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

**MINUTES  
GENERAL BUSINESS MEETING**

**Florida Department of Health  
4042 Bald Cypress Way, Room 301  
Tallahassee, Florida 32399**

**October 5, 2012**

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

19  
20 **CALL TO ORDER:**

21 Dr. Timothy Underhill, Chairman, called the meeting to order at 9:00 a.m. Those present for all  
22 or part of the meeting included the following:

23  
24 **BOARD MEMBERS:**

25 Timothy Underhill, O.D., Chair  
26 Terrance Naberhaus, O.D., Vice-Chair  
27 Rebecca Del Moral, O.D.  
28 Tamara Maule, O.D.  
29 Edward Walker, O.D.  
30 Rosa McNaughton, Esq.  
31 Rod Presnell, R.Ph.

32  
33 **BOARD STAFF:**

34 Bruce Deterding, Board Executive Director  
35 Sharon Guilford, Program Operations Administrator  
36 Jose Montalvan, Regulatory/Consultant Supervisor

37  
38 **BOARD COUNSEL:**

39 Rachel Clark, Assistant Attorney General  
40 Office of Attorney General

41  
42 **PROSECUTING ATTORNEY:**

43 Elana Jones, Assistant General Counsel

44  
45 **COURT REPORTER:**

46 Premier Reporting, (850) 894-0828

1 **APPROVAL OF MINUTES:**

2  
3 **July 11, 2012 – Full Board**

4  
5 **Dr. Walker moved to approve the above minutes as presented. The motion was seconded**  
6 **and carried 7/0.**

7  
8 **FINAL ORDER ACTIONS:**

9  
10 **Motion for Determination of Waiver and For Final Order by Hearing Not Involving**  
11 **Disputed Issues of Material Fact:**

12  
13 **Navindra Singh, O.D. – Case Number 12-02282**  
14 **PCP: Presnell/Lewis**

15  
16 **Navindra Singh, O.D. – Case Number 12-02833**  
17 **PCP: Presnell/Lewis**

18  
19 Dr. Singh was neither present nor represented by counsel.

20  
21 Ms. Jones informed the board that the respondent had violated:

- 22 • Section 463.016(1)(t), F.S., through violation of Rules 64B13-3.002(2) and 3.003(7),  
23 F.A.C.

24  
25 **Dr. Underhill moved to accept all the investigative report into evidence. The motion was**  
26 **seconded and carried 6/0.**

27  
28 **Dr. Naberhaus moved to adopt the case materials, if any, into evidence. The motion was**  
29 **seconded and carried 6/0.**

30  
31 **Dr. Del Moral moved to adopt the findings of fact into evidence as alleged in the**  
32 **administrative complaint. The motion was seconded and carried 6/0.**

33  
34 **Dr. Naberhaus moved to adopt the conclusions of law and find that the respondent was in**  
35 **violation as alleged in the administrative complaint. The motion was seconded and carried**  
36 **6/0.**

37  
38 **Dr. Naberhaus moved that the evidence constitutes a violation of the Practice Act. The**  
39 **motion was seconded and carried 6/0.**

40  
41 Ms. Jones recommended the following penalty:

- 42 • Letter of Concern  
43 • Administrative Fine of \$1,000.00  
44 • Provide evidence of compliance with Rules 64B13-3.002 and 64B13-3-003, F.A.C.,  
45 within 60 days from the filing of the Final Order

46  
47 Discussion ensued.

