

**BOARD OF OPTICIANRY**  
**GENERAL BUSINESS MEETING MINUTES**

**The Greater Ft. Lauderdale Convention Center**  
**Rooms 220-221**  
**1950 Eisenhower Blvd.**  
**Ft. Lauderdale, FL**

**Friday, November 7, 2008 at 9:00 a.m.**

**CALL TO ORDER/ROLL CALL**

The meeting was called to order at 9:07 a.m. by Ms. Slattery, Chair. Those present for all or part of the meeting included the following:

Members present:

Margaret Slattery, Chair  
Gary Jacobs, Vice-Chair  
Dale Shannon  
Maria Perez  
David Calvo  
Barney Goodman

Staff present:

Donna McNulty, Board Counsel  
Walter Widener, Prosecutor  
Sue Foster, Board Director  
Robin McKenzie, Program Administrator  
Court Reporter: Official Reporting Services, LLC  
954-467-8204

**APPROVAL OF MINUTES**

The minutes of the June 26, 2008 meeting were reviewed and following review, the following action was taken by the board:

Motion: by Mr. Shannon to approve the minutes.  
Second: by Ms. Perez.  
Vote: unanimous.

**DISCIPLINARY PROCEEDINGS**

**Cheri L. Chauvin, Optician, Case No. 2007-32271**

Ms. Chauvin was not present and was not represented by counsel. An administrative complaint filed June 18, 2008 alleging violation of 484.014(1)(a), F.S., by renewing a license with a worthless check.

A settlement agreement was presented to the board with the following terms: reprimand, fine of \$250 and costs not to exceed \$1,240.88 to be paid within 30 days of the final order. Actual costs in this case are \$296.66.

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

Motion: by Mr. Jacobs to accept the settlement agreement.  
Second: by Mr. Shannon.  
Vote: unanimous.

**Norman Goodman, Optician, Case No. 2006-03505**

Mr. Goodman was present and was not represented by counsel. An amended two count administrative complaint filed June 18, 2008 alleged violations of s. 484.014(1)(e), F.S., of advertising goods and services in a manner that is fraudulent, false, deceptive or misleading concerning the "Buy One Get One Free" offer; and 484.014(1)(f), F.S., of alleged fraud, deceit, incompetency or misconduct in the practice by failure to properly inform patient, and throwing eyeglasses in trash and refusing to repair or return.

A settlement agreement was presented to the board with the following terms: \$500 fine payable within 30 days, restitution to the patient of \$250 within 30 days.

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

Motion: by Mr. Jacobs that this case be dismissed.

Second: by Mr. Goodman.

Vote: motion carried with Ms. Slattery opposed.

**Susan L. Davis, Optician, Case No. 2007-27438**

Ms. Davis was present and was not represented by counsel. An administrative complaint filed June 18, 2008 alleged violation of s. 456.072(1)(hh), F.S., of termination from the impaired practitioners program due to non-compliance. Dr. Judy Rivenbark with PRN was in attendance to answer questions

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

Motion: by Mr. Jacobs to accept the investigative report into evidence for the purposes of imposing penalty.

Second: by Mr. Shannon.

Vote: unanimous.

Motion: by Mr. Jacobs that the respondent was properly served and a formal hearing was waived.

Second: by Mr. Shannon.

Vote: unanimous.

Motion: by Mr. Shannon to adopt the findings of fact and conclusions of law as set forth in the administrative complaint and that they constitute a violation of the practice act.

Second: by Mr. Jacobs.

Vote: unanimous.

Motion: by Mr. Jacobs to continue this case to the next meeting and request the respondent to voluntarily obtain a PRN evaluation, an evaluation from current counselor with a recommendation, and continue in her current program.

Second: by Ms. Perez.

Vote: unanimous.

Dr. Rivenbark asked that Ms. Davis sign a release of information so her treatment person may have all the prior PRN records and the PRN evaluator may have previous records from her current program.

### **PETITION FOR VARIANCE OF RULE**

#### **Gale A. Eriksson, Rule 64B12-9.017(1), F.A.C.**

Ms. Eriksson was present and was not represented by counsel. Following review and discussion, the board took the following action:

Motion: by Mr. Shannon to deny request for variance from the rule as documentation did not prove hardship.

Second: by Mr. Jacobs.

Vote: unanimous.

Motion: by Mr. Shannon to deny the application for examination.

Second: by Mr. Jacobs.

Vote: unanimous.

### **PETITION FOR DECLARATORY STATEMENT:**

#### **Amy M. Arcand, Optician, S. 484.013(1)(b) and 484.014, F.S.**

Ms. Arcand was present and was not represented by counsel. Following review and discussion, the board took the following action:

Motion: by Mr. Shannon to deny petition based on answer is in the current statutes.

Second: by Mr. Jacobs.

Vote: unanimous.

### **CONTINUING EDUCATION HOME STUDY COURSES**

The board directed staff to review new home study courses submitted to determine if the new course was previously approved through a different provider.

#### **Preventable Medical and Ophthalmic Errors / Focal Education**

Following discussion, the board took the following action:

Motion: by Mr. Jacobs to deny based on being too short and some of the references were questionable and/or outdated – inform when and where for references.

Second: by Ms. Perez.

Vote: unanimous.

