

The Florida Board of Optometry will hold a meeting on Friday, August 19, 2016, commencing at 9:00 a.m., or shortly thereafter. This meeting will be held at Gaylord Palms Resort & Convention Center, 6000 W. Osceola Parkway, Kissimmee, Florida 34746, (407) 586-0000, to which all persons are invited to attend. Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

AGENDA

I. CALL TO ORDER (Roll Call):

Stuart Kaplan, O.D., Chair Tamara
Tamara Maule, O.D., Vice-Chair
Stephen Kepley, O.D.
Christopher King, O.D., F.A.A.O.
Carl Spear, O.D.
John Griffin

II. FINAL ORDER ACTION

Settlement Agreement

1. Terry Goodman, O.D.
2. Jack Mazlin, O.D.

III. MINUTES – May 13, 2016 (Draft Minutes)

IV. PETITIONS:

a. Variance/Waiver:

1. Timothy Hamilton, O.D.
2. Cassandra Young, O.D.
3. Tammy Whittman, O.D.
4. Elena Utkina, M.D.
5. Nicole Yontz

V. DECLARATORY STATEMENT – Nova Southeastern University

VI. CONTINUING EDUCATION:

a. Continuing Education Courses approved by CE Committee

1. Reed Elsevier/Vision Council of America: (Cataract Comanagement)
Course #20-556276
2. Charles Gremillion “Weird Retina” Course #20-521241
3. Richard Palmer “The History of Medical Benefits of Beer”
Course #20-556556

VII. RATIFICATION LIST:

- b. Licensure
- c. Faculty Ratification List

VIII. PROSECUTION REPORT:

IX. CHAIR/VICE CHAIR REPORT:

- a. Future Agenda Items

X. EXECUTIVE DIRECTOR'S REPORT:

XI. BOARD COUNSEL REPORT:

- a. Review of Rule 64B13-3.003
- b. Review of Xiidra Article
- c. JAPC Letter dated April 231, 2016
- d. JACP Letter dated May 19, 2016
- e. JACP Letter dated May 27, 2016

XII. COMMITTEE REPORTS:

- a. Budget – Dr. Kepley
- b. Continuing Education – Dr. Maule
- c. Complaints, Investigation, and Enforcement Liaison – Dr. Kaplan
- d. Disciplinary Compliance – Dr. Kaplan
- e. Examination – Dr. King
- f. FOA – Dr. Kaplan
- g. Healthiest Weight – Dr. King
- h. Legislative – Dr. Kaplan
- i. Probable Cause - Dr. Spear
- j. Probationary – Dr. Kaplan
- k. Rules – Dr. Kaplan
- l. Unlicensed Activity – Dr. Kaplan

XIII. OLD BUSINESS:

XIV. NEW BUSINESS:

XV. NEXT MEETING DATE:

- a. October 14, 2016

XVI. ADJOURNMENT

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

Celeste Philip, MD, MPH

Surgeon General and Secretary

Vision: To be the Healthiest State in the Nation**MEMORANDUM**

TO: Dr. Anthony B. Spivey, Executive Director, Board of Optometry
FROM: Cheryl D. Roberts, Assistant General Counsel
RE: **Settlement Agreement**
SUBJECT: DOH v. Terry L. Goodman, O.D.
 DOH Case Number 2015-06527
DATE: May 31, 2016

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 19, 2016**, meeting of the board. The following information is provided in this regard.

Subject:	Terry L. Goodman, O.D.
Subject's Address of Record:	1947 S. Hurstbourne Parkway Louisville, KY 40220-1000 502-499-2020 Telephone
Enforcement Address:	1947 S. Hurstbourne Parkway Louisville, KY 40220-1000
Additional Address:	6212 Chenoweth Run Road Louisville, KY 40299-5154
Subject's License No:	3421
Rank:	OP
Licensure File No:	1673
Initial Licensure Date:	11/4/1999
Board Certification:	N/A
Required to Appear:	No
Current IPN/PRN Contract:	None
Allegation(s):	Section 463.016(1)(c), Florida Statutes (2014)
Prior Discipline:	None
Probable Cause Panel:	April 20, 2016 Dr. Naberhaus, Dr. Underhill and Dr. Spear

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
 Express mail address: 2585 Merchants Row - Suite 105
 PHONE: 850/245-4640 • FAX 850/245-4684

FloridaHealth.gov

Accredited Health Department
 Public Health Accreditation Board

Subject's Attorney:

Laura Landenwich, Esq.
Clay Daniel Walton & Adams, PLC
462 S. Fourth Street, Suite 101
Louisville, KY 40202
502-561-2005

Complainant/Address:

Terry L. Goodman, O.D.
1947 S. Hurstbourne Pkwy
Louisville, KY 40220-1000

Materials Submitted:

Memorandum to the Board
Settlement Agreement
Administrative Complaint
Defense Attorney Documents
Final Investigative Report with Exhibits 1-3
Other Required Documents
 Cost Summary Report
 Election of Rights

CDR/cg

DISCIPLINARY GUIDELINES:

Section 463.016(1)(c), Florida Statutes (2014) – first violation for major administrative violation: administrative fine of not less than \$1,000.00 nor more than \$4,000.00 per count or offense and, if appropriate, a period of probation or suspension of not less than 6 months nor longer than 12 months.

PRELIMINARY CASE REMARKS: SETTLEMENT AGREEMENT

At all times material to this Complaint, Respondent was a licensed optometrist within the State of Kentucky, having been issued license number 1071DT. On or about June 24, 2008, a complaint was filed with the Kentucky Board of Optometric Examiners against Respondent alleging improper or abusive billing practices. On or about August 18, 2014, the Kentucky Board of Optometric Examiners took disciplinary action against Respondent's license, in the form of an Agreed Order. On or about November 25, 2014, the Kentucky Board of Optometric Examiners removed Respondent's license status from probationary to active. Respondent self-reported this information to the Florida Board of Optometry on or about February 19, 2015.

Terms of Settlement Agreement

- Administrative Fine of \$1,000.00, to be paid within 30 days from the date of filing of the Final Order accepting this Agreement
- (within Settlement Agreement) Costs of \$180.25, to be paid within 30 days from the date of filing of the Final Order
- (Current as of May 31, 2016) Costs \$638.16

**STATE OF FLORIDA
BOARD OF OPTOMETRY**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-06527

TERRY L. GOODMAN, O.D.,

RESPONDENT.

SETTLEMENT AGREEMENT

Terry L. Goodman, O.D., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Optometry, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is a state agency charged with regulating the practice of optometry pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 463, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed optometrist in the State of Florida having been issued license number OP 3421.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 463, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed optometrist, he is subject to the provisions of Chapters 456 and 463, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 463, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Fine** - The Board of Optometry shall impose an administrative fine of one thousand dollars (\$1,000.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Optometry Compliance Officer, within thirty days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL

SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

2. Reimbursement Of Costs - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and prosecution of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case includes but shall not exceed one hundred eighty dollars and twenty-five cents (\$180.25). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Optometry Compliance Officer within thirty days (30) from the date of filing of the Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE

PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

STANDARD PROVISIONS

1. **Appearance**: Respondent is not required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 463 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice optometry. Prior to signing this agreement, the Respondent shall read Chapters 456, 463 and 893 and the Rules of the Board of Optometry, at Chapter 64B13, Florida Administrative Code.

5. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 463, Florida Statutes.

6. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning

Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

8. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this

matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.


9. Waiver of further procedural steps - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

SIGNED this 23rd day of May, 2016.


Terry L. Goodman, O.D.

STATE OF Kentucky
COUNTY OF Jefferson

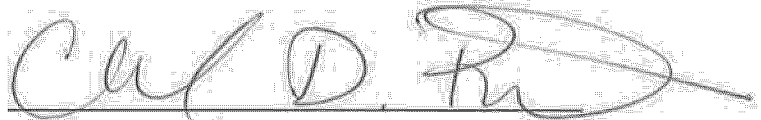
Before me personally appeared Terry Goodman, whose identity is known to me by _____ (type of identification), and who, under oath, acknowledges that their signature appears above. Sworn to or affirmed before me this 23rd day of May, 2016.


Notary Public

7-27-2018
My Commission Expires

APPROVED this 25th day of May, 2016.

Celeste Philip, MD, MPH
Surgeon General and Secretary



Cheryl D. Roberts
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar #0120509
(850) 245-4640, ext. 8186
(850) 245-4684 fax

**STATE OF FLORIDA
BOARD OF OPTOMETRY**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-06527

TERRY L. GOODMAN, O.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Optometry against Respondent, Terry L. Goodman, O.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of optometry pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 463, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed optometrist within the State of Florida, having been issued license number OP 3421.

3. Respondent's address of record is 1947 South Hurstbourne Parkway, Louisville, Kentucky 40220-1000. However, an alternate address for Respondent is 6212 Chenoweth Run Road, Louisville, Kentucky 40220-1000.

4. At all times material to this Complaint, Respondent was a licensed optometrist within the State of Kentucky, having been issued license number 1071DT.

5. On or about June 24, 2008, a complaint was filed with the Kentucky Board of Optometric Examiners against Respondent alleging improper or abusive billing practices.

6. On or about August 18, 2014, the Kentucky Board of Optometric Examiners took disciplinary action against Respondent's license, in the form of an Agreed Order.

7. On or about November 25, 2014, after having complied with all stipulations in the Agreed Order, the Kentucky Board of Optometric Examiners removed Respondent's license status from probationary to active.

8. On or about February 19, 2015, Respondent self-reported this information to the Florida Board of Optometry.

9. Section 463.016(1)(c), Florida Statutes (2014), provides that having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction constitutes grounds for which disciplinary action may be taken by the Board.

10. Based on the foregoing, Respondent has violated Section 463.016(1)(c), Florida Statutes (2014), by having his State of Kentucky license acted against in the form of an Agreed Order by the Kentucky Board of Optometric Examiners.

WHEREFORE, Petitioner respectfully requests that the Board of Optometry enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

[signature block follows on next page]

SIGNED this 25th day of April, 2016.

Celeste Philip, MD, MPH
Interim State Surgeon General



Cheryl D. Roberts
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar #0120509
(850) 245-4640
(850) 245-4684 (fax)

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Amy Carraway*

DATE 4-25-16

DOH v. TERRY L. GOODMAN, O.D.

CASE NO. 2015-06527

PCP: April 20, 2016
PCP Members: Naberhaus, Underhill, Spear

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

Roberts, Cheryl

From: laura@justiceky.com
Sent: Monday, May 16, 2016 11:33 AM
To: Roberts, Cheryl
Subject: 2015-06527

Dear Ms. Roberts:

This will confirm that Laura Landenwich and the office of Clay Daniel Walton & Adams represents Dr. Terry Goodman with respect to the circumstances giving rise to this Administrative Complaint.

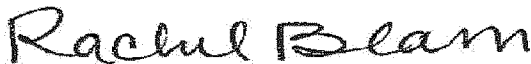
Laura Landenwich
Laura E. Landenwich
Clay Daniel Walton & Adams PLC
462 South Fourth Street
Suite 101
Louisville, Kentucky 40202
502.561.2005

This email and any attachments may contain confidential information and is intended only for the use of the individuals addressed. If you are not the intended recipient, please notify the sender immediately.



STATE OF FLORIDA

DEPARTMENT OF HEALTH**INVESTIGATIVE REPORT**

Office: Consumer Services Unit	Date of Complaint: 03/26/2015	Case Number: 201506527
Subject: TERRY L. GOODMAN, OD 1947 South Hurstbourne Parkway Louisville, KY 40220-1000 (502) 499-2020	Source: TERRY L. GOODMAN, OD 1947 South Hurstbourne Parkway Louisville, KY 40220-1000 (502) 499-2020	
Profession: Optometrist	License Number and Status: 3421 CLEAR, ACTIVE	
Related Case(s): N/A	Period of Investigation and Type of Report: 03/27/2015 – 05/29/2015	
Alleged Violation: ss. 456.072(1)(f)(k)(dd), 463.016(1)(c)(p), F.S.		
<p>Synopsis: This investigation is predicated upon the receipt of a self-report submitted by TERRY L. GOODMAN, OD in regards to TERRY L. GOODMAN, OD alleging the Kentucky Board of Optometric Examiners took disciplinary action against GOODMAN on 08/18/14 in the form of an Agreed Order following the filing of a complaint on 06/24/08 for improper or abusive billing practices. GOODMAN's license was allegedly placed on probation for 2 years, with one year of the probationary period being stayed upon timely payment of a \$4,000.00 fine and successful completion of an additional 10 hours of continuing education. As of 11/24/14, the Kentucky Board of Optometric Examiners has allegedly received documentation of completion of GOODMAN's continuing education hours and removed GOODMAN's probationary status from his license.</p> <p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Responded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Patient Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Above referenced licensure checked in database/LEIDS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Board certified? Name of Board: Date: Specialty: </p> <p> Law Enforcement <input type="checkbox"/> Notified Date: <input type="checkbox"/> Involved Agency: </p> <p> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Subject represented by an attorney? Attorney information: </p>		
Investigator/Date:  Krista Davis Investigation Specialist II 05/29/2015	Approved By/Date: 6/1/2015 	
Distribution: PSU	Page 1	

DOH INVESTIGATIVE REPORT

CASE NUMBER: 201506527

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INVESTIGATIVE DETAILS**INTERVIEW/STATEMENT OF DEPARTMENT OF HEALTH (SOURCE)**

On 02/19/2015 Investigator Davis received a self-report alleging the Kentucky Board of Optometric Examiners took disciplinary action against GOODMAN on 08/18/14 in the form of an Agreed Order following the filing of a complaint on 06/24/08 for improper or abusive billing practices. GOODMAN's license was allegedly placed on probation for 2 years, with one year of the probationary period being stayed upon timely payment of a \$4,000.00 fine and successful completion of an additional 10 hours of continuing education. As of 11/24/14, the Kentucky Board of Optometric Examiners has allegedly received documentation of completion of GOODMAN's continuing education hours and removed GOODMAN's probationary status from his license.

STATEMENT FROM TERRY L. GOODMAN, OD (SUBJECT)

1947 South Hurstbourne Parkway
Louisville, KY 40220-1000

Response received from GOODMAN on 05/20/2015 regarding the allegations. GOODMAN provided a brief summary of the events which began in 2008 and led to the Kentucky Board's action in August of 2014. GOODMAN states over the past 30 years of practice, he has not had any disciplinary action towards himself or his practice and once he became aware of the allegations he took all steps possible in 2008 and 2009 to assure this would never happen again. GOODMAN was found innocent of harassment, hostile work environment retaliation, battery, Breach of Fiduciary duty, coercion, and fraud during a week-long jury trial in November of 2012, but later entered into an informal settlement with the Kentucky Board based on the Kentucky Board's advice. GOODMAN states he settled with a fine and 9 hours of continuing education in medical billings and coding which was resolved by November of 2014. GOODMAN further states his Kentucky license is no longer on probation and is in good standing with the Kentucky Board.

Complaint Cost Summary

Complaint Number: 201506527

Subject's Name: GOODMAN, TERRY L

	***** Cost to Date *****	
	Hours	Costs
Complaint:	2.30	\$125.71
Investigation:	0.40	\$21.86
Legal:	4.50	\$490.59
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	7.20	\$638.16
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$638.16

ELECTION OF RIGHTS

DOH v. Terry L. Goodman, O.D. Case No. 2015-06527

PLEASE SELECT ONLY 1 OF THE FOLLOWING 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations in the Administrative Complaint, but do wish to be accorded an "informal" hearing pursuant to section 120.57(2), Florida Statutes, at which time I will be permitted to submit to the Board oral and/or written evidence in mitigation of the complaint.

OPTION 2. I do not dispute the allegations contained in the Administrative Complaint and waive my right to object or to be heard. I understand that the Board will enter a final order in this case pursuant to section 120.57(2), Florida Statutes.

OPTION 3. I do dispute one or more allegations of material fact in the Administrative Complaint and request a "formal" hearing on the disputed facts pursuant to sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint, as indicated by paragraph numbers listed below:

6, 9, 10

I understand that regardless of the option I have elected, I will be given notice of the time, date, and place when the Board will consider this case for Final Action. Mediation, per section 120.579, Florida Statutes, is not available in this matter.

[Signature]
Respondent's signature
Current address: _____

Lic. No. DP3421
Phone No. 502-499-2020
Fax No. _____

STATE OF ~~FLORIDA~~ Kentucky
COUNTY OF Jefferson

Before me, personally appeared Terry Goodman whose identity is known to me by _____
appears above. (Type of Identification) and who, acknowledges that his/her signature
Sworn to or affirmed by Affiant before me this 23rd day of May 2016.

[Signature]
Notary Public - State of ~~Florida~~ Kentucky

7-27-2018
My Commission Expires

Heather Watkins
Type or Print Name

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

Celeste Philip, MD, MPH

Surgeon General and Secretary

Vision: To be the Healthiest State in the Nation**MEMORANDUM**

TO: Dr. Anthony B. Spivey, Executive Director, Board of Optometry
FROM: Cheryl D. Roberts, Assistant General Counsel
RE: **Settlement Agreement**
SUBJECT: DOH v. Jack J. Mazlin, O.D.
 DOH Case Number 2015-12084
DATE: May 31, 2016

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **August 19, 2016**, meeting of the board. The following information is provided in this regard.

Subject: Jack J. Mazlin, O.D.
Subject's Address of Record: 1338 E.Vine Street
 Kissimmee, FL 34744-3625
Enforcement Address: 1338 E. Vine Street
 Kissimmee, FL 34744-3625
Subject's License No: 1426 **Rank:** OPC
Licensure File No: 1057
Initial Licensure Date: 9/21/1978
Board Certification: N/A
Required to Appear: Yes
Current IPN/PRN Contract: None
Allegation(s): Count I: 463.016(1)(t) and 463.0135(1), Florida Statutes (2014)
 Count II: 463.016(1)(k), Florida Statutes (2014)
 Count III: 463.016(1)(t) Florida Statutes (2014) and Rule 64B13-3.007(2)(f) and Rule 64B13-3.010(7)(a) Florida Administrative Code
 Count IV: 463.016(1)(t) Florida Statutes (2014) and Rule 64B13-3.007(2)(h) and (j), Florida
Prior Discipline: None

Florida Department of Health

Office of the General Counsel • Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
 Express mail address: 2585 Merchants Row - Suite 105
 PHONE: 850/245-4640 • FAX 850/245-4684

FloridaHealth.gov

Accredited Health Department
 Public Health Accreditation Board

Probable Cause Panel: April 20, 2016
Dr. Naberhaus, Dr. Underhill and Dr. Spear

Subject's Attorney: Pro Se

Complainant/Address: W. B. J.

Materials Submitted: Memorandum to the Board
Settlement Agreement
Administrative Complaint
Expert Report dated 12-4-15
Expert CV's
Final Investigative Report with Exhibits 1-6
Other Required Documents
Cost Summary Report
Election of Rights

CDR/cg

DISCIPLINARY GUIDELINES:

Count I:

Section 463.016(1)(t), Florida Statutes (F.S.) (2014) – first violation for major patient care violations: administrative fine of not less than \$1,000.00 nor more than \$5,000.00 per count or offense and, if appropriate, a period of probation of not less than 12 months nor more than 18 months.

Section 463.0135(1), F.S. (2014) – first violation for minor patient care violations: administrative fine of not less than \$750.00 nor more than \$5,000.00 per count or offense and, if appropriate, a period of probation of not less than 6 months nor more than 12 months.

Count II:

Section 463.016(1)(k), F.S. (2014) – first violation for major administrative violation: administrative fine of not less than \$1,000.00 nor more than \$4,000.00 per count or offense and, if appropriate, a period of probation or suspension of not less than 6 months nor longer than 12 months.

Count III:

Section 463.016(1)(t), F.S. (2014) – same as above

Rule 64B13-3.007(2)(f), Florida Administrative Code (F.A.C.) - first violation for minor patient care violations if violation is a first offense of failing to perform or record: administrative fine of not less than \$750.00 nor more than \$5,000.00 per count or offense and, if appropriate, a period of probation of not less than 6 months nor more than 12 months.

Rule 64B13-3.010(7)(a), F.A.C. – first violation for major patient care violations if violation substantially affects patient care: administrative fine of not less than \$1,000.00 nor more than \$5,000.00 per count or offense and, if appropriate, a period of probation of not less than 12 months nor more than 18 months.