1 **Dr. Naberhaus moved to issue a suspension, letter of concern, an administrative fine of**  
2 **\$500.00 for each of the two minor violations and \$1,000.00 for each of the two major**  
3 **violations, payable within 60 days from the filing of the Final Order, and provide evidence**  
4 **of compliance with Rules 64B13-3.002 and 64B13-3.003, F.A.C., within 60 days from the**  
5 **filing of the Final Order. The motion was seconded and carried 6/0.**  
6

7 **Dr. Naberhaus moved to issue a Motion to Assess Costs of \$968.99 (12-02282) and \$791.55**  
8 **(12-02833) totaling \$1,760.54, payable within 60 days from the filing of the Final Order.**  
9 **The motion was seconded and carried 6/0.**

### 10 **Prosecution Report**

11 Ms. Jones provided the prosecution report. (See Attachment A)

12  
13  
14  
15 Dr. Underhill questioned whether Dr. McClane was reviewing all the cases in  
16 determining legal sufficiency, and if Dr. McClane's recommendations or impressions  
17 about the cases were being conveyed to the Probable Cause Panel.

18  
19 Ms. Jones was uncertain but would research and have a response to the board at their next  
20 meeting.

21  
22 Mr. Deterding assured the board that Dr. McClane was active in the  
23 investigative/complaints process right up to the Probable Cause Panel, but he didn't  
24 believe Dr. McClane was providing any recommendation to the Probable Cause Panel.

25  
26 The board was concerned that the Probable Cause may not have the information from Dr.  
27 McClane. The board requested a report from the prosecutor informing them of Dr.  
28 McClane's role with regard to directly providing feedback to the Probable Cause Panel.

29  
30 Ms. Clark interjected that, because Dr. McClane was not an "expert witness," it was  
31 unlikely that his recommendations were being reported directly to the Probable Cause  
32 Panel.

33  
34 Dr. Naberhaus stated that he believed Dr. McClane's role was to include the duties of  
35 consultant as well as to directly advise the Probable Cause Panel as an "expert" on  
36 optometry.

37  
38 Mr. Deterding requested that Ms. Jones determine what the Prosecution Service Unit saw  
39 as Dr. McClane's role and whether or not they were allowing his recommendations to  
40 come directly to the Probable Cause Panel, and if not, what is the legal reason for  
41 prohibiting this; and for PSU to provide a report on these matters to the board. He  
42 assured the board that he would speak to Dr. McClane in the meantime and get a  
43 thorough understanding of how he understood his role and what he felt contracted to do.

44  
45 Ms. McNaughton also requested that the department provide a copy of the contractual  
46 agreement between the department and Dr. McClane on the next agenda.

1 Ms. Jones agreed.

2  
3 Dr. Maule suggested that there be a professional member on the Probable Cause Panel.

4  
5 Dr. Underhill also proposed that the board have three members serving on the probable  
6 cause panel: one current professional member, one current consumer member and one  
7 former member. He did not make any additional appointments at this time but would  
8 reserve further discussion on this issue until the Board had received the PSU's report.

9  
10 Dr. Naberhaus suggested the possibility that the Probable Cause Panel meetings be live  
11 meetings and conducted in the region of different active board members so that those  
12 board members could easily attend. Alternatively, that the Probable Cause Panel  
13 meetings be held just prior to the board meetings.

14  
15 Dr. Underhill requested that the Board staff give him the names in the pool of former  
16 board members available for Probable Cause. He also suggested the possibility of having  
17 zones, such as Dr. Naberhaus had proposed, where live meetings could be conducted  
18 utilizing former board members who would be selected who lived in the zone that the  
19 board was meeting in. Those former board members could be invited to the live Probable  
20 Cause Panel to be held prior to the board meeting to take part in the panel's discussion of  
21 the cases.

22  
23 No decision was made concerning the composition of Probable Cause Panels, live  
24 meetings or dividing the state into regions/zones. The board agreed to incorporate this  
25 discussion into their next live meeting at the time they receive the report from PSU.

26  
27 **RATIFICATION OF OPTOMETRY FACULTY CERTIFICATES**  
28 **(Chandra Engs, OFC 53 – James Marie St Martin, OFC 57) - (see Attachment B)**

29  
30 Dr. Del Moral provided an overview of the ratification list.

31  
32 **Dr. Del Moral moved to approve the ratification list of Optometry Faculty**  
33 **Certificates as presented. The motion was seconded and carried 7/0.**

34  
35 **CORRESPONDENCE – Licensure by Endorsement – Miriam Bach, Optometric**  
36 **Student Physician**

37  
38 There was no action taken. Information only.

