

STATE OF SOUTH CAROLINA  
DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BEFORE THE BOARD OF EXAMINERS IN OPTOMETRY

IN THE MATTER OF )  
 )  
BOARD DISCUSSIONS )  
 )  
 ) TRANSCRIPT OF DISCUSSIONS  
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Given before Gary A. Haygood, Professional Court Reporter and Notary Public in and for the State of South Carolina, on Wednesday, May 2, 2012 at the offices of the South Carolina Department of Labor, Licensing and Regulation, 110 Centerview Drive, Columbia, South Carolina.

Reported by:  
Gary A. Haygood

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A P P E A R A N C E S

Board Members: Robert N. Williams, O.D. (President)  
William W. Spearman, O.D.  
Thomas E. Tucker, O.D.  
Derek P. Van Veen, O.D.  
Peter V. Candela, O.D.  
Isaac L. Johnson, Jr. (Public  
Member)

For the State: N/A

For the Respondent: N/A

Advising the Board: James Saxon, Esquire (LLR)

Also present: Angela Combs, Administrator  
David Love, OIE Staff  
Other LLR Staff as Noted

Reported by: Gary A. Haygood

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PROCEEDINGS

(On record 3:09 p.m. May 2, 2012.)

DR. WILLIAMS: Let's go ahead and open the meeting.  
I'll take a -- has everybody had a chance to  
look at the tentative agenda? I'll take a  
motion to approve the agenda as stated.

DR. TUCKER: So moved.

DR. SPEARMAN: Second.

DR. WILLIAMS: All in favor?

BOARD MEMBERS: Aye.

DR. WILLIAMS: All right. The next step is to --  
has everybody had a chance to look over the  
minutes of the last meeting? Any questions on  
those? Corrections, additions? (No  
response.) Hearing none, then I'll take a  
motion that we approve the minutes as written.

MR. JOHNSON: So moved.

DR. VAN VEEN: Second.

DR. WILLIAMS: All in favor?

BOARD MEMBERS: Aye.

DR. WILLIAMS: We'll move on to topic three which  
is an introduction of a special guest, who is  
the new LLR director. And that's Ms. Holly  
Pisarik; is that correct?

MS. PISARIK: That's correct. Pisarik.

1 DR. WILLIAMS: Pisarik.

2 MS. PISARIK: Yes. I just -- I won't take up too  
3 much of your time. But I wanted to stop by  
4 and say hello to you all and offer my support.  
5 Thank you for your service on the board. And  
6 let you know that I think it is my job as the  
7 director of LLR to support your board, to  
8 provide you all with the necessary resources  
9 and anything else that you all need to perform  
10 your statutory duties. So if there's ever  
11 anything that I can do for your board, whether  
12 that means coming to board meetings to address  
13 any issue or whether you come to my office and  
14 meet with me individually about issues that  
15 you may be having with LLR or individual staff  
16 or resources or whatever your board needs, I'm  
17 going to hand out a business card. Feel free  
18 to contact me at any time and let me know what  
19 it is that your board needs to get your  
20 business done.

21 DR. WILLIAMS: Thank you for taking your time and  
22 coming to meet us.

23 (Ms. Pisarik gives business cards to all Board members.)

24 MS. PISARIK: And I'll let y'all get on to  
25 business. Just wanted to say hello. Thank

1                   you.

2                   DR. WILLIAMS: Well, I guess that would mean none  
3                   other than David Love.

4                   MR. LOVE: Good afternoon. We'll start as usual  
5                   with the statistical report. And as usual,  
6                   this is just an update, giving you a report on  
7                   what cases have come in and where they stand  
8                   during the investigation process.

9                   The first block pretty much talks about  
10                  the time period of January the 1st of 2012  
11                  through April 26th, which was the day of the  
12                  IRC. We have a total of 11 cases. Three are  
13                  active. Three have been closed. Two were do  
14                  not open, and one -- excuse me. Three is  
15                  pending Board action.

16                  Below that, of course, is the previous  
17                  year that ran from January the 1st to December  
18                  31st. And you can see there was a total of 26  
19                  cases. Twenty-four were closed. One was a do  
20                  not open, and one is a pending Board action.

21                  We'll move -- unless there's any  
22                  questions, we'll move to the final report,  
23                  which is the IRC Board report. This, once  
24                  again, is a report made up of recommendations.  
25                  On April the 26th, the IRC members, under the

1 advice of Dr. Wayne Cannon, reviewed and  
2 discussed these cases in detail. And as a  
3 result we bring for approval based on  
4 recommendations by the IRC one dismissal and  
5 three dismissals by way of Letter of Caution.

6 If you'll flip the page please, you'll  
7 see dismissed, 2011-26. All these  
8 investigations involved unlicensed practice.  
9 The first one was found to be unfounded,  
10 without merit. The other three were found to  
11 be in truth of reporting and C&Ds were issued  
12 for selling contact lens either at some  
13 establishment like a grocery or a gasoline  
14 establishment.

15 Do we have any questions on these four  
16 cases that the IRC brings today?

17 DR. WILLIAMS: Any questions?

18 DR. SPEARMAN: I just want to ask one. Is there  
19 any follow-up with this at all? I mean, or do  
20 you have to wait for another complaint?

21 MR. LOVE: Well, to be honest with you, we  
22 discussed this problem today with my  
23 supervisor and someone in Legal. And we are  
24 trying to pretty much get some press coverage,  
25 perhaps the papers or news, the tv, or

1                   whatever, and inform the public that it's  
2                   illegal to purchase contact lens across the  
3                   counter at a gasoline establishment or a  
4                   clothing store. And we're going to highly  
5                   recommend that this stop if you're doing so.  
6                   And we recommend to the public that it's not  
7                   safe, and they should go the proper way.

8                   To answer your question, normally with  
9                   the backlog we have, we just keep marching  
10                  until we find reason to go back in. And to be  
11                  quite honest with you from what I'm seeing,  
12                  this is a wide -- statewide issue here.

13                 DR. SPEARMAN: Right.

14                 MR. LOVE: It's becoming more and more and more  
15                  common. It's almost like buying a pack of  
16                  cigarettes. And you can go in --

17                 DR. SPEARMAN: What is the maximum penalty if you  
18                  decided to impose that?

19                 MR. LOVE: Well, first of all, they're issued a  
20                  C&D, a cease and desist. The investigator  
21                  will go out and confirm that the reported  
22                  allegation is true. In this case it was found  
23                  to be true. And then they are instructed by  
24                  the investigator that they need to stop  
25                  immediately. And then the administrator will

1 draw up a cease and desist, and it will be  
2 served. If this continues, then OGC or Legal  
3 department can on subsequent violations take  
4 them before the OGC, which is downtown.

5 DR. SPEARMAN: So is it by statute that a C&D is  
6 the first penalty?

7 MR. LOVE: Yes, sir.

8 DR. SPEARMAN: And beyond that, if they still were  
9 serial offensive, what would be the ultimate  
10 penalty? I mean, isn't there a maximum that  
11 you can --

12 MR. LOVE: I have heard, and, Jamie, you might can  
13 help me on this, \$10,000 up to.

14 DR. TUCKER: I thought it was 5,000.

15 MR. SAXON: I'm not sure about that. But the  
16 general next step is for one of the  
17 prosecutors to go to the ALC. Is that --  
18 that's how we do it with other boards.

19 MR. LOVE: ALC, excuse me.

20 MR. SAXON: Administrative Law Court. For them to  
21 impose.

22 DR. SPEARMAN: I read this years ago, but I had  
23 forgotten the maximum penalty.

24 MR. SAXON: Not as much as we would like it to be.

25 MR. LOVE: Yeah. But we are working on a project



1                   perhaps that will help reduce this, if we can  
2                   get the coverage spread through the tv and the  
3                   media. And the public, if they become aware  
4                   that it's a violation, perhaps that will  
5                   reduce it but not eliminate it. That's about  
6                   all I can say, unless somebody makes a change  
7                   in the statute that gives a fine or something,  
8                   you know.

9                   DR. SPEARMAN: You answered it, I think.

10                  MR. LOVE: I mean, that's just the only thing I can  
11                  think of, if the statute was to be changed  
12                  perhaps, you know, the fine. At the time I'm  
13                  not aware of any penalty or such.

14                         So if there are no more questions at this  
15                         time, on behalf of the IRC I'm going to  
16                         recommend or ask the Board to approve these  
17                         recommendations that were made by the IRC on  
18                         April the 26th.

19                  DR. WILLIAMS: Entertain a motion to do that.

20                  DR. SPEARMAN: So moved.

21                  DR. TUCKER: Second.

22                  DR. WILLIAMS: All in favor?

23                  BOARD MEMBERS: Aye.

24                  DR. WILLIAMS: Thank you, David. That's it?

25                  MR. LOVE: That's it. That's all we've got for you

1                   this time.

2                   DR. WILLIAMS: All right.

3                   MR. LOVE: Thank you now. Have a nice day.

4                   DR. WILLIAMS: Thank you. Appreciate it.

5                   MR. LOVE: And we'll see you another time.

6                   DR. WILLIAMS: And that will move us to the reports  
7                   and information section, which is  
8                   administrative info, Angie.

9                   MS. COMBS: Okay. On the licensee totals, we  
10                  currently have 790 licensed optometrists. And  
11                  their license renewal, of course, that would  
12                  be this year. Renewals will be due October  
13                  1st of this year. And that notice to renew  
14                  will be mailed probably about the first part  
15                  of August. You know, maybe about the last of  
16                  July or first part of August. And then that  
17                  will give our licensees instructions on how to  
18                  renew online. So that's -- of course, that  
19                  renewal due date is October 1st. With a late  
20                  fee you can or licensees can renew during  
21                  October. And licenses lapse November 1st.

22                  Under tab two is the financial report.  
23                  And basically, you know, that gives it --  
24                  that's information for our fiscal year '10,  
25                  '11, and '12. And the fiscal year we're in

1 right now is '12. But at any time if y'all  
2 have any questions on that, please let me  
3 know. I'll be happy to find out the answer  
4 for you if you have any questions.

5 And we do give ten percent to the general  
6 fund of our expenditures every year. And, of  
7 course, that's done at the end of the fiscal  
8 year. We give back to the general fund.

9 Under the Office of General Counsel  
10 report, there's only one open case. Of  
11 course, that's the area that handles, if a  
12 complaint goes to a hearing, that type of  
13 thing. There's just one -- they just have one  
14 open case at the moment.

15 Branch registrations, we do not have any  
16 this time, so there's none on that.

17 And also the ARBO meeting, is there  
18 anyone that's interested in going to that?  
19 That would be June the 24th through the 26th.  
20 That's in Chicago. Now, the LLR will send two  
21 Board members. But now the per diem rate or  
22 the federal per diem rate for hotels in  
23 Chicago at that time of year is \$171 per  
24 night, and the hotel is listed at being 259 a  
25 night. So there would be a difference. You'd

1                   have to cover about \$88 a night on your own,  
2                   out of your own expense. And so that's -- but  
3                   is there anyone interested in going to that?

4           DR. WILLIAMS: Let me say, and this is --

5           MS. COMBS: Sure.

6           DR. WILLIAMS: -- the conversation that Angie and I  
7                   had the other day. Normally I would go.  
8                   Obviously I'm rolling off here as soon as the  
9                   Governor appoints someone to take my spot. So  
10                  if nobody wants to go, I'll go and I'll come  
11                  back on my own and report back to you guys at  
12                  the August meeting. But if somebody else  
13                  wants to go, yeah, I mean, you guys please  
14                  feel free.

