

**South Carolina Department of Labor, Licensing and Regulation (LLR)**  
**South Carolina Board of Examiners in Optometry**  
**Regular Board Minutes**  
**March 15, 2006**  
**Synergy Business Park**  
**110 Centerview Drive, Kingstree Building, Room 111**  
**Columbia, South Carolina**

Public notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the 1976 South Carolina Code, as amended, relating to the Freedom of Information Act. A quorum was present at all times. Dr. Hamill called the meeting to order at 3:07 p.m.

**BOARD MEMBERS PRESENT:**

Dr. David W. Hamill, President  
Dr. Kenneth M. Nash  
Dr. Robert Neal Williams  
Dr. Deborah A. Long  
Dr. Furman Mason Smith  
Isaac L. Johnson, Jr., Public Member of the Board

One Board Member Position is Vacant

**SCLLR STAFF PRESENT:**

Ruby Brice McClain, Assistant Deputy Director  
Sharon Dantzler, Office of General Counsel, LLR  
Jonathan Gabert, POL Investigations – present for IRC Report  
Angie M. Combs, Administrator  
Janice D. Meetze, Administrative Specialist

The agenda for the March 15, 2006 Regular Board Meeting was presented for review and approval. A **motion** was made to accept the order of the Agenda. The motion was seconded and passed.

A **motion** was made to accept the December 1 & 2, 2005 Board Meeting Minutes as written. The motion was seconded and passed.

**PRESIDENT'S REMARKS**

Dr. Hamill requested the Board's patience during the learning process as to proper protocol in the assumption of his newly acquired duties as President; he extended his appreciation to Ms. Combs and Ms. Dantzler for the assistance already afforded him. Dr. Hamill welcomed new board members, Dr. Deborah Long and Dr. F. Mason Smith.

**REPORTS**

**Administrative Reports and Information:** Ms. Combs reported licensee totals for each type of license as 554 TPA, 62 DPA, and 56 Basic, for a total of 672 licensed optometrists. In South Carolina there are 15 Basic, 11 DPA, and 396 TPA licenses for a total of 422 licensees.

Sixteen candidates passed the January 19, 2006 S.C. Jurisprudence Examination; thirteen have been licensed to date.

The **Diagnostics Pharmaceutical Agents License Upgrade Examination** was administered this day, March 15, 2006, to three South Carolina Basic licensee candidates. The Board held a DPA review session immediately prior to the examination.

New **branch office registration** applications were reviewed for Dr. William Terry Allen, License 1217, Dr. Robert Paul Aitken, License 1166, and Dr. Colleen Hennelly, License 1377.

A **motion** was made to approve the branch office registration applications. The motion was seconded and accepted.

Copies of the Board's Financial Report and Complaint Status were made available and accepted for informational purposes.

**Board Member Reference Packets** were distributed to all members; Ms. Dantzler, LLR Advice Counsel, gave a brief overview of the basic purpose, functions, and procedures of the Board as it pertains to due process.

A **Statement of Economic Interests Form** was given to each Board member to be filed no later than April 15, 2006 with the State Ethics Commission; there is a \$100 per day penalty if filed late. Ms. Combs will send a reminder by email.

Ms. Combs announced that Dr. Hamill will represent South Carolina at the **Association of Regulatory Boards of Optometry (ARBO) meeting** in Las Vegas, Nevada, in June 2006. Dr. Hamill will brief the Board at the July 12, 2006 Board meeting.

#### **INVESTIGATIVE REVIEW COMMITTEE REPORT**

The Investigative Review Committee (IRC) Report was presented in Open Session with the right reserved to move into Executive Session at the discretion of the Board. Investigator Jonathan Gabert presented the March 8, 2006 IRC recommendations:

**Case 2004-12:** Respondent refused to release a copy of a contact lens prescription.  
Respondent refused releasing the contact lens prescription due to complainant's refusal of a contact lens fitting.

IRC recommendation: Dismiss.

A **motion** was made to accept the recommendation of the IRC on Case 2004-12 to dismiss. The motion was seconded and passed.

**Case 2005-4:** Respondent refused to release a copy of a contact lens prescription.  
Complainant did not return for follow-up visit; was still sold contacts.

IRC Recommendation: Letter of Caution. Prescription must be released if contacts are sold; Letter of Caution be sent to the Respondent advising him that refusal to release a copy of a prescription to a client is a violation of Federal Law.

A **motion** was made to accept the recommendation of the IRC on Case 2005-4 to send a letter of caution. The motion was seconded and passed.

**Case 2004-3:** Respondent's name used in an advertisement along with an offer of free eye examinations was made.

Respondent stated he was unaware name being utilized in advertisement.

IRC Recommendation: Letter of Caution advising Respondent that it is his responsibility for advertisements where his name appears offering free eye examinations.

A **motion** was made to accept the recommendation of the IRC for Case 2004-3. The motion was seconded and passed.

Dr. Hamill requested additional pertinent information from the IRC regarding the above-referenced cases.

#### **UNFINISHED BUSINESS**

**CPT Code 76514/Pachymetry – Justification Letter to the Department of Health and Human Services (DHHS) / Response:** Dr. Hamill responded to DHHS request for a justification letter to allow South Carolina optometrists to receive reimbursement by Medicaid when submitting a claim for pachymetry, Procedure Code 76514. Along with the justification information the Board recommended reimbursement for performing pachymetry to be retroactive to January 2004. DHHS has now approved Pachymetry/CPT Code 76514 for reimbursement; reimbursement will not be retroactive to January 2004. It was requested that Ms. Combs mail a procedural code list to all Board members.