39  
40 **EXAMINATION COMPARISON REPORTS – Zohre Bahrayni, Ph.D.,**  
41 **Psychometrician, reported a comparison of the examination administered by the**  
42 **National Board of Examiners of Optometry (NBEO) with Florida's state-**  
43 **administered clinical examination and the North Carolina state-administered**  
44 **clinical examination.**

45  
46 Dr. Bahrayni provided an overview of the examination comparison reports:

- 1
- 2 • The National Board of Examiners in Optometry (NBEO) Part III Examination and
  - 3 the Florida Clinical/Practical Examination
  - 4 • The North Carolina (NC) Clinical/Practical Examination and the Florida
  - 5 Clinical/Practical Examination
- 6

7 Dr. Bahrayni stated that the two examinations were evaluated by the Department of  
8 Health, consultants and examiners. They were confident that the NBEO examination met  
9 or exceeded minimum requirements necessary to serve in the licensing of Florida  
10 optometrists.

11

12 Dr. Underhill suggested that there appeared to be discrepancies between what the NBEO  
13 exam covered and what the present Florida clinical exam covered. This included ocular  
14 metrics, evaluation of fundus photography anterior segment, topography, A scans, B  
15 scans, and electro-diagnostics. There is no way to determine if these subjects are being  
16 covered on the written Part II of the NBEO exam but they didn't appear to be on the  
17 practical Part III. It wasn't clear if the department's comparison was "apples to apples."  
18

19 Dr. Naberhaus questioned the NBEO passing rate and score. He was concerned that if  
20 there were large numbers of low scores, would the national board modify the passing rate  
21 by removing certain questions from the examination or otherwise altering the results by  
22 manipulating the test itself to accommodate certain preconceived percentages or  
23 statistics. He also expressed concern that the required score for the exam was a moving  
24 target that appeared to be adjusted in order to guarantee a high passing rate. He stated  
25 that the material he had seen reported the NBEO passing rate at 96.5%, which seemed  
26 quite high to him.

27

28 Mr. Deterding reported that the passing rates he had seen for both the state-administered  
29 exam and the NBEO's exam were similar, with both being in the 89% to 90% range.

30

31 Dr. Bahrayni stated that, in her understanding, the NBEO would not modify the results of  
32 their examination to achieve a higher passing rate.

33

34 The board addressed additional questions and concerns.

35

36 Dr. Maule asked a question about task analyses. The report made it look like the board  
37 hadn't updated their test since 1998. Her recollection was that the exams office was  
38 supposed to poll ODs in the state, or optometric experts, to determine what were the most  
39 important things they did in practice, what were the most common things, etc., to inform  
40 the state test on what questions to ask.

41

42 Dr. Bahrayni stated that the state exam was constantly updated according to input from a  
43 panel of optometric experts.

44

45 Dr. Maule asked if the department would provide the board with a report of their analysis  
46 of the two examinations.

1  
2 Dr. Bahrayni stated that she had provided the board with the consultants' and examiners'  
3 recommendations in a memorandum.

4  
5 Dr. Underhill questioned whether the department was able to discuss the specifics of both  
6 examinations.

7  
8 Dr. Bahrayni recommended the board address any further questions and concerns to Dr.  
9 Jack E. Terry, Executive Director with the National Board of Examiners in Optometry  
10 (NBEO).

11  
12 **DISCUSSION OF NBEO EXAMINATION – Jack E. Terry, O.D., Ph.D., NCEO**  
13 **Executive Director**

14  
15 Jack E. Terry, O.D. and Sandra Neustel, Ph.D., Director of Psychometrics and Research  
16 with NBEO.

17  
18 Dr. Terry provided an extensive overview of the NBEO Examination.