15   (Multiple people speaking.)

16           DR. SPEARMAN: Well, we can send two.

17           DR. WILLIAMS: Well, that's true. That's true.

18           DR. CANDELA: Well, I would have gone, but I had to  
19                  go away for military duty. So I'm taking so  
20                  much time out of the office.

21           DR. WILLIAMS: That's fine. I just wanted to --

22           DR. SPEARMAN: I think it would great if you'd go.  
23                  I mean, really, I think that would be  
24                  terrific.

25           DR. VAN VEEN: Yeah, that would be awesome if you'd

1 do that.

2 DR. SPEARMAN: How about you? Do you want to go?

3 DR. VAN VEEN: It's just not a good day for me.

4 (Multiple people speaking.)

5 DR. WILLIAMS: Well, this year it's a little later,

6 so it's bumping up closer to the 4th of July.

7 But I do think it's a good idea for somebody

8 from our state to be there. There may be one

9 or two pieces of information that roll across

10 there that would be beneficial to us here.

11 DR. VAN VEEN: What time can you get back on

12 Tuesday? Is there a full meeting on Tuesday?

13 MS. COMBS: Normally it's through about one

14 o'clock.

15 DR. WILLIAMS: Yeah, about one o'clock on Tuesday.

16 And a lot of people do leave on Tuesday

17 afternoon. And I'd say it's a fair number

18 that stay because the AOA starts --

19 (Multiple people speaking.)

20 DR. TUCKER: It's June what now?

21 MR. SAXON: Twenty-fourth through twenty-six.

22 DR. VAN VEEN: Sunday through Tuesday.

23 DR. WILLIAMS: Yeah, it's starts at like eight

24 o'clock on Sunday.

25 DR. VAN VEEN: So you're flying up Saturday night.

1 DR. WILLIAMS: All day Sunday, all day Monday, and  
2 half day Tuesday. It's pretty packed.

3 MS. COMBS: Yeah, their agenda, it ends at 12:30 on  
4 Tuesday. The agenda, it's 12:30.

5 DR. VAN VEEN: Is there a deadline that we need to  
6 let --

7 MS. COMBS: I'll need to, you know, submit some  
8 information. But if you still need to think  
9 about it a little bit more, I'll keep in  
10 contact with you.

11 DR. WILLIAMS: Probably closer to that first week  
12 in June.

13 DR. VAN VEEN: Okay.

14 DR. WILLIAMS: It's not like in the next day or  
15 two.

16 MS. COMBS: So I'll keep in touch with you.

17 MR. SAXON: Which hotel is it, Angie?

18 MS. COMBS: Huh?

19 MR. SAXON: Which hotel are they using?

20 MS. COMBS: It's McCormick. Is that what it's  
21 called?

22 DR. VAN VEEN: McCormick Hyatt.

23 MS. COMBS: Hyatt Regency McCormick Place.

24 MR. SAXON: That's on the river.

25 MS. COMBS: Yes. It's at the -- the theme is

1 Assessing the Future of Healthcare Regulation.

2 MR. SAXON: Well, that's a full topic, isn't it?

3 MS. COMBS: Right.

4 (Multiple people speaking.)

5 DR. WILLIAMS: I'll say there's not a lot of down  
6 time in that meeting. There's not a lot of  
7 fluff. It's a whipping.

8 MR. SAXON: That's good though if you're going to  
9 make that effort to go.

10 DR. WILLIAMS: You can only take so much of that in  
11 their two and a half day time span. It's nice  
12 to have somebody else there to lighten the  
13 brain load.

14 Derek, you're going to think about it?

15 DR. VAN VEEN: I will think about it, joining you  
16 if possible.

17 DR. WILLIAMS: All right.

18 MS. COMBS: Neal, are you going to go for sure, or  
19 are you going to wait and see?

20 DR. WILLIAMS: I'll go.

21 MS. COMBS: Okay.

22 DR. WILLIAMS: I'll take the heat off of Derek.

23 DR. VAN VEEN: Thank you.

24 MS. COMBS: Okay. Next we have -- well, actually  
25 Jennifer Cooper is going to speak to us about

1           some Senate bills. And we do have -- they're  
2           not in your book, but they look like this.  
3           And these are probably the three that she'll  
4           be talking about. Now, there could have been  
5           some changes. Now, I just printed these this  
6           morning, Jennifer. This is the 1395, the  
7           1467, and the 1107.

8           MS. COOPER: Did you want me to go in that order?

9           MS. COMBS: Whatever works for you.

10          MS. COOPER: I'll just start with 1107. There's a  
11          similar bill to this that's 3710. You'll  
12          probably see that on there under companion  
13          similar bill. But this is the issuance of a  
14          temporary professional license to a spouse of  
15          Armed Forces member. Basically, and I'm not  
16          sure if this is going to pass, but it's gone  
17          through the Senate so far.

18                 It's basically saying under the Engine  
19          Act, which does affect every board's Practice  
20          Act, that, you know, if an optometrist in this  
21          case, you know, is an Armed Forces member,  
22          then his or her spouse can, you know, get his  
23          or her license and practice with it. So that  
24          will be interesting to see if that passes.

25          MR. SAXON: And this is across -- as Jennifer



1 explained, this is not unique to this board  
2 but all the boards.

3 DR. CANDELA: I think I would like my new bride to  
4 be able to start practicing optometry. But I  
5 don't think it's in the best interest of the  
6 public.

7 (Multiple people speaking.)

8 MR. SAXON: Optometry, medicine, barbering.

9 DR. CANDELA: Especially if she's a dentist.

10 DR. SPEARMAN: I don't understand the logic of this  
11 at all.

12 MS. COOPER: I don't know if this is going to pass.

13 DR. CANDELA: That's insane actually.

14 MR. SAXON: And LLR was not involved with this.

15 MS. COOPER: No, it was not.

16 MS. COMBS: Now, they do have to have a valid  
17 license in another state.

18 DR. WILLIAMS: Yes. In other words, they've got to  
19 be --

20 DR. SPEARMAN: Well, that's not clear.

21 MR. SAXON: Is that right, Jennifer?

22 MS. COOPER: I'll check.

23 DR. WILLIAMS: You would think surely that that --

24 MR. SAXON: Yes, that's big.

25 DR. WILLIAMS: -- would have to be.

1 MS. COOPER: Oh, yes.

2 MR. SAXON: (B)(1)(b).

3 MS. COOPER: (B)(1)(b).

4 DR. WILLIAMS: We did have that occur one day,  
5 haven't we? We had an interesting situation.

6 MS. COMBS: Oh, it's a temporary license.

7 MR. SAXON: Yes.

8 MS. COOPER: Yes, it's only a temporary license.

9 DR. WILLIAMS: And how long is that? Until such  
10 time they --

11 MR. SAXON: One year from the date of issue.

12 DR. WILLIAMS: Okay.

13 MS. COOPER: And also requires a fingerprint-based  
14 background check.

15 MR. SAXON: And I think, Jennifer, this has gone  
16 through the Senate but not the House; is that  
17 correct?

18 MS. COOPER: Yes. It's stuck at LCI. I haven't  
19 seen any -- I haven't seen a whole schedule  
20 for LCI.

21 MR. SAXON: And even if it goes through the House,  
22 it has to be approved by the Governor.

23 MS. COOPER: Yes, of course.

24 DR. SPEARMAN: Well, I'd like a clarification  
25 though. If, in fact, the requirement would be

1                   that the spouse have a degree or licensure for  
2                   that given professional, I mean, it doesn't  
3                   say that here.

4                   MR. SAXON: It does in B.

5                   DR. SPEARMAN: In B?

6                   MR. SAXON: (B)(1)(b).

7                   DR. SPEARMAN: Well, okay. Well, I'm --

8                   DR. CANDELA: Yeah, it's different now, just  
9                   looking at that.

10                  DR. SPEARMAN: That summary didn't say it.

11                  MR. SAXON: Section 1, then under that (B)(1)(b).

12                  DR. WILLIAMS: Okay. Okay. There you go. Yeah,  
13                  actually we had this occur before this Board  
14                  about five or six years ago. It was an  
15                  active-duty Air Force guy at Charleston Air  
16                  Force Base, whose wife was an optometrist.  
17                  Remember that, Angie?

18                  MS. COMBS: Yes.

19                  DR. WILLIAMS: She wanted to practice in the state  
20                  of South Carolina, but she did not meet the  
21                  requirements. She had not taken part three of  
22                  the National Boards, nor had she practiced in  
23                  a therapeutic approved state --

24                  MS. COMBS: Right.

25                  DR. WILLIAMS: -- two out of the last three years.

1 I think she had one out of the last three. So  
2 she was -- and I don't think she was too happy  
3 when we called her back and gave her the  
4 final. But this would obviously preclude  
5 that.

6 (Multiple people speaking.)

7 DR. TUCKER: You know, again, if another state  
8 doesn't have the same regs and everything else  
9 that we do, it's like, well, wait a minute.  
10 All our guys have to do this, and what about  
11 you?

12 DR. WILLIAMS: You're right. It certainly does not  
13 address that.

14 DR. TUCKER: Yeah. I mean, as it is now, if they  
15 come from a state that can't treat glaucoma or  
16 whatever, we don't give them a license, right?

17 DR. WILLIAMS: That's correct.

18 MS. COMBS: Correct.

19 DR. WILLIAMS: That's correct. And again that's  
20 exactly what happened in the case probably  
21 five years ago.

22 MS. COMBS: Well, Jamie, when it says "may issue a  
23 temporary," is that giving the -- I thought at  
24 one point it had some language that stated it  
25 was really up to the Board whether they want

1 to do this or not.

2 MR. SAXON: I thought so too, but --

3 MS. COMBS: But I don't know if that's clear now.

4 MR. SAXON: I don't see that.

5 MS. COMBS: I don't see that.

6 MR. SAXON: Jennifer, is that language -- has that  
7 been removed?

8 MS. COOPER: I don't --

9 DR. CANDELA: Well, it says, may issue.

10 MR. SAXON: No, no, it is. It says may issue.

11 MS. COOPER: It says may issue.

12 MS. COMBS: So we can take that as the Board's  
13 discretion.

14 MR. SAXON: Yes. That doesn't mean they have to.

15 MS. COMBS: That's what I was thinking.

16 DR. SPEARMAN: Well, I would think that other  
17 professions might be questioning this.

18 MR. SAXON: Similar discussions are taking place  
19 elsewhere.

20 DR. SPEARMAN: I would assume so.

21 MS. COOPER: And I think the fingerprint background  
22 check is a good addition, too. And that's in  
23 a lot of Practice Acts, even though maybe it  
24 needs to be in more.

25 DR. WILLIAMS: So these are just basically for our

1 information; is that correct?

