

BOARD OF OPTICIANRY
GENERAL BUSINESS MEETING MINUTES

Monday, August 6, 2007 at 8:30 a.m.

**Tampa Airport Marriott
Tampa International Airport
Tampa, FL 33607
(813) 879-5151**

CALL TO ORDER/ROLL CALL

The meeting was called to order at 8:30 a.m. by Ms. Slattery, Chair. Those present for all or part of the meeting included the following:

Members present:

Ms. Margaret Slattery, Chair
Ms. Maria Perez, Vice-Chair
Ms. Pam Holt
Mr. David Calvo
Mr. Gary Jacobs

Staff present:

Donna McNulty, Board Counsel
Mary Ellen Clark, Assistant Attorney General
William Miller, Prosecuting Attorney
Sue Foster, Board Director
Court Reporter: Maryellen O'Brien, Argus;
813.490.0003

Member absent:

Mr. Dale Shannon

APPROVAL OF MINUTES

The minutes of the March 5, 2007 general business meeting were reviewed, following review the board took the following action:

Corrections: (typographical errors) pg. 9 -2007 is correct year and pg. 4 "Mr." should be Ms. Perez.

Motion: by Ms. Holt to approve as amended.

Second: by Mr. Calvo.

Vote: unanimous.

DISCIPLINARY PROCEEDINGS

Norman Goodman, Case No. 2006-03646 (PCP: Mathews & Calvo)

Mr. Goodman was present and was not represented by counsel. A two count administrative complaint filed September 25, 2006 alleged violations of s. 484.014(1)(t), F.S., of failure to notify Department of current address; and s. 484.014(1)(h), F.S., of failure to comply with a disciplinary order previously entered by the Board.

A motion for final order after hearing not involving disputed issues of material facts and determination of respondent's waiver of right to request formal hearing was presented to the board. Following discussion, the following action was taken by the board:

Motion: by Mr. Jacobs to accept the investigative report into evidence.

Second: by Ms. Holt.

Vote: unanimous.

Motion: by Mr. Jacobs to find that the respondent was properly served and failed to respond within 21 days, waiving his right to a formal hearing.

Second: by Ms. Holt.

Vote: unanimous.

Motion: by Ms. Slattery to adopt the findings of fact as set forth in the administrative complaint

Second: by Ms. Perez.

Vote: unanimous.

Motion: by Ms. Slattery to adopt the conclusions of law as set forth in the administrative complaint as the board's conclusions of law.

Second: by Mr. Jacobs.

Vote: unanimous.

Motion: by Ms. Slattery to issue a reprimand, \$500 fine, costs, and payment of previous order fine and costs and suspend the license until payment is received.

Second: by Mr. Jacobs.

Vote: unanimous.

A motion to assess costs in accordance with section 456.072(4), F.S., was presented to the board with costs of \$265.12. The total amount of fines and costs for both cases was \$1680.24.

PETITIONS FOR VARIANCE OR WAIVER OF RULE

Cindy Hopkins, Examination Applicant

Ms. Hopkins was not present and was not represented by counsel. She is requesting a variance and waiver to Rule 64B12-16.008(3), F.A.C., regarding the completed attestation form that must be provided within 6 months of apprentice's completion of the program or credit will not count. Following discussion, the board took the following action:

Motion: by Ms. Holt to accept the variance and waiver as amended for review by the board.

Second: by Ms. Perez.

Vote: unanimous.

Motion: by Ms. Holt to deny request as there were not enough facts, information, and failure to show undue hardship.

Second: by Mr. Jacobs.

Vote: unanimous.

Motion: by Ms. Holt to deny Ms. Hopkins' application for examination as applicant failed to comply with the requirements of Rule 64B12-16.008(3), F.A.C., provide proof of passing the ABO, and provide proof of passing the NCLE.

Second: by Ms. Perez.

Vote: unanimous.

Dori Valenti-Cohen, Examination Applicant

Ms. Valenti-Cohen was present and was not represented by counsel. She is requesting a variance to Rule 64B12-9.016, F.A.C., which requires an individual licensed in another state to apply for

the Florida exam within two years of ceasing practice in another state. Following discussion, the board took the following action:

Motion: by Ms. Slattery to deny request as it had been over 3 years.

Second: by Mr. Jacobs.

Vote: unanimous.

Jay Cohen, Examination Applicant

Mr. Cohen was present and was not represented by counsel. He is requesting a variance to Rule 64B12-9.016, F.A.C., which requires an individual licensed in another state to apply for the Florida exam within two years of ceasing practice in another state. Following discussion, the board took the following action:

Motion: by Ms. Slattery to deny request as it had been over 3 years.

Second: by Mr. Jacobs.

Vote: unanimous.

APPEARANCE

Sophia Allen, Apprentice Optician Applicant

Ms. Allen was not present and was not represented by counsel. Her appearance before the board is a requirement of the final order for case no. 01-10668 filed on May 18, 2004 concerning her apprenticeship hours. Following discussion, the following action was taken by the board:

Motion: by Ms. Slattery to deny application pursuant to s. 456.013(3)(c), F.S.

