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

**MINUTES
GENERAL BUSINESS MEETING**

**Hyatt Regency Jacksonville Riverfront
225 East Coastline Drive
Jacksonville, FL 32202**

January 25, 2013

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 9:05 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
Tamara Maule, O.D.
Stuart Kaplan, O.D.
Christopher King, O.D.
Rosa McNaughton, Esq.
Rod Presnell, R.Ph.

BOARD STAFF:

Sharon Guilford, Acting Board Director
Jose Montalvan, Regulatory/Consultant Supervisor

BOARD COUNSEL:

Deborah Loucks, Assistant Attorney General
Office of Attorney General

PROSECUTING ATTORNEY:

Elana Jones, Assistant General Counsel

COURT REPORTER:

Statewide Reporting
Cindy Danese
(904)353-7706

APPROVAL OF MINUTES:

November 6, 2012 – Telephone Conference Call

1 **Dr. Naberhaus moved to approve the above minutes as presented. The motion was seconded**
2 **and carried 7/0.**

3
4 **October 5, 2012 – Full Board Meeting**

5
6 **Dr. Maule moved to approve the above minutes with corrections to page 15, line 23 on the**
7 **correct spelling of Dr. McClane’s last name. The motion was seconded and carried 7/0.**

8
9 **FINAL ORDER ACTION:**

10
11 **Motion for Final Order by Settlement Agreement:**

12
13 **John D. Ammarell, O.D. – Case Number 09-09971**
14 **PCP: Naberhaus/Presnell**

15
16 Dr. Ammarell was present, sworn and was represented by Mr. Jeffrey S. Howell, Esq.

17
18 Ms. Jones informed the board that the respondent had violated:

- 19
 - Section 460.016(1)(t), F.S. (2 counts)

20
21 Ms. Jones advised the board that the settlement agreement contained the following provisions:

- 22
 - appearance
 - reprimand
 - administrative fine of \$2,500.00, payable within six (6) months
 - administrative costs of \$2,500.00, payable within six (6) months
 - probation for a period of one (1) year
 - submit quarterly reports at least 10 days prior to each board meeting with the required information as defined in the Final Order
 - tolling provision applies

23
24
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30
31 Mr. Howell addressed the board on behalf of Dr. Ammarell. Dr. Ammarell also addressed the
32 board.

33
34 Discussion ensued.

35
36 **Ms. McNaughton moved to accept the settlement agreement. The motion was seconded and**
37 **carried 7/0.**

38
39 **Prosecution Report**

40
41 Ms. Jones provided an overview of the prosecution report.

42
43 **Dr. Maule moved to approve the continued prosecution of the older cases (one year and**
44 **over) and to accept the prosecution report. The motion was seconded and carried 7/0.**

45
46 Ms. Jones addressed the report on the role of the certified optometrist serving for the board in the
47 event an expert witness is needed.

48
49 Dr. Underhill requested the board staff to research the information that was being compiled by
50 Mr. Deterding on the cases being reviewed by Dr. McClane.

1 **REQUEST FOR DECLARATORY STATEMENT – Christopher Frey, O.D. – Scope of**
2 **Practice**

3
4 The Petition for Declaratory Statement was pulled from the agenda.

5
6 **CERTIFICATION CANDIDATES FOR THE 2013 OPTOMETRY EXAMINATION:**

7
8 Shea Jewell Christensen
9 Kirsten Knoweles
10 Alicia Price-Crooks (Temporary Military Active License)

11
12 **Dr. Naberhaus moved to approve the certification of candidates for the 2013 Optometry**
13 **Examination ratification list as presented. The motion was seconded and carried 7/0.**

14
15 **APPROVAL TO PAY ARBO ANNUAL MEMBERSHIP DUES – 2013**

16
17 **Dr. Naberhaus moved to approve the payment of the ARBO Annual Membership Dues as**
18 **presented. The motion was seconded and carried 7/0.**

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

21
22 **Future Agenda Items**

23
24 There were no future agenda items provided.

25
26 **EXECUTIVE DIRECTOR’S REPORT:**

27
28 **FMA Legislative Recommendations**

29
30 Information only.

31
32 **Dr. Kaplan moved to approve Mr. Bill Miller, as the Board Executive Director. The motion**
33 **was seconded and carried 7/0.**

34
35 **Dr. Naberhaus moved to approve Dr. McClaine in renewing his contract as Expert Witness,**
36 **and to include Consultant. The motion was seconded and carried 7/0.**

37
38 **BOARD COUNSEL’S REPORT:**

39
40 **Rule Status Updates**

41
42 Ms. Loucks provided an overview of the Rules Status Updates.

43
44 The board requested the status of moving towards an electronic agenda.

45
46 Ms. Lola Pouncey, Bureau Chief, Medical Quality Assurance stated that in August 2013 the
47 department will be launching I-Meeting that will allow the members to log into any device with a
48 login and password. This will also allow board staffs to more efficiently communicate with board
49 members regarding the board agendas.

1 Dr. Naberhaus requested when the Board of Optometry licensees will be required to meet the new
2 renewal requirements when renewing their license.

3
4 Ms. Pouncey stated that during the biennial renewal expiring February 28, 2015, the board will
5 have an opportunity to use the new system and will allow the licensee to input the continuing
6 education hours, if missing. However, the biennial renewal expiring February 28, 2017, the
7 board will be required to have their continuing education hours entered or they will not be able to
8 renew their license.