- 19  
20 • Composition of the NBEO Board  
21 • Overview of the NBEO examinations
- 22 ○ Part I - Applied Basic Science, covering Anatomy,  
23 Biochemistry/Physiology, Immunology/Microbiology/Pathology, Optics,  
24 and Pharmacology (Multiple Choice Questions),
  - 25 ○ Part II - Patient Assessment and Management, covering Clinical  
26 Presentation, Clinical Correlation of Basic Science Principles, Diagnosis,  
27 Treatment/Management, and Legal Issues/Ethics/Public Health (case-  
28 based, image-intensive),
  - 29 ○ Part III - clinical practical examination, covering Communication Skills,  
30 Affective Skills, Psychomotor Skills, and Clinical Observation and  
31 Reporting Skills (Clinical Skills, Performance Test)
- 32 • Examination currently includes testing on the prescription and administration of  
33 oral pharmaceuticals.
- 34 • Online computer-based testing on state laws may be an open or closed book  
35 examination. There are never two people that take the same examination, due to  
36 the rotation of the questions.
- 37 • Test results are provided by website link
- 38 • Part III – optometric clinical practicum examination model
- 39 ○ July 1987, created a manual for the assessment of clinical examination
  - 40 ○ Multiple changes have occurred throughout time
  - 41 ○ Online system is available
  - 42 ○ Candidates arrive at the testing center wearing arm badges, and are  
43 assigned to different stations
  - 44 ○ All candidates come to the testing center in Charlotte, NC
  - 45 ○ Composition of the Clinical Skills Examination (CSE) Committee

- 1 ○ National Board meets every year – National Board Examination Review
- 2 Committee (NBERC)
- 3 ○ National Board Staff for the Part III portion of the test consists of the
- 4 Director of the National Center of Clinical Testing in Optometry
- 5 (NCCTO), the site coordinator, assistant site coordinator, and the control
- 6 room operator.
- 7 ○ There are also a receptionist/administrative assistant, 35 standardized
- 8 patients, 55 remote examiners (from all over the country to score
- 9 examinations), and 22 in-house examiners.
- 10 ○ Station 2, has a live optometrist in the room to do scoring and this live
- 11 scoring is compared with the scoring done by the remote examiners. State
- 12 2 is where more invasive procedures are tested.
- 13 ○ There have been many Floridians involved in NBEO’s Part I, II, and III
- 14 Committees, examiners and councils members
- 15 ○ There is a 45 minute orientation for candidates prior to the testing
- 16 ○ Candidates are provided a tour of a model examination room prior to
- 17 testing
- 18 ○ The NBEO is constantly adding more skills – many states recently
- 19 requested an “Injections Skills Examination”
- 20 ○ Cameras in each room have the capability to zoom in closely, even under
- 21 low-light conditions, to read the numbers off of the equipment dials.
- 22 ○ Candidates can test repeatedly but cannot test twice in one month
- 23 ○ Stations 1, 3 and 4 are scored exclusively by remote examiners (3-5
- 24 cameras in each room)
- 25 ○ Online registration for candidate scheduling
- 26 ○ Informational website with everything the candidate needs to know about
- 27 the facilities, the testing center, and Charlotte, as well as the surrounding
- 28 area.
- 29 ○ Part III/NCCTO Survey for the candidates to participate
- 30 ○ Part III-CSE Exam 2011-2012 Volumes and Pass Rates (monitored month
- 31 to month)
- 32 ○ Part III-CSE Exam Results within the past three years
- 33 ○ Part III-single site with double scoring (Enhancements to Scoring)
- 34 ○ Part III-when there is a difference between the first and second scoring
- 35 then a third rescoring is performed
- 36 ○ Part III CSE – piloting of SP scoring, additional skills, stand-alone ISE for
- 37 practitioners, and LASER and Minor Surgical Skills.

38  
 39 The board stated several concerns, with responses from Dr. Terry and Dr. Neustel  
 40 indicated, as follows:

- 41
- 42 • How are the numbering scores determined?
- 43 ○ Remote examiners rate Yes or No whether things are performed and items
- 44 are differentially weighted to determine if they are essential or just
- 45 desirable.

