CALL TO ORDER:
Dr. Timothy Underhill, Chairman, called the meeting to order at 9:00 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., F.A.A.O.
Rosa McNaughton, J.D., M.S.
Rod Presnell, R.Ph.

BOARD STAFF:
Bill Miller, Executive Director
Sharon Guilford, Program Operations Administrator
Jose Montalvan, Regulatory Supervisor/Consultant

BOARD COUNSEL:
Larry Harris, Assistant Attorney General
Office of Attorney General

PROSECUTING ATTORNEY:
Elana Jones, Assistant General Counsel
Department of Health

COURT REPORTER:
Dempster Berryhill
813-229-8225
APPROVAL OF MINUTES:

October 23, 2013 – Telephone Conference Call
Dr. Naberhaus moved to approve the above minutes. The motion was seconded and carried 7/0.

August 23, 2013 – Rules Committee Meeting
Dr. Naberhaus moved to approve the above minutes. The motion was seconded and carried 7/0.

July 17, 2013 – Full Board Meeting
Dr. Naberhaus moved to approve the above minutes with corrections to page 24 line 5 replacing Pharmacy with Optometric. The motion was seconded and carried 7/0.

November 12, 2013 – Telephone Conference Call
Dr. Kaplan moved to approve the above minutes. The motion was seconded and carried 7/0.

General Business ended: 9:07 a.m.
Disciplinary Actions started: 9:07 a.m.

FINAL ORDER ACTION:

Motion for Final Order by Settlement Agreement:

Mona H. Patel, O.D. – Case Number 2012-16345
PCP: Lewis/Presnell

Dr. Patel was present, sworn and was not represented by counsel.

Ms. Jones informed the board that the respondent had violated:
• Section 463.013(1)(h), F.S. through a violation of Rule 64B13-3.007(2)(b), F.A.C.
• Section 463.013(1)(k), F.S.

Ms. Jones advised the board that the settlement agreement contained the following provisions:
• administrative fine of $2,500.00
• administrative costs of $1,755.33

Dr. Patel addressed the board.

Discussion ensued.

Dr. Naberhaus moved to reject the settlement agreement. The motion was seconded and carried 6/0.

Further discussion ensued.
Dr. Naberhaus moved to issue a counter agreement to accept the language in the original settlement agreement but to include the completion of an additional two (2) hours of jurisprudence, and probation for a period of six months, requiring the licensee to forward 10 patient records to the Probationary Committee for review. The motion was seconded and carried 6/0.

The board discussed adding a Probationary Committee Chair.

Dr. Underhill appointed Dr. Kaplan as the Probationary Committee Chair.

Mr. Harris requested if Dr. Patel wanted to accept the counter agreement or allow him the seven (7) days as reference in the Florida Statutes.

PROSECUTION REPORT:

Ms. Jones provided an overview of the prosecution report.

Dr. Naberhaus moved to accept the prosecution report and continue putting special emphasis on prosecuting the older cases (one year and over). The motion was seconded and carried 7/0.

The board discussed Dr. John McClane’s involvement in reviewing the complaints filed with the Department.

After further discussion, the board requested the staff to invite Dr. McClane to attend the next board meeting.

Disciplinary Actions ended: 10:10 a.m.
General Business started: 10:10 a.m.

REQUEST TO ADD TOPICAL MEDICATION TO THE TOPICAL FORMULARY:

Denavir (penciclovir) 1% cream

Dr. Underhill provided an overview of the new requirement allowing the board to add certain topical ocular pharmaceutical agents according to Chapter 463, F.S.

Discussion ensued.

Dr. King moved to deny modifying Rule 64B13-18.002, F.A.C., adding Synthetic Docosanoids indicating Unoprostone isoprophy1 – 0.15% due to the agent is not to be used near or on the eye. The motion was seconded and carried 7/0.

REQUEST FROM BIOTISSUE – CPT Code 65778 (Amniotic Membrane Tissue Therapy) IS WITHIN THE SCOPE OF PRACTICE
Mr. Harris provided an overview of the correspondence and advised the board to not respond due to the individual submitted the letter was not an optometrist nor should the board respond to a company.

Mr. Miller stated that he had provided the members a copy of a letter sent by Mr. Bruce May, Esq.

PROFESSIONALS RESOURCE NETWORK, INC. – Penny Ziegler, M.D. – New Medical Director

Mr. Miller provided an overview of the correspondence. After a brief discussion, the board took no action.

REQUEST TO ADD TOPICAL MEDICATION TO THE TOPICAL FORMULARY:

Povidone-iodine ophthalmic solution 5%

Dr. Naberhaus moved to approve modifying Rule 64B13-18.002, F.A.C., adding Povidone-iodine ophthalmic solution 5%. The motion was seconded and carried 7/0.

Dr. Kaplan moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.

