

South Carolina Department of Labor, Licensing and Regulation (LLR)
Board of Examiners in Optometry Regular Board Meeting Minutes
September 30, 2009
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 204
Columbia, South Carolina

Public notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the 1976 South Carolina Code, as amended, relating to the Freedom of Information Act. A quorum was present at all times. Dr. Williams called the meeting to order at 3:05 p.m.

BOARD MEMBERS PRESENT:

Dr. Robert N. Williams, President
Dr. Kenneth M. Nash
Dr. William W. Spearman
Dr. Derek P. Van Veen
Dr. Thomas E. Tucker
Isaac Johnson, Public Member

ALSO PRESENT:

Dr. Philip Flynn, South Carolina Optometric Association Executive Committee
Dr. and Mrs. William Southerland
Dr. Robert W. Lopanik
Eric B. Gore, Court Reporter

SCLLR STAFF PRESENT:

Sharon Dantzler, Office of General Counsel, LLR
David A. Love, Chief, Investigations and Enforcement
Cheryl McNair, Investigations and Enforcement
Angie M. Combs, Administrator
Janice D. Meetze, Administrative Assistant

The agenda for the September 30, 2009 Regular Board Meeting was presented for review and approval. A **motion** was made by Dr. Spearman and seconded by Dr. Nash to accept the order of the agenda. The motion carried.

A **motion** was made by Dr. Spearman and seconded by Dr. Van Veen to accept the June 4, 2009 minutes as written. The motion carried.

INVESTIGATIVE REVIEW COMMITTEE (IRC) REPORT

Two complaints came before the Investigative Review Committee held on September 1, 2009. A brief synopsis of the first case Complaint #2009-1 was presented and the IRC logic was to dismiss due to no violation of the practice act. Due to violation of the practice act in the second case, Complaint #2009-3, the IRC recommended the initiation of a formal complaint which would come before the Board in a hearing at a later date. **Motion:** Dr. Spearman made a recommendation to accept the dismissal recommendation of the IRC on Case #2009-1 and to initiate formal complaint proceedings on Complaint #2009-3. Dr. Nash seconded the motion. The motion carried.

Mr. Love and Ms. McNair departed the meeting at 3:10 p.m.

APPLICATION HEARING – DR. WILLIAM SOUTHERLAND

The application hearing was conducted by the Board and recorded and transcribed by Eric B. Gore, certified court reporter.

The following is provided for information only:

EXECUTIVE SESSION

Motion: *A motion was made that the Board be recessed to go into executive session to discuss the Licensure Application of William E. Southerland, O.D. The motion received a second. The motion carried and the meeting was recessed at 3:30 p.m.*

RECONVENE IN PUBLIC SESSION

Motion: *A motion was made that the Board reconvene in public session. The motion received a second. The motion carried. The meeting reconvened at 3:50 p.m.*

Motion: *Mr. Johnson made a motion that Dr. Southerland shall be granted a license in South Carolina at such time as he is fully qualified and has entered into a senior contract with RPP. Dr. Nash seconded the motion. The motion carried.*

Dr. and Mrs. Southerland and Dr. Lopanik departed the meeting at 3:52 p.m.

UNFINISHED BUSINESS – none to discuss

NEW BUSINESS

Refractions Performed by Retired Optometrist: Ms. Combs received an inquiry as to whether it was permissible for a retired optometrist to perform only refractions in a charitable setting. Ms. Dantzler informed the Board this is not a retiree issue but an unlicensed assistant issue. Direct supervision is a defined term and means that a licensed optometrist must be present in the facility immediately available to assist.

Phlebotomist in the Optometry Practice: Dr. Williams received an inquiry as to whether a phlebotomist can legally draw blood from a patient in an optometric practice. Ms. Dantzler advised and the Board concurred that the Board governs the practice of optometry only and does not govern the practice of phlebotomy; therefore, the inquiry should be referred to the certifying authority for the practice of phlebotomy.

Board Certification

(a) Association of Regulatory Board of Optometry (ARBO) and the American Board of Optometry (ABO): Information was provided to the Board concerning ARBO and the ABO. ARBO released a statement September 17, 2009 which stated that the recent signing of a Memorandum of Understanding between the American Optometric Association, the American Academy of Optometry, the Association of Schools and Colleges of Optometry, and the American Optometric Student Association created the American Board of Optometry. ARBO was unable to sign the MOU due to direct conflict with ARBO's mission. ARBO remains committed to the concept of demonstrating continued competence and to continue to work with the ABO when appropriate and not in conflict with ARBO's mission.

(b) Request for Formal Opinion from the American Optometric Society:

Craig S. Steinberg, O.D. and General Counsel to the American Optometric Society, asked the Board to issue a formal opinion as to whether or not optometrists licensed by the Board may represent that they are ABO certified. Ms. Dantzler advised that in Optometry Regulation it states that an optometrist cannot designate him or herself as a specialist in any area of optometric practice unless he or she holds a certification from a credible and reputable national organization recognized by the Board. Ms. Dantzler suggested that any organization requesting certification submit the terms of their certification to the Board. Ms. Combs will notify Dr. Steinberg stating the Board's appreciation for his effort and will await information on the final product to issue a statement based on the Board's interpretation as to whether the product presented is credible.

