

The Connecticut Board of Examiners for Opticians held a meeting on Thursday, March 27, 2014, at the Department of Public Health, 410 Capitol Avenue, Third Floor, Hearing Room, Hartford, CT.

Board Members Present: René "Skip" Rivard, LO, Chairperson
Linda Conlin, LO
Donna K. Bojus (Public Member)

Board Members Absent: None

Also Present: Stephen Carragher, Health Program Supervisor, DPH;
Jeffrey Kardys, Administrative Hearings Specialist/Board Liaison, DPH; Gary Griffin, Practitioner Investigation Unit, DPH; Alfreda Gaither, Esq., Staff Attorney, Hearing Office, DPH; Janine Cordero, DPH Licensing and Applications Specialist; Deborah Brown, DPH Health Program Assistant; Jennifer Filippone, Chief, Practitioner Licensing and Investigation Section (arrived at 9:21).

Chairperson René Rivard called the meeting to order at 9:07 a.m.

- I. Minutes -
 - A. Motion to accept minutes from the meeting of December 10, 2013. Motion: Conlin, Second, Bojus. Motion Passed
- II. Department of Health Updates
 - A. Investigations Update - *Gary Griffin, Practitioner, Investigation Unit, DPH*
 1. One investigation is currently pending.
 2. Mr. Rivard inquired about the ELO case, first reported in the minutes of May 12, 2012. Mr. Rivard reminded Mr. Griffin he reported at the meeting of September 15, 2013 that the case was ready to go to the Legal Department for a Consent Order. Mr. Griffin reported that the case was still pending.
 3. Mr. Rivard also questioned the status of the Walmart Optical case, first reported in May 2012. The Board minutes of September 15, 2013, reflect that the case might be ready for presentation during this (December 10) meeting. Mr. Griffin reported that the case was still pending.
 - B. Examination Update- *Janine Cordero, DPH Licensing and Applications Specialist; Deborah Brown, Health Program Assistant*
 1. Ms. Brown reported that the application deadline for the upcoming exams is Friday, April 4. Pending the deadline, number of candidates are not yet available.
 2. Examination dates have been set for Wednesday, June 11 (Contact Lens) and Tuesday June 17 (Eyewear and State Law). The exams will be held at Middlesex Community College.
- III. Old Business
 - A. Goodwin College: Ophthalmic Science Program. Chairman Rivard presented copies from the program's mail promotions and its website. The web page states, "Students will be prepared to sit for [the] both the American Board of Opticianry's (ABO) and the National Contact Lens Examination (NCLE). Once passed, students will be eligible to take the state exam to be an optician in Connecticut."

The mail promotion, over the signature of the Program Director, Maryann Santos, similarly states, "Graduates will be prepared to sit for [the] both the American Board of Opticianry's (ABO) and the National Contact Lens Examination (NCLE). Once passed, students will be eligible to take the state exam to be an optician in Connecticut."

Mr. Rivard referenced minutes from the Board meeting of September 10, which declared, ". . . it was

made clear that until final approval from the Board, Goodwin College cannot advertise that students can sit for the exam.” He then opened discussion from the Board. Consensus was reached that the promotions were misleading and in violation of the intent of the Conditional Approval of the Program as approved by the Board at its meeting of September 10, 2013.

Further discussion was tabled pending the arrival of Jennifer Filippone.

Discussion continued following Agenda IV.

It was questioned which agency might have authority regulating the advertising of the program. Ms. Filippone suggested that she and Attorney Gaither will investigate the laws and have discussion with the Office of Higher Education.

In discussion, the Board requested that a formal Notice of Correction be sent to all previously contacted. The Board also asks that a formal correction be included on the program website. Ms. Filippone and Attorney Gaither will investigate as to what the Board may legally request. Ms. Filippone will also share our collective concerns with the Office of Higher Education to determine if it might have a suggestion to correct the misleading advertising.

IV. Office of Licensure Regulation And Compliance. *Joelle Newton, Staff Attorney DPH*

A. Lisa Azinheira, L.O. No. 1476 - Petition 2013-925 - Consent Order

1. From approximately 2004 through August 2013, Lisa Azinheira operated L.A. Vision, an optical shop in Hartford, without an optical selling permit.
2. Having previously stipulated to the terms of a Preliminary Consent Order executed on January 7, 2014 and accepted by the Department of Public Health on January 9, 2014, Ms. Azinheira agreed to a reprimand against her Optical Selling Permit and paid a civil penalty of seven thousand five hundred dollars (\$7,500).
 - a. No apprentices were registered during the time of the lapsed permit.
3. The terms of the current Consent Order provide for a professional Reprimand against her Optician's license.
 - a. After considerable discussion questioning how fines were derived, a motion to accept the consent order was made. Motion: Conlin, Second Bojus. Motion Passed.

