

FLORIDA BOARD OF OPTICIANRY GENERAL BOARD MEETING

August 12, 2022, at 2:00 P.M. EST

MEETING MINUTES

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By Telephone

Toll Free (866) 899 4679 or (571) 317-3116

Access Code: 161-718-005



Paul Wilford, Chair
Janet Hartman, Chief of General Operations
Ashleigh Irving, Interim Executive Director



I. CALL TO ORDER

The meeting was called to order on Friday, April 29, at 2:06 P.M. EST by Paul Wilford, Chair. Roll call was conducted by Eric Pottschmidt, Program Operations Administrator.

BOARD MEMBERS PRESENT:

Paul Wilford, Chair
Jeffrey Taylor, ABOM, Vice-Chair
Yvonne Schloss
Richard Williams

STAFF PRESENT:

Ashleigh Irving, Interim Executive Director
Eric Pottschmidt, Program Operations
Administrator
Janet Hartman, Chief of General Operations

BOARD MEMBERS ABSENT:

Irene Stavros, RDH (Unexcused Absence)

DEPARTMENT OF HEALTH COUNSEL:

Cynthia NashEarly, Assistant General Counsel

BOARD COUNSEL:

Ronald "Tom" Jones, Assistant Attorney
General

COURT REPORTER:

For The Record – 850-222-5491

II. WELCOME AND APPROVAL OF NEW INTERIM EXECUTIVE DIRECTOR –

Ashleigh K. Irving

Motion: by Mr. Williams to accept Ashleigh K. Irving as the new Executive Director.

Second: by Ms. Schloss.

Vote: passed unanimously.

III. REVIEW AND APPROVAL OF MINUTES – April 29, 2022

Motion: by Mr. Taylor to approve the April 29, 2022, meeting minutes.

Second: by Mr. Williams.

Vote: passed unanimously.

IV. PETITION FOR VARIANCE OR WAIVER

a. Andrew Chess - DO 7348 – Rule 64B12-15.001, F.A.C.

(TS 00:03:00 Minutes) Mr. Chess was present and did not have legal representation. Eric Pottschmidt presented the petition for waiver. Mr. Chess was before the Board for review of his petition for a permanent waiver of the renewal requirement to attend live continuing education courses during the biennium and going forward.

Mr. Chess provided an opening statement to the Board further detailing his request to substitute online continuing education courses to be used in place of the required live continuing education courses. Mr. Chess stated that his reasoning for this request was that when he previously attended the live continuing education courses, he contracted coronavirus along with at least two other participants in the course. Mr. Chess clarified that his petition was to waive the requirement for live continuing education courses until COVID-19 is eradicated, or at least until it is a safe environment to complete live continuing education courses.



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(TS 00:06:42 Minutes) Mr. Wilford inquired to Ms. Irving if she has noticed an uptick in cases of coronavirus now that the CDC has lowered its restrictions, to which Ms. Irving replied that the Department does not have a specific tracking system for Florida's statistics of coronavirus cases but added that there is a website where the statistics of coronavirus cases in Florida are updated regularly. Ms. Irving followed by stating that she has noticed there have been many boards moving away from in-person continuing education courses and transitioning towards online-only continuing education courses. Mr. Wilford noted that Mr. Chess was only lacking four hours of continuing education credit, all of which can be completed online. Mr. Taylor noted his commitment to in-person education and acknowledged that it has tremendous benefit.

Following discussion, the Board took the following action:

Motion: by Mr. Taylor to deny the petition.
Second: by Ms. Schloss.
Vote: passed unanimously.

Ms. Irving stated that she added the link to the website (<https://floridahealthcovid19.gov/>) which has Florida COVID-19 Data updated every two weeks to the meeting chat thread. She noted that upon reviewing the information on this website, there has been an uptick in the number of coronavirus cases within the general population in Florida.

b. Gloriann Tavares - DA 8318 – Rule 64B12-16.004, F.A.C.

(TS 00:16:50 Minutes) Ms. Tavares was present and did not have legal representation. Mr. Eric Pottschmidt presented the petition for waiver. Ms. Tavares was before the Board for review of her petition for a variance or waiver of Rule 64B12-16.004, F.A.C.

Following Ms. Tavares's apprenticeship under sponsor Dr. Thomas, which ended on May 30, 2019, the appropriate sponsor report form terminating the apprentice (Ms. Tavares) was not signed until May 6, 2020, and submitted to the Board office on June 1, 2022, therefore violating the rule that the apprentice shall submit to the Department within 30 days from the date of the termination the completed Apprenticeship Sponsor Form.

