

Legal Affairs and Governmental Relations Committee Meeting

Jul 24, 2019 11:30 AM EDT

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NOTICE OF MEETING

NORTH BROWARD HOSPITAL DISTRICT

BOARD OF COMMISSIONERS

A Legal Affairs and Governmental Relations Committee meeting will be held on Wednesday, July 24th, 2019, immediately following the ACO Board meeting, at the Broward Health Corporate Spectrum Location: 1700 Northwest 49 Street, Fort Lauderdale, Florida, 33309. The purpose of this committee meeting is to review and consider any matters within the committee's jurisdiction.

Persons with disabilities requiring special accommodations in order to participate should contact the District by calling 954-473-7100 at least 48 hours in advance of the meeting to request such accommodations.

Any person who decides to appeal any decision of the District's Board with respect to any matter considered at these meetings will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based.

MINUTES

North Broward Hospital District Board Of Commissioners
1700 Northwest 49th Street, Suite #150, Ft. Lauderdale, 33309

**LEGAL AFFAIRS AND GOVERNMENTAL COMMITTEE MEETING
Immediately Following Governance Committee Meeting
May 22, 2019**

1. NOTICE

Notice of this meeting is attached to the official Minutes as EXHIBIT I. The official Agenda for this meeting, as presented for the consideration of the Committee, is attached to the official Minutes as EXHIBIT II.

2. CALL TO ORDER 11:26 am

3. COMMITTEE MEMBERS

- √ Commissioner Andrew M. Klein, Chair
- √ Commissioner Christopher T. Ure
- X Commissioner Ray T. Berry (absent)
- √ Commissioner Nancy W. Gregoire
- √ Commissioner Stacy L. Angier
- X Commissioner Marie C. Waugh (absent)

ADDITIONALLY PRESENT Gino Santorio/President/CEO, Alan Goldsmith/CAO, Alex Fernandez/CFO, Gabriel Imperato/Interim General Counsel, Brett Bauman/Associate General Counsel

4. PUBLIC COMMENTS None

5. APPROVAL OF MINUTES

- 5.1 Approval of the Legal Affairs & Governmental Relations Committee meeting minutes, dated April 17, 2019.

MOTION It was *moved* by Commissioner Ure, *seconded* by Commissioner Gregoire, to:

**APPROVE THE LEGAL AFFAIRS & GOVERNMENTAL RELATIONS
COMMITTEE MEETING MINUTES, DATED APRIL 17, 2019.**

Motion *carried* unanimously.

Chairman Klein requested that a sentence be reworded on paragraph two of the second page of the April 17th minutes, to reflect that the parties agreed to a 15% reduction of the \$1.4 million dollar balance that was under discussion. Said credit equaled to approximately \$210k.
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6. TOPIC OF DISCUSSION

6.1 New Engagements and General Legal Updates

Mr. Imperato reported on the status of new legal engagements

- Tripp Scott replaced Foley Lardner on Grant civil case
- Clare Locke retained to address public statements and correspond with representatives from Politico Magazine
- Lewis Cohen retained to handle real estate matters
- Panza Maurer retained to review former Independent Review Organization's work
- Huron Consulting Group retained to review scope and opine if focus arrangement work performed by former Independent Review Organization met standards
- Carlton Fields retained to advise on recruitment regulation and compliance issues within recruitment of physicians
- Johnson Anselmo Murdoch Burke, Piper and Hochman engaged to provide opinion on governance issues
- Meade Roach and Annulis engaged to replace former Independent Review Organization

Mr. Imperato requested a closed shade session under Florida Statute 286.011 (8), seeking advice from the Board of Commissioners on matters related to criminal and civil litigation for the Pauline Grant cases.

MOTION It was *moved* by Commissioner Ure, *seconded* by Commissioner Gregoire, that:

THE LEGAL AFFAIRS AND GOVERNMENTAL RELATIONS COMMITTEE RECOMMEND TO THE BOARD OF COMMISSIONERS OF THE NORTH BROWARD HOSPITAL DISTRICT THAT A SHADE SESSION BE SCHEDULED TO DISCUSS PENDING LEGAL MATTERS.

