1 disciplinary situation, but that doesn't
2 prevent the Board from bringing future
3 disciplinary action based on what happened.
4 If there are any changes to the sections cited
5 in 40-38-120, we will update those, but
6 otherwise I don't see any need to change
7 anything.

8 MR. CORLEY: You were talking about fines or
9 something earlier, \$500 --

10 MR. SAXON: I think the engine had it originally.

11 MR. CORLEY: \$500?

12 MR. SAXON: I don't know if the clean-up changed
13 that or not, but Angie are fines dealt with in
14 the regs here somewhere?

15 MS. COMBS: Yes, there's some references --

16 MR. SAXON: How much are y'all allowed to charge
17 for violations?

18 MS. COMBS: Well, that's the thing. I was looking
19 under 200 --

20 MR. SAXON: Y'all have so few.

21 MS. COMBS: I mean some of the --

22 MR. SAXON: Yeah, that's a little different.

23 MS. COMBS: Yeah.

24 MR. CORLEY: Well, see in the engine, in their 2,
25 it says imposed a fine not to exceed \$500.

1 MR. SAXON: That's right.

2 MR. CORLEY: Unless it's in our Board.

3 MR. SAXON: That's correct.

4 MR. CORLEY: Or in our statute.

5 MR. SAXON: That's correct.

6 MR. CORLEY: You know.

7 MR. SAXON: So if your Board does not have
8 provision for fines, you would want to add
9 that. Otherwise, you are limited to that
10 \$500. As I was talking earlier, another
11 Board had that situation.

12 MS. COOPER: Yeah, I'm not sure about 200 because -
13 -

14 MR. SAXON: Yeah, 200 --

15 MS. COOPER: The whole --

16 MR. SAXON: Yeah, 200 is in a lot of -- it's in a
17 lot of the Boards'.

18 MS. COMBS: That much? That high of a fine? Well,
19 it just says not more than.

20 MR. CORLEY: It would be anything up to that.

21 MS. COMBS: Up to that.

22 MR. SAXON: Yeah, it means you can't go over that.

23 MS. COMBS: Can't go over that, that's true.

24 MR. SAXON: And that would, that would go into that
25 enjoined, enjoining thing, y'all can't put

1 anybody in jail.

2 MS. COOPER: Yeah, that's what I meant, because
3 that happened, I think with funeral --

4 MS. COMBS: Does that need to come out?

5 MR. SAXON: No, I think it's in all of them, isn't
6 it, Jennifer? Has anybody taken that, removed
7 that --

8 MS. COOPER: I think we did in funeral or we
9 rephrased it or something. I can check.

10 MR. SAXON: Let us look into that a little further
11 if you will.

12 MR. CORLEY: Which one was that?

13 MR. SAXON: 200, but we will go back to where we
14 were. We were talking about disciplinary
15 actions. Jennifer, where does it talk about
16 sanctions? Because it refers to fines in 180.

17 MS. COOPER: Sanctions are 38-110, but the list --

18 MR. SAXON: Right, but that's grounds --

19 MS. COOPER: That's just grounds.

20 MR. SAXON: Yeah, that's grounds, it doesn't really
21 list the sanctions. Angie, do you know where
22 they're found, or are they?

23 MS. COMBS: It's something we do not deal with very
24 often.

25 MR. SAXON: You don't, that's the truth. Jennifer,

1 I don't think it's in here.

2 MS. COMBS: That may be all.

3 MS. COOPER: I don't see them.

4 MR. SAXON: Y'all bear with me for just a -- can we
5 go off the record and I'll look up some
6 things.

7 (Off the Record briefly).

8 MR. SAXON: Chapter 1, which is the engine, sets
9 forth sanctions. And board who have sanctions
10 in addition to that or fines look at instead
11 of 40-1-120, which is in the engine, it would
12 be 40-38-120, so we can include it in this
13 disciplinary actions permitted by the Board
14 procedures. Couldn't we, Jennifer?

15 MS. COOPER: Uh-huh. Well, it does say may take
16 disciplinary action against a persons section
17 40-1-120.

18 MR. SAXON: It just doesn't say what any of those
19 are.

20 MS. COOPER: Yeah.

21 MR. SAXON: And if it will help y'all, I'll tell
22 y'all what the engine says they are. The
23 Commission or the Board has the authority to
24 issue a public reprimand and impose a fine not
25 to exceed \$500, place the licensee on

1 probation or restrict or suspend the
2 individual's license for an indefinite time
3 and proscribe conditions to be met during
4 probation, restriction or suspension
5 including, but not limited to, satisfactory
6 completion of additional education of the
7 supervisory period or continuing education
8 programs, permanently revoke a license and
9 impose the reasonable cost of the
10 investigation and prosecution of the case.
11 This particular Board in its 120 gives it the
12 option of fining not more than \$2,500 per
13 violation. So let me look under the
14 Legislature which is where the laws are found.
15 We're going to go off the record for just a
16 second because my computer is being slow.

17 (Off the Record briefly.)

18 MR. SAXON: All right, this Board has a special
19 section for fines. It just says: Upon a
20 determination by the Commission that one or
21 more of the grounds for discipline of a
22 licensee exists as provided in Section 40-59-
23 110 and 40-1-110, the Commission in addition
24 to the actions provided for in Section 40-1-
25 120, may impose a fine of not more than \$2,500

1 per offense. So I would recommend just having
2 the section then after 120 or just add to 120:
3 Upon the determination -- and y'all tell us
4 what you want that fine to be.

5 MR. SANSBURY: Well, Jamie, doesn't 40-38-200
6 mention that? It says not more than \$50,000
7 or more than one year?

8 MR. SAXON: That is a little bit different, and
9 that may be something we take out because
10 Boards really don't have the power to send
11 anybody to jail. And this says, basically, it
12 means up to \$50,000. I think if this Board
13 fined somebody \$50,000 the ALC would say
14 that's abuse of discretion. I just don't
15 think there's any doubt about that. But I
16 think a reasonable fine would be acceptable to
17 the Legislature and is appropriate. Because
18 otherwise, you are limited to that \$500 no
19 matter how many violations there are. So you
20 may want to say \$500 per violation, you might
21 want to say \$1,000. I don't know, that's up
22 to y'all.

23 MR. CORLEY: Whatever we decide on it should be per
24 violation?

25 MR. SAXON: Yes, sir. Yes, sir.

1 MR. RHODES: And number 2 under the punishment part
2 of it, is that -- it's not the Board or
3 anybody doing the punishment, it's if they
4 went to court?

5 MR. SAXON: That's a different situation, right.

6 MR. RHODES: Okay.

7 MR. SAXON: What we are talking about are sanctions
8 that, for instance, if you had somebody before
9 you today that wasn't an application hearing,
10 but was a disciplinary hearing, you could
11 suspend the license, put the license on
12 probation, revoke the license, and you can
13 fine the person. And this would be to set out
14 in your statute how much you can fine.
15 Because right now, all you can fine is \$500
16 whether they've got one violation or 12.

17 MR. CORLEY: Do you have a --

18 MR. SAXON: I would keep in mind, you know, you
19 don't want to -- not everybody has a rich
20 practice necessarily or, you know, you don't
21 want the fine to be so high that people can't
22 pay it.

23 MR. CORLEY: Yes.

24 MR. SAXON: And it's a matter of putting them out
25 of business. If you're going to do that,

1 you're going to revoke the person. So you
2 want it to be a reasonable amount.

3 MR. RHODES: Well now we have it at \$500?

4 MR. SAXON: It's \$500 total.

5 MR. CORLEY: Total.

6 MR. SAXON: Your statutes don't address fines at
7 all.

8 MR. CORLEY: So we could say \$1,000 for any
9 violation and if they commit 12, that's
10 \$12,000.

11 MR. SAXON: And it doesn't mean you have to fine
12 somebody \$12,000 if there's 12 violations.

13 MR. CORLEY: Yeah. Up to.

14 MR. SAXON: Right. Right.

15 CHAIRMAN GOSNELL: Let's make it \$1,000.

16 MR. SAXON: \$1,000?

17 MR. CORLEY: Yeah.

18 MR. SAXON: Y'all okay?

19 MR. CORLEY: And we're going to state it up to, up
20 to \$1000 --

21 MR. SAXON: Yes, sir. So it will say, in fact, it
22 will say: Upon a determination by the Board
23 that one or more of the grounds for
24 discipline, blah, blah, blah, may impose a
25 fine of not more than \$1,000 per offense.

1 MR. WHITLOCK: So we could charge them 25 bucks if
2 we wanted?

3 MR. SAXON: Well, you could.

4 MR. WHITLOCK: That's what I'm saying.

5 MR. SAXON: You could, yes.

6 MR. WHITLOCK: Up to.

7 MR. SAXON: That's right. That's the limit. So if
8 somebody violates, go back to 110, that gives
9 you the grounds, plus 110 and the engine, you
10 could have, say, somebody has three
11 individual, it could be \$3,000 or you can
12 decide for this situation that it's not that
13 serious, \$1,000 is fine or \$500 is fine.
14 Often with Boards that have many more hearings
15 -- y'all just don't have many hearings, but --
16 which is good. But the Boards that do, often
17 a fine is more to get somebody's attention
18 than anything else.

19 MR. RHODES: But you can't do a verbal if you
20 wanted to?

21 MR. SAXON: A verbal reprimand?

22 MR. RHODES: Yes.

23 MR. SAXON: That's always a possibility. Isn't
24 that right, Angie?

25 MS. COMBS: Uh-huh.

1 MR. RHODES: I mean instead of fining them, you
2 know, if it's under this particular statute,
3 instead of saying well you owe us --

4 MR. SAXON: You don't have to fine anybody.

5 MR. RHODES: You don't have to fine them?

6 MR. SAXON: You don't have to fine anybody, right.
7 This just gives you the option of imposing a
8 fine as part of the sanctioning process. You
9 don't have to -- I mean technically you have
10 the right to say, while we fine a technical
11 violation of the statutes or regs, we don't
12 find it rises to the level requiring a
13 sanction. I mean, there are a lot of options
14 open to you. This is just giving you an
15 option that you have not heretofore had, but
16 most other boards do have. And 130 just talks
17 about you can deny a license to somebody for
18 the same reasons that you can discipline
19 somebody. And Jennifer, I think that's the
20 same pretty much across the board, isn't it?

21 MS. COOPER: I think so.

22 MR. SAXON: Anybody see any need to change anything
23 in 130? And we'll work to make sure that the
24 engine is still 40-1-130 and we will change
25 that citation if the engine has changed it,

1 but otherwise we would leave it alone. So is
2 130 okay with everybody?

3 CHAIRMAN GOSNELL: Uh-huh.

4 MR. SAXON: Okay. Same thing for 140. The only
5 change I would make is if the engine has
6 renumbered from 140, we would change that, but
7 --

8 MR. RHODES: Denial of the license would be for
9 something other than prior criminal record?

10 MR. SAXON: Yes. That's covered in 130 above that.

11 MR. RHODES: Oh, disciplinary action.

12 MR. SAXON: You can deny a license based on
13 anything that you could discipline for. And
14 this says also for prior criminal record. And
15 the key is prior because if someone commits a
16 crime while licensed, that would be dealt with
17 in a disciplinary situation, not an
18 application hearing. Once upon a time boards,
19 if an applicant came before you, and there was
20 a disciplinary matter attached too, you could
21 do them both at the same time. You can't do
22 that now. Really, it was violating a person's
23 due process rights. So it's good that we
24 don't do it now. What we do is have the
25 application hearing and if it's a disciplinary

1 matter, you have a separate disciplinary
2 hearing, so that the person knows what's going
3 on. That's just the way it's done.

4 MR. RHODES: Well a criminal record could go back
5 30 years.

6 MR. SAXON: It could, yes. Right. This lets you
7 deny somebody a license based on before they
8 -- you can deal with it before somebody is
9 licensed. The same thing with 150 unless the
10 numbering is changed, I don't see any need to
11 change it, unless y'all do. Now, when I say I
12 don't see a need to change it, that doesn't
13 mean y'all don't see a need, So please don't
14 take that as --

15 MR. RHODES: It's pretty much self explanatory.

16 MR. SAXON: Okay. Everybody okay with it then?
17 And this just lets somebody appeal a Board
18 decision or ask for it to be reconsidered,
19 that kind of thing. For instance, if you
20 suspend somebody's license, fine them \$1,000,
21 they have the right to come to you and say
22 would y'all please reconsider this or they
23 have the right to appeal it to the ALC. I
24 don't think you could change that and I don't
25 you would want to even if you could. You want

1 to give somebody a fair shot. Now again, 170
2 is probably something with which y'all have
3 never dealt with because you have so few
4 hearings, but -- and really there are really
5 only a couple of boards that use this and that
6 is in addition to the sanctions, you have the
7 ability to charge for the cost of the
8 investigation and putting on of the case. But
9 the prosecutor has to present an Affidavit
10 during the hearing that says the investigation
11 cost this much, preparation of the case cost
12 this much for a total of this much. And the
13 Board can either accept it or not. And it
14 varies by licensee. If this is a licensee you
15 know doesn't have the money to pay it, it
16 doesn't make much sense in imposing it because
17 they can't pay it, or if they can, you might
18 want to impose costs as part of the sanction.
19 And you know some of those boards to that
20 instead of a fine. If the costs are large
21 enough they will do that instead of a fine.
22 Which you can do a fine and this if you want
23 to. It just gives you that option. Is that
24 okay with everybody?

25 CHAIRMAN GOSNELL: Fine.

1 MR. SAXON: Collection of causing fines is usually
2 going to be dealt with in the Order itself.
3 For instance, \$1,000 payable within 90 days of
4 the final order or something like that. So I
5 think it's okay. Jennifer it's -- am I
6 remembering that something has changed about
7 190, or is it --

8 MS. COOPER: It might have been the engine bill.

9 MR. SAXON: They changed the engine to make it
10 reflect this, didn't they? I think.

11 MS. COOPER: Maybe, but the whole thing is the
12 engine bill is not law yet, so --

13 MR. SAXON: Right.

14 MS. COOPER: But, I will consult it.

15 MR. SAXON: Okay. Let us look a little more into
16 190 before we make a decision on that to make
17 sure that we are in compliance with what the
18 engine says. And the engine is in flux as you
19 might know. It's been submitted to the
20 Legislature, but it has not been -- they have
21 not voted on it, have they?

22 MS. COOPER: No, it's still going to go in through,
23 I think, the Senate and then I think it's
24 still got to go through the House. I may have
25 that mixed up.

1 MR. SAXON: And what we are talking about is the
2 clean up that makes it not contradictory.

3 MR. CORLEY: And that's the copy you have in our
4 stuff.

5 MR. SAXON: I don't think we have the engine here.
6 Angie, is the engine in there?

7 MS. COMBS: No, but that was in that -- when we
8 were doing the clean up, talking about it --

9 MR. SAXON: Yes, that is the engine right there,
10 but I don't know which version of that, that
11 is. Do you know which version he's got?

12 MS. COMBS: I'm not sure. If that's the one we
13 sent right before the conference call because
14 you all discussed it. I mean you didn't vote
15 on that. If I'm not mistaken, it wasn't voted
16 on.

17 MR. CORLEY: We keep referring back to all these
18 things --

19 MS. COMBS: You may have the current version, yeah.

20 MR. SAXON: Well, the numbers probably have not
21 changed.

22 MR. CORLEY: Just the verbiage in those --

23 MR. SAXON: At least I'm hoping that the numbers
24 haven't changed. We'll go through and look at
25 them to make sure. Or Jennifer, bless her

1 heart, will. But we will examine 200 as well
2 to make sure that is something that is not
3 been removed or that the engine doesn't remove
4 our authority to do that. I know I've seen it
5 in other boards, but I don't know if that was
6 before or after all these changes came into
7 place. I've never seen it -- I've been here
8 five years and I've never seen it come up in
9 any board until this year. This past year, I
10 served all 42 boards and it just hasn't come
11 up. Nor have I seen section 210 come up. It
12 would have to be pretty egregious to want to
13 go into that. Now 230 is something you --
14 Jennifer, what is it about -- I just got an
15 email that may be helpful to you if you will
16 bear with me. A couple of the boards, their
17 statutory changes were heard today in
18 committee and I've got an email from two
19 different boards and the Committee said the
20 same to both of them, so they are going to say
21 it to y'all too and that is: Subcommittee
22 members want to see exact fees plus a not-to-
23 exceed number in the regulations. This person
24 tried to explain the fees that are listed on
25 the website. The Committee found that

1 insufficient, meaning you are going to have to
2 come up with the fees not to exceed such-and-
3 such.

4 MS. COOPER: And in a situation I dealt with
5 yesterday, the fees on the website didn't
6 match the fees in the proposed regulation and
7 I was told to match it in the proposed
8 regulation. So what you have up on the
9 website does matter.

10 MS. COMBS: Well, now, are they saying Jamie that
11 they want fees to be stated in --

12 MR. SAXON: That's what it sounds like.

13 MR. SANSBURY: So what happens if you decide to
14 change these later, do you got to go back over
15 the changed fees?

16 MR. SAXON: Yes.

17 MR. SANSBURY: Wow.

18 MR. SAXON: It seems to be. And I'm basing that
19 just on what happened today. Let me read one
20 more. Bear with me. Subcommittee met -- this
21 is the other board -- Subcommittee members
22 want to see exact fees plus a not-to-exceed
23 number in the regulations. Now the Board can
24 say we don't want to comply with that. I
25 think that was pretty much sync whatever you

1 want to do.

2 MS. COMBS: Well, if you have exact fees and you
3 say not to exceed, then really you could go up
4 to the --

5 MR. CORLEY: Yeah, you can go up to that.

6 MS. COMBS: So you do have some --

7 MR. SAXON: Right.

8 MS. COMBS: -- play there, I guess.

9 MR. SAXON: I don't know how the current
10 administration would, you know, if we really
11 raise fees beyond what they are now, I don't
12 know that that would fly with the current
13 administration.

14 MS. COMBS: Well, this Board is, I feel like is
15 kind of on the high side.

16 MR. SAXON: So just leave it alone?

17 MS. COMBS: But --

18 MR. SAXON: Like not to exceed --

19 MS. COMBS: -- we have gone back to, and at your
20 direction, because your fees are listed in
21 your regs, and several years ago they were
22 raised.

23 MR. SAXON: So they're already on the regs.

24 MS. COMBS: Yeah, they are in the regs.

25 MR. SAXON: So y'all are okay.

1 MS. COMBS: We've gone back to using what's in the
2 regs. Not all fees change because all fees
3 were not changed.

4 MR. SAXON: And so --

5 MS. COMBS: But, we are using the --

6 MR. SAXON: So why don't we wait until we get the
7 regulations to deal with that. And it may be
8 that we just leave it alone since y'all have
9 already done that. Is there any problem with,
10 or has there been any practical or logistical
11 problem with an application being submitted 60
12 days?

13 MS. COMBS: I have a comment on that one. Can we
14 put as determined by the Board or something
15 and not say 60 days or say a certain time --
16 or whatever would be a good wording.

17 MR. SAXON: All right, a person desiring to be
18 examined by the Board must submit an
19 application furnished by the Board within a
20 timeframe set by -- oh, gosh--

21 MS. COMBS: Well, see, there's another issue -- if
22 we go, not we, the Board determines, decides
23 the National Practical, that's going to be a
24 year round so it really --

25 MR. SAXON: Soiled's --

1 MS. COMBS: It's going to --

2 MR. SAXON: Is 60 days excessive, not enough, or --
3 just not necessary?

4 MS. COMBS: I mean, if we go to that, if, and I
5 know we all have to decide whether we have to
6 that in May, we decided we would do that in
7 May -- that if you go to that and that's a
8 online, they don't even have to come here --
9 the Board, you know, to take the exam. Really
10 the application -- how could we say -- I mean
11 I think that would be a little strange.

12 MR. WHITLOCK: If we accept that exam --

13 MS. COMBS: If we accept that, yes. Really, if the
14 Board accepts that --

15 MR. WHITLOCK: -- because we have no presentation.

16 MS. COMBS: Right, so I don't think 60 days --
17 Maybe just make it as general as possible?

18 MR. SAXON: We could say a person desiring to be --
19 Let's say -- I'm thinking out loud now. A
20 person desiring to be examined by the Board
21 must submit an application furnished by the
22 Board prior to the examination --

23 MS. COMBS: Well, that says examined by the Board,
24 so the Board really wouldn't be --

25 MR. WHITLOCK: The Board wouldn't be examining?

1 MS. COMBS: -- wouldn't be examining.

2 MR. SAXON: Well, that's right. The Board does not
3 examine anybody anymore. But you have the
4 right in an earlier to do that.

5 MR. WHITLOCK: Well, it's in this section on down
6 here, it says that the Board can do it.

7 MR. SAXON: Yes.

8 MS. COMBS: Uh-huh.

9 MR. WHITLOCK: If it's not available online.

10 MR. SAXON: Angie, would it be okay to just take
11 out 60 days before and just prior to the
12 examination?

13 MS. COMBS: Want to do something like that?

14 CHAIRMAN GOSNELL: How long do you need to approve
15 the application?

16 MS. COMBS: Well, see, that is -- the way it is no
17 we're saying I believe it's 30 days if I'm not
18 mistaken, is what we are asking for. But I
19 mean, it doesn't take long.

20 MR. SAXON: Well, would you want to say 30 days, or
21 just leave it prior to?

22 MS. COMBS: Prior -- I mean that's up to you all.

23 MR. SAXON: Because that could mean two days before
24 and that wouldn't give you much time.

25 MR. CORLEY: Yeah, it could mean 24 --

1 MS. COMBS: Uh-huh.

2 MR. SANBURY: What is optometry doing with that?

3 Our stuff used to mirror theirs a lot.

4 MS. COMBS: Uh-huh. Well, see they don't even have
5 an exam except for the online and --

6 MR. SANBURY: So what is that verbiage now?

7 MS. COMBS: No, they don't, there's not any type of
8 restriction on that.

9 MR. SAXON: Well, how about at least so many days
10 before.

11 MS. COMBS: Uh-huh.

12 MR. SAXON: And it could be whenever you think --

13 MR. WHITLOCK: What would be good for you?

14 MR. SAXON: Yeah, for the staff?

15 MR. CORLEY: Up to five days prior?

16 MS. COMBS: I mean, I guess it depends on what we
17 are looking at. Now, if we are just going to
18 say if the Board gives the exam, but if we're
19 talking about possibly going --

20 MR. CORLEY: Because if you stay with Roy --

21 MS. COMBS: Right.

22 MR. CORLEY: -- you would have to give him more
23 notice.

24 MS. COMBS: See, that's it. That's where we would
25 have to give in to that 30 days.

1 MR. SAXON: Why don't you keep the same notice that
2 you would give for the other one, just to make
3 them compatible, consistent.