Count IV:

Section 463.016(1)(t), F.S. (2014) – same as above

Rule 64B13-3.007(2)(h) and (j), F.A.C. – same as above under Count III

PRELIMINARY CASE REMARKS: SETTLEMENT AGREEMENT

This four-count Administrative Complaint alleges (Count I) Respondent violated Section 463.016(1)(t), F.S., through a violation of Section 463.0135(1), F.S. (2014), by failing to perform a dilated fundus exam on Patient W.J., a diabetic patient, in order to rule out diabetic retinopathy and/or by writing Patient W.J.'s second eyeglasses prescription with two different add powers; (Count II) Respondent violated Section 463.016(1)(k), F.S. (2014), by failing to document in Patient W.J.'s optometric medical records that a dilation of Patient W.J.'s eyes was performed or why dilation was not performed and/or by failing to document medication used for dilation or peripheral findings and/or by failing to record the health of the optic nerve or macula for Patient W.J.; (Count III) Respondent violated Section 463.016(1)(t), F.S. (2014), through a violation of Rule 64B13-3.007(2)(f) and Rule 64B13-3.010(7)(a), F.A.C., by failing to perform an internal examination of Patient W.J.'s eyes and/or by failing to perform dilation or document why dilation was not performed on Patient W.J.; (Count IV) Respondent violated Section 463.016(1)(t), F.S. (2014), through a violation of Rule 64B13-3.007(2)(h) and (j), F.A.C., by failing to document time recorded with tonometry measurement on Patient W.J. and/or by failing to perform an extra ocular muscle balance assessment on Patient W.J.

Terms of Settlement Agreement

- Administrative Fine of \$4,250.00, to be paid within 30 days from the date of filing of the Final Order accepting this Agreement
- (within Settlement Agreement) Costs \$882.55, to be paid within 30 days from the date of filing of the Final Order
- (Current as of May 31, 2016) Costs \$1,176.92

**STATE OF FLORIDA
BOARD OF OPTOMETRY**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-12084

JACK J. MAZLIN, O.D.,

RESPONDENT.

SETTLEMENT AGREEMENT

Jack J. Mazlin, O.D., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Optometry, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is a state agency charged with regulating the practice of optometry pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 463, Florida Statutes.

2016 MAY 23 AM 9:34

BOARD OF OPTOMETRY
LEGAL COUNSEL

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed optometrist in the State of Florida having been issued license number OP 1426.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 463, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed optometrist, he is subject to the provisions of Chapters 456 and 463, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of

Chapter 463, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Fine** - The Board of Optometry shall impose an administrative fine of four thousand two hundred fifty dollars (\$4,250.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Optometry Compliance Officer, within thirty days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS

SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

2. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and prosecution of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case includes but shall not exceed eight hundred eighty-two dollars and fifty-five cents (\$882.55). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Optometry Compliance Officer within thirty days (30) from the date of filing of the

Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

STANDARD PROVISIONS

1. **Appearance**: Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.
2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board

and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 463 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice optometry. Prior to signing this agreement, the Respondent shall read Chapters 456, 463 and 893 and the Rules of the Board of Optometry, at Chapter 64B13, Florida Administrative Code.

5. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 463, Florida Statutes.

6. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

8. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

9. **Waiver of further procedural steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

SIGNED this 19 day of May, 2016.

Jack J. Mazlin, O.D.
Jack J. Mazlin, O.D.

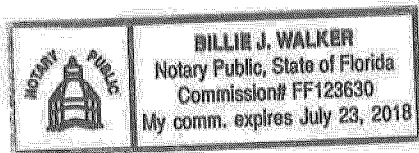
STATE OF FLORIDA
COUNTY OF Osceola

Before me, personally appeared Jack Mazlin,
whose identity is known to me or by Florida Drivers License
(type of identification) and who, under oath, acknowledges that his/her
signature appears above.

Sworn to and subscribed before me this 19 day of May, 2016.

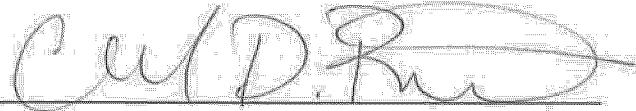
Billie J. Walker
NOTARY PUBLIC

My Commission Expires
July 23, 2018



APPROVED this 25th day of May, 2016.

Celeste Philip, MD, MPH
Surgeon General and Secretary



By: Cheryl D. Roberts
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No.: 0120509
(850) 245-4640 Telephone
(850) 245-4684 Facsimile

**STATE OF FLORIDA
BOARD OF OPTOMETRY**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-12084

JACK J. MAZLIN, O.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Optometry against Respondent, Jack J. Mazlin, O.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of optometry pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 463, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed optometrist within the State of Florida, having been issued license number OP 1426.

3. Respondent's address of record is St. Cloud Optical at 1338 East Vine Street, Kissimmee, Florida 34744-3625.

4. On or about March 6, 2015, Patient W.J. presented to St. Cloud Optical (SCO) for an annual eye examination and new eyeglasses. Patient W.J. was treated by Respondent.

5. Patient W.J. alleges that he was dissatisfied with the eye examination and that his eyeglasses were out of focus.

6. On or about March 25, 2015, Patient W.J. presented to SCO for a second eye examination and a new eyeglasses prescription. Patient W.J. was treated by Respondent.

7. Based on Patient W.J.'s optometric medical records, he is a diabetic.

8. A dilated fundus exam is indicated in patients with diabetes in order to rule out diabetic retinopathy.

9. Respondent said that Patient W.J.'s initial eye examination, on or about March 6, 2015, showed Patient W.J. is a diabetic but no diabetic retinopathy was determined through a dilation of Patient W.J.'s eyes.

10. There is no documentation that Respondent performed dilation of Patient W.J.'s eyes or why the dilation was not performed on either March 6, 2015 or March 25, 2015.

11. There is no documentation of medication used for dilation or peripheral findings.

12. Subject did not record the health of the optic nerve or macula.

13. There is no documentation of time recorded with tonometry measurement.

14. There is no documentation that an extra ocular muscle balance was performed.

15. Based on Patient W.J.'s optometric medical records, Respondent wrote Patient W.J.'s second eyeglasses prescription with two different add powers (+2.50 diopters in the right eye and +2.75 diopters in the left eye).

16. The add or bifocal power in eyeglasses should be the same for both eyes.

17. Based on Patient W.J.'s optometric medical records, it appears that the manufacturing lab compensated for Respondent's error listed in

paragraph 15 and changed the distance power in both eyes in an attempt to correct this error.

COUNT I

18. Petitioner realleges and incorporates paragraphs one (1) through twelve (12), fifteen (15), sixteen (16), and seventeen (17) as if fully set forth therein.

19. Section 463.016(1)(t), Florida Statutes (2014), states that violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto constitutes grounds for disciplinary action by the Board of Optometry.

20. Section 463.0135(1), Florida Statutes (2014), states that a licensed practitioner shall provide that degree of care which conforms to that level of care provided by medical practitioners in the same or similar communities.

21. Respondent violated Section 463.016(1)(t), Florida Statutes, through a violation of Section 463.0135(1), Florida Statutes, in one or more of the following ways:

- a) By failing to perform a dilated fundus exam on Patient W.J., a diabetic patient, on either March 6, 2015 or March 25, 2015 in order to rule out diabetic retinopathy; and/or

- b) By writing Patient W.J.'s second eyeglasses prescription with two different add powers (+2.50 diopters in the right eye and +2.75 diopters in the left eye)

22. Based on the foregoing, Respondent has violated Section 463.016(1)(t), Florida Statutes (2014), through a violation of Section 463.0135(1), Florida Statutes (2014).

COUNT II

23. Petitioner realleges and incorporates paragraphs one (1) through twelve (12) as if fully set forth therein.

24. Section 463.016(1)(k), Florida Statutes (2014), states that failing to keep written optometric records about the examinations, treatments, and prescriptions for patients constitutes grounds for disciplinary action by the Board of Optometry.

25. Respondent violated Section 463.016(1)(k), Florida Statutes, in one or more of the following ways:

- a) By failing to document in Patient W.J.'s optometric medical records that a dilation of Patient W.J.'s eyes was performed or why a dilation was not performed on March 6, 2015 or March 25, 2015; and/or
- b) By failing to document medication used for dilation or peripheral findings during Patient W.J.'s presentation to Respondent on March 6, 2015 or March 25, 2015; and/or

- c) By failing to record the health of the optic nerve or macula for Patient W.J. on March 6, 2015 or March 25, 2015

26. Based on the foregoing, Respondent has violated Section 463.016(1)(k), Florida Statutes (2014).

COUNT III

27. Petitioner realleges and incorporates paragraphs one (1) through twelve (12) as if fully set forth therein.

28. Section 463.016(1)(t), Florida Statutes (2014), states that violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto constitutes grounds for disciplinary action by the Board of Optometry.

29. Rule 64B13-3.007(2)(f), Florida Administrative Code (F.A.C.), states the following:

(2) A comprehensive eye examination shall include the following minimum procedures, which shall be recorded on the patient's case record:

(f) Internal examination (recording, optic nerve health, blood vessel status, macula health, and any abnormalities)

30. Rule 64B13-3.010(7)(a), F.A.C., states the following:

(7)(a) To be in compliance with paragraph 64B13-3.007(2)(f), F.A.C., certified optometrists shall perform a dilated fundus examination during the patient's initial presentation, and

thereafter, whenever medically indicated. If, in the certified optometrist's sound professional judgment, dilation is not performed because of the patient's age, physical limitations, or conditions, the reason(s) shall be noted in the patient's medical record.

31. Respondent violated Section 463.016(1)(t), Florida Statutes, through a violation of Rule 64B13-3.007(2)(f) and Rule 64B13-3.010(7)(a), F.A.C., in one or more of the following ways:

- a) By failing to perform an internal examination of Patient W.J.'s eyes (specifically failing to record the health of the optic nerve or macula) during his March 6, 2015 or March 25, 2015 presentation to Respondent; and/or
- b) By failing to perform dilation or document why dilation was not performed on Patient W.J. on March 6, 2015 or March 25, 2015

32. Based on the foregoing, Respondent has violated Section 463.016(1)(t), Florida Statutes (2014), through a violation of Rule 64B13-3.007(2)(f) and Rule 64B13-3.010(7)(a), F.A.C.

COUNT IV

33. Petitioner realleges and incorporates paragraphs one (1) through six (6), thirteen (13), and fourteen (14) as if fully set forth therein.

34. Section 463.016(1)(t), Florida Statutes (2014), states that violating any provision of this chapter or chapter 456, or any rules adopted

pursuant thereto constitutes grounds for disciplinary action by the Board of Optometry.

35. Rule 64B13-3.007(2)(h) and (j), F.A.C., states the following:

(2) A comprehensive eye examination shall include the following minimum procedures, which shall be recorded on the patient's case record:

(h) Tonometry (with time of measurement); and/or

(j) Extra ocular muscle balance assessment

36. Respondent violated Section 463.016(1)(t), Florida Statutes, through a violation of Rule 64B13-3.007(2)(h) and (j), F.A.C., in one or more of the following ways:

a) By failing to document time recorded with tonometry measurement on Patient W.J. during his March 6, 2015 or March 25, 2015 presentation to Respondent; and/or

b) By failing to perform an extra ocular muscle balance assessment on Patient W.J. during his March 6, 2015 or March 25, 2015 presentation to Respondent

37. Based on the foregoing, Respondent has violated Section 463.016(1)(t), Florida Statutes (2014), through a violation of Rule 64B13-3.007(2)(h) and (j), F.A.C.

WHEREFORE, Petitioner respectfully requests that the Board of Optometry enter an order imposing one or more of the following penalties:

permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 25th day of April, 2016.

Celeste Philip, MD, MPH
Interim State Surgeon General



Cheryl D. Roberts
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar #0120509
(850) 245-4640
(850) 245-4684 (fax)

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: Amy Larroway

DATE 4-25-16

DOH v. JACK J. MAZLIN, O.D.

CASE NO. 2015-12084

PCP: April 20, 2016

PCP Members: Naberhaus, Underhill, Spear

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

Thomas Matthew Kline, O.D.

127 W Fairbanks Ave #452
Winter Park, FL 32789

December 4, 2015

Department of Health, PSU
c/o Abbason and Associates, Inc.
127 W. Fairbanks Avenue #452
Winter Park, FL 32789

Regarding: DOH v. JJM 2015-12084

Dear Department of Health, Prosecution Services Unit,

This investigation involves the above referenced Subject regarding alleged violations of Standard of Care.

Questions:

1. I have no prior knowledge of the Subject, the Complainant, nor have direct knowledge of the circumstances surrounding the case.
2. I am a residency trained, certified Florida optometrist with ten years of experience. I have practiced in a multi-disciplinary setting (ophthalmologists and optometrists) for over six years.
3. Subject violated Florida law based on Rule 64B13-3.007 Minimum Procedures for Comprehensive Eye Examination:
 1. Subject did not record health of the optic nerve or macula.
 2. Documentation is not legible; assessment of the cup to disc ratio as well as the artery to vein ratio may be recorded two-thirds down page 27 and 46 (duplicate copies) on the left edge of page, but is illegible.
 3. There is no time recorded with tonometry measurement.
 4. Extra Ocular Muscle balance was not performed.
 5. No mention of a dilated funds exam, drops used to dilate, or peripheral findings. A dilated funds exam is indicated in patient's with diabetes in order to rule out diabetic retinopathy.
 4. Subject's examination was not appropriate on March 6, 2015. According to the medical record, no dilated exam of the funds was performed.
 5. According to the medical record, and referring to the previously mentioned findings in question 3, a comprehensive eye exam was not performed on March 6, 2015. There is no mention of dilation, drops used, devices used to perform examination (for example: 90 diopter or 78 diopter, or 20 diopter with binocular indirect ophthalmoscope). A dilated exam is indicated for patients with diabetes to rule out diabetic retinopathy.
 6. A dilated exam is indicated and considered the minimum standard of practice for diabetic patients. According to Patient W.J.'s record, there was no dilated exam performed on either March 6, 2015 or March 25, 2015.

7. Based on Patient W.J.'s optometric medical records, there were no deficiencies in the eyeglass prescription dated March 6, 2015. Based on Patient W.J.'s medical records, there was a deficiency noted in the optometric medical records dated March 25, 2015; W.J.'s eyeglass prescription was written with two different add powers. Both Subject and inter-office order form both show an add power of +2.50 diopters in the right eye and +2.75 diopters in the left eye. It appears from the records, the manufacturing lab (Apex Optical Co.) compensated for this error and changed the distance power in both eyes in an attempt to correct the error. The add, or bifocal power in glasses should be the same for both eyes. Any imbalance between the two eyes is corrected in the distance portion of the lens. At both distance and near, the eyes must work together as a team: when there are two different bifocal powers, the eyes are unable to work together due to the two different focal points resulting from the two different powers.

8. To more effectively treat Patient W.J., Subject should have performed a dilated fundus exam.

Based upon my review of the documents associated with this complaint, as well as my education, training, and experience, it is my opinion within a reasonable degree of optometric probability, that Subject practiced optometry below the appropriate standard of care for Patient W.J. established by the State of Florida.

If you have any further questions, please call (407) 766-0882 to schedule a telephone conference.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Kline', with a stylized flourish at the end.

Thomas Matthew Kline, O.D.

Thomas M. Kline, O.D.

91 Island Estates Parkway

Palm Coast, FL, 32137

(386) 283-0737

tkline.od@gmail.com

RESIDENCY TRAINING

Veteran's Administration: Primary Care, Daytona Beach, FL, (July 2007 – June 2008)

William V. Chappell, Jr. Veteran's Outpatient Clinic

Ophthalmology Clinical Rotations

Florida Retina Institute

William J. Dunn, M.D.

Filutowski Cataract & Lasik Institute

Konrad Filutowski, M.D.

Cornea - External Diseases

Miguel Lugo, M.D.

EDUCATION

O.D. Illinois College of Optometry, Chicago, Illinois, 2006

Graduated with Honors

Emphasis on Gas Permeable Contact Lenses and Ocular Disease

Clinical Externships

Kresge Eye Institute, Detroit, MI

Cornea and Contact Lens

Low Vision

Illinois College of Optometry, Chicago, IL

Cornea and Contact Lens

Pediatrics

Midwest Eye Professionals, Palos Heights, IL

Ocular Disease

Pre and Post Surgical Co-management

Chappell Veterans Outpatient Clinic, Daytona Beach, FL

Primary Care

Ocular Disease

Low Vision

B.S. Trinity University, San Antonio, Texas, 2001

Graduated with Honors

Major: Biology with emphasis on Biochemistry

Bench Research

The Effects of Ultraviolet Radiation on DNA Regeneration.

Cell Signaling Factors in Bone Morphogenic Proteins.

Field Research

Migration patterns, population studies, and genetic diversity of Central Texas Bats.

A comparison of home ranges of two species of Peromyscus using trapping and radiotelemetry data.

PROFESSIONAL WORK EXPERIENCE

Tomoka Eye Associates

Ormond Beach, FL (July 2010- present)

Attending Optometrist

Director of Clinical Excellence

Responsible for training of ophthalmic technicians, and implementation of protocols to evaluate, monitor, and advance the capabilities of the technical staff at Tomoka Eye. Currently working to develop a standardized training manual for comprehensive instruction and training of new ophthalmic technicians.

Independent Contractor

Central Florida (July 2009-June 2010)

Optometric fill-in and long term coverage for private practices in Central Florida.

Clemson Ophthalmology

Clemson, SC (Jan 2009- June 2009)

Attending Optometrist

William V. Chappell, Jr. Veteran's Outpatient Clinic

Daytona Beach, FL (July 2007 – June 2008)

Resident Optometrist providing optometric care for veterans as well as rotating with Ophthalmologists working in various subspecialty areas, participating in collaborative Optometry and Ophthalmology educational forums, undertaking research projects and presenting research on a national level, and teaching optometry students. Selected as a lecturer for **Gator Vision 2008**, a continuing educational conference for Optometrists in Florida, for challenging case presentation.

Center for Advanced Eyecare

Greenville, SC (October 2006 - April 2007)

Attending Optometrist providing Optometric care including refraction, pre and post operative care, and ocular disease screening in the office of a solo practice Ophthalmologist.

Illinois College of Optometry Contact Lens Course

Chicago, IL (September 2006)

Guest Lecturer presenting diagnostic and therapeutic clinical approaches to Keratoconus as well as providing an overview of current research in etiology and prevention.

Illinois College of Optometry Ocular and Gross Anatomy Course

Chicago, IL (2004-2005)

Teaching Assistant providing academic instruction as well as dissection instruction for Optometry Students.

North Park Lincoln Mercury

San Antonio, TX (1998)

Sales Representative developing a returning client base, providing customers with detailed and current product information, responsible for advising clients regarding appropriate vehicle selection after considering individualized consumer needs and Lincoln Mercury feature availability.

Ford Motor Company Engineering Division

Dearborn, MI (1994-1998)

Engineering Technician responsible for designing, maintaining, and recording durability and safety testing projects and results used in product development, improvement, and government standard evaluation.

MILITARY EXPERIENCE

United States Marine Corps (1989-1994)

Veteran of the Persian Gulf War

1st Battalion 24th Marines

Staff Sergeant receiving Honorable Discharge after length of service exceeding initially contracted agreement.

Military Occupational Specialty (MOS): 2841, Ground Radio including training in physics and engineering.

Platoon Sergeant of Communication Platoon, Headquarters and Service Company.

LICENSURE

State of Florida 2007-Present

State of South Carolina 2006-2010

CERTIFICATION

Candidate for Fellowship in the American Optometric Academy

Patient Assessment and Management Exam Date

Thearpeutic Management of Ocular Disease Exam Date

National Board Examination in Optometry Part III Date

National Board Examination in Optometry Part II Date

National Board Examination in Optometry Part I Date

PROFESSIONAL AWARDS

Dr. Seymour Galina Grant, 2005

National Award given to one Optometry student in the country who exhibits leadership skills, professional development, and community service for the purpose of promoting the improvement of the practice of Optometry.

American Optometric Association Student Leadership Award, 2006

National Award given to one Optometry student in the country who exhibits leadership in the areas of development of Optometric research and education as well as service to Optometry students and institutions of higher learning.

Gas Permeable Contact Lens Clinical Excellence Award, 2005

National Award given to one Optometry student in the country who exhibits exceptional affinity for the practice of fitting gas permeable contact lenses, particularly for patients with corneal abnormalities, as well as commitment to further research and development of improved products and clinical approaches.

