

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF OPTOMETRY**

**MINUTES
GENERAL BUSINESS MEETING**

**Sheraton Miami Airport Hotel & Executive Meeting Center
3900 NW 21 Street
Miami, Florida 33142**

July 11, 2012

Agenda items are subject to being taken up at anytime during the meeting. Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

CALL TO ORDER:

Dr. Timothy Underhill, Chairman, called the meeting to order at 9:03 a.m. Those present for all or part of the meeting included the following:

BOARD MEMBERS:

Timothy Underhill, O.D., Chair
Terrance Naberhaus, O.D., Vice-Chair
Rebecca Del Moral, O.D.
Tamara Maule, O.D.
Edward Walker, O.D.
Rosa McNaughton, Esquire

BOARD MEMBERS:

Rod Presnell, R.Ph. (Excused)

BOARD STAFF:

Bruce Deterding, Board Executive Director
Sharon Guilford, Program Operations Administrator

BOARD COUNSEL:

Rachel Clark, Assistant Attorney General
Office of Attorney General

PROSECUTING ATTORNEY:

Lealand McCharen, Assistant General Counsel

APPROVE OF MINUTES:

June 7, 2012 – Telephone Conference Call

Dr. Walker requested corrections to the minutes regarding what he had said about licensure reciprocity. He wanted the minutes to correctly indicate his statement that the board had never established reciprocity criteria in rule because the board had never felt that reciprocity was needed or necessary.

1
2 **Dr. Underhill moved to approve the above minutes with corrections to page 2, line 3. The**
3 **motion was seconded and carried 6/0.**

4
5 **April 6, 2012 – Telephone Conference Call**

6
7 **Dr. Naberhaus moved to approve the above minutes. The motion was seconded and carried**
8 **6/0.**

9
10 **CORRESPONDENCE – Emanuel Newmark, M.D., TOPA Committee Member –**
11 **Concerns with February 14, 2012 – TOPA Committee Meeting**

12
13 Dr. Chuck Slonim, President of the Florida Society of Ophthalmology, stated that the
14 society emphasized the safety and welfare of patients and delivering the highest quality
15 of care. The Florida Chapter of the American College of Surgeons and the American
16 Academy of Ophthalmology joined with the Florida Society of Ophthalmology in
17 expressing serious concerns about corneal scraping being conducted by optometrists.
18 These organizations believe corneal scrapings to be a surgical procedure and therefore
19 beyond the scope of practice of optometrists in Florida. The organizations also believe
20 that, although optometrists may remove superficial foreign bodies embedded in the
21 conjunctiva or cornea, there is nothing in Florida's optometric practice act that would
22 allow optometrists to scrape and remove corneal tissue to culture an indwelling disease.
23 He stated that corneal tissue is not a foreign body and for an optometrist to hold that a
24 microorganism, such as a fungus, is a foreign body would violate the spirit of the
25 optometric act.

26
27 Dr. Slonim referenced Section 463.014(4), F.S., which he stated specifically prohibits
28 Florida optometrists from performing surgery of any kind. He further contended that any
29 discussion of this procedure at a meeting of the Board of Optometry is misplaced and
30 inappropriate. Dr. Slonim is of the opinion that certified Optometrists who perform this
31 procedure not only violate the optometric act, but are also practicing medicine without a
32 license and are thereby in contravention of Chapters 458 and 459, F.S., consequently
33 making them subject to disciplinary actions by the Board of Medicine with the possibility
34 of losing their license and receiving criminal penalties. Dr. Slonim requested the board to
35 clarify that this procedure is a surgical procedure and is in violation of the optometrist
36 scope of practice and, in the interest of patient safety and quality medical care, help to
37 ensure that this procedure will only be performed by qualified medical physicians
38 according to Chapters 458 and 459, F.S.