Motion *carried* unanimously

6.2 Broward Health Physician Group's Hospice and Palliative Care Services, 2-year Agreement, Dr. Maria Farrell

MOTION It was *moved* by Commissioner Gregoire, *seconded* by Commissioner Angier, that:

THE LEGAL AFFAIRS AND GOVERNMENTAL RELATIONS COMMITTEE RECOMMEND THAT THE BOARD OF COMMISSIONERS OF THE NORTH

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BROWARD HOSPITAL DISTRICT AUTHORIZE THE PRESIDENT/CEO TO ENTER A NEW 2-YEAR EMPLOYMENT AGREEMENT WITH DR. MARIA FARRELL FOR THE PROVISION OF HOSPICE AND PALLIATIVE CARE SERVICES AT BROWARD HEALTH MEDICAL CENTER.

Motion *carried* unanimously.

- 6.3 Broward Health Imperial Point, Cardiac Services Lease, Modular Cardiac Catheterization Laboratory

MOTION It was *moved* by Commissioner Angier, *seconded* by Commissioner Gregoire, that:

THE LEGAL AFFAIRS AND GOVERNMENTAL RELATIONS COMMITTEE RECOMMEND THAT THE BOARD OF COMMISSIONERS OF THE NORTH BROWARD HOSPITAL DISTRICT AUTHORIZE THE PRESIDENT/CEO TO APPROVE THE RFP FOR A LEASE OF A MODULAR CARDIAC CATHETERIZATION LABORATORY FROM MODULAR DEVICES FOR \$727,500.00.

Motion *carried* unanimously.

- 6.4 Approval of General Counsel Agreement

Ms. Hatcher detailed sections of the proposed agreement for General Counsel.

Additions and revisions requested by Chairman Klein are listed below.

- **Effective Termination of Employment** (section 3e) substitute the word “Directors” with “Commissioners”
- **Confidentiality Clause** (section 4) include “attorney client material” and “attorney work product material” to the list of what is defined as confidential information
- **Page 12** formatting should be reviewed and corrected
- **Operational and Legal Services Management** (exhibit a, section 7b) include language “legal advice to the Board of Commissioners”, as a third bullet point
- **Language to be included** “shade sessions will be noticed as requested by the Board of Commissioners”
- **Language to be included** (section 7a) “invoices submitted for payment by any legal service vendor should be critically evaluated by counsel”

MOTION It was *moved* by Commissioner Ure, *seconded* by Commissioner Gregoire, to:

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**APPROVE THE CONTRACT AND APPENDICES AS MODIFIED BY
COMMISSIONER KLEIN.**

Motion *carried* unanimously.

MOTION It was *moved* by Commissioner Ure, *seconded* by Commissioner Gregoire, that:

**THE PREVIOUS MOTION LANGUAGE BE MODIFIED TO REFLECT THAT
THE CONTRACT AND APPENDICES, AS JUST APPROVED, BE MODIFIED TO
INCLUDE CURRENT AND FORMER LANGUAGE AS IT RELATES TO ALL
PARTIES TO BE RELEASED UNDER ANY SEVERANCE AGREEMENT.**

Motion *carried* unanimously.

7. **ADJOURNMENT** 12:00 pm

MOTION It was *moved* by Commissioner Ure, *seconded* by Commissioner Ure, to:

**ADJOURN THE LEGAL AFFAIRS AND GOVERNMENTAL RELATIONS
COMMITTEE MEETING.**

Motion *carried* unanimously.

Respectfully submitted,
Commissioner Ray T. Berry Secretary / Treasurer

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based on past experience with statutes similar in nature to the amendment found in Article II, Section 8(h)(2) of the Florida Constitution and the narrow scope of rule-making authority granted in the constitutional provision, the adverse impact or regulatory cost, if any, do not exceed and would not be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Article II, Section 8(h)(2), Florida Constitution

LAW IMPLEMENTED: Article II, Section 8(h)(2), Florida Constitution

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 7, 2019, 8:30 a.m.

PLACE: First District Court of Appeal, Third Floor Courtroom, 2000 Drayton Drive, Tallahassee, Florida.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Diana Westberry, Executive Secretary, Florida Commission on Ethics (850)488-7864. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Grayden Schafer, Senior Attorney, Florida Commission on Ethics (850)488-7864

THE FULL TEXT OF THE PROPOSED RULE IS:

34-18.001 Scope and Applicability of Chapter.