American Optometric Student Assoc. Speaker to the AOA House of Delegates, 2004

National Position given to one Optometry student in the country who is selected as the best representative of all United States Optometric students responsible for presenting the position of all students on current Optometric issues at the AOA National Conference.

Wildermuth Foundation Scholarship, 2003 and 2006

Illinois College of Optometry Award given to two students annually that have shown academic and clinical excellence, participated in Optometric community service, and provided assistance and leadership for other Optometry students.

Eugene W. Strawn Leadership and Service Award, 2003

Illinois College of Optometry Award given to one student annually that has shown the greatest dedication to fellow students, provided leadership and direction for the student body, and served as a liaison between ICO and the Chicago community.

E. Richard Tennant Scholarship, 2005

Illinois College of Optometry Colleague of the Year, 2003

Illinois College of Optometry Award given to one student annually that has shown the greatest level of service to other students and assisting faculty in improving educational endeavors for Optometry students.

OPTOMETRIC LEADERSHIP EXPERIENCE

Director of Clinical Excellence, Tomoka Eye Assoc., 2013- present

President, Illinois College of Optometry Student Body, 2004-2005

Illinois College of Optometry Board of Trustees, Student Representative, 2004-2005

Curriculum Advisory Committee, Student Representative, 2002-2005

Student Representative/ Host, ICO Alumni weekend, 2002-2005

President-Elect, Illinois College of Optometry Student Body, 2003-2004

Officer, Gold Key National Leadership Fraternity, 2005-2006

Officer, Illinois College of Optometry Private Practice Club, 2002-2003

PROFESSIONAL MEMBERSHIPS

American Optometric Association

American Academy of Optometry

Florida Optometric Association

PUBLICATIONS

Available upon request.

PRESENTATIONS

Available upon request.

REFERENCES

Available upon request.



STATE OF FLORIDA

DEPARTMENT OF HEALTH



INVESTIGATIVE REPORT

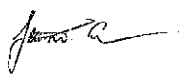
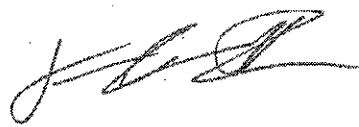
Office: Area VII - Orlando		Date of Complaint: 07/08/15	Case Number: 2015-12084
Subject: JACK J. MAZLIN, O.D. St. Cloud Optical 1338 East Vine Street Kissimmee, Florida 34744-3625 (407) 892-0063		Source: W.J. (Patient)	
Profession: Optometrist		License Number and Status: 1426/ Clear, Active	
Related Case(s): None		Period of Investigation and Type of Report: 07/28/15 to 10/23/15 - FINAL	
Alleged Violation: F.S. 456.072(1)(k)(dd), 463.016(1)(k)(m)(t) and F.A.C. 64B13-3.003(1), 64B13-3.007(1)(2), 64B13-3.010(7)(a)			
<p>Synopsis: This investigation is predicated upon a Case Summary and complaint form (Exhibit #1) from patient WJ (60 year old male) alleging on 03/06/15 he presented to JACK J. MAZLIN, O.D., for an eye exam to obtain a new eyeglass prescription. MAZLIN provided eyeglasses for WJ, however the glasses were "very poor." On 03/23/15, WJ returned to have the prescription corrected and MAZLIN performed a second exam and provided a new script. On 04/02/15, WJ returned to pick up the corrected glasses and was given the same pair of lenses in the glasses with no change in the prescription. The lenses had poor focus at any distance, and the normal fitting of the frames and adjustments of the lenses to the eye was not performed. MAZLIN allegedly overcharged WJ and would not provide a full reimbursement or a refund.</p>			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Responded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Patient Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Above referenced licensure checked in database/LEIDS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Board certified? Name of Board: Date: Specialty:			
Law Enforcement <input type="checkbox"/> Notified Date: <input type="checkbox"/> Involved Agency:			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Subject represented by an attorney? Address: Attorney information:			
Investigator/Date:  Jeannette Cassano, 10/23/15 Medical Quality Assurance Investigator, OI-100		Approved By/Date:  Jim Isajewicz, 10/23/15 Investigations Manager	
Distribution: HQ/ISU			Page 1

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* Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057(9)(a) Florida Statute.

INVESTIGATIVE DETAILS

INTERVIEWS

INTERVIEW OF WJ (Source)

On 09/04/15, WJ was contacted and interviewed by phone. On 03/06/15, WJ presented as a new patient to St. Cloud Optical and saw MAZLIN for an annual eye exam and eyeglass prescription. The exam by MAZLIN was a total of ten minutes and he assessed the strength of WJ's glasses. MAZLIN did not perform a glaucoma test or an "air puff" test and WJ is not sure if MAZLIN dilated his eyes. He informed MAZLIN his last eye exam was approximately two years ago in another state. WJ did not receive his eyeglass prescription nor was he offered the option to take the eyeglass script to another vendor. WJ agreed to have the glasses made at St. Cloud Optical.

WJ received his glasses, but the lenses were at an "odd angle" and anything he looked at was out of focus. He tried to adjust to the new lenses for a week and brought them back to St. Cloud Optical. He was told he could not return the glasses or get his money back. WJ left the glasses on the counter and walked out. He contacted his insurance carrier and they told WJ to give MAZLIN a second chance and return for a reexamination.

On 03/23/15, MAZLIN performed a second exam and the exam took 20 to 25 minutes. MAZLIN did not offer a prescription, but told WJ there was a lot of correction needed and the glasses would be remade and ready in ten days for pick up. On 04/02/15, WJ returned to pick up the corrected lenses and when he put them on the glasses were exactly the same with no change in the prescription lenses. WJ told the manager and MAZLIN refused to see him. He left the glasses again and eventually he received \$390 of the \$450 he paid. WJ has been trying to straighten out his refund and has not seen a subsequent doctor for eye care or new glasses.

INTERVIEW OF JACK J. MAZLIN, O.D., (Subject)

St. Cloud Optical
1338 East Vine Street
Kissimmee, Florida 34744-3625
(407) 892-0063

On 08/27/15, MAZLIN left a voice mail message and the call was returned on 08/27/15 and on 08/28/15. On 08/31/15, a phone message was left for MAZLIN and he returned the call the same day. MAZLIN said patient WJ was seen for an eye exam and was given two sets of eyeglasses. MAZLIN denied there was anything wrong with the exam or the eyeglasses provided.

Complaint Cost Summary

Complaint Number: 201512084

Subject's Name: MAZLIN, JACK J

	***** Cost to Date *****	
	Hours	Costs
Complaint:	2.20	\$120.26
Investigation:	5.20	\$341.16
Legal:	6.60	\$715.50
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	14.00	\$1,176.92
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$1,176.92

ELECTION OF RIGHTS

DOH v. Jack J. Mazlin, O.D.

Case No. 2015-12084

PLEASE SELECT ONLY 1 OF THE FOLLOWING 3 OPTIONS

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1. I do not dispute the allegations in the Administrative Complaint, but do wish to be accorded an "informal" hearing pursuant to section 120.57(2), Florida Statutes, at which time I will be permitted to submit to the Board oral and/or written evidence in mitigation of the complaint.

OPTION 2. X I do not dispute the allegations contained in the Administrative Complaint and waive my right to object or to be heard. I understand that the Board will enter a final order in this case pursuant to section 120.57(2), Florida Statutes.

OPTION 3. I do dispute one or more allegations of material fact in the Administrative Complaint and request a "formal" hearing on the disputed facts pursuant to sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint, as indicated by paragraph numbers listed below:

I understand that regardless of the option I have elected, I will be given notice of the time, date, and place when the Board will consider this case for Final Action. Mediation, per section 120.573, Florida Statutes, is not available in this matter.

Respondent's signature [Signature]
Current address: 1338 E VINE ST
KISSIMMEE PL 34744
Lic. No. OPC 1426
Phone No. 407 846 2600
Fax No. 407 846 7658

STATE OF FLORIDA
COUNTY OF Osceola

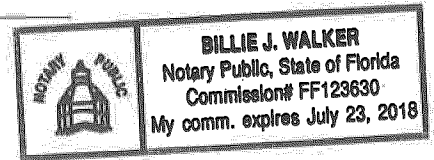
Before me, personally appeared Jack Mazlin whose identity is known to me by FL (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 19 day of May 2016.

[Signature]
Notary Public - State of Florida

July 23, 2018
My Commission Expires

Billie J Walker
Type or Print Name



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Cheryl D. Roberts, Assistant General Counsel, DOH, PSU, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4640, ext. 8186, FAX (850) 245-4684; TDD 1-800-955-8771. NOTE: THIS FORM MUST BE RECEIVED BY THE DEPARTMENT WITHIN TWENTY-ONE (21) DAYS OF THE DATE THE ADMINISTRATIVE COMPLAINT WAS SERVED OR YOUR RIGHT TO AN ADMINISTRATIVE HEARING IN THIS CASE MAY BE DEEMED WAIVED, PER RULE 28-106.111(4), FLORIDA ADMINISTRATIVE CODE.

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FLORIDA | Board of Optometry

DRAFT MINUTES

May 13, 2016

Teleconference

Department of Health

4042 Bald Cypress Way

Tallahassee, FL 32399-3257



Stuart Kaplan, O.D.
Chair

Tamara Maule, O.D.
Vice-Chair

Anthony Spivey, DBA
Executive Director

1 **General Board Business started: 9:01 a.m.**

2
3 I. The meeting was called to order by Dr. Kaplan, Chair. Those present for all or part of the meeting included the following:

4
5 **MEMBERS PRESENT:**

6 Stuart Kaplan, O.D., Chair
7 Tamara Maule, O.D., Vice Chair
8 Christopher King, O.D.
9 Stephen Kepley, O.D.
10 Carl Spear, O.D.
11 John Griffin, J.D.

5 **STAFF PRESENT:**

6 Anthony Spivey, DBA, Executive Director
7 Gail Curry, Program Operations Administrator
8 Savada Knight, Regulatory Supervisor/Consultant

12 **BOARD COUNSEL:**

13 Diane Guillemette, Assistant Attorney General
14 Office of Attorney General

15 **COURT REPORTER:**

16 For the Record
17 (850) 222-5491

18
19 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline.*
20 *AUDIO from this meeting can be found online: <http://floridasoptometry.gov/>*

21
22 **Section I concluded: 9:05 a.m.**

23 **Section II began: 9:05 a.m.**

24
25
26 **II. MINUTES:**

27
28 **a. February 26, 2016 – Orlando**

29
30 **CORRECTIONS:**

31 Dr. Maule - Page 2 Dr. Underhill should be changed to Dr. Kaplan
32 Page 3 line 52. **CK, SK ep** needs to be deleted.

33
34 **Action:** Motion to approve the minutes [with the noted corrections] was made by Dr. Spear.

35 Seconded by Dr. Kepley.

36 Vote: 6 in favor / 0 opposed; motion carried

37
38
39 **Section II concluded: 9:08 a.m.**

40 **Section III began: 9:08 a.m.**

41
42 **III. PETITIONS:**

43
44 **a. Variance/Waiver:**

45
46 **i. Akram Masood, O.D.**

47 Petitioner was not represented by counsel.

48
49 Dr. Masood submitted a Petition for Variance/Waiver from Rule 64B13-4.001(2), F.A.C., which was filed on April
50 1, 2016. The petition requested that the board allow Dr. Masood to apply without taking Part III of the NBEO exam.
51 The petition specifically notes that he has already fulfilled that requirement in the past.

52
53 **Discussion:** Dr. Masood has only taken Part III one time and didn't get the required 75%. He hasn't showed any
54 proof of hardship. Dr. Masood should take Part III of the exam. The petition should be denied.

55
56 **Action:** Motion to deny the Petition for Variance/Waiver was made by Dr. King.

57 Seconded by Dr. Maule.
58

1 Vote: 6 in favor / 0 opposed; motion carried

2
3 **ii. Austin Lifferth, O.D.**

4 Petitioner was not represented by counsel.

5
6 Dr. Lifferth submitted a Petition for Variance/Waiver from Rule 64B13-4.001, F.A.C., which was filed on July 23,
7 2015. Another one was filed on September 10, 2015. Both of these petitions were denied. Board office received an
8 email on April 12, 2016 requesting a waiver from the 7-year examination requirement. It has been more than 7 years
9 since Dr. Lifferth has taken and passed parts I-III of the NBEO examination. He cannot retake any parts of the
10 examination due to his “direct and current involvement” with NBEO examination preparation. In lieu of re-taking
11 parts I-III of the examination, Dr. Lifferth has taken and passed the Advance Competency in Medical Optometry
12 (ACMO) examination offered by NBEO. The passing score for the ACMO and previous passing scores for parts I-
13 III of the national examination were presented to the board for review.

14
15 **Discussion:**

16
17 **Action:** Motion to deny Waiver 7 year requirement of part I and III was made by Dr. King.
18 Seconded by John Griffin.

19 Vote: 6 in favor / 0 opposed; motion carried

20
21 **iii. Timothy B. Hamilton, O.D.**

22 Petitioner was not represented by counsel.

23
24 Dr. Hamilton is asking to have a waiver of rules 64B13-11.004 and 64B13-4.001 in order to have his license
25 reinstated. He did not understand the terminology of Delinquent status. He thought he had placed it on inactive
26 status. He didn't understand that after a license had been delinquent for 7 years the license then goes to null & void
27 status. He would like the examination requirements waived in order to receive his license back.

28
29 **Discussion:** Dr. Hamilton has not applied to the State of Florida at this time. Therefore, no decision can be made
30 until an application has been submitted. Once Dr. Hamilton has submitted an application and has been notified that
31 he is not eligible he can then file for a waiver. Mr. Griffin asked Dr. Hamilton if he would like to withdraw his
32 Petition application. He said “yes”.

33
34
35 **Action:** No action taken. Dr. Hamilton withdrew his Petition.

36
37
38 **Section III concluded: 10:19 a.m.**

39 **Section IV began: 10:19 a.m.**

40
41 **IV. APPLICATIONS**

42
43 **a. Continuing Education Courses**

- 44
45 **i. National Glaucoma Society: “My Favorite Cases”**
46 Course #20-519119

47
48 Janet Swartz is seeking approval of the above mentioned Continuing Education course. This is a webinar course.

49
50 **Discussion:** There was some concern over the validity of the attendee being who they say they are. Janet Swartz
51 made the point that even in a live seminar you have people that are not engaged but they get credit. She also stated
52 that there is a certain amount of trust involved. Ms. Swartz said they receive great feedback from their webinar. John
53 Griffin asked to do an addendum to adequately verify attendance.
54 All Webinar courses will need to go through the CE Chair for approval.

55
56 **Action:** Motion to approve course application was made by Dr. Maule.
57 Seconded by Dr. King.

58 Vote: 6 in favor / 0 opposed; motion carried

- 1
2 ii. Topical CE: “Florida Jurisprudence”
3 Course #20-521075q
4

5 **Action:** Motion to approve course application was made by Dr. Maule.
6 Seconded by Dr. King.
7 Vote: 6 in favor / 0 opposed; motion carried
8

9 **ROLL CALL**

10
11 **Section IV concluded: 10:48 p.m.**
12 **Section V began: 10:48 a.m.**
13

14
15 **V. RATIFICATION LIST:**

16
17 **a. Licensure: 0**

18
19 **i. Optometrist**

20
21 **Action:** Motion was made by Dr. Spear.
22 Seconded by Dr. King.
23 Vote: 6 in favor / 0 opposed; motion carried
24

25 **ii. Optometry Faculty Certificate**

26
27 **Action:** Motion was made by Dr. Spear.
28 Seconded by Dr. King.
29 Vote: 6 in favor / 0 opposed; motion carried
30

31 **b. Continuing Education: 0**

32
33 **i. CE Providers and Courses Approved by Committee**

34
35 **Action:** Motion to approve was made by Dr. Spear.
36 Seconded by Dr. King.
37 Vote: 6 in favor / 0 opposed; motion carried
38

39 **ii. CE Providers and Courses Approved by Board Staff**

40
41 **Action:** Motion to approve CE Providers and Courses Approved by Board Staff was made by Dr. Maule.
42 Seconded by Dr. Kepley.
43 Vote: 6 in favor / 0 opposed; motion carried
44

45 **Section V concluded: 10:51 a.m.**
46 **Section VI began: 10:52 a.m.**
47

48 **VI. PROSECUTION REPORT: No report**

49
50 **Section VI concluded: 10:52 a.m.**
51 **Section VII began: 10:52 a.m.**
52

53 **VII. CHAIR/VICE CHAIR REPORT: No report**

54
55 **a. Future Agenda Items**

56
57 **Section VI concluded: 10:52 a.m.**
58 **Section VII began: 10:52 a.m.**

1
2 **VIII. EXECUTIVE DIRECTOR'S REPORT:**
3

4 **a. iViewer**

5 Dr. Spivey talked about automating the agendas. IViewer will be the system being used for this process. He gave a brief
6 description of the program. He will get the roll out schedule sent to the Board.
7

8 **Section VIII concluded: 10:52 a.m.**

9 **Section IX began: 10:53 a.m.**
10

11 **IX. BOARD COUNSEL REPORT: Diane Gillemette**

12 **a. Rules Status Report –**

13 HB491 has been signed by the Governor. Effective July 1, 2016.
14 456.0635 and 893, certain types of convictions will disqualify you from licensure for 5, 10 or 15 years. There is an
15 Exception that allows you be licensed if you started education prior to 2009. This exception has been removed.
16

17 **b. Review of Application**

18 Page 1-Disciplinary and Criminal History section was added but not noted.
19 Page 3- leave in the Foreign Education.
20 Page 7-Question number 5 was added but not noted.
21 Page 9-Combine questions 11 with question 18.
22

23 **Action:** Motion to approve Application changes and delete HB491 was made by Dr. King.
24 Seconded by Dr. Maule.
25 Vote: 6 in favor / 0 opposed; motion carried
26

27 **c. Rule 64B13-4.004(3)**

28 Rule should be amended to delete Medical Error requirements. HB491
29

30 **Action:** Motion to approve Application changes and delete HB491 was made by Dr. Kepley.
31 Seconded by Dr. King.
32 Vote: 6 in favor / 0 opposed; motion carried
33

34 **SERC Question**

35 Will the proposed Rule amendment have an adverse impact on the small business or will the proposed amendment be
36 likely to directly or indirectly increase regulatory cost to any intraday including Government in excess of \$200,000 in the
37 argent In Florida within 1 year of after the implementation of the rule.
38

39 **Action:** Motion to say no was made by Dr. King
40 Seconded by Dr.Kaplan .
41 Vote: 6 in favor / 0 opposed; motion carried
42
43
44

45 **Section IX concluded: 10:53 a.m.**

46 **Section X began: 11:25 a.m.**
47

48 **X. COMMITTEE REPORTS:**

49 **a. Budget –** : No report

50 **b. Continuing Education – Dr. Maule:** Already addressed

51 **c. Complaints, Investigations, and Enforcement – Dr. Kaplan:** No report

52 **d. Disciplinary Compliance:** No report

53 **e. Examination – Dr. King:** Pass rate was at 85% for 1 attempt. 92% from multiple attempts.
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- f. **FOA – Dr. Kaplan:** Dr. Spear will be at FOA and make the presentation.
 - g. **Healthiest Weight – Dr. King:** Meeting in September
 - h. **Legislative – Dr. Kepley:** No report
 - i. **Probable Cause – Dr. Spear**
Stats: had 17 cases, 7 dismissed, 10 moving forward.
 - j. **Rules – Dr. Kaplan:** Rule reduction by 15 %. Working on this.
 - k. **Unlicensed Activity – Dr. Kaplan:** No report

16 **Section X concluded: 11:25 a.m.**

17 **Section XI began: 11:25 a.m.**

18
19 **XI. OLD BUSINESS:** None

20
21 **Section XI concluded: 11:41 a.m.**

22 **Section XII began: 11:41 a.m.**

23
24 **XII. NEW BUSINESS:** None

25
26 **Section XII concluded: 11:41 a.m.**

27 **Section XIII began: 11:42.m.**

28
29
30 **XIII. NEXT MEETING DATE**

- 31
32 a. **August 19, 2016 at 9:00**

33
34 **Section XIII concluded: 11:43 a.m.**

35 **Section XV began: 11:43 a.m.**

36
37 **XIV. ADJOURNMENT**

38 **Action:** Motion to adjourn was made by Dr. King.

