

BEFORE THE IOWA BOARD OF OPTOMETRY

IN THE MATTER OF:)	
)	
Richard Zieger, O.D.,)	CASE NO. OPT 06-009
)	
RESPONDENT)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
)	

COMES NOW the Iowa Board of Optometry (hereinafter “the Board”) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code Sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent Richard Zieger was issued Iowa Optometry license number 01669 on July 1, 1978. Respondent’s license is current and will next expire on June 30, 2010. Respondent’s address as reported to the Board is 1332 E. Main, PO Box 39, Lamoni, Iowa, 50140.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on April 8, 2010 before the Board of Optometry. The hearing shall begin at 9:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Optometry, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request

an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 154, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 154, and 272C and 645 IAC chapter 183.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged with professional incompetency, in violation of Iowa Code sections 147.55(3), 272C.10(2), and 645 IAC 183.2(2)(a) by having a substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

Count II

Respondent is charged with professional incompetency by exhibiting a substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances in violation of 645 IAC 183.2(2)(b).

Count III

Respondent is charged with professional incompetency by failing to conform to the minimal standard of acceptable and prevailing practice of optometry in the State of

Iowa in violation of 645 IAC 183.2(2)(d).

D. FACTUAL CIRCUMSTANCES

1. Respondent is a therapeutically certified optometrist in the state of Iowa.
2. During the Board's investigation, it was discovered that Respondent failed to perform the appropriate procedures that are considered standard of practice in the treatment of glaucoma.
3. During the Board's investigation, it was determined that Respondent was prescribing glaucoma medication in an inappropriate manner.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC Chapter 12. If you are interested in pursuing settlement of this matter, please contact Emily Kimes-Schwiesow, Assistant Attorney General, at 515-281-5637.

F. PROBABLE CAUSE FINDING

On the 8th of October, 2009, the Iowa Board of Optometry found probable cause to file this Notice of Hearing and Statement of Charges.

This notice of hearing and statement of charges is approved by the board on December 7, 2009.