Mr. Pottschmidt directed the Board members' attention to the materials in the agenda which outline Ms. Tavares's current hours earned and stated that if the Board chooses to approve the petition, 3,079 hours would be added to her total hours earned which will satisfy the hours required for licensure, including the contact lens training which was conducted with Dr. Thomas. Ms. Tavares provided an opening statement to the Board detailing the correspondence between herself and Board office staff.

(TS 00:20:10 Minutes) Mr. Wilford requested that Ms. Tavares explain her apprenticeship and how her sponsor was supervising her. He noted that in 18 recorded months of supervision, it is indicated that Ms. Tavares completed about 39.50 hours per week for the full 18-month period. Ms. Tavares then stated that it was about 60 hours per week for the full 18-month period. Ms. Tavares stated that she also worked running the optical in the doctor's office she was employed at, and was the only optician supervised by the doctor as an apprentice and as a certified ophthalmic assistant.



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Mr. Wilford requested clarification on whether the ophthalmologist was Ms. Tavares's assistant supervising her in the optical, to which Ms. Tavares stated that he was constantly present. Ms. Tavares also clarified that the supervising ophthalmologist was the owner of the optical, and that the supervisor was seeing patients during the supervision and therefore was in and out of the optical office. She stated that there was another individual from another office who would assist as needed, and that the supervision with her sponsor was not always a direct one-on-one supervision. Mr. Wilford noted that this other individual was not Ms. Tavares's approved sponsor and questioned how Ms. Tavares's supervisor was able to consistently see patients while also directly supervising Ms. Tavares.

(TS 00:23:14 Minutes) Mr. Taylor inquired about the accreditation status of the National Academy of Opticianry (NAO) Career Progression Program, to which Ms. Tavares replied that they are accredited in Florida. Mr. Williams stated that on the NAO website, it states that they offer the option of transferring credits to Hillsborough Community College. Mr. Taylor followed by asking Ms. Tavares to verify if any of the hours have been counted twice in the total number of hours that she has between the NAO Career Progression Program and Hillsborough Community College. Ms. Tavares stated that when she completed the NAO Career Progression Program about four years prior, based on her understanding they did not yet have the ability to transfer credits as they do now. Ms. Tavares noted that the dates on the transcripts that she has submitted from Hillsborough Community College are different than the date of the course taken with NAO. Mr. Pottschmidt confirmed that NAO is Florida accredited. Mr. Taylor and Mr. Wilford agreed that the concern is the specific number of hours under direct supervision, and whether the supervision was direct.

(TS 00:27:15 Minutes) Mr. Wilford noted that if Ms. Tavares's supervisor was in and out of the office, and seeing patients, there would have been a lot of gaps between times that she was doing work as an apprentice optician where there was no direct supervision. Mr. Wilford added that if Ms. Tavares had a secondary sponsor who was an optician who was actively watching over her, then those hours would count. Mr. Wilford concluded that if Ms. Tavares was counting hours worked and not hours being supervised, that would not be applicable to an apprenticeship.

(TS 00:30:05 Minutes) Mr. Wilford acknowledged that while the hours that Ms. Tavares completed through the NAO Career Progression Program and through Hillsborough Community College are not in question, the total number of hours completed under direct supervision is unclear.

(TS 00:33:45 Minutes) Based on the discussion, Mr. Jones recommended that that if the Board so chooses, they may deny the petition based on the inability of the Board to determine whether the 3,079 hours were worked or supervised hours. Mr. Jones furthered that the Board would be unable to make a decision on the waiver of the 30 days until this issue is resolved, and if this was the case the petition would need to be denied by the Board. Mr. Jones noted that if Ms. Tavares is able to further research these hours to determine if there is some bifurcation between the hours worked and the hours supervised, and if there is a difference, provide the modified hours from the supervising ophthalmologist indicating how many of the 3,079 hours were in fact directly supervised, she could perhaps choose to file another petition for variance or waiver at which time it could be considered by the Board.



(TS 00:35:40 Minutes) Mr. Wilford suggested the possibility of Ms. Tavares adding a secondary sponsor, such as a licensed optician who is present in the optical with her, as Ms. Tavares is nearing the end of her apprenticeship. Mr. Wilford explained that this would then allow any hours completed under the direct supervision of this secondary sponsor to count towards the total hours required if Ms. Tavares ultimately has insufficient hours upon a more thorough review of the direct supervision that has already been completed.