**Engine Bill:** LLR had introduced a rewrite of the Engine, Title 40, Chapter 1, Professions and Occupations. If a Board's Practice Acts speaks to an issue, it takes precedence over the Engine. However, in cases where the Practice Act is silent, the Engine interprets the law. Dr. Hamill stated the South Carolina Optometric Association lobbyists have major concerns that the Engine Bill may not allow the Practice Act to take precedence, even if it speaks to the issue. Dr. Hamill informed the board the Engine Bill Legislation is not going forward this legislative session. Ms. McClain recommended that any concerns or questions regarding legislation that impacts the Board should be directed to LLR staff.

**Optometry Regulations:** The Board begins the process of reviewing the Optometry Regulations for needed changes. Ms. Dantzler stated the most effective way for a Board to review procedural regulations for a gap in coverage is to assign a committee of two or three people. Drs. Hamill, Williams, and Smith agreed to form a committee to review the current regulations for needed clarification and supplementation.

#### **NEW BUSINESS**

**1-800 Contact “Private Label” Lens Legislation in States:** The American Optometric Association (AOA) notified the Board that 1-800 Contacts has begun introducing bills in state legislatures that would create contact lens formularies to be maintained by the state attorney general’s office. An optometrist would be prohibited from prescribing any lens not on the formulary. Discussion followed. Dr. Hamill recommended that the Board work closely with the South Carolina Optometric Association in monitoring and preparing for this possible legislation in South Carolina.

**Offering Free Examination with Purchase:** Section 40-37-390, Unlawful Advertising Practices, stipulates that it is unlawful for a person, partnership, or corporation that provides optometric services to disseminate, directly or indirectly, or cause to be disseminated any untruthful, deceptive advertisement or representation concerning eye examination, ophthalmic goods, ophthalmic services, or the practice of optometry. The Board concurred that under no circumstances is it appropriate professionally or ethically to offer free eye examinations linked with a required purchase. The Board will pursue incorporating language in the Regulations concerning this issue.

**Continuing Education (CE) Policy:** The Board reviewed the Continuing Education Policy. Discussion followed. The Board agreed to add courses sponsored by medical schools to the unlimited CE hours category. An unlimited number of CE hours used for license renewal will be accepted from national, regional, and state optometric organizations, schools and colleges of optometry, and medical schools. The Board reserves the right to consider a course on a case-by-case basis.

**Licensure Requirement – Doctor of Optometry Degree:** Ms. Combs had an inquiry concerning the O.D. degree requirement for licensure. Section 40-37-245 of the Optometry Practice Act, Licensure by Endorsement; Requirements, stipulates that a person must have graduated from an accredited school or college of optometry that required four years’ attendance and that grants the degree of doctor of optometry. The Board agreed that an O.D. degree is required for licensure in South Carolina.

**Permissibility of Optometrists to Perform Advanced Cardiac Life Support (ACLS) Procedures:** Dr. Curtis Farrar, a South Carolina licensed O.D., is licensed to perform Advanced Cardiac Life Support (ACLS) and has requested the Board’s opinion as to permissibility under the Practice Act to provide ACLS services. The Board fully recognizes the public health value of persons who are properly trained and licensed to provide ACLS. The Board also recognizes that its licensees can hold such credentials and perform such services, separate and apart from their licenses as optometrists. Ms. Dantzler advised that while the statute does not authorize the performance of ACLS, if an individual were properly qualified and the need arose, the Board would expect such service to be held to the highest standards. The Board holds its licensees to high professional and ethical standards in all aspects of their work while holding themselves out as Licensed Doctors of Optometry, whether or not that work is the actual practice of optometry. Ms. Dantzler will draft a response letter.

**South Carolina Jurisprudence Examination Date:** The Board received a letter requesting special consideration to sit for an unscheduled administration of the S.C. Jurisprudence Examination. Discussion followed. The Board concurred on increasing the administration of the exam from two to four times a year, i.e., January, April, July, and October. A **motion** was made to offer the Jurisprudence Exam on a quarterly basis beginning in January 2006. The motion was seconded and passed.

**Reimbursement for Procedure Performed in Nursing Care Facility:** Nathan Zavala, S.C. Medicaid Vision Program Manager, responded to the Board's letter requesting certain procedures when performed in a skilled nursing care facility be recognized for payment to S.C. optometrists by Medicaid. In his response Mr. Zavala informed the Board that even though the procedures are approved for optometrists to perform, most of the codes presented are not approved for nursing care facilities. Mr. Zavala went on to say this action was done to be in compliance with parity between optometrists and ophthalmologists. Ms. Combs will clarify that this means ophthalmologists are also not being reimbursed.

**Request from Licensee to Approve Additional Current Procedural Terminology (CPT) Codes Utilized in Vision Therapy:** Dr. Mark Dean's request was reviewed, discussion followed. Dr. Hamill will contact licensee for additional information.

**S.C. Athletic Commission Requests for Review of Eye Examination Questions on Application for a Boxer:** The S.C. Athletic Commission requested the Board to review their Eye Examination Report for the soundness of questions asked; Board approved questions asked. The Board also recommended the following changes: the form's title should be "Ophthalmic Eye Exam Report" and requests for the ophthalmologist name should be changed to optometrist / ophthalmologist name. Ms. Combs to provide the Athletic Commission the results of the review.

#### **ANNOUNCEMENTS**

S.C. Jurisprudence Examination will be administered on Wednesday, July 12, 2006 at 2:00 p.m., Kingstree Building, Room 105, Columbia, SC.

The next General Board Meeting will be held on July 12, 2006 at 3:00 p.m., Kingstree Building, Room 105, Columbia, SC.

There being no further business or announcements, Dr. Hamill adjourned the meeting at 5:15 p.m.

Respectfully submitted,

Angie M. Combs  
Administrator