V. Additional Agenda Items

A. Civil penalties and fines. - Jennifer Filippone, Chief, Practitioner Licensing and Investigation Section

1. Ms. Filippone explained how the Department determines how civil penalties and fines are imposed.

B. Reinstatement Consent Order - Edward Thornton - Petition No. 2013-1055

1. Mr. Rivard questioned why the Board had not been consulted nor advised of the above referenced Consent Order.
 - a. The respondent's license expired on June 30, 2008.
 - b. Subsequent to the expiration, he continued to practice as an optician, an excess of 5.5 years.
 - c. By agreeing to the terms of the Consent Order, which included payment of a civil penalty of Two thousand Dollars (\$2,000) his license was reinstated on December 20, 2013.
2. Mr Carragher explained the Department had historically agreements with several Boards that when an expired licensee had been inactive for less than six months, the Department would exercise an administrative reinstatement. For an excess of six months inactive practice, the Department usually seeks the advice of the appropriate Boards or Commissions.
 - a. Apparently, although Mr. Thornton's license had expired, he continued to work as an optician. The Department has greater concerns regarding the reasonable skill and safety of an licensee who has been inactive for a long period of time.
 - b. Ms. Filippone also confirmed that agreements with past Boards brought a reinstatement to the Board when the applicant had not been clinically practicing for greater than six months. Mr. Carragher suggested that Department reinstatement allowed the applicant to continue working rather than waiting for the quarterly meeting of the Board for action.
 - c. Discussion followed. Agreement was reached that Consent Orders for reinstatement of a

license with an expiration in excess of six months will be presented to the Board for advice. When necessary, a telephone meeting, properly noticed, may be arranged. All administrative reinstatements and consent orders will also be brought to the attention of the Board.

- d. The DPH will work with the Board to update regulations regarding license reinstatement and proof of continuing education credits.
3. Mr. Rivard recognized Ohan Karagozian from the audience. He questioned how a penalty for unlicensed practice is determined by the Department. Ms. Filippone and Mr. Carragher provided a detailed explanation.

VI. Examination Appeals

- A. Two candidates appeared to address the Board. Chairman Rivard explained the blind format of the exam. He advised the appellants they need not identify themselves. One appellant insisted on identification.
 1. The chair thanked the appellants. He advised them that their concerns would be taken under advisement during a review of their exam results. He informed them that the Department would notify them of the review results.

VII. Executive Session to Review Examination Appeals

- A. Motion to add Executive Session to the agenda to review Exam Appeals. Motion: Bojus Second: Conlin. Motion passed.
 1. The Board went into Executive Session at 10:12 A.M.
- B. Motion to come out of Executive Session. Motion: Conlin, Second Bojus. Motion passed.
 1. 10:50 A.M.

Adjournment: Hearing no other business, a motion was made to adjourn the meeting. Motion: Bojus, Second: Conlin Motion passed. Meeting adjourned at 10:51 A.M.

Respectfully submitted,



René R. Rivard
Connecticut Board of Examiners for Opticians

The Connecticut Board of Examiners for Opticians held a meeting on Tuesday, May 6, at the Department of Public Health, 410 Capitol Avenue, Second Floor, Law Library, Hartford, CT.

BOARD MEMBERS

PRESENT:

Linda Conlin, LO, Chairperson
René "Skip" Rivard, LO
Donna K. Bojus (Public Member)

BOARD MEMBERS ABSENT:

None

ALSO PRESENT:

Jeffrey Kardys, Administrative Hearings Specialist/Board Liaison, DPH; Jennifer Filippone, Chief, Practitioner Licensing and Investigation Section; Gary Griffin, Practitioner Investigation Unit, DPH; Alfreda Gaither, Esq., Staff Attorney, Hearing Office, DPH; Deborah Brown, DPH Health Program Assistant

RECOGNIZED GUESTS:

Raymond P. Dennis, LO, MA, Program Coordinator, Ophthalmic Design & Dispensing Program, Middlesex Community College; Ohan Karagozian, LO.

Chairperson Linda Conlin called the meeting to order at 9:00 a.m.

I. Minutes -

A. December 5, 2012

1. Motion to accept Minutes. Motion: Rivard, Second, Bojus. Motion Passed.

B. February 25, 2013

1. Chairperson Conlin read the minutes from the meeting. Motion to accept: Bojus, Second, Rivard. Motion passed.

II. New Business

A. Correspondence from Jeffrey Fine.

1. Mr. Fine has requested a payment plan in response to a Memorandum of Decision, Petition No. 2012-1147, Re: Meeting House Opticians, for the amount of \$20,000.

After discussion, the Board requested that Mr. Kardys communicate with Mr. Fine and request a proposal for payment of the fine and present it to the Board at its next meeting.

Referring to her comments from our meeting of February 27, 2013, Chairperson Conlin, again remarked that pending civil charges against Mr. Fine allege the unlicensed practice of Optometry and that charges should be corrected to the unlicensed practice of Opticianry. The court docket indicates two previous postponements also citing the inaccurate charges. Discussion followed with concerns that charges might be dismissed based on a legal technicality of terminology. Attorney Gaither will contact the State's Attorney's office in an attempt to correct the charges.