CHAIR/VICE-CHAIR REPORT:

Future Agenda Items

EXECUTIVE DIRECTOR’S REPORT:

Healthy Weight Liaison

Mr. Miller provided an overview of the Department of Health’s “Healthy Weight” initiative and requested a board liaison to serve on the panel.

Dr. Underhill moved to nominate Dr. King as the healthy weight liaison. The motion was seconded and carried 7/0.

COMMITTEE REPORTS:

Budget – Mr. Presnell

No report.
Continuing Education – Dr. Maule

CE Providers and Courses approved by CE Chair
CE Providers and Courses approved by Staff

Dr. Maule moved to ratify the CE Providers and Courses as presented. The motion was seconded and carried 7/0.

SUNY College of Optometry – Recommended Denial of TQ hours

Dr. Maule provided an overview of the course submitted by SUNY College of Optometry.

After discussion the following action was taken:

Dr. Maule moved to deny SUNY College of Optometry for failure to meet the requirements in Rule 64B13-5.002(3)(c), F.A.C. The motion was seconded and carried 7/0.

The board requested staff to communicate with CEBroker in notifying all continuing education providers Rule 64B13-5.002, F.A.C. The members also to update the board’s website to include the continuing education rule regarding transcript qualify hours.

Complaints, Investigation & Enforcement – Dr. Kaplan

The board discussed if the above referenced committee was necessary. The members stated that the committee was created to ensure Dr. McClane’s involvement in the complaint process.

Mr. Miller stated that the board may want to table further discussion until the next meeting when Dr. McClane may be able to address any concerns the board may have.

Corporate Practice – Vacant

No report.

General Business ended: 11:00 a.m.
Other Discipline started: 11:00 a.m.

Disciplinary Compliance – Ms. McNaughton

Laura M. Demarco, O.D. – Case Number 10-14291 – Extension to pay fine

Dr. Demarco was not present.
Mr. Miller stated that the board office received notification from Ms. Melodie Moore, Compliance Officer, that Dr. Demarco had paid the remaining $2,000.00; therefore, Dr. Demarco has complied with all requirements of the Final Order.

Other Discipline ended: 11:14 a.m.
General Business started: 11:14 a.m.

Examination – Dr. King

Memorandum – Zohre Bahrayni, Ph.D., Psychometrician – Examination Update Report

Information only.

FOA – Dr. Kaplan

Approval to attend FOA Regional Board of Directors Meetings – January 11, 2014 – Vero Beach

Dr. Maule moved to delegate Dr. Kaplan to attend the FOA Regional Board of Directors Meeting in Vero Beach on January 11, 2014. The motion was seconded and carried 7/0.

Legislation – Dr. Underhill

No report.

Probable Cause – Mr. Presnell

Stats

Information only.

Unlicensed Activity – Dr. Kaplan

The board requested Mr. Miller to contact the Unlicensed Activity Unit to request communication between the unit and the Unlicensed Activity Committee Chair.

Long Range Planning Meeting

Rules – Dr. Naberhaus

The board discussed rules during the Board Counsel’s Report.

BOARD COUNSEL’S REPORT:
Mr. Harris provided an overview of the Rules Status Report.

64B13-???? = Public Comment

Dr. Kaplan moved to issue a Notice for Rule Development and to adopt the above language and to delegate to Mr. Harris to determine the appropriate rule number and whether a form was needed. The motion was seconded and carried 7/0.

Dr. Maule moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.

- Rule 64B13-5.001, F.A.C. – Hours Requirement:
  - Text of proposed rule
  - September 20, 2013 JAPC letter
  - October 22, 2013 response to JAPC

Mr. Harris provided an overview of the correspondence from JAPC. He informed the board the changes have been made and has moved forward with adopting the recommended changes.

Mr. Presnell moved to delete Rule Section 64B13-5.001(2), F.A.C. The motion was seconded and carried 7/0.
Dr. Maule moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.

Mr. Presnell moved to approve the changes to Rule 64B13-5.001(1), F.A.C., to add at the end of the paragraph “No CE course may be credited more than once during each biennium. The motion was seconded and carried 7/0.

Dr. Maule moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.

The board discussed their interpretation of the rules current language, that the rule requires live hours and continuing education may not be offered online.

- Rule 64B13-5.002, F.A.C. – Criteria for Approval:
  - Text of current rule

Mr. Harris provided an overview of the correspondence from JAPC. He informed the board the changes have been made and has moved forward with adopting the recommended changes.

The board stated that the rule is defined.

Dr. Maule – Practice Management

Dr. Maule requested whether or not Rule 64B13-5.001(1)(d), F.A.C., would allow courses to be submitted for practice management hours for a maximum of two (2) hours.

Discussion ensued.

Dr. Maule moved to approve the changes in Rule 64B13-5.001(1)(d), F.A.C. to limit the number of continuing education hours for practice management. The motion was seconded and carried 7/0.