2 MS. COOPER: Uh-huh.

3 DR. WILLIAMS: Thank you.

4 MR. SAXON: Thank you, Jennifer. Angie, are you  
5 ready?

6 MS. COMBS: Well, there's two more.

7 MR. SAXON: Oh, no, are you ready for 1467?

8 MS. COMBS: Oh, I'm sorry.

9 MR. SAXON: I'm not that anxious to get away from  
10 you.

11 MS. COOPER: Actually I was going to go to 1395.

12 MR. SAXON: Okay. You want to go to 1395 next?

13 MS. COOPER: Yeah, numerical order. 1395, this is  
14 about fees. And it's basically -- it's going  
15 to change a big section of the Engine here,  
16 because it's basically deleting section 40-1-  
17 50(D). And it's going to change section D to  
18 just read, "All fees for revenue-funded boards  
19 must be recommended by each board." So it  
20 takes the word established and strikes through  
21 that and says recommended by each board and  
22 approved by the General Assembly as provided  
23 by legislative enactment in the general and  
24 permanent law of the State.

25 So this is different. Instead of letting

1 the board or commission establish their own  
2 fees, they recommend them to the General  
3 Assembly.

4 MR. SAXON: And the General Assembly will then set  
5 the fees.

6 MS. COOPER: But this has only gone through the  
7 Senate. It's still at the House with the LCI,  
8 and there's not been any meetings set for that  
9 with the House LCI committee.

10 DR. WILLIAMS: Now, this would include again all --  
11 everything that LLR licenses?

12 MR. SAXON: Correct.

13 DR. WILLIAMS: Not only us but --

14 MR. SAXON: All the boards and commissions.

15 DR. WILLIAMS: -- every -- which is a ton, right?

16 MR. SAXON: Forty-two, I think; is that right,  
17 Jennifer?

18 MS. COOPER: Yes.

19 MR. SAXON: I believe it's 42.

20 DR. TUCKER: And the reason for this is?

21 DR. VAN VEEN: Yeah, that's my question.

22 MR. SAXON: You'd have to ask Senators Lourie,  
23 Cleary, Bryant, Martin, Bright, and Knotts.

24 DR. TUCKER: And we don't have any idea of what  
25 their thought process is?

1 DR. SPEARMAN: I expect it has something to do with  
2 revenue.

3 DR. WILLIAMS: Ray Cleary is our senator. He's a  
4 35 year practicing dentist. So I'm not --

5 MR. SAXON: Well, if --

6 DR. WILLIAMS: Unless they felt the fees were too  
7 high.

8 DR. SPEARMAN: If you had a -- if you had a board  
9 that was not profitable, that was providing a  
10 drain on the state, then the state would --  
11 and they kept their -- for some reason kept  
12 their registration low, the state could then  
13 with this step in and say, you're going to  
14 have to raise your fees in order to at least  
15 show a cash flow. I mean, that's one thing I  
16 could think of. I don't know that any boards  
17 do that. Do all boards show a cash flow at  
18 the end of -- okay. That sounds like the  
19 reason to me. They're a drain on the -- so  
20 that would be it.

21 (Sidebar conversations.)

22 MS. COOPER: The next one is 1467. And Jamie might  
23 be able to explain this a little bit better,  
24 because it mentions common law and torts and  
25 everything. And I did not go to law school.



1 But this is adding a new section to the  
2 Engine, which will affect every board. And  
3 it's adding section 40-1-43. And I'll  
4 basically just read it out. And there's a  
5 little something extra added into it that's  
6 actually from the Residential Builders  
7 Practice Act. So I brought that along with me  
8 so I could read that to.

9 It says, (as read), The issuance of a  
10 license alone to an individual by the Division  
11 of Professional and Occupational Licensing,  
12 Department of Labor, Licensing and Regulation,  
13 does not create a common law duty of due care  
14 for the license holder, even if the license  
15 holder is a resident licensee as defined by  
16 section 40-59-400, and that's the Residential  
17 Builders Practice Act. As such, the license  
18 holder cannot be held personally liable in  
19 tort solely by reason of being the holder of  
20 the license. However, this section shall not  
21 be construed to prevent a license holder from  
22 assuming the duty of due care through other  
23 means recognized by common law.

24 MR. SAXON: Well, obviously Isaac knows this, and  
25 the rest of you may. But common law is court-

1 made law, basically. And there are court  
2 decisions that create a duty of care. But  
3 this is saying that just because you're a  
4 licensee, you're not assuming a duty of care  
5 unless you choose to do so and then can be  
6 held liable if you mess up. If you assume  
7 that duty and something goes wrong, then you  
8 could be held liable at tort. But this seems  
9 to say to me that it has be assumed  
10 voluntarily. Isaac, don't you think that's --  
11 I mean, obviously, I wasn't consulted in the  
12 writing of this either, but that seems to be  
13 what it tells me.

14 MR. JOHNSON: What I was thinking was that just the  
15 simple fact that you've been issued a license,  
16 that does not create a common law duty of  
17 care. That the duty of care would still be  
18 pursuant to common law. That just because  
19 your licensed, that in and of itself does not  
20 create a duty of care.

21 MR. SAXON: Right. Right.

22 MR. JOHNSON: A duty of care is established by  
23 common law.

24 MR. SAXON: Right. And it's -- and you can always  
25 assume it if you want to.

1 MR. JOHNSON: Sure. Absolutely.

2 DR. SPEARMAN: Duty of care. Can you explain that?

3 DR. TUCKER: Yeah, for instance?

4 MR. SAXON: Oh, gosh, well, if you take it upon  
5 yourself to do a certain thing that you're  
6 qualified to do but don't necessarily have to  
7 do as part of your licensure, then you're  
8 expected to do it well and properly and not  
9 harm the person. If you have taken on that  
10 responsibility voluntarily and harm does  
11 occur, then you can be held liable for it.  
12 But not just because you're a licensee, but  
13 because you chose to take on that duty that  
14 you didn't already have. So it's sort of  
15 going beyond your regular duties to do  
16 something.

17 MR. JOHNSON: Yeah, duty of care is measured by  
18 what has been established by our courts  
19 through the issuance of decisions, as to what  
20 is the duty of care. Not just the simple fact  
21 that you've been licensed.

22 DR. TUCKER: But does it have to do with the  
23 standard of practice?

24 MR. SAXON: It's a protection for you.

25 DR. TUCKER: Or the standard of care of our

1 practice?

2 MR. SAXON: No. You would still -- I mean, the  
3 Board -- I don't think -- Jennifer, correct me  
4 if you know otherwise. I don't think this  
5 takes away any of the standard of care that  
6 you set as a Board or your profession sets.  
7 This is simply -- and, you know, duty of care  
8 goes back, I guess, 400 years to British law  
9 before we were a country. Anything -- we only  
10 have -- let's see. Anything before 1776 we  
11 adopted British law. And in South Carolina  
12 some of it's still on the -- still works. But  
13 we didn't have any precedent to call upon, so  
14 we've got 400 year old laws on the books, even  
15 though we're not nearly 400 years old. But  
16 there's been a duty of care forever almost.

17 MR. JOHNSON: Oh, yeah.

18 MR. SAXON: But this is, I think, meant as a  
19 protection to licensees.

20 MR. JOHNSON: That's the way I interpreted it, that  
21 it's actually a good thing.

22 MR. SAXON: It's a good thing. Yes, I agree.

23 DR. WILLIAMS: And do you think that's directed  
24 toward any certain profession?

25 MR. SAXON: No, it's all of them.

1 DR. WILLIAMS: Okay.

2 MR. SAXON: All three of these today that we're  
3 discussing are for all of LLR's boards. And  
4 I'm not aware of anything that's happened.  
5 You know, I don't know what Senators Hutto,  
6 Campbell, Campsen, and Martin, I don't know  
7 what prompted this. You know, they may have  
8 had some incident in mind, but I don't know  
9 that.

10 DR. SPEARMAN: I'm just -- I'm wondering -- and you  
11 tell me if this maybe would fit. You are a  
12 physician and you decided that your patient  
13 had glaucoma, and you chose to treat that  
14 glaucoma and ultimately inappropriately  
15 treated it, maybe because you didn't have the  
16 right equipment or the right training or  
17 whatever. The fact that you attempted that,  
18 which is really not under your standard of  
19 care in your profession, then you would be --  
20 you could be held liable for that.

21 MR. SAXON: That's right, because if you --

22 DR. SPEARMAN: But if you chose not to treat it,  
23 then you would not be.

24 MR. SAXON: Roughly.

25 DR. TUCKER: And that that standard of care --

1 MR. SAXON: Your standard of care would be to refer  
2 that person to someone who can do it.

3 DR. WILLIAMS: Exactly.

4 MR. SAXON: And it could --

5 DR. SPEARMAN: It would have to do with training,  
6 as well.

7 MR. SAXON: I think it goes a little further, in  
8 that it could be something you were trained to  
9 do, but you don't normally do.

10 DR. SPEARMAN: Well, essentially though as a  
11 physician, there are few limits. Ethical  
12 limits are there, but few limits practically  
13 on your mode of practice or scope of practice.  
14 In optometry, our scope and everything is  
15 pretty much defined. But in other  
16 professions, dentistry and others, there are  
17 no --

18 (Multiple people speaking.)

19 DR. SPEARMAN: So it may be more designed for other  
20 professions rather than us.

21 MR. SAXON: It could have been. It could well be.  
22 I just know the answer to that.

23 DR. SPEARMAN: Well, it's an interesting concept.

24 MR. SAXON: But I do think it is a protective  
25 measure for licensees. I don't think it's

1 something you should worry about, but maybe  
2 even be glad for if it passes.

3 Thank you very much, Jennifer.

4 DR. WILLIAMS: Thank you. Appreciate it.

5 MS. COOPER: No problem.

6 DR. WILLIAMS: I guess that brings us to CE  
7 courses; is that correct?

8 MS. COMBS: Yes. And I do not have anything new or  
9 to question at this time in course approvals.

10 DR. WILLIAMS: Well, I guess that moves us down to  
11 unfinished business, under which is board  
12 certification. So the last time we were going  
13 to talk about that a little bit more in  
14 detail, but we had two professional members,  
15 Optometry members of the Board, who weren't  
16 here. So we didn't feel like it was fair to  
17 get too deeply into that with only three, the  
18 optometrists here. So we kind of delayed  
19 that.

20 So now that we have a full complement,  
21 you know, the question is, do we really want  
22 to make a statement -- or one of the questions  
23 is, do we really want to make a blanket  
24 statement on board certification, other than  
25 what we've already said, which I think is that

1 we'll handle it on a case by case basis as  
2 practicing optometrists ask us if their  
3 designation for board certification would be  
4 suitable by the Board to use.

5 MR. SAXON: For instance, in their advertising?

6 DR. WILLIAMS: I would say that. And, you guys,  
7 please feel free to chime in.

8 MR. SAXON: Would you mind if I chimed in a little  
9 bit?

10 DR. WILLIAMS: Have at it.

11 MR. SAXON: Angie and I discussed this a little bit  
12 earlier today just sort of cursorily. But I'd  
13 think you'd want to make sure there's a  
14 distinction between -- when it says board  
15 certification, I think most members of the  
16 public in South Carolina would assume you as a  
17 Board have certified this person. And if it's  
18 another board, a national board or some other  
19 kind of board, you probably want to take steps  
20 to insure that that board's name is used,  
21 rather than just say board certified, but  
22 Angie Combs board certified, or whatever the  
23 name of the board is. So that the public is  
24 not misled into thinking that the Board of  
25 Examiners in Optometry --



1 DR. WILLIAMS: Has some designation.

2 MR. SAXON: -- has certified this person.

3 DR. CANDELA: Which is what physicians do. It  
4 depends on what agency that certifies them.  
5 And that's why I think it's important, given  
6 that, that we should specifically state which  
7 ones are recognized. And if they're -- if any  
8 optometrists out there that want to say that  
9 they are board certified by someone outside of  
10 what we've already recommended or that we have  
11 stated that you can state, then they need to  
12 bring it to the Board. And then we need to go  
13 ahead and decide whether that's a reputable  
14 enough company to be able to go ahead and say  
15 that you are board certified.