39
40 Mr. John Griffin, Esq., with the Florida Optometric Association, presented and stated that
41 he had participated in the TOPA proceedings on February 14, 2012, and expressed
42 surprise at the contents of and statements in Dr. Newmark's letter. His recollection was
43 that Dr. Newmark had voted in support of adding Natamycin to the TOPA Formulary.
44 The recommendation to add Natamycin was passed unanimously. Mr. Griffin also noted
45 that Dr. Newmark was not the only ophthalmologist on the TOPA Committee, as Dr.
46 Duffner also serves on the committee. At the 2/14/2012 TOPA meeting where
47 Natamycin was approved, Dr. Duffner spoke in favor of adding the Natamycin to the

1 formulary and voted, as did Dr. Newmark, with the entire TOPA committee for a
2 unanimous recommendation to add the drug to the formulary.

3
4 Mr. Griffin also added that the proper use of the drug Natamycin did not involve corneal
5 scrapings, and that the issue of corneal scrapings was raised by Dr. Newmark.

6
7 Dr. Naberhaus commented on the letter sent from Dr. Newmark to Attorney General Pam
8 Bondi and asked if the board was required to respond to the letter.

9
10 Ms. Clark assured the board that the letter did not require a response from the board.

11
12 Dr. Naberhaus questioned Mr. Deterding as to whether he had noticed any irregularities
13 or anomalies in the procedural actions taken by the TOPA Committee during the meeting
14 held on February 14, 2012.

15
16 Mr. Deterding stated he did not notice any procedural irregularities or any departure from
17 accepted parliamentary procedure and that all parties were given the opportunity to speak
18 and present their impressions and any evidence or statement to the full committee and
19 that Dr. Newmark had made a lengthy presentation giving his impressions, as had the
20 representatives from the Florida Optometric Association, expert witnesses and other
21 committee members.

22
23 The board took no further action.

24
25 **REQUEST FOR DECLARATORY STATEMENT – Christopher A. Frey – Scope**
26 **of Practice – Additional Information – Melbomian Gland Probing Procedure**

27
28 Dr. Frey was present and addressed the board.

29
30 Dr. Frey provided an overview of the procedures and actions the board may take on the Petition
31 for Declaratory Statement to determine if Intraductal Meibomian Gland Probing to Restore
32 Gland Functionality for Obstructive Meibomian Gland Dysfunction (MGD) is within the
33 scope of practice of optometry.

34
35 Ms. Clark stated that the Petition for Declaratory Statement was not properly submitted
36 and that Dr. Frey would need to amend his petition and re-present it before the board
37 could review his request.

38
39 Dr. Underhill indicated that Dr. Slonim had asked the board to speak on the issue of this
40 declaratory statement and he asked Ms. Clark if Dr. Slonim had standing to present on
41 this issue.

42
43 Ms. Clark stated Dr. Slonim did not have standing to present on this issue. She also
44 stated that the declaratory statement was in an improper format due to its citing the entire
45 chapters 456, 463, F.S. and rule chapter 64B13, F.A.C. and not a specific section. She
46 advised the board not to respond to this petition at this time.

1 Dr. Frey stated that he would amend his petition and present it at the next board meeting.

2
3 **ADDITION OF ZIOPTAN (tafluprost ophthalmic suspension 0.0015%) TO THE**
4 **FORMULARY**

5
6 **Dr. Naberhaus moved to accept the request of the Florida Optometric Association to add**
7 **Zioptan (tafluprost ophthalmic suspension 0.0015%) to Rule 64B13-18.002, F.A.C. The**
8 **request was noticed by the Chairman of the Topical Ocular Pharmaceutical Agent (TOPA)**
9 **Committee to the other members of the TOPA committee and no response was received**
10 **requiring the TOPA committee to convene for discussion within the allotted 60 days. Dr.**
11 **Naberhaus' motion was seconded and carried 6/0.**

12
13 **DISCUSSION OF “Mission – Authority of the Board of Optometry” – Dr. Walker**

14
15 Dr. Walker had submitted a copy of a document he had written which was a history of the
16 Florida Board of Optometry. With reference to this document, he addressed the
17 following:

- 18
19 • The board needs to regain authority lost in the transition of government oversight
20 from DBPR to DOH and the ensuing legislative and policy changes that impacted
21 the board.
22 • He queried the status of Dr. McClane's participation in the review of complaints
23 and recommendations to the department Dr. McClane is the former board
24 member and optometrist who is working with the DOH Bureau of Consumer
25 Services in the complaint process, beginning with the outset of any complaint.
26 Dr. Walker reiterated his concern that the entire investigation of any optometric
27 transgression could not be delegated to a non-optometrist without the insights and
28 overview of an experienced optometrist.
29 • Penalties should be related to the violations of the optometrist and the violation
30 should be corrected, and that correction should be ensured, instead of simply
31 passed along or fined.
32 • Minutes of the board should be detailed enough for persons who were not in
33 attendance to understand what proceeded at the meeting.
34 • Conference calls should be used sparingly and in conformance with all provisions
35 of s. 456.011, F.S.
36 • Concerns with the situation where 2 or more members cannot discuss board
37 business without noticing the meeting. Solutions to this concern may involve
38 approaching the legislature for a change in the law.

39
40 (see Attachment A)

41
42 Dr. Naberhaus thanked Dr. Walker for his presentation and stated that Mr. McCharen
43 may be able to address his concerns regarding the involvement of Dr. McClane in the
44 complaint process.

45 Dr. Naberhaus requested board counsel to explain the procedures where two or more
46 members meet to discuss board business, and how that should be noticed, and what does
47 the term “notice” mean in that context.

1
2 Ms. Clark provided a brief overview of the noticing process. She stated that the noticing
3 process allows the public to know what the board will be discussing at their meetings.
4

5 Dr. Naberhaus asked if there was a way that two members on a committee might meet
6 without this notice and if it would be necessary for staff to attend.
7

8 Mr. Deterding stated that the law required any meetings of two or more members to be
9 timely noticed in the Florida Administrative Weekly, that a recording and minutes be
10 made of the proceedings and accommodations made for public participation. He added
11 that funds were available to conduct additional face-to-face meetings to discuss
12 controversial issues such as rules, and that the staff would need to be present at those
13 meetings to take minutes, provide accommodations for public participation and to
14 provide counsel and assistance to the board in its actions and deliberations.
15

16 Dr. Walker stated that he believed the legislature should amend the law to allow more
17 than one board member to discuss board issues without noticing the discussion. Such a
18 statutory change would enable the board to be more efficient in carrying out their
19 mission.
20

21 Mr. Deterding stated that the laws do not only pertain to the boards but to the legislature
22 and other elected officials, other public bodies (city commissioners, county
23 commissioners, etc.). Any proposed legislative change to the public meeting
24 requirements would impact all elected officials and bodies, and could be expected to face
25 public and media opposition.
26

27 Ms. Rosa McNaughton asked if the board might conduct rule development workshops.
28

29 Mr. Deterding responded that many boards do conduct rule workshops, typically in
30 conjunction with a board meeting. He suggested that such a meeting might be held the
31 evening prior to a board meeting.
32

33 Dr. Walker asked if a former board member might be able to work with the rules
34 committee member in developing rules, that this might help with that process and avoid
35 the requirements of noticing the meeting, public participation and assistance of staff since
36 it would not involve more than one elected official.
37

38 Mr. Deterding stated he will research the possibility of using a former board member for
39 rules development. He also suggested that he and the board counsel were available to
40 assist the rules committee member in developing rules.
41

42 Mr. McCharen introduced himself as the new board prosecutor and provided a brief
43 presentation of his work experience in the healthcare professions, administrative law and
44 the regulatory arena. He also provided a detailed overview of the complaint and
45 prosecution process.
46

1 Mr. McCharen also assured the board members that Dr. John McClane is very engaged
2 with the investigative and complaints process.

3
4 Dr. Walker questioned whether the issuance of the administrative complaint would not
5 alert a licensee to the department's investigation and allow them to alter their records.

6
7 Mr. McCharen stated when the administrative complaint is issued, the investigation has
8 already been completed and any records or information have already been subpoenaed
9 and received by the department; therefore, the licensee would not have the opportunity to
10 modify their records at that point since copies would already be in possession of the
11 department.

12
13 Dr. Naberhaus indicated that he believed the probable cause panel should be allowed to
14 provide the board with a recommendation for investigation in a particular case, and that
15 the panel's recommendation for further investigation should not cause the complaint to
16 go back to square one and begin the process all over again. Dr. McClane's participation
17 in the process leading up to the probable cause should also enable a broader look and a
18 closer tie between the complaints and the prosecution processes.