39 Seconded by Dr. Kepley.

40 Vote: 6 in favor / 0 opposed; motion carried

41
42
43
44 **The meeting was adjourned at 11:44 p.m.**

MEMORANDUM

To: Optometry Board

From: Board Counsel
Diane L. Guillemette

Re: Petition for Variance and Waiver
Cassandra Ruth Young

Date: July 27, 2016

Attached is a Petition for waiver or variance of rule 64B13-4.001 F.A.C. filed by Cassandra Young on July 22, 2016.

The Petition was noticed in the Florida Law Register.

I have attached the Statute and Rule which state the requirements for a Petition for waiver

A petition is deemed approved if it is not denied within 90 days of the receipt of the original or completed petition. *See Section 120.542(8), Florida Statutes.*

- Action requested:

Consider whether the request fulfills the requirements of a Petition for variance or waiver.

Consider the merits of the Petition, if appropriate.

C1801
F5402

Department of Health
Board of Optometry
4052 Bald Cypress Way Bin C-07
Tallahassee, FL 32399-3257

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK:

DATE

Jinda Beppard
July 22, 2016

Dear Board Members,

I am in the process of applying for Florida licensure and am petitioning for a Variance/Waiver in regards to Rule 64B13-4.001(1), the requirement of a 75% or greater on the Dilated Biomicroscopy/Non-Contact Fundus Lens Evaluation section of Part III of the National Board Examination.

I took the examination in 2011 during the first few weeks it was offered at the central testing location in North Carolina in order to ensure that if I did not pass, I would have ample time during my 4th year of optometry school to practice and re-take the exam. I received an overall passing score with 74.19% on the Dilated Biomicroscopy/Non-Contact Fundus Lens Evaluation section. I received a 100% on Biomicroscopy and a 96.15% on Binocular Indirect Ophthalmoscopy (the other two sections that Florida requires a 75% or higher).

The Florida requirement of a 75% or higher on the three above mentioned sections of Part III did not come into effect until 2012. If it had been enacted earlier, I would have re-taken my boards or been able to ask for a re-score at some point during the remainder of my 4th year of Optometry school. Now that I am working full time and have a family, re-taking the exam will be much more of a financial burden.

I resided in Florida most of my life but knew that I would not be returning to Florida until 2018 due to my husband's job commitments in New York and Connecticut. For this reason, I did not apply for my Florida license directly following my graduation.

After graduating in May of 2012, I completed additional training as a resident in Primary Care/Vision Therapy and Low Vision Rehabilitation at Northport Veterans Affairs Medical Center in Northport, NY. I have also practiced optometry in good standing for the past three years in Connecticut.

I fail to meet the Florida requirements by a fraction of a percent on one section. I hope that you will agree that my professional record following graduation makes up for this deficiency.

Thank you so much for your time and consideration.

Sincerely,

Cassandra Ruth Young, OD

**CHAPTER 28-104
VARIANCE OR WAIVER**

28-104.001	Purpose; Construction
28-104.002	Petition for Variance or Waiver
28-104.003	Comments on Petition
28-104.004	Petition for Emergency Variance or Waiver
28-104.005	Time for Consideration of Emergency Petition
28-104.0051	Revocation of Emergency or Temporary Variance or Waiver
28-104.006	Request for Information

28-104.001 Purpose; Construction.

This chapter implements Section 120.542, F.S., by establishing the procedures for granting or denying petitions for variances and waivers of agency rules, and, should be read in conjunction with the provisions of Sections 120.52(18), 120.52(19) and 120.542, F.S.

Rulemaking Authority 14.202, 120.542 FS. Law Implemented 120.542(5)(b)8. FS. History—New 4-1-97, Amended 1-15-07.

28-104.002 Petition for Variance or Waiver.

(1) A petition for a variance from or waiver of an agency rule shall be filed with the clerk of the agency that adopted the rule, with a copy to the Joint Administrative Procedures Committee, Room 680, Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400.

(2) The petition must include the following information:

(a) The caption shall read:

Petition for (Variance from) or (Waiver of) Rule (Citation)

(b) The name, address, any e-mail address, telephone number, and any facsimile number of the petitioner, if the party is not represented by an attorney or a qualified representative;

(c) The name, address, e-mail address, telephone number, and any facsimile number of the attorney or qualified representative of the petitioner, if any;

(d) The applicable rule or portion of the rule;

(e) The citation to the statute the rule is implementing;

(f) The type of action requested;

(g) The specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) The reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) A statement whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

(3) The petition for a variance or waiver may be withdrawn by the applicant at any time before final agency action.

(4) Upon receipt of a petition for variance or waiver, the agency shall furnish a copy of the petition to any other agency responsible for implementing the rule.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5)(b)8. FS. History—New 4-1-97, Amended 3-18-98, 2-5-13.

28-104.003 Comments on Petition.

(1) Any interested person or other agency may submit written comments on the petition for a variance or waiver within 14 days after the notice required by Section 120.542(6), F.S. The agency shall state in any order disposing of the petition whether comments were received by the agency.

(2) The agency shall maintain the comments as part of the record.

(3) The right to comment pursuant to this section does not alone confer party status in any proceeding arising from a petition for variance or waiver.

Rulemaking Authority 14.202, 120.54(5)(b)8. FS. Law Implemented 120.54(5)(b)8. FS. History—New 4-1-97, Amended 2-5-13.

➔120.542. Variances and waivers

(1) Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation. A public employee is not a person subject to regulation under this section for the purpose of petitioning for a variance or waiver to a rule that affects that public employee in his or her capacity as a public employee. Agencies are authorized to grant variances and waivers to requirements of their rules consistent with this section and with rules adopted under the authority of this section. An agency may limit the duration of any grant of a variance or waiver or otherwise impose conditions on the grant only to the extent necessary for the purpose of the underlying statute to be achieved. This section does not authorize agencies to grant variances or waivers to statutes or to rules required by the Federal Government for the agency's implementation or retention of any federally approved or delegated program, except as allowed by the program or when the variance or waiver is also approved by the appropriate agency of the Federal Government. This section is supplemental to, and does not abrogate, the variance and waiver provisions in any other statute.

(2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(3) The Governor and Cabinet, sitting as the Administration Commission, shall adopt uniform rules of procedure pursuant to the requirements of s. 120.54(5) establishing procedures for granting or denying petitions for variances and waivers. The uniform rules shall include procedures for the granting, denying, or revoking of emergency and temporary variances and waivers. Such provisions may provide for expedited timeframes, waiver of or limited public notice, and limitations on comments on the petition in the case of such temporary or emergency variances and waivers.

(4) Agencies shall advise persons of the remedies available through this section and shall provide copies of this section, the uniform rules on variances and waivers, and, if requested, the underlying statute, to persons who inquire about the possibility of relief from rule requirements.

(5) A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency's rule. In addition to any requirements mandated by the uniform rules, each petition shall specify:

(a) The rule from which a variance or waiver is requested.

(b) The type of action requested.

(c) The specific facts that would justify a waiver or variance for the petitioner.

(d) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(6) Within 15 days after receipt of a petition for variance or waiver, an agency shall provide notice of the petition to the Department of State, which shall publish notice of the petition in the first available issue of the Florida Administrative Register. The notice shall contain the name of

the petitioner, the date the petition was filed, the rule number and nature of the rule from which variance or waiver is sought, and an explanation of how a copy of the petition can be obtained. The uniform rules shall provide a means for interested persons to provide comments on the petition.

(7) Except for requests for emergency variances or waivers, within 30 days after receipt of a petition for a variance or waiver, an agency shall review the petition and request submittal of all additional information that the agency is permitted by this section to require. Within 30 days after receipt of such additional information, the agency shall review it and may request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. If the petitioner asserts that any request for additional information is not authorized by law or by rule of the affected agency, the agency shall proceed, at the petitioner's written request, to process the petition.

(8) An agency shall grant or deny a petition for variance or waiver within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. A petition not granted or denied within 90 days after receipt of a completed petition is deemed approved. A copy of the order granting or denying the petition shall be filed with the committee and shall contain a statement of the relevant facts and reasons supporting the agency's action. The agency shall provide notice of the disposition of the petition to the Department of State, which shall publish the notice in the next available issue of the Florida Administrative Register. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the rule from which the waiver or variance is sought, a reference to the place and date of publication of the notice of the petition, the date of the order denying or approving the variance or waiver, the general basis for the agency decision, and an explanation of how a copy of the order can be obtained. The agency's decision to grant or deny the petition shall be supported by competent substantial evidence and is subject to ss. 120.569 and 120.57. Any proceeding pursuant to ss. 120.569 and 120.57 in regard to a variance or waiver shall be limited to the agency action on the request for the variance or waiver, except that a proceeding in regard to a variance or waiver may be consolidated with any other proceeding authorized by this chapter.

(9) Each agency shall maintain a record of the type and disposition of each petition, including temporary or emergency variances and waivers, filed pursuant to this section.

CREDIT(S)

Added by Laws 1996, c. 96-159, § 12, eff. Oct. 1, 1996. Amended by Laws 1997, c. 97-176, § 5, eff. May 30, 1997; Laws 2010, c. 2010-102, § 37, eff. May 26, 2010; Laws 2013, c. 2013-14, § 5, eff. July 2, 2013.

Rogers, Edith

From: Diane Guillemette <Diane.Guillemette@myfloridalegal.com>
Sent: Friday, May 27, 2016 2:11 PM
To: Rogers, Edith
Subject: Re: FW: Appeal

This will need to go back before the board on timeliness issue in August. I will do a memo. But thank you because I had to call Dr. Wittman and this reminded me. I will eventually get to a memo.

Diane L. Guillemette
Assistant Attorney General
Administrative Law Bureau
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
Tel: (850) 414-3604
Fax: (850) 922-6425
Diane.Guillemette@myfloridalegal.com

"Rogers, Edith" --05/27/2016 01:59:24 PM--Hey Diane, Do we know what the status is on this? Just need to know if it has to be filed. Thanks!

From: "Rogers, Edith" <Edith.Rogers@flhealth.gov>
To: Diane Guillemette <Diane.Guillemette@myfloridalegal.com>
Cc: "Spivey, Anthony B" <Anthony.Spivey@flhealth.gov>, "Curry, Gail" <Gail.Curry@flhealth.gov>
Date: 05/27/2016 01:59 PM
Subject: FW: Appeal

Hey Diane,

Do we know what the status is on this? Just need to know if it has to be filed. Thanks!

Sincerely,

Edith Rogers

Edith Rogers, Administrative Assistant II
Department of Health - Division of Medical Quality Assurance
Bureau of Health Care Practitioner Regulation

Florida Boards of Chiropractic Medicine, Clinical Laboratory Personnel, Nursing Home Administrators,
Optometry, Orthotists and Prosthetists, Podiatry, and the Advisory Council of Medical Physicists
4052 Bald Cypress Way, BIN C-07
Tallahassee, Florida 32399
Telephone: (850) 245-4355, ext 3617 Fax: (850) 922-8876

How am I communicating? Please contact my supervisor



Mission: To protect, promote and improve the health of all people in Florida through integrated state, county and community efforts.

NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your email communication may therefore be subject to public disclosure.

From: Rogers, Edith
Sent: Monday, May 16, 2016 3:06 PM
To: Spivey, Anthony B <Anthony.Spivey@flhealth.gov>; 'Diane Guillemette' <Diane.Guillemette@myfloridalegal.com>
Subject: RE: Appeal

Docs from Dr. Tammy Wittmann Johnson OD

Sincerely,

Edith Rogers

Edith Rogers, Administrative Assistant II
Florida Boards of Chiropractic Medicine, Clinical Laboratory Personnel, Nursing Home Administrators, Optometry, Orthotists and Prosthetists, Podiatry, and the Advisory Council of Medical Physicists

How am I communicating? Please contact my supervisor
Please take our survey Customer Satisfaction Survey

There have been changes to the license renewal process. Please visit www.CEAtRenewal.com to learn more.

Florida Department of Health
4052 Bald Cypress Way, BIN C-07
Tallahassee, Florida 32399
Telephone: (850) 245-4355, ext 3617 Fax: (850) 922-8876



Mission: To protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.
Vision: **Healthiest State** in the Nation

Values (ICARE):

- I nnovation: We search for creative solutions and manage resources wisely.
- C ollaboration: We use teamwork to achieve common goals & solve problems.
- A ccountability: We perform with integrity & respect.
- R esponsiveness: We achieve our mission by serving our customers & engaging our partners.
- E xcellence: We promote quality outcomes through learning & continuous performance improvement.

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

Please consider the environment before printing this email

From: Spivey, Anthony B
Sent: Monday, May 16, 2016 2:52 PM
To: 'Diane Guillemette' <Diane.Guillemette@myfloridalegal.com>
Cc: Rogers, Edith <Edith.Rogers@flhealth.gov>
Subject: RE: Appeal

Ok. My staff handed it to me today; I will have Edie send everything over to you.

Thank you

From: Diane Guillemette [<mailto:Diane.Guillemette@myfloridalegal.com>]
Sent: Monday, May 16, 2016 10:02 AM
To: Spivey, Anthony B <Anthony.Spivey@flhealth.gov>
Subject: Fw: Appeal

Tony, would you send me everything she sent to you.

Diane L. Guillemette
Assistant Attorney General
Administrative Law Bureau
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
Tel: (850) 414-3604
Fax: (850) 922-6425
Diane.Guillemette@myfloridalegal.com

— Forwarded by Diane Guillemette/OAG on 05/16/2016 10:01 AM —

From: "Tammy Wittmann, OD" <twittmann@wittmann2020.com>
To: Diane.Guillemette@myfloridalegal.com
Date: 05/11/2016 09:00 PM
Subject: Appeal

Hi Diane:

Here is the letter I mailed Dr. Spivey today. Just keeping you in the loop. I also sent a copy of my denial letter, my 2015 and my 2016 petitions and the proof of my fax to DOAH.

Thank you for your help,
Dr. Wittmann Johnson

www.wittmann2020.com
Wittmann 20/20 Family Eye Center
317.843.2020

Friend us on Facebook

CONFIDENTIALITY NOTICE: This e-mail message including all attachments may contain information that is confidential, proprietary, privileged or otherwise protected by law. It is to be viewed only by the intended recipient(s). If you are not the intended recipient(s), please notify the sender of this information and delete your copy at once. Your cooperation is appreciated. *(See attached file: Florida appeal to exec dir spivey 052016.docx)[attachment "Dr. Tammy Wittmann Johnson OD.pdf" deleted by Diane Guillemette/OAG]*

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MAY 16 2016

May 11, 2016

Dr. Anthony B. Spivey, D.B.A.
Executive Director
Florida Board of Optometry
Department of Health
4052 Bald Cypress Way Bin C-07
Tallahassee, FL 32399-3257

Dear Dr. Spivey:

Last week I spoke with Diane Guillemette because I was inquiring about my petition for appeal to DOAH. I mistakenly understood that my petition for appeal needed to be addressed to DOAH and not you, the executive director. I had emailed Diane immediately after my petition for variance and waiver was denied in January to ask how to appeal, stating that I had been before the same board twice and had no desire to waste any more time or money going before that same board again for an appeal. I believe you were present at my last hearing as well. You are aware of the expressed nine recommendations by Ms. Guillemette urging the board to grant my petition and yet they still denied it, going against the advice of their own attorney. It is because of this that I do not want to go before them yet again. Her explanation to me was clear in retrospect, however I was still confused and under the impression that I was to appeal directly to DOAH.

Consequently I faxed everything in to DOAH by the due date of 4/7/2016. Having not heard anything, I called DOAH last week and was referred back to the board. I then phoned Diane and she redirected me to send you my petition for appeal along with the documents proving that I filed by the due date. I am attaching the original appeal letter along with the fax confirmation to DOAH dated 04/07/2016.

I am writing to ask that you consider my appeal. I have since moved to Florida because my father has to undergo major abdominal surgery when his heart doctor approves it.

My new contact info is:

Tammy Wittmann Johnson
1766 Cape Coral Pkwy. E. #301
Cape Coral, FL 33904
317-431-9033
twittmann@wittmann2020.com



TRANSMISSION VERIFICATION REPORT

TIME : 04/07/2016 14:41
NAME :
FAX :
TEL :
SER. # : U63274M3J560506

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

04/07 14:40
18509216847
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STANDARD
ECM

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MAY 16 2016



FAX

To Appeals Division From Tammy Wittmann
Company DOAH Phone number 317-431-9033
Fax number 850-921-6847 Fax number NONE
Date 4/7/16 Total pages ~~16~~ 17
Job number _____ including Cover sheet

Documents for appeal

- Cover letter
- Waiver Request 2016
- Denial 2016
- Waiver Request 2015

April 7, 2016

State of Florida Division of Administrative Hearings (DOAH)
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-9675

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To whom it may concern:

I am writing today to ask the Department to consider hearing my appeal. I went before the Florida Optometry Board on February 27, 2015 (via teleconference) as well as February 26, 2016 (via live hearing). I was requesting a waiver for Florida Rule 64B13-4.002, F.A.C. I was denied this request both times. I was mailed my most recent denial, and received it on March 18, 2016 (see enclosed).

As the petitioner I am disputing the allegations of fact contained in the final order and file this Petition for a Formal Administrative Hearing involving Material Disputed Facts. In short, the Board stated that the Petitioner failed to demonstrate a substantial hardship caused by the 7 year requirements imposed by Rule 64B13-4.002, F.A.C. Petitioner denies all such allegations. Petitioner asserts that she clearly demonstrated a substantial hardship as stated in the attached Petition for Waiver, 2016 and 2015. Other than making conclusory statements, the Board made no adequate findings on the record, disregarded the facts presented and was in error in denying the petition for variance. In fact, the Board disregarded the advice of their own attorney, Ms. Diane Guillemette, Florida Asst. AG, who suggested 9 different times that they GRANT said petition. She also advised them of the potential anti-trust implications of this Rule as well.

Petitioner asserts that she has clearly demonstrated that there are disputed issues of material fact and requests a hearing before the Florida Division of Administrative Hearings to determine whether the Board properly denied her Petition for Variance. More specifically, Petitioner disputes the following issues of fact:

- a) that the subject rule does not impose a substantial hardship upon her;
- b) that the Petitioner failed to provide evidence of the substantial hardship imposed by the subject rule;
- c) that the Board had the authority to impose the 7-year requirement;
- d) that the Board could even consider the 7-year requirement imposed by the subject rule in denying her application.

The relief sought by the Petitioner is:

- a) The Petition be referred to the Division of Administrative Hearings for the assignment of an Administrative Law Judge to conduct formal proceedings herein;
- b) A Recommended and Final Order be entered recommending that the Board acted improperly in denying her petition;
- c) An Order be entered determining that Petitioner is the prevailing business party here and setting the amount of reasonable attorney fees and costs to be awarded to her for the services of her attorneys; and
- d) Such other relief be granted Petitioner as may be appropriate in the circumstances.

Thank you for your consideration. If you need anything further in order to expedite this process, please let me know.

Very truly yours,



Dr. Tammy Wittmann

C 1801
F N/A

Received 3/17/16

STATE OF FLORIDA
BOARD OF OPTOMETRY

FILED
Department Of Health
Deputy Clerk
Clerk *Angela Sanders*
DATE **MAR 14 2016**

MAY 16 2016

IN RE: Petition for Variance or Waiver of:

DR. TAMMY WITTMANN

NOTICE ON PETITION FOR WAIVER AND VARIANCE

This matter came before the Board of Optometry ("Board") at a duly-noticed public meeting on February 26, 2016 in Orlando, Florida. Petitioner was present at the meeting. The Petition was noticed in the Florida Administrative Register on January 26, 2016. No comments were received on the Petition. The petition is incorporated by reference herein.

Upon consideration of the information provided and being otherwise advised in the premises, the Board determined the following:

FINDINGS OF FACT

Petitioner requested a waiver or variance from Rule 64B13-4.001(2), Florida Administrative Code, which requires that an applicant achieve a passing score on Part I, Part II, Part III, and Part IV of the examination within the seven year period immediately preceding licensure application.

FINDINGS OF LAW

Petitioner failed to show that purpose of the underlying statute will be achieved by other means and or that application of the above rule would cause a substantial hardship or violate the principles of fairness.

THEREFORE, the Petition is DENIED.

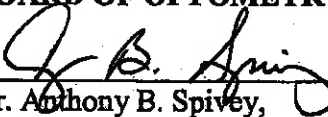
This Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 11th day of March, 2016.