16 DR. VAN VEEN: Would something like this give every  
17 optometrist in the state the ability to  
18 designate themselves in advertising or  
19 whatever as South Carolina board certified, or  
20 board certified by the South Carolina Board.

21 DR. CANDELA: There is already a current statute in  
22 here that we can't say that we're board  
23 certified by South Carolina. That we are  
24 licensed by the state of South Carolina, but  
25 we're not board certified. Now, if they would

1 listen to Wayne Cannon and everybody else, and  
2 I agree with them. I mean, you've got your  
3 license in the state of South Carolina. You  
4 want board certified. But that's not the way  
5 it is. Just like we can't hold ourselves out  
6 as specialists in a specific area or things of  
7 that nature either.

8 DR. TUCKER: Board certified in the law, the exam  
9 you took, if you took the National Board, you  
10 are National Board certified. If you took the  
11 South Carolina Board, you are -- whatever test  
12 the South Carolina Board gives, you are South  
13 Carolina Board certified.

14 MR. SAXON: For most professions a certification is  
15 for a specialty, for something that's beyond  
16 the norm. I mean, there are legal  
17 specialities for which you have to meet  
18 certain criteria to be able to claim a  
19 specialty in that, and it's true for a lot of  
20 professions. But it's usually more than  
21 simply being licensed in a profession. You  
22 know, more education, different education,  
23 something.

24 DR. WILLIAMS: And that's really kind of where the  
25 whole rub comes from. Because traditionally

1           there has not been a board certification  
2           process for optometry. Now, there are some  
3           purported or board certification avenues for  
4           optometrists. The question then becomes, do  
5           we recognize that? Or, you know, if somebody  
6           goes and takes Angie's test there and she  
7           gives a little plaque out that says you're now  
8           board certified, does the licensing board or  
9           the governing board in this state approve  
10          that, or -- what's the word I want to use?

11          MR. SAXON: Approve or not. And I think ultimately  
12          it's the Board, this Board, who would say  
13          whether you're going to count that or not.

14          DR. WILLIAMS: Right.

15          MR. SAXON: And you might --

16          DR. WILLIAMS: And I think we all agree on that.

17          DR. SPEARMAN: Yeah. And I think the position that  
18          we took early on, even before there was even a  
19          test administered for any of the board  
20          certification entities, we've said rather than  
21          -- rather than establish a policy at this  
22          point, what we're going to do is wait and see  
23          what questions arise and what challenges we  
24          have as far as advertising, using it, and that  
25          sort of thing. And I'm not sure even at this

1 point how much of an issue it is.

2 MR. SAXON: Well, I was going to ask y'all and ask  
3 Angie, is this something that comes up very  
4 often?

5 MS. COMBS: Not yet.

6 DR. CANDELA: It is within the association. But  
7 there's a disconnect between the Board of  
8 Examiners and the state association as far as  
9 that's concerned. But within the state  
10 association, the information I've been hearing  
11 is that there are certain factions around the  
12 state that are trying to use in their normal  
13 advertising, board certified by the American  
14 Optometric Society, AOS. And they're the ones  
15 who you just pay your fee and then you're  
16 board certified. There's no certifying  
17 examination. No maintenance of certification  
18 process, things of that nature. So that's why  
19 I kind of wanted us to kind of talk about it.

20 MR. SAXON: Well, it may be something you want to  
21 take up in legislation. At least to the --  
22 and I'm just thinking out loud here. At least  
23 to the extent where you want to make plain to  
24 licensees and to the public that before any  
25 member, any licensee, can claim board

1 certification, it has to be approved by the  
2 South Carolina Board of Examiners in  
3 Optometry.

4 DR. WILLIAMS: And pretty much that's what we  
5 had --

6 MR. SAXON: That's just a possibility.

7 DR. WILLIAMS: That's pretty much what we've said,  
8 correct? Has that not been our stance for  
9 probably the last year or so? And really  
10 nobody's come before us.

11 DR. SPEARMAN: Well, I was going to say, we may  
12 have heard rumors, but we've not heard  
13 anything official.

14 DR. WILLIAMS: And really --

15 DR. SPEARMAN: I want to digress a little bit.  
16 But, I mean, have we ever -- has this Board  
17 ever made a determination as to whether a  
18 practicing optometrist could use the -- for  
19 example, I'm a fellow of the Academy of  
20 Optometry. I use that periodically in writing  
21 and that sort of thing. I mean, it's -- and  
22 then we have COVDs, which is another  
23 designation that optometrists have for  
24 specialized advanced training, testing, that  
25 sort of thing.

1                   Have we ever, to your knowledge, or,  
2                   Angie, to your knowledge, made -- had any  
3                   question as to whether or not it's appropriate  
4                   for an optometrist to use that in their  
5                   advertising and everything else? Because I  
6                   know that that's relatively common, I would  
7                   think. I mean, I don't advertise.

8                   MS. COMBS: I know -- I'm trying to think, because  
9                   in this advertisement section, I was just  
10                  reading in the regs. Now, this is talking  
11                  about specialists, and I'm not sure --

12                 MR. SAXON: I don't think your membership in like  
13                  your fellowship --

14                 DR. SPEARMAN: It's not a membership that I'm  
15                  questioning. It's the use of the designation.

16                 MR. SAXON: I don't think that would be a problem,  
17                  because that's not -- provided it doesn't  
18                  create confusion among the public, members of  
19                  the public. I think this -- the only problem  
20                  with this is, if people see -- if a licensee  
21                  says I'm board certified, it seems like this  
22                  Board has certified them.

23                 DR. SPEARMAN: No, I agree with you. I think  
24                  you're --

25                 MR. SAXON: So I think there's a distinction

1                   between the kind of things you mentioned just  
2                   now and that.

3           DR. SPEARMAN: By the way, Peter, I thought that  
4                   the -- and I don't remember the name of the  
5                   one you mentioned.

6           DR. WILLIAMS: AOS. That's the American Optometric  
7                   Society.

8           DR. SPEARMAN: I thought that there was some type  
9                   of a testing procedure in that; is there not?

10          DR. CANDELA: After.

11          DR. WILLIAMS: After. There is going forward.

12          DR. SPEARMAN: Oh, okay. So they're grandfathering  
13                   in?

14          DR. WILLIAMS: Right.

15          (Multiple people speaking.)

16          DR. WILLIAMS: They eliminated the first step, the  
17                   ABO, and went straight to the maintenance.

18          MS. COMBS: Now, in the law it states, nothing in  
19                   this chapter prevents a person from making  
20                   truthful, non-deceptive claims of  
21                   qualifications and professional affiliations.

22          MR. SAXON: That speaks of it as far as I read it.

23          (Multiple people speaking.)

24          MS. COMBS: Now, that what I just quoted is the law  
25                   under 40-37-390. Now, the regs gets into the

1 specialists though, which is not -- if you are  
2 board certified, I mean, I don't know. This  
3 doesn't address it in the regs. Cannot  
4 designate him or herself as a specialist  
5 unless he or she holds a certification from a  
6 credible national organization recognized by  
7 the Board. That's addressing specialists, and  
8 that's in regs. And the other is in law.

9 MR. SAXON: And the law is going to control. But  
10 the way it's written now, still the ultimate  
11 authority rests with this Board.

12 DR. WILLIAMS: And, you know, I believe on that  
13 certificate the ABO gives, I think it says  
14 "Diplomat of the American" -- so really back  
15 to what you said, you could probably say,  
16 yeah, I'm a diplomat of the American Board of  
17 Optometry, and that's not deceptive. You're  
18 not saying board certification.

19 MR. SAXON: Right.

20 DR. WILLIAMS: But that was the reason that that  
21 diplomat status was given to be board  
22 certified, based on -- based in their eyes.

23 MR. SAXON: Right.

24 DR. WILLIAMS: Not in our eyes or any other  
25 licensing board.



1 DR. SPEARMAN: And just for information, I did -- I  
2 got a phone call from a member of the Georgia  
3 Board of Examiners, asking me the position  
4 that we had taken. And I pretty much  
5 explained that we had chosen to just sit and  
6 wait and see what transpired. And he did  
7 indicate to me that that's exactly what he was  
8 doing or what Georgia was doing, not that  
9 that's what we should do. And that the other  
10 states that he had contacted were doing a  
11 similar thing, making similar decisions.

12 DR. WILLIAMS: And that's another interesting thing  
13 to go to ARBO, because you get into all that  
14 discussion. Well, what's everybody else  
15 doing? And there are a few states, like North  
16 Carolina, who say we're not having anything to  
17 do with it. We'll decide who calls themselves  
18 what in this state and nobody else, and that's  
19 the end of it. And then you've got some, I  
20 think Louisiana, that have said, well, we have  
21 no problem with that. And then you've got a  
22 majority like that 60 percent are like, well,  
23 we don't know. Which way is the wind blowing?

24 MR. SAXON: Of the two, I'd rather y'all don't  
25 allow anything than to allow everything.

1 DR. WILLIAMS: Well, I wouldn't say that they'd  
2 allowed everything --

3 MR. SAXON: I know.

4 DR. WILLIAMS: -- but they --

5 MR. SAXON: I'm being a little facetious.

6 DR. WILLIAMS: -- they allowed that.

7 DR. CANDELA: Where was the regs where you found  
8 that, Angie? Because I'm looking, I can't  
9 find that in the pages that I have.

10 MS. COMBS: Okay. Under the regs, that's under  
11 that 95-2, Advertisements. It's under B.

12 DR. CANDELA: See, I don't have those connected to  
13 mine. 95-5(B)?

14 MS. COMBS: 95-2(B). And that's in that regs  
15 section. Now, that's talking about the  
16 specialist.

17 DR. SPEARMAN: Yeah, that's really not --

18 MS. COMBS: Then the law is talking about the  
19 professional affiliation.

20 DR. WILLIAMS: And the law is the one that says  
21 that as long as you don't state anything  
22 that's misleading; is that correct?

23 MS. COMBS: Right.

24 MR. SAXON: And, I think therein is the rub.

25 (Multiple people speaking.)

1 DR. CANDELA: Well, yeah, and also it says, a  
2 credible national organization. And we need  
3 to determine who is credible and who is not.

4 MR. SAXON: You need to decide who is credible and  
5 not. And I don't know that that's not  
6 something you just do as it comes up, as some  
7 national organization asks you.

8 DR. CANDELA: Well, what happens when -- well, when  
9 optometrists practicing in the state start  
10 using a designation, but --

11 DR. WILLIAMS: Yeah, that's kind of where this --

12 MR. SAXON: Well, unless y'all have approved it, I  
13 don't think they can.

14 DR. CANDELA: But they have been.

15 DR. WILLIAMS: Yeah.

16 DR. CANDELA: So that's where -- kind of why I  
17 thought that maybe the Board should start  
18 naming which organizations --

19 DR. WILLIAMS: We've got enough people out here now  
20 that are in that position that, you know,  
21 there are going to be more and more people  
22 either wanting or going ahead and using that  
23 designation. And I figured at some point in  
24 time we need to say okay, that's cool or  
25 that's not.