Dr. Maule moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.
Dr. Kaplan – Duplicate CE COPE Numbers

- Additional criteria for Instructors of Jurisprudence Courses

No action.

- Rule 64B13-10.001, F.A.C. – Application for Certification:
  - Text of proposed rule
  - JAPC letter
  - Application (Insert)

Mr. Harris provided an overview of the correspondence from JAPC. He informed the board the changes have been made and has moved forward with adopting the recommended changes.

Mr. Presnell moved to approve the amended Rule 64B13-10.001, F.A.C., proposed application, 1128 form and to move forward with the rule adoption. The motion was seconded and carried 7/0.

Dr. Maule moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.

The board questioned the laws and rules fees listed on the application, and they would like input from the Testing Unit on whether there is a better way to state the fees, and if both amounts are still necessary and justified.

- Rule 64B13-15.005, F.A.C. – Designation of Administrative Violations; Major; Minor
  - Text of proposed rule
  - September 20, 2013 JAPC letter

Mr. Harris provided an overview of the correspondence from JAPC. He informed the board the changes have been made and has moved forward with adopting the recommended changes.

- 64B13-15.005(1), F.A.C.
- 64B13-15.005(2)(b), F.A.C.
- 64B13-15.005(2)(i), F.A.C.

The board provided a response to the JAPC Correspondence. They clarified that the reference to s. 463.0055, F.S. was intended to cover situations where a certified
optometrist falsely certifies that he/she took the course and examination, but is not needed. They indicated that the correct reference should be s. 499.028(3), F.S., not (4) as it currently reads. They also explained why the current reference to s. 499.028(5), F.S., is correct.

Dr. Naberhaus moved to issue a Notice of Change deleting 463.005, F.S. and 463.016 from the law implemented, deleting 463.0055(2)(a)-(c), F.S., from the list of violations, renumbering accordingly, and correcting the reference to 499.028(3), F.S. The motion was seconded and carried 7/0.

Dr. Maule moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.

- Rule 64B13-16, F.A.C – Branch Offices:
  - Text of current rule
  - Section 463.011, F.S. - Exhibition of license

Mr. Harris provided an overview of the correspondence from JAPC. He informed the board the changes have been made and has moved forward with adopting the recommended changes.

Mr. Presnell moved to repeal Rule 64B13-16.002, F.A.C. The motion was seconded and carried 7/0.

Mr. Harris requested the board not to repeal the fees at this time until the rule has been repealed.

The board concurred.

- Rule 64B13-18.001, F.A.C. – Purpose:
  - Text of proposed rule
  - October 15, 2013 JAPC letter

Mr. Harris provided an overview of the correspondence from JAPC. He informed the board the changes have been made and has moved forward with adopting the recommended changes.

Mr. Presnell moved to repeal Rule 64B13-18.001, F.A.C., in response to JAPC’s concerns. The motion was seconded and carried 7/0.
Dr. Maule moved that the proposed rule would not have any adverse impacts on small businesses or would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of $200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded and carried 7/0.

- Rule 64B13-18.003, F.A.C. – Procedures Regarding Topical Ocular Pharmaceutical Agents:
  - Text of proposed rule
  - October 21, 2013 JAPC letter

Mr. Harris provided an overview of the correspondence from JAPC. He informed the board the changes have been made and moved forward with adopting the recommended changes.

Mr. Presnell moved to delete Rule 64B13-18.003(2) and (4), F.A.C., in response to JAPC’s concerns. The motion was seconded and carried 7/0.

- Rule 64B13-4.001, F.A.C. – Examination Requirements

The board requested further communication on the following:
- NBEO grade the individual skills
- NBEO exam information

Dr. Kaplan moved to amend Rule 64B13-4.001(1)(d), F.A.C., requiring graduation “from a school or college of optometry”. The motion was seconded and carried 7/0.

Dr. Kaplan moved to table the Rule 64B13-4.001, F.A.C., until the December 20, 2013, Telephone Conference Call at 7:00 a.m. The motion was seconded and carried 7/0.

- Rule 64B13-4.005, F.A.C. – Criteria for Selections of Examiners and Consultants

Mr. Harris requested the board to take no action at this time.

- Section 456.071, F.S. – Examination
- Section 456.018, F.S. – Penalty for theft or reproduction of an examination
- Contract between the Department of Health and Prometric

Information only.

ELECTION OF OFFICERS:

Board of Optometry – General Business
December 6, 2013
Chair
Vice-Chair

Dr. Maule moved to nominate Dr. Underhill, for Chair and Dr. Kaplan, for Vice-Chair. The motion was seconded and carried 7/0.

NEXT MEETING DATE:

March 21st – Orlando

Information only.

General Business ended: 2:54 p.m.

ADJOURNMENT:
The meeting was adjourned at 2:54 p.m.