HMQACB

MAY 16 2016

BOARD OF OPTOMETRY



Dr. Anthony B. Spivey,
Executive Director for
Dr. Stuart Kaplan, O.D., Chair

NOTICE OF RIGHT TO HEARING

This notice constitutes final agency action if no request for a hearing is received by the Board on or before the twenty-first day after the applicant's receipt of the notice. The applicant may request a hearing by filing an appropriate petition with the Executive Director of the Board at 4052 Bald Cypress Way, Bin # C-07, Tallahassee, Florida 32399-3257. The applicant may petition for a hearing involving disputed issues of material fact before an administrative law judge pursuant to Section 120.57(1), Florida Statutes, or for a hearing not involving disputed issues of material fact pursuant to Section 120.57(2), Florida Statutes.

A petition for a hearing involving disputed issues of material fact must contain information required by Rule 28-106.201, Florida Administrative Code, including a statement of all disputed issues of material fact. The Board may refer a petition to the Division of Administrative Hearings for assignment of an administrative law judge only if the petition is in substantial compliance with the rule requirements. A petition for a proceeding not involving disputed issues of material fact must contain information required by Rule 28.106.301, Florida Administrative Code, including a concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle petitioner to relief.

In accordance with Section 120.573, Florida Statutes, mediation is not available

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Certified mail to: Tammy Wittman, Wittmann 20/20 Family Eye Center, 2792 E 146th St., Carmel, Indiana 46033; and to Diane L. Guillemette, Assistant Attorney General, at Diane.guillemette@myfloridalegal.com, this 14th day of March, 2016.

Brygel Sanders

Deputy Agency Clerk

7014 2120 0003 8707 7762

HMQACB
MAY 16 2016

January 2, 2016

Department of Health
Board of Optometry
4052 Bald Cypress Way, Bin C-07
Tallahassee, FL 32399-3257

Dear Florida Optometry Board Members:

Please consider this letter a Petition for Variance/Waiver of Florida Administrative Code Rule 64B13-4.001(2), which requires that I retake the NBEO exam in order to obtain my Florida Optometry License, and move my license from Indiana to Florida. I originally requested this waiver in February 2015 and it was denied. But my situation and that of my parents has changed.

It is my desire to relocate from Indiana, become licensed in Florida and to begin practicing in South Florida as soon as possible so that I can care for my aging and infirm parents.

Since my original petition February 2015, (please see attached), my parents' health has further declined. As you see in my original petition, my dad has had multiple strokes as well as multiple joint replacement surgeries. My mother has also had multiple joint replacement surgeries. However, in April of 2015 my father was diagnosed with a heart problem. My mother was diagnosed with an aortic aneurysm during the summer as well. My father subsequently underwent heart surgery in August 2015. On the day of my father's heart surgery, my mother, while at the hospital for his surgery, fell at the hospital, not once but twice. The second time she broke her nose and injured her knees, hands and chest. The ER doctor called me and told me her knee was the size of a volleyball and the extent of her other injuries. I then had to make emergency flight arrangements to fly down to Cape Coral last minute to help them both. I was only able to stay a couple of days because of my heavy, back-to-school patient load and being a solo practitioner. My parents were left to try to help themselves with no transportation. They were fortunate enough to have a friend who could help with doctor follow-up visits and so forth but that was only able to be sustained for a short while. Dr. Kaplan is aware that my mother had some mild retinal hemorrhaging from her facial impact because he is her local optometrist.

When I arrived at the hospital the next day, my father was in Coronary ICU and my mother was not in good shape. Her open wounds had not been attended to and she had been given an IV with another patient's name on it. There were many things that went wrong in her situation which I feel could've been prevented had I been there to oversee them. In fact, she ended up having to see a wound specialist and undergo subsequent surgeries to help her knee heal. It was her wound specialist who suggested she file suit against the hospital, not for the falls, but for the gross incompetent care she received while there. That lawsuit is now pending.

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While at rehab two days before Christmas, my dad's heart went into v-tac and he was rushed to the ER. They admitted him right then. The doctor told my mother this could be fatal and they were going to be keeping a close eye on him. Since we had not planned on traveling to Florida for Christmas because of financial constraints, we then had to book emergency, Christmas Eve flights to travel to Florida to help my parents again and to be there in case of the worst. Thankfully my father was released on Christmas day but he has to wear a life vest which monitors his heart and has a pack with it so he can shock himself if the alarm goes off. My father is on amiodarone which you know is a high risk medication for the eyes. Dr. Kaplan is also aware of his health situation because he is my father's local optometrist as well.

I have pursued and applied for multiple optometry-related positions in Florida not requiring a Florida optometry license to no avail. These positions are coveted and in high demand because of the 7 year rule.

I have been following the board meetings over the last year. I have listened closely to the objections and explanations the board members have given to other non-OD members, petitioners and attendees. I would like to address a few of those here. Please refer to the enclosed, certified copy of the transcript I had ordered from the July 2015 meeting.

There have been many concerns mentioned by the board members in reference to the reasoning behind the 7 year rule. The first I would like to address is the quality of the CE that Florida requires as compared to what I have completed for Indiana's requirements.

- Florida requires 26 general courses, 6 of which need to be TQ; 2 medical errors and 2 laws and rules every biennium. (30 total hours.) All need to be live courses.
- Indiana requires 20 general courses, 2 of which must be in any of the following: medical charting, billing and coding, healthcare compliance, or compliance with federal or Indiana state laws or regulations; an additional 20 hours of pharmaceutical courses; a maximum of 8 may be taken online per biennium. (40 total hours.) Therefore, 32 must be live. Two more than Florida requires.

On page 79 line 11 and again on line 20, both Dr. Presnell and Dr. Maule asked if Dr. Martin had taken any TQ credits or any Florida CE. She stated had not. I have taken the Florida Rules and Laws course as well as the 2 hours of medical errors required by Florida. I would also like to submit that I have also taken not only the 6 required, but 12 TQ credits from Florida. I also have taken a total of 24 Florida CE credits.

Please refer to page 40 where Dr. Maule is concerned about the quality of the CE in Florida compared to that in "tim-buck-two". She is concerned about the online CE allowed in other states. First, I have not taken online courses for my CE requirements this biennium. But when I have taken online CE, ALL have required a test in order to receive credit. In Indiana, we are limited to the amount of online CE we are allowed to receive. Florida is not the only state that is proactive in making sure their education is "up to date" as she says.

All of the CE I have taken is COPE approved. For non-OD board members, COPE is the Council on Optometric Practitioner Education which was created by the Association of Regulatory Boards of Optometry (ARBO). According to its website, it "is the primary method used by optometric regulatory boards to promote the continuing competence of licensed optometrists. The Council on Optometric Practitioner Education (COPE) was created by ARBO to accredit continuing education on behalf of optometric licensing boards. Fifty two licensing boards accept COPE accredited courses toward maintenance of licensure. COPE utilizes a standardized course submission, together with a standardized administrator qualification process to fulfill its mission." Florida is listed on its website as a member of ARBO.

I would next like to address Dr. Underhill's comments on page 41 regarding the TQ credits. Dr. Underhill mentioned the potential of abuse on lines 8-13. Whereas someone could have anyone take their TQ if it were a computer based test. I submit to you that the Florida TQ exams were mailed to us at a later date. There was no supervision for the test itself. We were to complete them in our own time, using our notes to complete the exam and mail the answers sheets to NOVA for grading. There was no one there to know who actually took the test or how we got the answers.

Mr. Griffin, on page 41 beginning on line 14, mentioned the wide variances of practice in the different states regarding optometry. While there are certainly variances of what legislatures allow optometrists to do in other states, in MY case, I currently practice in a state where I have greater practicing authority than optometrists in Florida. I more than meet the minimum competency that is required in Florida. Florida just recently acquired oral prescription authority. I have been prescribing oral medications for the entirety of my career. I also have injection authority in Indiana which Florida does not. I have authority to diagnose and treat all eye disease and have practiced that authority to the extent of the law for the entirety of my career.

In fact, there is no longer a wide variance in the area of practice of optometry between my current state of Indiana and Florida, but even that small variance is in my favor due to my wider scope of practice. I have not had any disciplinary action launched against me in my 18 years of practice. In this biennium, my CE has been live CE and I have completed 12 Florida TQ hours, 2 medical errors and 2 Florida laws and rules hours required by Florida. I feel I meet the intent of the rule to protect the citizens of Florida because of my experience and background.

My last petition was not denied based on competency as was stated at my last hearing. (Refer to the AUDIO from February 2015 board meeting.) It was denied based on not demonstrating substantial hardship to violate the rules of the principles of fairness. My hardships are as follows:

- My husband lost his job the beginning of November. His company Serta was acquired by Simmons and they let about 80% of the entire sales staff from the Serta side go. As of this time he has not found employment. However, due to his professional career

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mainly being in Florida, he has more relationships there and greater possibility of employment in Florida.

- I am the sole owner and practitioner of a private practice. This takes up much of my “spare” time with tasks regarding the running of the practice.
- I was forced to deplete my savings account a few years ago after my divorce in order to keep my practice afloat. (I opened cold 5 years ago.)
- I have spent thousands of dollars traveling back and forth to Cape Coral to care for and help my parents.
- I need to be in Florida yesterday. My parents’ health is in rapid decline. I mentioned in my original petition last February my fears about my parents’ health and both of them have declined since that original petition.
- It took two full years of optometry school and months of studying to pass Part 1 of NBEO the first time. I don’t have that kind of time in regards to my parents’ health and my work schedule.
- It took 3 ½ years of optometry school as well as months of studying to pass Part 2 of the NBEO the first time. I don’t have that kind of time in regards to my parents’ health and my work schedule.

Lastly, I was asked why I never got a Florida license sooner. I started optometry school at the age of 29. I was a married student and completely dependent on my now ex-husband for support. He and his family are from New York and he made it clear we would not live in Florida. So upon graduation, we moved to Michigan for his job. He was not willing to spend the money for me to take the Florida test and he certainly wasn’t willing to spend the money to keep up the license for a state where he refused to live. I had to pick my battles and that was one I couldn’t win. We divorced years later, 2 years after opening my practice cold.

I am asking you to waive the 7 year rule because I have already taken and passed, with scores exceeding your standards on all parts. I have maintained my license in a state which exceeds the scope of Florida. I have not had any disciplinary action taken against me, ever. Dr. Maule, on page 68, line 13 of the July transcript, stated that (in referencing the previous statement regarding Part 1 of the NBEO), “that stuff probably doesn’t change that dramatically”. I agree with Dr. Maule on this because if you look at the topics in Part 1 there is not anything there that could have possibly changed. Ocular anatomy is still ocular anatomy. Biochemistry is still biochemistry. Geometric optics is still geometric optics. And so forth. None of that has changed over time. I have been in continuous practice for 18 years. I have not taken any time off during my career for any reason. Also, my prescriptions from Indiana are all valid in Florida. Having many patients who winter in Florida, I have had my written glasses, contacts, glaucoma, and many other prescriptions filled in Florida. In essence, is not my optometry license already being honored by Florida? Additionally, I am under a time crunch. My parents’ health has declined drastically over the last several months.

Because the role of the board is to ensure the competency of OD’s applying for licensure in Florida, the fact that the board has already decided that my competency was not in question in February 2015, as well as the board has also decided in a case in July 2015 that competency can

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be proven in other ways when approved by the board, as well as all of the reasons listed herein, I am asking for you to waive the 7 year rule and allow me to proceed with application for licensure in Florida, needing only to take Part 4, the Laws and Rules examination as well as the Orals examination.

Sincerely,

Dr. Tammy Wittmann

HMQACB

MAY 16 2016

January 2, 2015

Department of Health
Board of Optometry
4052 Bald Cypress Way, Bin C-07
Tallahassee, FL 32399-3257

Dear Florida Optometry Board Members:

Please consider this letter a Petition for Variance/Waiver of Florida Administrative Code Rule 64B13-4.001(2), which requires that I retake the NBEO exam in order to obtain my Florida Optometry License, and move my license from Indiana to Florida.

I took and passed Part 1 of the NBEO in 1997. I then took and passed Parts 2, 3 and the TMOD in 1998.

It is my desire to relocate from Indiana, become licensed in Florida and to begin practicing in South Florida as soon as possible so that I can care for my aging and infirm parents.

I am also requesting the opportunity to orally present my Petition at the first available meeting.

I am requesting a waiver of the NBEO test requirement based upon my 16+ years of continuous practice and experience in Indiana and Michigan, a demonstrated level of competency and experience that meets or exceeds the Florida requirements and satisfies the underlying purpose of the statute, and personal family health related and financial hardship.

Education and Professional Experience

My name is Dr. Tammy Wittmann and I am a native Floridian. My C.V., NBEO and TMOD scores, and license is attached.

I was born and raised in Jacksonville, Florida. I graduated from N.B. Forrest High School a year early in 1981. I attended college for many years after high school on a part time basis because that was all I could afford. In 1993, I applied and was accepted to Indiana University School of Optometry (IUSO). I was active in the Student Optometric Society and was a teaching assistant for Ophthalmic Optics. I also worked as an IV technician at St. Vincent Hospital in the Coronary Critical Care Unit, often working double shifts on both Saturdays and Sundays.

I took and passed NBEO Part 1 in April 1997 with a score of 354. I took and passed both the NBEO Part 2 with a score of 386, and TMOD with a score of 78 in December 1997. I took and passed NBEO Part 3 in April 1998 with a score of 608. Specifically I received an overall score of 91 on the Clinical Skills portion, which includes scores of 95% on Biomicroscopy, 100% on Binocular Indirect Ophthalmoscopy, and 100% on Non-contact Fundus Lens Evaluation, and I believe Florida requires a 75%. I subsequently graduated from IUSO in 1998.

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I married my first husband in 1995 at the end of my 1st year of optometry school. After graduation, I moved to Grand Rapids, Michigan because of my husband's job. I took the Michigan Board exam, which included both written and practical exams, where I passed and was licensed in August 1998. My first position in Michigan was a lease-holder at Wal-Mart Vision Center in Grandville, Michigan. It was a moderately busy practice where I was seeing on average 15 patients a day. From 2000 to 2003 I worked with various private and corporate practices in the western Michigan area, seeing an average of 15 patients a day.

In June 2003 my husband and I moved back to Indiana for his job and began building our lives and home there. My former husband had no desire to live in Florida. When I married it was forever. Because of this, I thought it pointless for me to obtain a license in my home state because it was made clear to me that we would not be moving back to Florida. In 2011 I learned my marriage was not forever.

A few months after my divorce I met my current husband. He is also from Florida. All of his family is in Florida. He left Florida to be with me in Indiana because of my practice.

Underlying Purpose of the Statute is Satisfied

I understand and appreciate the reasoning for requiring retesting within a certain period of time to make sure that Florida consumers are treated only by practitioners who have demonstrated a certain level of professional competency.

I believe the purpose of the rule is fulfilled by my 16+ years of practice with the full scope that optometry allows. My scope of practice has exceeded that of Florida for 14 of my 16 years of practice.

As an example, I have been able to and have prescribed oral medications, including oral steroids for my entire 16 year career. I estimate I have prescribed oral medications for 100's of patients. Also, in 2014 Indiana obtained IV injection authority for which I was recently trained and certified.

In addition, I have always satisfied the continuing education requirement for Indiana of 40 credits in a 2 year period. My understanding is that 30 credits are required in Florida every 2 years.

My years of experience, along with the continuing education requirements in Indiana assure that I have met all of Florida's criteria for meeting the spirit of the intent of the rule.

I have had the authority and the experience of performing all of the procedures mentioned in Florida Statute 463.014(4) for the past 16+ years of practice. In addition, it is my belief that 16+ years of experience prescribing oral medications would satisfy the purpose of the oral pharmaceutical course.

Family Hardship

The primary reason I am compelled to move back home to Florida is to assist and care for my aging parents who live in Cape Coral, Florida. My mother is 72 years old and is a Florida native.

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My father is 72 years old and moved to Florida in the 1970's. They have been married for 34 years. They are retired and rely on social security, as well as my mother's small pension for income.

I am now an only child. My only sibling, my brother, was tragically killed in a car accident a few years ago. As the only child, their care in these last years of life falls to me. I take this responsibility with honor and feel it is mine and not the State's.

My father has had three knee replacement surgeries, 2 shoulder replacement surgeries as well as a couple of strokes. My mother also has had 2 knee replacement surgeries. My parents live independently and both drive, although my mom's driving is very limited. Both have failing health and although they rely on each other for their day to day needs, I have observed the steady decline of their conditions and feel that I need to be nearby to assist them on a regular basis. I am scared that any day their conditions will require a level of care I simply cannot provide from Indiana.

They have expressed to me their fear of being alone and their concern that I am so far away. I have had to travel to Florida about every 6-8 weeks be there to help them. In fact, Thanksgiving weekend my dad had to go to the ER and thankfully I was already there to help.

Being with my parents to assist them and to be the best daughter and caregiver I can be is an important responsibility in my life. At this point in my life it is my most important job. It has become more evident that I need to be there full time and not in Indiana.

Financial Hardship

Unfortunately, stopping work or taking a leave of absence to care for my parents is simply not an option for me. I am the primary bread winner for my family. I run a single practitioner office, and have employees, overhead and business loan that require continual work.

The ability to make a living as an Optometrist when I move back to Florida is not optional. My husband is a very hard working man but he is without a college education. His modest income mostly goes to pay for his twins' education and expenses. When we move home, he will obtain employment to help contribute but his options are certainly limited.

I am the sole owner of my own practice in Carmel, IN where I have worked very hard to establish a practice in a difficult economy. Because of my former husband's career, I was only able to open my own practice 4 short years ago. The decision to open was made before I knew my marriage was in jeopardy. My divorce impacted not only me on a personal level but also had a considerable impact on my finances.

My savings and retirement funds have been depleted to sustain my young practice. When I move to Florida, I intend to sell my existing practice. Any funds realized from the sale will go to pay off a substantial business loan. For this reason I will need to work as a certified optometrist to be able to continue to care for my parents. Because private practice is where my heart lies, it is my hope to join an existing practice in the South Florida area.

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Florida is my home and that of my husband. His father is deceased and his mother is also aging and in her 70's. All of our family is there. They are counting on us to help take care of them as they age.

Although I am busy working 60-70 hours a week running and building my practice, I also choose to remain active in my community, as does my staff. I write a monthly column in "The Current", a local newspaper covering 5 cities. I also serve on the advisory board for TLC Laser Center, Indianapolis. We engage in supporting the performing arts in our area and I look forward to being active in Florida.

I have so enjoyed owning my own Optometry practice and am now facing some very big decisions in my personal and professional lives at the same time. Without question I know that I am being led back home. It wasn't until very recently that I learned of the 7 year rule. It was a huge surprise and I was heartbroken. It is my hope to spend the rest of my life in Florida with our families and continue enjoying the art and fulfillment of being an Optometrist.

Studying for the NBEO all over again is more than I can bear. Although some might say "take the test", I take things very seriously and am a realist. My hope is that the OD's on your board can understand what an undertaking that would be to someone who has been out of school over 16 years, who owns and runs her own practice, and is concerned with relocating to Florida to care for her parents as soon as possible.

Please consider me as a humble person who is not just someone wanting to move to Florida or someone who wants to retire to Florida. I am a self-made person who wishes to continue to make a living and add to the economy while assisting my parents with honor. I want to be able to continue to practice in this wonderful profession that I chose many years ago. Please consider waiving the NBEO 7 year requirement.

Thank you for seeing this from my perspective as you consider my request and know it is with the most sincerity that I hope to meet you, work with you and contribute to the mission of the Florida Optometry Board.

Many thanks,

Tammy Wittmann, OD

MEMORANDUM

To: Optometry Board

From: Board Counsel
Diane L. Guillemette

Re: Petition for Variance and Waiver
Nicole Yontz

Date: August 8, 2016

Attached is a petition for Variance and Waiver for Nicole Yontz.

The Petition was noticed in the Florida Law Register.

The Statute and Rule which state the requirements for a Petition for waiver or variance is attached.

A petition is deemed approved if it is not denied within 90 days of the receipt of the original or completed petition. *See Section 120.542(8), Florida Statutes.*

- Action requested:

Consider whether the request fulfills the requirements of a Petition for variance or waiver.

Consider the merits of the Petition, if appropriate.

