

BOARD OF OPTICIANRY
GENERAL BUSINESS MEETING MINUTES

Hyatt Regency Jacksonville Riverfront
225 East Coastline Drive
Jacksonville, FL 32202
(904) 588-1234

March 24, 2015 at 8:30 a.m.

CALL TO ORDER/ROLL CALL

The meeting was called to order at 8:29 a.m. on Tuesday, March 24 by David Calvo, Chair. Those present for all or part of the meeting included the following:

Members present:

David Calvo, Chair
Irene Stavros, R.D.H.
Dale Shannon
John Girdler, III
Margaret Slattery
Richard Williams
Paul Wilford

Others present:

Tom Barnhart, Assistant Attorney General, Board Counsel
Christopher Dierlam, Assistant General Counsel, Prosecutor
Tobey Schultz, Assistant General Counsel, Prosecutor
Sue Foster, Board Executive Director
Robin McKenzie, Program Administrator
Court Reporter: Precision Court Reporting, LLC
(904) 629-5310

REVIEW AND APPROVAL OF MINUTES

The minutes of the November 12, 2014 general business meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Mr. Girdler to approve the minutes.

Second: by Ms. Slattery.

Vote: unanimous.

DISCIPLINARY PROCEEDINGS

Thomas Scott Tewell, Case No. 2014-00982

Mr. Tewell was not present and was not represented by counsel. An administrative complaint filed on June 25, 2014 alleged violation of s. 484.014(1)(q), F.S., by being convicted of a crime related to the ability to practice opticianry. Specifically, it is alleged that respondent pled guilty to one count of computer pornography and child exploitation.

Ms. Stavros was recused due to service on the probable cause panel. Following discussion, the Board took the following action:

Motion: by Ms. Slattery to accept the investigative report into evidence for the purpose of imposing penalty and find that respondent was properly served and has waived his right to a formal hearing.

Second: by Mr. Williams.

Vote: unanimous.

Motion: by Mr. Shannon to adopt the findings of fact as set forth in the administrative complaint as the findings of fact for the Board.

Second: by Mr. Girdler.

Vote: unanimous.

Motion: by Mr. Williams to adopt the conclusions of law as set forth in the administrative complaint as the conclusions of law for the Board and find that they constitute a violation of the practice act as alleged in the administrative complaint.

Second: by Mr. Girdler.

Vote: unanimous.

The Department recommended revocation. While this is outside the applicable guidelines, respondent is a registered sex offender, therefore the department believes the punishment is justified by danger to the public presented by the subject's actions.

Motion: by Mr. Girdler to accept the Department's recommendation.

Second: by Mr. Williams.

Vote: unanimous.

A Motion to Assess Costs of \$690.98 was presented to the Board. Following discussion, the following action was taken by the Board:

Motion: by Mr. Girdler to assess costs.

Second: by Mr. Shannon.

Vote: unanimous.

Patricia R. Gay, Case No. 2014-06090

Ms. Gay was not present and was not represented by counsel. Notification was received from the Professionals Resource Network (PRN) that respondent was terminated from treatment program for impaired practitioners. It was alleged that respondent is unable to practice opticianry with reasonable skill and safety by reason of illness or use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

A voluntary relinquishment of license was presented to the Board. Following discussion, the following action was taken:

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

Second: by Ms. Stavros.

Vote: unanimous.

APPEARANCES

Melissa Ann Green, Licensure Applicant

Ms. Green was present and was not represented by counsel. She is appearing prior to licensure as an optician pursuant to the notice of intent to approve with conditions filed on August 26, 2009. Due to affirmative responses to history questions on the application, the Board voted on August 3, 2009 to approve Ms. Green's apprentice optician application with the condition that applicant shall be required to appear before the Board of Opticianry before licensure.

Following discussion, the Board took the following action:

Motion: by Mr. Shannon to approve the applicant for licensure.

Second: by Ms. Slattery.