4 MS. COMBS: Okay.

5 MR. SAXON: So what's the amount of time for the
6 other one?

7 MS. COMBS: It's thirty days.

8 MR. SAXON: Why don't we do that then? Would that
9 suit you?

10 MS. COMBS: Yeah, that would --

11 MR. SAXON: Your staff, would that be okay with
12 them?

13 MS. COMBS: Yes, that would be fine.

14 MR. SAXON: Is that okay with y'all?

15 CHAIRMAN GOSNELL: Yeah.

16 MR. SAXON: Y'all out there?

17 MR. CORLEY: If they ever went back or, you know,
18 if we didn't adopt that, we continued to --

19 MS. COOPER: 30 days would still be fine.

20 MR. CORLEY: They've got to have time to be set up.

21 MS. COMBS: Well, that's true, but it seems like 30
22 seems to work with us. And they have to have
23 everything in, not just in the process, but it
24 all has to be in.

25 MR. WHITLOCK: They have to have it in, right.

1 MR. RHODES: Up in the section here at the
2 beginning of that, where it's got, you know,
3 examination and applications, fees and then
4 competency examination. Expand on examination
5 versus competency exam -- examination.

6 MR. SAXON: It just means, I think the examination
7 is just to make sure you are competent to
8 practice. Am I reading it wrong --
9 incorrectly? Or do you want to just take out
10 the word competency and leave examination?

11 MR. RHODES: I'm just asking, you know, because
12 it's got examination and competency
13 examination. What would be the difference
14 between the examination versus competency
15 examination?

16 MR. SAXON: I think it's just the descriptive word
17 for the examination, to examine your
18 competency. It's not to say that I think it
19 has to stay there. I'm just saying I think
20 that's what it means. Not having been there
21 in '82 or '93 or '98, I don't know what they
22 meant.

23 MR. RHODES: I don't either, I mean, it's one
24 versus the other, so --

25 MR. SAXON: Can y'all, practitioners, can you think

1 of any -- or y'all out there, can you think of
2 any reason for competency to need to be in
3 there? So my legal view is if it doesn't need
4 to be there, it doesn't need to be there.

5 MR. RHODES: Well under B it says an applicant for
6 examination shall pass the opticianry
7 competency exam.

8 MR. SAXON: I thought that's what you were talking
9 about.

10 MR. RHODES: Yeah, that's it, but I mean it's up
11 there at the top too, you know.

12 MS. COOPER: Gotcha. It's in the top.

13 MR. RHODES: And then it's broken down again in B.

14 MR. SAXON: Well, we could take it out in both.

15 MR. RHODES: Yeah.

16 MR. SAXON: And just have examinations.

17 MS. COOPER: Or you could just say national
18 examinations. Well, no.

19 MR. SAXON: Does anybody have a problem with just
20 removing the word competency? I mean that's
21 sort of the definition of examination. You
22 are examining someone to see if they are
23 competent to practice.

24 MR. RHODES: I think competency needs to stay there,
25 you know.

1 MR. SAXON: Okay, well, that's fine. Let's leave
2 it there then, leave it alone and don't mess
3 with it. Jennifer, why in the last sentence
4 does it say if the National Examination is
5 available? Shouldn't that be A?

6 MS. COOPER: Yeah, unless they are specifically
7 talking about the American Board of Opticianry
8 or a particular national examination.

9 CHAIRMAN GOSNELL: Are there any states that offer
10 a separate contact lense exam?

11 MS. COMBS: I was thinking North Carolina had some
12 sort of -- but, I might be wrong on that.

13 CHAIRMAN GOSNELL: I was just wondering why that
14 was even in there, but is not available.

15 MR. SANSBURY: When we first started contact
16 license, didn't we --

17 CHAIRMAN GOSNELL: It was a separate thing --

18 MR. SANSBURY: And I think now what it has done is
19 just gone to the NCLE thing, but I guess we
20 left it in there so we would still have the
21 option --

22 CHAIRMAN GOSNELL: Yeah, of doing one --

23 MR. SAXON: That's probably a good thing, but I
24 think grammatically I would change the word
25 the in the second to the last sentence right

1 before National Examination to A. Jennifer?
2 So are we safe to go on to number C? Number
3 C, letter C, sorry.

4 MR. SANSBURY: If I could, Jamie, Danny, try to
5 help me remember this, but back at B, what we
6 are saying there when you wrote -- that when
7 we did this writing was the applicant must
8 pass the ABO and then the exam by the Board.

9 CHAIRMAN GOSNELL: Right.

10 MR. SANSBURY: But it goes on to say -- it says the
11 Board may not require an exam that is
12 substantially duplicative of the national exam
13 if it's available. Because I remember there
14 was stuff in our exam back then that actually
15 was some of the same stuff the ABO required.
16 Is that what we were doing and we are trying
17 to separate that so what we are saying they
18 have to have the ABO, you have to pass the
19 ABO, and then have to pass the exam that we
20 provide?

21 CHAIRMAN GOSNELL: Right.

22 MR. SANSBURY: So we have to make sure that one we
23 provide was not duplicating what the ABO had.
24 And if the ABO was available, we had to use
25 it? Isn't that what it is saying?

1 CHAIRMAN GOSNELL: Right.

2 MR. SAXON: Is Section C okay?

3 MS. COMBS: Should we change that is not available
4 an equivalent examination may be approved by
5 the Board, maybe not prepared?

6 MR. SAXON: Where are you, Angie?

7 MS. COMBS: Okay, C at the very last --

8 MR. CORLEY: C, an equivalent exam --

9 MS. COMBS: May be approved by the Board, not
10 necessarily prepared by the Board?

11 MR. SAXON: Yeah, I would change prepared to
12 approved.

13 MS. COMBS: Approved, you think might be --

14 MR. SAXON: I think just that one word, is that
15 okay with everybody?

16 MR. CORLEY: Uh-huh.

17 MR. SAXON: When I say everybody, it includes y'all
18 out there.

19 (Multiple speakers)

20 MS. COMBS: Lunch is here.

21 MR. SAXON: Do y'all want to take the lunch break
22 now? It is a quarter to one.

23 CHAIRMAN GOSNELL: Yeah --

24 MR. SAXON: Y'all want to say 30 minutes, 45
25 minutes?

1 CHAIRMAN GOSNELL: 30 at the most.

2 MR. SAXON: You want to say return at 1:15?

3 CHAIRMAN GOSNELL: Yes.

4 (Break for lunch 12:48 p.m. until 1:26 p.m.)

5 MR. SAXON: We're at 240. And Ms. Bostrom, if you
6 will just note we are back in session after
7 lunch break.

8 MR. SANSBURY: Danny, is this a good spot? I don't
9 know whether it needs to be in this spot or
10 the regs when it comes to apprenticeship.
11 Because we always had that issue where we said
12 you've got to have two years apprenticeship
13 and also got to do, what is that career
14 progression --

15 MS. COMBS: Oh, right, formal education, uh-huh.

16 MR. SANSBURY: Yeah, but yet, you've had people
17 that simply come into this State and say we've
18 worked for two years over here and don't have
19 to do all that.

20 MR. CORLEY: Right.

21 MS. COMBS: No, that's In the unlicensed --

22 MR. SANSBURY: Would this be the time that y'all
23 want to try to --

24 MR. CORLEY: To put that in?

25 MR. SANSBURY: And I don't know what you do, but it

1 just seems unfair that a lot are coming from
2 out of state --

3 MR. SAXON: Help me understand what you mean as a
4 non -- somebody coming in from --

5 MR. CORLEY: Somebody coming in from a non-licensed
6 state in the United States. All they have to
7 do in order to sit for our Board is to verify
8 employment in the optical field for two years.
9 They work two years, they can come in and sit
10 for the exam. Now, we require an in-state
11 apprentice to serve a two-year apprenticeship
12 which would be the same as working for two
13 years in the field. We require continuing, an
14 educational component, which they have to take
15 the course.

16 MR. SAXON: What causes y'all to treat someone out-
17 of-state differently?

18 MR. CORLEY: That's what's in the statute.

19 MR. SANSBURY: It goes back all those years ago
20 when it was written and never addressed.

21 MR. Saxon: Where is it found -- for the person
22 from out-of-state?

23 MR. RHODES: 240, number --

24 MR. CORLEY: Is it C?

25 MS. COMBS: 20, uh-huh.

1 MR. SANBURY: I think it's also, but isn't it
2 also, I didn't see right here where it
3 addressed the career progression, but I guess
4 that's on the reg side did we say?

5 MR. SAXON: Well, do you want to just take C out?

6 MR. CORLEY: Well, wait a minute.

7 MR. RHODES: It's got both parts in there. It's got
8 a bunch of stuff in it. In a state that does
9 not license opticians or and then it goes into
10 D had two years apprenticeship under a South
11 Carolina licensed optician, optometrist,
12 whatever.

13 MR. SANBURY: Jamie, to give a kind of
14 understanding of the concept, apprenticeships
15 used to be four years years ago when all this
16 came up and then, I don't know where it came
17 about, but pressure from LLR, but anyway we
18 ended up dropping it to two years.

19 MR. SAXON: Uh-huh.

20 MR. SANBURY: But then the idea was, and at that
21 point it was just two years and then you could
22 sit for the Board. There was no educational
23 component and so then you came up with the
24 question, well, I've been working over here at
25 this optical place over here for two years and

1 I come into this state and now I need another
2 two years before I can sit. I've been in
3 employed for two years, but technically it
4 wasn't an apprenticeship.

5 MR. SAXON: It wasn't the same thing. Well, what
6 we can do and what other boards have done is
7 make sure that they've had a two-year
8 apprenticeship equivalent to that required in
9 South Carolina. I mean you could do something
10 like that if you wanted -- if that's something
11 you want to do. I mean you can hold them to
12 the same -- I see what you mean, it doesn't
13 seem right to let someone from out-of-state
14 come in with what would amount to less
15 training possibly -- I mean it's hard to tell.
16 I mean it might be equivalent, it might not.
17 So you might want to -- we can put in
18 something -- has the equivalent of two years
19 apprenticeship --

20 MR. CORLEY: And educational component required by
21 the Board.

22 MR. SAXON: Right. Jennifer do you have that?
23 Would you say that again for us to get down?

24 MR. CORLEY: They would have the two years would be
25 equivalent to the two-year apprenticeship

1 program in South Carolina and also have the
2 educational component that is required by the
3 Board.

4 CHAIRMAN GOSNELL: The way this was written, it
5 would penalize somebody from a licensed state.

6 MR. CORLEY: This is just pertaining to people
7 coming from a non-licensed state.

8 CHAIRMAN GOSNELL: Yeah.

9 MR. CORLEY: Which is why we want to address it.
10 Coming from a licensed state --

11 CHAIRMAN GOSNELL: Yeah, Right.

12 MR. SAXON: All right, so let Jennifer read that
13 back to you. What we will do is strike the
14 entire sentence of C and replace it with this:

15 MS. COOPER: I have: would have the equivalent to
16 the two-year apprenticeship under a South
17 Carolina licensed optician and also have the
18 education component required by the Board.
19 That should be educational.

20 MR. SAXON: Educational component required by the
21 Board -- approved by the Board.

22 MS. COOPER: Approved by the Board.

23 MR. SAXON: What do y'all feel? Does that suit?

24 MR. RHODES: On two years apprenticeship, should it
25 be consecutive or does it matter?

1 MR. SAXON: I wondered that when I saw this. Has
2 there -- how have y'all -- have y'all come
3 against this in the past where somebody has
4 the two years but they weren't consecutive?

5 MR. RHODES: I don't think so -- that it's been
6 that much of an issue, but, it could be.

7 CHAIRMAN GOSNELL: Yeah.

8 MR. HARBERT: I actually ran into it in a girl
9 Jeannie that worked for me. She wasn't going
10 to stay with the optometrist, she was getting
11 married and going to be moving. So the
12 optometrist she was to finish under her hours,
13 but the optometrist wouldn't allow her to
14 apprentice under her and she lacked like a
15 month to go or whatever, so she ended up
16 moving out of State so she hadn't been able to
17 take the thing even to come back in the state
18 she, you know, it wouldn't work for her now
19 probably. She was only like a month out under
20 me.

21 MR. SAXON: Is there a consensus amongst y'all that
22 you would like it to be consecutive or that it
23 doesn't matter?

24 MR. CORLEY: I think it needs to be consecutive.

25 MR. RHODES: I do to.

1 MR. SAXON: Needs to be consecutive. Are y'all in
2 agreement with that?

3 MS. STUTSMAN: Absolutely, yes.

4 MR. SAXON: Then we ought to say that.

5 MR. SANSBURY: So Danny, the way this works now
6 because I knew this for awhile, but so if you
7 have one of the folks that they serve two
8 years, they are a registered apprentice, okay,
9 and that so at that point once they have done
10 that two years would they then drop out and
11 then later take the test because they've had
12 their two years?

13 MS. COMBS: That's the way it's been. It's sort of
14 like you if you go to a four year college, you
15 know, once you're finished you're finished.
16 And that's the way this is. But, they have to
17 do the two full years.

18 MR. SAXON: And I don't know that you really -- if
19 they can pass the exam after some period of
20 time that's past since the two years, I guess
21 that would be fine.

22 MS. COMBS: Because that is a back-up that you all
23 have. You still have to pass the exam.

24 CHAIRMAN GOSNELL: Right.

25 MS. COMBS: And that --

1 MR. SAXON: May I suggest in D having it read like
2 this: had two consecutive years of
3 apprenticeship under South Carolina. Is that
4 okay with everybody?

5 MR. RHODES: Wouldn't you have to take C and do
6 that with C also, though?

7 MR. SAXON: Jennifer, how does that read again?

8 MS. COOPER: Well, for C that -- it should probably
9 state more clearly that that is for applicants
10 by endorsement or from states that do not
11 license opticians.

12 MR. SAXON: Angie, do y'all call this reciprocal or
13 --

14 MS. COMBS: Not with this, no.

15 MR. SAXON: Okay, neither one?

16 MS. COMBS: No -- endorsement or reciprocal.

17 MR. SAXON: Okay, so let's avoid those terms and
18 just say for someone from out of state whether
19 it's licensed or not, would that make sense?

20 MS. COMBS: Well, now are we doing away with C
21 altogether?

22 MR. SAXON: We're taking it out and replacing it
23 with what she read, but if there are parts of
24 C that y'all would like to retain, we can do
25 that as well. Do you want it still to apply

1 only to those who come from a state which does
2 not license opticians?

3 MR. CORLEY: Well, it should be in any state.

4 MR. SAXON: That's --

5 MR. CORLEY: Unless they are --

6 MR. SAXON: That's my thinking, that's why I struck
7 through the whole of C.

8 MR. CORLEY: Yeah, yeah. If they are licensed,
9 then they are exempt from that, but --

10 MR. SAXON: Right.

11 MR. CORLEY: -- coming in from another state --

12 MR. SAXON: It wouldn't apply if they were
13 licensed, right? Is that right Angie?

14 MS. COMBS: Right, that's --

15 MR. SAXON: I mean, is that already dealt with?

16 MS. COMBS: Right, if they are licensed in a state
17 and it's got to be current, now, I don't know
18 if y'all want to change that -- that's in here
19 where it has to be currently --

20 MR. CORLEY: That's in B.

21 MS. COMBS: Currently --

22 MR. SAXON: Currently valid optician's license in
23 another state, I think that covers that.

24 MS. COMBS: That covers that, and that C only
25 applied to people in a non-licensing state.

1 MR. SAXON: Yeah, okay.

2 MS. COMBS: Now, would there be anything about
3 someone saying well, then you do not have any,
4 there are no provisions for someone in a non-
5 licensing state. But, then I guess that's the
6 same way with apprentices. I mean they are
7 here. They would have to -- or someone that's
8 wanting to join the program, they've got to go
9 for a two-year apprenticeship.

10 MR. SAXON: They're still going to have to show
11 that they have the equivalent.

12 MS. COMBS: Right, and right.

13 MR. SAXON: It would be -- Angie, I foresee that as
14 a situation where you wouldn't approve the
15 application, but that person would have to
16 come before the Board and show the Board --

17 MS. COMBS: Uh-huh.

18 MR. SAXON: -- that what he or she has is the
19 equivalent of what he or she would have had in
20 South Carolina, don't you think? I mean
21 that's how I foresee it. Am I looking at it
22 incorrectly?

23 MS. COMBS: I guess that would be --

24 MR. CORLEY: I think if they take it and pass any
25 of these two-year courses that we have out

1 there in place already, I think even though
2 they were working out of state, but they were
3 able to take it and pass those courses, I
4 would say they are okay.

5 MS. COMBS: Uh-huh.

6 MR. CORLEY: Because they're going to have to have
7 the knowledge in order to pass those courses.

8 MS. COMBS: Right.

9 CHAIRMAN GOSNELL: What about states that do not
10 offer a practical exam and are just ABO
11 certified? Is there any provision for that.

12 MR. CORLEY: Well, they are not licensed in our
13 state.

14 CHAIRMAN GOSNELL: Well, I'm talking about if they
15 come to South Carolina.

16 MR. CORLEY: Yeah, well, that would --

17 MS. COMBS: We do have to be real careful of that
18 because there are some that register, I think
19 they call it registered --

20 CHAIRMAN GOSNELL: Registered, yeah.

21 MS. COMBS: -- and I want to say California might be
22 one of them, I might be wrong. And I do have
23 to check on some of those because if they are
24 not licensed, we don't consider them licensed
25 in the state, I don't think -- if it's not a

1 licensing state, you know.

2 MR. WHITLOCK: Isn't Ohio like certified they call
3 it?

4 MS. COMBS: Yeah, Ohio, I will have to check on
5 that again, it's been a while. Because I want
6 to say they may have gone to changing that
7 because at one time it was real easy, because
8 somebody could just go there, pass the ABO,
9 get the license and come to us.

10 MR. WHITLOCK: Right.

11 MS. COMBS: You know. And I think that was a case
12 a few years back.

13 MR. SAXON: Well, by saying the equivalent of what
14 we have in South Carolina, would that fix that
15 in your minds?

16 MS. COMBS: Didn't y'all think it would,
17 equivalent?

18 CHAIRMAN GOSNELL: Yeah, but I'm saying is there
19 are some states that may not offer a practical
20 exam. They may be just -- say if you are ABO
21 certified, you are licensed in the state.

22 MS. COMBS: Oh, I see what you are saying.

23 CHAIRMAN GOSNELL: And we require a practical exam,
24 so --

25 MR. SAXON: Well, I think that would be covered in

1 the equivalent because --

2 MR. CORLEY: They would have to take --

3 MR. SAXON: They would have to take the exam.

4 CHAIRMAN GOSNELL: Okay, all right.

5 MR. SAXON: I mean, am I --

6 MR. CORLEY: Okay.

7 MR. SAXON: What do you think, Jennifer, should we

8 be a little bit more specific? Equivalent

9 including the successful passing of the

10 national examination?

11 MR. CORLEY: Well, if they --

12 MR. RHODES: We're not reciprocal to any state, are

13 we?

14 MR. CORLEY: That wouldn't, I mean, in our State

15 certain licenses you've got to pass the

16 national.

17 MR. SAXON: A licensee here has to pass the

18 National Examination, right?

19 MR. WHITLOCK: And the State.

20 MR. SAXON: Okay, So why don't we add in there

21 including passage of a state and national

22 examination because would it be okay if they

23 passed their state exam, if it's equivalent to

24 -- roughly equivalent --

25 MR. RHODES: In order to get one, they are going to

1 have to have ABO and pass the State, am I
2 correct?

3 CHAIRMAN GOSNELL: Uh-huh.

4 MS. COOPER: That's still --

5 MR. SANBURY: This section right here, it just
6 says they are qualified to get the license and
7 then it says two years, but then down at 3 it
8 says you've got to satisfactory -- so a person
9 that it say currently -- number B, a currently
10 valid optician, licensed in another state.

11 MR. CORLEY: They still have to pass --

12 MR. SANBURY: They've still got to take our test.

13 MR. SAXON: All right, so we don't even have to
14 mention an exam in C or anything?

15 MR. SANBURY: Right.

16 MR. SAXON: Yeah, okay, good.

17 MS. COMBS: Jamie, look at it this way, everyone
18 that comes here has to take our State Board
19 exam -- everyone.

20 MR. SAXON: 3 covers that, so we're all right to
21 leave C the way we did it.

22 MR. CORLEY: We just want the rest of the ones that
23 are coming from a non-licensed state is the
24 biggest --

25 MR. SAXON: Well, but I think 3 covers that.

1 MR. SANBURY: Because really --

2 MR. SAXON: It doesn't distinguish between South
3 Carolinians and non-South Carolinians, in my
4 way of thinking. So I think even if you come
5 from another state, you've still got to
6 satisfy 3.

7 MR. SANBURY: Oh, yeah, yeah. And I think when I
8 brought this up, the main question was you've
9 got to do the ABO, then you've got to do your
10 apprenticeship, then we add the education
11 component for South Carolina --

12 MR. SAXON: Soiled's 4-pronged.

13 MR. SANBURY: Yeah, so you've got this now and
14 then you've got to take the test. I mean,
15 you've got all that and then we'll give you a
16 license. The problem was, this one thing here
17 on -- you come in here and say I've worked two
18 years over here and you didn't have to do the
19 educational component.

20 MR. CORLEY: My son's out in Salt Lake City now.
21 And I told him, I said son, while you are out
22 there, If you ever think about getting back in
23 this profession, go work for Diversified or
24 somebody out there for two years, bring back
25 the documentation, you are eligible to sit for

1 our exam. You don't have to do anything else.

2 MR. SANBURY: But, if we do what you were just
3 saying and we just add the educational
4 component as approved by the Board to that two
5 years from the other state, that solves the
6 problem. Everybody is on a level playing
7 field.

8 MR. SAXON: I think it does.

9 MR. SANBURY: You would work over there for two
10 years, show that you have worked there for two
11 years, get your educational component and
12 present that and you are qualified to sit.
13 And with the in state people you are going to
14 be doing a two-year apprenticeship, the same
15 thing.

16 MR. SAXON: Angie, is this creating any greater
17 hardship on staff?

18 MS. COMBS: No. No.

19 MR. SAXON: It would be about the same, wouldn't
20 it?

21 MS. COMBS: Right.

22 MR. SAXON: Okay, all right. Are we ready to go to
23 B? Or is there any change in 3 that you want?
24 There should be a comma after subsection in
25 line 1-2-3-4-5 of 3.

1 MR. CORLEY: I know we don't require it and we
2 haven't required it, what was our last
3 counsel's name?

4 MS. COMBS: Sharon?

5 MR. CORLEY: Yeah, Sharon. She brought something
6 up one time about how we grind lenses or cut
7 lenses and mount them in frames and stuff, and
8 she said, but y'all don't have anything to do
9 with a laboratory. You don't even have to be
10 an optician. You just open up a lab business,
11 buy the equipment and all of a sudden you're
12 manufacturing glasses. She said if there was
13 some way for y'all to work into that. Well, I
14 was --

15 MR. SAXON: You're giving me a headache.

16 MR. CORLEY: That's in 3 though, processing does
17 not mean those tasks and functions in surface
18 grinding --

19 MR. SAXON: Y'all want to keep that? I'm not being
20 too jestful. Do y'all want to keep that, do
21 y'all want to omit that?

