

**STATE OF CONNECTICUT
CONNECTICUT BOARD OF EXAMINERS FOR OPTICIANS**

In re: Paul R. Beckert, L.O.

Petition No. 2008-1105-038-003

MEMORANDUM OF DECISION

Procedural Background

The Connecticut Department of Public Health (“the Department”) presented the Connecticut Board of Examiners for Opticians (“the Board”) with a Statement of Charges (“the Charges”) dated May 21, 2009, against Paul R. Beckert (“respondent”). Dept. Exh. 1. The Charges allege violations of the General Statutes that govern respondent’s license 001278, to practice as an optician in the State of Connecticut. On May 21, 2009, the Department also filed a Motion for Summary Suspension (“the Motion”) against respondent’s optician license. Dept. Exh. 1.

On May 27, 2009, the Board issued an order granting the Motion (“the Order”) and summarily suspended respondent’s optician license pending a final determination by the Board regarding the allegations contained in the Charges. Dept. Exh. 1. The hearing was scheduled for June 5, 2009, at the Department of Public Health, 410 Capitol Avenue, Hartford, Connecticut in Conference Room E on the second floor. Dept. Exh. 1.

The Charges, Order, and Notice of Hearing were served by a Connecticut State Marshall on Paul R. Beckert at Colony Opticians at respondent’s business address, 60 Church Street, Wallingford, on May 28, 2009 and on Joan Beckert at respondent’s home address, 4 Harrison Road, Wallingford, Connecticut, on May 29, 2009. Dept. Exh. 1. According to respondent, he did not personally receive these until June 4, 2009, at his place of business. Tr. p. 62.

An administrative hearing was held on June 5, 2009. Respondent appeared *pro se*. Tr. p. 6. Attorney Diane Wilan represented the Department of Public Health. Tr. p. 4.

On June 5, 2009, respondent orally answered the Charges. Tr. pp. 31-3.

The Board conducted the hearing in accordance with Connecticut General Statutes (“the Statutes”) Chapter 54 (the Uniform Administrative Procedure Act) and §§ 19a-9-1, *et seq.* of the Regulations of Connecticut State Agencies (“the Regulations”). All Board members involved in this decision received copies of the entire record. All Board members involved in this decision attest that they have heard the case or read the record in its entirety. The decision is based

entirely on the record. To the extent that the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn 1985).

Allegations

Count One

1. In paragraphs 1 and 5 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut optician license number 001278.
2. In paragraph 2 of the Charges, the Department alleges that prior to June 6, 2008, respondent had an office-sharing arrangement with two licensed optometrists, doing business as Colony Opticians in Wallingford, Connecticut.
3. In paragraph 3 of the Charges, the Department alleges that respondent refused to release appointment records and several hundred patient records to the optometrists with whom he shared his office when they terminated their lease/space sharing arrangement.
4. In paragraph 4 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the Statutes, including but not limited to §20-154.

Count Two

5. In paragraph 6, the Department alleges that respondent has operated his optical shop, Colony Opticians in Wallingford, with an expired license since August 31, 2006.
6. In paragraph 7, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the Statutes, including but not limited to §§20-150 and/or 20-154.

Count Three

7. In paragraph 8, the Department alleges that respondent has failed to supply evidence of completing the continuing education required for opticians.
8. In paragraph 9, the Department alleges that the above facts constitute grounds for disciplinary action pursuant to the Statutes, including but not limited to §§20-154 and/or 20-146(c); and/or the Regulations, including but not limited to §§20-146(c)-1 and 20-146(c)-7.

Findings of Fact

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut optician license number 001278. Tr. pp. 31-32.
2. Prior to June 6, 2008, respondent had an office-sharing arrangement with two licensed optometrists, Linda Caliolo, O.D. and Terri Cyr, O.D., doing business as Colony Opticians in Wallingford, Connecticut. Tr. pp. 22, 32.
3. Respondent refused to release appointment records and several hundred patient records to the optometrists with whom he shared his office when they terminated their lease/space sharing arrangement. Tr. pp. 22-23, 56.
4. Respondent operated his optical shop, Colony Opticians in Wallingford, with an expired license since August 31, 2006, even after the Department informed respondent of his lapsed license on November 5, 2008. Tr. p. 32; Dept. Exh. 5.
5. As of the day of the hearing, respondent had completed the required seven continuing education credits required for opticians for 2008. Tr. pp. 43, 51-54; Rt. Exhs. A-D.
6. The Board finds the testimony of Linda Caliolo, Gary Griffin and Terri Cyr to be reliable and credible.
7. The Board finds the testimony of Paul Beckert regarding the whereabouts of the patient records and his handling of the records in question to be evasive and not credible.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 933 (1981); *Swiller v. Commissioner of Public Health*, Docket No. 950705601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995 (Hodgson, J.). The Board finds that the Department sustained its burden of proof with regard to all of the allegations in Count One and Count Two, but failed to sustain its burden of proof with regard to Count Three.