1 MR. SAXON: Right. And I agree with you. But I  
2 think until the Board has made that decision  
3 about an organization, then a licensee should  
4 not be using any designation.

5 DR. WILLIAMS: And I think we all agree with that,  
6 as well.

7 DR. CANDELA: Right. So for the ones that we're  
8 finding that are using it, then we need to  
9 start sending cease and desist orders. The  
10 Board has not recognized that.

11 DR. SPEARMAN: Well, once we do that, it's going to  
12 be incumbent on us to make a decision.

13 DR. CANDELA: Exactly. That's what I'm saying.  
14 Since it's -- it's already here.

15 DR. SPEARMAN: So really rather than sending cease  
16 and desist, we should make a decision.

17 DR. WILLIAMS: The horse is out of the barn.

18 DR. CANDELA: Exactly. And I agree. I agree.

19 DR. WILLIAMS: So the question is, how long do we  
20 sit back and wait before we -- ultimately  
21 we're going to have to make a decision.

22 DR. CANDELA: Right.

23 DR. WILLIAMS: So the question is --

24 MR. SAXON: I still think --

25 DR. WILLIAMS: -- do we wait or --

1 MR. SAXON: -- the horse that should be before the  
2 cart is the organization coming before the  
3 Board and asking for the Board to recognize  
4 its, whatever it is.

5 DR. WILLIAMS: So you're saying that national  
6 whomever --

7 MR. SAXON: Should come before this Board and in  
8 some way ask to be approved by you.

9 DR. TUCKER: He'll be here in a few months.

10 MR. SAXON: Okay.

11 DR. SPEARMAN: Who's that?

12 DR. TUCKER: James.

13 (Multiple people speaking.)

14 MR. SAXON: Well, that's just my opinion of --

15 DR. SPEARMAN: Well, technically he would have to  
16 recuse himself.

17 DR. TUCKER: Exactly.

18 (Multiple people speaking.)

19 DR. WILLIAMS: And, you know, actually it's  
20 interesting you mentioned that. By the group  
21 that I think we would all agree or probably  
22 all would agree that we would not approve has  
23 already sent a letter by their attorney,  
24 remember, asking us to go ahead and approve  
25 them, their board certification process. And

1                   that was probably 15 months ago. AOS. That  
2                   was well over a year ago.

3 (Multiple people speaking.)

4                   DR. WILLIAMS: And we told them -- we said we  
5                   weren't willing -- we weren't ready to make a  
6                   decision at that point in time. But they  
7                   basically have already asked us to make a  
8                   decision.

9 (Multiple people speaking.)

10                  DR. SPEARMAN: Have we seen any -- I mean, I don't  
11                  know how many optometrists in our state are  
12                  board certified in either one. I mean, we've  
13                  not seen the numbers.

14                  DR. WILLIAMS: The ABO, that information is out  
15                  there, and it's a pretty good number. It's  
16                  like 30. I bet percentage-wise --

17                  DR. CANDELA: Oh, for South Carolina?

18                  DR. WILLIAMS: Yeah.

19                  DR. CANDELA: South Carolina is one of the highest  
20                  --

21                  DR. WILLIAMS: I was going to say it was amongst  
22                  the highest in the country for certified.

23                  DR. VAN VEEN: Where was that information?

24                  DR. WILLIAMS: I don't know if it's on the AOA  
25                  website, but it's on the ABO website. After

1                   they had the first test --

2           DR. TUCKER:  But they didn't give you the total for  
3                   state by state.

4           DR. WILLIAMS:  It listed everybody.  It listed  
5                   every individual optometrist in each state who  
6                   passed that ABO certification.  And it was a  
7                   good --

8   (Multiple people speaking.)

9           DR. WILLIAMS:  There were probably 30 guys in this  
10                   state, which is I thought a good number for a  
11                   very small state.

12          DR. VAN VEEN:  But 30 out of, how many licensees do  
13                   we have?

14          MS. COMBS:  Almost 800.

15          DR. VAN VEEN:  800.

16          DR. WILLIAMS:  But let's say, how many are  
17                   practicing?  Four hundred?

18          MS. COMBS:  Right.  Close to it.

19   (Multiple people speaking.)

20          DR. WILLIAMS:  Close to ten percent.

21          DR. SPEARMAN:  Well, it seems that we've been asked  
22                   by one of the certifying agencies to consider  
23                   it.  The question is, do we go out and start  
24                   making a decision on that now when there is no  
25                   one other than that certifying entity who has

1                   come to the Board formally and asked us to  
2                   consider it? I mean, that's --

3           MR. SAXON: You know, you don't have to make an  
4                   across-the-board decision, that we're either  
5                   going to do it for all or not do it for any.  
6                   If that particular organization has asked a  
7                   question and you want to say yes to them, say  
8                   yes. If you want to say no to them, I think  
9                   you certainly have that authority.

10          DR. VAN VEEN: Say that again. I'm sorry.

11          MR. SAXON: I don't think you have to decide what  
12                   you're going to do regarding all the  
13                   organizations that may eventually come before  
14                   you.

15          DR. VAN VEEN: Right.

16          MR. SAXON: I think you can take them individually.  
17                   If there's -- this organization --

18          (Multiple people speaking.)

19          MR. SAXON: I think it's simply a matter of taking  
20                   a vote as to whether you want to grant their  
21                   request or not.

22          DR. SPEARMAN: Well, I think it's more involved  
23                   than that personally. I think we need to  
24                   really understand exactly what this  
25                   certification --



1 MR. SAXON: Yes. I would want you to do that  
2 before you took a vote.

3 DR. SPEARMAN: But, I mean, that's really what  
4 we've got to do. We've got to look at it very  
5 carefully to determine if in our opinion it is  
6 worthy of our approval, or if it's not, stand  
7 the heat, the consequences of not approving  
8 some of these national organizations. That's  
9 no reason not to do it. But I'm just saying,  
10 we can't be cavalier about it. We've got to  
11 really --

12 MR. SAXON: Would it be something you're interested  
13 in in having maybe a committee of three look  
14 into the matter and present something to the  
15 Board to make a recommendation?

16 DR. SPEARMAN: I think we have to do something. I  
17 think we -- if we're -- if we decide we're  
18 ready to look at it, and I think we still have  
19 an option of not looking at it right now.  
20 We've ignored their request for 15 months. I  
21 think when it starts affecting optometrists  
22 out in South Carolina and we hear complaints  
23 either from them or from someone saying, this  
24 person is using this designation, and I don't  
25 believe it's appropriate. At that time we

1                   have no option anymore. But we still have  
2                   options as I see it right now.

3           MR. SAXON: Well, and I like your idea of being  
4                   proactive, simply because you do owe a  
5                   responsibility to the licensees, as well as to  
6                   the public and to the profession. And it is  
7                   nice to make a decision before somebody --  
8                   before one of our investigators has to go out  
9                   and investigate a complaint, because  
10                  somebody's claiming this certification and  
11                  thinks it's inappropriate.

12          DR. WILLIAMS: These claims have been -- I mean,  
13                  the claim of being board certified, just like  
14                  being a specialist, that's nothing new. But  
15                  what's different now is you have national  
16                  organizations who have programs that are being  
17                  viewed as board certified. I don't know if  
18                  we've really had anything that people could  
19                  have laid their hat previously.

20          MR. SAXON: But now you do.

21          DR. WILLIAMS: Now we do. So like the landscape is  
22                  different.

23          DR. SPEARMAN: And there's nothing in our law that  
24                  really truly addresses it.

25          DR. WILLIAMS: And now you've got more people, I

1                   would think, who think they have a legitimate  
2                   claim or at least thought process to use that  
3                   terminology.

4                   MR. SAXON: Well, do you as a Board think at this  
5                   point that you have enough information about  
6                   these organizations to make an informed  
7                   decision?

8                   DR. WILLIAMS: Well, speaking for myself I think we  
9                   do for some. Like, I think, for those of us  
10                  who are fellows in the American Academy or  
11                  COVD, I mean, we know that we had to go  
12                  through some process, and we had to be tested  
13                  to get that designation.

14                 DR. SPEARMAN: But we're not claiming board  
15                  certification.

16                 DR. WILLIAMS: That's exactly correct. And then  
17                  for the diplomat in the American Board, that  
18                  was --

19                 DR. SPEARMAN: I'm only aware of two organizations  
20                  that are doing a national certification or  
21                  board certification. Are there others?

22                 DR. CANDELA: I only remember two right now.

23                 DR. WILLIAMS: I think there's another one out  
24                  there. And then there's like -- I think the  
25                  neurology, and there are some other different

1 groups out there that we don't hear much about  
2 in South Carolina because we're a relatively  
3 small state.

4 DR. CANDELA: I joined the Optometric Nutrition  
5 Society, right.

6 DR. WILLIAMS: Okay.

7 DR. CANDELA: But you're not claiming board  
8 certification. You're just a member of that.

9 MR. SAXON: I think there are a couple of  
10 considerations. One, you want -- due  
11 diligence calls for you as a Board to know  
12 enough about the organization to make an  
13 informed decision. But I think you may also  
14 want to think about what does an informed  
15 decision involve? You know, what's going to  
16 make this group be acceptable and this group  
17 not be acceptable? What kind of criteria  
18 would you like to establish as a Board that  
19 some organization must meet at a minimum for  
20 you to approve?

21 DR. CANDELA: But I think there's a standard that's  
22 already out there in medicine, right? So, I  
23 mean, there are like plastic surgeries and all  
24 those kind of things, you know. There's a  
25 board certification process for each of the

1 subspecialties within medicine.

2 MR. SAXON: Right. That's right.

3 DR. CANDELA: So there's an established precedent  
4 that's out there. So now that we --

5 MR. SAXON: You may want to borrow from that.

6 DR. CANDELA: Yeah, exactly. We're not talking  
7 about just memberships in different --

8 MR. SAXON: No. And I don't think we need to  
9 recreate the wheel necessarily.

10 DR. CANDELA: This is board certification, we're  
11 looking at, and whether someone can go ahead  
12 and designate themselves as being board  
13 certified. And I do agree with what you said  
14 before. If you're going to be board certified  
15 by the American Board of Optometry and  
16 whatever other groups that we decide that are  
17 going to -- so all the groups that are out  
18 there, you've got to take a test. And then  
19 you've got some kind of maintenance and  
20 certification, five years, ten years, whenever  
21 it is down the road, to stay board certified  
22 within that. So all of them have that. And  
23 the big difference between these two in  
24 optometry right now is, one you just buy in.

25 DR. TUCKER: Well, how long does it take to get

1                   your maintenance?

2           DR. WILLIAMS: Is it five years or ten?

3           DR. CANDELA: I think it's still ten years.

4           DR. WILLIAMS: I think it's ten for ABO.

5           DR. CANDELA: They're both ten years.

6           DR. WILLIAMS: They're both ten?

7           DR. CANDELA: Yeah.

8           DR. WILLIAMS: Okay.

9           DR. CANDELA: I think they're both ten. I know ABO  
10                   is definitely ten.

11          DR. WILLIAMS: I know that, as well.

12          DR. VAN VEEN: What is -- let's not look at  
13                    medicine. Let's look at dentistry, since  
14                    dentistry, you know, you go into dental school  
15                    knowing you're going to be a dentist. And are  
16                    there non-board-certified dentists and board-  
17                    certified dentists?

