

Florida Board of Optometry

BOARD MEETING MINUTES

October 1, 2021 at 9:00 A.M. ET

The Florida Board of Optometry will hold a meeting Friday, October 1, 2021, commencing at 9:00 a.m. This meeting will be held remotely via <https://global.gotomeeting.com/join/285679341> to which all persons are invited to attend.



Stephen Kepley, OD
Chair

David Rouse, OD
Vice Chair

Christina McGinnis, MPH
Executive Director

BOARD MEMBERS

Stephen Kepley, OD, Chair
David Rouse, OD, Vice Chair
Katie Gilbert Spear, OD, JD, MPH
Denise Burns-LeGros, OD, FAAO
Robert Easton, Jr., OD, FAAO
John Griffin, Esquire, Consumer
Linville Atkins, Esquire, Consumer

BOARD STAFF

Christina McGinnis, MPH, Executive Director
Dontavia Wilson, Program Operations Administrator

BOARD COUNSEL

Deborah Loucks, Senior Assistant Attorney General

COURT REPORTER

For the Record – (850) 222-5491

Recording

Participants in this public meeting should be aware that these proceedings are being recorded. An audio file of the meeting will be posted on the Florida Board of Optometry’s website.

Participants are asked to mute themselves upon entering the meeting to reduce background noise. Participants will be recognized by the Chair when it is their turn to speak.

Continuing Education Credits

Discipline is not scheduled to take place at this meeting. Pursuant to Rule 64B13-5.001, Florida Administrative Code, Continuing Education credits are not available at this meeting.

I) CALL TO ORDER

The meeting was called to order at 9:00A.M.

- A) Roll Call
 - Board Members
 - Stephen Kepley, OD, Chair – *Present*
 - David Rouse, OD, Vice Chair – *Present*
 - Katie Gilbert Spear, OD, JD, MPH – *Present*
 - Denise Burns-LeGros, OD, FAAO – *Present*
 - Robert Easton, Jr., OD, FAAO – *Present*
 - John Griffin, Esquire, Consumer – *Present*
 - Linville Atkins, Esquire, Consumer – *Not Present – Excused absence*

- Board Staff
 - Christina McGinnis, MPH, Executive Director – *Present*
 - Dontavia Wilson, Program Operations Administrator – *Present*

- Board Counsel
 - Deborah Loucks, Senior Assistant Attorney General – *Present*

- Court Reporter – *Present*

- B) Welcome

II) PETITIONS FOR WAIVER/VARIANCE FROM RULE 64B13-4.001

- A) **Jesse Villegas, 1801/5859** (Application on File) *Present*. Ms. Loucks presented the petition. Discussion ensued.
A motion was made by Dr. Burns-LeGros to approve the petition due to the petitioner having passed all required exams and has satisfied the Statutes and Rules. Motion seconded by Dr. Spear. Motion passed.

Sandy My Truong, 1801/NA (No Application on File) *Present*. Ms. Loucks reviewed the petition. Discussion ensued.
The applicant withdrew her petition until she has completed all the requirements.

Recess: 10:40am – 10:51am.

Dr. Kepley requested an explanation of the petitioners who had withdrawn their petitions. Ms. McGinnis provided the explanation of a letter issued to the Board Chair, Dr. Kepley that the Florida Practical will not be recognized by the Board office (Department of Health) and that the petitioners were licensed.

Discussion ensued.

- B) **Ayeesha Patel** (Withdrawn)
C) **Austin Mason** (Withdrawn)
D) **Norman Pemberton** (Withdrawn)
E) **Ashley McCoy** (Withdrawn)
F) **Sabina Oboukova** (Withdrawn)

III) NATIONAL BOARD OF EXAMINERS IN OPTOMETRY (NBEO) UPDATES

- A) Jurisprudence Examination Agreement with NBEO
Ms. McGinnis provided an update to remind board members the laws and rules examination contract with NBEO (termed the OSLE) was executed in August 2021.
- B) Examination Score Receipt Agreement with NBEO
Ms. McGinnis provided an update, stating NBEO is not willing to enter into an agreement with the Department. The Department has decided that a contract is not required for national exams unless that provider is agreeable to entering into one.
- C) Florida Practical Examination
Ms. McGinnis reviewed a letter sent from the Department to Dr. Kepley, including that the Department will no longer recognize the Florida Practical examination.

IV) PSYCHOMETRICAN UPDATES

- A) NBEO Psychometric Review
1) Board Discussion: Psychometrician Examination Observation
Mr. Bosque requested clarification from the board on if he is required to visit NBEO's headquarters and observe an exam, as part of his review.