(TS 00:39:40 Minutes) Following discussion, the Board took the following action:

- Motion:** by Mr. Williams to deny the petition based on the inability to determine the number of apprenticeship hours under the supervising ophthalmologist.
- Second:** by Mr. Taylor.
- Vote:** passed unanimously.

(TS 00:40:49 Minutes) Ms. Marcel Milstein spoke out and noted that she had sent a letter in February requesting that she be allowed to take the remaining seven credits of continuing education required for renewal of her license online rather than in-person since she is unable to travel to Florida. Ms. Milstein stated that she sent correspondence via paper mail and e-mail to Mr. Eric Pottschmidt during the month of May requesting if he had received her letter sent in February. Mr. Wilford explained that because this matter was not placed on the agenda, this matter could not be discussed. Ms. Irving noted that the Board office would contact Ms. Milstein with further guidance and instructions.

V. PROSECUTOR’S REPORT

<u>Case Status</u>	<u>Report</u> Date 1/6/2022	<u>Report</u> Date 4/14/2022	<u>Report</u> Date 7/12/22
Total cases open/active in Prosecution Services:	2	1	1
Cases in Emergency Action Unit:	0	0	0
Cases under legal review:	0	1	1
Cases awaiting supplemental investigation/expert opinion:	0	0	0
Cases with PCP recommendation:	2	0	0
Cases where probable cause has been found:	1	0	0
Cases where DOAH has been requested:	0	0	0
Cases pending before DOAH:	0	0	0
Cases on Board meeting agendas:	0	0	0
Cases on appeal:	0	0	0
Cases older than one year: *	2	0	0

* Does not include cases already agendaed for final action by the Board.

(TS 00:42:30 Minutes) Ms. NashEarly presented the report to the Board. After discussion, the Department requested that the Board authorize the continued prosecution of the year and older cases.



- Motion:** by Mr. Williams to permit PSU to continue to prosecute 1 year and older cases.
Second: by Mr. Taylor.
Vote: passed unanimously.

VI. REPORTS

a. Chair's Report – Paul Wilford

Mr. Wilford noted the importance of education as the number one priority of the Board moving forward in the profession. He acknowledged that there are great educators in the profession, and that with technology rapidly advancing he was looking forward to keeping up with the new innovations as they develop.

b. Executive Director's Report – Ashleigh Irving

Ms. Irving stated that on the previous morning she sent an email including the Chair/Vice-Chair Long-Range Meeting Survey which is due September 1, 2022. She explained that the purpose of this survey is to collect information to be provided to the Department's Strategic Planning office regarding the long-range direction for the Board of Opticianry over the next 4-5 years.

i. Electronic License Issuance

(TS 00:46:40 Minutes) Ms. Irving shared that during the height of the COVID-19 pandemic, there was a deficit and surge in cost of the special paper used for licensure. Ms. Irving followed by stating that a current long-term goal of the Department is to begin issuing licenses electronically and to discontinue the printing of physical licenses within approximately a year or more. Ms. Irving explained that license printing will be available online through the virtual portal, and that as soon as a license is issued, the license-holder would be able to go online to their portal to print their own license(s). She also noted that if they choose to display the physical license, there would be a QR Code available in the corner of the license so that any member of the public can easily scan the code to receive a copy of the license verification which would be linked to the Department website and would provide the information on any discipline as well as the licensure status. Ms. Irving noted that she believes this will enhance the public safety, reduce the processing time for licensees waiting to receive their actual license in the mail, as well as providing access to the disciplinary information to the public.

ii. 2023 Proposed Meeting Dates

March 3rd, 2023 – Virtual | June 2nd, 2023 – Virtual
September 1st, 2023 – Central Florida | December 2nd, 2023 – Virtual

- Motion:** by Mr. Williams to approve 2023 Proposed Meeting Dates.
Second: by Mr. Taylor.
Vote: passed unanimously.



iii. Financial Report

Ms. Irving directed the Board members' attention to the financial report included in the agenda materials.

c. Board Counsel's Report – Ronald "Tom" Jones

i. DH-MQA 1180 – Optician Apprentice Application for Registration and Sponsor Registration Form

Mr. Jones noted that the Department has done a substantial revision of the DH-MQA 1180 Optician Apprentice Application for Registration and Sponsor Registration Form which was incorporated by reference in Rule 64B12-16.003, F.A.C., the apprenticeship requirements and training program. Mr. Jones directed the Board members to review the rule mark-up and Sponsor Registration Form mark-up, along with the rule proposed final language and Sponsor Registration form proposed final included in the agenda materials.

