

BOARD OF OPTICIANRY

GENERAL BUSINESS MEETING MINUTES

**Bonaventure Resort & Spa
250 Racquet Club Road
Weston, FL 33326
954-389-3300**

Friday, November 8, 2013 at 8:30 a.m.

CALL TO ORDER/ROLL CALL

The meeting was called to order at 8:30 a.m. on Friday, November 8 by David Calvo, Chair. Those present for all or part of the meeting included the following:

Members present:

David Calvo, Chair
Dale Shannon
Christopher Mone
Antonio Feroce
John Girdler, III
Stanley Davis

Others present:

Douglas Dolan, Assistant Attorney General, Board Counsel
Tobey Schultz, Assistant General Counsel, Prosecutor
Sue Foster, Board Executive Director
Robin McKenzie, Program Administrator
Ashley Tranquille, Regulatory Specialist II, Board staff
Court Reporter: Official Reporting Services (954) 467-8204

Members absent:

Irene Stavros, R.D.H., excused

Mr. Calvo welcomed the new board members and thanked former members, Peggy Slattery and Barney Goodman for their service on the Board.

REVIEW AND APPROVAL OF MINUTES

The minutes of the June 7, 2013 general business meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Mr. Shannon to approve.

Second: by Mr. Davis.

Vote: Unanimous.

DISCIPLINARY PROCEEDINGS

Lisa Catherine Samala, Case No. 2012-00981 (PCP: Shannon, Holt, Stavros)

Ms. Samala was not present nor represented by counsel. An administrative complaint filed November 20, 2012 alleged violation of s. 484.014(1)(t), F.S., by violation of s. 456.072(1)(z), F.S., of inability to practice as optician with reasonable skill and safety to patients due to alcohol and cannabis dependence.

Mr. Shannon was recused due to service on the probable cause panel. Following discussion, the following action was taken by the Board:

Motion: by Mr. Girdler to find that respondent was properly served and has waived her right to a formal hearing.

Second: by Mr. Davis.

Vote: Unanimous.

Motion: by Mr. Girdler to find the material facts as alleged in the administrative complaint are not in dispute and to adopt the findings of facts contained in the administrative complaint as the Board's findings of fact.

Second: by Mr. Davis.

Vote: Unanimous.

Motion: by Mr. Davis to adopt the allegations of law contained in the administrative complaint as the Board's allegations of law in this proceeding.

Second: by Mr. Shannon.

Vote: Unanimous.

Motion: by Mr. Davis to move the agenda materials, including the investigative file and any addendum materials, into evidence in this proceeding.

Second: by Mr. Girdler.

Vote: Unanimous.

Motion: by Mr. Girdler to find the respondent in violation of Florida Statutes as charged in the administrative complaint.

Second: by Mr. Davis.

Vote: Unanimous.

The Department recommended a reprimand, suspension until in compliance with PRN and safe to practice, \$250 fine and costs payable when suspension is lifted.

Motion: by Mr. Girdler to accept Department's recommendation of a reprimand, suspension until PRN states she can practice with reasonable skill and safety, and a \$250.00 fine.

Second: by Mr. Davis.

Vote: Unanimous.

A Motion to Assess Costs of \$3,954.16 was presented to the Board. Following discussion, the following action was taken by the Board:

Motion: by Mr. Shannon to assess costs 1 year after suspension is lifted.

Second: by Mr. Davis.

Vote: Unanimous.

James P. Reese, Jr., Case No. 2013-01910 (Waived Probable Cause)

Mr. Reese was present and was not represented by counsel. Allegations are that respondent was convicted in Orange County and later adjudicated guilty of travel to meet a minor, use of computer for child exploitation, and lewd and lascivious battery. He was sentenced in August 2012 to serve 51 weeks for crimes. He pled Nolo Contendere. Possible violation of s. 456.063, 456.072(1)(c),(k),(l),(v), (x) and 484.014(1)(c), (f),(q),(s),(t), F.S.

A Voluntary Relinquishment of License was presented to the Board. Following discussion, the following action was taken by the Board:

Motion: by Mr. Girdler to accept the voluntary relinquishment.

Second: by Mr. Davis.

Vote: Unanimous.

PETITION FOR VARIANCE OR WAIVER OF RULE

Ben Parker, Rule 64B12-15.001. Mr. Parker withdrew his petition so no action was taken.

PETITION FOR DECLARATORY STATEMENT

Kelly Wilse, S. 484.002(3), F.S.

Petitioner is requesting whether the taking of payment of a sales transaction when the optician is not on the premises, where no optical device has been interpreted, measured, prepared or dispensed to a patient is this considered the practice of opticianry?

Following discussion, the following action was taken by the Board:

Motion: by Mr. Shannon that the Board take no action as statute is clear.

Second: by Mr. Davis.

Vote: Unanimous.

TOPIC DISCUSSIONS

Sandra Lora, Review of Apprentices Hours

Ms. Lora's apprentice file was reviewed at the June 7, 2013 board meeting and additional documentation was requested by the Board. Both of her sponsors passed away and she is requesting that Mr. Ausberto Jimenez be approved as her new sponsor and to be able to sign off on her apprenticeship hours. The board members had requested copies of her work records showing dates, times and locations of her apprenticeship hours.

Following review and discussion, the following action was taken by the Board:

Motion: by Mr. Girdler to deny request.