CLERK *Linda Leonard*
DATE *Aug. 2nd 2016*

BEFORE THE STATE OF FLORIDA
FLORIDA DEPARTMENT OF HEALTH
FLORIDA BOARD OF OPTOMETRY

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FILED OF THE CLERK

NICOLE YONTZ

Petitioner,

v.

CASE NO. _____

STATE OF FLORIDA, DEPARTMENT
OF HEALTH, BOARD OF OPTOMETRY

Respondent.

_____ /

**PETITION FOR WAIVER OF
FLORIDA ADMINISTRATIVE CODE RULE 64B13-4.001(2), F.A.C.**

Pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, Petitioner respectfully requests a waiver of Rule 64B13-4.001(2), Florida Administrative Code. In support of its request, Petitioner states:

Identification of Petitioner

1. The name, address, telephone number and fax number of the Petitioner are:

Nicole Yontz
c/o Mia L. McKown
Information detailed below.

2. The name, address, telephone number and fax number of the Petitioner's counsel are listed below in the signature and certificate of service below. Correspondence to Petitioner relating to this matter should be directed to the undersigned.

The Applicable Rule

3. Petitioner requests a waiver of Florida Department of Health, Board of Optometry ("Board") Rule 64B13-4.001(2), F.A.C., which imposes rules and related to examination requirements required for licensure. The Rule provides in pertinent part:

64B13-4.001 Examination Requirements.

(1) The licensure examination authorized in Section 463.006(2), F.S., shall consist of the following parts:

(a) Part I – the Applied Basic Science (ABS) portion of the examination developed by the National Board of Examiners in Optometry (NBEO);

(b) Part II – the Patient Assessment and Management (PAM) portion of the examination developed by the NBEO which includes an embedded Treatment and Management of Ocular Disease (TMOD) examination. An applicant for licensure in Florida must obtain a passing score on the TMOD section of the examination;

(c) Part III – the Clinical Skills (CSE) portion of the examination developed by the NBEO. In addition to an overall passing score on the CSE portion, an applicant for licensure in Florida must obtain a score of 75 percent (75%) or better on each of the Biomicroscopy, Binocular Indirect Ophthalmoscopy, and Dilated Biomicroscopy and Non-Contact Fundus Lens Evaluation skills individually; and

(d) Part IV – a written examination on applicable Florida laws and rules governing the practice of optometry developed yearly by Florida Board of Optometry approved consultants in conjunction with NBEO, and administered by NBEO. The Board shall review and approve the content of the laws and rules examination annually.

(2) An applicant for licensure must achieve a passing score on all four parts of the licensure examination. For Part III, an applicant must receive an overall passing score on the CSE, as well as the required score of 75 percent (75%) or better on each of the three

(3) individually identified skills, on the same test attempt. A score of 84 percent (84%) or better must be obtained in order to achieve a passing score on Part IV of the licensure examination. Passing scores for Part I, Part II, and Part III of the licensure examination are established by the NBEO. Given constant advances in research, developing knowledge in the area of basic and clinical science as applied to the diagnosis, correction, remedy, and relief of insufficiencies or abnormal conditions of the human eyes and their appendages, variances the scope of optometric practice among the states, and the importance of fundamental clinical skills to patient health and safety, passing scores on Part I, Part II, Part III and Part IV of the licensure examination must be obtained within the seven (7) year period immediately preceding licensure application.

(3) Certification Examination. A licensee applying for certification must obtain a passing score on either the TMOD examination embedded in the Patient Assessment and Management portion of the examination developed by the NBEO or a passing score on the stand alone TMOD examination developed by the NBEO.

Citation to Statute Implemented

4. The referenced rule implements the following provisions of Chapters 456 and 463: Sections 456.017(1) and 463.006(2).

Requested Action

5. Petitioner seeks a waiver of the Board's rule that requires applicants obtain passing scores on Part I, Part II, Part III and Part IV of the licensure examination within the seven (7) year period immediately preceding a licensure application. Rule 64B13-4.001(2), F.A.C.

6. Petitioner requests a permanent waiver of Rule 64B13-13-4.001(2) to allow Petitioner to be eligible to submit to the Board an application for licensure.

Waiver Provision in Section 120.52, Florida Statutes

7. The Legislature, as part of the Florida Administrative Procedure Act ("APA"), has adopted Section 120.542, Florida Statutes, which provides for rule waivers and states:

Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation Agencies are authorized to grant variances and waivers to requirements of their rules consistent with this section and with rules adopted under the authority of this section.

§ 120.542(1), Fla. Stat. (2016).

8. Section 120.542(2), Florida Statutes, requires agencies to grant waivers² of their rules when two conditions have been met, namely, when the person subject to the rule demonstrates:

(a) "the purpose of the underlying statute will be or has been achieved by other means"; and

² A "waiver" is defined in the APA at Section 120.52(22), to mean: "a decision by an agency not to apply all or part of a rule to a person who is subject to the rule. Any waiver shall conform to the standards for waivers outlined in this chapter and in the uniform rules adopted pursuant to s. 120.54(5)."

(b) "the application of a rule would create a substantial hardship or would violate principles of fairness."³

As demonstrated below, Petitioner satisfies both of these conditions.

General Facts Supporting the Grant of a Waiver

9. Petitioner has passed all parts of the National Board Examination in Optometry. More specifically, she passed the part 3 clinical skills in Biomicroscopy with an 87%, Binocular Indirect Ophthalmoscopy 100% and Non-Contact Funduscopy 100%.

10. Petitioner has been practicing in Nevada for eight (8) years and has seen over 20,000 patients, without any allegation of patient harm. It is important to note that Nevada has a broader scope of practice than Florida as optometrists licensed in Nevada have been prescribing orals since approximately 1998.

11. Petitioner has continued to show competency by completing more Continuing Education ("CE") than required by the state of Florida. More specifically, 30 hours per year is required in Nevada as compared to the 30 hours required every two (2) years in Florida with six (6) being transcript quality.

Specific Facts that Demonstrate that Strict Application of Rule 64B13-4.001(2), F.A.C., Would Create Substantial Hardship and Violate Fundamental Principles of Fairness

13. Without a waiver, Petitioner will not be able to earn a living and/or provide for her family in the profession for which she is educated and trained.

14. Based upon the facts stated herein, the purpose of the underlying statutes regarding licensure has been demonstrated as Petitioner's credentials show she is competent to

³ A "substantial hardship" is defined in Section 120.542(2), Florida Statutes, as a "demonstrated economic, technological, legal, or other type of hardship to the person requesting the waiver." The same provision states that "principles of fairness" are violated when the application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons.

practice optometry anywhere in the United State. The application of the Rule, however, creates a substantial hardship and/or violates principles of fairness.

15. Petitioner is the mother of two (2) young children. Her husband's employment prompted the family moving to Florida for his work. Dr. Yontz's income, however, is also needed to support their family. If the waiver is not granted, it will pull Petitioner's family apart.

16. The cost and time it would take Petitioner to prepare for this exam would be devastating to her family as it will take at least one year to pass all three parts of the national board exam. The costs of retaking the National Board Exam are expected to total as follows:

PART 1: \$725

PART 2: \$725

PART 3: \$725

STUDY GUIDE \$600 for part 1

\$395 for part 2

FLIGHTS to North Carolina for PART 3 + Hotel is estimated at \$900

17. Loss of income from Petitioner not being able to work is \$150,000.

18. The fact Petitioner has a degree and passion for optometry and is not able to practice and help patients is detrimental to the citizens of the State of Florida.

19. Additionally, in terms of fairness, it does not make sense that the Board would opt for recent graduates of optometry school to practice in Florida as opposed to a seasoned doctor that has eight (8) years of experience. It is also unfair that Florida does not require its licensed optometrists to retake the national examination every seven (7) years.

20. Finally, with rare exception, the Board does not grant a motion for variance waiver from the subject Rule.

21. Additionally, Petitioner asserts that Rule 64B13-4.001(2), F.A.C., is an invalid exercise of delegated legislative authority. While Section 463.006(2) does require passage of the

test, it in no way provides the Board statutory authority to require the seven (7) year rule. More specifically, Section 463.006(2) provides the “examination shall consist of the appropriate subjects, including applicable state laws and rules and general and ocular pharmacology with emphasis on the use and side effects of ocular pharmaceutical agents. The board may by rule substitute a national examination as part or all of the examination and may by rule offer a practical examination in addition to the written examination.”

22. Again, the Board has the authority to substitute a national exam and can offer a practical exam in addition, there is no statutory authority that requires the test to have been taken within any particular time frame. Likewise, the Florida Legislature did not give the Board the authority to set those kinds of parameters.

23. The current rule and the Board’s handling of Motions for Waiver of the subject Rule are anticompetitive. As a result, attorneys for the Florida Attorney General’s Office have advised this Board in February 2016 that there is concern that the Rule and the Board is vulnerable in light of *North Carolina State Board of Dental Examiners v. Federal Trade Commission* No. 15-534, 547 U.S. ____ (2015).

The Requested Action Serves the Purpose of the Statute

24. As demonstrated above, the requested waiver will serve the statutory purposes of Chapters 456 and 463, as well as the purpose of the rule.

25. If the waiver is granted, there will be more accessible and quality optometric treatment and services available to the citizens in the State of Florida.

Petitioner Requests that the Waiver Be Permanent

26. Petitioner requests that the waiver from Rule 64B13-4.001(2), F.A.C., be permanent so that Petitioner can apply for licensure in the State of Florida.

WHEREFORE, Petitioner respectfully requests the entry of a final order granting a permanent waiver from Rule 64B13-4.001(2), F.A.C., Florida Administrative Code as set forth herein.

Respectfully submitted this 1st day of August, 2016.



Mia L. McKown
Florida Bar No. 897140
HOLLAND & KNIGHT LLP
P. O. Drawer 810
Tallahassee, FL 32302-0810
Phone: (850) 224-7000
Fax: (850) 224-8832
Attorneys for Nicole Yontz

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been provided by hand-delivery to the Agency Clerk, Florida Department of Health, Tallahassee, Florida 32399-3000 and that a true copy has been provided by hand-delivery to the Joint Administrative Procedures Committee, 600 South Calhoun Street, Room 120, The Holland Building, Tallahassee, Florida, 32399-1300, and Diane Guillemette, Assistant Attorney General/Board Counsel, Collins Building, Third Floor, 107 West Gaines Street, Tallahassee, Florida, all on this 1st day of August, 2016.



Mia L. McKown

**CHAPTER 28-104
VARIANCE OR WAIVER**

28-104.001	Purpose; Construction
28-104.002	Petition for Variance or Waiver
28-104.003	Comments on Petition
28-104.004	Petition for Emergency Variance or Waiver
28-104.005	Time for Consideration of Emergency Petition
28-104.0051	Revocation of Emergency or Temporary Variance or Waiver
28-104.006	Request for Information

28-104.001 Purpose; Construction.

This chapter implements Section 120.542, F.S., by establishing the procedures for granting or denying petitions for variances and waivers of agency rules, and, should be read in conjunction with the provisions of Sections 120.52(18), 120.52(19) and 120.542, F.S.

Rulemaking Authority 14.202, 120.542 FS. Law Implemented 120.542(5)(b)8. FS. History—New 4-1-97, Amended 1-15-07.

28-104.002 Petition for Variance or Waiver.

(1) A petition for a variance from or waiver of an agency rule shall be filed with the clerk of the agency that adopted the rule, with a copy to the Joint Administrative Procedures Committee, Room 680, Pepper Building, 111 W. Madison Street, Tallahassee, Florida 32399-1400.

(2) The petition must include the following information:

(a) The caption shall read:

Petition for (Variance from) or (Waiver of) Rule (Citation)

(b) The name, address, any e-mail address, telephone number, and any facsimile number of the petitioner, if the party is not represented by an attorney or a qualified representative;

(c) The name, address, e-mail address, telephone number, and any facsimile number of the attorney or qualified representative of the petitioner, if any;

(d) The applicable rule or portion of the rule;

(e) The citation to the statute the rule is implementing;

(f) The type of action requested;

(g) The specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) The reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) A statement whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

(3) The petition for a variance or waiver may be withdrawn by the applicant at any time before final agency action.

(4) Upon receipt of a petition for variance or waiver, the agency shall furnish a copy of the petition to any other agency responsible for implementing the rule.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5)(b)8. FS. History—New 4-1-97, Amended 3-18-98, 2-5-13.

28-104.003 Comments on Petition.

(1) Any interested person or other agency may submit written comments on the petition for a variance or waiver within 14 days after the notice required by Section 120.542(6), F.S. The agency shall state in any order disposing of the petition whether comments were received by the agency.

(2) The agency shall maintain the comments as part of the record.

(3) The right to comment pursuant to this section does not alone confer party status in any proceeding arising from a petition for variance or waiver.

Rulemaking Authority 14.202, 120.54(5)(b)8. FS. Law Implemented 120.54(5)(b)8. FS. History—New 4-1-97, Amended 2-5-13.

28-104.004 Petition for Emergency Variance or Waiver.

- (1) A person requesting an emergency variance from or waiver of an agency rule shall so state in the caption to the petition.
- (2) In addition to the other requirements of Section 120.542(5), F.S., and this chapter, the petition shall specify:
 - (a) The specific facts that make the situation an emergency; and
 - (b) The specific facts to show that the petitioner will suffer an immediate adverse effect unless the variance or waiver is issued more expeditiously than the time frames provided in Section 120.542, F.S.

Rulemaking Authority 14.202, 120.54(5)(b)8. FS. Law Implemented 120.54(5)(b)8. FS. History—New 4-1-97.

28-104.005 Time for Consideration of Emergency Petition.

(1) Within 5 days after filing a petition for emergency variance or waiver with the agency clerk, the agency shall give notice of receipt of the petition on its website, if it has one. The agency shall also give notice by any procedure that is fair under the circumstances or provide notice of the petition to the Department of State for publication in the first available issue of the Florida Administrative Register. Any notice under this subsection shall inform interested persons of the right to submit comments. Interested persons or other agencies may submit written comments on the petition for emergency variance or waiver within 5 days after publication of the notice required herein. The notice and comment requirements in this subsection shall not apply if the agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, which final order shall recite with particularity the facts underlying such finding.

(2) The agency shall grant or deny a petition for emergency variance or waiver or determine that the request is not an emergency within 30 days of its receipt by the agency. If such petition is not granted or denied within this time limit, the petition shall be deemed approved unless the time limit is waived by the petitioner.

(3) If the agency decides that the situation is not an emergency, the agency shall so notify the petitioner in writing, and the petition shall then be reviewed by the agency on a non-emergency basis as set forth in Section 120.542(7), F.S.

(4) The duration of an emergency variance or waiver shall be determined by the agency.

(5) The agency shall issue a written order granting or denying the petition. The order shall state the facts and reasons supporting the agency's action.

Rulemaking Authority 14.202, 120.54(5)(b)8. FS. Law Implemented 120.54(5)(b)8. FS. History—New 4-1-97, Amended 1-15-07, 12-24-07, 2-5-13.

28-104.0051 Revocation of Emergency or Temporary Variance or Waiver.

(1) Upon receipt of evidence sufficient to show that the recipient of an order granting an emergency or temporary variance or waiver is not in compliance with the requirements of that order, the agency shall issue an order to show cause why the emergency variance or waiver should not be revoked.

(2) The recipient of an emergency or temporary variance or waiver shall respond to the order to show cause why the emergency variance or waiver should not be revoked within 15 days of the mailing date of the order to show cause. Failure to timely respond shall result in a final order revoking the emergency or temporary variance or waiver.

Rulemaking Authority 14.202, 120.54(5)(b)8. FS. Law Implemented 120.54(5)(b)8. FS. History—New 3-18-98.

28-104.006 Request for Information.

(1) When a person inquires of the agency about the possibility of relief from any rule requirements or the remedies available pursuant to Section 120.542, F.S., the agency shall provide the information required by Section 120.542(4), F.S., within 15 days of the inquiry.

(2) In its response to a request for information, the agency shall indicate the name, address and e-mail address of the appropriate contact person for additional information and shall indicate how a petition for variance or waiver is filed with the agency.

Rulemaking Authority 14.202, 120.54(5)(b)8. FS. Law Implemented 120.542(4) FS. History—New 4-1-97, Amended 2-5-13.

➔120.542. Variances and waivers

(1) Strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. The Legislature finds that it is appropriate in such cases to adopt a procedure for agencies to provide relief to persons subject to regulation. A public employee is not a person subject to regulation under this section for the purpose of petitioning for a variance or waiver to a rule that affects that public employee in his or her capacity as a public employee. Agencies are authorized to grant variances and waivers to requirements of their rules consistent with this section and with rules adopted under the authority of this section. An agency may limit the duration of any grant of a variance or waiver or otherwise impose conditions on the grant only to the extent necessary for the purpose of the underlying statute to be achieved. This section does not authorize agencies to grant variances or waivers to statutes or to rules required by the Federal Government for the agency's implementation or retention of any federally approved or delegated program, except as allowed by the program or when the variance or waiver is also approved by the appropriate agency of the Federal Government. This section is supplemental to, and does not abrogate, the variance and waiver provisions in any other statute.

(2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

(3) The Governor and Cabinet, sitting as the Administration Commission, shall adopt uniform rules of procedure pursuant to the requirements of [s. 120.54\(5\)](#) establishing procedures for granting or denying petitions for variances and waivers. The uniform rules shall include procedures for the granting, denying, or revoking of emergency and temporary variances and waivers. Such provisions may provide for expedited timeframes, waiver of or limited public notice, and limitations on comments on the petition in the case of such temporary or emergency variances and waivers.

(4) Agencies shall advise persons of the remedies available through this section and shall provide copies of this section, the uniform rules on variances and waivers, and, if requested, the underlying statute, to persons who inquire about the possibility of relief from rule requirements.

(5) A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency's rule. In addition to any requirements mandated by the uniform rules, each petition shall specify:

(a) The rule from which a variance or waiver is requested.

(b) The type of action requested.

(c) The specific facts that would justify a waiver or variance for the petitioner.

(d) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

(6) Within 15 days after receipt of a petition for variance or waiver, an agency shall provide notice of the petition to the Department of State, which shall publish notice of the petition in the first available issue of the Florida Administrative Register. The notice shall contain the name of

the petitioner, the date the petition was filed, the rule number and nature of the rule from which variance or waiver is sought, and an explanation of how a copy of the petition can be obtained. The uniform rules shall provide a means for interested persons to provide comments on the petition.

(7) Except for requests for emergency variances or waivers, within 30 days after receipt of a petition for a variance or waiver, an agency shall review the petition and request submittal of all additional information that the agency is permitted by this section to require. Within 30 days after receipt of such additional information, the agency shall review it and may request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. If the petitioner asserts that any request for additional information is not authorized by law or by rule of the affected agency, the agency shall proceed, at the petitioner's written request, to process the petition.

(8) An agency shall grant or deny a petition for variance or waiver within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. A petition not granted or denied within 90 days after receipt of a completed petition is deemed approved. A copy of the order granting or denying the petition shall be filed with the committee and shall contain a statement of the relevant facts and reasons supporting the agency's action. The agency shall provide notice of the disposition of the petition to the Department of State, which shall publish the notice in the next available issue of the Florida Administrative Register. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the rule from which the waiver or variance is sought, a reference to the place and date of publication of the notice of the petition, the date of the order denying or approving the variance or waiver, the general basis for the agency decision, and an explanation of how a copy of the order can be obtained. The agency's decision to grant or deny the petition shall be supported by competent substantial evidence and is subject to [ss. 120.569](#) and [120.57](#). Any proceeding pursuant to [ss. 120.569](#) and [120.57](#) in regard to a variance or waiver shall be limited to the agency action on the request for the variance or waiver, except that a proceeding in regard to a variance or waiver may be consolidated with any other proceeding authorized by this chapter.

(9) Each agency shall maintain a record of the type and disposition of each petition, including temporary or emergency variances and waivers, filed pursuant to this section.

CREDIT(S)

Added by [Laws 1996, c. 96-159, § 12, eff. Oct. 1, 1996](#). Amended by [Laws 1997, c. 97-176, § 5, eff. May 30, 1997](#); [Laws 2010, c. 2010-102, § 37, eff. May 26, 2010](#); [Laws 2013, c. 2013-14, § 5, eff. July 2, 2013](#).

Dara Martin, OD
10150 SW 77 Ct
Miami, FL 33156
drdaramartin@yahoo.com

April 22, 2016

Department of Health
Florida Board of Optometry
4052 Bald Cypress Way
Bin C-07
Tallahassee, FL 32399

Dear Board Members,

I am an optometrist who relocated to Florida from New Jersey in 2014 and have had my optometry license since 1996. I have held 5 state licenses in MA, MO, MN, NJ, and NY. I have passed the NBEO and NERCOAT board exams.