- 1           ○ Domain reference examination – the council reviews the scoring sheets –  
2           The number of items may change on the test from year to year. The  
3           weighting scheme was changed 10 point scale to a 4 point scale for  
4           differentially weighted items.
- 5       • How many candidates taking the examination?
    - 6           ○ 1,900 to 2,100 candidates, including 1,650 fourth-year optometry students,  
7           retakes and practitioners directed to the exam by state boards.
  - 8       • When is the examination offered?
    - 9           ○ Available slots are from August 1<sup>st</sup> through April 30<sup>th</sup>, so that scores can  
10           be reported to state boards no later than June 15<sup>th</sup>. Typically, scores are  
11           reported within a month and a half of the exam being taken
    - 12           ○ No one can take the examination prior to their fourth year
  - 13       • Would the Injections Skills examination be required for all candidates?
    - 14           ○ Yes
    - 15           ○ TMOD is embedded in Part II of the examination, but NBEO provides a  
16           breakout score to state boards.
  - 17       • If Part III was modified by adding additional questions that meets the Florida  
18       Board’s requirements, would every candidate be required to be tested?
    - 19           ○ Yes
  - 20       • Can items to be tested be added if a state requires it for their applicants?
    - 21           ○ Items can be added if approved by the exams committee but they cannot  
22           be added for only one state. They must be added for all states if they are  
23           important enough to be added for one.
  - 24       • Where is Pharmacology covered?
    - 25           ○ It is embedded in all three examinations Part I, II, and III, but more in the  
26           Pharmacology discipline of Part I and in the PAM examination (Part II).  
27           The pharmacology is covered in Part I but the appropriate treatment  
28           selections, making the clinical decisions based on the given information,  
29           would be included in Part II PAM, also in the basic science correlation of  
30           the PAM exam. Most is in the TMOD, which is in the PAM exam.
  - 31       • Where are ocular metrics, anterior, posterior segment photography, topography  
32       testing, etc. in the Part II of the exam?
    - 33           ○ VEPs EOGs ERGs, the basic science part, what retinal structures for the  
34           cortex are providing those signals, are tested in Part I. The clinical  
35           interpretation of the data are provided for in Part II. The PAM exam is like  
36           an electronic medical record template, all the medical record is there.  
37           Visual fields, Humphreys, OCTs, corneal topography, images, are all a  
38           part of PAM, followed by 4 or 5 questions follow that case so that it flows  
39           in a very logical way. I believe PAM would cover the areas you are  
40           concerned about.
  - 41       • Do you have concerns that your standardized patients perform differently than a  
42       real patient?
    - 43           ○ Yes, the NBEO feels it is very important that the standardized patients  
44           (SPs) perform in a realistic way. The fact that they are standardized as  
45           patients just refers to the fact that they receive standardized training to act

1 as patients, real patients, and if they cannot understand that part of their  
2 role then they cannot be an SP.

