

FLORIDA | Board of Opticianry

Draft Meeting Minutes

April 26, 2019 – 12:00 p.m.

*Telephone Conference Call * Phone#: 888-585-9008 * Participant Code#: 599-196-982*



John B. Girdler, III
Chair

Paul Wilford
Vice-Chair

Janet Hartman, Executive Director

Friday, April 26, 2019

TAB I. Call to Order:

The meeting was called to order by the Chair, John Girdler, III, at 12:00 P.M.

Board Members Present:

John B. Girdler, III, Chair
Paul Wilford, Vice- Chair
Byron Dale Shannon
Richard Williams
Irene Stavros (Joined at 12:05 p.m.)

Board Counsel:

Timothy Frizzell, Esq.

Department of Health Counsel:

Octavio Simoes-Ponce, Esq.

Board Staff:

Janet Hartman, Executive Director
Jenifer Wenhold, MSW, Executive Director
Eric Pottschmidt, MBA – Program Operations Administrator
Abigail Chapman, Regulatory Supervisor

- John Girdler, III, opening statement - Welcoming incoming Executive Director, Janet Hartman, and thanks and well-wishes to outgoing Executive Director, Jennifer Wenhold, for her service to the Board.
- Janet Hartman – Roll call conducted. Quorum established.

TAB II. DISCIPLINARY PROCEEDINGS

- A. Voluntary Relinquishment - **(TS – 2:10 Minutes)**
 - a. DOH v. William O. Radford, Jr. L.D.O., Case No.: 2017-23210 (PCP-N/A)
 - b. William Radford, Jr. L.D.O. is NOT present.
 - c. Motion to accept the voluntary relinquishment.
 - i. Motion: by Richard Williams
 - ii. Second: by Byron Dale Shannon
 - iii. Motion passes.

TAB III. PETITION FOR VARIANCE - (TS – 5:00 Minutes)

- A. Michele Sousa – Rule 64B12-9.016, F.A.C.
 - d. Michele Sousa is present.
 - e. Jennifer Wenhold provides summary of case.
 - f. Tim Frizzell addresses Board with reading statute (Chapter 120.542.(2), F.S.) on variance and waivers so Board can understand baseline for decision making.
 - g. Byron Dale Shannon comments – has concern with someone practicing in an unlicensed state for over 10 years.
 - h. Motion to not accept the petition for variance.
 - i. Motion: by Irene Stavros

- ii. Second: by Byron Dale Shannon
 - iii. Motion passes.
 - i. Michele Sousa comments – states even though she has not worked in a license-required state, she has worked in the field the entire 10 years while under supervision of doctors and Opticians, as well as, worked in the field for over 25 years. Retook the ABO-NCLE exams. Would like Board to reconsider decision.
- B. Deborah Norris – Rule 64B12-9.017, F.A.C. - (TS – 17:45 Minutes)**
- a. Deborah Norris is present and explains history of issue – Moved from Alabama due to ill family member. Unaware of time limit to get license. Was focused on taking care of family issues. Moved to Florida September 2015 working in an Optical establishment but did not attend apprenticeship program.
 - b. Motion to deny variance.
 - i. Motion: by Irene Stavros
 - ii. Second: by Paul Wilford
 - iii. Roll call vote: John Girdler, III – yes. Paul Wilford – yes; Dale Shannon – No; Richard Williams – yes; Irene Stavros – yes.
 - iv. Motion passes.
 - c. Dale Shannon discusses why no vote – finds it to be different than other case relative to timeline and family hardship.
 - d. Tim Frizzell comments – references the statute as it currently exists and indicates it is up the Board to determine from there.
 - e. John B. Girdler, III comments – worries that a precedence may begin by allowing variance without attending apprenticeship program.
 - f. Deborah Norris comments – just lost family and dealing with other family illnesses while working full-time. Believes that this qualifies as a hardship.
 - g. Tim Frizzell – requests to clarify reason for denial.
 - h. Continued discussion on whether this qualifies as psychological hardship.
 - i. Motion to reconsider the prior vote;
 - 1. Motion made by Dale Shannon
 - 2. Second by Richard Williams
 - ii. Roll call vote – Dale Shannon – yes; Richard Williams – yes; John Girdler, III – no; Paul Wilford – no; Irene Stavros - no.
 - iii. Motion fails.
 - iv. Original vote of Board of 4 to 1 to deny petition of variance, stands.