Vote: motion passed with Mr. Girdler opposed.

APPLICATION REVIEW

Francesca K. Piedra, Licensure Applicant

Ms. Piedra was present and was not represented by counsel. This file is being presented to the Board for

their review to determine if she meets the statutory requirements to be certified eligible to sit for the licensure examination.

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

Motion: by Ms. Stavros to approve application.
Second: by Mr. Girdler.
Vote: unanimous.

NAO: Home Study- Base Curve Basics

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

Motion: by Mr. Shannon to deny and request that this course be re-submitted with correction to instructional objectives which do not match the course and enrich for better two hour course.
Second: by Mr. Girdler.
Vote: unanimous.

NAO: Home Study- Frame Board Management

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

Motion: by Mr. Shannon to deny as course is inconsistent and not well organized, needs to be updated and re-structured.
Second: by Mr. Girdler.
Vote: unanimous.

NAO: Home Study- Making Managed Care Profitable

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

Motion: by Mr. Shannon to approve with the deletion of the last line under learning outcomes (be able to compute the finished edge or center thickness of any given job when certain variables are known).
Second: by Mr. Williams.
Vote: unanimous.

Ophthalmic Education Institute: Home Study- HIV/AIDS Update 2015

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

Motion: by Mr. Girdler to deny course as content does not relate to opticianry field; short course.
Second: motion died for lack of a second.

Motion: by Ms. Slattery to approve course.
Second: by Ms. Stavros.
Vote: unanimous.

PRESENTATIONS

The Investigation Process/Unlicensed Activity

Ms. Wendy Foy, North District Manager, Investigative Services Unit and Mr. Ryan Heal, Unlicensed Activity Investigator presented information on the disciplinary process and unlicensed activity. Information concerning additional positions added for unlicensed activity – 6 additional investigators for the state, public service announcements in North Florida and investigation of beauty supply stores, flea markets, etc. that are selling contact lenses was performed in the fall yielding cease and desist notices.

American Board of Opticianry & National Contact Lens Examiners

Mr. James Morris, Esq., Executive Director and General Counsel was present to update the Board on recent changes to the ABO/NCLE examinations. In May, they will begin offering the exam in Spanish along with several upgrades to the questions including audio and video; online registration and instant grading in August or November for preliminary score reports.

Mr. Morris requested that copies of final orders of disciplinary action taken by the Board be sent to the ABO/NCLE office for future state disciplinary data bank.

TOPIC DISCUSSIONS

Miami Opticianry School Project

Mr. John McNeal and Dr. Nicolas Gilbert were present to discuss the opening of their school in the spring of 2016. Institut Superieur d'Optique (ISO) is preparing to open a branch of their international opticianry school in Miami, Florida. The school has been based in France for 30 years and currently has 11 locations. They are requesting approval of the Florida Board of Opticianry for their school so their graduates will be able to take the licensure exam upon completion of their two-year program.

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

Motion: by Mr. Shannon to table this request and keep the communication open and request that they return with additional information on the courses, etc., when provisional or accreditation of this school is achieved.

Second: by Mr. Wilford.

Vote: unanimous.

FTC Rule and Board Certification

Mr. Feroce requested that this topic be placed on the agenda for discussion.

A board certified optician in Florida may fill, fit, adapt or dispense soft contact lenses. Mr. Mark Miller explained that the Federal Trade Commission rule allows licensed opticians, who are also permitted under state law to fit contact lenses, to write contact lens prescriptions. It was requested that board counsel research this permission in state statutes to see if this is permissible in Florida.

CE Providers & Home Study Courses

Mr. Girdler requested that this be placed on the agenda to discuss a continuing education provider using another's home study course. He requested that the Board consider a rule regarding the use of a program by another. Ms. Foster stated that the board office can conduct an audit of any CE provider for violations of the rules and laws governing continuing education. The Board has the authority to revoke a providership.

