

**BOARD OF OPTICIANRY
GENERAL BUSINESS MEETING MINUTES
January 30, 2017
8:00 AM EST
Capital Circle Office Complex
4052 Bald Cypress Way Room 301
Tallahassee, FL 32399**

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 8:15 EST on Monday, January 30, 2017 by Mr. Shannon, Chair. Those present for all or part of the meeting included the following:

Members present:

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

Staff present:

Tom Barnhart, Assistant Attorney General, Board Counsel
Jennifer Wenhold, Board Executive Director
Michael Dean, Regulatory Supervisor
Christopher Dierlam, Prosecuting Attorney
Court Reporter: Premier Reporting (850) 894-0828

II. REVIEW AND APPROVAL OF MINUTES

The minutes of the October 17, 2016 and December 27, 2016 general business meetings were reviewed and the following action was taken by the Board:

Motion: by Mr. Girdler to approve the minutes as presented.

Second: by Ms. Stavros.

Vote: Unanimous.

III. DETERMINATION OF WAIVER- DEAN B. OSBORNE

Mr. Osborne was not present and was not represented by counsel. This was a hearing in the matter of taking disciplinary action against the licensee regarding alleged violation of Section 484.014(1)(q), Florida Statutes. Christopher Dierlam, Prosecuting Attorney for the department reviewed the case information with the board members. Ms. Irene Stavros recused herself due to her serving on the probable cause panel.

After discussion, the following action was taken:

Motion: by Mr. Girdler to find that the respondent was properly served the administrative complaint pack.

Second: by Mr. Williams.

Vote: Unanimous.

Motion: by Mr. Girdler to find that the Respondent failed to file a timely election of rights.

Second: by Mr. Williams.

Vote: Unanimous

Motion: by Mr. Girdler to adopt the findings of fact as set forth in the Administrative Complaint.

Second: by Mr. Williams.

Vote: Unanimous

Motion: by Mr. Girdler to adopt the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation of the practice act.

Second: by Mr. Williams.

Vote: Unanimous

Motion: by Mr. Girdler to accept the investigative report into evidence for the purpose of imposing a penalty.

Second: by Mr. Williams.

Vote: Unanimous

Motion: by Mr. Shannon to permanently revoke the license citing aggravating factors for exceeding the recommended penalty of the danger to the public and the deterrent effect of the penalty imposed, as well as require the respondent to pay the Department's non-legal costs of \$814.16.

Second: by Mr. Williams.

Vote: Unanimous

Prosecution's Report

Mr. Dierlam provided the board members with the prosecution report. There are currently four cases on the caseload. Two cases are before the board, one case is in pre-probable cause under legal review, and one case where a probable cause panel meeting has already occurred. There are no cases greater than one year old.

IV. Petition for Informal Hearing-Darlis Dasher

Ms. Dasher was present and was not represented by counsel. Ms. Dasher submitted a petition requesting an informal hearing regarding the board's decision to approve her application with conditions at the October 17, 2016 telephone conference call meeting.

After discussion, the following action was taken:

Motion: by Ms. Slattery to uphold the initial motion to approve with conditions with the understanding that upon receipt of a safe to practice notice from PRN, the application may be approved by the board office without requiring an additional appearance of the applicant before the board.

Second: by Mr. Williams.

Vote: Unanimous.

V. APPLICATION REVIEW

A. DISTINCTIVE EDUCATION, CE Provider Application

Distinctive Education submitted an application for approval as CE Provider pursuant Rule 64B12-15.004. F.A.C.

After discussion, the following action was taken:

Motion: by Mr. Girdler to deny the CE provider application due to the initial course submitted with the application not having content related to the practice of Opticianry. The provider has the opportunity to resubmit the application to include additional courses that are germane to the practice of Opticianry.

Second: by Mr. Wilford.

Vote: Unanimous

B. PIERRE SELWANES, Application for Opticianry by Examination

Mr. Selwanes was present and was not represented by counsel. Pierre Selwanes' application came before the board to determine if his education is equivalent pursuant section 484.007(d) F.S. Mr. Selwanes presented a brief summary of the background of his education in Canada to the board members.