18          DR. SPEARMAN: Yes. There's many, many more --  
19                    from my understanding it's many, many more are  
20                    non-board certified than board certified.

21          DR. VAN VEEN: The ones that are board certified,  
22                    can they advertise that? And what does it  
23                    take for them to become and maintain their  
24                    certification?

25          DR. CANDELA: I have no idea, because we've

1                    patterned it after ophthalmology.

2                    DR. VAN VEEN: I think dentistry in this case is  
3                    probably -- is more analogous.

4                    DR. SPEARMAN: Well, it may be appropriate for  
5                    ophthalmology because my understanding is, is  
6                    that when ophthalmology became -- created  
7                    their board certification process that they  
8                    grandfathered people in.

9                    DR. VAN VEEN: They did.

10                   DR. WILLIAMS: They did.

11                   DR. SPEARMAN: So if that's the case, then that  
12                   would erase the --

13                   DR. VAN VEEN: OSA certainly has an argument, or  
14                   ASO or whatever.

15                   DR. SPEARMAN: I mean, I don't know. We need to  
16                   look at it very --

17                   MR. SAXON: Just listening to y'all speak is  
18                   telling me a lot of -- it's making me --  
19                   proposing at least the option of a committee  
20                   that looks at the dentists or the  
21                   ophthalmologists or medicine or whomever and  
22                   see what you like and see what you want to  
23                   come up.

24                   MR. JOHNSON: What area of the law governs whether  
25                   one can hold himself out as board certified?

1 DR. SPEARMAN: See, that's one of my concerns.  
2 Because when this law was written, there was  
3 no board certification in optometry. And even  
4 though it refers to holding yourself up to be  
5 different than your fellow optometrists, board  
6 certification specifically is not mentioned,  
7 that I've found anyway. And so it's almost  
8 like we're going to have to amend or change  
9 or --

10 MR. SAXON: That may be -- that may be --

11 DR. SPEARMAN: Because there is nothing there.

12 MR. JOHNSON: That's right. Because the only thing  
13 that I see here is under 95-2 regarding  
14 advertisements, saying that you cannot  
15 designate himself or herself as a specialist  
16 in any area of optometric practice, unless so  
17 on, blah, blah, blah, blah. I don't see where  
18 anybody --

19 MR. SAXON: I think that might be broad enough to  
20 encompass this, but I'm not sure either. And  
21 that's why I said earlier, this may be a  
22 situation that you want to consider in  
23 legislation.

24 MR. JOHNSON: Are there any specialties under --  
25 under the --



1 DR. CANDELA: Yes. But none that have been  
2 recognized by the Board.

3 DR. TUCKER: Like we just said, the COVID vision  
4 development and things like that.

5 MR. JOHNSON: From what I gather, I'm just hearing  
6 that people are holding themselves out as  
7 board certified pursuant to some national  
8 organization. Not holding themselves out as a  
9 specialist under the practice of optometry.  
10 So I don't even know that we can --

11 DR. WILLIAMS: Legally that we have a --

12 MR. JOHNSON: Yeah.

13 MR. SAXON: I think my worry is that a member of  
14 the public sees Neal's business card or  
15 advertisement or whatever, and it would say  
16 board certified. I think most people would,  
17 or at least many people would think that he's  
18 a specialist in something. That he's done  
19 something to make him stand out.

20 DR. WILLIAMS: Different than his other colleagues.

21 (Multiple people speaking.)

22 MR. JOHNSON: You know, under the legal profession  
23 you can hold yourself out as a -- there's  
24 certain specialties.

25 MR. SAXON: But you can't just do that without --

1 MR. JOHNSON: Right. That's right.

2 MR. SAXON: -- permission.

3 MR. JOHNSON: But here these guys are just saying  
4 we're board certified pursuant to some  
5 national organization. They're not saying  
6 that I'm a whatever --

7 MR. SAXON: And if they do that --

8 (Multiple people speaking.)

9 MR. SAXON: I think the problem is if somebody just  
10 says board certified. Not board certified by  
11 so and so. Well, and even if it is board  
12 certified by such and such a group, would the  
13 general public know what that means?

14 DR. SPEARMAN: Well, the impetus to this -- by the  
15 way, I think we need to understand why it was  
16 created in the first place, or at least  
17 ostensibly why. We know why it was created.  
18 But ostensibly it was created so that when an  
19 optometrist joins a panel, an insurance panel,  
20 the question is always, because it's prepared  
21 for physicians, as well, board certified,  
22 board certification. Well, it's not -- it  
23 does not apply to us. And the implication is,  
24 is that without being able to fill that in, we  
25 somehow may be penalized by the panel, the

1 review panel, that we don't have a specialty,  
2 and that therefore we have not --  
3 educationally have not risen to the correct  
4 level in order to be on that panel. So the  
5 original concept was that we would become  
6 board certified, because the future of eye  
7 care, the future of insurance and medical  
8 care, is going to be -- that is going to be a  
9 gateway into these programs. So that's the  
10 way -- now we've evolved down to where people  
11 may be -- some may be construing the fact that  
12 a person says they're board certified as  
13 holding themselves up. But we haven't heard  
14 that complaint, but it's there apparently. So  
15 it's complicated. Kind of an unforeseen side  
16 effect.

17 MR. JOHNSON: But the law has to give us the  
18 authority to tell them that they cannot hold  
19 themselves -- specifically has to tell us --  
20 give us the authority to tell them that they  
21 cannot hold themselves out as board certified.

22 DR. WILLIAMS: So what you're saying is, right now  
23 in your opinion --

24 MR. JOHNSON: I don't -- I don't know. I don't see  
25 it in here anywhere, but it could be.

1 DR. CANDELA: You can go ahead and say -- like I'm  
2 board certified by the American Board of  
3 Optometry. I can put that on my letterhead,  
4 my business cards, whatever, that I am board  
5 certified by the -- and I have proof of that.  
6 I've got a diplomat thing. I took a test. I  
7 passed it. The Board, myself, and the rest of  
8 us, can't say I can't say that, because, you  
9 know, I busted my butt to go ahead and pass  
10 that exam and do that. But on the flip side  
11 of that, if Derek decides to go ahead and  
12 start, you know, Derek board certification  
13 process, come on in, pay me a thousand dollars  
14 and you are going to be board certified by  
15 Derek --

16 DR. SPEARMAN: You mean like Rand Paul did?

17 DR. CANDELA: Yeah. I mean, you know, we have to -  
18 - we have to -- one of our jobs is to protect  
19 the public, so we can't have people going out,  
20 and the law does state that you can't -- I  
21 don't know how it was worded in the --

22 DR. WILLIAMS: Misrepresent yourself.

23 DR. CANDELA: Yeah, you can't misrepresent  
24 yourself. So who are the ones that are  
25 credible organizations, and who aren't?

1                   Ultimately we have to decide that. And if we  
2                   keep sitting back and not making these  
3                   decisions, you know, there may be a third  
4                   organization that will come out or whatever,  
5                   and optometrists are out there advertising,  
6                   however they're doing it at this point in  
7                   time, that they are board certified with  
8                   particular groups. I think we need to go  
9                   ahead and, like I said, be proactive and start  
10                  to --

11                 MR. SAXON: I think it's important not just for the  
12                  public but for licensees to know --

13                 DR. CANDELA: Right. I agree.

14                 MR. SAXON: -- if this is a fly by night  
15                  organization, if this is something which the  
16                  board that licenses me thinks is acceptable.  
17                  And I think that they probably deserve an  
18                  answer to that.

19                 DR. VAN VEEN: In order to practice in South  
20                  Carolina, you had to do all this. And so from  
21                  a public safety standpoint, you know, I think  
22                  it is safe. And then, you know, I would say  
23                  don't let anybody from that standpoint, from a  
24                  public safety standpoint, call themselves  
25                  board certified, at least not right now.

1 DR. SPEARMAN: Well, unless they're applying for an  
2 insurance --

3 DR. VAN VEEN: You know, if they're applying for  
4 insurance and they've done that, let the  
5 insurance panels make that decision what board  
6 certification they think is appropriate.

7 DR. CANDELA: You can't do that. You can't turn  
8 around and tell somebody who's gone through  
9 that credible process they can't say that  
10 they're board -- that they're not board  
11 certified. And then you'll get sued. It's  
12 going to happen.

13 DR. WILLIAMS: Well, I don't know that I agree with  
14 that.

15 MR. SAXON: I don't think I do either. It depends  
16 on how you word it, frankly.

17 DR. WILLIAMS: I mean, I don't --

18 DR. CANDELA: No, he's saying you can't -- what  
19 Derek was saying was -- and if I'm wrong --

20 DR. VAN VEEN: Keep the position we have right now.

21 DR. CANDELA: That nobody can say you're board  
22 certified. So you're saying that no one would  
23 be allowed to say that they're board certified  
24 --

25 DR. WILLIAMS: I think --

1 DR. CANDELA: -- in print and advertising. That's  
2 what I took from what you said.

3 DR. VAN VEEN: Is that our current stance; am I  
4 correct on that? We don't have a stance.

5 DR. CANDELA: I don't know. We don't have a  
6 stance.

7 (Multiple people speaking.)

8 DR. WILLIAMS: Well, according to Isaac there's no  
9 law. But I do -- I do believe that it is our  
10 current stance.

11 MR. SAXON: I think you have a mandate, the  
12 authority, to decide.

13 DR. WILLIAMS: And I think that we have the legal  
14 authority over the licensees of the state of  
15 South Carolina that nobody else has on the  
16 national level, and that we can decide who  
17 uses what terminology. Now, maybe I'm wrong.

18 MR. JOHNSON: What causes us to exercise or  
19 initiate that mandate though? I mean, do we  
20 just go and look at every optometrist who says  
21 that he or she is board certified by ABC  
22 Mickey Mouse Association? I mean, what -- how  
23 does it come to us to examine whether that  
24 national organization is an organization that  
25 we recognize as one where one can say that I'm

1 board certified by that organization?

2 DR. WILLIAMS: I don't know that it would, other  
3 than if you have your members of that  
4 profession using that designation. Then I  
5 would think that it would be up to us to say,  
6 well, we're okay with that. We think that's  
7 a --

8 DR. SPEARMAN: But we have not -- I mean, we have  
9 not had any complaints from anyone that's  
10 saying that I'm concerned about this, about  
11 this usage. I think that's my only --

12 DR. WILLIAMS: I'd say not to us directly. But I  
13 think to others in the profession and they've  
14 been brought to you and I.

15 DR. SPEARMAN: But other than that anecdotal stuff,  
16 there's really not -- we can't really base our  
17 decisions on that.

18 DR. VAN VEEN: Yeah, I kind of agree with that. We  
19 need somebody to come in with a complaint and  
20 then --

21 (Multiple people speaking.)

22 DR. SPEARMAN: And also once we make the decision  
23 that we are going to consider this, we need a  
24 -- we need criteria. We just can't willy-  
25 nilly say this is good and that's bad. We



1                   need to have some kind of criteria that we  
2                   judge every organization by. That we're being  
3                   fair and honest to everyone, because this is  
4                   the beginning, certainly not the end. There  
5                   may be 50 before it's all over.