22 MR. CORLEY: Why is it in there?

23 MR. SAXON: I guess wholesale laboratory, you order
24 something maybe that you don't have yourself,
25 would that be -- am I reading that correctly?

1 And as y'all practice so that you order
2 something from a wholesaler --

3 MR. WHITLOCK: At one time, was there a requirement
4 that the wholesaler had to have a licensed
5 optician.

6 MR. CORLEY: I think at one time we had -- there
7 had to be at least one license in there
8 somewhere.

9 MR. RHODES: I remember that somewhere.

10 MR. HARBERT: But there is not now though, right?

11 MR. SANBURY: Number 3 is from when we worked on
12 it before, you're simply talking about what
13 exams are going to consist of, which consists
14 of processing the lens and frame and this kind
15 of thing. That last sentence you were
16 discussing, processing does not mean those
17 tasks, functions and service grinding --

18 MR. SAXON: So you are talking about what they need
19 to demonstrate taking an examination?

20 MR. SANBURY: On taking -- see, on the original
21 test back when we got -- we had to go in the
22 lab and make a pair of glasses, as well as the
23 fitting and all that.

24 MR. CORLEY: Two day test.

25 MR. SANBURY: Well, that was done to specifically

1 exclude that, it being part of the test where
2 we wouldn't have that component in the exam.

3 MR. SAXON: Got it. I'd leave it in there then and
4 just add that comma, yes.

5 MR. HARBERT: I hate to interrupt, but remember we
6 ran into that in Columbia this year with that
7 girl in working a wholesale lab. Was it you?
8 One of y'all two -- I had to get y'all
9 involved in the girl -- that she was to let
10 her license just sort of go dormant. We
11 didn't know if she had to keep up her
12 education hours because she was only working
13 in a wholesale lab part-time --

14 CHAIRMAN GOSNELL: Uh-huh.

15 MR. HARBERT: Remember?

16 CHAIRMAN GOSNELL: Uh-huh.

17 MR. HARBERT: And So I mean, there is a gray area
18 that people don't understand there.

19 MR. SAXON: It's really, this really though is not
20 gray because it's only talking about an
21 examination. But we can make it -- To a lawyer
22 it's not gray. But this is not going to be
23 read just by lawyers, so I'm not disagreeing
24 with you or with you. We can make it clearer.
25 Give me just a second to -- I'm trying to

1 avoid the word process twice. How about
2 putting before the word processing in regard
3 to the examination, processing does not --
4 Would that meet what the original intent and
5 make it clear to folks?

6 MR. CORLEY: Say that one more time.

7 MR. SAXON: In regard to the examination,
8 processing does not mean those tasks and
9 functions and service grinding performed by
10 persons -- or you can say processing and
11 functions and service grinding performed by
12 persons who work in a wholesale laboratory is
13 not part of the examination. I mean. Mr.
14 Sansbury, tell me -- what you seemed to be
15 telling me before was that this was referring
16 to the examination.

17 MR. SANSBURY: Yes. This section is --

18 MR. SAXON: The whole paragraph is about an exam?

19 MR. SANSBURY: Yeah. And we dropped that
20 component.

21 MR. SAXON: So that you don't have to actually go
22 in and --

23 MR. SANSBURY: Exactly.

24 MR. SAXON: Would it then mean the same thing but
25 be clearer to people if we say regarding the

1 examination, processing does not mean -- I
2 don't know if that does or not. I don't know
3 if that's what y'all meant.

4 MR. SANBURY: You know, Jamie, it's funny how you
5 spend all this time as a lawyer, you know you
6 work on this verbiage and this is the intent
7 and this is what we think it said and then you
8 look back at it years later and go why did we
9 do that? Well, I sit here right now as I'm
10 looking at it and I say why not just take that
11 out.

12 MR. RHODES: What about fabrication?

13 MR. SANBURY: Why do you even need that in there,
14 I mean actually looking at it now, because
15 technically we were talking about going to
16 where we don't even give an exam, we do a
17 national exam, and it's made up by somebody
18 else. We obviously don't go into the labs
19 like we used to and have to produce the
20 glasses.

21 MR. SAXON: Would it be a substantive change simply
22 to delete this sentence, would that change
23 anything in reality?

24 MR. SANBURY: If you go back and read, it says, if
25 you've got to satisfactory pass the exam, show

1 a proficiency in processing, dah, dah, dah,
2 dah, dah -- that's what the exam does. So as
3 I said, you can just take that sentence out
4 and be done with it, because it's never going
5 to come up.

6 MR. SAXON: All right, is there a consensus for
7 that?

8 MR. WHITLOCK: I agree because actually --

9 MS. COMBS: Oh, that's defining processing isn't
10 it, the word processing.

11 MR. RHODES: How about fabricating? It's the same
12 thing, isn't it?

13 CHAIRMAN GOSNELL: No, fabricating is making
14 something.

15 MR. WHITLOCK: Grinding and surfacing preformed by
16 persons -- it's not preformed by persons
17 anymore, it's all robot, and I'm being
18 serious. You take a pair of lenses and put
19 them in a tray and you don't touch them again
20 until they put them in the frame, that's it.
21 Everything that is done, Robots do it now.

22 MR. SAXON: Y'all have any problem with it being
23 removed? Consensus?

24 CHAIRMAN GOSNELL: Yes, do it.

25 MR. SAXON: Okay. Jennifer, strike through that

1 please. Okay, just put in a comma after
2 subsection in that next line and is the rest
3 of it okay?

4 MS. COMBS: Should we leave regulation in that?

5 MR. SAXON: Yes, because I think that's what
6 they're --

7 MS. COMBS: That's where those things might be
8 going to --

9 MR. SAXON: Just like what they're going to. And
10 let's hope the committees rethink that.

11 MS. COOPER: Well so far you are safe in the
12 website with the fees. I checked that out.
13 Some of them need to be incorporated.

14 MR. SAXON: Yes. I don't know if anything, in B1
15 and 2 I'd change except to add a comma after
16 subsection right after paragraph 2, sentence
17 2. Is that okay dealing with the rest of
18 that?

19 CHAIRMAN GOSNELL: Uh-huh.

20 MR. SAXON: All right. We're at 250.

21 MR. RHODES: 260, 250.

22 MR. SAXON: So is 250 okay? I don't want to rush
23 you. Angie, don't we need to remove that
24 annually?

25 MS. COMBS: Yes, the annually and I would also

1 suggest -- we may even just removing the first
2 day of October, or another as determined by
3 the Board or some kind of generic, in case
4 they would want to change that?

5 MR. SAXON: So in this state bi-annually?

6 MS. COMBS: Uh-huh.

7 MR. SAXON: As approved by the Board or as set by
8 the Board? Approved by the Board is fine,
9 does that suit y'all -- Comma, shall pay
10 renewal fees. Would y'all mind, just to make
11 it a little easier for people to read if we
12 add the word also just before to be
13 established by the Board in regulation?
14 Because we are saying that the bi-annual
15 registration be approved by the Board, but
16 also the fee is established by the Board and
17 it just makes it a little smoother if we can
18 just add the one word also.

19 MS. COMBS: Oh, but the thing is now the
20 apprentices they renew every year, they're
21 annual renewal. I mean if y'all want to keep
22 that. And we kept the annual renewal because
23 they're not in the program that long. But
24 that's up to you all, I mean whatever you want
25 to do. See, apprentices they can, you know,

1 if they have to renew one time, I mean every
2 two years, they may only renew one time.

3 MR. SAXON: Well, we could do bi-annually and in
4 parentheses annually for apprentices.

5 MS. COMBS: Uh-huh.

6 CHAIRMAN GOSNELL: Uh-huh. I think we definitely
7 ought to leave it at one year.

8 MS. COMBS: I mean you could really lose track of
9 an apprentice in that --

10 MR. SAXON: So Jennifer would you take out annually
11 and put bi-annually and then in parentheses
12 put annually for apprentices.

13 MR. SANSBURY: Jamie, if I may digress a second
14 where you said that, are we going -- the
15 hours, what are we proposing for apprentices
16 versus the opticians?

17 MS. COMBS: That's true because they are at four in
18 a year. Oh, yeah.

19 MS. STUTSMAN: We didn't address that because we
20 figured, and this happens a lot, after the
21 normal hours if they finish with the gentlemen
22 that teaches the apprenticeship hours, a lot
23 of times they sit in on the hours that are
24 left, so we didn't address that, unless y'all
25 feel like we need to.

1 MR. SAXON: I don't really think --

2 MR. SANSBURY: I wouldn't think --

3 MR. SAXON: -- you would start having to have those
4 CE's until you are licensed. Am I wrong in
5 that?

6 MS. STUTSMAN: No, they have to have --

7 MR. SANSBURY: The current number is four.

8 MR. CORLEY: Four a year.

9 MR. SAXON: Okay. Okay.

10 MS. STUTSMAN: But, we have a specific instructor
11 that just works with apprentices.

12 MR. SAXON: Soiled's more intense?

13 MS. STUTSMAN: It's more intense.

14 MR. SAXON: More one on one.

15 MS. STUTSMAN: Right, it's one probably to 25-30,
16 but it's very intense and it's just very basic
17 stuff.

18 MR. SAXON: So is it fair to say, is there a
19 consensus that we don't need to -- well, but
20 if it's --

21 MS. STUTSMAN: But, as soon as they get licensed,
22 then they will be required to meet the six
23 hours, correct? They don't get any --

24 MR. SAXON: Then, we will deal with that in B
25 coming up. I think we're going to have to if

1 we're going to treat them differently. But
2 let's finish A first and y'all tell me if
3 there's anything that you want to change in A
4 other than what we've already discussed -- bi-
5 annually, annually for apprentices.

6 MS. COMBS: It uses the term revoke. Should we use
7 the revoke where in case of default, say if
8 they don't pay, their license is revoked. I
9 mean that may be fine. I know at some point,
10 someone mentioned maybe lapse instead of
11 revoked.

12 MR. SAXON: I don't know that I wouldn't say --

13 MR. CORLEY: Revoke just sounds harsh.

14 MS. COMBS: Someone had brought that up before --

15 MR. WHITLOCK: Suspend.

16 MS. STUTSMAN: Temporarily suspend.

17 MR. SAXON: How about maybe sanctioned.

18 MS. COMBS: But, doesn't sanction indicate a --

19 MR. SAXON: In case of default in payment of the
20 fee, the person's license or registration --
21 well see, revocation is a sanction, and I just
22 think sanction doesn't sound as severe and it
23 doesn't mean it has to involve revocation, it
24 could be probation, suspension, you know, each
25 might vary by --

1 MS. COMBS: But, if someone doesn't renew, we're
2 not going to go do anything unless they're
3 practicing. Now, if they are practicing,
4 that's different.

5 MR. SAXON: Well, but this is with someone's fee
6 that didn't pay.

7 MS. COMBS: Right, they didn't pay.

8 MR. SAXON: You know, you might treat someone
9 differently who's been in the hospital or
10 declared bankruptcy or as opposed as somebody
11 who's --

12 MS. COMBS: That's true.

13 MR. SAXON: -- money is not an issue. I don't know
14 that we want to say that you are automatically
15 revoked if you haven't paid your fee,
16 especially -- I don't know.

17 MS. COMBS: Because what we do, once the license --

18 MR. SAXON: Or do you want to say may be revoked
19 instead of -- Maybe sanctioned up to
20 revocation. Up to and including revocation?

21 MS. COMBS: I guess I never thought about that we
22 were looking at revoking people's license just
23 because they didn't pay their fee.

24 MR. SAXON: Right. I think that's a bit severe.

25 MS. COMBS: Uh-huh. But, not that they can't just

1 continue.

2 MR. SAXON: I would say in case of default in
3 payment of the fee, the person's license or
4 registration may be sanctioned up to and
5 including revocation of a license. I mean,
6 what do y'all think? I'm just pointing that
7 out --

8 MR. CORLEY: That would give us a little bit of
9 latitude on what we are wanting to do with
10 this individual --

11 MR. SAXON: Yes.

12 MR. CORLEY: -- before just jerking the license
13 away from them.

14 MR. SAXON: That's correct. And maybe, you know,
15 it may be a situation where you don't want to
16 do anything to this person but give the say
17 pay up and make them pay. I don't know.
18 Angie, how does -- in reality is this a huge
19 problem?

20 MS. COMBS: Not really, but there's always -- yeah,
21 there's definitely a group of people that do
22 not -- well, they when we say pay, they just
23 don't renew, you know. They don't just
24 partially, you know, like send in their CE --
25 well they don't have to send it in unless

1 they're audited. And if they send in their
2 form --

3 MR. SAXON: This seems to be specifically for fee
4 payment?

5 MS. COMBS: And that does -- yeah.

6 MR. SAXON: -- something to do with that rather
7 than just not renewing.

8 MS. COMBS: See, I'm thinking of that as one and
9 the same, but maybe that doesn't address it
10 that way.

11 MR. SAXON: I think it's not because up here it's
12 got revocation for default.

13 MS. COMBS: Because if somebody sends in a form, of
14 course, most people renew online and it's not
15 going to allow you renew online unless you
16 pay. So if someone sends in a paper form, we
17 just send it right back if the fee's not
18 there. Soiled's either all or none basically
19 -- all or nothing or however you want to say
20 it.

21 MR. SAXON: Well, do we even need this sentence?

22 MS. COMBS: I guess I always thought of this is
23 like what are we doing with the people that
24 don't renew?

25 MR. SAXON: Well, they just don't renew and they

1 can't practice.

2 MS. COMBS: And then they are considered -- I think
3 they are considered lapsed. Maybe I'm looking
4 at this -- maybe I'm --

5 MR. SAXON: I'm with you. If a person doesn't
6 renew that license has lapsed.

7 MS. COMBS: Okay. Okay.

8 MR. SAXON: And that person cannot practice until
9 that person does whatever is necessary to be
10 reinstated.

11 MR. SANSBURY: I think, Jamie, part of this was
12 done -- you're mixing educating with the law.
13 I think that verbiage was put in there back
14 when we did it to put the fear of you know
15 what in them so they would know, don't mess
16 around and not renew if you want to continue
17 to practice. If you go down to sentence 9, it
18 says a person whose license or registration
19 has been revoked for failure to pay the
20 renewal fee may apply to have it reinstated
21 upon payment of all renewal fees and a penalty
22 established by the Board in regulations.

23 MR. SAXON: Okay.

24 MR. SANSBURY: So the verbiage, it tells them up
25 front, if you don't pay, you're going to lose

1 -- it is getting revoked. But if it is
2 revoked, here's how you get it back. And so
3 it's a simple matter of them applying to get
4 it reinstated and then going and deciding on,
5 you know, what do they have to do? Are they
6 going to be a penalty other than their back
7 fees or whatever. And I think that's, as I
8 remember, that was the main thing was to try
9 to put strong teeth in up front so they would
10 be afraid to let it lapse. Again, you have to
11 keep saying why and then they come back and
12 say well I just forgot to send it in and that
13 kind of stuff. And they've been practicing
14 all their life.

15 MS. COMBS: Uh-huh.

16 MR. SANSBURY: But you might want it change it.

17 But I think that was the reason that we did it
18 that way.

19 MS. SAXON: All right, well how about if it reads
20 like this: In case of default in payment of
21 the fee, the person's license or registration
22 may be sanctioned up to and including
23 revocation once he or she is given thirty days
24 notice in writing before the effective date of
25 sanctioning, and then leave -- because below

1 where you were talking about, a person whose
2 license or registration has been revoked, we
3 could just change that to sanctioned. And
4 that way it's less harsh, it gives flexibility
5 so that you don't have to revoke somebody.
6 You may want to revoke, but you may want to do
7 something less than that and that gives you
8 the option. Otherwise, this does not give you
9 an option. If the person hadn't paid their
10 fees, he or she's got to be revoked. That
11 seems a little excessive.

12 MR. RHODES: Can we do it this way, like in case of
13 default in payment of the fee and then leave
14 out the rest of it where it says the Board
15 gives the licensee 30 days notice in writing
16 before effective date of revocation. Or do
17 you have to leave that in there?

18 MR. SAXON: No, and the reason that's in there is
19 for due process.

20 MR. RHODES: Got you.

21 MR. SAXON: To give them 30 days. We get -- 30
22 days is sort of the standard notice for
23 everything.

24 MR. RHODES: No, I mean leave that in there, but
25 take out the person's license and registration

1 are automatically revoked.

2 MR. SAXON: We're taking that out.

3 MR. RHODES: Okay.

4 MR. SAXON: It's going to say the person whose
5 license or registration may be sanctioned, up
6 to and including revocation, once he or she is
7 given thirty days' notice in writing. I would
8 put a comma before and after in writing,
9 before the effective date of sanctioning -- of
10 being sanctioned.

11 MR. RHODES: Instead of revocation, you are using
12 sanctioned.

13 MR. SAXON: Yes.

14 MS. COMBS: Well, Jamie, let me ask you this. We
15 have instead of sending out a notice of that
16 30 days, we actually give them the notice at
17 the time of the renewal notice, we give them
18 and say here, if this is not done by a certain
19 date, then it's --

20 MR. SAXON: As long as that's 30 days or more ahead
21 of time --

22 MS. COMBS: Right, it would be.

23 MR. SAXON: That's fine.

24 MS. COMBS: Is that alright?

25 MR. SAXON: Yes. Yes.

1 MS. COMBS: Okay.

2 MR. SAXON: Because you're doing it -- it's in
3 writing anyway --

4 MS. COMBS: It's in writing, yes.

5 MR. SAXON: That covers it.

6 MS. COMBS: Yeah, okay.

7 MR. SAXON: Yeah, that's covered. And just my
8 grammatical person again, the nerd in me -- do
9 you see if the license or registration has
10 been lapsed, could we say has been in a lapsed
11 status? I usually don't like to add more
12 words, but --Jennifer you're even more of a
13 grammar nerd than I am so what do you think?
14 Leave it alone?

15 MS. COOPER: If a license -- you're talking about
16 that sentence?

17 MR. SAXON: Yes.

18 MS. COOPER: It's up to you.

19 MR. SAXON: Let's leave it alone, then. When in
20 doubt, leave it alone. And Angie, should that
21 annually, third line from the bottom be
22 changed to bi-annually?

23 MS. COMBS: Yes. Well --

24 MR. SAXON: Well, no, maybe not.

25 MS. COMBS: Let's see, are you talking about --

1 MR. SAXON: If it comes in the middle of a period,
2 would that make a difference?

3 MS. COMBS: Are you talking about mostly wishes to
4 keep? Oh that's right, we would have to for
5 the licensees. We would have to change that.
6 Oh, --

7 MR. SAXON: So it would have to come as the two
8 years, wouldn't it?

9 MS. COMBS: Yes.

10 MR. SANSBURY: What is an inactive license? Angie,
11 I don't --

12 MS. COMBS: Oh, I'm sorry.

13 MR. SANSBURY: What is an inactive license?

14 MS. COMBS: That's where someone's not working in
15 South Carolina. They're -- it's either
16 they're in another state -- as long as they
17 are not practicing here, and that may be
18 something y'all may not want that different --
19 the difference in the fees. Is that where
20 this is at, let's see.

21 MR. SANSBURY: A person holds a license, but he is
22 not practicing, he could keep his inactive
23 license.

24 MS. COMBS: Right, and do y'all want to keep that,
25 I mean --

1 MR. CORLEY: Is this where the young lady --

2 MR. HARBERT: Yeah.

3 MR. CORLEY: Okay, she had gotten out of retail --

4 MS. COMBS: Uh-huh.

5 MR. CORLEY: She is working in a wholesale
6 laboratory.

7 MS. COMBS: Uh-huh.

8 MR. CORLEY: She's licensed, correct?

9 MR. HARBERT: She's licensed.

10 MR. CORLEY: But she renewed as inactive status.

11 MS. COMBS: Right, okay.

12 MR. CORLEY: But, she is still required to keep up
13 continuous education hours --

14 MS. COMBS: Oh, true. True.

15 MR. CORLEY: And pay the fee.

16 MS. COMBS: Uh-huh.

17 MR. CORLEY: But, she will pay as inactive.

18 MS. COMBS: Right, uh-huh. Yeah, that's --

19 MR. CORLEY: But, she's still in the State of South
20 Carolina, as long as she's working in the
21 wholesale --

22 MS. COMBS: As long as she's not practicing
23 opticianry in South Carolina, now you all will
24 have to say what -- if she is or not.

25 CHAIRMAN GOSNELL: What is opticianry?

1 MS. COMBS: But yeah, she can still -- according to
2 the way I read this, is if she can live here,
3 but as long as she's not practicing, she can
4 pay that inactive fee, but do we even want --

5 MR. CORLEY: Well, I don't practice everyday.

6 MR. SANSBURY: What's the difference in the two
7 fees?

8 MS. COMBS: Huh?

9 MR. SANSBURY: What's the difference in the two
10 fees?

11 MS. COMBS: Let's see, there's -- well, we have to
12 go by -- it will be on your last page of the
13 rates. We are using these now. Because you
14 have to double them. This has got the --

15 MR. SAXON: I don't have that, Angie.

16 MS. COMBS: A non-resident, or inactive, its \$120
17 versus, I believe, \$200. Soiled will be \$80
18 difference.

19 MR. SAXON: Oh. I'm looking at the wrong thing.

20 MS. COMBS: Yeah. It's the very last page of the
21 regs, so normally follows the last page.

22 MR. SANSBURY: Soiled's \$150 every two years?

23 CHAIRMAN GOSNELL: Yeah.

24 MR. HARBERT: \$120.

25 CHAIRMAN GOSNELL: Yeah, right, yeah.

1 MS. COMBS: A non-resident or inactive optician
2 renewal fee is \$60, but you have to double it
3 so that's \$120.

4 MR. WHITLOCK: It's \$120.

5 MS. COMBS: It's \$120 every two years. And an
6 active is \$200 every two years. Oh, you might
7 be looking at the fees updated.

8 MR. SANBURY: I was looking at the fees updated.

9 MS. COMBS: Yeah, ignore that, that shouldn't be
10 there. Get rid of that -- out of your mind.

11 MR. SAXON: Just because I've gotten confused --

12 MR. SANBURY: Why is that, why do we need to get
13 that out of our mind?

14 MS. COMBS: Oh, because that -- the fees update?

15 MR. SANBURY: Yeah.

16 MS. COMBS: That's not by law. That was done
17 several years ago. We had to revert back or
18 go back.

19 MR. SANBURY: Oh, it's not part of the law, that's
20 what you are saying?

21 MR. SAXON: Yeah, we will get to that when we get
22 to regulations.

23 MR. SANBURY: Yeah, yeah.

24 MS. COMBS: But anyways, Jamie, could they -- and
25 then you may want to keep inactive fees and

1 applicant fees. I mean, I don't know.

2 MR. SAXON: You know, most professionals with which
3 I'm familiar, have that status. I know we
4 have it for lawyers, and it's mainly used by
5 older lawyers who still want to be a part of
6 the bar association, but don't really practice
7 because of infirmity or age or whatever.

8 MS. STUTSMAN: I have a question, and maybe you can
9 just clarify this. I have a little concern
10 about a licensed person going into a wholesale
11 lab and then reducing their license. Do our
12 wholesale labs not have to have a licensed
13 person on staff?