After discussion, the following action was taken:

Motion: by Mr. Girdler to approve Mr. Selwanes application pending completion of a course in Laws and Rules, and to accept Seneca College of Toronto, Ontario, Canada as a Board Approved educational institution pursuant section 484.007(d) F.S.

Second: by Ms. Stavros

Vote: Unanimous.

VII. TOPICS FOR DISCUSSION

A. NAO OPHTHALMIC CAREER PROGRESSION PROGRAM

Mr. James Iciek, Executive Director of the National Academy of Opticianry (NAO) and Mr. Dave Meldrum, Past President of the NAO were present to discuss the NAO Ophthalmic Career Progression Program (OCP).

Mr. Shannon, Board Chair, requested volunteers for a committee to review the laws, rules, and requirements of the Florida Apprenticeship program in an attempt to make the apprentice rules more succinct and educationally beneficial to Florida apprentices. The volunteers were Ms. Slattery, Mr. Wilford, Mr. Williams, and Mr. Girdler. Mr. Shannon requested that the committee prepare a report of their findings and suggestions to be presented at the next in person meeting of the board.

After further discussion, the following action was taken:

Motion: by Mr. Girdler to accept the NAO OCP as a board approved apprentice training program pursuant Rule 64B12-16.003(4), and to grant apprentices completing the program 2,080 apprentice hours upon verification of program completion.

Second: by Ms. Stavros.

Vote: Unanimous.

B. NCSORB EXAMINATION STATISTICS

Pursuant Board Request, Wade Delk, Executive Director of NCSORB presented on examination pass/fail statistics and incident reports for the years 2012 – 2016.

At the request of the board, Mr. Williams agreed to take both the NCSORB Examination and the ABO-NCLE Practical Examinations to review and compare the content of both exams.

After Discussion, the board requested more specificity with regards to the pass/fail statistics as they relate to number of attempts. NCSORB agreed to expand data reporting to include the requested statistical data. Mr. Girdler requested that at a future board meeting, NCSORB present on the organization's goals and the direction of the examination.

C. ABO-NCLE PRACTICAL EXAMINATION

James M. Morris, General Counsel & Executive Director of the American Board of Opticianry presented information on the ABO-NCLE Practical Examination. Mr. Morris discussed the examination types offered and demonstrated samples on the ABO-NCLE website of the types of questions that are offered on the examination that were taken from retired exams.

D. SIX YEAR PROJECTIONS- MENDY SIMMONS

Ms. Melinda Simmons, Budget Analyst for the Division of Medical Quality Assurance presented information on the Board's six year financial projections.

E. 484.013 DISCUSSION – JOHN GIRDLER, VICE CHAIR

This was a continuation of a previously tabled discussion of the applicability of Section 484.013, Florida Statutes to an issue brought forth at the October 17, 2016 telephone conference call by Board Vice-Chair, John Girdler. After discussion, no further action was taken by the Board:

VI. CONTINUING EDUCATION HOME STUDY COURSES

The Following continuing education home study courses were presented to the board for approval pursuant rule 64B12-15.008 F.A.C.

A. QUANTUM OPTICAL, INC.

i. Triage is Good Medicine

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

Motion: by Ms. Slattery to deny due to course being incomplete and its content not germane to Opticianry.

Second: by Mr. Williams.

Vote: Unanimous.

ii. Transitions XTRActive Lenses

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

Motion: by Mr. Wilford to approve.

Second: by Mr. Williams.

Vote: Unanimous

iii. Today's Lens Technology + High Tech Measuring Devices = Exceptional Vision

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

Motion: by Ms. Slattery to approve.

Second: by Mr. Wilford.

Vote: Unanimous

iv. The Bevel's Advocate

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

Motion: by Ms. Slattery to approve.

Second: by Ms. Stavros.

