



1  
2 **APPROVAL OF MINUTES:**

3  
4 **October 23, 2013 – Telephone Conference Call**

5 **Dr. Naberhaus moved to approve the above minutes. The motion was seconded and carried**  
6 **7/0.**

7  
8 **August 23, 2013 – Rules Committee Meeting**

9 **Dr. Naberhaus moved to approve the above minutes. The motion was seconded and carried**  
10 **7/0.**

11  
12 **July 17, 2013 – Full Board Meeting**

13 **Dr. Naberhaus moved to approve the above minutes with corrections to page 24 line 5**  
14 **replacing Pharmacy with Optometric. The motion was seconded and carried 7/0.**

15  
16 **November 12, 2013 – Telephone Conference Call**

17 **Dr. Kaplan moved to approve the above minutes. The motion was seconded and carried 7/0.**

18  
19 **General Business ended: 9:07 a.m.**

20 **Disciplinary Actions started: 9:07 a.m.**

21  
22 **FINAL ORDER ACTION:**

23  
24 **Motion for Final Order by Settlement Agreement:**

25  
26 **Mona H. Patel, O.D. – Case Number 2012-16345**

27 **PCP: Lewis/Presnell**

28  
29 Dr. Patel was present, sworn and was not represented by counsel.

30  
31 Ms. Jones informed the board that the respondent had violated:

- 32
  - 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.

33  
34  
35 Ms. Jones advised the board that the settlement agreement contained the following provisions:

- 36
  - administrative fine of \$2,500.00
  - administrative costs of \$1,755.33

37  
38  
39 Dr. Patel addressed the board.

40  
41 Discussion ensued.

42  
43 **Dr. Naberhaus moved to reject the settlement agreement. The motion was seconded and**  
44 **carried 6/0.**

45  
46 Further discussion ensued.

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

6  
7 The board discussed adding a Probationary Committee Chair.

8  
9 Dr. Underhill appointed Dr. Kaplan as the Probationary Committee Chair.

10  
11 Mr. Harris requested if Dr. Patel wanted to accept the counter agreement or allow him the  
12 seven (7) days as reference in the Florida Statutes.

13  
14 **PROSECUTION REPORT:**

15  
16 Ms. Jones provided an overview of the prosecution report.

17  
18 **Dr. Naberhaus moved to accept the prosecution report and continue putting special**  
19 **emphasis on prosecuting the older cases (one year and over). The motion was**  
20 **seconded and carried 7/0.**

21  
22 The board discussed Dr. John McClane's involvement in reviewing the complaints filed  
23 with the Department.

24  
25 After further discussion, the board requested the staff to invite Dr. McClane to attend the  
26 next board meeting.

27  
28 **Disciplinary Actions ended: 10:10 a.m.**

29 **General Business started: 10:10 a.m.**

30  
31 **REQUEST TO ADD TOPICAL MEDICATION TO THE TOPICAL**  
32 **FORMULARY:**

33  
34 **Denavir (penciclovir) 1% cream**

35  
36 Dr. Underhill provided an overview of the new requirement allowing the board to add certain  
37 topical ocular pharmaceutical agents according to Chapter 463, F.S.

38  
39 Discussion ensued.

40  
41 **Dr. King moved to deny modifying Rule 64B13-18.002, F.A.C., adding Synthetic**  
42 **Docosanoids indicating Unoprostone isoprophyl – 0.15% due to the agent is not to be used**  
43 **near or on the eye. The motion was seconded and carried 7/0.**

44  
45 **REQUEST FROM BIOTISSUE – CPT Code 65778 (Amniotic Membrane Tissue**  
46 **Therapy) IS WITHIN THE SCOPE OF PRACTICE**

1 Mr. Harris provided an overview of the correspondence and advised the board to not  
2 respond due to the individual submitted the letter was not an optometrist nor should the  
3 board respond to a company.

4  
5 Mr. Miller stated that he had provided the members a copy of a letter sent by Mr. Bruce  
6 May, Esq.

7  
8 **PROFESSIONALS RESOURCE NETWORK, INC. – Penny Ziegler, M.D. – New**  
9 **Medical Director**

10  
11 Mr. Miller provided an overview of the correspondence. After a brief discussion, the  
12 board took no action.