14 MR. HARBERT: No, they don't --

15 MR. WHITLOCK: They don't sell to the public.

16 MS. STUTSMAN: But, they are making our lenses for
17 us.

18 MR. WHITLOCK: But that's for you to check to make
19 sure it's correct.

20 MS. STUTSMAN: Yeah, but there's no reason -- I
21 just have a problem with a licensed person
22 dropping their license if they go into a
23 wholesale lab. I don't know why, that just
24 doesn't seem right for some reason.

25 MR. SANBURY: I see what you are saying because

1 technically, the inactive means you are not in
2 the profession? In my opinion, the intent was
3 at all.

4 MR. SAXON: Well, it goes back to the definition of
5 what's an optician? It that person an
6 optician -

7 MR. SANSBURY: Right, you still work in the
8 industry.

9 MR. HARBERT: It's the same thing as processing.
10 You know you excluded processing, so you just
11 took her out of being an optician whenever
12 she's in the wholesale lab. She's inactive
13 because she's not practicing opticianry --

14 MR. SANSBURY: Well, actually you didn't because
15 that's was what's on the test.

16 MR. SAXON: And that was only referring to the
17 exam?

18 MS. SANSBURY: What an optician is, they prepare
19 and dispense is what an optician is? And that
20 prepares can be manufacturing as well as
21 fabrication in your own office. So to repair
22 -- and then this is definition of optician on
23 40-38-20 in the very front, first page, it
24 says what an optician is, it means one who
25 prepares and dispenses lenses. So what's

1 prepares?

2 MR. SAXON: And if it gives you any comfort, where
3 you see -- a person holding a license or
4 registration in South Carolina, not practicing
5 in this State. The Board decides if you are
6 practicing, and if the Board thinks you are
7 practicing without a license, that can be
8 dealt with that way -- if it's the practice of
9 opticianry. And if the Board has decided that
10 preparation is not the practice, I think
11 that's what it boils down to. But, the plain
12 reading of this to me as a lawyer would mean
13 someone who is not in this State anymore.

14 MR. SANBURY: Or not practicing --

15 MR. SAXON: Or is in the State, but retired, or
16 gone on to another profession, or whatever.
17 That's how I would read that.

18 MR. SANBURY: And I really think our intent, and I
19 don't know where -- And Jamie, you can advise
20 the Board, the intent of that inactive license
21 was not what she did.

22 MR. SAXON: That's what I'm saying. I think it's -
23 -

24 MR. SANBURY: The intent was if you are not
25 practicing in --

1 MR. SAXON: Someone who's not practicing period.

2 MR. SANSBURY: Or you are out of State. That
3 hanging your hat on what's technically
4 practicing opticianry, is a little twist and
5 that -- I don't think it was ever intended to
6 be that way.

7 MR. SAXON: And I think in a law, in a courtroom,
8 it would not be -- It would be interpreted the
9 way Mr. Sansbury has indicated. Because that
10 -- they are always going to go for the
11 plainest, under the most logical reading. The
12 most logical reading of this is someone who is
13 not practicing.

14 MR. CORLEY: Uh-huh.

15 MR. SAXON: So I think you would be safe that way.
16 But, I'm open to changing this if y'all want
17 to. I mean, it's not up to me to change or
18 not to change. I just write the language. I
19 just write the language.

20 MR. SANSBURY: If the Board was to decide --

21 MR. HARBERT: Does she need to change it?

22 MR. SAXON: Clarify that, where would you change
23 it?

24 MR. HARBERT: On --

25 MR. SANSBURY: Where is the verbiage about what is

1 an inactive optician?

2 MS. COMBS: I don't think there is any verbiage
3 that says what it -- it doesn't define it, it
4 just defines what an optician is.

5 MR. SANBURY: You guys can make your own decision.

6 MR. SAXON: We can add inactive --

7 MS. COMBS: Ooh, that's an idea.

8 MR. SAXON: -- to the definitions.

9 MS. COMBS: That's an idea, uh-huh.

10 MR. SAXON: Inactive licensure means you may not
11 practice opticianry in South Carolina.

12 MS. COMBS: Uh-huh. Maybe that would be a way to
13 handle that.

14 MR. CORLEY: Of course what she's doing is not
15 practicing opticianry.

16 MR. SAXON: Right.

17 MR. CORLEY: Because she's working in a wholesale
18 laboratory.

19 MR. SAXON: Right.

20 CHAIRMAN GOSNELL: Preparing lenses, though.

21 MR. CORLEY: Well, we don't have any control over a
22 wholesale --

23 MR. HARBERT: It says preparing and dispensing
24 though. It doesn't say just preparing.

25 MR. RHODES: Well, why don't we say prepare and/or?

1 MR. HARBERT: Yeah, you might have to add verbiage
2 to that.

3 MR. CORLEY: Well, if she has to maintain the
4 active status and she's in a laboratory, then
5 why don't the other laboratories have to have
6 licensed people in them because they are
7 prepared?

8 MR. SANSBURY: Well, to me that's a different
9 question. The question is --

10 MR. CORLEY: But, you see you are opening up a can
11 of worms --

12 MR. SANSBURY: I'm not saying that she has to be
13 licensed, we are saying you are licensed. I
14 don't -- it doesn't matter to me. It seems
15 like she still --

16 MR. WHITLOCK: What do they have to do to become
17 active again? She paid the fee and that's it?

18 MS. COMBS: Paid the fee, right.

19 MR. WHITLOCK: Because they still have to keep up
20 with the hours.

21 MS. COMBS: Right. They just had to change --
22 increase the fee.

23 MR. SANSBURY: The only thing it reduces is the
24 \$200 versus the \$100?

25 MS. COMBS: Correct. Correct -- a difference in

1 the fee.

2 CHAIRMAN GOSNELL: I think we just ought to leave
3 it. It's such an isolated case, you're not
4 going to have any licensed that are going to
5 go work for a lab.

6 (Multiple speakers)

7 MR. RHODES: My son for instance, he's still
8 licensed, in Phoenix. He doesn't practice
9 except when he comes to my office, but he can
10 do that when he comes here.

11 MS. COMBS: Uh-huh.

12 MR. RHODES: So otherwise, he's a -- you know --

13 MS. COMBS: Right, because he's out of State.

14 MR. SANSBURY: And all it takes is \$50.

15 MS. COMBS: Right. Yeah, they still, if you're
16 inactive, you still have to get your CE.

17 CHAIRMAN GOSNELL: Yeah.

18 MS. COMBS: Fill out the forms and do everything,
19 it's just less money.

20 MR. SAXON: Now, there will have to be changes to
21 section B because an optician has to have six
22 hours, but an apprentice does not and is that
23 correct?

24 MS. STUTSMAN: Correct.

25 MR. CORLEY: An apprentice's is four hours.

1 MR. SAXON: That's what I'm saying. So what I
2 would say is an optician shall attend a
3 minimum of 12 hours of continuing education
4 bi-annually, and one hour, which would be in
5 office management or administration. Then I
6 would do a semi-colon, an apprentice -- I mean
7 the same thing except that apprentices shall
8 attend a minimum of eight hours.

9 MS. COMBS: Now, they, now apprentices --

10 MR. SAXON: Four because they are annually, sorry,
11 sorry. And I think that's all we need to do
12 to that. Would that make it clear, the
13 difference?

14 MS. STUTSMAN: Yeah, and don't we have to have the
15 four hours for contact lense --

16 MR. CORLEY: And the contact lense hour to be
17 changed from one to two.

18 MR. SAXON: Yes, and then the four hours for
19 contact lenses.

20 MS. COOPER: And then the one hour of which shall
21 be in South Carolina optical law.

22 MR. SAXON: Yes. That still applies to all of
23 them, right?

24 MS. STUTSMAN: Yes.

25 MR. SAXON: All three categories?

1 MR. HARBERT: It doesn't for the apprentices.

2 MS. STUTSMAN: Not for the apprentice, right.

3 MR. SAXON: Not for the apprentices, only for
4 licensees and full licensees?

5 MS. STUTSMAN: Right -- full licensees.

6 MR. SAXON: And again, when Jennifer writes all
7 this in, we can still clean it up and add,
8 change, you know. This is not written in
9 stone.

10 MS. COMBS: Jamie, I have something I would like to
11 have addressed that's up in A.

12 MR. SAXON: Oh, I'm sorry, yes.

13 MS. COMBS: No, no, that's all right. The section
14 if the license or registration has been lapsed
15 for more than two years, the person shall
16 appear before the Board which shall determine
17 the de-duh, de-duh -- the Board makes the
18 decision. Now, how would y'all maybe having a
19 cap on there. We've had people that will call
20 me --

21 MR. CORLEY: Ten years.

22 MS. COMBS: Ten years, you know. I mean, how would
23 the Board feel about maybe having a cap that
24 if you let your license lapse for whatever
25 amount of years, you've got to start over or -

1 - but just to leave it open like that, I don't
2 know.

3 MR. SAXON: I agree with you, and I think most
4 boards do have a cap.

5 MS. COMBS: I know Optometry is after two years you
6 let it lapse, you start all over. Of course,
7 it's not too hard to get one, you know, but
8 once you passed all the National Boards --

9 MR. WHITLOCK: You would just have to sit through
10 the exam again.

11 MS. COMBS: -- you know. Now, that would be
12 another thing, you know, about the exam, you
13 would have to make decisions, you know. Say
14 somebody has been out for ten years.

15 MR. SAXON: What would you suggest that say, Angie?
16 Is there a way you would like for it to --

17 MS. COMBS: Oh, no, I'm just thinking of putting
18 some kind of cap --

19 CHAIRMAN GOSNELL: And what's the Optometrists --
20 two years?

21 MS. COMBS: They went to two years. If their
22 license lapsed --

23 MR. WHITLOCK: I would say ours would be at least
24 three because --

25 MS. COMBS: Oh, I would --

1 MR. WHITLOCK: -- you know, what changes in
2 opticianry? I mean, you know, it's not like -
3 -

4 MS. COMBS: Right. And you may want to say five
5 years or six years --

6 MR. SAXON: Maybe I'm not following you -- has been
7 lapsed for more than two years. Are you
8 saying changing it to three? I think I'm
9 confused.

10 MS. COMBS: Well, make just some kind of cap where
11 if the call me and say well, I haven't been
12 licensed there for eight years --

13 MR. WHITLOCK: So I want to reapply.

14 MS. COMBS: I want -- right.

15 MR. WHITLOCK: And remake all my hours up and all
16 that kind of stuff, but -- put a cap that if
17 your license was lapsed for four years, you
18 must take the Board all over again.

19 MS. COMBS: Or something, you know. And I can't
20 see just making it just a real short period of
21 time, but.

22 MR. SAXONS: So change this two to three?

23 MS. COMBS: Or, it wouldn't even -- it could be
24 more than that.

25 MR. WHITLOCK: No, no, she's not talking about that

1 now. If your license is lapsed for at least
2 two years -- if it's been less than two years
3 then you can be reinstated. We're talking
4 about the maximum time that the license can be
5 lapsed and still not have to go through the
6 whole process.

7 MR. SAXON: Okay.

8 MS. COMBS: I mean, what do y'all think about that?
9 Maybe you're okay with that?

10 CHAIRMAN GOSNELL: Well, four years, maybe?

11 MS. COMBS: You know --

12 MR. WHITLOCK: I'd say four years.

13 MR. RHODES: Four years would be the max.

14 MR. SAXON: So if lapsed more than four years --

15 MR. WHITLOCK: What do you think, Milton?

16 MR. CORLEY: That's fine.

17 MS. COMBS: Then, they just have to apply again,
18 you know.

19 MR. SANSBURY: Up to two years, you can get back in
20 --

21 MR. SAXON: One must begin the application process
22 in full.

23 MR. RHODES: We have had people come and they have
24 had to get 24 hours and they had been out for
25 six or seven years. They would get 24 hours

1 of education requirement.

2 MS. COMBS: Uh-huh.

3 MR. RHODES: And they've got to pay all the back
4 fees and everything else.

5 MS. STUTSMAN: Yeah.

6 MR. SAXON: If lapsed more than four years --

7 MR. RHODES: This just puts a limit on it.

8 MS. COMBS: And of course, they do come before, you
9 know, you all see them, and I mean it, I don't
10 know, it seems like both of my other
11 professions have limits on --

12 MR. SAXON: We'll fit it in there somewhere that
13 says something to the effect if lapsed more
14 than four years one must begin the application
15 process anew.

16 MS. COMBS: And then do you also want to keep that,
17 say if it's more than two years or less than -
18 - well, you don't have to say this, but
19 however it works out -- less than four that
20 they must come before the Board. I mean,
21 would you still want to see that person come
22 before -- like we've been doing?

23 MR. CORLEY: Uh-huh.

24 MS. COMBS: Okay.

25 MR. CORLEY: If it's still between the two and the

1 four.

2 MS. COMBS: Between the two and the four, but we
3 wouldn't have these people that have been out
4 for --

5 MR. CORLEY: Then the over four wouldn't be coming
6 before the Board --

7 MR. WHITLOCK: Four years you would just send them
8 an application and start all over.

9 MS. COMBS: Start them all over, okay.

10 MR. WHITLOCK: That's in the statutes.

11 MS. COMBS: Uh-huh.

12 MR. RHODES: Go through the two years
13 apprenticeship.

14 MR. WHITLOCK: We had one by someone who is like 78
15 years old for the continuing education.
16 Should we talk about that?

17 MR. SAXON: Then you get into ageism and different
18 things and I don't know if want to go there
19 right now.

20 MR. WHITLOCK: Why we're approaching that age.

21 MR. SAXON: My point entirely.

22 MR. CORLEY: My dad was 90 and got his license
23 revoked.

24 MR. SAXON: For being 90?

25 MR. CORLEY: No, at 89, I think, his licensed

1 lapsed.

2 MS. COMBS: Yeah, we call it lapsed.

3 MR. SAXON: Not revoked, revoke is a sanctioned
4 kind of thing. Well, that's a bad
5 connotation. And I was thinking, I just don't
6 believe your Daddy would have had his license
7 revoked.

8 MS. COMBS: No, we call his retired. That he
9 retired.

10 MR. CORLEY: He did retire.

11 MS. COMBS: It may have already listed as retired.

12 MR. SAXON: Can we say emeritus? You know there is
13 emeritus status for some boards.

14 MR. CORLEY: Well, that's what were talking about.

15 MS. COMBS: Okay.

16 MR. WHITLOCK: Let's put it that way.

17 MR. CORLEY: Is it possible for us to work
18 something like that in?

19 MR. SAXON: No, they left the two as two years.

20 MR. CORLEY: Mr. Counsel?

21 MR. SAXON: Yes, sir.

22 MR. CORLEY: Is it possible for us to work an
23 emeritus type license in there?

24 MR. SAXON: Yes.

25 MR. CORLEY: And what would that require?

1 MR. SAXON: I would just mimic language from one of
2 the other boards that has that status, and you
3 would have to decide at what point -- I don't
4 know it well enough -- it's not used very much
5 and I think maybe only one or two boards have
6 that as an option.

7 MS. COOPER: Engineers does.

8 MR. SAXON: Engineers does, that's right, that's
9 right. And does medical?

10 MS. COOPER: I'm not sure.

11 MR. SAXON: I'm not sure, but I would have to look
12 at their language and see how they do that,
13 but I could work up something if you would
14 like me to. Would y'all like me to work up
15 something for emeritus status?

16 CHAIRMAN GOSNELL: What would you say, in the
17 neighborhood of 75 or something like that or?

18 MR. SAXON: Well, let's see what they say.

19 CHAIRMAN GOSNELL: Yeah, okay.

20 MR. SAXON: I mean, do y'all have an age in mind?

21 MR. WHITLOCK: 62.

22 MR. SAXON: Spoken like someone who is not 62.

23 MR. WHITLOCK: No, I am.

24 MR. SAXON: Are you really?

25 MR. CORLEY: You know, 75-80. Okay, you go to

1 church with Jack Folline, don't you?

2 MR. SAXON: Well, I went -- I assume you. There
3 are so many Follines --

4 MR. CORLEY: See, he's 81, and he's still active.

5 MR. WHITLOCK: Well, it just gives the option if
6 they want to.

7 MR. SAXON: I don't know that I would even put a
8 date on there. You might be 60 and want to go
9 to emeritus status. And if you are 75, but
10 are still competently performing, should that
11 be okay?

12 MR. CORLEY: Yeah. I mean Dad just quit at 89.

13 MR. SAXON: Right. I don't know that I would
14 specify a certain age for going to emeritus
15 status. It's an honorific basically. And you
16 know, say a person -- well, the famous
17 basketball coach has been in the news all
18 week, the winning coach for both men and
19 women. She's 56 years old and has early onset
20 dementia. You know, somebody might want to
21 grant her emeritus status because of all her
22 service through the years and her good
23 service. But she's just 59 or 56. So I think
24 there are reasons you might want at any age to
25 go to emeritus status. What do you think,

1 Angie?

2 MS. COMBS: Well, that's -- I think what you are
3 saying is true.

4 MR. SAXON: It's just sort of to be gracious and
5 honor someone who has given good service to
6 the profession.

7 MR. WHITLOCK: Well the reason why I am saying this,
8 you've got somebody that's been in the
9 business for 40 years let's say --

10 CHAIRMAN GOSNELL: Bill Brown, somebody like him.

11 MR. WHITLOCK: And they've been in the business for
12 40 years and they're 72. They're not spring
13 chickens anymore, but then we make them sit
14 through eight hours every year, it's a
15 hardship on some of them, it really is.

16 MR. SAXON: Well now, that's a different matter. I
17 know that once an attorney reaches a certain
18 age, and I'm too far away from it to know what
19 it is right now, but you don't have to go
20 through CLE's and things.

21 MR. WHITLOCK: Who is this?

22 MR. SAXON: Lawyers.

23 MR. WHITLOCK: What age?

24 MR. SAXON: I can't remember that age.

25 MR. HARBERT: We had actually addressed it with the

1 Association.

2 MR. SAXON: Tell us what y'all have done.

3 MR. HARBERT: Do you remember the cutoff?

4 Ms. STUTSMAN: Yeah, Grant Brown was the one who
5 brought it up, thinking about the opticians
6 who have been around a long time and we
7 decided to look at making an honorary position
8 at 72 because they quit -- Danny, you can tell
9 me for sure about this. At 65 you don't have
10 to pay association fees anymore, correct? Or,
11 what was that --

12 MR. HARBERT: No, I didn't -- huh-uh.

13 CHAIRMAN GOSNELL: I don't think we said 72.

14 MS. STUTSMAN: 72 was the --

15 MR. CORLEY: Because we're all getting close to
16 that --

17 MR. HARBERT: Well, there was a continuation of
18 service plus age.

19 MS. STUTSMAN: Yeah, 30 years of continuous service
20 plus age.

21 MR. SAXON: Would you send Jennifer that language?

22 MS. STUTSMAN: Okay.

23 MR. HARBERT: I've probably got it right here.

24 MR. SAXON: Is that something y'all would like to
25 do?

1 MR. WHITLOCK: Yes.

2 MR. SAXON: Let us work up something and we can
3 tweak it later if we need to, but Jennifer and
4 I will work up something for you.

5 CHAIRMAN GOSNELL: Yeah.

6 MR. SAXON: And before we meet again, we will have
7 -- And if it might, you know, if we might
8 borrow this template. It's not really theft
9 since I've asked you for it.

10 MR. HARBERT: It's not mine anyway, you can have
11 it.

12 MR. SAXON: Has anyone ever had an original
13 thought, that somebody else hasn't already
14 thought of, well, beside Steve Jobs.

15 MS. COMBS: Yeah.

16 CHAIRMAN GOSNELL: Al Gore.

17 MS. STUTSMAN: We'll get you a copy of that.

18 MR. SAXON: Okay. That's fine, that's fine. All
19 right, shall we move on to 270? I don't
20 understand this where it says or to make
21 professional determinations as lenses.

22 MS. COOPER: Yeah.

23 MR. SAXON: That confuses me.

24 CHAIRMAN GOSNELL: Where now?

25 MR. SAXON: Nothing in this chapter may be

1 construed to allow an optician to fit contact
2 lenses or to make professional determinations
3 as lenses to the specifications of these
4 lenses unless under the supervision of an
5 ophthalmologist or optometrist. I have no
6 idea what that means.

7 CHAIRMAN GOSNELL: We can't make any professional
8 judgment as far as the fit of a contact lens.

9 MS. COOPER: Maybe of lenses --

10 MR. RHODES: Unless told to do so.

11 CHAIRMAN GOSNELL: Yeah, unless told --

12 MR. SAXON: I'm just -- determinations as lenses --
13 Jennifer, what did you suggest?

14 MS. COOPER: Of lenses, to the specifications of
15 lenses.

16 MR. SAXON: Okay, do that, then. Does that suit
17 y'all?

18 MR. WHITLOCK: Say again?

19 MR. SAXON: Jennifer?

20 MS. COOPER: Nothing in this chapter may be
21 construed to allow an optician to fit contact
22 lenses or to make professional determination
23 of lenses instead of as lenses.

24 MR. SAXON: So take out the s and remove as and put
25 of in its place.

1 MR. SANBURY: Jamie, if you read that, it says to
2 make professional determinations, and you take
3 out as and as lenses instead to make
4 professional determination to the
5 specifications --

6 MS. COOPER: There you go, even better.

7 MR. SAXON: That's even better. So take out as and
8 lenses.

9 MS. COOPER: Uh-huh.

10 MR. SAXON: Make professional determinations to the
11 specifications of lenses.

12 MR. CORLEY: Uh-huh.

13 MR. SAXON: That's much better.

14 MR. SANBURY: That's what we intended to do.

15 MR. SAXON: You come in right handy.

16 CHAIRMAN GOSNELL: It's starting to come back to
17 him.

18 MR. CORLEY: He remembers what he did. Aptly
19 corrected.

20 (Multiple speakers).

21 MR. SAXON: Not bad for an emeritus.

22 MR. CORLEY: He's been wanting to correct that ever
23 sense he went through in '98.

24 MR. SANBURY: Milton, I've read this thing a bunch
25 since then and I never saw it until just now.

1 MR. SAXON: Well you know, anytime you write
2 something, the more you look at it, the more
3 you see.

4 MR. WHITLOCK: That's why we have drafts. It
5 reminds me of friends of ours who were good,
6 who both husband and wife were good cooks and
7 they say, recipes are like the old testament
8 -- they're open to interpretation.

9 MR. SAXON: Is the rest of that okay with y'all?

10 MS. COMBS: Now, should this say change optician to
11 the contact lens?

12 MR. RHODES: Should it say contact lens versus
13 lenses?

14 MR. COMBS: Well, it's got if supervision is not
15 direct and if the optician dispenses --

16 MR. CORLEY: Contact lens --

17 MS. COMBS: Should it be the contact lens
18 dispensing optician or however you want to --

19 MR. CORLEY: Because in that, any optician reading
20 that will say I'm an optician, I can do that.

21 MS. COMBS: I can do that, yeah, that's where we
22 had so many issues.

23 MR. SAXON: So we need to conform that to the
24 definition up-front earlier in the statutes
25 for contact lenses, so Jennifer, will you make

1 that mimic the contact lens definition?