Vote: Unanimous

v. Sunshine Has a Dark Side

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

Motion: Ms. Slattery to deny due to course content being better suited for a live study course and inappropriate for home study format.

Second: Ms. Stavros.

Vote: Unanimous.

vi. Soft Contact Lenses - An Introductory Clinical Guide

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

Motion: by Ms. Slattery to deny due to course not having enough content for one (1) hour of credit.

Second: by Mr. Girdler.

Vote: 6/1. Mr. Shannon opposed.

vii. Real World Vision

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

Motion: by Ms. Slattery to deny due to course content being incomplete.

Second: by Mr. Girdler.

Vote: Unanimous.

viii. Prevalence, Symptoms and Diagnosis of Dry Eye Disease

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

Motion: by Mr. Williams to deny due to content directed to tasks beyond the scope of practice of Opticianry.

Second: by Ms. Slattery.

Vote: Unanimous.

ix. Digital Freeform Lenses - The Precision Difference

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

Motion: by Mr. Williams to approve.

Second: by Mr. Girdler.

Vote: Unanimous.

x. Coordinating Benefits with Health Plans

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

Motion: by Mr. Girdler to approve.

Second: by Ms. Slattery.

Vote: Unanimous.

xi. Contact Lenses and the Consumer

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

Motion: by Ms. Slattery to approve.

Second: by Mr. Calvo.

Vote: Unanimous.

B. RATIFICATION LIST FOR PREVIOUSLY APPROVED HOME STUDY COURSES

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

Motion: by Ms. Slattery to approve the list of courses as presented.

Second: by Ms. Stavros.

Vote: Unanimous.

VIII. RULES

A. 64B12-15.008 – COURSES WITHOUT CLASSROOM INSTRUCTION

The board discussed opening the rule to make changes to the frequency or length of board approval of home study continuing education courses.

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

Motion: by Mr. Girdler to open the rule to extend the duration of board approval of continuing education home study courses from two years to four years.

Second: by Mr. Williams.

Vote: Unanimous.

B. 64B12-16.009 – REQUIRED SPONSOR TIME RECORDS

The board discussed the requirements for time records of apprentice opticians, and whether to open the rule to clarify the requirements.

After discussion, no further action was taken by the Board.

IX. REPORTS

A. Board Counsel

i. October Rules Report

ii. December Rules Report

iii. January Rules Report

v. Antitrust Presentation

Mr. Barnhart and Ms. Wenhold gave a brief presentation to the board regarding recent court rulings on antitrust cases against regulatory entities, and how antitrust law effects the board members in relation to their regulatory duties.

B. EXECUTIVE DIRECTOR

i. Annual Delegations

Ms. Wenhold provided the 2016-2017 Annual Delegations for board review and approval.

Motion: by Ms. Slattery to approve as presented.

Second: by Mr. Calvo.

Vote: Unanimous.

ii. Financial

Budget information was provided for the board member's review.

iii. Reduction of Board Rules

Ms. Wenhold informed the board that the Board may look at any rules that could be reduced or repealed. The board requested collaboration between Ms. Wenhold and board counsel to identify rules that would be appropriate for reduction.

C. BOARD MEMBERS

i. NCSORB Annual Meeting Minutes- Paul Wilford

Mr. Wilford stated that the information provided by NCSORB during their discussion topic time regarding the annual meeting was sufficient to summarize the information discussed at the meeting.

Mr. Shannon requested a list of past board members to look at for participation in future probable cause meetings. Board counsel will research if probable cause panel requires a current sitting board member.

X. FOR YOUR INFORMATION

A. OPTICIANRY & RELATED PROGRAMS

B. SELF-INSPECTION INDUSTRY NOTIFICATION LETTER

C. BOARD MEMBER TRAVEL REIMBURSEMENT INFORMATION

XI. ADJOURNMENT

After no further business, the meeting adjourned at 1:10 p.m. EST.

Motion: by Mr. Girdler to adjourn.

Second: by Ms. Stavros.

Vote: Unanimous.