19
20 Mr. McCharen was receptive to the suggestion and said he would work with the panel.
21 He stated that the prosecutor cannot be involved with the investigation because he would
22 then become a party to it or a witness, which would compromise his performance as
23 prosecutor. He added that the probable cause panel was whether or not to proceed with
24 the case to trial, if there is probable cause to proceed, not to direct the prosecution. At the
25 stage of determining probable cause, everything may not be known or anticipated and the
26 panel should not provide specific direction, although they could make recommendations.

27
28 Dr. Underhill asked Mr. McCharen to contact Dr. McClane to determine how well the
29 process was working from his perspective and to see if he had any suggestions. He
30 reiterated the board's desire to see Dr. McClane's experience and knowledge fully inform
31 the investigation and prosecution in any way possible.

32
33 **CHAIR/VICE-CHAIR REPORT:**

34
35 **Future Agenda Items**

36
37 Dr. Underhill suggested that the board would need to continue their discussion
38 concerning the optometry state examination and the possibility of legislative changes.

39
40 The board discussed the upcoming Chair/Vice-Chair meeting that will be held in
41 Tallahassee, FL, in September.

42
43 **EXECUTIVE DIRECTOR'S REPORT**

44 Mr. Deterding awarded Dr. Walker with a plaque for his dedication and service to the
45 State of Florida and the Florida Board of Optometry.

1 “In honor of over 60 years of service to the profession we hereby grant you, Dr. Edward
2 Walker, the position of Chairman Emeritus of the Florida Board of Optometry in
3 perpetuity beginning July 11, 2012.

4
5 Dr. Walker stated it has been a pleasure to serve and thanked the board.

6
7 Dr. Walker also recommended Dr. Carl Spear to take his place on the board.

8
9 **BOARD COUNSEL’S REPORT:**

10
11 **Rules Status Report**

12
13 Ms. Clark provided an overview of her work experience.

14
15 Dr. Naberhaus requested the status of the adoption of adding Natacyn to the TOPA
16 Formulary. It has been filed for Notice of Rule Development and the proposed rule was
17 published on June 29th.

18
19 **DISCUSSION OF OPTOMETRY EXAMINATION**

20
21 Ms. Cassandra Pasley, HCPR Bureau Chief, Ms. Lola Pouncey, BOO Bureau Chief, and
22 Jennifer Wenhold, Manager, Practitioner Reporting & Exam Services were present and
23 addressed the board.

24
25 Ms. Pasley addressed the board on her bureau’s continued support to the board and staff
26 and to pass on the message from the division that it is a team effort and to support the
27 board and its mission.

28
29 Ms. Wenhold provided a brief overview of the previous discussion of the telephone
30 conference call held on April 6, 2012. The board had requested additional information to
31 review and discuss during this meeting. (For detailed documents – see Attachment B).

32
33 Generally, that information included:

- 34
- department had developed and posted the Request For Information (RFI)
 - 35 • only the National Board of Examiners of Optometry (NBEO) had responded
 - 36 • review of the revenues and fiscal impact of outsourcing the examination
 - 37 • Provide an overview of Competitive Procurement process
- 38

39 Dr. Underhill stated that the RFI requested certain information but was incomplete as to
40 the board’s practical examination. The Florida Practical Examination (written and
41 clinical portion) is defined in Chapter 64B13-4, F.A.C., including certain ocular metrics
42 that do not appear to be in the NBEO clinical examination. He did not know if, when
43 developing the RFI, the department utilized any experts in the field concerning what
44 should be tested.

1 Ms. Wenhold stated that the RFI was developed by Dr. Zohre Baharyni, psychometrician.
2 She stated that the department uses the board's general laws and rules to determine the
3 development of the RFI in order to allow any possible vendor to respond. When the
4 department is prepared to request bids, the board may provide specific items to be
5 included. She further explained that the RFI was not written for NBEO but for any
6 vendor to respond.

7
8 Dr. Underhill had concerns that NBEO was the only vendor to respond.