Second: by Mr. Mone.

Vote: Unanimous.

It was discussed that respondent should have kept her hours; that 2nd sponsor should have contacted the Board with the hours already taken. First sponsor passed away July 13, 2009 and second sponsor passed away April 27, 2013.

NCSORB (National Commission of State Opticianry Regulatory Boards) Exam Update

Jerry Himes, Arkansas Executive Director and President of NCSORB and Susan Larson, NCSORB Manager appeared to give an update on the examination. Ms. Himes informed the Board that the simulations now have a drop down list to choose from instead of requiring the candidate to enter the answer; less movement is needed for the slit lamp; and the candidate may now take only the portion of the exam they fail. NCSORB is currently working on the tutorial so the candidate will know if their answers are correct and the candidate handbook is in the process of being updated.

The NCSORB examination is currently being given in Florida, Arkansas, Tennessee, and Kentucky; and Virginia is in the final stages of approving the NCSORB exam.

Mr. Davis asked that board members be able to take the examination, which will be placed on the agenda of the next meeting. NCSORB responded that board members would be allowed to take the test at the discretion of the board.

Mr. Davis asked for a breakdown of pass rates and scores for academically trained versus apprenticeship trained applicants. NCSORB responded that their application did not provide for that data but would be adjusted for inclusion and that information would probably be available within 6 months.

Ohio Dispensers Board Seeking Advice and/or Support

The Board discussed this and stated that we should share copies of the laws and rules.

CS for SB 248

Board members reviewed lines beginning on line 131 regarding the Board delegating to its chair or another board member, the authority to determine that the applicant may be impaired due to alcohol, drugs, or mental or physical condition and request a referral to Professionals Resource Network (PRN).

Following discussion, the following action was taken by the Board:

Motion: by Mr. Shannon to allow the Chair or Vice-Chair of the Board to determine whether applicant should go to PRN for an evaluation.

Second: by Mr. Davis.

Vote: Motion passed with Mr. Girdler and Mr. Mone opposed.

CS for CS for SB 50

This legislation went into effect on October 1, 2013 regarding public comments at meetings. The Board reviewed the rule draft on page 733. Following discussion, the following action was taken by the Board:

Motion: by Mr. Girdler to open rule for development.

Second: by Mr. Shannon.

Vote: Unanimous.

Motion: by Mr. Shannon to insert 5 minutes and group of 5 into this rule draft.

Second: by Mr. Feroce.

Vote: Unanimous.

Motion: by Mr. Girdler that this will not have financial impact – No SERC.

Second: by Mr. Shannon.

Vote: Unanimous.

OTHER BUSINESS

Budget Liaison

The budget liaison for the Board is John Girdler.

Healthy Weight Liaison

The healthy weight liaison is Stan Davis.

Ratification of Continuing Education Providers

Motion: by Mr. Shannon to ratify X-Cel Contacts, Florida Optometric Association and ABO / NCLE.

Second: by Mr. Girdler.

Vote: Unanimous.

Ratification of Approved Home Study Courses

Motion: by Mr. Girdler to ratify Focal Education and NAO home study courses. All future home study courses will be sent to two licensed optician board members for review. Courses will be returned to board staff within 10-14 days. If both members approve, the course will be ratified at next meeting. If one or both members do not approve, the course will be presented to the full board at the next meeting.

Second: by Mr. Davis.

Vote: Unanimous.

Annual Renewal of Delegations

Motion: by Mr. Davis to approve the delegations of authority as amended.

Second: by Mr. Shannon.
Vote: Unanimous.

Election of Officers

Motion: by Mr. Davis to nominate Mr. Calvo for Chair.
Second: by Mr. Shannon.
Vote: Unanimous.

Motion: by Mr. Davis to nominate Mr. Feroce as Vice-Chair.
Second: by Mr. Mone.
Vote: Unanimous.

REPORTS

Assistant General Counsel

Mr. Schultz gave the following report to the Board:

As of November 1, 2013 there is a total of 5 cases in the Prosecutorial Services Unit.

Assistant Attorney General

Mr. Dolan gave the following report to the Board:

The following rules are in process:

64B12-9.002 Re-Examination

64B12-16.003 Apprenticeship Requirements and Training Program

Executive Director

Budget information regarding expenditures by function for the year ending June 30, 2013 and the cash balance report for 12 months ending June 30, 2013 was included in the agenda for the board member's review.

Unlicensed Activity Report

F/Y 11-12: 4 complaints against opticians with 1 cease and desist issued
29 complaints against optical establishments with 18 cease and desist orders issued

F/Y 12/13 first 3 quarters:

5 complaints against opticians with 2 cease and desist orders issued
55 complaints against optical establishments with 22 cease and desist orders issued

Ms. Foster explained CE integration with the licensure system and that handouts for the audience were available regarding CE at renewal and online renewal.

Board Members

Mr. Shannon stated that he had been involved with NCSORB several years ago when he was on the Board and that he would like to become involved with them again during his term.

FOR YOUR INFORMATION

Letter from Professionals Resource Network, Inc.

Dr. Judy Rivenbark sent a letter introducing Penny Ziegler, M.D. as her successor serving as the new medical director at the Professionals Resource Network, Inc.

ADJOURNMENT

The meeting was adjourned at 11:00 a.m.