9
10 **JAPC Correspondence – Rule 64B13-16.002, F.A.C. – Branch Office**
11 **License**

12
13 Ms. Loucks provided an overview of the JAPC Correspondence related to branch office license.
14 She further stated that the rule had been withdrawn on January 7, 2013

15
16 After discussion, the board requested to file a Notice for Rule Development and to repeal the rule
17 based on the statutory language does not require the department to issue a branch office license.

18
19 **Dr. Naberhaus moved to approve filing for a Notice for Rule Development on Rule 64B13-**
20 **16.002, F.A.C. The motion was second and carried. 7/0**

21
22 Ms. Guilford stated that once the rule has been repealed then staff will contact the licensees
23 through the state association and website.

24
25 **COMMITTEE REPORTS:**

26
27 **Budget – Rod Presnell, R.Ph.**

28
29 **Revenue Report**
30 **Expenditures by Function Ending September 30, 2012**
31 **Cash Balance Report Ending September 30, 2012**
32 **Total expenditures (Direct and Allocated) by Board Ending**
33 **September 30, 2012**
34 **Allocations to Boards by Source Organization and Category**
35 **Ending September 30, 2012**

36
37 Mr. Presnell provided an overview of the above reports.

38
39 **Complaints, Investigation & Enforcement – Vacant**

40
41 No report.

42
43 **Continuing Education – Tamara Maule, O.D.**

44
45 **Providers and Courses Approved by CE Committee**

46
47 Dr. Maule provided an overview of the ratification list of CE Providers & Courses
48 approved.

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

3
4 **Recommendation of Denial of Transcript Quality – American Optometric**
5 **Association**

6
7 Dr. Maule provided an overview of the American Optometric Association courses that were
8 submitted for transcript quality hours but the submission of these courses were already offered.
9 Therefore, the board can not approve these courses for failure to meet Rule 64B13-5.002(3)(c),
10 F.A.C.

11
12 The members addressed the purpose of this rule.

13
14 **Dr. Naberhaus moved to deny the courses for transcript quality hours for failure to meet**
15 **Rule 64B13-5.002(3)(c), F.A.C., but would approve the courses for general hours. The**
16 **motion was seconded and carried 7/0.**

17
18 Dr. Kaplan requested clarification on why a course would be denied.

19
20 Discussion ensued.

21
22 **Corporate Practice – Vacant**

23
24 No report.

25
26 **Disciplinary Compliance – Rosa McNaughton, Esquire**

27
28 No report.

29
30 Ms. McNaughton requested the board staff to contact the Compliance Officer to determine why
31 she has not been contacted in the past several months.

32
33 Mrs. Guilford stated that she would handle it.

34
35 **Examination – Vacant**

36
37 **Optometry Invitation to Negotiate – Optometry Examination**

38
39 Ms. Jennifer Wenhold, Manager Testing Services with the Bureau of Operations, provided an
40 overview of the Optometry Invitation to Negotiate (ITN). At the October 5, 2012, meeting the
41 board directed her to develop the ITN with the assistance of a board approved consultant, Dr.
42 Gary McDonald.

43
44 Ms. Wenhold addressed several concerns made by the board.

- 45
- 46 • Eligibility Examination Requirement – who will be responsible for determining
 - 47 eligibility to take the examination not for licensure. The vendor would be required to
 - 48 adhere to the Florida Laws & Rules governing Optometry’s practice act.
 - 49 • Examination Appeals and Reviews Section – working with 120, F.S. – adhere to the
 - 50 nationals or vendors policies but is reviewed by the department but do have all have a
 - 51 mechanism to appeal. All candidates have ch. 120, F.S. rights. Send the requests to

1 nationals or vendors. Vendor needs to be the one to defend the examination being
2 administered and is at the vendors costs.

- 3 • Evaluate proposals

4

5 Discussion ensued.

6

7 **Dr. Naberhaus moved to approve the Optometry Invitation to Negotiate ITN) with the**
8 **modified changes provided to Ms. Wenhold. The motion was seconded and carried 7/0**

9

10 Ms. Wenhold stated that she would provide a list of consultants to assist in the negotiations to Dr.
11 Underhill.

12

13 **FOA – Tim Underhill, O.D.**

14

15 No report.

16

17 **Legislation – Tim Underhill, O.D.**

18

19 **FYI - Legislative Alert**

20

21 Ms. Cassandra Pasley, Chief, Bureau of Health Care Practitioner Regulation, briefly addressed a
22 number of bills related to optometry.

23

24 **Probable Cause – Rod Presnell, R.Ph.**

25

26 **Stats**

27

28 Information only.

29

30 **Rules – Terry Naberhaus, O.D.**

31

32 No report.

33

34 **Unlicensed Activity – Vacant**

35

36 No report.

37

38 **Committee Assignments:**

39

40 The following committee assignments were made:

41

- 42 • Examination - Dr. King
- 43 • Unlicensed Activity and Complaints, Investigations & Enforcement- Dr. Kaplan
- 44 • Corporate Practice – remain vacant at this time

45

46 **NEXT MEETING DATE – July 17th – Daytona Beach (FOA)**

47

48 **ADJOURNMENT**

49

The meeting was adjourned at 12:00 p.m.