Second: by Mr. Jacobs.

Vote: unanimous.

APPLICATION REVIEW

Michael A. Davis, Apprentice Applicant

Mr. Davis was present and was not represented by counsel. . This application is being presented to the board due to an affirmative response to a history question on the application.

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

Motion: by Ms. Holt to accept application.

Second: by Mr. Calvo.

Vote: unanimous.

CONTINUING EDUCATION

Hoya Vision Care, CE Provider Applicant

A provider application was received through CE Broker on 5/25/2007. Following review of the documentation submitted, the board took the following action:

Motion: by Ms. Holt to approve conditionally with letter concerning removal of information to licensees which is beyond the scope of practice, treatment and diagnosis, etc.

Second: by Mr. Calvo

Vote: unanimous

Hillsborough Community College Opticianry Program, CE Provider Applicant

A provider application was received through CE Broker on 6/24/2007. Following review of the documentation submitted, the board took the following action:

Motion: by Mr. Jacobs to approve.
Second: by Ms. Perez.
Vote: unanimous.

Apprentice/Sponsor Orientation Course submitted by Hillsborough Community College Opticianry Program

This course was submitted for approval by the board. Following review, the board took the following action:

Motion: by Ms. Holt to approve.
Second: by Ms. Perez.
Vote: unanimous.

TOPIC DISCUSSIONS

456.072(1)(t), Florida Statutes

This subsection requires a licensee to identify through written notice or orally to a patient the type of license under which the practitioner is practicing. Following discussion, the board took the following action:

Motion: by Mr. Jacobs to draft language to identify optician, display license, state whether optician is on duty or off duty.
Second: by Mr. Calvo.
Vote: unanimous.

Staff was asked to check to review Pharmacy laws/rules relating to this issue.

Is a Code of Ethics Needed?

The board requested staff to research if other boards had a code of ethics. Staff provided a copy of the Florida Board of Respiratory Care's code of ethics, the Department of Education's code of ethics and principles of professional conduct, and a copy of the code of ethics from Professional Opticians of Florida, State of Georgia, and State of Tennessee.

Staff searched on the Internet, but was not able to locate a code of ethics for the ABO, NCLE, or OAA. Following discussion, the board took the following action: The board reviewed 484.005(1), F.S. standard of practice and to check with Mr. Shannon to see if he requested that this be placed on the agenda. If he so requests, place on next agenda.

RULES DISCUSSION

64B12-16.003(4)

A draft was provided for the board and after review, the board took the following action:

Motion: by Ms. Perez to accept as drafted.
Second: by Ms. Slattery.
Vote: unanimous.

OTHER BUSINESS

Ratification of Approved CE Providers Southeastern Opticians Conference

Motion: by Ms. Slattery to ratify.
Second: by Ms. Perez.
Vote: unanimous.

Ratification of Approved Home Study Courses HIV/AIDS for the Optical Profession (POF)

Motion: by Ms. Slattery to hold over to November meeting.
Second: by Mr. Calvo.
Vote: unanimous.

Mr. Miller waived the 90 day requirement.

Ratification of Approved Medical Errors Courses Reduction of Medical Error (POF)

Motion: by Ms. Slattery to ratify.
Second: by Ms. Perez.
Vote: unanimous.

2008 Meeting Dates

February 4, 2008 (Tampa or Orlando)
May 5, 2008 (Tampa or Orlando)
August 4, 2008 (Tallahassee or Jacksonville)
November TBA 2008 (Ft. Lauderdale)

REPORTS

Prosecuting Attorney

Mr. Miller reported that he had 15 cases in draft stage of administrative complaint or closing order and would be holding a probable cause panel meeting in the next 30 days; 5 cases would be ready for next board meeting – possibly more following the PCP meeting; 1 year old case.

Assistant General Counsel

Ms. Clark introduced Ms. McNulty to the board, as new board counsel assuming Ms. Ladasiah Jackson's duties. Ms. McNulty discussed her previous employment and background as well as her work with a private law firm. She also disseminated a rules report to members. The board requested that a rule draft be prepared for the November meeting moving the HIV/AIDS course to technical, non-required course and to review how other boards were handling this course.

Executive Director

Ms. Foster provided budget information and discussed the budget "crisis" in Florida – the special session in September and explained about the 10% budget cuts that state government agencies had been requested to make. Although the board scheduled 4 meetings next year, one may be changed to a telephone conference call if there are no disciplinary cases or licensee application appearances.

Ms. Slattery will attend the October 18-19 exam in Kissimmee.

Board Members

Ms. Holt requested that staff review the website for expired dates, that there may be future issues to be addressed by the board regarding on-line eyewear; and that the “to do” list be sent to all members.

INFORMATIONAL ONLY – NO ACTION TAKEN

Information on Exam Fees

Update on Opticianry Licensure Examinations

Press Release: DOH Calls For Consumer Board Members

Impaired Practitioners Program Workshop Synopsis

April 17, 2007 E-Mail to Mike Bates, WEBY Radio

FTC: The Contact Lens Rule

ADJOURNMENT

The meeting was adjourned at 12:40 p.m.