I recently became aware of audio tapes from two recent Florida Board of Optometry meetings (December 2015 and February 2016). On the tapes are discussions about my ex-husband, Greg Martin, who contacted the board on at least two occasions.

Apparently Mr. Martin's initial contact pertained to information about our son that was contained in the Board's record.

During the February Board meeting, Mr. Martin's contact was discussed. It appears that Mr. Martin provided incorrect information to the Board about my domestic relations issues with him and that he made false and misleading allegations about my past contact with the Florida Board of Optometry.

As I previously indicated to the Board in my prior communications regarding a rule 64B13-4 waiver, Mr. Martin and I have an acrimonious relationship. In fact, as a result of Mr. Martin interfering with my prior employment, a New Jersey Court prohibited him from contacting friends, family, co-workers, or anyone related to my job or profession. Attached is a copy of the Order for your convenience.

At no time have I ever provided false statements to the Board, nor have I engaged in any action or conduct that would require the consideration or imposition of disciplinary action. If the Board or its members have any questions regarding any allegations raised by Mr. Martin, I am happy to answer them.

Mr. Martin is not a Florida resident and I would ask that you consider the source from whom you receive information (in this case my ex-spouse) and the agenda behind it.

MAY 05 2016

Please send me copies of any and all written or documented oral communication between Mr. Martin and any Board member so that I may take any appropriate action to ensure that the Board is no longer involved in my personal matters with Mr. Martin. I am also available to discuss any of these issues and can provide you with documents that you may request.

I appreciate your time and consideration of this matter. Again, please contact me if you have any questions.

I look forward to receiving the requested documents at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "Dara Martin".

Dr. Dara Martin

HR/PACT

MAY 05 2016

CAROLANN M. ASCHOFF, P.C.
 3279 KENNEDY BOULEVARD
 JERSEY CITY, NEW JERSEY 07306
 (201) 653-7382
 ATTORNEY FOR PLAINTIFF

FILED

SEP 18 2013

MAUREEN P. SOGLUIZZO, J.S.C.

DARA MARTIN,	:	SUPERIOR COURT OF NEW JERSEY
	:	CHANCERY DIVISION: FAMILY PART
<i>Plaintiff,</i>	:	HUDSON COUNTY
	:	
VS.	:	DOCKET NO: FM-09-002601-03
	:	Probation No. CS13370812A
	:	<u>Civil Action</u>
	:	
GREGORY MARTIN.	:	
	:	
<i>Defendant</i>	:	<u>AMENDED ORDER</u>
	:	

HM

MAY 05 2016

THIS MATTER having been opened to the Court based upon a Motion filed by the Plaintiff, Dara Martin, by and through her attorney, Neil G. Savasta, Esquire, Carolann M. Aschoff, P.C., and proper notice having been provided to the Defendant Gregory Martin and his attorney, Anthony Strangia, Esquire, Karen Kirchoff Saminski, Esq. LLC, and the Court having considered the arguments of counsel and Certifications submitted in support of and in opposition to said Motion, and for good cause having been shown:

IT IS ON THIS 18th day of September, 2013, ORDERED

1. The Court finds that Defendant is in violation of litigant's rights for failure or refusal to comply with the enforceable Orders of the Superior Court of New Jersey;

2. Defendant is prohibited from interfering with the minor child's medical treatment and the child's medical appointments pending the outcome of the evaluation referred to in Paragraph Four of this Order;

3. Defendant is hereby Ordered to fully cooperate with Plaintiff in a manner which is consistent with the best interests of the minor child and likely to prevent irreparable harm to the minor child;

4. Plaintiff shall make prompt and appropriate arrangements for a full scope child development evaluation, including genetic testing and evaluation of the minor child's emotional, social and cognitive status. The evaluation may be performed at NYU/Columbia Medical Center.

Defendant's parenting time is suspended until the evaluation of Zachary is complete. As of August 27, 2013, Defendant's parenting time with the child shall terminate. Plaintiff will keep Defendant advised of Zachary's involvement at school, parties, etc. Defendant may have daily phone contact with the minor child (subject to the provisions of Paragraph 10 herein).

MAY 05 2016

5. Defendant is hereby prohibited from having any further involvement with respect to the minor child's medical care and treatment in light an ongoing pattern of conduct designed to delay, frustrate and interfere with the child's medical care and treatment.

Upon conclusion of the above-referenced evaluation, the parties will make an effort to determine the best medical treatment for Zachary. If the parties are unable to agree, Court intervention will be sought.

6. Plaintiff may unilaterally authorize the child's physicians and all of the minor child's other medical providers to prescribe medications, approve treatment and otherwise authorize changes in medication, treatment and/or medical providers (with notice to Defendant) and Plaintiff may unilaterally schedule medical and other appointments of the minor child with respect to the above-referenced evaluation.

7. Defendant is prohibited from having any contact or communication with the child's physicians or medical providers until further Court Order or agreement of the parties and he is prohibited from taking the child to any physician or medical provider which has not been authorized by Plaintiff until the completion of the above-referenced evaluation.

8. Defendant is prohibited from having any contact or communication with the Plaintiff's employer, co-workers and other employees, agents and affiliates of Plaintiff's employer or any other persons associated with Plaintiff's place of business;

9. Defendant is prohibited from having any contact or communication with the Plaintiff's family members or personal friends and neighbors;

10. Defendant is prohibited from involving or including the minor child in any marital disputes; from making disparaging remarks about Plaintiff directly to the child or within the child's hearing; saying or doing anything that may injure the child's opinion of Plaintiff or which may hamper the free development of the child's love, affection, trust and respect for the Plaintiff; directly or indirectly making derogatory statements to or about the Plaintiff in the presence or within the hearing of the minor child;

MAY 05 2016

11. PLAINTIFF REQUESTED ENTRY OF AN ORDER compelling Defendant to transport the minor child to all scheduled medical appointments during school breaks and other periods of extended visitation. The Court finds that the requested relief is MOOT in light of the various provisions of this Order;

12. PLAINTIFF REQUESTED ENTRY OF AN ORDER directing that "in the event that Defendant is unable to be physically present for any extended parenting time with the child (in excess of 12 hours), said parenting time shall be terminated and the minor child shall either remain in his primary residence or be returned to his primary residence;. Defendant shall provide Plaintiff with reasonable advance notice of his travel plans in the event that he intends to travel or remain away from his residence during his scheduled parenting time, resulting in Zachary being left in Pennsylvania without his father for more than 12 hrs". PLAINTIFF'S REQUEST IS HEREBY DENIED WITHOUT PREJUDICE.

13. PLAINTIFF REQUESTED ENTRY OF AN ORDER directing that "Defendant is prohibited from contacting the New Jersey Department of Children and Families (formerly DYFS or the NJ Department of Youth and Family Services) under any circumstances in light of Defendant's abuse of the system and ongoing pattern of frivolous reports of abuse and neglect involving Plaintiff and the minor child. The New Jersey Department of Children and Families shall forward all records and reports related to this action to the Court for inspection and review...". PLAINTIFF'S REQUEST IS HEREBY DENIED, however sanctions shall be imposed upon Defendant in the event of future reports to the New Jersey Department of Children and Families (formerly DYFS or the NJ Department of Youth and Family Services) are determined to be without merit.

14. Plaintiff shall hereinafter provide primary medical insurance coverage for the benefit of the minor child in light of Defendant's threats to terminate coverage, pattern of frequently changing insurers without notice, Plaintiff's inability to communicate with Defendant's insurer and Defendant's failure or refusal to promptly notify Plaintiff of changes in the child's medical coverage;

15. Plaintiff's request for a modification of the existing child support Order is GRANTED in light of the significant change of financial circumstances of the parties. Defendant fully complete and file his Case Information Statement together with his 2009, 2010, 2011 and 2012 state and federal personal and business income tax returns and all W-2, 1099's, attachments and schedules thereto, together with

his last three wage statements including the name, location and contact information of his current employer or independent consultant job within thirty (30) days of the date of this Order.

The Court shall consider the Plaintiff's medical insurance premium costs in connection with its calculation of child support in accordance with state guidelines.

The Court hereby imposes a \$1,000.00 sanction against Defendant for his failure or refusal to comply with the Court's Order of March 10, 2011 regarding the filing of his Case Information Statement and attachments thereto. Said sanction shall be payable to Plaintiff's attorney. Upon receipt of Defendant's Case Information Statement and financial documentation referred to herein, the parties shall make an effort to reach an agreement on the modification of the child support Order. If they are unable to reach agreement on this issue, court intervention shall be sought.

MAY 05 2016

16. PLAINTIFF REQUESTED ENTRY OF AN ORDER requiring that Defendant shall promptly provide to Plaintiff proof of his work schedule and/or contract information which details Defendant's work related travel requirements. The Court finds that the requested relief is MOOT in light of the various provisions of this Order;

17. Plaintiff may unilaterally apply for and obtain a passport for the minor child without the necessity of Defendant's his signature, consent or other involvement. Plaintiff shall hold the child's passport in her possession. In the event of international travel plans, Plaintiff shall provide Defendant with her travel itinerary.

18. Defendant shall pay the Plaintiff the sum of \$1,682.50 within thirty (30) days of the date of this Order representing Defendant's contributive share of the minor child's uncovered or unreimbursed medical expenses to date. In the event that Defendant fails to comply with this Order, a daily sanction in the amount of \$10.00 per day shall be assessed for each day that Defendant fails or refuses to comply with this Order;

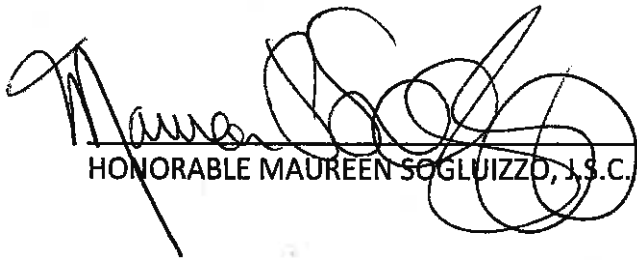
19. Defendant is found to be in violation of litigant's rights for failure or refusal to pay the sum of \$2,000.00 to Plaintiff in accordance with the Order of September 1, 2011. Defendant shall pay the Plaintiff the sum of \$2,000.00 within seven (7) days of the date of this Order representing Defendant's contributive share of Plaintiff's counsel fees on the 2011 motion.

The Court hereby imposes a \$1,000.00 sanction against Defendant for his failure or refusal to comply with the Court's Order of September 1, 2011. Said sanction shall be payable to Plaintiff's attorney.

20. Defendant shall pay Plaintiff the sum of \$16,862.00 by February 16, 2014 representing his contributive share of Plaintiff's counsel fees and costs incurred in connection with this Motion.

IT IS SO ORDERED.

FILED
MAY 05 2016


HONORABLE MAUREEN SOGLUZZO, J.S.C.



PAM BONDI
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Administrative Law Bureau

Tammie Britt
Paralegal Specialist
PL 01 The Capitol
Tallahassee, Florida 32399-1050
Telephone (850) 414-3300
Fax (850) 922-6425
Tammie.Britt@myfloridalegal.com

HMQACB
APR 22 2016

MEMORANDUM

TO: Anthony Spivey, Executive Director
Board of Optometry
Department of Health

FROM: Tammie Britt, Paralegal Specialist

RE: Notice of Petition for Declaratory Statement for Nova Southeastern
University

DATE: April 15, 2016

HMQACB
APR 22 2016

Attached please find the above-referenced Notice which was submitted for publication with the Department of State on February 12, 2016. The Notice was published on February 15, 2016, Vol. 42, No. 30, of the Florida Administrative Register.

Attached is a copy of the Notice for your records.

For questions or concerns, please contact me at 850-414-3782.

Attachments

cc: Nicole Geary, General Counsel
File

DEPARTMENT OF HEALTH
BOARD OF OPTOMETRY

NOTICE OF PETITION FOR DECLARATORY STATEMENT

The Board of Optometry hereby gives notice that on December 15, 2015, it received a Petition for Declaratory Statement from Thomas F. Panza, Esq. and Jamie B. Gelfman, Esq. on behalf of Nova Southeastern University, Inc. The petition seeks the Board's interpretation of Rules 64B13-3.003, 64B13-3.007(6), and 64B13-3.010 F.A.C., regarding the applicability of NSU's College of Optometry (NSU-COO) performing public service through the provision of free vision screenings to school children and/or others.

Except for good cause shown, motions for leave to intervene must be filed within 21 days after publication of this notice. For a copy of this petition contact: Anthony Spivey, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257, (850) 245-4355, MQA_Optometry@doh.state.fl.us.

HMOACE

APR 22 2016

RECEIVED

2016 FEB 19 PM 3:43

HEALTH ADMINISTRATIVE
PROFESSIONAL BOARD/ITC

C1801
FN/A

FILED
Department Of Health
Deputy Clerk
Clerk *Angel Sanders*
DATE **DEC 15 2015**

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF OPTOMETRY
TALLAHASSEE, FLORIDA

HMQACB
DEC 15 2015

NOVA SOUTHEASTERN UNIVERSITY, INC.,

CASE NO. _____

Petitioner,

vs.

BOARD OF OPTOMETRY,

Respondent.

**PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA BOARD OF OPTOMETRY**

Petitioner, NOVA SOUTHEASTERN UNIVERSITY, INC., ("NSU") by and through its undersigned counsel and pursuant to Section 120.565, Florida Statutes, and Rule 28-105.001, Florida Administrative Code, petitions the Florida Board of Optometry (the "Board") for a final order setting forth declaratory statements on the particular set of facts and law presented herein, stating as follows:

Petitioner's and Petitioner's Counsel's Contact Information

1. Petitioner is Nova Southeastern University, Inc., with its principal address at 3301 College Avenue, Ft. Lauderdale, Florida, 33314.
2. Petitioner is represented by Thomas F. Panza, Esq. and Jamie B. Gelfman, Esq., of the law firm of Panza, Maurer & Maynard, P.A., 3600 North Federal Highway, Ft. Lauderdale, Florida, 33308. Tel. No. 954-390-0100, Facsimile No. 954-390-7991. For purposes of this proceeding, all correspondence and communication should be directed to the undersigned counsel for Petitioner.

Statutory Provisions/Agency Rules on which Declaratory Statements are Sought

3. Section 120.565, Florida Statutes, provides that “[a]ny substantially affected person may seek a declaratory statement regarding an agency’s opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner’s particular set of circumstances.”

4. Moreover, a declaratory statement is a means for resolving a controversy or answering questions or doubts as to how the statutes, rules, or orders may apply to the petitioner’s particular circumstances. *See* Rule 28-105.001, F.A.C.

5. Here, NSU seeks a declaratory statement regarding the applicability of Rules 64B13-3.007(6), Rule 64B13-3.003, and 64B13-3.010 of the Florida Administrative Code, on NSU’s College of Optometry (“NSU-COO”) performing public service through the provision of free vision screenings to school children and/or others.

6. In particular, NSU-COO seeks guidance from the Board on whether its provision of vision screenings to school children and/or others creates a provider-patient relationship, wherein NSU’s treating practitioner would be subject to the minimum procedures set forth in Rule 64B13-3.007(2), Florida Administrative Code; the recordkeeping requirements of Rule 64B13-3.003, Florida Administrative Code; and the standards of practice outlined in Rule 64B13-3.010, Florida Administrative Code.

Factual Background

7. On or about February 7, 2012, NSU-COO received correspondence from the Board regarding vision screenings, a copy of which is attached hereto as **Exhibit “A.”** However, as set forth below, there are additional issues that NSU-COO is seeking clarification on before proceeding with commencing the proposed vision screening program.

8. Specifically, NSU-COO seeks to provide vision screenings for school children and/or others free of charge. The vision screenings include documentation of a screening participant's demographic information, a chief visual complaint, other visual complaints, personal/family ocular history, date of last eye exam, date of last medical exam, a participant's occupation, a participant's grade (if in school), hobbies, personal/family medical history, medications, allergies and the following optometric tests and/or examinations:

Assessment	Test
<ul style="list-style-type: none"> • <i>Assessment of Visual Acuity</i> 	<ul style="list-style-type: none"> • Visual Acuity at Distance & Near
<ul style="list-style-type: none"> • <i>Assessment of Ocular Alignment</i> 	<ul style="list-style-type: none"> • Cover Test at Distance & Near • Near Point of Convergence (NPC) • Extra-Ocular Muscles (EOM)
<ul style="list-style-type: none"> • <i>Assessment of Refractive Error</i> 	<ul style="list-style-type: none"> • Retinoscopy or Autorefractor
<ul style="list-style-type: none"> • <i>Assessment of Binocularity</i> 	<ul style="list-style-type: none"> • Stereoacuity Test
<ul style="list-style-type: none"> • <i>Assessment of Ocular Health</i> 	<ul style="list-style-type: none"> • Direct Ophthalmoscopy • Color Vision
<ul style="list-style-type: none"> • <i>Assessment of Intraocular Pressure (Adults Only)</i> 	<ul style="list-style-type: none"> • Tonometry

6. Further, while no diagnosis or care history would be taken, each vision screening includes "findings," wherein the licensed optometrist determines whether the screening participant has "passed" all the screening criteria used for that particular individual. If the individual does not pass all criteria tested, then the individual is recommended to follow up with an eye care professional for a comprehensive vision examination. The individual is not referred to any particular practitioner for such follow-up examination and the screening will not result in the writing of any prescription.

7. In addition, all screening participants will be provided a *NSU Visual Health Screening Form* containing a corresponding notice, providing a description of each of the above-referenced optometric assessments/tests, and indicating that "[t]he screening is not representative

of or a substitute for a complete vision analysis.” A copy of this vision screening form and notice provided to each screening participant is attached hereto as **Exhibit “B.”**

Questions to be Addressed by the Board

I. Whether NSU-COO’S Particular Circumstances Fall under the Exception under Rule 64B13-3.007(6), Florida Administrative Code, and thus do not Subject it to the Minimum Procedures Required by Rule 64B13-3.007(2), Florida Administrative Code.

9. As mentioned above, NSU-COO seeks a declaratory statement from the Board on whether this arrangement complies with the rules, namely, whether the administering of these tests for school children and/or others would subject the treating practitioner to the minimum procedures listed in Rule 64B13-3.007(2), Florida Administrative Code. A copy of this rule is attached hereto as **Exhibit “C.”**

10. Rule 64B13-3.007(2), Florida Administrative Code, requires the following minimum procedures to be part of a comprehensive eye examination:

- a) Patient’s history (personal and family medical history, personal and family ocular history, and chief complaint);
- b) Visual acuity (unaided and with present correction at initial presentation; thereafter, unaided or with present correction);
- c) External examination;
- d) Pupillary examination;
- e) Visual field testing (confrontation or other);
- f) Internal examination (recording, optic nerve health, blood vessel status, macula health, and any abnormalities);
- g) Biomicroscopy (binocular or monocular);
- h) Tonometry; (with time of measurement);
- i) Refraction (with recorded visual acuity);
- j) Extra ocular muscle balance assessment;
- k) Other tests and procedures that may be indicated by case history or objective signs and symptoms discovered during the comprehensive eye examination;
- l) Diagnosis and treatment plan.

11. However, Rule 64B13-3.007(6), Florida Administrative Code, provides an exception to the above-referenced requirement for public service visual screenings, subject to limitations. Specifically, the Rule provides the following:

(6) The minimum procedures set forth in [Rule 64B(13)-3.007(2)] shall not be required in the following circumstances:

* * *

(c) When a licensed practitioner or certified optometrist performs public service visual screenings or visual screenings for governmental agencies and each recipient of such screening is clearly informed in writing of the following:

- (1) The limitations of the screening;
- (2) That the screening is not representative of or a substitute for a comprehensive eye examination; and
- (3) That the screening will not result in a prescription for visual correction.

12. As provided by the Board's above-referenced February 2012 correspondence, the Board stated that it would have no objection to NSU-COO performing public service visual screenings to school children if they are conducted in accordance with Rule 64B13-3.007(6)(c), Florida Administrative Code, referenced above.