13  
14 **REQUEST TO ADD TOPICAL MEDICATION TO THE TOPICAL**  
15 **FORMULARY:**

16  
17 **Povidone-iodine ophthalmic solution 5%**

18  
19 **Dr. Naberhaus moved to approve modifying Rule 64B13-18.002, F.A.C., adding Povidone-**  
20 **iodine ophthalmic solution 5%. The motion was seconded and carried 7/0.**

21  
22 **Dr. Kaplan moved that the proposed rule would not have any adverse impacts on**  
23 **small businesses or would not be likely to directly or indirectly increase regulatory**  
24 **costs to any entity (including government) in excess of \$200,000 in the aggregate in**  
25 **Florida within 1 year after the implementation of the rule. The motion was**  
26 **seconded and carried 7/0.**

27  
28 **CHAIR/VICE-CHAIR REPORT:**

29  
30 **Future Agenda Items**

31  
32 **EXECUTIVE DIRECTOR’S REPORT:**

33  
34 **Healthy Weight Liaison**

35  
36 Mr. Miller provided an overview of the Department of Health’s “Healthy Weight”  
37 initiative and requested a board liaison to serve on the panel.

38  
39 **Dr. Underhill moved to nominate Dr. King as the healthy weight liaison. The**  
40 **motion was seconded and carried 7/0.**

41  
42 **COMMITTEE REPORTS:**

43  
44 **Budget – Mr. Presnell**

45  
46 No report.

1  
2 **Continuing Education – Dr. Maule**

3  
4 **CE Providers and Courses approved by CE Chair**  
5 **CE Providers and Courses approved by Staff**  
6

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

9  
10 **SUNY College of Optometry – Recommended Denial of TQ hours**

11  
12 Dr. Maule provided an overview of the course submitted by SUNY College of  
13 Optometry.

14  
15 After discussion the following action was taken:

16  
17 **Dr. Maule moved to deny SUNY College of Optometry for failure to meet the**  
18 **requirements in Rule 64B13-5.002(3)(c), F.A.C. The motion was seconded and**  
19 **carried 7/0.**

20  
21 The board requested staff to communicate with CEBroker in notifying all continuing  
22 education providers Rule 64B13-5.002, F.A.C. The members also to update the board's  
23 website to include the continuing education rule regarding transcript qualify hours.  
24

25 **Complaints, Investigation & Enforcement – Dr. Kaplan**

26  
27 The board discussed if the above referenced committee was necessary. The members  
28 stated that the committee was created to ensure Dr. McClane's involvement in the  
29 complaint process.

30  
31 Mr. Miller stated that the board may want to table further discussion until the next  
32 meeting when Dr. McClane may be able to address any concerns the board may have.  
33

34 **Corporate Practice – Vacant**

35  
36 No report.

37  
38 **General Business ended: 11:00 a.m.**

39 **Other Discipline started: 11:00 a.m.**  
40

41 **Disciplinary Compliance – Ms. McNaughton**

42  
43 **Laura M. Demarco, O.D. – Case Number 10-14291 – Extension to pay fine**

44  
45 Dr. Demarco was not present.  
46

1 Mr. Miller stated that the board office received notification from Ms. Melodie Moore,  
2 Compliance Officer, that Dr. Demarco had paid the remaining \$2,000.00; therefore, Dr.  
3 Demarco has complied with all requirements of the Final Order.

4  
5 **Other Discipline ended: 11:14 a.m.**  
6 **General Business started: 11:14 a.m.**

7  
8 **Examination – Dr. King**

9  
10 **Memorandum – Zohre Bahrayni, Ph.D., Psychometrician –**  
11 **Examination Update Report**

12  
13 Information only.

14  
15 **FOA – Dr. Kaplan**

16  
17 **Approval to attend FOA Regional Board of Directors Meetings –**  
18 **January 11, 2014 – Vero Beach**

19  
20 **Dr. Maule moved to delegate Dr. Kaplan to attend the FOA Regional Board of**  
21 **Directors Meeting in Vero Beach on January 11, 2014. The motion was seconded**  
22 **and carried 7/0.**

23  
24 **Legislation – Dr. Underhill**

25  
26 No report.

27  
28 **Probable Cause – Mr. Presnell**

29  
30 **Stats**

31  
32 Information only.

33  
34 **Unlicensed Activity – Dr. Kaplan**

35  
36 The board requested Mr. Miller to contact the Unlicensed Activity Unit to request  
37 communication between the unit and the Unlicensed Activity Committee Chair.

38  
39 Long Range Planning Meeting

40  
41 **Rules – Dr. Naberhaus**

42  
43 The board discussed rules during the Board Counsel's Report.