9
10 Ms. Wenhold stated she understood his concerns. She replied that NBEO has agreed to
11 modify Part III to meet any Florida-specific requirements required by the board.

12
13 Further discussion ensued.

14
15 Dr. Walker suggested several board members attend the North Carolina examination and
16 speak with the Executive Director on how they administer their examination.

17
18 Ms. Pouncey and Ms. Pasley provided additional information.

19
20 The board was concerned with not having valuable input on and control of the
21 examination if they were to proceed with the national examination.

22
23 Ms. Wenhold stated that the board would require the vendor to provide any
24 documentation necessary to ensure they are meeting the needs of the board. The
25 department requires the vendors to complete recertification every few years.

26
27 Dr. Naberhaus asked the department on what assurance did they have that actions could
28 be taken if a problem arises.

29
30 Ms. Pasley stated that she, Mr. Deterding, and Ms. Guilford met with the Department of
31 Health, Legislative Affairs and were reminded that the department's role is to issue
32 licenses and that the board and board staff must be careful not to overstep that boundary
33 or to step or appear to step into what might be construed as the professional association's
34 role. The department would remain neutral on legislative issues, unless there is
35 something that impacts the department's ability to do our job of licensing optometrists.

36
37 **Dr. Walker moved to have two board members or maybe a past board member to**
38 **attend the North Carolina examination. The motion was seconded and carried 6/0.**

39
40 The board believed that more time and information was needed to make a decision on
41 who should administer the licensing examination.

42
43 Mr. Deterding stated that Dr. Jack Terry of the NBEO would be willing to speak with the
44 board.

1 Ms. McNaughton asked if the board was required to utilize the national board or could
2 the board continue administering the examination.

3
4 Ms. Pasley stated that HB 5311 required each section of the Department of Health to
5 review their processes and analyze what could be outsourced, privatized, etc. She stated
6 that one of those items reviewed was the administering of state examinations. The
7 department's recommendation in this matter was submitted and accepted by the
8 governor's office. At the point that the governor's direction was received by the
9 department, the only board that was still planning to administer the practical examination
10 was the Board of Optometry. The other professions had decided to accept a vendor,
11 whether a national or regional vendor, to administer their licensing examination. Due to
12 recent cutbacks and staff reassignments, the department has limited staff to administer a
13 single examination and would have to find other work for those remaining staff at other
14 times of year when the optometry examination was not being held. She stated her belief
15 that having the national vendor come to a board meeting to speak would be beneficial to
16 the board.

17
18 Ms. Pasley stated that the 2012 examination would be the last examination administered
19 by the Department of Health.

20
21 Ms. McNaughton stated that she wanted to make sure she understood that the department
22 would no longer administer the state examination.

23
24 Dr. Naberhaus noted that section 463.006(2), F.S., stated that the examination shall
25 consist of the appropriate subjects, including applicable state laws and rules and general
26 and ocular pharmacology with emphasis on the topical application and side effects of
27 ocular pharmaceutical agents. The board may by rule substitute a national examination
28 as part or all of the examination and may by rule offer a practical examination in addition
29 to the written examination. Therefore, it appears that the board has the authority to offer
30 a practical examination.

31
32 Ms. Pasley stated that in Chapter 456, F.S., it indicates that, if there is a national practical
33 examination for that profession, then the state should not be giving a practical
34 examination. The department has fought for years to not enforce the provision for the
35 Boards of Optometry and Dentistry. Ms. Pasley stated that, although she does not work
36 in the Examinations Bureau, but works with Ms. Guilford and Mr. Deterding and their
37 goal is to work for a resolution together with the board and the Examinations Bureau.
38 She further stated that with less than 200 candidates taking the examination each year it is
39 very costly for the applicants; therefore, she asked that the board consider the
40 Competitive Procurement process.

41
42 Ms. Pouncey stated that if this was not resolved by next year then the department will be
43 administering the examination until it is resolved. However, the department has been
44 instructed to look at other alternatives in administering and developing the examination
45 because the department is losing staff based on the directive they have received.