2 Dispenser definition?

3 MR. CORLEY: Then after optometry, the optician
4 should be contact lens optician.

5 MR. SAXON: Contact lens optician?

6 MR. CORLEY: Yep.

7 MS. STUTSMAN: Should we say certified?

8 MR. SAXON: Now, should it also be contact lens
9 optician in the first line, if supervision is
10 not direct and if the contact lens optician
11 dispenses -- Or not?

12 MR. CORLEY: Because that's who's supposed to be
13 dispensing these lenses.

14 MR. SAXON: Right.

15 MS. COMBS: But can't they dispense them without an
16 optometrist or ophthalmologist there, though?
17 I'm a little confused.

18 CHAIRMAN GOSNELL: They can deliver them, but not
19 dispense.

20 MR. WHITLOCK: Not dispense.

21 MS. COMBS: Okay, okay.

22 MR. SAXON: So I'm a little confused.

23 CHAIRMAN GOSNELL: Yeah, it's confusing --

24 MS. COMBS: It is confusing, yeah.

25 CHAIRMAN GOSNELL: -- the dispensing and the --

1 MR. WHITLOCK: Anybody can --

2 CHAIRMAN GOSNELL: Deliver them --

3 MR. WHITLOCK: -- after the licensed optician has
4 checked them.

5 MR. SAXON: So by deliver, is that the same thing
6 as dispense?

7 MR. WHITLOCK: No.

8 MR. SAXON: Okay.

9 MR. WHITLOCK: Right?

10 MR. CORLEY: That's covered in our definitions that
11 we gave you.

12 MR. SAXON: Well, what I'm asking y'all to tell me
13 because you are in the practice, should it say
14 if supervision is not directed and if the
15 optician dispenses, or should it say if
16 supervision is not direct and if the contact
17 lens optician dispenses? It seems to me it's
18 to protect against an optician dispensing, so
19 leave out contact lens? But I don't know. If
20 that was the intent or not. Or if that
21 continues to be the intent.

22 CHAIRMAN GOSNELL: Ray?

23 MR. CORLEY: Ray couldn't have a contact lens
24 license so he doesn't worry about it.

25 MR. SAXON: I'm sorry, I'm not trying to make

1 things difficult, I really want to be helpful.

2 MR. SANBURY: Because you know back when we first
3 had contact lens license for opticians, they
4 were rigid lenses. We would fit them, we
5 would do the measuring of the edges and make
6 all this kind of stuff and it was a lot more
7 complicated. And this is why we had to come
8 up with this other little statement about
9 dispensing, because that's a great question,
10 Jamie -- dispensing. I'm not sure anything we
11 do with contacts is dispensing. Glasses are
12 different, but we do a lot of things at the
13 time we dispense to you so it worked properly.
14 But contacts, most of them, they are in boxes
15 and we are just handing them the box. You can
16 even get them in the mail these days. And we
17 may deal with that too, so I --

18 MR. CORLEY: I think the dispensing encompasses
19 teaching insertion and removal.

20 MR. SANBURY: And wasn't there some verbiage
21 somewhere in it where it determined it said
22 that? It's in the contact lens license it says
23 that, doesn't it, on the actual license
24 itself?

25 MR. CORLEY: Because we are allowed to teach --

1 MR. SANSBURY: Insertion and removal.

2 MR. CORLEY: -- insertion and removal and the wear
3 schedule and we go over all that. We just
4 cannot say well okay, you can't wear this 8.4
5 Acuvue, you've got to wear a 9.1 or something,
6 you know, we can't take the K readings and
7 make the base curve determinations and that
8 type stuff.

9 CHAIRMAN GOSNELL: Unless it's under an
10 ophthalmologist?

11 MR. CORLEY: Right, unless you are working under
12 their license, under their direct supervision.

13 CHAIRMAN GOSNELL: Direct supervision.

14 MR. CORLEY: Yeah. Now, when this was talking
15 about dispensing of contact lenses, I think
16 all this instead of saying the word optician
17 ought to say contact lens optician or contact
18 lens dispenser.

19 MR. SAXON: Well, that's what I was asking, should
20 I put contact lens before the word optician in
21 both places?

22 MR. CORLEY: Because if not, any optician will pick
23 this up and say well the law says I can do it
24 I'm an optician.

25 MR. SAXON: Okay. So before both places in that

1 last sentence where the word, there is the
2 word optician, put contact lens in front of
3 it?

4 MR. CORLEY: Right, up there in the top.

5 MR. WHITLOCK: Would you say licensed contact --

6 CHAIRMAN GOSNELL: Licensed --

7 MS. STUTSMAN: Certified NCLE.

8 MR. SAXON: Is it certified or licensed? It's
9 licensed.

10 MS. COMBS: They're licensed, yes.

11 MR. SAXON: All right, we will put that in both
12 places then.

13 MR. CORLEY: In that first sentence up there at the
14 top, with respect to contact lenses an
15 optician shall act --

16 MR. SAXON: A licensed contact -- and everywhere in
17 this paragraph if it says optician, we will
18 put a licensed contact lens optician.

19 MR. WHITLOCK: Right.

20 MR. SAXON: Okay, good. Are we okay now with 270,
21 go on to 280? Okay. Do we need to change
22 anything in that?

23 CHAIRMAN GOSNELL: The only thing I would say is
24 unless the doctor puts in an expiration date
25 on the prescription.

1 MR. SAXON: I know mine does.

2 CHAIRMAN GOSNELL: Yeah.

3 MR. SAXON: Mine are only good for two years.

4 MR. SANSBURY: What was that, Danny, explain that?

5 CHAIRMAN GOSNELL: That maybe we should put in
6 there that they can duplicate -- wait a minute
7 now, let me rethink that now --

8 MR. SAXON: Well, here's what happens when I get
9 contacts and tell me if this is something we
10 want. My ophthalmologist, my prescription from
11 him is only good for two years --

12 CHAIRMAN GOSNELL: You're talking about contacts or
13 --

14 MR. SAXON: Contacts, yes. And Soonce those two
15 years have passed, if I haven't been to see
16 him and obtain an updated one, then they will
17 not fill a prescription for contacts for me.
18 So should we put that in here because it says
19 without a prescription,

20 MR. CORLEY: Well, this is talking about
21 eyeglasses.

22 MR. SAXON: Oh, just eyeglasses?

23 MR. CORLEY: Uh-huh.

24 MR. SANSBURY: I'm sorry, the last -- when you flip
25 over the last thing says contact lens may be

1 dispensed only in accordance -- Obviously,
2 Jamie, what we are talking about is contacts,
3 most of them are written with expiration
4 dates.

5 MR. SAXON: Okay, so that would be covered anyway?

6 MR. SANBURY: So that's covered already, so we
7 don't need to put verbiage in there.

8 MR. SAXON: Okay, good, that's what I was asking.

9 MR. SANBURY: On the glasses side, the issue,
10 that's where we need to rethink that. The
11 glasses side is, you could have an industry
12 they could say exams should be done every 12
13 months, 24 months -- a lot of patients once
14 they get into their middle years where the
15 script doesn't change a lot, they can wear
16 them for ten years. We can't tell them they
17 can't do that. So they've got a pair of
18 glasses and they break them. They're not
19 going to go back and get their eyes examined,
20 but they need to be able to see, and so this
21 allows opticians to be able to take the
22 glasses and duplicate them, to put back like
23 they were before they broke.

24 MR. SAXON: So just leave it alone?

25 MR. SANBURY: You don't want to take that out.

1 MR. SAXON: I think you would have a lot of people
2 in the middle years people up in arms about --

3 MR. SANBURY: Well, the patients would probably be
4 about as unhappy as a lot of opticians.

5 CHAIRMAN GOSNELL: Yeah.

6 MR. CORLEY: I've got to pay \$500 --

7 MR. SANBURY: And I don't think it's necessary to
8 protect their health either so --

9 MR. SAXON: Change spectacles to eyeglasses?

10 MR. CORLEY: That makes more sense.

11 CHAIRMAN GOSNELL: You can't do it from a
12 warehouse, but you can do it online now.

13 (Multiple speakers)

14 CHAIRMAN GOSNELL: I could get glasses online --

15 MR. CORLEY: Just send in a prescription.

16 MR. RHODES: I had a man one time he said, they
17 showed me how to measure mine.

18 (Off the record discussion).

19 MR. SANBURY: Well, that is one of the sad things
20 about interstate commerce and freedoms and all
21 this we all have because we sit here and we've
22 had this discussion for many years, what we
23 are here for is to protect the consumer, only
24 reason the Board is here, right, okay. Then,
25 we can only control us. And they can get on

1 the internet and buy a the glasses from
2 Georgia or anywhere else and they can make a
3 mistake and we can do nothing to enforce the
4 rules. So it's just like -- it just doesn't
5 seem right, but there's nothing we --

6 MR. SAXON: We can try to put our finger in the
7 dike and that's about as good as we can do.

8 MR. SANBURY: We've just got to cover who we cover
9 and just, you know -- it's frustrating because
10 you see a lot of -- I think all of us have
11 experienced walking in with the glasses they
12 bought from the internet. They're asking us
13 to try to help them fix it.

14 MR. SAXON: Yet another reason to do business
15 locally. We've only got --

16 CHAIRMAN GOSNELL: Why don't we just go through
17 these last, this next page and then three
18 pages.

19 MR. CORLEY: Before we get to the regulations?

20 CHAIRMAN GOSNELL: Yeah, before we get to the
21 regulations.

22 MR. SAXON: So we can do regulations another time
23 if you would like to.

24 CHAIRMAN GOSNELL: Yeah, let's do that.

25 MR. SAXON: So you want to go ahead and finish

1 these three pages?

2 CHAIRMAN GOSNELL: Yeah.

3 MR. SAXON: Okay. Anything about 300?

4 MS. COOPER: His or her.

5 MR. SAXON: Yeah. Where are you? Oh, yes. In B.

6 MR. CORLEY: What, B?

7 MR. SAXON: We're going to go through and change

8 that everywhere we see that we catch it. And

9 if y'all catch somewhere that is referring

10 only to a man, let us know. We may have

11 missed it. I can just hear Ms. Ridgeway

12 saying his means his or hers. That was for or

13 five years ago. Four years ago.

14 CHAIRMAN GOSNELL: I don't guess there's anything

15 where we will ever really come up with a

16 perfect definition of direct supervision.

17 MS. COMBS: This has always been kind of an issue.

18 CHAIRMAN GOSNELL: That's always been the one.

19 MS. COMBS: Do we have to explain about the

20 reasonable periods or why someone could be

21 absent? Let's see -- because they can

22 delegate the task, they can go to lunch, but

23 what else -- I have people ask me that. Can

24 they go to CE, can the optician go off for two

25 to three days for continuing education?

1 CHAIRMAN GOSNELL: We go off -- I remember when we
2 first did this we were saying like vacations
3 and things like that.

4 MS. COMBS: Right, and people will ask from time to
5 time.

6 MR. SAXON: I think during the working days
7 includes a vacation or anything --

8 MS. COMBS: Well, see, that's what I was thinking.
9 If it says during the working day, is a day
10 the max you could delegate, be gone, delegate
11 tasks and be gone away from the business?

12 MR. SAXON: You can put during a portion of the
13 working day.

14 MS. COMBS: Of course, I'm not sure the intent --
15 what you all want to say, but it's a little
16 unclear to people.

17 MR. SAXON: It is.

18 MR. SANSBURY: Jamie, this has been a little thorn
19 in our side. Well, it's not just because of
20 all the questions it raised, but it's about
21 practicality and competing in the workplace,
22 because you have ophthalmology and optometry
23 and opticianry that technically compete with
24 all the same patients and that provide some of
25 the same services. Well, they're not

1 regulated by us. They can delegate to their
2 staff who are not even licensed opticians to
3 dispense glasses when they're not there. They
4 could do -- you know, they have their own set
5 of rules. And ophthalmology is the same way.
6 And we've had this debate about what was the
7 original intent of this in the first place?
8 It wasn't to forbid that you had to shut your
9 business down if you walk out the door.

10 MR. SAXON: Right.

11 MR. SANSBURY: Okay, you've got your staff that are
12 probably doing, if you train them, they are
13 doing just as good a work as you are. Okay.
14 And so one of the concepts we got into was
15 what is really the intent to protect the
16 consumer is to try to make sure that somebody
17 professional responsible for oversight,
18 whether it be ophthalmology, opticianry or
19 optometry. So the key was that direct
20 supervision, that was written so long ago,
21 it's not really relative today. Maybe we
22 should just say supervision so that you are
23 taking responsibility for what happens in your
24 office and not get into hours of the day and
25 that kind of stuff. That's been the problem

1 all along. And most of the time, if we ever
2 had complaints about that, it was from an
3 employee who was fired from a company so they
4 file a complaint just to try to agitate. It
5 wasn't necessarily where the consumer files a
6 complaint or anything else. And we've dealt
7 with that over the decades and I really hope
8 that somehow the Board can get together and
9 come up with something that's going to get rid
10 of that problem. Because these same people
11 can go buy glasses from the internet. Are you
12 going to tell the optician you walk out of
13 your office, your people can't take care of
14 the patient, yet they can go get online and
15 order glasses.

16 MR. SAXON: Well, I think for that, Angie, I agree
17 with you that -- forgive me for the pun,
18 reasonable minds can differ as to what
19 reasonable means but, it is a word that gives
20 some flexibility. It's reasonable for a
21 person to go out to lunch. It may be
22 reasonable if a spouse is unavailable and the
23 school calls your child is sick to run out and
24 get that child, or of there is an emergency of
25 some other kind. I think those things would

1 be considered reasonable and not leaving
2 somebody unsupervised. We're not talking
3 about days at a time. I do think it should
4 not -- the way -- I would not read this to
5 mean the whole day either, that you can be
6 gone the whole day. But I don't know. How
7 would y'all read that in, again, practice?

8 MR. WHITLOCK: Well, again, this rule and
9 regulation was written how many years ago?

10 MR. SAXON: This one was 1998.

11 MR. SANBURY: It was actually the optometry,
12 opticianry.

13 MR. WHITLOCK: Exactly. And that's when we were
14 kept really down by the optometrists. They
15 wanted, you know, to kind of corral the
16 opticians. Nowadays, you've got that computer
17 sitting right there. You can get in touch
18 with anybody around the world, just like you
19 can talk to your office right now. We live in
20 a different world.

21 MR. SAXON: Yeah, if I needed something from my
22 supervisor, I could reach her right there.

23 MR. WHITLOCK: Exactly.

24 MR. SAXON: Or click this little thing, you know.

25 MR. WHITLOCK: Right.

1 MR. SAXON: It is a different world. So I don't
2 know that I would change anything because I
3 think this gives some flexibility and I think
4 you need some flexibility.

5 MR. WHITLOCK: Oh, yeah.

6 MR. SANSBURY: Well, the question is that word
7 direct, the word direct, because that's where
8 we got into all --

9 MR. SAXON: I don't know that that serves any
10 particular purpose. Supervision is
11 supervision.

12 MR. SANSBURY: Right.

13 MR. SAXON: I think this is redundant, frankly. Do
14 you disagree with me language expert?

15 MS. COOPER: Well, I was just thinking direct
16 supervision -- I think the in medical or
17 nursing practice act mentions the supervisor
18 must be readily available. That can be
19 another way of phrasing this.

20 CHAIRMAN GOSNELL: They could be in another part of
21 the building.

22 MR. SAXON: Well, it could be here, and if I'm
23 going to be changing this, an optician --
24 Jennifer, how would you change -- tell me
25 again how they put it? Readily available?

1 MS. COOPER: The supervisor must be readily
2 available.

3 MR. SAXON: An optician may delegate tasks to a
4 assistants to whom he or she is readily
5 available. How about that?

6 MR. SANSBURY: Say that again, Jamie?

7 MR. CORLEY: That means you can stay at home
8 everyday?

9 MR. SAXON: No.

10 MR. RHODES: Well, when you're not in your office,
11 you don't delegate to your patients, you're
12 readily available.

13 MR. HARBERT: Well, you're opening up a can of
14 worms with like WalMarts and stuff when you do
15 that, though because right now if an optician
16 is not in there, they aren't actually able to
17 practice unless that doctor will let her
18 license go across, you know, hers and his
19 license.

20 MR. SAXON: Well, then you run into the same thing,
21 what does readily available mean? You know?

22 MR. HARBERT: Right. But, you know, it allowed a
23 WalMart to be able to have, and I'll just use
24 their name, I mean any of the chains that
25 allows them to have coverage with an optical

1 shop that's open 80 hours a week and only
2 paying 40 hours for a license, because that
3 licensed optician would be covering it.

4 MR. SAXON: And we have one board that specifies
5 the number of miles he or she has to be in
6 relation to management.

7 MR. HARBERT: I just think you're going to weaken
8 the license that much more if you weaken that
9 area because you are going to find out the
10 chains are going to eat that up. And that's
11 what you have to look at.

12 MR. SAXON: Well, and I also don't know how the
13 Legislature will take this either. This might
14 be one of those instances -- this may not be
15 something you want to go in the ditch over.
16 It might be best to leave it like it is,
17 changing the his or her, but leave the
18 substantive parts alone. Now, I'm not telling
19 you to do that, I'm just suggesting that may
20 be the most prudent think to do if that suits
21 y'all.

22 MR. RHODES: It's a loaded gun if you get into it.

23 MR. SANSBURY: Another issue you raised too,
24 Ronnie, is that -- and we've had this
25 discussion too, when you open up the regs,

1 then it's open for everybody. And WalMart,
2 and this is the only thing we've got these
3 three professions and then we've got a
4 commercial entity. It's not just WalMart,
5 you've got a LensCrafters, all people that are
6 true commercial. They're in a whole different
7 world. Ballpark so to speak and they are
8 doing stuff that all the rest of us do whether
9 it's optometry or opticianry, they now are in
10 our business and they don't have the same look
11 at what we are doing as we do. They're hardly
12 in the same arena and so you want to make it
13 restrictive for you guys and for people who
14 are in basically private practice people to
15 try to fight them off. But the problem is they
16 would just as soon be doing away with
17 licenses. And So we open up the statutes and
18 who's to say once they see this going on they
19 decide to come in and try to lobby and get rid
20 of them, their licenses. You know, that's
21 also, we've discussed it before. That's also
22 a possibility, it might happen. And if you
23 get something that's reasonable, then maybe
24 they don't. And what is reasonable, because
25 let's go back to what we've done all these

1 years, Danny, is talk about at the end of the
2 day what we are discussing here is how is this
3 protecting the consumers? Not you and me, but
4 how is it protecting the consumer? Well, for
5 us, we've talked about is that as long as we
6 know that a licensed person is responsible for
7 a facility, of a particular location, then we
8 kind of protect the consumer because this
9 person says -- and we talked about this,
10 Angie, about licensing, you know if it's not a
11 -- we all had to license, register who is our
12 license coach, including WalMart. We all have
13 to do that. So you are simply saying this
14 person is assuming professional responsibility
15 office. And then you have to get involved in
16 it all. Now they can't be responsible for two
17 offices. And I don't know the real answer,
18 but I know we've fought this for years, and I
19 can argue -- I've been on both sides of the
20 table on this. And there is no easy answer,
21 except that you're going to make it so
22 restrictive that private practice people will
23 made it hard for them to run their business
24 just because you are trying to protect, you
25 know, make it hard on say a WalMart. And at

1 the end of the day as long as we as a Board
2 can say that every physical optical place in
3 this State is not optometry or ophthalmology,
4 that is a licensed person that says I'm
5 responsible for what goes on in that office.
6 I think we've probably not done a bad job at
7 trying to help protect the citizens of our
8 State, but I don't know how you get into all
9 the other --

10 MR. SAXON: I think, frankly, that this has worked
11 well. I mean, do you disagree, Angie?

12 MS. COMBS: Well, there's a question.

13 MR. SAXON: I probably would get all these
14 confused.

15 CHAIRMAN GOSNELL: Yeah, we get all these questions
16 --

17 MR. SAXON: Well, let me ask you -- Let me pose
18 this, let me ask it this way. Is it such an
19 issue that you want to change anything in
20 here? And if so propose some changes to me
21 and let's discuss them. And if you don't want
22 to do it today, don't worry about it. I've
23 got an email and you can contact me anywhere.

24 MR. SANSBURY: What I would like to do, we had a
25 meeting not too long, a year or so ago --

1 MS. COMBS: Uh-huh.

2 MR. SANSBURY: -- and I can't remember the verbiage
3 that was in one of these little -- it might
4 have been this section here. There's a couple
5 of little words, and all it was going to do
6 was get these people that they want to report
7 their employer for this direct, lack of direct
8 supervision, get him to stop complaining.

9 MR. SAXON: Keep frivolous things --

10 MR. SANSBURY: Yeah. It is all frivolous. Once we
11 looked into it, we dismissed 99.9% of them.
12 It was people, you know, just trying to cause
13 trouble.

14 MR. SAXON: Do you think you can find that
15 verbiage?

16 MR. SANSBURY: I've got it. I've got it in my
17 computer.

18 MR. SAXON: Would you send it to Ms. Cooper here.

19 MR. SANSBURY: Yeah, got an email or something?

20 MS. COOPER: Yeah.

21 MR. SAXON: Let me give everybody here both of our
22 emails. I would send it to her, copy me.

23 MS. COOPER: It's (REDACTED)@LLR. --

24 MR. SANSBURY: Jennifer, how do you spell that?

25 MS. COOPERS: Oh, J-E-N-N-I-F-E-R.

1 MR. SANBURY: Cooper?

2 MS. COOPER: Uh-huh.

3 MR. SANBURY: and @ where?

4 MS. COOPER: @llr.sc.gov

5 MR. CORLEY: Well, see, the whole thing --

6 MR. SAXON: And mine, you will see on the website
7 my nickname Jamie, but if you try to email me
8 with that like Jennifer, it ain't going to get
9 to me. It's (REDACTED), S-A-X-O-N, and the
10 rest of it's the same. In fact, if you email
11 anybody at LLR, using the first name, dot,
12 last name at and the rest of it is --

13 MR. SANBURY: Jennifer you're (REDACTED)?

14 MS. COOPER: Uh-huh.

15 MR. SAXON: And put a dot between the first and
16 last name and it will get to us. So
17 (REDACTED).

18 CHAIRMAN GOSNELL: Angie can tell you, most of the
19 inquiries are verbal inquiries and they do not
20 make a formal complaint and, of course, we
21 can't act on anything that's not a formal
22 complaint.

23 MS. COMBS: Right.

24 CHAIRMAN GOSNELL: And if it's a formal complaint,
25 we will, you know, have it investigated. I

1 mean, if somebody comes in and says, you know,
2 I'm an optician --

3 MR. SAXON: But I would say if it's frivolous, it
4 does waste a lot of time and money.

5 CHAIRMAN GOSNELL: Yeah.

6 MR. SAXON: Because you've got to send an
7 inspector, an investigator out.

8 CHAIRMAN GOSNELL: Right.

9 MR. SAXON: Angie and her staff have to talk --

10 MR. CORLEY: Well, see number four back on the
11 first page under definitions, in section 20.

12 MR. SAXON: Yes, sir.

13 MR. CORLEY: Number four down there where direct
14 supervision means. See, that says you've got
15 to be there all the time.

