

# Florida Board of Optometry

## BOARD MEETING AGENDA

**January 14, 2022 at 9:00 A.M. ET**

The Florida Board of Optometry held a meeting on Friday, January 14, 2022, commencing at 9:00 a.m. This meeting was held at *The Westin Lake Mary, 2974 International Parkway, Lake Mary, Florida 32746*, to which all persons were invited to attend.



**Stephen Kepley, OD**  
Chair

**David Rouse, OD**  
Vice Chair

**Joe Baker, Jr.,**  
Acting Executive Director

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## 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- Absent (Excused)

## BOARD STAFF

Joe Baker, Jr., Acting Executive Director  
Dontavia Wilson, Program Operations Administrator

## BOARD COUNSEL

Deborah Loucks, Senior Assistant Attorney General

## COURT REPORTER

Magnolia Court Reporting, (407) 896-1813

### 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.

### Attendance and Continuing Education Credit

Due to quorum issues, discipline did not take place at this this meeting. Pursuant to Rule 64B13-5.001, Florida Administrative Code, Continuing Education credits were not available at this meeting.

## I) CALL TO ORDER

The meeting was called to order at 9:00am.

- A) Roll Call
- B) Welcome

## II) DISCIPLINARY PROCEEDINGS

- A) Settlement Agreement  
Recused Board Member: Dr. Spear, Mr. Griffin, & Dr. Easton
  - 1) Terry Freidman, OPC 1804, Case No.: 2019-39157- Tabled to the next meeting due to lack of a quorum.
- B) Reinstatement
  - 1) Albert Carleton Evans, OD 1738, Case No.: 2012-15585. *Present.* Ms. Loucks presented the case.

A motion was made by Dr. Rouse to terminate the probation based on completion of the final order. Dr. Easton seconded the motion. Motion passed unanimously.

## III) PROSECUTOR REPORT

Ms. Loucks presented the prosecutor's report and asked on behalf of the prosecutor for the Department to be allowed to prosecute the year and older cases.

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A motion was made by Dr. Easton to allow PSU to prosecute the year and older cases. Dr. Spear seconded the motion. Motion passed unanimously.

Mr. Baker announced that Ms. Marshall has accepted a new position within Medical Quality Assurance (MQA) as an Executive Director.

**IV) APPLICATIONS PRESENTED FOR BOARD REVIEW**

- A) Benjamin Andrews, OD, 1801/16387. *Not present.* A motion was made by Mr. Griffin to approve the application for licensure. Dr. Easton seconded the motion. Motion passed unanimously.
- B) Maggie Yamin, OD, 1801/6465. *Not present.* A motion was made by Dr. Easton to approve the application for licensure. Dr. Spear seconded the motion. Motion passed unanimously.

**V) PETITION TO INITIATE RULE MAKING**

- A) Rule 64B13-18.002: Formulary of Topical Ocular Pharmaceutical Agents
  - 1) Oyster Point Pharma, Inc./Andrea Gibson, PhD. *Not present.*  
A motion was made by Dr. Easton to accept the proposed addition to Formulary of Topical Ocular Pharmaceutical. Dr. Burns-LeGros seconded the motion. Motion passed unanimously.

A motion was made by Dr. Burns-LeGros to initiate rule making. Dr Easton 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?”*

Dr. Rouse made a motion that the proposed rule amendment will not have an adverse impact. Mr. Griffin 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 would not be a violation of this rule. Dr. Easton seconded the motion. Motion passed unanimously.

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

Dr. Rouse made a motion to say “no” a sunset provision will not be needed. The motion was seconded. Motion passed unanimously.

**VI) NATIONAL BOARD OF OPOMETRY EXAMINERS**

- A) Certification Review and Discussion  
A motion was made by Dr. Easton to accept the psychometrician report. Dr. Spear seconded the motion. Motion passed unanimously.

Discussion ensued.

Ms. McGinnis stated the clinical skills were certified by both the psychometrician and the Department. It was the Florida Practical that wasn't certified. Parts I, II, and III are all included within the psychometrician report except for Part IV certification of the exam.

Discussion ensued.

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A motion was made by Dr Easton to accept the NBEO as it is (all parts) that Florida requires to be licensed. Dr. Rouse seconded the motion. Motion passed unanimously.

Discussion ensued.