Ms. Dantzler departed the meeting at 4:55 p.m.

Release of Contact Lens Prescriptions by Telephone - Inquiry: Ms. Combs received an inquiry as to whether an optometrist could provide a contact lens prescription over the phone. The Fairness to Contact Lens Consumers Act provides for availability of contact lens prescriptions to patients. The provider must verify the contact lens prescription by electronic or other means. Ms. Combs was asked to respond to the inquirer and suggest the issue is to make sure the identity of the person making the request is authentic.

CryoProbe / Ellman Radio Frequency Unit: The Board discussed the CryoProbe and the Ellman Surgitron for appropriate optometric use. The Board will seek additional information concerning these products prior to releasing a statement.

CPT Codes - Dr. Philip Flynn: Dr. Phillip Flynn submitted CPT Codes for review by the Board. The Board concurred to take the CPT Codes under advisement for further consideration before making a decision. The topic was deferred.

REPORTS / INFORMATION

Licensee / Complaint Totals: Ms. Combs reported there are 715 South Carolina licensed optometrists, i.e., 462 are in state and 23 are new licensees since the June 10, 2009 Board meeting. Four complaints are currently under investigation.

Branch Registrations: Dr. John Mills applied for a branch office in Myrtle Beach, South Carolina. **Motion:** Dr. Spearman made a motion to approve the branch registration application for Dr. John Mills. The motion was seconded by Dr. Nash. The motion carried.

Dr. Flynn departed the meeting at 5:40 p.m.

December 2009 Meeting / Election Dates and Times: Ms. Combs reminded everyone that in accordance with the new budget proviso for the period July 1, 2009 through June 30, 2010 that no reimbursement will be made to members for meetings held at any location other than the offices of SCLLR. The Board agreed to still conduct the next regularly scheduled meeting in Myrtle Beach, South Carolina, Thursday, December 10, 2009.

Ms. Combs announced that an election will be conducted to fill two seats on the Board for terms 05/13/2010 - 05/13/2014 and 06/30/2010 - 06/30/2014. Dr. Nash is not eligible for election due to term limits per the S.C. Optometry Law. Dr. Thomas Tucker is eligible for election. Notices of the election will be mailed by the end of October 2009 and the Board office must be notified of intention to run by

December 1, 2009 to ensure a candidate's name is pre-printed on the ballot; write-in candidates will be accepted at the time of election. Licensees can vote December 11, 2009 at and immediately following the S.C. Optometric Association business meeting scheduled for 11:00 a.m. – 12:30 p.m. during the 2009 SCOA Annual CE Meeting to be held at the Myrtle Beach Marriott Resort at Grande Dunes, 8400 Costa Verde Drive, Myrtle Beach, South Carolina.

State Official License Plates: Ms. Combs made available South Carolina Department of Motor Vehicles' State Official Board Member License Plate Applications for Board members.

National Board of Examiners in Optometry (NBEO) Online State Law Exam: Ms. Combs announced the NBEO is offering to administer the S.C. Jurisprudence Examination online; this exam is already available online through SCLLR.

OE Tracker Fee: ARBO charges \$20 for optometrists for full use of the OE Tracker CE tracking database; limited access is provided to an optometrist's account without paying any fees. A twenty-five (25%) percent discount would be offered to any member boards that choose to pay the OE Tracker fee for its licensees.

ARBO Seat on NBEO: An ARBO seat on the National Board of Optometry will be open in December 2009; anyone interested may submit their name to ARBO for consideration.

SC Board Liaison: Dr. William Rafferty has been appointed as the ARBO Board Liaison to the SC Board of Examiners in Optometry.

ARBO National Meeting Report: Dr. Neal Williams and Ms. Combs attended the ARBO 90th Annual Meeting this past June. Dr. Williams reported that the predominant topic of discussion was board certification. The breakdown of the National Board Examination has been revamped to better prepare students with more classroom time, i.e., Part I is given in March of the third year; Part II is given in December of the fourth year; and Part III is given in April of the fourth year. The TMOD is now embedded in Part II of the National Boards.

Continuing Education Course Approval: Dr. Spearman stated that he has given approval for some straight-forward continuing education courses that meet Board specific criteria.

ANNOUNCEMENTS

The next Board meeting is scheduled for December 10, 2009, 12:30 p.m., Myrtle Beach Marriott Resort at Grande Dunes, 8400 Costa Verde Drive, Myrtle Beach, South Carolina

There being no further business or announcements, Dr. Williams adjourned the meeting at 6:20 p.m.

*Meeting recorded and minutes transcribed by Janice D. Meetze, Administrative Assistant.
Minutes reviewed and edited by Angie Combs, Administrator.
Minutes presented to the Board for final approval.*