Healthy Weight

The Department of Health, Division of Medical Quality Assurance, has requested that this topic be placed on every health care board's agenda.

Ms. Foster discussed the Healthiest Weight initiative with the Board members. She stated that this was the State Surgeon General's primary initiative and information contained in their agenda with the statistics shows that this is the biggest threat to public health. By 2030, it is estimated that 60% of the population will be obese. This was discussed at the Board Chair/Vice Chair meeting and at the July 14, 2014 Healthy Weight liaison meeting. Mr. Girdler represented the Board at this meeting. A power point was also included along with talking points to patients and tips to share with patients. The goal is to bend this weight curve by 5% in the next 3 years.

RULES DISCUSSION

Mr. Barnhart discussed the letter from the Joint Administrative Procedures Committee and the recommendations regarding the following rules:

64B12-11.001 - repeal

64B12-11.002 - delete s. 456.025(3) as rulemaking authority

64B12-11.009 - delete s. 456.025(1) as rulemaking authority

64B12-11.010 - delete s. 456.036(4) as rulemaking authority

Motion: by Mr. Girdler to accept recommendations of JAPC and board counsel.

Second: by Mr. Shannon.

Vote: unanimous.

64B12-11.012

Motion: by Ms. Slattery to open rule for development.

Second: by Ms. Stavros.

Vote: unanimous.

OTHER BUSINESS

Ratification of License Numbers

Motion: by Ms. Slattery to approve.

Second: by Mr. Shannon.

Vote: unanimous.

Ratification of Approved CE Home Study Courses

Motion: by Mr. Girdler to ratify the list.

Second: by Mr. Williams.

Vote: unanimous.

Annual Renewal of Delegations

Motion: by Ms. Slattery to approve.

Second: by Ms. Stavros.

Vote: unanimous.

Election of Officers

Motion: by Mr. Wilford to nominate Mr. Shannon as Chair.

Second: by Ms. Slattery.

Vote: unanimous.

Motion: by Mr. Shannon to nominate Mr. Girdler as Vice-Chair.

Vote: unanimous.

REPORTS

Assistant General Counsel

Mr. Tobey Schultz reported that there were a total of 7 cases in the Prosecutorial Services Unit following the March 3, 2015 probable cause panel meeting

- 3 – under legal review
- 2 – cases where probable cause has been found
- 2 – cases prepared for board action and presented at this meeting

Assistant Attorney General

Mr. Barnhart referred the Board to the two rules on the rules report.

64B12-15.001 Continuing Education for License Renewal: adopted effective date 03/29/2015

64B12-8.018 Investigators; Criteria for Selection; Training: repealed effective date 03/04/15.

Executive Director

Ms. Foster explained that the Expenditures by Function report for period ending December, 31, 2014 was for the Board members' review. She also stated that statistics regarding the past three fiscal years were contained in each Board member's file folder.

Board Members

Mr. Shannon reported on his work weekend in January at the NCSORB headquarters in Minneapolis. He stated that several state representatives met to review the exam and tutorial.

Board members are interested in the pass rate of schools vs. apprentices and staff will see if this information is available.

FOR YOUR INFORMATION

HB769: Relating to Vision Insurance

Motion: by Mr. Wilford to support this legislation.

Second: by Ms. Stavros.

Vote: unanimous.

SB1400: Relating to Contact Lens Pricing Practices

Motion: by Ms. Slattery to oppose this bill.

Second: by Mr. Girdler.

Vote: unanimous.

SB1518: Relating to Children's Eye Health

No action by the Board on this legislation.

Cease and Desist Notices

Press Release Regarding Unlicensed Activity

U.S. News Opinion: Occupational Licensing is Short-Sighted

Mr. Girdler stated that the Board should send a letter regarding this article. He and Ms. Foster will work on a draft response for the Board members' approval.

Renewal Report

ADJOURNMENT

The meeting was adjourned at 11:55 am.