16 MR. SANSBURY: It does. Let me send you, because
17 we've worked on that, let me send you that
18 verbiage and y'all might tweak it from that.
19 But I think you understand what we're trying
20 to do, we just --

21 MR. SAXON: And it may be that we want to change
22 that definition a little bit, tweak it, so --
23 send it to Jennifer and she and I will try to
24 work it up and, you know, this is not
25 something we can't discuss again.

1 MR. CORLEY: That boys been discussed many times.

2 MR. SAXON: Right, I just want y'all to keep in
3 mind that we're going to work up a rough draft
4 that we can tweak as much as we want to until
5 we get it the way we want it to be. We want
6 it as perfect as we can get it before we send
7 it to the Legislature. I think we all agree
8 on that. Okay? Is it okay to go on to 310?
9 May I suggest adding the word and in front of
10 or -- and --

11 MS. COOPER: And/or cause to be disseminated --

12 MR. SAXON: Well, and/or representation.

13 MS. COOPER: Oh, so --

14 MR. SAXON: I'd put it both places.

15 MS. COOPER: Okay, got it.

16 MR. SAXON: And I know and/or is not grammatically
17 correct, but legally it is helpful. In the
18 first line and second line of A it is unlawful
19 for a person to disseminate, to directly
20 and/or indirectly and/or cause to be
21 disseminated, so we are saying it a lot.

22 MS. COOPER: Uh-huh.

23 MR. SAXON: And then the next line and/or
24 representation concerning eye examinations,
25 etc. We just won't refer to Strunk and White

1 on this one. Remove spectacles from part B.

2 MR. CORLEY: Yes. I don't know why they put that
3 in there.

4 MR. RHODES: We're back up to section 290 now, it's
5 got in there to dispense spectacles, does it
6 say --

7 MR. SAXON: We've already marked that out. We
8 already marked it out and put eyeglasses.

9 MR. RHODES: Okay.

10 CHAIRMAN GOSNELL: Ben helped us on that.

11 MR. SAXON: Right, stay on task.

12 MR. WHITLOCK: Jump around.

13 MR. RHODES: I saw it up there, I was wondering
14 what -- Okay.

15 MR. SAXON: Jennifer, I have a problem with
16 subsection B(1), second phrase: the offerer
17 shall disclose the reduced price, sale price,
18 or discounted price is from the offerer's
19 regular selling price. Should it be disclosed
20 how the reduced price, sale price, or
21 discounted priced differs from? Don't you
22 think that's a little clearer?

23 MS. COOPER: Yeah.

24 MR. SAXON: Is that okay with y'all?

25 CHAIRMAN GOSNELL: Uh-huh.

1 MS. COOPER: Wait until you get to C. I don't
2 think that's right.

3 MR. SAXON: Okay. So how this would read is: if
4 the offer price is represented as being a
5 reduced price, sale price, or discounted
6 price, the offer shall disclose how the
7 reduced price, sale price, or discounted price
8 differs from the offerer's regular selling
9 price, or any other price and its source which
10 serves as a standard from which the offerer
11 represents the other price being a reduced
12 price, sale price, or discounted price.

13 That's a mouthful, isn't it?

14 CHAIRMAN GOSNELL: An optometrist in Greenwood
15 advertised a sale price of an eye exam and he
16 was charging the same thing all the time.

17 MR. SAXON: That's like businesses that continually
18 go out of business.

19 CHAIRMAN GOSNELL: There used to be a men's store
20 up here in downtown in Greenville, and they
21 went out of business so many times, I think
22 the Chamber finally said you can't out of
23 business anymore.

24 MR. SAXON: Either go out of business or not.

25 MR. CORLEY: In that where it says or you didn't

1 want and/or?

2 MR. SAXON: Where are you? Oh, stop.

3 MR. RHODES: Is there such a word as offerer?

4 MR. SAXON: Yes, but only in legal circles. Of
5 course, every time I typed optician -- every
6 time I typed opticianry, it tells me I'm
7 misspelling it, but I'm not.

8 MS. COOPER: It's just Word.

9 MR. SAXON: I don't know if any of you use Dragon
10 in your practices to take notes instead of --
11 it fits into your computer and instead of
12 typing you just speak, but they have different
13 versions for different professions. Doctors
14 use lots of Latin and different words, lawyers
15 use lots of -- they even have one now for
16 Southerners. I wonder if it's Southern
17 Lawyers, Southern Doctors --

18 MR. WHITLOCK: That's a good point. What is this
19 thing on iPhone, the thing you just speak to?

20 MR. SAXON: Cera or Suri, something like that.

21 MR. WHITLOCK: Obviously they need to add the
22 southern language because I'll say something
23 and she doesn't know what I'm saying. Why
24 does everybody say this is good, I can't get
25 it to do it.

1 MR. SAXON: What it's going to is making us all
2 sound the same and I don't want that. I think
3 it's nice that we sound southern and
4 westerners sound western --

5 MS. COMBS: Right.

6 MS. COOPER: We've got too many newscasters.

7 MR. SAXON: Yes. Jennifer, would it work better if
8 we put, for instance, in Subsection 1, I put
9 them in quotation marks?

10 MS. COOPER: Quotation marks?

11 MR. SAXON: Because eyeglasses includes, contact
12 lenses refers, ophthalmic materials includes,
13 ophthalmic materials includes, eyeglasses
14 includes. I think if we put those in
15 quotation marks, it shows that we are sort of
16 defining something as it does in definitions.
17 Otherwise, it just looks like we don't know
18 how to write.

19 MS. COOPER: Either that, or just a comma, like
20 eyeglasses including, and change includes to
21 including.

22 MR. SAXON: If we put the quotation marks, it would
23 be like definitions, so that is at least
24 consistent. Does that suit y'all?

25 MS. COOPER: We're talking about C, 1-5.

1 (Off the record briefly).

2 MR. SAXON: Folks, at 320. The word undue bothers
3 me a little. I know what you mean. You want
4 to protect vulnerable citizens from
5 solicitation, unwanted solicitation,
6 particularly, but undue --

7 CHAIRMAN GOSNELL: Would that be like even if you
8 have a sales rep in your office and someone
9 comes in and they put a lot of pressure on
10 this particular person to buy a particular,
11 their product, is that --

12 MR. SAXON: Yes, I think so.

13 CHAIRMAN GOSNELL: Yeah.

14 MR. SAXON: And I think a very young person,
15 unsophisticated person, uneducated person,
16 older person, I mean there are all kinds of
17 people who may be vulnerable including the
18 most well-educated person may not know
19 anything about that practice. But the word
20 undue, I think we can do better than that.
21 Jennifer, help me think of a word that would
22 mean high-pressured. Could we just put a
23 period after vulnerable?

24 MS. COOPER: That might be better. I mean, when I
25 think of high pressure, I don't know why, I

1 just think of time share.

2 MR. SAXON: Yeah. Well, you know, what about if we
3 just put a period after vulnerable?

4 CHAIRMAN GOSNELL: Uh-huh.

5 MR. SAXON: Would that be okay with everybody?

6 MR. WHITLOCK: It's good for me.

7 MR. SAXON: I think the idea is to protect
8 vulnerable people, so I don't know that we
9 need that other part.

10 MR. RHODES: So mark out due. You've got to undue
11 --

12 MR. SAXON: To undue influences. Just put the
13 period after vulnerable. Anything y'all want
14 to change in 330? All right.

15 MS. COOPER: This may be a silly question, but it
16 mentions advertising in 330 and other sections
17 mention advertising. That's not a conflict,
18 is it?

19 CHAIRMAN GOSNELL: Well, they've got a corporate
20 name --

21 MR. SAXON: Where did you see it earlier, Jennifer?

22 MS. COOPER: You know because I think --

23 MR. SAXON: Unlawful advertising --

24 MS. COOPER: Yeah, yeah.

25 MR. SAXON: Yes, in 310. Ray, I'm going to ask you

1 since you're the eminence grise here, without
2 much grise, I have to say. Does this mean --
3 really you can't keep somebody from
4 advertising, but 310 does let you prevent
5 unlawful advertising?

6 MR. SANSBURY: In fact, I was sitting here right
7 after the one we just worked on, 320. We went
8 through that re-write. One of the advices we
9 were given from the attorney at the time was
10 don't just go changing for the sake of
11 changing. Like, we never -- I have never
12 understood what 320 really was trying to do
13 when they originally wrote it. So we just
14 left it in there rather than just change it.
15 But the 330, I think that was to allow
16 advertising, but not unlawful advertising.
17 You can't tell them you can't advertise, but
18 we're over here, we were telling them
19 specifically what would be unlawful and no,
20 you can't do that. I think that was
21 inconsistent --

22 MR. SAXON: How about if we put it this way then.
23 I mean the Board has no authority to
24 promulgate regulations governing the
25 employment of opticians, the location of

1 optical stores, the number of optical stores
2 operated, the prohibition of advertising, of
3 lawful advertising, how about that?

4 CHAIRMAN GOSNELL: Uh-huh.

5 MR. RHODES: It sounds fine to me.

6 MR. SAXON: Because the previous 320 talks about
7 unlawful, so we'll just say prohibition of
8 lawful advertising of optical products or
9 services or the manner in which these products
10 can be displayed. I think that would clear it
11 up. Is that okay with y'all?

12 MR. CORLEY: Yeah, at one point in time we weren't
13 allowed to advertise.

14 MR. SAXON: Lawyers weren't either. And this -- all
15 professions, I think, it resulted from a 1976
16 Supreme Court case that said that was a
17 restraint on trade basically.

18 CHAIRMAN GOSNELL: You could not open up an
19 opticianry shop unless it was in the person's
20 name. You couldn't open it under a corporate
21 name at one time.

22 MR. SANSBURY: WIS TV is responsible for us
23 spending all this money over the years with
24 advertising. They came into my office when I
25 was with Jack and those and they wanted to

1 sell me advertising. This was back in '70. I
2 said we're not allowed to advertise. And they
3 said what? I was happy we couldn't advertise,
4 and I just said, well, that's my way of
5 getting them out of the door.

6 CHAIRMAN GOSNELL: Yeah.

7 MR. SANBURY: I mean less than a year later, they
8 went to the Legislature and struck it all out.
9 That's how this came about.

10 MR. SAXON: Imagine how embarrassing it is to us
11 lawyers some of the stuff you see on
12 television. I don't really have a problem
13 with 340. It's similar to a law firm where a
14 partner may be dead, but the name is so much a
15 part of the firm that the firm is allowed to
16 keep it, and I think that is roughly the same
17 idea.

18 MR. CORLEY: Anything wrong with 350?

19 MR. SAXON: I think 350 is pretty much is standard,
20 isn't that right, Angie?

21 CHAIRMAN GOSNELL: Uh-huh.

22 MR. CORLEY: Yeah.

23 MS. COMBS: Right.

24 MR. CORLEY: I think most of these, the rest of
25 these were just pretty basic.

1 MS. COMBS: Now, on the -- the one thing on the
2 display, the certificate, is there any
3 movement or thought on every place an optician
4 -- see, more and more people work at more than
5 one location now. Should they have a --
6 because this says --

7 CHAIRMAN GOSNELL: Uh-huh.

8 MR. SAXON: There is a movement that Boards require
9 to be displayed at each location.

10 MS. COMBS: That's right. That's not saying -- So
11 is that something you would want to do, or
12 not?

13 MR. SANSBURY: Well, optometry does that.

14 MS. COMBS: Optometry does that, right.

15 MR. SANSBURY: I would think that --

16 MR. CORLEY: I say it would have been easier having
17 it at each location.

18 MS. COMBS: It just says persons --

19 MR. SAXON: I would want to say in each office
20 and/or --

21 MS. COOPER: The person's principal --

22 MR. SAXON: -- place of business and/or employment.

23 MS. COOPER: In each office, right?

24 MR. SAXON: Yes. Take out the person's principal
25 and replace that with each.

1 MR. SANBURY: Okay, Angie, this says in their
2 principal place --

3 MS. COMBS: Uh-huh.

4 MR. SANBURY: It doesn't say their secondary
5 office like our office, we've got like two
6 offices --

7 MS. COMBS: Uh-huh.

8 MR. SANBURY: So they've got them in both.

9 MS. COMBS: Right. They'll have to --

10 MR. SANBURY: Is that what we're saying?

11 MR. SAXON: The trend seems to be to --

12 MR. SANBURY: To change that principal, you're
13 saying each office is what we're talking
14 about?

15 MR. SAXON: Right. Because that seems to be the
16 trend. The law is requiring it to be
17 displayed everywhere.

18 MR. SAXON: What would it cost me to get a
19 secondary license?

20 MS. COMBS: Well, that would be -- normally a wall
21 certificate is \$25.00. So I mean, I guess
22 that is something you --

23 MR. SAXON: I think some boards charge a lesser fee
24 for a copy of it.

25 MS. COMBS: And that could be -- that would be up

1 to you all.

2 MR. SAXON: And we could discuss that when we
3 discuss regulations and fees.

4 MS. COMBS: Right, okay.

5 MR. HARBERT: Can I -- I need to ask, and I hate to
6 interrupt again --

7 MR. SAXON: You're entitled to, don't worry.

8 MR. HARBERT: Quick question. Does that mean you
9 can cover two locations at the same time if
10 your license is in both locations?

11 MR. SAXON: What do you mean by cover?

12 MR. HARBERT: Well, I mean you've now given
13 supervision to this person doing a good job
14 over here and supervision to this good person
15 over here. So now, you've got an office on
16 each side of town and you've got two different
17 people who are competent working at both
18 offices, so one license now is covering two
19 offices. I mean, that's --

20 MR. SANSBURY: Angie, what is the, what's the thing
21 that we did that has to do with registering
22 each location?

23 MS. COMBS: Okay, what happened and you may not be
24 aware of this, Ray, this just happened.

25 Because it's in regs and not in law, we had to

1 take it out. We have taken it out of our
2 regs, so that does not exist at this time, so
3 if you want that, you need to put it in your
4 laws.

5 MR. SAXON: I don't understand what y'all are --

6 MR. COMBS: Oh, you weren't involved in that, it's
7 that part of the regulation. It said you fill
8 out an optical form, business registration
9 form. It's in regs. And when the clean-up,
10 when Holly went through and looked at the
11 clean-up --

12 MR. SAXON: See, I was not involved. Only Holly
13 was involved with that.

14 MS. COMBS: Well, I'm sorry, I didn't mean you were
15 involved with that part of it. It was
16 suggested, not suggested, we were told that
17 you would need to take this -- you can't have
18 that because there's no reference to a
19 registration of optical business in the law.

20 MR. SAXON: Okay.

21 MS. COMBS: So at this point, now this is very new,
22 basically, probably only a few days or a month
23 or whatever, that has been taken out. Now, if
24 you wanted, if you want it, you need to put it
25 in your law.

1 MR. CORLEY: Could we put it in, say make a section
2 C in section 350 there, to require that they
3 register their place of employment?

4 MR. SAXON: I mean you can, yes. The short answer,
5 yes.

6 MR. SANBURY: This is where it gets real tricky
7 because we're talking about two different
8 things.

9 MR. HARBERT: Yeah, that's what I was just saying.

10 MS. COMBS: Well, that's true.

11 MR. SANBURY: Yes, I'm just working in two places.
12 The other is who is the supervision in that
13 place, if we've got that in our statutes, you
14 know, in the regs about --

15 MR. SAXON: I don't think this lessens those
16 requirements. The supervisory requirements
17 are going to remain the same. You may have to
18 have a licensed person in that location.
19 Jennifer, how have we done this with the other
20 boards?

21 MS. COOPER: I was thinking with funeral, they have
22 to have it the branch, but I don't know if
23 y'all want to do it like that.

24 MR. SAXON: Right. And cosmetologists have to do
25 that as well. They have to have it displayed

1 in each location. If you have 10 shops, it
2 has to be displayed in all 10 shops, or
3 barber, whomever.

4 MR. WHITLOCK: Well, isn't that being absent
5 though?

6 MR. HARBERT: Well, yeah, but y'all opened that up
7 earlier whenever you said determining --

8 MR. WHITLOCK: No, you can't have one license cover
9 four stores.

10 MR. SAXON: See, there's nothing that says that.

11 MR. HARBERT: Yeah, that was my argument --

12 MR. CORLEY: You've got supervision still in the
13 statute. Somebody has to be the supervision
14 at the location right now.

15 MR. HARBERT: I understand.

16 MR. SANSBURY: You as an optician, Milton, I didn't
17 mean to -- That's why we are crossing over
18 between commercial and private practice,
19 opticianry and optometry. What our statutes
20 are saying is I'm an optician and I've got a
21 place of business. The statutes are now
22 saying I've got to directly supervise anybody
23 that works in my office.

24 MR. CORLEY: Right.

25 MR. SANSBURY: Okay, now technically WalMart, okay,

1 they're not an optician. What are the rules?
2 What rules are you going to apply to them?
3 Because we would go with the standard of okay,
4 well, you are dispensing glasses so you are an
5 optician. So we kind of massaged this along
6 the way and say we must have -- and they have
7 complied with putting opticians to some
8 degree, but that's why Jamie bothered me to do
9 some research, because this whole issue of
10 commercial side really changes the whole
11 dynamics and makes it more difficult and
12 that's why we added the thing that said okay,
13 we've got opticians where you're over here in
14 your office right, so you are the supervisor,
15 you are overseeing your people. WalMart's got
16 a place down the street from you. They're not
17 opticians, so who is the optician? And we're
18 saying as a Board that we need to protect
19 consumers. If the intent was you need to make
20 sure there was supervision, how do we do that?
21 And we came up with that thing that said okay,
22 everybody who owns an optical establishment
23 has to register it with the Board and say who
24 is your license coverage, and so we were doing
25 that. And that's -- Now you said, it's got

1 thrown out.

2 MS. COMBS: Yes. That is --

3 MR. SANBURY: If it was in a reg, can you change a
4 reg without it going forward to the
5 Legislature, I don't understand that.

6 MS. COMBS: No, you would have to go --

7 MR. SANBURY: Well, how did it get taken out,
8 then? Did it go before the Legislature?

9 MS. COMBS: Yes, in a clean up if you want to call
10 it that.

11 MR. SANBURY: Huh?

12 MS. COMBS: Because it wasn't legal, for lack of a
13 better word.

14 MR. SANBURY: I guess the whole thing there Jamie
15 is it would help us with the challenge and the
16 challenge is the issuance of displaying your
17 certificate if you are working there is one
18 thing. The other is what can we do to protect
19 the consumers by saying we just need to have
20 any optical establishment in South Carolina
21 has somebody overseeing it.

22 MR. SAXON: Angie, what was the reasoning for
23 removing it from the regs?

24 MS. COMBS: Because there is nothing in the law --

25 MR. SAXON: Because there was nothing in the

1 statute to cover it, right?

2 MS. COMBS: To cover it, that's right.

3 MR. SAXON: Then, if you want it, put it in the
4 statues and it does seem as if C would be a
5 logical place to put that.

6 MS. COMBS: Uh-huh, I mean if it's something you
7 want, you all need to put it in someplace,
8 wherever.

9 MR. SANBURY: Well, So does that mean that
10 technically now, WalMart is not in violation,
11 I mean they don't have to register their
12 office.

13 MS. COMBS: Well, I mean that would be everyone,
14 you know. I mean, no one has to fill that
15 form out, as of right now no one has -- I
16 can't tell someone they would have to fill it
17 out or -- but that is now out, but is -- do
18 you all want that? I mean, do you want some
19 type of --

20 MR. SAXON: I don't know the original language.
21 Could you read that out loud?

22 MS. COMBS: Sure. That's every location of each
23 optical business must be registered with the
24 Board within ten days of the opening date by
25 the licensed optician and the business owner

1 and the registration must be kept current, so
2 the opticians are actually supposed to
3 register and the business owner.

4 MR. SAXON: And where it says must be kept current,
5 what does that mean?

6 MS. COMBS: If they have any change of people who
7 are licensed, who is the licensed optician,
8 because that was the big thing mostly, or if
9 they do --

10 MR. SAXON: We might could fix that to be a little
11 more specific in defining what is mean by kept
12 current

13 MS. COMBS: Uh-huh.

14 MR. SAXON: But, is that something y'all would like
15 to have in the statute?

16 MR. WHITLOCK: I would.

17 MS. STUTSMAN: Yeah.

18 MR. SANSBURY: Okay. Jamie, I just go back to what
19 we always said, do we think it's in the best
20 interest for the consumer of South Carolina to
21 know that a licensed was based on some kind
22 overseeing at each location?

23 MR. WHITLOCK: Yes.

24 MR. SANSBURY: Optometry, opticianry -- even though
25 opticianry from the glasses side is probably a

1 little bit more qualified, at least somebody
2 is. Now, can we do that, I don't know? If we
3 can do that, yes.

4 MR. SAXON: Yes. I think the reason -- Angie is
5 right, I think the reason it was removed is
6 because it was in regs but not the statutes,
7 and statute controls. So if you want it, I
8 think the only way we can have it is to try to
9 have put in statute. And if they want to
10 strike it, then they will strike it.

11 MR. SANBURY: So how would you verbiage that, just
12 simply --

13 MR. SAXON: I'd use roughly the same language there
14 except I might would change a little bit what
15 is meant by kept current, to specify exactly
16 what information --

17 MS. COMBS: Exactly what -- right, uh-huh.

18 CHAIRMAN GOSNELL: Some of them were changing to
19 another location then they would have to let
20 the State Board know.

21 MR. SAXON: Right, you know. You know, if there is
22 a different optician in charge, if you've
23 changed addresses, if your phone number has
24 changed --

25 MS. COMBS: Right.

1 MR. SAXON: Any contact information if you've got
2 an email, you know, things like that.

3 MR. COMBS: Now, can we actually, do you think it
4 will go over because this said, well by the
5 licensed optician and the business owner, I
6 mean can --

7 MR. SAXON: We can't require a business owner to do
8 anything.

9 MS. COMBS: That's what I was thinking. That
10 probably has to -- but the licensed optician
11 should be letting us know.

12 MR. SAXON: But, we can require the licensee. We
13 can only govern the licensee.

14 MS. COMBS: That's what I was thinking, yeah.

15 CHAIRMAN GOSNELL: So this is just going to go to
16 opticians that are not business owners at all,
17 whereas --

18 MR. SAXON: Unless it's one and the same --

19 CHAIRMAN GOSNELL: Yeah, right.

20 MR. SAXON: -- a business owner is one and the
21 same.

22 CHAIRMAN GOSNELL: Yeah.

23 MR. SAXON: Angie, would you mind giving that to --

24 MS. COMBS: Sure. I thought --

25 MR. SAXON: You've got it --

1 (Multiple speakers)

2 MR. SANBURY: Well, Jamie, going in that direction
3 then, so let's suppose you are in WalMart and
4 I'm trying to understand how it would even
5 work. Just say I'm in WalMart and I'm not an
6 optician. I'm just a big dumb business guy
7 and I want to open my office.