- 3 • Can a candidate take the examination as often as needed?
  - 4 ○ Yes, you can take it as many times as you are willing to pay for the exam.
  - 5 The board of directors of the NBEO has discussed the ramifications of
  - 6 this, with legal counsel, and they have always come down on the side of
  - 7 not restricting how many times a candidate may take the exam. The
  - 8 NBEO may be able to fix a Florida rule restricting the number of times a
  - 9 candidate may take the exam in the NBEO's exam algorithm.
- 10 • Can the cut-off scoring be modified for Florida?
  - 11 ○ No, but the board could have their own passing score in rule
  - 12 ○ A caveat is that it might be more difficult to defend a different passing
  - 13 score than the score set by the national examination.
- 14 • Would the state be able to change the percentage they were willing to accept so  
15 that the score recommended by the NBEO could remain the same?
  - 16 ○ It would be difficult to try and have a different percentage requirement.
  - 17 The NBEO would simply recommend that states accept their passing score
  - 18 but a state is under no obligation to do so, they could set it higher if they
  - 19 wished in their rule.
- 20 • Can the NBEO incorporate any additional Florida requirements:
  - 21 ○ Yes, if Florida has singular requirements to put on the test, the NBEO will
  - 22 review those and, where possible, address these in the examination or the
  - 23 examination requirements if they are not already. Any requests for
  - 24 additional items on the examination itself would be reviewed by a
  - 25 committee to determine if it is already included elsewhere, or if it would
  - 26 be of benefit to all candidates to include on the exam. It would not appear
  - 27 on the exam just for Florida candidates.
- 28 • So the board can keep their requirements for candidates presently in rule, even if  
29 the NBEO administers the exam? Requirements like requiring a higher score than  
30 NBEO requires, restrictions on how many times they may retake the examination,  
31 restrictions on how recently they must have taken the exam, can all of these  
32 remain as they are at present for Florida?
  - 33 ○ Yes, whatever rules or laws constrict candidates for licensure in Florida
  - 34 will not be changed by who administers the examination. The NBEO
  - 35 would be willing to meet with and work with the board to see where they
  - 36 can help uphold particular requirements that Florida might have of the
  - 37 examination or candidates.
- 38 • What is the next step?
  - 39 ○ Competitive Procurement – perform an Invitation to Negotiate (ITN)
  - 40 where the vendors are invited to meet the department and board criteria for
  - 41 administering the test. The Department would sign the agreement, but
  - 42 would use a board member as part of their expert team in the negotiation.

44 Ms. McNaughton stated that the board could make the decision to outsource the  
45 examination through an ITN but could dismiss it at a later date.

1 Dr. Del Moral suggested that they discuss the North Carolina examination before making  
2 a decision.

3  
4 Ms. Pouncey stated that as the board's administrative agency, they would fashion the ITN  
5 to comport with the board's needs. The department had made a commitment to the board  
6 to bring any proposal to the board for their review before it was final. The department  
7 would create an ITN and share it with the board at their next meeting. In creating this,  
8 the department would utilize a board member or someone suggested by the board that  
9 could work with the department in creating the document.

10  
11 Dr. Underhill stated that the board had voted to approve the contract, not just review it.

12  
13 **North Carolina - (see Attachment C)**

14  
15 Dr. Del Moral stated that she had an opportunity to speak with John D. Robinson, O.D.,  
16 Executive Director, with the North Carolina (NC) board. She provided several findings:

- 17  
18 • In the comparison, the examination costs between NC and FL appeared to be the  
19 largest difference. The cost of administering the clinical/practical examination in  
20 FL was greater than the cost for NC.  
21 • FL is required by law to administer the examination based on the actual cost of  
22 administering the examination; whereas, the cost of the examination in NC is  
23 supplemented by state funds from a general revenue account.  
24 • NC's license renewal is annual vs. FL's license renewal is biennial

25  
26 Discussion ensued on the possibilities this presented for Florida.

27  
28 Dr. Del Moral suggested that Dr. Robinson from North Carolina might come to speak  
29 with the board. She had envisioned that North Carolina would not bid on giving the  
30 Florida examination, but instead the Florida Board itself might use the information  
31 gathered from North Carolina to design and administer their own examination.

32  
33 Dr. Maule suggested that if the board was considering giving the test themselves then  
34 they needed to start looking for space and making arrangements to facilitate giving their  
35 own exam.

36  
37 Mr. Deterding stated that, if the Board itself, as opposed to the Department of Health,  
38 was to consider administering a state examination, then the board's staff would likely  
39 have to be greatly expanded in order to handle those additional responsibilities currently  
40 handled by the department.

41  
42 Ms. Clark said she would have to review the statutes to determine if the board had the  
43 authority to directly administer the exam, in any case.

