

**FLORIDA BOARD OF OPTICIANRY
PROBABLE CAUSE PANEL**

DRAFT MINUTES

February 21, 2023, at 3:00 P.M. EST



Ashleigh K. Irving, Executive Director



Please note that the meeting minutes reflect the actual order that agenda items were discussed during the meeting and may differ from the agenda outline.

I. CALL TO ORDER

The meeting was called to order by Ms. Ashleigh Irving, Executive Director.

Roll call was conducted by Ms. Irving.

STAFF PRESENT:

Ashleigh Irving, Executive Director

ASSISTANT GENERAL COUNSEL:

Zachary Bell, Senior Attorney
Mary Kitts, Staff Attorney
Cynthia NashEarly, Attorney Supervisor

DEPARTMENT OF HEALTH COUNSEL:

Octavio Simoes Ponce, Assistant General Counsel

COURT REPORTER:

For the Record – 850-222-5491

(TS 00:00:53 Minutes) Opening remarks were read by Ms. Irving. Ms. Irving stated that she was the Department's designee for purposes of determining probable cause in these matters, and that the present meeting would consist of a public as well as a private portion of the Probable Cause meeting. Ms. Irving stated that for this case as well as the cases to be discussed in the private portion of the meeting, herself and the Department's counsel were provided each complete case files including all patient records, expert opinions, materials supplied by the licensee and their counsel, and all drafts of all PSU recommendations.

Ms. Irving noted that there were no issues with viewing any of these materials; these materials were provided in advance of the meeting; and that she has had the opportunity to carefully review these materials. Ms. Irving stated that she has found no facts, situations, or reasons that she felt may disqualify her or otherwise make it improper for her to hear and deliberate on the cases on the meeting agenda.

II. OPENING REMARKS BY DEPARTMENT COUNSEL

(TS 00:02:05 Minutes) Mr. Ponce introduced himself as Department Counsel for this Probable Cause proceeding of a determination as to whether probable cause exists and whether a case should be closed or dismissed, and asked Ms. Irving that all questions concerning the Board's procedures, authority, duty, Practice Act, rules, and the Florida Statutes be directed to him. Mr. Ponce asked that all questions concerning the facts of case, the manner in which case were investigated, and the reasons for the Department's recommendation be directed to the attorney from Prosecution Services.

III. OPENING REMARKS BY PROSECUTION SERVICES UNIT

(TS 00:03:18 Minutes) Ms. NashEarly stated that the panel has been provided with a draft of the Closing Order, a copy of the original Administrative Complaint and any other materials from the file deemed appropriate by the attorney that supports the requested action. Additionally, any materials timely submitted by the licensee or counsel in reply to the proposed Department action were enclosed.



Ms. NashEarly stated that because there has been a finding of probable cause in this case, the case was public and all applicable notices regarding this meeting have been complied with.

IV. RECONSIDERATION

A. R-01 Doral Eye Center MM, Case No. 2020-39518

(TS 00:05:55 Minutes) The case was presented by Mr. Bell, who stated that this was a Reconsideration of a one-count Administrative Complaint that charged Respondent with violating Section 484.014(1)(t), F.S., by violating Rule 64B29-1.001(2), F.A.C., by failing to submit a timely completed MQA Form #OE-001 when subject's owner changed Respondent's practice location.

Mr. Bell stated that following the filing of the Administrative Complaint, Respondent retained an attorney and submitted a detailed response to the complaint wherein they contended they did in fact notify the Department and provided a copy of the MQA Form #OE-001 along with a \$25.00 check that they contended the Department cashed.

(TS 00:06:55 Minutes) Mr. Bell stated that while it still appeared that they did practice from at least December 2020 until March 2021 without properly filing the MQA Form #OE-001, given their good faith attempts to correct this issue and the fact that their address now appeared to be updated, the Department's suggestion was that this case was appropriate for dismissal.

Action Taken: by Ms. Irving to accept the Department's recommendation to dismiss this case based on the reasoning provided.

V. ADJOURNMENT OF PUBLIC PORTION

This concluded the public portion of the meeting.