## VII) RULE DISCUSSION

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

- 1) Updates for Board Discussion. Ms. Loucks presented this rule. Discussion ensued. Ms. McGinnis let the Board know that the board office reached out to NBEO to asked if NBEO would standardize the clinical skills of which the board office never received a response back. The rough estimated amount when previously asked a few years ago was around \$16,000.00.

Discussion ensued.

A motion was made by Dr. Burns-LeGros to approve the language of option two with the revisions provided by Ms. Loucks. Dr. Rouse seconded the motion. Motion passed with Dr. Easton and Dr. Spear in opposition.

A motion was made by Dr. Rouse to initiate rule development. 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?”*

Dr. Burns-LeGros made a motion that the proposed rule amendment will not have an adverse impact. Dr. Rouse 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?”*

Mr. Griffin made a motion that it will not. Dr. Rouse seconded the motion. Motion 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. Motion passed unanimously.

*Recess: 10:51a.m.- 11:13a.m.*

### B) 64B13-4.002: Reexamination

- 1) Updates for Board Discussion  
Rule not discussed during this meeting due to draft language not presented.

### C) 64B13-4.006: Security and Monitoring Procedures for Licensure Examination

- 1) Ms. Loucks reviewed and discussed the draft language.

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A motion was made by Mr. Griffin to initiate rule making and approve the language provided by Ms. Loucks. Dr. Rouse 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?”*

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

- D) 64B13-15.0065: Disciplinary Action; Telehealth Registrants  
1) Ms. Loucks reviewed and discussed the draft language from Board Member Input. Discussion ensued.

A motion was made by Dr. Rouse to initiate rule making with proposed language. Dr. Easton seconded the motion. Motion passed unanimously.

Discussion ensued.

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?”*

Dr. Kepley made a motion that the proposed rule amendment will not have an adverse impact. Dr. Rouse seconded the motion and it passed unanimously.

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

Dr. Kepley made a motion that it will not. Dr. Rouse 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. Mr. Griffin seconded the motion and it passed unanimously.

- E) 64B13-2.008: Probable Cause Panel & 64B13-2.009: Meetings and Committees  
1) Ms. Loucks reviewed and discussed the draft Language.  
Tabled to the next meeting to receive a response from Ms. Holiday.

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- F) 64B13-5.001: Continuing Professional Education – Hours Requirement
- 1) Dr. Rouse & Dr. Easton reviewed and discussed with the Board members. Discussion ensued. Dr. Kepley suggested to table this to the next scheduled meeting to be provided with options of drafted language from the board members.

Recess: 12:11p.m.- 1:06p.m.

Discussion ensued.

**VIII) PETITION FOR WAIVER/VARIANCE**

- A) Rule 64B13-4.001: Examination Requirements
- 1) Ashley Ireland (1801/NA) *Not present*. A motion was made by Dr. Spear to deny based on failure to meet the statutory requirements. Dr. Easton seconded the motion. Motion passed with Dr. Rouse in opposition.
  - 2) David Nguyen, 1801/6436- Pulled
  - 3) Dana Marie Weekes- *Present*. A motion was made by Dr. Burns-LeGros to approve based on satisfaction of the statute. Dr. Rouse seconded the motion. Motion passed with Mr. Griffin, Dr. Easton, and Dr. Spear in opposition. No motion granted. The petitioner has 90 days before the petition is granted.
  - 4) Sissi Fernandez- *Present*. A motion was made by Dr. Rouse to approve based on satisfaction of the statute. Dr. Easton seconded the motion. Motion passed with Dr. Burns-LeGros and Dr. Spear in opposition.
  - 5) Nathan Climo, 1801/NA - *Present*. A motion was made by Dr. Burns-LeGros to deny based on failure to meet the statutory requirements. Dr. Spear seconded the motion. Motion passed with Dr. Rouse in opposition and Dr. Easton recused.
  - 6) Jake Dubin, 1801/NA- *Present*. A motion was made by Dr. Spear to deny based on failure to meet the statutory requirements. Dr. Burns-LeGros seconded the motion. Motion passed with Dr. Rouse and Dr. Easton in opposition.
  - 7) Veronia Abadeer, 1801/NA- *Present*. A motion was made by Mr. Griffin to deny based on failure to meet the statutory requirements. Dr. Rouse seconded the motion. Motion passed with Dr. Rouse in opposition.
  - 8) Stephanie Cuellar 1801/NA- *Present*. A motion was made by Mr. Griffin to deny based on failure to meet the statutory requirements. Dr. Rouse seconded the motion. Motion passed with Dr. Rouse in opposition.