44  
45 **Dr. Naberhaus moved to direct the Bureau of Operations to file an Invitation to**  
46 **Negotiate for the state examination, working with a board-selected expert, either Dr.**

1 **Gary MacDonald or Dr. Karen Perry, and to bring that ITN back to the board for**  
2 **them to review. The motion was seconded and carried 7/0.**

3  
4 Ms. Lucy Gee, Division Director, addressed the board regarding the Unlicensed Activity  
5 Program, Operation Blindsight, where sting operations are planned to stop the sale of  
6 colored contact lenses by unlicensed entities.

7  
8 Ms. Gee reiterated that the department has been focusing on getting a positive message  
9 out to the citizens. She also assured the board that their concerns will be going back the  
10 Dr. Armstrong, and the Governor's Office.

11  
12 Dr. Naberhaus addressed unlicensed activity, he had concerns that the legal process  
13 hadn't worked well historically, that prosecutors did not put a high priority on  
14 prosecuting these cases. He wanted to know if that had changed.

15  
16 Ms. Gee stated that they had worked with the State Attorney General's Office on the  
17 possibility of assigning one person as the state prosecutor to handle the unlicensed  
18 activity. She also provided the board members with her direct telephone number.

#### 19 20 **CHAIR/VICE-CHAIR REPORT**

21  
22 Dr. Underhill provided an overview of the Board Chair and Vice Chair annual meeting.  
23 He requested clarification on the online renewal process by verifying the continuing  
24 education prior to a licensee renewing their license. The continuing education renewal  
25 tracking system may be reviewed at [www.CEAtRenewal.com](http://www.CEAtRenewal.com).

26  
27 Ms. Lola Pouncey addressed the board regarding the continuing education tracking  
28 system. She stated that the pre-auditing process will allow the licensees to determine if  
29 the Department of Health has all the continuing education hours required in renewing  
30 one's license. With these changes beginning the next renewal (February 23, 2013), will  
31 be the initial biennium, the licensees will be able to renew their license, and if they are  
32 non-compliance with the all the required continuing education hours within the database,  
33 then they will be notified of the missing continuing education credit hours. However,  
34 after the initial biennium, if the continuing education credit hours are not in the database  
35 then the licensee will not be able to renew and a letter will be sent.

36  
37 Ms. Pouncey also provided means of notifying the licensees of the new changes by post  
38 card, emailing, vendor emailing the continuing education providers, updating the DOH  
39 Call Center and staff, and partnering with the associations, etc.

40  
41 Dr. Maule requested on how the department would be handling the licensees that were in  
42 non-compliance with their continuing education requirements and disciplinary actions.

43  
44 Ms. Pouncey stated that the department was still working on the logistics of the process  
45 and would provide a future update.

1 Ms. Pouncey also stated that the department was trying to stream line several other  
2 processes by moving more to a paperless operation. This will allow the boards to be  
3 linked to a web portal, improve the agenda process, enforcement, reviewing messages  
4 letting you know to review documents. If a member does not have an electronic device  
5 then the department would assign a laptop or iPad.

6  
7 Ms. Pasley addressed the board and apologized to the members again regarding the  
8 proposed drafted language for the upcoming 2013 Legislation.

9  
10 Dr. Underhill stated that he was opposed to opening up the practice act and removing the  
11 examination information from the statute.

12  
13 Dr. Underhill read into the record the proposed drafted language:

14  
15 “Has obtained a passing score on Parts I, II and III of the National Board of Examiners  
16 in Optometry (NBEO) examinations, as determined by the NBEO, and obtained a passing  
17 score on the state-administered laws and rules examination as determined by the board in  
18 rule.”

19  
20 Dr. Naberhaus stated the department appeared to lock the board out of the negotiations.

21  
22 Ms. Pasley further addressed the board to explain that the language was a proposal, a  
23 legislative concept of the department. The language could be withdrawn or revised at  
24 any time prior to its being filed as a bill, and could even be amended thereafter.

25  
26 Dr. Maule was baffled to find out the department has already submitted the proposal to  
27 the governor.

28  
29 Ms. Pasley assured the board that, while the governor had reviewed the draft language, it  
30 was merely conceptual language and was not a legislative bill. There was still plenty of  
31 time prior to the legislative session to discuss, withdraw or revise any legislative proposal  
32 by the department.