8 MR. SAXON: States are different.

9 MR. SANBURY: In Columbia, South Carolina, what's
10 the rules in South Carolina? I don't have to
11 register, what do I have to have? What do I
12 have to have? I mean that's my question
13 because what's to make them have to have an
14 optician. They could say okay, you've got
15 people working there and they are doing the
16 work of an optician and they are not an
17 optician, they've been practicing without a
18 license. Would that be --

19 MR. SAXON: Yes.

20 MR. SANBURY: Okay, so that's how you enforce it,
21 the practicing without a license. Which they
22 would love to do because they would save
23 money.

24 MR. SAXON: Or aiding and abetting someone else to
25 practice without a license.

1 MR. SANBURY: Right. And so that's the hook you
2 have. But how do you from the opticians
3 themselves they are now working and then you
4 are licensed? And that's where the problem is
5 coming here is telling that optician -- our
6 statutes are telling him or her if you can't
7 leave them. You've got to direct supervise
8 people, but then they don't own the practice
9 and now you are telling the other out there
10 you can't practice. And I tell you, that's
11 the thing that we need legal help on because -
12 - I do believe that if we make it difficult
13 enough for people at WalMart, they are going
14 to fight it. Because it's restriction in
15 trade and I don't know that the consumer's
16 being, you know, is there only a certain level
17 which you would want to try to --

18 MR. SAXON: I think the best we can hope for is
19 that they have got to continue to have
20 licensed people on premises. And I think
21 that's covered.

22 MR. CORLEY: You can get an optician to tell you
23 where they are employed at. And if they move
24 from that job they must tell us where they're
25 employed at.

1 MR. SANBURY: See right here, that's my whole
2 point --

3 MR. SAXON: Right, we can't, we can't make WalMart
4 tell us.

5 MR. SANBURY: I think of all the complaints we
6 have had over the years, you know, we've been
7 trying to get rid of those so Angie and you
8 guys don't have to deal with it. Because
9 you're right. We can require the opticians to
10 say, you know, this is the office that I'm
11 overseeing and I'm providing supervision. And
12 then be done with that. And then you don't
13 want, like you say, you are not worried about
14 anything else. Now, if a WalMart is out there
15 doing dispensing and there is no licensed
16 optician that is working full-time at that
17 location, then they are practicing without a
18 license, and then you take your --

19 MR. SAXON: And when somebody moves -- Say
20 somebody, the licensee moves from a WalMart or
21 whatever, that would throw up a red flag or
22 whatever, okay, is somebody replacing this
23 person, and it might be a situation where we
24 would want to find that out.

25 MS. COMBS: Well, you know, we probably can't

1 really call it registration of optical
2 business --

3 MR. SAXON: No.

4 MS. COMBS: I mean because you figure you've got
5 your optician, your single optician --

6 MR. SAXON: How about optical location?

7 MS. COMBS: Or something like maybe where they are
8 practicing -- it's more like having the
9 optician, the licensee to let us know where
10 they're at, when they move, can they even say
11 who the supervisor is? They may not be the
12 supervisor.

13 MR. SAXON: If that's the purpose of that section -
14 -

15 MS. COMBS: Uh-huh.

16 MR. SAXON: We, I mean, there are lots of ways we
17 can require someone to make sure the Board has
18 all of its current relevant information as to
19 location, address, telephone number, email
20 address.

21 MS. COMBS: Uh-huh.

22 MR. SAXON: Number of licensees, their names and
23 all that sort of thing. We can require them
24 to -- and that's easy to do. And if there's
25 not another way, if that's not dealt with

1 otherwise in here, we can certainly add that.
2 I know it's just a regular part of our orders
3 for disciplinary cases that in addition, when
4 we go down those sanctions that we require
5 them also, if there's any change in anything,
6 that you have to let the Board know and we
7 give the Board's address and all that. So we
8 can include something like that in here. If
9 that's the purpose of that section is to make
10 sure we have good information, contact and
11 otherwise, on this licensee, we can certainly
12 include that. Do you think that was the
13 purpose of that?

14 MS. COMBS: Well, I was thinking it was to make
15 sure there's, to have down in writing who the
16 coverage, who's the coverage --

17 MR. SAXON: Who's to be held responsible?

18 MR. SANSBURY: Yeah, and if you think about on a
19 daily basis, Dr. O.D. Jones sets up practice
20 next month. He opened the office, nobody pays
21 any attention. I mean ones not even part of
22 our reg anyway, not under our jurisdiction
23 anyway, but nobody pays any attention. But
24 yet those same people will do the same thing,
25 a lot of the same stuff. But normally, that's

1 what we do.

2 MR. SAXON: Right.

3 MR. SANBURY: So the problem is they go out and
4 they open up. The issue is you don't have
5 WalMart open up and do eye exams. You have
6 WalMart open up and do the work of opticians.
7 And that's where the challenge is coming in,
8 figuring out how in the world, what oversight
9 do we, should we even have because I mean we
10 should have some because they are doing the
11 work of opticians. And so that's the only
12 reason we get involved in the first place is,
13 okay is it owned by an optometrist or
14 ophthalmologist? No, it's not, who owns it?
15 Okay, it could be an optician or it can be a
16 commercial entity. And that's only come about
17 since these guys got involved in our
18 profession in the last 20 years or so. So the
19 issue is, is that we've molded a new -- and
20 that's where an optical establishment opens up
21 --

22 MR. SAXON: Well, it's not just the licensed
23 profession that's having to deal with this,
24 it's the medical profession with these minute
25 clinics that are opening in places. It's

1 happening all over and I hate saying something
2 like this, but I think it's not right for
3 opening right now. I mean I can do some
4 thinking about this and looking at what other,
5 how other folks deal with this. This may be
6 something where the Association can be helpful
7 in seeing how other states deal with this.
8 Would y'all be willing to do that?

9 MR. HARBERT: Yeah.

10 MR. SAXON: And let us know? Because I think it's
11 so fluent right now.

12 MR. CORLEY: Well, what about the pharmacy
13 department in WalMart? Who owns that?

14 MR. SAXON: Say that again?

15 MR. CORLEY: Who owns the pharmacy department in
16 WalMart?

17 MR. SANSBURY: I believe it's part of the pharmacy.

18 MR. CORLEY: Huh?

19 MR. SANSBURY: It's part of the pharmacy.

20 MR. CORLEY: Then like optical, they employ
21 opticians and optometrists.

22 MR. WHITLOCK: So independent doctors of optometry
23 lease spots from WalMart.

24 MR. SAXON: Is that how that works?

25 MR. WHITLOCK: Just like Cosco. They have a lease,

1 a three or four year lease and they
2 renegotiate those leases.

3 MR. SAXON: Like a cosmetologist leases a booth
4 somewhere.

5 MR. WHITLOCK: Exactly.

6 MR. SAXON: Okay. And I'm not --

7 MR. WHITLOCK: But WalMart owns the optical end of
8 it where they have the glasses. The doctor is
9 separate.

10 MR. CORLEY: But they have to employ an optician.

11 MR. WHITLOCK: But they still have to employ an
12 optician, right.

13 MR. SAXON: But where they would be in trouble is
14 if they don't employ an optician?

15 MR. WHITLOCK: Right, correct.

16 MR. SANSBURY: When you say not open up, what did
17 you mean by not open up -- a reg, I mean the
18 statutes? Why did you say maybe we don't open
19 up, what did you mean by it?

20 MR. SAXON: No, we would put this in the statute.
21 I just -- we'll work up something. And we
22 might need your help in that if you wouldn't
23 mind seeing what other states do and let us
24 include that in our thought process and what
25 we might come up with.

1 MR. HARBERT: It's still -- I still think we
2 overlooked in one question I was throwing in
3 there about if you had two shops, an optician
4 -- say I opened up a shop across town. Now,
5 we laxed on direct supervision or how we
6 supervise a place. Can my one license cover
7 both places if I deem both people at those two
8 locations and I'm working half a day at each.
9 And I feel like those two people are good, can
10 I cover both places with that one, you know --

11 MR. SAXON: I think we will --

12 MR. HARBERT: And that license would be in another
13 location.

14 MR. SANBURY: What we came up with and that's
15 those same kind of questions that are asked
16 over and over and we said no because that
17 leads to abuse because you could have just one
18 license doing two, three, four offices and
19 being in there an hour a day.

20 MR. HARBERT: Right.

21 MR. SANBURY: And so that's where we came up and
22 said this was an attempt, Jamie, to adjust on
23 the fly with this new way, with this new
24 interference in our, or involvement in our
25 business.

1 MR. SAXON: Right.

2 MR. SANBURY: We came up with the -- we've got to
3 have every office registered by an individual
4 optometrist or optician, okay? So that you
5 know every single location had a single person
6 that would technically do the supervision.
7 And that worked fine. Okay, there were
8 reports that sometimes the WalMart didn't have
9 the coverage and then they go and the next
10 thing, you know, they had coverage. And I am
11 sure at times they try to bend the rules. But
12 when they got reported, that was easy to do.
13 Then it gets into this thing about well,
14 they're not here but a half a day and then
15 you've got well, they were then going to get
16 in until nine. And then you got into this
17 verbiage that said direct supervision. And
18 that was a bear because technically none of
19 you could practice tomorrow if you followed
20 that because you couldn't walk out of your
21 office without locking the door, because you
22 are not directly supervising your people. So
23 that's why we got into we needed to update the
24 old verbiage to allow for reasonable absences.
25 But we've even got into and had this

1 discussion where we can't police it 100%. If
2 we got every location in this state and said
3 this is the license code, individual person --
4 we don't care. I mean because what's the
5 chances of him not being there, or her not
6 being there if they're working, okay? So and
7 as long as the commercial people had to say
8 we've got licenses and everyone has got these
9 licenses and they're not duplications. Then
10 we feel like we we've done the best we can do.
11 And I still feel that way.

12 MR. SAXON: Well, I tell you what. If y'all will
13 look at how other states do it, we'll look at
14 how other boards do it, particularly the
15 medical board and other nursing, whomever,
16 nurses aren't going to have separate offices,
17 but -- we'll look at how the other boards deal
18 with this and y'all maybe can find out how
19 North Carolina, Georgia do this and we will
20 just revisit this because it's really not
21 something that I can just answer for you in 30
22 seconds. I want it to be right and
23 thoughtful, so we'll need a little time on
24 that.

25 MR. SANBURY: Jamie, I've got to run, I've got

1 another meeting I've got to go to, but I think
2 I'm still going to send you that verbiage.

3 MR. SAXON: Oh, do.

4 MR. SANBURY: And I think if you took that and you
5 took the issue of the registering of the
6 businesses, somehow could we put that into our
7 statutes, I think that would probably be come
8 closest to --

9 MR. SAXON: Before somebody else has to leave,
10 y'all are going to think of all kinds of
11 things when you leave here that you wished we
12 talked about, so please email Jennifer and
13 copy me on that with ideas, thoughts,
14 whatever. Let's make this a collaborative
15 team effort. That's the best way to make it
16 to reach a high level of excellence which is
17 what we are aiming for. So don't hesitate to
18 contact us. If we can't -- if we don't reply
19 immediately, please forgive us and realize
20 that we are doing the best we can with what
21 we've got, but it's not that we are ignoring
22 you. It might be even that we are trying to
23 figure out some way to do what you are asking
24 us to do. Don't hesitate to email us or call
25 us and you will find -- well, you won't find

1 Jennifer's phone number. My phone number,
2 direct line is (REDACTED). And Madam Court
3 Reporter if you would leave that out of the --
4 Jennifer, do you mind if they have yours?

5 MS. COOPER: That's fine.

6 MR. SAXON: Jennifer's is (REDACTED).

7 (Off the record briefly).

8 MR. SAXON: All right, I think quickly we only have
9 one, two, three, four sections so I think
10 there is pretty much pro forma unless y'all
11 know something that I don't. Angie, was there
12 something --

13 MS. COMBS: I don't see anything yet.

14 MS. COOPER: I struck out spectacles in 370.

15 MR. SAXON: Yeah. And put eyeglasses together
16 instead of two separate words.

17 MS. COOPER : Yeah, I noticed that.

18 MR. SAXON: May I mark 360 as okay?

19 MR. CORLEY: Yeah.

20 MR. SAXON: And with the exception of removing
21 spectacles is 370 okay?

22 MR. CORLEY: That's fine. And we're not liable.

23 MR. SAXON: I don't think you want to change that,
24 do you?

25 MS. COMBS: No.

1 MR. SAXON: Nor do I think we want to change 390.

2 Okay.

3 CHAIRMAN GOSNELL: One of the really gray areas is
4 these chains being allowed to have an
5 optometrist do the coverage while the optician
6 dispenses the glasses.

7 MR. SAXON: And I think it's only -- it's going to
8 become a growing problem.

9 CHAIRMAN GOSNELL: Yeah.

10 MS. COMBS: Because that's not really stated in the
11 law.

12 CHAIRMAN GOSNELL: Yeah, I know.

13 MS. COMBS: But it's done. I guess what happens, I
14 think when it's just the optometrist, it's
15 really been what the optometrist can allow
16 that person to do under their law and having
17 to address that.

18 MR. CORLEY: And we've even talked about since
19 optometrists work with themselves and just
20 lease the space out, they're not involved in
21 the parent corporation that employees
22 opticians. How they can supervise them, but
23 they can.

24 MR. WHITLOCK: Yeah, we've gone down that road
25 already once --

1 MR. CORLEY: Yeah, beat that to death.

2 MS. COOPER: And I've gone ahead and checked the
3 fees and the website's good with them. The
4 only concern I had was this application fee in
5 96-109 is \$100 here and on the website it
6 looks like it's only \$25.

7 MS. COMBS: Right, because they -- I was told that
8 if we went lower we could go lower because now
9 it's \$295 to test. We didn't want that \$100
10 or whatever it was. That's too much for -- I
11 was asked for \$100 and then the applicant had
12 to pay another like \$300, that's a lot of
13 money. So that's where there would be a
14 difference.

15 MS. COOPER: So that's all right right now?

16 MS. COMBS: Uh-huh.

17 MS. COOPER: I just wanted to check.

18 MS. COMBS: Because the State, they will ask about
19 that --

20 CHAIRMAN GOSNELL: Well, Ronnie and Amy, we
21 appreciate y'all --

22 MR. HARBERT: Thank you so much.

23 CHAIRMAN GOSNELL: -- for coming and meeting today.

24 MS. STUTSMAN: I'm glad we came.

25 MR. SAXON: And of course, you will be informed of

1 when the next one is. Mr. Chairman, I know
2 that the next thing is to announce the next
3 Board meeting. If the Board wants, and it
4 would be my suggestion, that we meet, I'm not
5 saying it's that May 24th, but at some point
6 when we do nothing, but we've discussed today,
7 show it to you and talk about regs. Without
8 anything else on the agenda such as
9 applications or disciplinary matters. I would
10 highly recommend that because you've seen how
11 long it's taken today.

12 CHAIRMAN GOSNELL: Yeah, right.

13 MR. SAXON: And we don't want to rush this. I
14 mean, I know we all get tired and all, but if
15 we want it to be done right, so I would
16 suggest that we have another meeting at some
17 point. We've got plenty of time. Jennifer,
18 what's the deadline for turning in something?

19 MS. COOPER: Since it's for next year, I think
20 having it ready to go by November would be
21 great because then we could pre-file it and,
22 you know, have that month to play around with.

23 MR. SAXON: But, we want to have it done before
24 November.

25 MS. COOPER: But, I mean if there are any last

1 minute changes in November, you still have
2 some time.

3 MR. SAXON: Yeah.

4 MS. COOPER: But I've got ask Grant about the pre-
5 filing process. I'm not sure I've ever pre-
6 filed anything before.

7 CHAIRMAN GOSNELL: Is the 24th, will you be
8 available that day?

9 MR. SAXON: I think not. Nope, that's my
10 daughter's graduation. Why they graduate on a
11 Thursday I don't know, but they do. And I
12 love y'all very much, but I love her more.

13 CHAIRMAN GOSNELL: What about the 17th, May 17?

14 MR. SAXON: I'm free the 17th.

15 MR. WHITLOCK: That's my anniversary.

16 MR. RHODES: We're not going to meet all night.

17 CHAIRMAN GOSNELL: What month are we talking about?

18 MR. SAXON: May.

19 MS. COMBS: So right now we are scheduled for May
20 24th a regular Board meeting. Of course, you
21 know --

22 MR. SAXON: Somebody will be there in my place for
23 the regular Board meeting. June 4th is open.

24 MR. WHITLOCK: I can't -- give me some dates and I
25 will call you.

1 MR. COMBS: Okay. Or do you want, now the May
2 24th, do you want to have -- keep that as our
3 regular Board meeting day and then --

4 CHAIRMAN GOSNELL: No, not really.

5 MR. SAXON: Okay, well, let's cancel that, mark
6 that cancelled.

7 MS. COMBS: Then, we need to just come up with a
8 date everybody --

9 MR. WHITLOCK: Do a Board meeting then?

10 MR. RHODES: To discuss --

11 MS. COMBS: For a discussion the law and regs.

12 MR. SAXON: Angie, would you like me to give you
13 some times when I -- sounds like they would
14 like for me to be there. I can give you some
15 dates if that would help.

16 MS. COMBS: Sure, that would be great.

17 MR. SAXON: Okay, the 28th of May is a holiday. I
18 have nothing yet on the 29th, or 31st --

19 CHAIRMAN GOSNELL: Of what month?

20 MR. SAXON: Those were May. I'm available the 29th
21 and 31st.

22 MR. CORLEY: 29th is on what, Tuesday?

23 MR. SAXON: Yes, sir. And the 31st is on Thursday.
24 I have another Board on the 30th.

25 CHAIRMAN GOSNELL: Why don't we shoot for the 31st

1 and then if the rest of the group can --

2 MS. COMBS: Yeah.

3 CHAIRMAN GOSNELL: If that doesn't suit, you know -

4 - I'm sure we will call you.

5 MR. SAXON: Want to try for May 31st?

6 CHAIRMAN GOSNELL: Yeah.

7 MR. SAXON: And if y'all will let Angie know as

8 quickly as possible because we need to get

9 this on the docket before some other board

10 gets on here that's one of mine. Because if

11 they get on here before you do, I'll have to

12 go to them.

13 MR. RHODES: This far ahead, I can make

14 arrangements for the 31st of May.

15 MS. COMBS: Okay, so you're okay.

16 MR. RHODES: I'm okay on the 31st, on Thursday.

17 MR. WHITLOCK: The 31st of May?

18 MS. COMBS: Yes, on a Thursday.

19 MR. WHITLOCK: I have to go back to check

20 something.

21 MR. SAXON: That's what I'm saying, if y'all will

22 just let her know because she will call Sonya

23 and we'll get it on the docket. Jennifer are

24 you available on the 31st?

25 MS. COOPER: Yes.

1 MR. SAXON: We can't do this without Jennifer. I'm
2 not coming without Jennifer.

3 (Multiple speakers)

4 MS. COMBS: Are we adjourned yet or not?

5 MR. SAXON: No, there's no motion yet.

6 MR. WHITLOCK: I'd like to make a motion for
7 adjournment.

8 CHAIRMAN GOSNELL: Is there a second?

9 MR. CORLEY: Second.

10 CHAIRMAN GOSNELL: All in favor?

11 ALL MEMBERS: Aye.

12 (Whereupon, at 3:48 p.m., the
13 proceeding in the above-entitled
14 matter was concluded.)
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF LEXINGTON)

Be it known that I, Kathryn B Bostrom, Nationally Certified Court Reporter and Notary Public in and for the State of South Carolina, took the foregoing meeting at 9:00 a.m. on Thursday, March 22nd, 2012;

That the witness was duly sworn under penalties of perjury to testify the truth, the whole truth, and nothing but the truth;

That the foregoing 242 pages constitute a true and accurate transcription of the proceedings and all testimony given at that time to the best of my skill and ability;

I further certify that I am not counsel or kin to any of the parties to this cause of action, nor am I interested in any manner of its outcome.

In witness whereof, I have hereunto set my hand and seal this 25th day of April 2012.

Kathryn B. Bostrom
Notary Public for South Carolina
My commission expires August 5, 2012.

This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.

STATE OF SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE BOARD OF OPTICIANRY

IN THE MATTER OF:)	
)	
)	
)	
JON C. MCAVOY)	REINSTATEMENT OF
)	APPRENTICESHIP HEARING
)	
)	
Petitioner.)	

Given before Kathryn B. Bostrom, Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 9:04 a.m., Thursday, March 22nd, 2012, at the offices of the South Carolina Department of Labor, Licensing and Regulation, 110 Centerview Drive, Columbia, South Carolina.

Reported by:
Kathryn B. Bostrom

CAPITAL CITY REPORTING, L.L.C.
Depositions - Hearings - Sworn Statements - Mediation
Nationally Certified Reporters Throughout S.C.

P.O. Box 2281 - Lexington, South Carolina 29071
803.413.2258 - 803.996.0364 fax
E-mail: depo@capitalcityreporting.com
Website: www.capitalcityreporting.com

A P P E A R A N C E S

Board Members: Daniel B. Gosnell (Chairman)
C. Milton Corley (Vice Chairman)
James L. Rhodes
William M. Whitlock

For the State: N/A

For the Petitioner: Pro se

Advising the Panel: James C. Saxon, Esquire

Also Present: Angela M. Combs
- Board Administrator

Reported by: Kathryn B. Bostrom

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO PROCEEDINGS

Discussions 4
Certificate 15

INDEX TO EXHIBITS

There were no exhibits marked during this hearing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

CHAIRMAN GOSNELL: This is a hearing to consider the applicant's motion for reinstatement of his lapsed apprenticeship being held in Columbia, South Carolina, March 22, 2012. My name is Daniel Gosnell and I am the Board's chairman. The attorney advising me is James Saxon. This meeting will be conducted as informally as compatible with the applicable presentation of both sides of the case and in compliance with the provisions of the Administrative Procedures Act, The Practice Act and the regulation of the Board. Ms. Combs, is the applicant's reinstatement application in our materials?

MS. COMBS: Yes. Yes, sir, they are.

CHAIRMAN GOSNELL: What questions were there for this reinstatement request?

MS. COMBS: Your Practice Act, Section 40-38-260(A), it states: If the license or registration has been lapsed for more than two years, the person shall appear before the Board which shall determine if the license or registration should be reinstated and the terms under which the reinstatement is to be

1 made.