1 Ms. Pasley stated that the board does not need to be concerned that individuals will not
2 receive a license, that the licensing examination will continue until this situation is
3 resolved. She suggested that there be someone designated by the board to work with the
4 examinations team between meetings to ensure that the situation is resolved even though
5 the board meets only several times a year.

6
7 Dr. Naberhaus stated that students have informed him that there will not be a Florida
8 examination after the one in July of 2012, and he's concerned that this word has already
9 gotten out that students may not have to take a test next year.

10
11 Ms. Pasley stated that the department not said that there will not be an exam, only that the
12 state may not administer a state exam. She suggested that Mr. Deterding and Ms.
13 Guilford could reach out to the institutions to ensure the students understand what is
14 developing.

15
16 **Dr. Walker moved to have two board members attend the North Carolina**
17 **examination. The motion was seconded and carried 6/0.**

18
19 Dr. Underhill asked if there would be funding available for certain designated people to
20 go to North Carolina to observe their testing process.

21
22 Ms. Pasley suggested that perhaps Dr. Zohre Bahrayni and the board's designated
23 Examinations Chair might go to North Carolina together to review that state's process.

24
25 Dr. Underhill appointed Dr. Del Moral to attend the North Carolina's examination and
26 possibly a staff member from Testing.

27
28 Ms. Wenhold asked if the board wanted her office to schedule NBEO to speak to the
29 board at their October 5th meeting.

30
31 The board concurred.

32
33 The board asked that they have approval of whatever contract was made prior to its
34 finalization.

35
36 Further discussion ensued.

37
38 **Dr. Naberhaus moved that the board retain the right to approve the contract prior**
39 **to department's agreement with a vendor. The motion was seconded and carried**
40 **6/0.**

41
42 Ms. Pasley tendered her appreciation to the board for hearing the exam team's concerns
43 and working with them to resolve this situation.

44
45 **PETITION FOR VARIANCE/WAIVER – Michael J. Giese, O.D. – Rule 64B13-**
46 **4.001(1), Florida Administrative Code – Examination Requirements**

1
2 Dr. Giese was neither present nor represented by counsel.

3
4 Ms. Clark provided an overview of the procedures and actions the board may take on the Petition
5 for Variance/Waiver of a rule.

6
7 **Dr. Naberhaus moved to deny the Petition for Variance/Waiver of Rule 64B13-4.001(1),**
8 **F.A.C. The motion was seconded and carried 6/0.**

9
10 **(RECONSIDERATION)**

11
12 **REQUEST FOR DECLARATORY STATEMENT – Christopher A. Frey – Scope**
13 **of Practice – Additional Information – Melbomian Gland Probing Procedure**

14
15 Ms. Clark stated that the board would be required to act on the petition due to the
16 statutory requirement for the board to act on the petition within 90 days from the filing of
17 the petition.

18
19 Discussion ensued.

20
21 **Dr. Naberhaus moved to deny the Petition for Declaratory Statement. The motion was**
22 **seconded and carried 6/0.**

23
24 **COMMITTEE REPORTS:**

25
26 **Budget – Mr. Presnell**

- 27
- 28 • **Disbursements by Category Report**
 - 29 • **Revenue Report**
 - 30 • **Expenditures by Function for Period Ending 3/31/2012**
 - 31 • **Cash Balance Report for 9 Months Ending 3/31/2012**
 - 32 • **Total Expenditures (Direct and Allocated) by Board for 9 Months Ending**
33 **3/31/2012**
 - 34 • **Allocations to Boards by Source Organization and Category for 9 Months**
35 **Ending 3/31/2012**

36 Information only.

37
38 **Complaints, Investigation & Enforcement – Dr. Walker**

39
40 Dr. Walker provided a brief report regarding Dr. McClane's participation with the
41 complaint process. He also provided the department with a document from Dr. Raymond
42 Pierie that may be utilized in the future.

43
44 **Continuing Education – Dr. Maule**

45
46 **CE Providers & Course Approved by CE Chair**
47

1 **Dr. Maule moved to approve the ratification lists as provided. The motion was seconded**
2 **and carried 6/0.**

3
4 **Corporate Practice – Dr. Walker**

5
6 There was no additional report.