6                   DR. WILLIAMS: Oh, I agree.

7                   DR. SPEARMAN: And I think that if before we start  
8                   making decisions on who is acceptable and who  
9                   is not, we need to make sure that our criteria  
10                  that we judge them by or we evaluate them by  
11                  is pretty doggone ironclad.

12                  DR. WILLIAMS: Yeah, I would think you need some  
13                  such standard.

14                  DR. SPEARMAN: And there you go back to a  
15                  committee.

16                  MR. SAXON: That's what I was saying. A committee  
17                  that establishes criteria. You may want to  
18                  find out what other states are doing, what  
19                  other professions are doing. And, I mean, it  
20                  can even be a matter like we're having a  
21                  meeting in August, I think, to discuss  
22                  legislation. You can have a meeting when this  
23                  committee has done its work and comes back,  
24                  and that meeting is to be nothing but discuss  
25                  this situation, this issue, and to hear what

1                   the committee has to provide, if you wanted to  
2                   do that.

3           DR. TUCKER:   Would it go into the regs then?  Is  
4                   that where it would be?  Our criteria for --

5           MR. SAXON:   Not necessarily.  You could propose  
6                   that.  I'm always in favor of putting your  
7                   authority in law.  So I would say if you want  
8                   to try to put it in statute, do that.  But I  
9                   don't know that that's required.

10          DR. SPEARMAN:  We could have a policy.

11          MR. SAXON:  You can't have a policy, but you can  
12                   interpret your own laws.  And I think -- I  
13                   think at this point, and this is just with a  
14                   cursory look, I think you've got the  
15                   authority, but that may take some looking  
16                   into, as well.

17          DR. SPEARMAN:  It could be argued that this is not  
18                   governed by our law, because --

19          MR. SAXON:  It could be.

20          DR. SPEARMAN:  -- it did not exist when this law  
21                   was written.

22          MR. SAXON:  It could be.

23          DR. SPEARMAN:  This designation.

24          MR. SAXON:  But good laws are written with enough  
25                   flexibility for the future.

1 DR. SPEARMAN: I'm not sure you wrote this one,  
2 Jamie.

3 MR. SAXON: I did not.

4 (Multiple people speaking.

5 MR. SAXON: I did not. I was but a wee boy. Not  
6 that wee.

7 DR. WILLIAMS: If I'm reading you two guys right,  
8 and y'all are the legal minds, you're saying  
9 if we're going to do anything, we need to have  
10 some type of legal precedent. There needs to  
11 be something.

12 MR. SAXON: Well, I think first of all, you need to  
13 decide what criteria you're going to use and  
14 those kinds of things. Then decide whether  
15 you want that to be in your statutes and regs.  
16 And maybe first see whether the statutes and  
17 regs are flexible enough at this point to  
18 already encompass something like that.

19 DR. WILLIAMS: And, Isaac, you're saying we may not  
20 even have it the way it's written now.

21 MR. SAXON: And I'm not disagreeing. That's what  
22 I'm saying. I'm not disagreeing with Isaac.  
23 I'm saying we may need to take -- I think that  
24 would be one thing for a committee to look at.

25 MR. JOHNSON: Absolutely.

1 MR. SAXON: And certainly with Advice Counsel's  
2 help and maybe even our Deputy Director, who  
3 is an attorney, looking at it and seeing what  
4 we already have the authority to do. If we've  
5 already got the authority and if we feel like  
6 that, if we come to that conclusion, then  
7 good. If not, then we need to try to get that  
8 authority through the legislative process;  
9 don't you think?

10 MR. JOHNSON: That's exactly what I think.

11 MR. SAXON: But you're right, too. We've got to  
12 have criteria so that everybody's on a even  
13 playing field, and so that no organization can  
14 up and say, well, you didn't treat me -- treat  
15 us the way you treated them.

16 DR. SPEARMAN: And I assure you that would happen.

17 MR. SAXON: Of course it would. Absolutely. If  
18 you say no to anybody, then -- that's right.  
19 Well, you want that anyway.

20 DR. WILLIAMS: Of course.

21 MR. SAXON: We have to think in our minds, okay,  
22 what makes an organization worthy of our  
23 licensees?

24 DR. WILLIAMS: Or if that organization even exists.

25 MR. SAXON: Right. Right. And frankly, we see

1                   this in other boards where there are fly by  
2                   night schools and diploma mills. And, you  
3                   know, it's not unique to this board.

4                   DR. WILLIAMS: Yeah, I don't think that's at the  
5                   heart of this matter. I do think that some of  
6                   that is coming in peripherally. But I do  
7                   think --

8                   MR. SAXON: You're right. It is on the perimeter.

9                   DR. WILLIAMS: But what's at the heart of this  
10                  matter is well-intended. The question is, how  
11                  is this Board going to come down and handle  
12                  that?

13                  MR. SAXON: Right.

14                  DR. WILLIAMS: And I guess the option is to say  
15                  that this Board solely will decide who uses  
16                  that designation.

17                  MR. SAXON: Yes. And I think that would be the  
18                  ultimate goal. But that's just what I'm  
19                  throwing out to you. It's your board, not  
20                  mine. I work for y'all, not the other way  
21                  around.

22                  DR. CANDELA: So are we going to do a committee to  
23                  look into this?

24                  DR. TUCKER: Well, you suggested have Legal look at  
25                  it and say, you've already got this in place.

1                   So now, establish your criteria; is that what  
2                   you're saying?

3                   MR. SAXON: I think that's part of what I'm saying.  
4                   I think the committee is a good thing, and  
5                   Legal would be part of the committee. And I  
6                   would almost rather not involve myself until  
7                   y'all come to some conclusions.

8                   DR. WILLIAMS: I'm just going to throw --

9                   MR. SAXON: Because I don't want to impose myself  
10                  frankly too much on you.

11                  DR. WILLIAMS: Well, certainly we're not legal  
12                  minds. And I think personally sometimes I  
13                  have trouble making the transition from a  
14                  practicing optometrist to somebody who's  
15                  sitting on the Board, because obviously I have  
16                  personal feelings.

17                  MR. SAXON: Well, and each of you --

18                  DR. WILLIAMS: That's honestly not what my job is  
19                  here.

20                  MR. SAXON: Well, that's right.

21                  DR. WILLIAMS: But looking out for the benefit of  
22                  the citizens of South Carolina. So obviously  
23                  COVD has some type of testing process,  
24                  correct?

25                  DR. SPEARMAN: Yes.

1 DR. WILLIAMS: Academy of Optometry does. And  
2 certainly the diplomat status is way out there  
3 as far as testing goes. And then the ABO; is  
4 that right? Does anybody else know of any  
5 other organization in our profession that even  
6 has any type of testing process to use their  
7 designation?

8 (Multiple people speaking.)

9 DR. CANDELA: I'm not sure that there's actually --

10 DR. WILLIAMS: Yeah, I think you just basically  
11 join. But where I'm going here is that if  
12 you've got something like the ABO, you know,  
13 how could you not -- if you're going to go  
14 with the ABO, how could you look over a  
15 diplomat for sure in the American Academy of  
16 Optometry. I'm mean, that's extremely  
17 rigorous. I mean, it's moderately rigorous to  
18 get the FAAO, but a diplomat, that's like a  
19 lifetime of learning there.

20 All right. So with what I'm hearing, the  
21 better thing to do is to have a committee to  
22 look at this process, develop some guidelines  
23 for what we would consider an organization who  
24 has some type of testing process or  
25 certification process in place, what we would

1                   like to see.

2                   MR. SAXON: And I can assure you my office will  
3                   help in every way.

4                   DR. WILLIAMS: Okay.

5                   MR. SAXON: Isaac, I think you ought to be on the  
6                   committee, too. May I volunteer you, Isaac?

7                   DR. WILLIAMS: I do think we need some type of  
8                   legal.

9                   MR. SAXON: And I will be available too.

10                  DR. WILLIAMS: And even if you guys wanted --  
11                  whoever's on the committee wanted to have it  
12                  as a -- set aside as a regular meeting, but  
13                  just as a meeting function, is that doable?

14                  MR. SAXON: Well, we have to -- we have to notify  
15                  the public and do all the other requirements  
16                  of a meeting.

17                  DR. WILLIAMS: Right. No, I don't think we want to  
18                  do that.

19                  MR. SAXON: Well, I don't think that's necessarily  
20                  a bad thing. Make it -- put enough people on  
21                  the committee that there's a quorum.

22                  DR. WILLIAMS: Well, I was going to consider three  
23                  optometrists. So yeah.

24                  MR. SAXON: What's a quorum for us?

25                  MS. COMBS: Is it one over half?



1 MR. SAXON: Uh-huh.

2 MS. COMBS: See, that would be four, because we've  
3 got six --

4 MR. SAXON: Put four.

5 MS. COMBS: I mean, there's seven board members.

6 MR. SAXON: Three optometrists and Isaac.

7 DR. WILLIAMS: Yeah.

8 MR. JOHNSON: Yeah, I think we need to go ahead. I  
9 mean, we've been discussing this issue for a  
10 while now. We need to be proactive in this  
11 matter and just go ahead --

12 MR. SAXON: And bite the bullet, as it were.

13 MR. JOHNSON: Yeah. We need to go ahead and  
14 formulate the committee and get started on it.

15 DR. VAN VEEN: Yeah, I'm happy to be part of the  
16 committee. My thing is, if we don't have the  
17 authority to do anything about it, and that's  
18 going to be argued, why are we going through  
19 this committee process?

20 MR. SAXON: Well, I think that's part of the  
21 committee. We'll work together to decide what  
22 authority do we have; what don't we have. And  
23 I say that because I don't like telling y'all  
24 your business.

25 DR. WILLIAMS: Right.

1 MR. JOHNSON: And the committee will be advised by  
2 Legal as we go through this process.

3 MR. SAXON: Right. Right. I'll be with you the  
4 whole way.

5 MR. JOHNSON: I'll be on it.

6 DR. WILLIAMS: Peter, I know you will be.

7 DR. CANDELA: I will.

8 DR. WILLIAMS: So, Derek, do you want to do it, or  
9 do you want Bill to do it?

10 DR. VAN VEEN: Either one. I'll do it.

11 DR. WILLIAMS: All right.

12 (Multiple people speaking.)

13 MR. SAXON: You do need one more.

14 DR. WILLIAMS: I've got Derek Van Veen.

15 MR. SAXON: Peter.

16 DR. WILLIAMS: Peter Candela.

17 MR. SAXON: Tom, okay.

18 DR. WILLIAMS: And Isaac.

19 MR. SAXON: Got it.

20 (Multiple people speaking.)

21 DR. WILLIAMS: While we're on that, any other --  
22 anything else you guys want to speak to on  
23 that? (No response.) You think -- Jamie,  
24 anything else you think that we ought to think  
25 about or these guys ought to think about in

1 preparation for that committee meeting? And  
2 when do you think that ought to be, or how  
3 soon? Peter, I know you want to do something  
4 soon. And, Ike, I know you do too.