44  
45 **BOARD COUNSEL'S REPORT:**

1                   **Rules Status Report**

2  
3 Mr. Harris provided an overview of the Rules Status Report.

4  
5                   **64B13-?.??? = Public Comment**

6  
7 **64B13-**

8  
9 The Board of Optometry invites and encourages all members of the public to provide  
10 comment on matters or propositions before the Board or a committee of the Board. The  
11 opportunity to provide comment shall be subject to the following:

- 12 (1) Members of the public will be given an opportunity to provide comment on subject  
13 matters before the Board after an agenda item is introduced at a properly noticed  
14 board meeting.  
15 (2) Members of the public shall be limited to three (3) minutes to provide comment. This  
16 time shall not include time spent by the presenter responding to questions posed by  
17 Board members, staff or board counsel. The chair of the Board may extend the time  
18 to provide comment if time permits.  
19 (3) Members of the public shall notify board staff in writing of his or her interest to be  
20 heard on a proposition or matter before the Board. The notification shall identify the  
21 person or entity, indicate support, opposition, or neutrality, and identify who will  
22 speak on behalf of a group or faction of persons consisting of three (3) or more  
23 persons. Any person or entity appearing before the Board may use a pseudonym if he  
24 or she does not wish to be identified.

25  
26 **Dr. Kaplan moved to issue a Notice for Rule Development and to adopt the above**  
27 **language and to delegate to Mr. Harris to determine the appropriate rule number**  
28 **and whether a form was needed. The motion was seconded and carried 7/0.**

29  
30 **Dr. Maule moved that the proposed rule would not have any adverse impacts on**  
31 **small businesses or would not be likely to directly or indirectly increase regulatory**  
32 **costs to any entity (including government) in excess of \$200,000 in the aggregate in**  
33 **Florida within 1 year after the implementation of the rule. The motion was**  
34 **seconded and carried 7/0.**

- 35  
36       • **Rule 64B13-5.001, F.A.C. – Hours Requirement:**  
37           ○ **Text of proposed rule**  
38           ○ **September 20, 2013 JAPC letter**  
39           ○ **October 22, 2013 response to JAPC**

40  
41 Mr. Harris provided an overview of the correspondence from JAPC. He informed the  
42 board the changes have been made and has moved forward with adopting the  
43 recommended changes.

44  
45 **Mr. Presnell moved to delete Rule Section 64B13-5.001(2), F.A.C. The motion was**  
46 **seconded and carried 7/0.**

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

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

11  
12 **Dr. Maule moved that the proposed rule would not have any adverse impacts on**  
13 **small businesses or would not be likely to directly or indirectly increase regulatory**  
14 **costs to any entity (including government) in excess of \$200,000 in the aggregate in**  
15 **Florida within 1 year after the implementation of the rule. The motion was**  
16 **seconded and carried 7/0.**

17  
18 The board discussed their interpretation of the rules current language, that the rule  
19 requires live hours and continuing education may not be offered online.

- 20  
21 • **Rule 64B13-5.002, F.A.C. – Criteria for Approval:**  
22 ○ **Text of current rule**

23  
24 Mr. Harris provided an overview of the correspondence from JAPC. He informed the  
25 board the changes have been made and has moved forward with adopting the  
26 recommended changes.

27  
28 The board stated that the rule is defined.

29  
30 **Dr. Maule – Practice Management**

31  
32 Dr. Maule requested whether or not Rule 64B13-5.001(1)(d), F.A.C., would allow  
33 courses to be submitted for practice management hours for a maximum of two (2) hours.

34  
35 Discussion ensued.

36  
37 **Dr. Maule moved to approve the changes in Rule 64B13-5.001(1)(d), F.A.C. to limit**  
38 **the number of continuing education hours for practice management. The motion**  
39 **was seconded and carried 7/0.**

40  
41 **Dr. Maule moved that the proposed rule would not have any adverse impacts on**  
42 **small businesses or would not be likely to directly or indirectly increase regulatory**  
43 **costs to any entity (including government) in excess of \$200,000 in the aggregate in**  
44 **Florida within 1 year after the implementation of the rule. The motion was**  
45 **seconded and carried 7/0.**  
46

1 **Dr. Kaplan – Duplicate CE COPE Numbers**

- 2
- 3 • **Additional criteria for Instructors of Jurisprudence Courses**
- 4

5 No action.

- 6
- 7 • **Rule 64B13-10.001, F.A.C. – Application for Certification:**
- 8

- 9 ○ **Text of proposed rule**
  - 10 ○ **JAPC letter**
  - 11 ○ **Application (Insert)**
- 12