III. Old Business

A. Program Approval - Goodwin Technical College

1. Jennifer Filippone reported that she had contacted the State Department of Higher Education. A meeting will be set up with the Commissioner of Higher Education and a representative of the Board of Examiners to discuss procedures.

2. Ms. Conlin recognized Professor Dennis who discussed the history of approval for the optician's program at Middlesex Community College. He stated that the Program was not pre-approved at its inception by the Board of Examiners to allow it graduates to apply for the State licensing exam until it had graduated its first class. He was not allowed to advise opticianry students during the first two years of its operation that they would be eligible to apply for the State exam. After the program was approved by the Commission on Opticianry Accreditation, the Board of Examiners for Opticians, allowed graduates to apply for the optician examination.

Discussion followed regarding approval of new degree granting programs which lead to licensing of a profession by the State. Further discussion included that although CGS Sec. 20-146 provides that successful completion of an educational program approved by the Board may be substituted for apprenticeship, there is no criteria in place for such approval.

Future agenda items may include criteria for programmatic approval of educational programs to be approved by the Board.

Ms. Bojus reaffirmed her concerns that a request has been made to approve a program which is essentially only a business plan. She does not feel approval can be granted until after a program is in operation and cannot be based on a conceptual plan.

Discussion also followed that an academic program not located within a State facility, such as Middlesex, might require an Optical Selling Permit to conduct a campus optical clinic.

Discussion also followed regarding criteria for candidates who apply for licensure who apply from out-of-state programs. Currently, graduates of COA accredited programs are allowed to apply.

IV. Department of Public Health Updates

A. Investigations Update - *Gary Griffin, Practitioner, Investigation Unit, DPH*

1. Mr. Griffin said that two investigations are in process. No pending cases had been resolved since our last meeting.
2. Mr. Rivard once again questioned the investigation status of ELO Optical, Torrington, CT. The Board minutes of May 10, 2012 state that an Optical Selling Permit had been reinstated to ELO Optical. Those minutes reflect that the ELO Optical permit had been inactive for several years. It was questioned if it had been operating without a valid OSP. Mr. Rivard noted that minutes from the Board meeting on September 12, 2012 and February 27, 2013 also indicate that the investigation was ongoing. Mr. Griffin reported that the investigation is still in progress.
3. Mr. Rivard asked if the investigation pertaining to Walmart Optical and Independent Doctors of Optometry was still ongoing. The request for investigation was first presented to the Board at its May 10, 2012 meeting and was referred to the DPH for investigation. The status of the ongoing investigation was referenced in Board minutes of September 12, 2012 and February 27, 2013. Mr. Griffin reported that the investigation is still ongoing.

B. Examination Update - *Deborah Brown, Health program Assistant*

1. Ms. Brown reported eighteen candidates are scheduled for the Contact Lens examination on June 6. Twenty-four candidates are scheduled for the Eyewear exam on June 13 and 15 candidates for State Law. Fourteen candidates are first time takers. There are 10 retakes for Eyewear; 4 retakes for Contact Lenses.
2. Sufficient supplies have been ordered for the exam. Proctors have been selected. Mr. Rivard will supply names of proctors to Ms. Brown.

V. **Office of Licensure Regulation and Compliance**

- A. No Business

VI. **Additional Agenda Items**

1. Having no other agenda items, Chairperson Conlin asked the guests if they wished to address the Board.

- a. Professor Dennis announced that he is the appointed liaison between the Connecticut Opticians Association and the Board of Examiners. He addressed both his concerns and those of the COA regarding the ordering and dispensing of prescription eyewear by unlicensed online retailers located in and doing business within the State of Connecticut.

Lively discussion followed regarding the online sales of eyewear, contact lenses and other (non-optical) prescription goods.

- b. Professor Dennis asked for confirmation that should the optician of record, as listed on an Optical Selling Permit, disassociates from the establishment, a new Optical Selling Permit must be applied for. He also questioned whether any additional opticians who may be listed as employees on the permit, and remain in the employ of the establishment, would eliminate the need to reapply for a permit.

The Board and Ms. Filippone agreed that when the optician of record disassociates from the practice, the permit is terminated. A new optical selling permit must be applied for, regardless if additional opticians remain. Only one optician, the optician of record, is personally responsible for all acts and omissions, by himself or others, pertaining to the optician's law. [Department of Public Health Regulations: Sec. 20-141-12 Optical Selling Permits; Sec. 20-141-18 Disassociation of Licensed Optician from Establishment; Sec. 20-141-20. Licensed Optician Responsible for all Establishments for which he is granted an Optical License Permit.]

ADJOURNMENT

Ms. Bojus made a motion, seconded by Mr. Rivard to adjourn the meeting at 10:40 P.M. Motion passed.

Respectfully submitted,



René R. Rivard
Connecticut Board of Examiners for Opticians