Mr. Bosque had to familiarize himself with some of the history of the examination and its conjunction that the laws and rules exam will be updated. He's reached out to the consultants on that exam to assist with writing some new questions as

far as the review of the national. A meeting was scheduled with the Executive Director of NBEO next week to discuss the Part B questionnaire alongside the Laws and Rules. Mr. Bosque will need some historical information from NBEO to know what tests are in production and to see how some of the questions have been performing to make sure that the subject matter experts are looking through even though they've verified the questions. If there's any problem with the question he will make sure that they look at it in case, we keep it on the exam forms so we're making good progress. Part B has been given in October. Mr. Bosque believes that by the beginning of November Mr. Bosque should have a written report by Veteran's Day. The goal for the laws and rules exam is to have it in production by the beginning of January. It's open book but still want to make sure that they have the information they need ahead of time when they're taking their laws and rules exam, so they're prepared.

- B) Jurisprudence Examination
Mr. Bosque provided a status update on the updates to the jurisprudence examination. He would have an update by January.

V) **RULE WORKSHOP**

A) **64B13-4.001: Examination Requirements**

Ms. Loucks discussed and reviewed the rule text. Discussion ensued. A motion was made by Dr. Rouse to table this rule for the meeting in January. Motion seconded by Dr. Easton. Motion passed unanimously.

B) **64B13-4.002: Reexamination**

Tabled for January meeting.

Recess: 11:30am-11:40am.

Ms. McGinnis took the roll.

Roll Call

Board Members

Stephen Kepley, OD, Chair – *Present*

David Rouse, OD, Vice Chair – *Present*

Katie Gilbert Spear, OD, JD, MPH – *Present*

Denise Burns-LeGros, OD, FAAO – *Present*

Robert Easton, Jr., OD, FAAO – *Present*

John Griffin, Esquire, Consumer – *Present*

Linville Atkins, Esquire, Consumer – *Not Present – Excused absence*

Dr. Kepley asked to go back to the Petition for Variance and Waiver.

C) **64B13-4.005: Criteria for Selection of Consultants**

Ms. Loucks presented the draft rule text. Discussion ensued.

A motion was made by Dr. Rouse to approve the amended language (*change from curricula vitae to curriculum vitae*). Motion seconded by Dr. Easton. Motion passed unanimously.

Ms. Loucks asked, “*Will the proposed rule amendment have an adverse impact on the small business or be likely to directly or indirectly increase regulatory cost to any industry including government in excess of \$200,000 in the aggregate in Florida within one year of the implementation of the rule?*”

Mr. Griffin made a motion that the proposed rule amendment will not have an adverse impact. Dr. Burns-LeGros seconded the motion and passed unanimously.

Ms. Loucks asked, *“Should a violation of this rule or any part of this rule be designated a minor violation?”*

Dr. Rouse made a motion that it will not. Dr. Burns-LeGros seconded the motion and it passed unanimously.

Ms. Loucks asked, *“Do you want to include a sunset provision in this language?”*

Dr. Rouse made a motion to not include the clause. Dr. Burns-LeGros seconded the motion and it passed unanimously.

- D) **64B13-4.006: Security and Monitoring Procedures for Licensure Examination**
Ms. Loucks presented this rule. Discussion ensued. Ms. Loucks was requested to provide draft language at the January meeting.

- E) **64B13-15.0065: Disciplinary Action; Telehealth Registrants**
Ms. Loucks discussed and reviewed the rule text. Dr. Rouse asked, “what disciplinary action will this board have since these licensees are not licensed in Florida?” Ms. Loucks explained that they are given a registration, however, there is a limited penalty that the board has on them. In addition, it can be revoked if the board chooses to. Discussion ensued. Dr. Kepley requested for any changes or additions should be sent to board counsel and this would be presented in January.

- F) **64B13-10.001: Application for Certification**
Ms. Loucks reviewed the draft rule text (added the form for reference). Discussion ensued.

A motion was made by Dr. Easton to approve the language. Dr. Burns-LeGros seconded the motion. Motion passed unanimously.

Ms. Loucks asked, *“Will the proposed rule amendment have an adverse impact on the small business or be likely to directly or indirectly increase regulatory cost to any industry including government in excess of \$200,000 in the aggregate in Florida within one year of the implementation of the rule?”*

Mr. Griffin made a motion that the proposed rule amendment will not have an adverse impact. Dr. Burns-LeGros seconded the motion and passed unanimously.

Ms. Loucks asked, *“Should a violation of this rule or any part of this rule be designated a minor violation?”*

Dr. Rouse made a motion that it will not. Dr. Burns-LeGros seconded the motion and it passed unanimously.

Ms. Loucks asked, *“Do you want to include a sunset provision in this language?”*

Dr. Rouse made a motion to not include the clause. Dr. Burns-LeGros seconded the motion and it passed unanimously.