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

16

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

20

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

26

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

30

- 31 • **Rule 64B13-15.005, F.A.C. – Designation of Administrative Violations;**  
32 **Major; Minor**

- 33
  - 34 ○ **Text of proposed rule**
  - 35 ○ **September 20, 2013 JAPC letter**
- 36

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

40

- 41 • **64B13-15.005(1), F.A.C.**
  - 42 • **64B13-15.005(2)(b), F.A.C.**
  - 43 • **64B13-15.005(2)(i), F.A.C.**
- 44

45 The board provided a response to the JAPC Correspondence. They clarified that the  
46 reference to s. 463.0055, F.S. was intended to cover situations where a certified

1 optometrist falsely certifies that he/she took the course and examination, but is not  
2 needed. They indicated that the correct reference should be s. 499.028(3), F.S., not (4) as  
3 it currently reads. They also explained why the current reference to s. 499.028(5), F.S., is  
4 correct.

5  
6 **Dr. Naberhaus moved to issue a Notice of Change deleting 463.005, F.S. and 463.016**  
7 **from the law implemented, deleting 463.0055(2)(a)-(c), F.S., from the list of**  
8 **violations, renumbering accordingly, and correcting the reference to 499.028(3), F.S.**  
9 **The motion was seconded and carried 7/0.**

10  
11 **Dr. Maule moved that the proposed rule would not have any adverse impacts on**  
12 **small businesses or would not be likely to directly or indirectly increase regulatory**  
13 **costs to any entity (including government) in excess of \$200,000 in the aggregate in**  
14 **Florida within 1 year after the implementation of the rule. The motion was**  
15 **seconded and carried 7/0.**

16  
17 • **Rule 64B13-16, F.A.C – Branch Offices:**

- 18  
19 ○ **Text of current rule**  
20 ○ **Rule 64B13-16.002, F.A.C. – Branch Office License October 16,**  
21 **2013 JAPC letter**  
22 ○ **Section 463.011, F.S. - Exhibition of license**  
23

24 Mr. Harris provided an overview of the correspondence from JAPC. He informed the  
25 board the changes have been made and has moved forward with adopting the  
26 recommended changes.  
27

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

30  
31 Mr. Harris requested the board not to repeal the fees at this time until the rule has been  
32 repealed.  
33

34 The board concurred.  
35

36 • **Rule 64B13-18.001, F.A.C. – Purpose:**

- 37 ○ **Text of proposed rule**  
38 ○ **October 15, 2013 JAPC letter**  
39

40 Mr. Harris provided an overview of the correspondence from JAPC. He informed the  
41 board the changes have been made and has moved forward with adopting the  
42 recommended changes.  
43

44 **Mr. Presnell moved to repeal Rule 64B13-18.001, F.A.C., in response to JAPC’s**  
45 **concerns. The motion was seconded and carried 7/0.**  
46

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

- 6
- 7 • **Rule 64B13-18.003, F.A.C. – Procedures Regarding Topical Ocular**
- 8 **Pharmaceutical Agents:**
  - 9 ○ **Text of proposed rule**
  - 10 ○ **October 21, 2013 JAPC letter**
- 11

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

15

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

- 18
- 19 • **Rule 64B13-4.001, F.A.C. – Examination Requirements**
- 20

21 The board requested further communication on the following:

- 22 • NBE0 grade the individual skills
- 23 • NBE0 exam information
- 24

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

27

28 **Dr. Kaplan moved to table the Rule 64B13-4.001, F.A.C., until the December 20,**  
29 **2013, Telephone Conference Call at 7:00 a.m. The motion was seconded and carried**  
30 **7/0.**

- 31
- 32 • **Rule 64B13-4.005, F.A.C. – Criteria for Selections of Examiners and**
- 33 **Consultants**
- 34 • **Rule 64B13-4.006, F.A.C. – Security and Monitoring Procedures for**
- 35 **Licensure Examinations**
- 36

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

- 38
- 39 • **Section 456.071, F.S. – Examination**
- 40 • **Section 456.018, F.S. – Penalty for theft or reproduction of an**
- 41 **examination**
- 42 • **Contract between the Department of Health and Prometric**
- 43

44 Information only.

45

46 **ELECTION OF OFFICERS:**

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4  
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17

**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 21<sup>st</sup> – Orlando**

Information only.

**General Business ended: 2:54 p.m.**

**ADJOURNMENT:**

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