7
8 **Disciplinary Compliance – Ms. McNaughton**

9
10 No report.

11
12 **Examination – Dr. Del Moral**

13
14 **Certification Report – Part III – Clinical Skills Examination –**
15 **Zohre Bahrayni, Ph.D., Psychometrician**

16
17 Information only.

18
19 **FOA – Dr. Underhill**

20
21 No report.

22
23 Mr. Griffin addressed the FOA’s concerns regarding the administering of the state
24 examination. He indicated his reading of s. 456.017(1)(c)2., F.S., indicated that:
25 ”Neither the board nor the department may administer a state-developed written
26 examination if a national examination has been certified by the department.”
27 And subparagraph 3. of the same paragraph states: “If a national practical or clinical
28 examination is available and certified by the department pursuant to this section, the
29 board, or the department when there is no board, may administer the national
30 examination.” Consequently, the board was not required to discontinue administering the
31 state practical examination.

32
33 **Legislative – Dr. Underhill**

34
35 No report.

36
37 **Probable Cause – Mr. Presnell**

38
39 **Stats**

40
41 Information only.

42
43 **Prosecution Report**

44
45 Information only.

46
47 **Rules – Dr. Naberhaus**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- **Approval of Applications and Rules:**

- **64B13-4.004, F.A.C. – Manner of Application**

Dr. Del Moral moved to accept changes to Rule 64B13-4.004, F.A.C. The motion was seconded and carried 6/0.

- **64B13-4.007, F.A.C. – Optometry Faculty Certificate**

Dr. Del Moral moved to accept changes to Rule 64B13-4.004, F.A.C. The motion was seconded and carried 6/0.

- **Discussion of Branch Offices – 463.011, F.S.**

- **64B13-3.006, F.A.C. – Licenses and Signs in Office**
- **64B13-3.019, F.A.C. – Address of Record**
- **64B13-6.001, F.A.C. – Fees**

Dr. Del Moral moved to accept the changes to 64B13-3.006, 3.019, 6.001, F.A.C. The motion was seconded and carried 6/0.

- **64B13-15.009, F.A.C. – Citations**
- **64B13-16.001, F.A.C. – Definitions**
- **64B13-16.002, F.A.C. – Branch Office License**
- **64B13-16.005, F.A.C. – Exceptions of Branch Office License Requirements**

Dr. Del Moral moved to accept the changes to 64B13-15.009, 16.001, 16.002, 16.005, F.A.C. The motion was seconded and carried 6/0.

Ms. Clark asked the board to determine if the proposed changes would have any adverse impacts on small businesses. She addressed each rule individually with the following response:

- **64B13-3.006, F.A.C. – Licenses and Signs in Office**

The board’s response was no.

- **64B13-3.019, F.A.C. – Address of Record**

The board’s response was no.

- **64B13-6.001, F.A.C. – Fees**

The board’s response was no.

1 • **64B13-15.009, F.A.C. – Citations**

2

3 The board’s response was no.

4

5 • **64B13-16.001, F.A.C. – Definitions**

6

7 The board’s response was no.

8

9 • **64B13-16.002, F.A.C. – Branch Office License**

10

11 The board’s response was no.

12

13 • **64B13-16.005, F.A.C. – Exceptions of Branch Office License Requirements**

14

15 The board’s response was no.

16

17 **Dr. Naberhaus moved that the proposed rule would not have any adverse impacts on small**
18 **businesses and would not be likely to directly or indirectly increase regulatory costs to any**
19 **entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year**
20 **after the implementation of the rule. The motion was seconded and carried 6/0.**

21

22 **Unlicensed Activity – Dr. Walker**

23

24 No report.

25

26 **PROPOSED 2013 MEETING DATES**

27

28 The following dates and locations were recommended:

29

30 **February 8, 2013** (check alternative date – meeting to be held in Jacksonville)

31 **July 17, 2013** (FOA held in Daytona – hotel was unknown)

32 **December 6, 2013** (Tampa airport hotel)

33

34 **NEXT MEETING DATE – October 5th – Orlando**

35

36 **ADJOURNMENT:**

37

38 The meeting was adjourned at 1:14 p.m.