- G) **64B13-2.008: Probable Cause Panel & 64B13-2.009: Meetings and Committees**
Ms. Loucks presented the rule text. The board members agreed to have Ms. Loucks present draft language at the January 2022 meeting.

VI) FEDERAL TRADE COMMISSION, AUGUST 2020 CONTACT LENS FINAL RULE DISCUSSION

Ms. McGinnis presented and reviewed this rule from what other states boards have done or haven't done or have planned to do. ARBO has sent out inquiries from a member's seat and if anything needed to be done.

VII) ANNUAL DELEGATION OF AUTHORITY

Ms. McGinnis presented the delegation of authority to add authority to approve the Annual Regulatory Plan (ARP) for the board chair. Mr. Griffin suggested the delegation to staff to approve applicants be removed. Applications should be brought to the board once they are complete. The Board office should inform candidates to provide the score sheet for each of their individual clinical scores from the National Board.

A motion was made by Mr. Griffin to remove board office authority to approve applications. Motion seconded by Dr. Easton. Motion passed unanimously.

VIII) BOARD REPORTS

A) Committee

- 1) **Budget** - Dr. Easton – The Board is in good shape financially.
- 2) **Continuing Education** - Dr. Rouse – Nothing to report.
- 3) **Compliance, Investigation, & Enforcement** - Dr. Kepley – Nothing to report.
- 4) **Disciplinary Compliance** - Dr. Spear – Nothing to report.
- 5) **Examination** - Dr. Rouse – Provided earlier in the meeting.
- 6) **Florida Optometric Association (FOA)** - Dr. Kepley – Recent update to the Board of Directors.
- 7) **Legislative** - Dr. Kepley – Nothing to report.
- 8) **Probable Cause** - Dr. Spear – Nothing to report.
- 9) **Probationary** - Ms. Atkins – Ms. Atkins absent
- 10) **Rules** - Dr. Kepley – Nothing to report.
- 11) **Unlicensed Activity** - Dr. Burns-LeGros – Nothing to report.

B) Board Counsel

1) **August & September Rules Reports**

Ms. Loucks presented both the August and September Rules Reports. She made the board aware that the formulary rules went into effect September 4, 2021.

Ms. McGinnis presented that the formulary report, the board office worked with the systems team and the pharmacy team within the department to make sure there was a website slider on the website and an email blast was sent out to the Certified Optometrist and Pharmacies. The email went out on August 31st and the go live was on September 1st.

2) **Annual Regulatory Plan Update**

Not discussed.

3) **Optometry Faculty Certificate Update**

Not discussed.

C) Prosecutor

1) **October Report**

Ms. Marshall provided an overview of the October Prosecutors report, noting the ask from the Department is approval from the board to continue to prosecute cases one year and older.

A motion was made by Mr. Griffin to approve the Department to prosecute cases one year and older. Motion seconded by Dr. Burns-LeGros. Motion passed unanimously.

- D) Executive Director
 - 1) Unlicensed Activity Update
Ms. McGinnis introduced the Unlicensed Activity Administrator, Mr. Ron Dilworth. Mr. Dilworth gave a brief overview of ULA and what they do.
 - 2) E-FORCSE Florida's Prescription Drug Monitoring Program: July & August 2021 Reports
Ms. McGinnis reviewed the July and August E-FORCSE reports with the board, detailing the data was obtained through the Florida Prescription Drug Monitoring Program (PDMP).

IX) RATIFICATIONS

- A) Licensure
 - 1) Optometrist
A motion was made by Dr. Spear to approve. Motion seconded by Dr. Rouse. Motion passed unanimously.
- B) Continuing Education
 - 1) CE Providers & Courses approved by Board Staff
A motion was made by Dr. Easton to approve. Motion seconded by Dr. Burns-LeGros. Motion passed unanimously.
 - 2) CE Providers & Courses by CE Chair
A motion was made by Dr. Easton to approve. Motion seconded by Dr. Burns-LeGros. Motion passed unanimously.

X) APPROVAL OF MINUTES

- A) July 14, 2021
A motion was made by Dr. Easton to approve the minutes. Motion seconded by Dr. Burns-LeGros. Motion passed unanimously.
- B) August 11, 2021
A motion was made by Dr. Rouse to approve the minutes. Motion seconded by Dr. Burns-LeGros. Motion passed unanimously.

XI) PUBLIC COMMENTS

- A) Public comment received electronically from Nicole Cremata, OD, PA was reviewed.

XII) NEXT MEETING DATE

- A) January 14, 2022.

XIII) ADJOURNMENT

A motion was made by Dr. Burns-LeGros to adjourn the meeting at 12:45pm. Motion seconded by Dr. Easton. Motion passed unanimously.