33  
34 HB 5311 required the department to create a report to propose cost cutting measures.  
35 One of the measures proposed was the elimination of the Board of Optometry’s state-  
36 administered examination. At the time of the department’s report on cost-cutting  
37 proposals, the department was administering clinical or practical examinations for several  
38 regulated professions. Since the time of that report, the other regulated professions have  
39 removed their requirement for a state-administered examination in order to accommodate  
40 the need for state-wide shortfalls in government revenues and the need for fiscal  
41 economy in government administration. At present, the examination administered for the  
42 Board of Optometry is the only clinical examination still extant, the department does not  
43 administer any other clinical examination.

1 The board clarified that their concern was not directed against the state's need for cost-  
2 cutting measures, but because of the impression that the department was not working  
3 with the board in a straight-forward manner.

4  
5 **EXECUTIVE DIRECTOR'S REPORT**

6  
7 No report.

8  
9 **BOARD COUNSEL'S REPORT:**

10  
11 **Rules Status Report**

12  
13 Ms. Clark provided an overview of her report.

14  
15 **COMMITTEE REPORTS:**

16  
17 **Budget – Mr. Presnell**

18  
19 Mr. Presnell provided a brief report.

20  
21 **Complaints, Investigation & Enforcement – Dr. Walker**

22  
23 Dr. Walker requested a copy of Dr. McClane's written policy statement that he was  
24 reviewing the possible closed cases.

25  
26 **Continuing Education – Dr. Maule**

27  
28 **Ratification of CE Providers & Courses Approved by Committee**

29  
30 Dr. Maule provided an overview of the ratification list of CE Providers & Courses  
31 approved.

32  
33 **Dr. Naberhaus moved to approve the ratification lists as provided. The motion was**  
34 **seconded and carried 7/0.**

35  
36 **Corporate Practice – Dr. Walker**

37  
38 Dr. Walker stated that he had researched several businesses and had forwarded the  
39 information to Mr. John Griffin, Esq., with the Florida Optometry Association and to  
40 distribute to the board on their next agenda.

41  
42 Ms. Clark stated that if this was a possible case the board would be reviewing, then it  
43 would be considered confidential and should not be distributed.

44  
45 Mr. Griffin stated that he would not respond, but would forward the information to the  
46 Executive Director.

1 The board agreed that they should have a discussion about generic contract terms in  
2 corporate practice situations and see if they all met the spirit of the laws in the optometry  
3 practice act.

4  
5 **Examination – Dr. Del Moral**

6  
7 **Update on Optometry Licensure Examination – Zohre Bahrayni, Ph.D.**

8  
9 Information only.

10  
11 **FOA – Dr. Underhill**

12  
13 Dr. Naberhaus provided an overview of the FOA meeting.

14  
15 **Legislation – Dr. Underhill**

16  
17 No report.

18  
19 **Probable Cause – Mr. Presnell**

20  
21 **Stats**

22  
23 Mr. Presnell provided a brief report.

24  
25 **Rules – Dr. Naberhaus**

26  
27 No report.

28  
29 **Unlicensed Activity – Dr. Walker**

30  
31 Mr. Deterding stated that the Unlicensed Activity Unit was investigating the distribution  
32 of colored contact lens, such as were used for Halloween. That unit had some sting  
33 operations planned for late October all around the state.

34  
35 **NEXT MEETING DATE – January 25<sup>th</sup> – Jacksonville**

36  
37 **ELECTION OF OFFICERS:**

38  
39 **Dr. Walker moved to re-appoint the current officers, Dr. Underhill, as Chair and**  
40 **Dr. Naberhaus, as Vice-Chair. The motion was seconded and carried 7/0.**

41  
42 **ADJOURNMENT:**

43  
44 **Dr. Maule moved to adjourn the meeting at 1:55 p.m. The motion was seconded**  
45 **and carried 7/0.**