5 MR. SAXON: Well, I think it's going to depend on  
6 some logistics. It's coming up on summer.

7 DR. SPEARMAN: You may want to appoint a chairman.

8 DR. WILLIAMS: That's a very good point.

9 MR. SAXON: Yeah, I think the committee can do that  
10 at its first meeting. I think we can come --  
11 we'll have to come up with a time and a place  
12 and an agenda and that sort of thing. And we  
13 can do that. I would think it's probably not  
14 going to happen in May or June. Maybe June.

15 MS. COMBS: What I could do is email whoever's on  
16 the committee and start kind of seeing what we  
17 -- what y'all want to do.

18 DR. WILLIAMS: I guess what we could -- or what you  
19 guys --

20 DR. VAN VEEN: Can you tack it on to this, like  
21 before the Board meeting?

22 MR. SAXON: Yes.

23 MS. COMBS: Oh, that's true. Sure.

24 DR. WILLIAMS: I do think that if you do a little  
25 homework and, you know, maybe talk to somebody

1                   that's in COVD or just get an idea of what's  
2                   required, so when you show up you've got --  
3                   obviously, you know what the ABO requirements  
4                   are, and the American Academy. So of the  
5                   larger ones that you think you would want to  
6                   consider, you've already -- all right, here's  
7                   what -- here's what you have to do to go  
8                   through this process.

9                   DR. SPEARMAN: And you may want to just limit it to  
10                   those who are touting board certification.

11                   DR. VAN VEEN: Well, I think you do -- I think we  
12                   need to look at other professions, as well.

13                   MR. SAXON: And maybe other states, as well.

14                   DR. CANDELA: Let's break that up right now, okay.  
15                   It's like I could take -- I'll take the  
16                   subspecialties and get all the -- like even  
17                   from the AOA or from the groups themselves.  
18                   Let them send all their requirements to become  
19                   a member. Maybe if you want to go ahead and  
20                   take like the different professions and see  
21                   what it takes as far as board certification.  
22                   And then if someone wants to take something  
23                   else or whatever, then we could already have  
24                   that information when we come to the meeting.

25                   MR. SAXON: I would recommend us talking to some

1 other states to see if they do anything, and  
2 if so, what they do.

3 DR. CANDELA: If you want to take the states or  
4 whatever and call the different ones  
5 surrounding us, then we'd have --

6 DR. WILLIAMS: You know, you might want to call --  
7 well, okay, you can do that. Call the other  
8 surrounding states.

9 DR. SPEARMAN: If I could recommend, Mr. Chairman,  
10 I think you need to appoint a chairperson in  
11 this committee and let that chairperson make  
12 some assignments to the members, because  
13 otherwise, we're going to be doing their  
14 committee work sitting here. That would be my  
15 recommendation.

16 DR. TUCKER: I think we just did.

17 DR. SPEARMAN: Well, I don't think you've done it.  
18 I think there's a lot of work to be done, and  
19 somebody's going to have to organize it.

20 MR. SAXON: Well, you know, I think it probably  
21 would be a good idea if the Board chose a  
22 chairman of the committee.

23 DR. SPEARMAN: I thought all committees had chair  
24 people.

25 MR. JOHNSON: I nominate Peter.

1 DR. WILLIAMS: Well, let me just ask this then. Is  
2 there anybody that would want to do that,  
3 before you four guys decide?

4 DR. CANDELA: I mean, I'm fine organizing stuff or  
5 whatever and doing that. I mean, we're all  
6 adults. We can go ahead and gather the  
7 information and stuff or whatever.

8 MR. SAXON: So is there a motion for Peter to be  
9 chair?

10 MR. JOHNSON: I so move.

11 DR. TUCKER: Second.

12 DR. WILLIAMS: All in favor?

13 BOARD MEMBERS: Aye.

14 DR. WILLIAMS: Oh, just the committee?

15 MR. SAXON: No, the Board can choose.

16 DR. SPEARMAN: You have the right to appoint a  
17 chair, just like you appoint committees. You  
18 don't need a vote.

19 MR. SAXON: Well, but it's nice to do that.

20 DR. SPEARMAN: I was talking about --

21 MR. SAXON: Let's be prudent and do that.

22 DR. SPEARMAN: Whatever you want, if that's some  
23 kind of legal advice.

24 MR. SAXON: No, it's not just nice. I think you  
25 need to do it.

1 DR. SPEARMAN: I've never heard of that.

2 DR. WILLIAMS: I think there's a motion on the  
3 floor for Peter to be head of the committee.

4 MR. SAXON: And a second.

5 DR. WILLIAMS: And a second. Any other discussion  
6 on that? (No response.) All in favor?

7 BOARD MEMBERS: Aye.

8 DR. WILLIAMS: Opposed? (No response.) All right,  
9 Peter, you've got it. And if there's any info  
10 I can get you from ARBO, I will, because, you  
11 know, obviously that's where the states have -  
12 - a lot of their info goes into there.

13 MR. SAXON: And, Peter, you've got all my contact  
14 information already?

15 DR. CANDELA: I do.

16 DR. WILLIAMS: I'll call up there and just ask them  
17 if they could rifle me out whatever info they  
18 have on various state's positions on board  
19 certification. I know what their position on  
20 it is. But, you know, not every state feels  
21 like the national organization. But they do  
22 have all that, or access to that info.

23 DR. CANDELA: Okay, that's fine.

24 DR. WILLIAMS: Anying on that? Anying else you  
25 want to add to that, Derek?

1 DR. VAN VEEN: Not at all.

2 DR. WILLIAMS: Jamie?

3 MR. SAXON: No.

4 DR. WILLIAMS: Angie?

5 MS. COMBS: No.

6 DR. WILLIAMS: Then I guess we'll move on to new  
7 business, which speaking of the Board, an  
8 updated ethics document, or updated ethics  
9 documents.

10 MS. COMBS: The National Board sent a letter and  
11 some information concerning -- letting us know  
12 that they updated their ethics documents. And  
13 from the -- I'll just read a little bit on  
14 their letter. It said, the Board of Directors  
15 of the National Board of Examiners in  
16 Optometry has developed a more specific,  
17 highly detailed approach to explaining the  
18 NBEO perspective on ethical exam-taking to  
19 future exam candidates. The broadened refined  
20 documentation required to achieve this goal  
21 came about as a result of pirating of their  
22 copyrighted board-level exam items. Also it's  
23 due to the well-documented national  
24 acceleration in unethical testing practices by  
25 students, school faculty and staff, and also



1 to protect the security, validity, and  
2 relative affordability of the NBEO exams.

3 So basically they did send this booklet  
4 that, you know, explains or actually has their  
5 policy. Also the potential NBEO examination  
6 security dilemmas. Basically that lists  
7 specific situations, whether something's  
8 acceptable or not. And then also candidate  
9 exam conduct and exam security agreement.  
10 Now, this is where the candidates actually  
11 sign this agreement. And then also they  
12 explain how to report an ethics violation.

13 You can go to their website, the National  
14 Board website, and read all about this. But  
15 it's very detailed. They just felt like that,  
16 it said circumstances beyond the National  
17 Board's control has created the need for these  
18 procedures. So they just wanted the boards to  
19 know that's what they have done because of  
20 some issues that have happened in the past.

21 MR. SAXON: And unfortunately they're not the only  
22 ones having that kind of problem. They're  
23 right when they say it's a nationwide problem.

24 DR. WILLIAMS: Any comment on that? Further  
25 comments? (No response.) Any other --

1 anything else that needs to come before the  
2 Board today? (No response.)

3 I guess I'll just mention that you might  
4 want to consider having an election at the  
5 next meeting. I know my seat hasn't been --  
6 well, it has been filled, but it hasn't been  
7 formally appointed yet, so I guess if it's  
8 not, come August I'll be back in here still as  
9 a board member. I will come back and report  
10 from ARBO. But if not, then elections next  
11 time. Unless you want to do it --

12 DR. TUCKER: That will be in August?

13 DR. WILLIAMS: Uh-huh.

14 DR. TUCKER: Are you going to be here?

15 MS. COMBS: Yes, your next meeting is August the  
16 1st.

17 DR. SPEARMAN: It'll be here, right?

18 MS. COMBS: Right.

19 DR. WILLIAMS: That's correct. And that is another  
20 good point. There obviously will be no formal  
21 meeting in Myrtle Beach.

22 MS. COMBS: Oh, that's correct. That's correct.

23 DR. CANDELA: Angie, this sheet that's in our books  
24 has Neal's expiring June 30 of this year.

25 MS. COMBS: Right. Correct.

1 DR. CANDELA: Dr. Spearman's April 24 of this year.

2 MS. COMBS: Oh, if that's what you have in there,  
3 that's not --

4 DR. CANDELA: And then Derek's -- Dr. Van Veen's  
5 expired March of this year.

6 MS. COMBS: Oh, this must be the old list.

7 DR. CANDELA: Is this an old one that's in here?

8 MS. COMBS: Yeah.

9 DR. CANDELA: Okay.

10 MS. COMBS: I'll get y'all an updated one. But now  
11 Neal's, that is true on his. Or was that --  
12 have you been -- let me see. Neal, were you  
13 actually -- did you hear anything from the  
14 Governor? Maybe yours is still -- that is  
15 correct then.

16 (Multiple people speaking.)

17 MS. COMBS: Because it was all sent in to the  
18 Governor about -- on that. So, no, that is  
19 correct.

20 DR. CANDELA: That is correct?

21 MS. COMBS: That is correct.

22 DR. SPEARMAN: I haven't heard anything.

23 DR. VAN VEEN: When was Bill's date?

24 MS. COMBS: Bill's was April 24.

25 DR. SPEARMAN: See, technically I was not even

1 appointed until August.

2 MS. COMBS: Right.

3 (Sidebar conversations.)

4 MS. COMBS: So, no, we have not heard.

5 DR. CANDELA: So this is still from the elections  
6 of August 2011 in Myrtle Beach.

7 DR. VAN VEEN: That's when I was reappointed.

8 DR. CANDELA: Right. You were reappointed.

9 MS. COMBS: So you got yours?

10 DR. VAN VEEN: Right.

11 MS. COMBS: That's right, you did.

12 DR. CANDELA: But that still hasn't been signed.

13 DR. WILLIAMS: Right. Basically what that is is  
14 our -- is the association's recommendation to  
15 the Governor for the Board members. The  
16 Governor does not have to --

17 (Multiple people speaking.)

18 DR. WILLIAMS: It's always been some kind of an  
19 extreme circumstance for that not to be  
20 accepted. But the Governor does have the  
21 right --

22 DR. VAN VEEN: Right. And I've already got  
23 everything from Haley on --

24 DR. WILLIAMS: Oh, you have?

25 DR. VAN VEEN: Yeah, I have.

1 (Multiple people speaking.)

2 DR. VAN VEEN: But my renewal was in March, where  
3 yours was in April.

4 MS. COMBS: Right.

5 DR. SPEARMAN: Well, I mean, April has just left  
6 us.

7 DR. WILLIAMS: Yeah, just left us.

8 MS. COMBS: I'll check on that to make sure.

9 DR. WILLIAMS: Any other info to come before the  
10 Board? Anybody got anything to say? (No  
11 response.) I guess I'll entertain a motion to  
12 adjourn.

13 DR. SPEARMAN: So moved.

14 DR. TUCKER: Second.

15 DR. WILLIAMS: All in favor?

16 BOARD MEMBERS: Aye.

17 (Whereupon, at 4:42 p.m., the  
18 proceeding in the above-entitled  
19 matter was concluded.)  
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