Section 20-154 of the Statutes states that:

. . . The certificate of registration, permit or license of any optician or of any optical permittee may be revoked, suspended or annulled or any action take under section 19a-17 . . . by the Board for any of the following reasons: Fraudulent, dishonest, illegal or incompetent or negligent conduct of his business as such licensee or permittee. . . .

With regard to Count One, the Department sustained its burden of proof that respondent violated §20-154 by engaging in illegal, incompetent and/or negligent conduct in his business. The preponderance of the evidence establishes that prior to June 6, 2008, respondent had an office-sharing agreement with two licensed optometrists, Linda Caliolo, O.D. and Terri Cyr, O.D., doing business as Colony Opticians in Wallingford, Connecticut.

On or about June 6, 2008, the optometrists terminated their agreement with respondent and vacated the premises. On several occasions after the optometrists moved out of the premises, they requested that respondent provide their appointment books and patients records. However, respondent wrongfully refused to release the appointment records and several hundred patient records to the optometrists despite the fact that the optometrists retained ownership and control of their optometric patient records and required twenty four-hour access to such records in order to provide continuing care to their patients. *See Declaratory Ruling RE: Connecticut Board of Examiners for Optometrists, May 1, 2002.* Respondent's refusal and failure of record production constitutes illegal, incompetent, and negligent conduct that posed a threat to the health and safety of the patients.

With regard to the allegations contained in Count Two, the Department sustained its burden of proof. Respondent admits that he operated his optical shop with an expired license since August 31, 2006, and continued to do so even after the Department informed respondent of his lapsed license on November 5, 2008.

With regard to the allegations contained in Count Three of the Charges, the Department failed to sustain its burden of proof that respondent did not complete all of the continuing education credits required for opticians.

Order

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by Conn. Gen. Stat. §§ 19a-17 and 20-154, the Board orders the following in Petition No. 2008-1105-038-003, concerning license no. 001278, of Paul Beckert, L.O., to practice as an optician in the State of Connecticut:

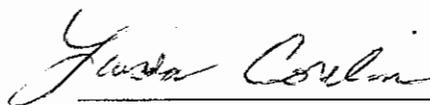
1. Respondent's license shall be suspended for a period of six months. All three originals of respondent's license shall be provided to the Department within ten days of the effective date of this Order.

2. Concurrently with said suspension, respondent's license shall be placed on probation for a period of one (1) year under the following terms and conditions:
 - a. During the first six months of the probationary period, respondent shall attend and successfully complete a course in medical ethics, pre-approved by the Board. Within ten (10) business days of the completion of such coursework, respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such course.
 - b. During the first six months of the probationary period, respondent shall carefully review all statutes and regulations pertaining to opticians in the State of Connecticut. Upon completion, respondent shall provide the Department with a letter stating that he has reviewed all such statutes and regulations.
3. Respondent shall be responsible for all costs associated with the satisfaction of the terms of this Memorandum of Decision.
4. All reports, correspondence and/or other communication with the Department and/or the Board required pursuant to this Order shall be sent to:

Bonnie Pinkerton
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, Connecticut 06134-0308
5. Respondent shall inform the Department in writing of his current address and any change thereto during the period of probation. All notices provided to respondent will be sent to the most current address of respondent on file with the Department.

Dated this 26th day of August, 2009.

Connecticut Board of Examiners for Opticians



Linda Conlon, Chairperson

CONLON

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 26th day of August 2009, by certified mail, return receipt requested, and first class mail to:

Paul Beckert
4 Harrison Road
Wallingford, CT 06492

Certified Mail RRR #91-7108-2133-3932-0692-2706

and by Inter-Departmental Mail to:

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308

Jeffrey A. Kardys / DCB
Jeffrey A. Kardys
Administrative Hearings Specialist/Board Liaison
Department of Public Health
Public Health Hearing Office



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

May 3, 2010

Paul R. Beckert, L.O.
40 Wooding Road
Wallingford, CT 06492

Re: Memorandum of Decision
Petition No. 2008-1105-038-003
License No. 001278

Dear Mr. Beckert:

Please accept this letter as notice that your license suspension has ended, effective February 26, 2010. Your license probation continues until August 26, 2010.

Paragraph 2a of the Board's Order calls for you to attend and successfully complete a course in Medical ethics, pre-approved by the Board. Please submit a written syllabus of the course you propose taking at least three weeks prior to registration deadline. You will be notified of whether your proposed coursework is approved.

If you have trouble finding a course in medical ethics, you may want to contact Matt Weinberg, MB at Clinical Consultant services. Mr. Weinberg will create a home study program specific to your needs. Mr. Weinberg's email address is matt@medicalethics.com. His phone number is (610) 937-0271.

Thank you for your ongoing cooperation in this process.

Respectfully,

Olive Tronchin, HPA
Practitioner Licensing Investigations Section

✓ C:

Jennifer Fillippone



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