TAB IV. REPORTS (TS – 37:40 Minutes)

- A. Executive Director Report – Jennifer Wenhold, MSW
 - a. Examination Update – Updated transition plan.
 - b. Certification Report received from Psychometrician.
 - i. Mr. Alex Bosque is present.
 - c. The department has completed their responsibility in contracting with a certification company to certify the ABO examination. It is now up to the Board to review and present discussion based on Psychometrician report.
 - d. Byron Dale Shannon discloses that he may be allowed to participate in discussion on this matter but is recused from voting on this matter as he has interest in NCSORB.
 - e. Jim Morris from ABO is present.

- f. Mr. Alex Bosque reviews report – Deemed it a solid and acceptable examination.
 - g. Dale Shannon commented – has question related to the ability for the test to be graded on a curve.
 - h. John Girdler, III, III requests motion to accept Mr. Bosque certification by the Board;
 - i. No Board members are responding.
 - ii. Tim Frizzell comments by reading Chapter 456.017.1.c., F.S. explaining that the Board shall vote on an officially certified test by the Department of Health.
 - i. John Girdler, III, III – comments on history of why a second test is being pursued.
 - j. John Girdler, III, III requests motion to move forward with allowing the ABO-NCLE practical exam into the State of Florida as an option within the rules.
 - i. Motion made by Richard Williams
 - ii. Second by Irene Stavros
 - iii. Roll call vote – John Girdler, III – yes; Paul Wilford – yes; Dale Shannon - recused, Richard Williams – yes; Irene Stavros – yes.
 - iv. Passes Unanimously
 - k. Dale Shannon comments – since there are now two exams for licensure, would like two exams for certification to be opened up for both organizations as options for Opticians.
 - l. John Girdler, III comments – is open to look at NCSORB exam as options for Opticians.
 - m. Jennifer Wenhold comments – no feedback has been received from NCSORB after requests by the Board office were sent to them wanting details of the exams NCSORB is interested in opening for inquiry during the January Board meeting.
 - n. Mr. Morris comments – “we do not grade on a curve”.
 - o. Mr. Alex Bosque comments – his findings reveal they do not grade on a curve.
- B. Board Counsel (TS – 1:13:10 Minutes)**
- a. Rules Report
 - b. Motion to approve 64B12-8.021, F.A.C.
 - i. Motion: by Irene Stavros
 - ii. Second: by Paul Wilford
 - iii. Motion passes.
 - c. John Girdler, III, III comments on 64B12-8.009, F.A.C.
 - d. Motion to grant authority to John Girdler, III, III to work with Tim Frizzell to approve language that is substantively the same in 64B12-8.008, F.A.C. already approved by JAPC.
 - i. Motion: by Paul Wilford
 - ii. Second: by Irene Stavros
 - iii. Motion passes.
 - e. Motion to approve 64B12-8.009, F.A.C., 64B12-8.016, F.A.C., and 64B12-8.023, F.A.C.
 - i. Motion: by Irene Stavros
 - ii. Second: by Paul Wilford
 - iii. Motion passes.
 - f. Motion to approve 64B12-16.009, F.A.C.
 - i. Motion: by Richard Williams
 - ii. Second: by Paul Wilford
 - iii. Motion passes.
 - g. The following votes reference the following rule changes: 64B12-8.021, F.A.C., 64B12-8.009, F.A.C., 64B12-8.008, F.A.C., 64B12-8.016, F.A.C., 64B12-8.023, F.A.C., and 64B12-16.009, F.A.C.
 - i. Will the proposed rule have an adverse reaction on small business?