(1) The purpose of this chapter is to provide notice and guidance to public officers or public employees, as well as to the general public, regarding the definition of the term "disproportionate benefit," as that term is used in Article II, Section 8(h)(2) of the Florida Constitution, as well as the requisite intent for finding a violation of the prohibition contained in Article II, Section 8(h)(2) of the Florida Constitution.

(2) For the purposes of Article II, Section 8(h)(2) of the Florida Constitution, "disproportionate benefit" means a benefit, privilege, exemption, or result not available to similarly situated persons.

(3) The Commission will consider the following factors in determining whether a benefit, privilege, exemption, or result constitutes a "disproportionate benefit":

(a) The size of the class who will experience the benefit, privilege, exemption, or result;

(b) The nature of the interests involved;

(c) The degree to which the interests of all members of the class are affected; and

(d) The degree to which the public officer or public employee, his or her spouse, children, employer, or business with which he or she contracts, in which he or she is an officer, a partner, a director, or a proprietor, or in which he or she owns an interest, receives a greater or more advantageous benefit, privilege, exemption, or result when compared to others in the class.

(4) The requisite intent for finding a violation of the prohibition in Article II, Section 8(h)(2) of the Florida Constitution is that the public officer or public employee acted, or refrained from acting, with knowledge that his or her action or failure to act would result in a disproportionate benefit. Rulemaking Authority Article II, Section 8(h)(2), Florida Constitution. Law Implemented Article II, Section 8(h)(2), Florida Constitution History – New

NAME OF PERSON ORIGINATING PROPOSED RULE: Grayden Schafer, Senior Attorney, Florida Commission on Ethics (850)-488-7864

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Virilindia Doss, Executive Director, Florida Commission on Ethics

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 15, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 5, 2018

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Janet E. Hartman, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin # C08, Tallahassee, Florida 32399-3253.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NOS.: RULE TITLES:

64B12-9.001 Examination for Licensure

64B12-9.002 Re-Examination

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to update the language to provide a second option for licensure in Florida.

SUBJECT AREA TO BE ADDRESSED: Rule text.

RULEMAKING AUTHORITY: 456.017(1), (2), 484.005 FS.

LAW IMPLEMENTED: 456.017(1), (2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Janet E. Hartman, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin # C08, Tallahassee, Florida 32399-3253.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Employee Leasing Companies

RULE NO.: RULE TITLE:

61G7-10.002 Reporting of Change of Status Required; Effect on Licensees; Change of Licensee Name

PURPOSE AND EFFECT: The proposed rule amendment is to reduce the burden on companies who are terminating their operations in Florida.

SUBJECT AREA TO BE ADDRESSED: The Board proposes the development of a rule amendment that clarifies the procedure for terminating business in Florida and for the

required timing of the termination notice in order to discontinue filing required reports. The rule also clarifies that the Board will ultimately review the termination notice. Board Form DBPR EL-4514 is updated to coincide with the amended rule language.

RULEMAKING AUTHORITY: 468.522, 468.524(2), 468.525(3), 468.526, 468.531, 455.201(2) FS.

LAW IMPLEMENTED: 468.524(2), 468.5245, 468.525(3), 468.526, 468.531 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Richard Morrison, Executive Director, Board of Employee Leasing Companies, 2601 Blair Stone Road, Tallahassee, Florida 32399-0783.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
Proposed Rules**

COMMISSION ON ETHICS

RULE NO.: RULE TITLE:

34-18.001 Scope and Applicability of Chapter

PURPOSE AND EFFECT: The purpose of Rule 34-18.001 is to address the recent amendment found in Article II, Section 8(h)(2) of the Florida Constitution. The amendment in Article II, Section 8(h)(2) of the Constitution requires the Florida Commission on Ethics, through the statutory procedures governing rule-making, to define the term "disproportionate benefit," as it is used in that particular subsection, and to prescribe the requisite intent for finding a violation of the prohibition contained in that particular subsection.

SUMMARY: Rule 34-18.001 defines the term "disproportionate benefit" to mean a benefit, privilege, exemption, or result not available to similarly situated persons. It then lists factors that the Commission should consider in determining whether a particular benefit, privilege, exemption, or result constitutes a "disproportionate benefit." Finally, it states the requisite intent for finding a violation of the prohibition found in Article II, Section 8(h)(2) of the Florida Constitution is whether a public officer or public employee acted, or refrained from acting, with knowledge that his or her action or failure to act would result in a disproportionate benefit.