2 MR. SAXON: That was 40-38-260(A) as in April?

3 MS. COMBS: A.

4 CHAIRMAN GOSNELL: Is the applicant present?

5 MR. MCAVOY: Yes.

6 CHAIRMAN GOSNELL: Mr. McAvoy, are you represented
7 by counsel?

8 MR. MCAVOY: No.

9 CHAIRMAN GOSNELL: It is correct, then, that you
10 are waiving the right and representing
11 yourself?

12 MR. MCAVOY: That is correct.

13 CHAIRMAN GOSNELL: Do you have witnesses you wish
14 to testify today?

15 MR. MCAVOY: No.

16 CHAIRMAN GOSNELL: Would you please stand and state
17 and spell your full name to the court
18 reporter, Ms. Bostrom.

19 MR. MCAVOY: J-O-N C-O-R-Y M-C-A-V-O-Y.

20 The Witness was sworn and cautioned to speak the truth.

21 CHAIRMAN GOSNELL: Mr. McAvoy, you may proceed with
22 your case.

23 MR. MCAVOY: I'm here today to ask the Board to
24 graciously reinstate my apprenticeship on the
25 grounds of being in the optical business for

1 11 years and having everything completed
2 except for the licensing state board. And I
3 would ask you guys to please allow me to be
4 back on the apprenticeship program.

5 MR. SAXON: May I ask a question Mr. McAvoy, when
6 were you first licensed as an apprentice? Do
7 you remember?

8 MR. MCAVOY: Where was I first?

9 MR. SAXON: When?

10 MR. MCAVOY: It was about six years ago, around six
11 years ago, I believe, from --

12 MR. SAXON: Ms. Combs, do you have --

13 MS. COMBS: Yes, it is September 22 of '06.

14 MR. SAXON: Thank you. You can ask questions if
15 they have them.

16 CHAIRMAN GOSNELL: Are there any questions that the
17 Board would like to ask?

18 MR. CORLEY: Have you maintained continuous
19 education hours during this six-year period?

20 MR. MCAVOY: I have not, but in the past year, I
21 have been able to accrue all of the hours. I
22 have four more that I need to get. I'm going
23 to get those at Litchfield. Actually, I'm a
24 part of the Association, so I will be getting
25 those hours and I've completed my career

1 progression and also my ABO, and I have been -
2 -

3 MR. SAXON: Mr. McAvoy, I'm sorry to interrupt.

4 The members of the Board know what you mean
5 when you use initials and acronyms, but for
6 someone reading the transcript, would you
7 describe it, please instead of --

8 MR. MCAVOY: Okay, all right. I have completed my
9 American Board of Opticianry and also the
10 National Academy of Opticianry which is the
11 Ophthalmic Career Progression Program.

12 MR. CORLEY: When did you complete that one, the
13 career progression?

14 MR. MCAVOY: Career progression was on November 23.

15 MR. CORLEY: 2011?

16 MR. MCAVOY: 2011.

17 CHAIRMAN GOSNELL: Now, are you wanting to be
18 reinstated and be eligible to take the exam
19 right away, is that what you want?

20 MR. MCAVOY: Yes, sir.

21 CHAIRMAN GOSNELL: Okay. I see. Any other
22 questions? Are you employed in the optical
23 business now?

24 MR. MCAVOY: Yes, sir, I am. I've been with
25 LensCrafters for 11 years. I'm a general

1 manager.

2 MR. SAXON: How long have you been general manager?

3 MR. MCAVOY: For a year and a half. I was a lab
4 manager for five years.

5 MR. SAXON: Did that immediately precede general
6 manager?

7 MR. MCAVOY: That's correct.

8 MR. SAXON: What was that title again?

9 MR. MCAVOY: Lab manager.

10 MR. SAXON: I'm sorry, I'm a little bit hard of
11 hearing.

12 MR. RHODES: You've been employed the past five or
13 six years, I mean the total time in optical?

14 MR. MCAVOY: Yes, for 11 years.

15 MR. RHODES: For 11 years, okay.

16 MR. MCAVOY: Total.

17 CHAIRMAN GOSNELL: Is there any other relevant
18 information that you wish to share with the
19 Board?

20 MR. MCAVOY: No.

21 CHAIRMAN GOSNELL: Anything else you want to add?

22 MS. COMBS: No, sir.

23 CHAIRMAN GOSNELL: Is there a motion that we go
24 into Executive Session?

25 MR. CORLEY: I make the motion that we go into

1 Executive Session.

2 MR. RHODES: I'll second it.

3 CHAIRMAN GOSNELL: All in favor?

4 ALL MEMBERS: Aye.

5 (Executive Session from 9:10 to 9:13 a.m.)

6 CHAIRMAN GOSNELL: Is there a motion that we come
7 out of Executive Session?

8 MR. CORLEY: I'll make the motion.

9 MR. RHODES: Second.

10 CHAIRMAN GOSNELL: All in favor?

11 ALL MEMBERS: Aye.

12 CHAIRMAN GOSNELL: One thing I failed to mention,
13 that during the Executive Session, no votes
14 may be taken. During the Executive Session,
15 we had a question as how long did your
16 apprenticeship last before it lapsed?

17 MR. MCAVOY: How long was I --

18 CHAIRMAN GOSNELL: How long were you under the
19 Apprenticeship Program?

20 MR. MCAVOY: For two years.

21 CHAIRMAN GOSNELL: For two years?

22 MR. MCAVOY: Under a doctor, yes.

23 MS. COMBS: He just didn't renew.

24 MR. MCAVOY: Just didn't renew.

25 MS. COMBS: Just didn't renew. And it officially

1 lapsed with us October 1 of '07.

2 MR. SAXON: Does that not then indicate one year?

3 MR. MCAVOY: That's one year.

4 MR. SAXON: Yes. That's one year.

5 MS. COMBS: I mean, you may have been doing that,
6 but I mean as far as the --

7 MR. MCAVOY: Yeah, but I didn't reinstate it after a
8 year. I apologize.

9 MR. SAXON: So officially, you were only in an
10 apprenticeship for one year.

11 MR. MCAVOY: For one year. That is correct.

12 MR. CORLEY: So, you would have to serve an
13 additional year apprenticeship before you
14 would be eligible to take the exam?

15 MR. MCAVOY: Well, I've actually already have been
16 under an optician.

17 MR. CORLEY: But you are not registered with the
18 Board on the Apprenticeship Program?

19 MR. SAXON: I think Ms. Combs can --

20 MS. COMBS: I can clear that up. The way it's been
21 done in the past that when a person
22 reinstates, it's as if they were never were
23 off the program. If they reinstate up to this
24 time -- now, he'll pay back dues for all those
25 years and back CE and we've always -- it's as

1 if today if you approve it, that means he's
2 actually been on the program for however many
3 years that would be, whatever would be --

4 MR. SAXON: Since 2007?

5 MS. COMBS: Well, actually since '06.

6 MR. SAXON: Since 2006.

7 MS. COMBS: Because when you reinstate it, it's as
8 if you were never off of it and that is for a
9 licensee or an apprentice. Because you go
10 back and you pay all of the past dues and all
11 the CEs.

12 CHAIRMAN GOSNELL: Say that one more time.

13 MS. COMBS: Okay. When someone reinstates, so if
14 you approve his today, it's as if -- because
15 he will pay all back dues, he will have gotten
16 all CEs, 16 or whatever, it's a lot of hours,
17 and as if he had never stopped renewing. And
18 so, it would be he had more than two years of
19 apprenticeship program, and that's the way
20 it's always been done.

21 CHAIRMAN GOSNELL: Why did you stop registering?

22 MR. MCAVOY: Well, it was some personal issues. I
23 had a lot going on. I started focusing on my
24 career at LensCrafters instead of becoming an
25 optician. And I realize now that that was a

1 mistake and I'm doing everything that I
2 possibly can to get myself prepared.

3 CHAIRMAN GOSNELL: Any other questions? Is there a
4 motion that we go back into Executive Session?

5 MR. CORLEY: Make a motion to go back into
6 Executive Session.

7 MR. RHODES: I second it.

8 CHAIRMAN GOSNELL: All in favor?

9 ALL MEMBERS: Aye.

10 (Executive Session from 9:22 a.m. to 9:23 a.m.)

11 CHAIRMAN GOSNELL: Is there a motion that we come
12 out of Executive Session?

13 MR. RHODES: I make a motion.

14 MR. CORLEY: Second it.

15 CHAIRMAN GOSNELL: All in favor?

16 ALL MEMBERS: Aye.

17 CHAIRMAN GOSNELL: Is there a motion from this
18 Board?

19 MR. RHODES: Mr. Chairman, I would like to make a
20 motion for our legal counsel to read the
21 motion.

22 MR. SAXON: Mr. Rhodes, as I understand it, the
23 Motion is to grant Mr. McAvoy's motion for
24 Reinstatement which will become effective upon
25 his completion of his remaining continuing

1 education requirements, is that correct?

2 MR. RHODES: Yes, sir, that is correct.

3 CHAIRMAN GOSNELL: Is there a second to this
4 motion?

5 MR. CORLEY: Second.

6 CHAIRMAN GOSNELL: All in favor?

7 ALL MEMBERS: Aye.

8 CHAIRMAN GOSNELL: The decision we announce today
9 expresses the basic elements of our ruling.
10 The Board's counsel or staff will prepare a
11 document which expresses more fully our
12 conclusions in the appropriate language and
13 format the Board traditionally uses. The
14 final written decision must be approved and
15 signed by the chair and will be the final
16 order in this matter. Thank you.

17 MR. SAXON: Mr. McAvoy, what that means is, it's
18 not effective today. It's not even effective
19 when you get my order, but only when you
20 complete your remaining requirements, okay?

21 MR. MCAVOY: Understood.

22 MR. SAXON: You will get all that in an Order from
23 me and if you've got any questions about it,
24 contact Ms. Combs, she will contact me and we
25 will do what we can.

1 MR. MCAVOY: Okay. Thank you for your time.

2 CHAIRMAN GOSNELL: Thank you.

3 (Whereupon, at 9:24 a.m., the
4 proceeding in the above-entitled
5 matter was concluded.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF LEXINGTON)

Be it known that I, Kathryn B Bostrom, Nationally Certified Court Reporter and Notary Public in and for the State of South Carolina, took the foregoing meeting at 9:04 a.m. on Thursday, March 22nd, 2012;

That the witness was duly sworn under penalties of perjury to testify the truth, the whole truth, and nothing but the truth;

That the foregoing 14 pages constitute a true and accurate transcription of the proceedings and all testimony given at that time to the best of my skill and ability;

I further certify that I am not counsel or kin to any of the parties to this cause of action, nor am I interested in any manner of its outcome.

In witness whereof, I have hereunto set my hand and seal this 25th day of April 2012.

Kathryn B. Bostrom
Notary Public for South Carolina
My commission expires August 5, 2012.

This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.

STATE OF SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE BOARD OF OPTICIANRY

IN THE MATTER OF:)
)
)
)
RHONDA KAY HAUSER)
) APPLICATION HEARING
)
)
)
Petitioner.)

Given before Kathryn B. Bostrom, Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 9:25 a.m., Thursday, March 22nd, 2012, at the offices of the South Carolina Department of Labor, Licensing and Regulation, 110 Centerview Drive, Columbia, South Carolina.

Reported by:
Kathryn B. Bostrom

CAPITAL CITY REPORTING, L.L.C.
Depositions - Hearings - Sworn Statements - Mediation
Nationally Certified Reporters Throughout S.C.

P.O. Box 2281 - Lexington, South Carolina 29071
803.413.2258 - 803.996.0364 fax
E-mail: depo@capitalcityreporting.com
Website: www.capitalcityreporting.com

A P P E A R A N C E S

Board Members: Daniel B. Gosnell (Chairman)
C. Milton Corley (Vice Chairman)
James L. Rhodes
William M. Whitlock

For the State: N/A

For the Petitioner: Pro se

Advising the Panel: James C. Saxon, Esquire

Also Present: Angela M. Combs
- Board Administrator

Reported by: Kathryn B. Bostrom

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO PROCEEDINGS

Discussions 4
Certificate 15

INDEX TO EXHIBITS

Exhibit 1: Application (Withdrawn by counsel)
Exhibit 2: Undated letter/NC Board of Nursing (Withdrawn by counsel)
Exhibit 3: September 9, 2006 letter/NC Board of Nursing (Withdrawn by counsel)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

CHAIRMAN GOSNELL: This hearing is called to order in the matter of Rhonda Kay Hauser. The purpose of this hearing is to determine whether the applicant should be granted an apprenticeship registration. Everyone is reminded that these proceedings are being recorded and all witnesses must be sworn before they testify. All remarks should be directed to the Chairman. Ms. Combs, is the applicant package in our materials?

MS. COMBS: Yes, sir, under Tab 3.

CHAIRMAN GOSNELL: What questions does staff have concerning this application?

MS. COMBS: Ms. Hauser's application, question 4. The question is: Has any state licensing agency revoked, suspended or otherwise restricted your license or disciplined you? The answer was yes and at this point, staff cannot continue with processing the application -- that the Board does need to -- there needs to be an appearance and the Board needs to make that decision.

CHAIRMAN GOSNELL: Did staff subpoena any other persons to be here today to answer questions

1 we might have?

2 MS. COMBS: No, sir.

3 CHAIRMAN GOSNELL: Is the applicant present?

4 MS. HAUSER: Yes, sir.

5 CHAIRMAN GOSNELL: Are you represented by counsel?

6 MS. HAUSER: No, sir.

7 CHAIRMAN GOSNELL: You understand that you have the
8 right to be represented by counsel of your
9 choosing in this matter?

10 MS. HAUSER: Yes, sir.

11 CHAIRMAN GOSNELL: Ms. Hauser, do you have
12 witnesses that you intend to call to testify
13 on your behalf?

14 MS. HAUSER: No, sir.

15 CHAIRMAN GOSNELL: Okay. Would you please stand
16 and state your full name and be sworn in by
17 the court reporter.

18 MS. HAUSER: It's Rhonda Kay Hauser, that's R-H-O-
19 N-D-A K-A-Y H-A-U-S-E-R.

20 The witness was sworn in and cautioned to speak the truth.

21 CHAIRMAN GOSNELL: Ms. Hauser, are you ready to
22 show us why you should be granted an
23 apprenticeship registration despite the
24 questions raised by staff?

25 MS. HAUSER: I hope so. I'm here, of course, I

1 applied in the apprenticeship program --

2 CHAIRMAN GOSNELL: Is that microphone -- could you
3 get it a little closer please.

4 MR. SAXON: And would you speak just a little bit
5 louder for us.

6 MS. HAUSER: Okay.

7 MR. SAXON: That's really for the court reporter,
8 but we need to hear you too.

9 MS. HAUSER: Okay. I'm a little nervous so -- I
10 applied for the apprenticeship program. It
11 goes back to when I lost my nursing license.
12 I originally had a documentation discrepancy
13 which put me on a probationary period for one
14 year with my nursing license. At that time --
15 and I'm not making excuses, okay. I take full
16 responsibility. At that time I had gone
17 through a few things and I had lost my
18 fiancée, blah, blah, blah. And I had a drug
19 test and I was positive. I'm not making
20 excuses. I am drug free. I am alcohol free
21 and have been so. Which they then suspended
22 my nursing license for one year pending. I go
23 back through the -- I got it suspended for one
24 year and then at which time I am eligible to
25 go back through the probationary period. It

1 was not suspended indefinitely. After Mike
2 died, he was the last person I did CPR on, I'm
3 just burned out a little bit with the nursing.
4 And I have found since I have been working in
5 the optical area that it's still a little
6 hands on with patients, you know, with
7 customers, with the doctor that we work with.
8 You know, I still call them patients, which I
9 apologize, but so I'm still getting some hands
10 on. But my desire is not to go back into
11 nursing now. I enjoy the optical area and I
12 would like to apply for my apprenticeship. I
13 feel like I would make a good one. I'm a good
14 people person, I care. And I just hope I'm
15 not going to be penalized for a stupid, stupid
16 mistake that I made for the rest of my life.
17 I don't know what else to say here. I just
18 hope that y'all do grant me the opportunity to
19 apply for this. I promise you I won't be -- I
20 won't mislead anybody. I learned my lesson
21 the hard way. I learned my lesson the really
22 hard way. And I have to pay for what I did
23 the rest of my life. But you know, I feel
24 like this could be the new beginning for me.
25 And I'm ready. I've mourned Mike for the last

1 few years and it's time for me to get back
2 onto the fast track of life and I feel like
3 this is a good opportunity for me, if y'all
4 will grant me the privilege. Any questions
5 for me?

6 CHAIRMAN GOSNELL: Do the Board members have any
7 questions?

8 MR. SAXON: Mr. Chairman, may I ask a question?

9 CHAIRMAN GOSNELL: Yes, sure.

10 MR. SAXON: Ms. Hauser, you indicated that you are
11 alcohol and other drug free. Are you a member
12 of NA or AA?

13 MS. HAUSER: I am not, no.

14 MR. SAXON: Did you undergo any kind of treatment
15 program?

16 MS. HAUSER: No, I didn't. This was a -- like I
17 said and I'm not making any excuses. This was
18 a -- it was a one time and it was a birthday
19 party and when I went in at that time, I was
20 stupid. I can't believe how stupid I was. I
21 had to call into the Board or to a
22 computerized number. And it was a Friday
23 night birthday party and I called it on Monday
24 and they told me, you know, the computer said
25 I'm up for a drug test. And I did. I mean, I

1 didn't try to make excuses and didn't try to
2 hide anything --

3 MR. SAXON: For what drug did you test positive?

4 MS. HAUSER: It was cocaine. And the Board of
5 Nursing called me, the first question was
6 because you know, I had just done a little
7 bit, she asked me she said have you been to
8 the dentist lately? And I said no, ma'am. I
9 didn't try to hide it. I was like I was
10 stupid, you know, but no, I've not been to any
11 -- no counseling or anything, no, sir.

12 CHAIRMAN GOSNELL: How do you explain the audits
13 and the missing drugs when you were employed?

14 MS. HAUSER: That I couldn't explain then, okay.
15 And that, I still can't explain. That's not
16 what they charged me with. It was a
17 documentation discrepancy.

18 CHAIRMAN GOSNELL: There seem to be several
19 different instances, though. It just appears
20 --

21 MS. HAUSER: I have not seen my paperwork, so I
22 don't --

23 CHAIRMAN GOSNELL: After you tested positive for
24 cocaine, did -- were you still going to be
25 able to be reinstated after that?

1 MS. HAUSER: Yes, sir. I had to have a year off, a
2 year suspended license and then, at which, if
3 I went back through the year probationary
4 period again, I would get reinstated, yes,
5 sir.

6 CHAIRMAN GOSNELL: Okay. Any questions, do you have
7 any questions?

8 MR. RHODES: It was only the one time?

9 MS. HAUSER: Yes, sir.

10 MR. RHODES: And it was not professionally related?

11 MS. HAUSER: No, sir.

12 MR. WHITLOCK: Are you going to be apprenticing
13 under a doctor or a licensed optician?

14 MS. HAUSER: Well, my application that I sent in
15 is under a licensed optician.

16 MR. WHITLOCK: Okay.

17 MS. HAUSER: I mean, if that would make a
18 difference, I'm sure that Dr. Jerge would
19 agree if I need to go that route, I would.
20 I've made some mistakes with my life. I've
21 got a 50 birthday coming up and it's time that
22 I get my life back on track. I just feel like
23 this is the way I can do it. I'm not proud
24 what I've done by no means. I'm really, but -
25 - I mean I can't change the past, I wish I

1 could. I really wish I could.

2 MR. SAXON: While y'all are thinking, if I may deal
3 with a housekeeping matter. Ms. Bostrom, Ms.
4 Combs will get you these documents, but would
5 you mark Ms. Hauser's application Exhibit 1,
6 Applicant's Exhibit 1. There is an undated
7 letter from the North Carolina Board of
8 Nursing and we will mark that, if you will,
9 Applicant's Exhibit 2, and there is a
10 September 9, 2006 letter from the North
11 Carolina Board of Nursing, would you please
12 mark that as Applicant's Exhibit 3?

13 CHAIRMAN GOSNELL: Are there any other questions
14 for the Board? Is there any other information
15 that you would like to share with us?

16 MS. HAUSER: No, sir.

17 CHAIRMAN GOSNELL: Thank you, your case is
18 submitted and the Board will take it under
19 advisement. Is there a motion that we go into
20 Executive Session?

21 MR. CORLEY: I'll make a motion.

22 MR. RHODES: I'll second it.

23 CHAIRMAN GOSNELL: All in favor?

24 ALL MEMBERS: Aye.

25 CHAIRMAN GOSNELL: Thank you.

1 (Executive Session 9:35 a.m. to 9:48 a.m.)

2 CHAIRMAN GOSNELL: Is there a motion that we come
3 out of Executive Session?

4 MR. CORLEY: Make the motion.

5 MR. WHITLOCK: I will second it.

6 CHAIRMAN GOSNELL: All in favor?

7 ALL MEMBERS: Aye.

8 MR. SAXON: And I will reiterate that while we were
9 in Executive Session, no votes were taken, no
10 decisions were made, nothing like that.

11 CHAIRMAN GOSNELL: Is there a motion as to the
12 disposition of this application?

13 MR. CORLEY: Mr. Chairman, I would like a motion
14 that we grant Ms. Hauser's request to become
15 an applicant in the Apprenticeship Program.
16 We would also like to encourage you to join
17 the State Association.

18 MS. HAUSER: Yes, sir.

19 CHAIRMAN GOSNELL: Is there a second?

20 MR. RHODES: I'll second that.

21 CHAIRMAN GOSNELL: All in favor?

22 ALL MEMBERS: Aye.

23 CHAIRMAN GOSNELL: This decision we announce today
24 expresses only the basic elements of our
25 ruling in this case. Counsel or staff of the

1 Board will prepare a document which more fully
2 expresses our conclusions in this in the
3 appropriate language and format which the
4 Board has traditionally used. The final
5 written decision must be approved by and
6 signed by the Chairman of the Board and will
7 be the final order in this matter.

8 MS. HAUSER: Thank y'all.

9 MR. SAXON: Ms. Hauser, this is a little bit
10 different. I know you were sitting in the
11 gallery for the previous one. That applicant
12 was making a motion and he will get an order.
13 Because your request was granted, I guess it
14 will be a letter, I guess, from you Ms. Combs?
15 Is that correct?

16 MS. COMBS: Sure, yes.

17 MR. SAXON: So, it will be a different form, but
18 you will still get something in writing.

19 MS. HAUSER: Thank you.

20 CHAIRMAN GOSNELL: And you are to be commended for
21 sharing all your past with us and everything.
22 Good luck to you.

23 MS. HAUSER: It's something I'm not proud of, but
24 I've got move forward. I appreciate
25 everything.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Whereupon, at 9:48 a.m., the proceeding in the above-entitled matter was concluded.)

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF LEXINGTON)

Be it known that I, Kathryn B Bostrom, Nationally Certified Court Reporter and Notary Public in and for the State of South Carolina, took the foregoing meeting at 9:25 a.m. on Thursday, March 22nd, 2012;

That the witness was duly sworn under penalties of perjury to testify the truth, the whole truth, and nothing but the truth;

That the foregoing 14 pages constitute a true and accurate transcription of the proceedings and all testimony given at that time to the best of my skill and ability;

I further certify that I am not counsel or kin to any of the parties to this cause of action, nor am I interested in any manner of its outcome.

In witness whereof, I have hereunto set my hand and seal this 25th day of April 2012.

Kathryn B. Bostrom
Notary Public for South Carolina
My commission expires August 5, 2012.

This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.