#### **Average Math for the Above Average Dispenser / NAO**

Following discussion, the board took the following action:

Motion: by Mr. Jacobs to deny based on too basic and too short.

Second: by Mr. Calvo.

Vote: unanimous.

#### **The Essentials of Thin Lens Design / NAO**

Following discussion, the board took the following action:

Motion: by Mr. Shannon to approve for one hour.

Second: by Ms. Perez.

Vote: unanimous.

### **The Evolution of AR Lenses / NAO**

Following discussion, the board took the following action;

Motion: by Mr. Shannon to approve for one hour.

Second: by Ms. Perez.

Vote: unanimous.

### **How to Frame Your Patient / NAO**

Following discussion, the board took the following action:

Motion: by Mr. Jacobs to deny this course as too basic and too short.

Second: by Ms. Slattery.

Vote: unanimous.

### **Making Managed Care Profitable / NAO**

Following discussion, the board took the following action:

Motion: by Mr. Jacobs to deny this course as being misdirected, too short and too basic.

Second: by Mr. Calvo.

Vote: unanimous.

### **Multiple Pairs for Multiple Needs**

Following discussion, the board took the following action:

Motion: by Mr. Shannon to approve for one hour.

Second: by Mr. Jacobs.

Vote: unanimous.

### **Speculations on a Sportspersons Spectacles / NAO**

Following discussion, the board took the following action:

Motion: by Mr. Shannon to approve with the addition of footnotes to show where studies and data, such as ANSI standards, can be accessed.

Second: by Mr. Goodman.

Vote: unanimous.

### **Anisometropia/Vertical Imbalance / NAO**

Following discussion, the board took the following action:

Motion: by Mr. Shannon to approve for one hour.

Second: by Ms. Perez.

Vote: unanimous.

### **OTHER BUSINESS**

#### **Ratification of Approved Home Study Courses**

Motion: by Mr. Shannon to ratify list of 12 NAO courses and 3 courses from Dr. Gary Chrycy.

Second: by Mr. Calvo.

Vote: unanimous.

## **RULES DISCUSSION**

### **64B12-9.0015 / Application for Licensure Examination**

The board reviewed changes to the application for licensure examination. The board asked that the word registration be added to the license/certification verification form. Following review and discussion, the board took the following action:

Motion: by Mr. Shannon to approve the amended application and rule changes.

Second: by Mr. Jacobs.

Vote: unanimous.

Motion: by Mr. Calvo that these changes do not impact small business and a SERC is not necessary.

Second: by Mr. Jacobs.

Vote: unanimous.

### **64B12-16.003 / Apprentice Optician Application**

Following review and discussion, the board took the following action:

Motion: by Mr. Calvo to approve the amended application, changes to the Apprentice Sponsor Form, and the proposed rule changes.

Second: by Mr. Jacobs.

Vote: unanimous.

Motion: by Mr. Calvo that a SERC is not required because it does not impact small business.

Second: by Mr. Shannon.

Vote: unanimous.

## **REPORTS**

### **Prosecuting Attorney**

Mr. Widener reported that as of November 7, 2008 there are a total of 11 cases in legal and 3 of those cases were on today's agenda. After today's meeting, there are 2 cases over one year old and 2 cases that are post-probable cause.

### **Assistant General Counsel**

Ms. McNulty discussed the rules report she provided for the board members review.

### **Executive Director**

Ms. Foster provided budget information for the board's review. She reported that opticians are currently in renewal until 12/31/08. The Department sent out 3,853 renewal postcards and as of Monday, only 515 have renewed, the majority online.

This board is composed of 7 members, 5 opticians and 2 consumer members and currently needs a consumer member and an optician, Maria Perez's term expired in 2007.

Ms. Foster reported that during the last fiscal year we received 20 complaints against opticians, 4 against optical establishments, and completed 559 inspections. There were 2 licenses revoked, 1 voluntary surrender, 1 suspension, 6 fines, 2 reprimands and 2 citations issued.

For unlicensed activity of opticians there were 20 complaints received with 8 cease and desist orders issued, 13 referrals to law enforcement and 3 arrests. There were 50 complaints of unlicensed activity of optical establishments with 2 arrests, 8 referrals to law enforcement and 5 cease and desist orders issued.

Recent rule changes require a licensee to identify herself or himself as a licensed optician and HIV/AIDS is now only required for newly licensed opticians and there are now 5 electives.

### **Board Members**

Mr. Jacobs received an e-mail from an optician that works for a doctor. The optician checked a pair of glasses and rejected because them because they weren't correct. The doctor then dispensed the glasses.

Board directed staff to audit Focal Education's course DriveWear and place audit on next meeting and require provider's attendance. Staff will work with board counsel on the audit letter.

### **INFORMATIONAL ONLY – NO ACTION TAKEN**

Licensure Examination Report

HB 7109 An Act Relating to Small Business Regulatory Relief

Historical and Projected Cash Balances

MQA Detailed Strategic Plan

Online Services

Unlicensed Activity Information

Commission on Open Government Reform Recommendations

Final Action Against Oh Han Kim

Letter from Gary Gallimore, COMT

CE Monitor Reports Previously Mailed in July 2008

### **ADJOURNMENT**

The meeting adjourned at 12:30 p.m.