1. Motion that there will be no impact on small businesses:
 2. Motion: by Irene Stavros
 3. Second: by Paul Wilford
 4. Motion passes.
- ii. Will this proposed rule amendment be likely to directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000 in the aggregate in Florida within one year after implementation of the rule?
 1. Motion that the answer will be no.
 2. Motion: by Richard Williams
 3. Second: by Irene Stavros
 4. Motion passes.
 - iii. Should a violation of this rule or any part of this rule be designated a minor violation?
 1. Motion that the answer will be no. Only voting on a technical change; not a rule change.
 2. Motion: by Paul Wilford
 3. Second: by Irene Stavros
 4. Motion passes.
- h. Rule 64B12-9.001 F.A.C., and 64B12-9.002 F.A.C. – **(TS – 1:36:35 Minutes)**
- i. Rule change as related to the new ABO-NCLE practical examination
 - ii. Rules affected 64B12-9.001 F.A.C., Examination for Licensure and 64B12-9.002 F.A.C., Re-Examination
 1. Motion to approve changes to 64B12-9.001 F.A.C., Examination for Licensure and 64B12-9.002 F.A.C., Re-Examination
 2. Motion: by Irene Stavros
 3. Second: by Paul Wilford
 4. Motion passes.
 - iii. The following votes reference the following rule changes: 64B12-9.001 F.A.C., Examination for Licensure and 64B12-9.002 F.A.C., Re-Examination
 - iv. Will the proposed rule have an adverse reaction on small business?
 1. Motion that there will be no impact on small businesses:
 2. Motion: by Irene Stavros
 3. Second: by Richard Williams
 4. Motion passes.
 - v. Will this proposed rule amendment be likely to directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000 in the aggregate in Florida within one year after implementation of the rule?
 1. Motion that the answer will be no.
 2. Motion: by Irene Stavros
 3. Second: by Richard Williams
 4. Motion passes.
 - vi. Should a violation of this rule or any part of this rule be designated a minor violation?
 1. Motion that the answer will be no. Only voting on a technical change; not a rule change.
 2. Motion: by Irene Stavros
 3. Second: by Richard Williams
 4. Motion passes.
- i. Tim Frizzell – Brewer vs. DOH

- C. Board Chair – Not too much. Thank you for all you do for the Board of Opticianry.
- D. Prosecutors Report - Octavio Simoes-Ponce, Esq. **(TS – 1:47:15 Minutes)**
 - a. 8 Open disciplinary cases – 4 under legal review – 1 Recommendation for PCP – 3 already found probable cause or waived.
 - b. 3 of these 8 are older than 1 year.
 - c. Motion to continue to allow PSU to prosecute these cases that are older than 1 year.
 - i. Motion: by Irene Stavros
 - ii. Second: by Richard Williams
 - iii. Motion passes.

TAB V. FOR YOUR INFORMATION - (TS – 1:49:00 Minutes)

- A. ABO & NCLE - moving from 6 month waiting period to testing at next available testing date.
- B. NCSORB Pass/Fail Rates

TAB VI. NEW BUSINESS

- A. Proposed 2020 Meeting Dates
 - a. Motion that accept the proposed 2020 meeting dates.
 - i. Motion: by Irene Stavros
 - ii. Second: by Richard Williams
 - iii. Motion passes.
- B. Ratification list
 - a. Motion to ratify and accept Optician ratification list.
 - i. Motion: by Richard Williams
 - ii. Second: by Irene Stavros
 - iii. Motion passes.
 - b. Motion to ratify and accept Apprentice ratification list.
 - i. Motion: by Richard Williams
 - ii. Second: by Irene Stavros
 - iii. Motion passes.

TAB VII. OLD BUSINESS

- A. Approval of Minutes – January 25, 2019
 - a. Motion to ratify and accept Apprentice ratification list.
 - i. Motion: by Irene Stavros
 - ii. Second: by Richard Williams
 - iii. Motion passes.

TAB VIII. ADJOURNMENT

- a. Motion to adjourn the meeting.
 - iv. Motion: by Irene Stavros
 - v. Second: by Richard Williams
 - vi. Motion passes - **Meeting adjourns at 1:55 P.M.**

DRAFT