**IX) ANNUAL DELEGATION OF AUTHORITY**

A motion was made by Mr. Griffin to leave the annual delegation as is. Dr. Rouse seconded the motion. Motion passed unanimously.

**X) BOARD REPORTS**

- A) Chair/Vice Chair  
Nothing to report.
- B) Committee
- 1) Budget - Dr. Easton- The board is currently in the black which is good.  
(a) *State Fiscal Year 2020/2021 Budget Reports*
  - 2) Continuing Education - Dr. Rouse – Nothing to report.

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- 3) Compliance, Investigation, & Enforcement - Dr. Kepley- Nothing to report.
  - 4) Disciplinary Compliance - Dr. Spear- Nothing to report.
  - 5) Examination - Dr. Rouse- Nothing to report.
  - 6) Florida Optometric Association (FOA) - Dr. Kepley- Nothing to report.
  - 7) Legislative - Dr. Kepley- Nothing to report.
  - 8) Probable Cause - Dr. Spear- Nothing to report.
  - 9) Probationary - Ms. Atkins- *Not present*.
  - 10) Rules - Dr. Kepley- Previously discussed.
  - 11) Unlicensed Activity - Dr. Burns-LeGros- Nothing to report.
- C) Board Counsel
- 1) October, November, December, and January Rules Reports- Ms. Loucks discussed and reviewed the rules report. She had a question of how much medicine should be in the proposed rule. The board members advised it is a nasal spray 0.03.
  - 2) Federal Trade Commission Settles Antitrust Case Against Alabama Dental Board - Ms. Loucks referenced the case as informational for the members to review.
- D) Executive Director
- 1) Acting Executive Director, Joe Baker advised the board of the vacancy for the Executive Director and the Regulatory Specialist III position.
  - 2) The legislative session started Tuesday, January 11, 2022.
  - 3) E-FORCSE- Florida's Prescription Drug Monitoring Program October 2021 Report material provided for informational purposes.

**XI) OLD BUSINESS**

None.

**XII) NEW BUSINESS**

None.

**XIII) RATIFICATIONS**

- A) Licensure - None
- B) Continuing Education
  - 1) Providers and Courses Approved by Continuing Education Committee Chair
  - 2) Providers and Courses Approved by Board Staff

A motion was made by Dr. Spear to approve the ratification for continuing education. Dr. Easton seconded the motion. Motion passed unanimously.

**XIV) APPROVAL OF MINUTES**

- A) October 1, 2021
- B) October 26, 2021
- C) November 16, 2021
- D) December 14, 2021

A motion was made by Dr. Burns-LeGros to approve the minutes provided in the meeting material. Dr. Spear seconded the motion. Motion passed unanimously.

**XV) PUBLIC COMMENT**

- A) William Ramsay, OD
  - 1) General Discussion of the Complaint Process –Provided multiple examples of cases that have been dismissed from probable cause. Dr. Ramsay requested that the board to provide answers to why the cases presented were dismissed or overlooked.

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Ms. Loucks suggested that Mr. Jusevitch from Consumer Services address the board to discuss the complaint process.

Dr. Ramsay stated that since June of 2020 there were 11 cases that have been ignored by the department.

Dr. Ramsay asked the following questions to be answered.

- Who in consumer services is closing cases without reviewing by the consulting Optometrist or attorney?
- Could any consumer services staff be making his/her own decision with formal complaints?
- Was an optometric consultant working with CSU in 2018-2021?
- Was there an attorney for CSU for 2018-2021?
- Does the board know that all the complaints are not just a non-professional staff member?
- Dr. Ramsay would like some assistance understanding if each complaint has been properly reviewed by the consulting Certified Optometrist?
- What assurance does the board give that an investigation from the complaint will be performed?
- Are members of the probable cause panel receiving his complaints?

**XVI) NEXT MEETING DATE**

A) March 25, 2022 – anticipated to be in the Orlando area.

**XVII) ADJOURNMENT**

Dr. Kepley adjourned the meeting at 3:35pm.