Motion: by Mr. Williams to approve language as discussed along with the with incorporation of the revised form.
Second: by Ms. Schloss.
Vote: passed unanimously.

SERC Questions

- Will the proposed rule amendments have adverse impact on small business?
- Will the proposed rule amendments 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?
- Should a violation of this rule or any part of this rule be designated as a minor violation?
- Would a Sunset provision be applicable to this Rule?

Motion: by Mr. Taylor in the negative for the above SERC questions.
Second: by Mr. Williams.
Vote: passed unanimously.

ii. Annual Regulatory Plan

Mr. Jones stated that the Annual Regulatory Plan is something that is reviewed and voted on by the Board annually. Mr. Jones noted that this particular report does not include anything to report.

Motion: by Mr. Taylor to approve the Annual Regulatory Plan.
Second: by Mr. Williams.
Vote: passed unanimously.

iii. Rules Report

Mr. Jones presented the Rules Report which included Rule 64B12-9.0016, F.A.C., Demonstrating Knowledge of Laws and Rules for Licensure. Mr. Jones noted that a letter had recently been received from JAPC questioning some things in the proposed rule presented during the last meeting. Mr. Jones added that some additional time would be needed to review the JAPC letter and to provide recommendations to the Board at the December meeting.



VII. RATIFICATIONS

Ms. Irving presented the MQA report showing 42 total licenses issued for opticians in the state of Florida, beginning with license number 7766 and ending with license number 7807.

Motion: by Mr. Williams to approve the Annual Regulatory Plan.
Second: by Mr. Taylor.
Vote: passed unanimously.

Ms. Irving presented the MQA report showing 76 total licenses issued for apprentice opticians in the state of Florida, beginning with license number 9431 and ending with license number 9506.

Motion: by Mr. Williams to approve the Annual Regulatory Plan.
Second: by Mr. Taylor.
Vote: passed unanimously.

Ms. Irving presented the report showing 15 CE Broker Courses that have been approved from April 14, 2022, through August 3, 2022.

Motion: by Mr. Williams to approve the Annual Regulatory Plan.
Second: by Mr. Taylor.
Vote: passed unanimously.

VIII. NEXT SCHEDULED MEETING DATE – December 2, 2022 – Microsoft Teams

IX. OLD BUSINESS/NEW BUSINESS

Ms. Schloss share her words of encouragement to Ms. Tavares. Mr. Wilford added that Ms. Tavares seems very passionate about the profession and shared his support for Ms. Tavares continuing to push forward in the profession.

X. FYI - STATE OF FLORIDA DEPLOYS TOOLS TO ADDRESS OVERDOSE CRISIS

Ms. Irving shared that this new initiative which has been led by the First Lady of Florida, Casey DeSantis, is a project with the Florida Department of Health and the Department of Children and Families to help assist with the current overdose crisis. Ms. Irving noted that included in the agenda materials was some additional information about the New Heroes Program and what the state of Florida is doing to help control the overdose crisis, along with informational flyers.



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XI. PUBLIC COMMENTS

Ms. Sana Negron commented that she received an email which stated that her case for her apprentice license would be discussed during the meeting. Ms. Irving stated that Ms. Negron's application was not provided before the Board for the day's meeting and that Ms. Negron was not noticed for the day's meeting, therefore the Board would not be able to review Ms. Negron's application at the present meeting. Ms. Irving added that Ms. Negron would be receiving a call from Board staff immediately following the meeting to address any concerns. Ms. Negron provided no additional comment.

Mr. Chad Burns commented that he was also advised to attend the day's meeting for review of his apprenticeship and to have his case reviewed by the Board. Ms. Irving stated that Mr. Burns would be receiving a call from Board staff immediately following the meeting as well to address any concerns.

Ms. Schloss inquired if there would be a way to widely distribute the overdose crisis informational flyers to opticians in Florida, to which Ms. Irving responded that these flyers could be emailed out to all the licensees who have provided an email address for correspondence, as well as being posted on the MQA website.

XII. ADJOURNMENT @ 3:14 P.M. EST