12. While the assessments and tests performed under the proposed vision screenings program, as discussed above, may overlap with some of the minimum procedures outlined in Rule 64B13-3.007(2), Florida Administrative Code, they are not the same. However, there is a concern that a screening participant and/or parent of a screening participant could perceive the services as a representative of and/or a substitute for a comprehensive eye examination, even though the services due not rise to the level of a comprehensive eye examination as described in Rule 64B13-3.007(2), Florida Administrative Code. This is especially a concern in light of the

"Results" section of the *NSU Visual Health Screening Form*, Exhibit "B," wherein the licensed Optometrist would render a professional opinion as to whether the individual has "passed" and/or met all of the screening criteria set for the particular screening or whether the individual should be referred for a follow-up examination.

13. As such, because NSU-COO does not wish to run afoul of Rule 64B13-3.007(6), Florida Administrative Code, which requires that the screening is not representative of or a substitute for a comprehensive eye examination, NSU-COO seeks guidance through a declaratory statement whether the comprehensive nature of NSU-COO's vision screenings of school children and/or others would be representative of or a substitute for a comprehensive eye examination.

14. Specifically, Petitioner respectfully requests that the Board issue a declaratory statement addressing the following question:

Question 1: Whether the taking of a history including the chief visual complaint, other visual complaints, personal/family ocular history, date of last eye exam, date of last medical exam, a patient's occupation, a patient's grade (if in school), hobbies, personal/family medical history, medications, allergies, and the performance of the procedures contained on the NSU Visual Health Screening Form, as well as rendering a professional opinion that the screening participant "passed" and/or met all the screening criteria utilized for the particular screening falls under the exception in Rule 64B13-3.007(6)(c), Florida Administrative Code.

II. **Whether the Recordkeeping Requirements Pursuant to Rule 64B13-3.003, Florida Administrative Code, apply to NSU-COO's Particular Circumstances as Outlined Herein.**

15. Rule 64B13-3.003, Florida Administrative Code, "Patient Records; Transfer or Death of Licensed Practitioner," contains requirements with respect to the content, maintenance, and retention of patient records. A copy of this rule is attached as **Exhibit "D."**

16. Based on this, Petitioner respectfully requests that the Board issue a declaratory statement answering the following question regarding its recordkeeping requirements for the described arrangement under Rule 64B13-3.003, Florida Administrative Code:

Question 2: Whether Rule 64B13-3.003, Florida Administrative Code, entitled "Patient Records; Transfer or Death of Licensed Practitioner," applies to public service vision screenings that fall under the exception in Rule 64B13-3.007(6)(c); particularly, those that fall under the specific circumstances outlined herein, so as to render NSU's College of Optometry subject to the maintenance and retention requirements of patient records pursuant to such Rule.

III. Whether the Standards of Practice Described in Rule 64B13-3.010, Florida Administrative Code, apply to NSU-COO's Particular Circumstances as Outlined Herein.

17. Rule 64B13-3.010, Florida Administrative Code, "Standards of Practice," provides certain standards that a licensed optometrist must adhere to in the course of administering care. A copy of such rule is attached as Exhibit "E."

18. Particularly, Rule 64B13-3.010(3), Florida Administrative Code, provides that "[a]n optometrist shall provide that degree of care which is **full and complete**, consistent with the patient conditions presented, the professional competency of the optometrist, and the scope of practice of optometry."

19. As discussed previously, the vision screenings that NSU-COO seeks to perform are not fully comprehensive in nature and do not provide all of the minimum procedures as outlined in Rule 64B13-3.007(2), Florida Administrative Code. As such, NSU-COO is concerned that its arrangement may run afoul of the standards of practice by not providing a degree of care which is "full and complete" as provided in Rule 64B13-3.010(3), Florida Administrative Code.

20. Petitioner thus respectfully requests that the Board issue a declaratory statement addressing the following question regarding Rule 64B13-3.010, Florida Administrative Code:

Question 3: Whether Rule 64B13-3.010, Florida Administrative Code, applies to the provision of vision services under the particular circumstances outlined herein, when the services are provided as part of public service visual screenings for school children and/or others.

WHEREFORE, Nova Southeastern University respectfully requests that the Florida Board of Optometry issue Declaratory Statements on the issues presented in this Petition.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered via hand delivery to: Anthony B. Spivey, D.B.A., Executive Director, Florida Board of Optometry, 4052 Bald Cypress Way, Bin #C-05, Tallahassee, Florida 32399-1703, this 15th day of December, 2015.

PANZA, MAURER & MAYNARD, P.A.
Attorneys for Petitioner
Bank of America Building, Third Floor
3600 N. Federal Highway
Fort Lauderdale, Florida 33308
Phone: (954) 390-0100
Facsimile: (954) 390-7991

By: /s/ Thomas F. Panza
THOMAS F. PANZA, ESQ.
Florida Bar No.: 138551
tpanza@panzamaurer.com
JAMIE B. GELFMAN, ESQ.
Florida Bar No.: 92393
jgelfman@panzamaurer.com

EXHIBIT

A

Exhibit A

Rick Scott
Governor



H. Frank Farmer, Jr., M.D., Ph.D., F.A.C.P.
State Surgeon General

**FLORIDA
BOARD OF
OPTOMETRY**

Chair
Timothy Underhill,
O.D.
P. Myers, Florida

Vice-Chair
Taranee Nebenzahl,
O.D.
Meritt Island, Florida

Members
Roberta DeMond,
O.D.
Tallahassee, Florida

Tamara Kofsky, O.D.
Boca Raton, Florida

Edward Walker, O.D.,
F.A.A.O.
Tallahassee, Florida

Rod Pressel, R.Ph.
Tallahassee, Florida

Executive Director
Bruce Deterding

David S. Loshin, O.D., Ph.D.
Dean, NSU College of Optometry
3200 South University Drive
Terry Building, Room 1404
Ft. Lauderdale, Florida 33328

Dear Dr. Loshin:

Regarding the screenings for school children and others that we discussed on the telephone. My understanding from our conversation is that these screenings are a public service, accompanied by forms that are signed by the parents of each child having the screening. You mentioned that the forms indicated that it was a screening and that it was not a substitute for a comprehensive examination. I also understood from our conversation that the screenings do not result in prescriptions being issued.

Rule 64B13-3.007(5)(c), Florida Administrative Code, pertaining to attempting public service screenings from the legal requirement for a comprehensive examination reads as follows:

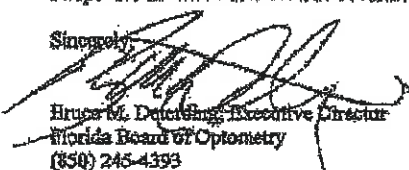
(c) When a licensed practitioner or certified optometrist performs public service visual screenings or visual screenings for governmental agencies and each recipient of such screening is clearly informed in writing of the following:

1. The limitations of the screening;
2. That the screening is not representative of or a substitute for a comprehensive eye examination; and
3. That the screening will not result in a prescription for visual correction.

In short, the Board of Optometry would have no objection to public service visual screenings for school children if they are conducted according to the above-cited rule. The board believes these public service visual screenings are a wonderful opportunity to help reach underserved children and others in the community and applauds the efforts of Nova University in this regard.

I hope this clarifies but if I can be of further assistance, please do not hesitate to contact me.

Sincerely,


Bruce M. Deterding, Executive Director
Florida Board of Optometry
(850) 245-4393
bruce.deterding@doh.state.fl.us

The mission of the Department of Health is to protect and promote the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties.

4652 Bala Cypress Way, Bldg 9C07
Tallahassee, Florida 32309-3257
Phone: (850) 245-4355 Fax: (850) 922-8875
Website: www.doh.state.fl.us

EXHIBIT
B

Name _____ Number _____

Address _____

City _____ State _____ Zip _____

Home Phone _____ DOB _____ Age _____

Sex M F Wears glasses Y N Screening Location _____ Today's Date _____



NOVA SOUTHEASTERN UNIVERSITY
Health Professions Division
College of Optometry
3200 South University Drive
Fort Lauderdale, Florida 33328-2018

VISUAL HEALTH SCREENING

Chief Visual Complaint _____

Other Visual Complaints (circle any that apply): blur/double vision/flashes/floaters/itch/burn/red/water/light sensitivity/headaches

Personal/Family Ocular History (circle any that apply): eye infection/injury/surgery/glaucoma/cataracts/macular degeneration/lazy eye/turned eye/blindness/learning problems/other--specify _____

Last Eye Exam _____ Last Medical Exam _____ Occupation _____ Grade (if in school) _____ Hobbies _____

Personal/Family Medical History (circle any that apply): high blood pressure/heart problems/stroke respiratory problems/diabetes thyroid problems/other--specify _____

Medications _____ Allergies _____

Criteria Not Met

VISUAL ACUITY (Chart _____)

sc cc Far: R _____ L _____ Near: R _____ L _____

Far Pinhole: R _____ L _____ NIPD OD OS

REFRACTIVE ERROR ESTIMATION (_____)

R _____

L _____

BINOCULAR COORDINATION

CT Far: ortho/esox/hyper R/L _____ A phoria/tropia

CT Near: ortho/esox/hyper R/L _____ A phoria/tropia

Ocular Motility (EOMs) _____

Near Point of Convergence _____

Stereopsis _____

Test Used: Lang/Fly/Wire/Butterfly/Random Dot/Other _____

+2.00 test _____

OTHER TESTS: _____

Criteria Met

COLOR VISION _____

Test Used: D-15/Ishihara/HRR/Color/Made Easy/Other _____

PUPILS PERRLA _____ AFD _____

OCULAR HEALTH (EXTERNAL/INTERNAL)

R C/D _____ AN _____ FLR _____

L C/D _____ AN _____ FLR _____

EYE PRESSURE R _____ L _____

Time _____ cornea Test: Pulsair/tonopen/Goldmann

VISUAL FIELD _____

Test Used: Confrontation/FBT/Automated Perimeter

BLOOD PRESSURE _____

RESULTS (See other side for explanations of tests.)

- PASS All screening criteria set for this particular event have been met.
- REFER A comprehensive visual examination by a professional eye care practitioner is indicated.
- REFER A comprehensive physical examination by a primary care practitioner is indicated.

Top Copy: NSU Second Copy: Participant Last Copy: Participant/School

Signature _____

Exhibit B



NOVA SOUTHEASTERN UNIVERSITY
Health Professions Division
College of Optometry
3300 South University Drive
Fort Lauderdale, Florida 33328-2016

The screenings performed by Nova Southeastern University College of Optometry are *only preliminary tests of how well the eyes see*. The screening is *not* representative of or a substitute for a complete vision analysis. The screening does not determine whether the eyes are free from ocular disease or visual dysfunction. The information found here does *not* constitute a prescription for eyeglasses. Vision changes occur rapidly, so yearly comprehensive vision examinations by a professional eye care practitioner are recommended. *The screening results provided are meant to be advisory only and should not be construed as medical advice; they are provided for your discussion and follow-up with your physician.*

The screening covered the following elements of vision:

VISUAL ACUITY (far and near): This test measures how well you can see at 20 feet and at a typical reading distance of 16 inches. The Snellen fractions, 20/20, 20/40, etc, represents sharpness or clearness of sight and relates to the ability to see a certain size letter at a certain distance, usually 20 feet. Poor visual acuity in either eye and at any distance can hinder the ability to process visual information. *Good vision is more than 20/20!*

REFRACTIVE ERROR: This test measures whether the eye has a refractive condition which affects visual acuity such as myopia ('near-sighted', causing blurrier vision further away), hyperopia ('far-sighted', causing blurrier vision near and affecting the focusing ability of the eye), astigmatism (causing distorted vision, usually a result of a football shaped curvature of the surface of the eye), or presbyopia (diminishing ability to focus clearly at near as the eye matures).

BINOCULAR COORDINATION: This group of tests evaluates the ability of both eyes to aim, focus, move, judge distances, and work as a team. These skills are important for good visual performance needed in many activities such as schoolwork, reading, or sports.

COLOR VISION: The ability to differentiate colors is very important in many occupations and activities. Since some people (more often boys than girls) are born without the ability to see the full range of colors, this test is important to identify *color blind* people.

OCULAR HEALTH and PUPILS: The ability of the eye to see clearly depends on a healthy structure of the eye and the visual system. The ability of the pupils to react to light provides information about the neurological health of the visual system.

EYE PRESSURE: The intraocular pressure test gives the eye care professional an indication about the pressure of the gel-like fluid that fills the inside of the eye at the time the test was performed. It is *NOT* the only test used to diagnose glaucoma. An eye with normal pressure can still have glaucoma. A thorough eye health evaluation by an ophthalmologist or optometrist must be performed to diagnose whether an eye has glaucoma.

VISUAL FIELD: This test indicates how well the eye sees to the sides or periphery while looking straight ahead. A good peripheral field of vision is important for driving and sports. Please investigate any change or deficiency in peripheral vision immediately.

BLOOD PRESSURE: A screening measure of blood pressure is sometimes included with vision screenings due to the serious impact that hypertension can have on vision as well as general health.

OTHER TESTS may have been performed along with the tests discussed above. Please talk to your professional eye-care practitioner about your specific visual health.

The Eye Institute at Nova Southeastern University offers quality, comprehensive vision care for people of all ages.

THE EYE INSTITUTE AT
DAVEY HEALTH CENTER AT DAVIE
3200 S UNIVERSITY DRIVE
FORT LAUDERDALE, FL 33328
(954) 262-4200

THE EYE INSTITUTE AT
NRHD SPECIALTY CARE CENTER
1111 W BROWARD BLVD
FORT LAUDERDALE, FL 33312
(954) 525-1351

THE EYE INSTITUTE AT
NSU HEALTH CENTER
1750 NE 167TH STREET
N MIAMI BEACH, FL 33162
(954) 262-4801

EXHIBIT C

64B13-3.007 Minimum Procedures for Comprehensive Eye Examination.

(1) A comprehensive eye examination is defined as a comprehensive assessment of the patient's visual status and shall include those procedures specified in subsection (2) below.

(2) A comprehensive eye examination shall include the following minimum procedures, which shall be recorded on the patient's case record:

- (a) Patient's history (personal and family medical history, personal and family ocular history, and chief complaint);
- (b) Visual acuity (unaided and with present correction at initial presentation; thereafter, unaided or with present correction);
- (c) External examination;
- (d) Pupillary examination;
- (e) Visual field testing (confrontation or other);
- (f) Internal examination (recording, optic nerve health, blood vessel status, macula health, and any abnormalities);
- (g) Biomicroscopy (binocular or monocular);
- (h) Tonometry; (with time of measurement);
- (i) Refraction (with recorded visual acuity);
- (j) Extra ocular muscle balance assessment;
- (k) Other tests and procedures that may be indicated by case history or objective signs and symptoms discovered during the comprehensive eye examination;

(l) Diagnosis and treatment plan.

(3) If because of the patient's age or physical limitations, one or more of the procedures specified herein or any part thereof, cannot be performed, or if the procedures or any part thereof are to be performed by reason of exemption from this rule, the reason or exemption shall be noted on the patient's case record.

(4) Except as otherwise provided in this rule, the minimum procedures set forth in subsection (2) above shall be performed prior to providing optometric care during a patient's initial presentation, and thereafter at such appropriate intervals as shall be determined by the optometrist's sound professional judgment; provided, however, that each optometric patient shall receive a comprehensive eye examination prior to the provision of further optometric care if the last comprehensive eye examination was performed more than two years before.

(5) Whenever a patient presents to a licensed practitioner or certified optometrist with any of the following as the primary complaint, the performance of the minimum procedures set forth in subsection (2) above shall not be required.

- (a) Emergencies;
- (b) Trauma;
- (c) Infectious disease;
- (d) Allergies;
- (e) Toxicities; or
- (f) Inflammations.

(6) The minimum procedures set forth in subsection (2) above shall not be required in the following circumstances:

(a) When a licensed practitioner or certified optometrist is providing specific optometric services on a secondary or tertiary basis in patient co-management with one or more health care practitioners skilled in the diagnosis and treatment of diseases of the human eye and licensed pursuant to Chapter 458, 459, or 463, Florida Statutes;

(b) When a licensed practitioner or certified optometrist is providing consultative optometric services on a limited basis at the request of one or more health care practitioners licensed pursuant to Chapter 458, 459, or 463, Florida Statutes. Such services shall be provided with the patient's full knowledge of the limited nature of the optometric care. The name of the requesting health care practitioner and the optometric care provided shall be noted on the patient's case record;

(c) When a licensed practitioner or certified optometrist performs public service visual screenings or visual screenings for governmental agencies and each recipient of such screening is clearly informed in writing of the following:

- 1. The limitations of the screening;
- 2. That the screening is not representative of or a substitute for a comprehensive eye examination; and
- 3. That the screening will not result in a prescription for visual correction.

(d) Drug therapy and contact lens research.

(7) Nothing within this rule shall be read to exempt any licensed practitioner or certified optometrist from the requirements of

Section 463.0135, Florida Statutes.

Specific Authority 463.005(1) FS. Law Implemented 463.005(1), 463.0135, 463.016(1)(g), (k) FS. History—New 11-13-79, Amended 4-17-80, 7-29-85, Formerly 21Q-3.07, Amended 7-18-90, Formerly 21Q-3.007, 61F8-3.007, 59V-3.007, Amended 4-3-00, 4-5-04, 6-5-06, 11-5-07, 11-4-08.

EXHIBIT D

64B13-3.003 Patient Records; Transfer or Death of Licensed Practitioner.

(1) The licensed practitioner must legibly sign the entry in his or her records for each patient encounter. If the practitioner maintains electronic patient records, the practitioner may affix an electronic signature which can be generated by using either public key infrastructure or signature dynamics technology, and meets the following criteria:

(a) The electronic signature is unique to the person using it;

(b) The electronic signature is capable of verification;

(c) The electronic signature is under the sole control of the person using it;

(d) The electronic signature is linked to the record in such a manner that the electronic signature is invalidated if any data in the record are changed.

(2) A licensed practitioner shall maintain full and independent responsibility and control over all records relating to his or her patients and his or her optometric practice. All such records shall remain confidential except as otherwise provided by law and shall be maintained by the licensed practitioner in compliance with Rule 64B13-3.001, F.A.C. For the purposes of this rule, "maintain full and independent responsibility and control" means that the records shall be maintained in the licensed practitioner's office or solely in the possession of the licensed practitioner, and that the licensed practitioner shall not share, delegate, or relinquish either possession of the records or his or her responsibility or control over those records with or to any entity which is not itself a licensed practitioner.

(3) The records relating to the patients of a multidisciplinary group of licensed health care professionals as provided in Section 463.014(1)(a), F.S., or relating to the patients of a partnership or professional association as provided in Section 463.014(1)(b), F.S., may be maintained by the group practice, partnership, or professional association on behalf of all licensed practitioners employed by the group practice, partnership, or professional association.

(4) For the purposes of this rule, "entity which itself is not a licensed practitioner" shall refer to any corporation, lay body, organization, individual, or commercial or mercantile establishment which is not a licensed practitioner or which is not comprised solely of licensed health care professionals, the primary objective of whom is the diagnosis and treatment of the human body.

(5) For the purposes of this rule, "commercial or mercantile establishment" shall include an establishment in which the practice of opticianry is conducted pursuant to Chapter 484, Part I, Florida Statutes, and an establishment in which optical goods are sold.

(6) A licensed practitioner shall keep patient records for a period of at least five years after the last entry. Upon the discontinuance of his or her practice, the licensed practitioner shall either transfer all patient records which are less than five years old to an eye care practitioner licensed pursuant to Chapter 463, 458, or 459, F.S., where they may be obtained by patients, or he or she shall keep them in his or her possession for at least five years and make them available to be obtained by patients.

(7) A licensed practitioner who retires or otherwise discontinues his or her practice shall cause to be published in the newspaper of greatest general circulation in each county where the licensed practitioner practiced, a notice indicating to his or her patients that the licensed practitioner's patient records are available from a specified eye care practitioner licensed pursuant to Chapter 458, 459, or 463, F.S., at a certain location. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the Board office for filing.

(8)(a) The executor, administrator, personal representative, or survivor of a deceased licensed practitioner shall retain patient records concerning any patient of the deceased licensed practitioner for at least five years from the date of death of the licensed practitioner.

(b) Within one (1) month from the date of death of the licensed practitioner, the executor, administrator, personal representative, or survivor of the deceased licensed practitioner shall cause to be published in the newspaper of greatest general circulation in each county where the licensed practitioner practiced, a notice indicating to the patients of the deceased licensed practitioner the location at which whose patients may obtain their patient records. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the Board office for filing.

Specific Authority 456.058, 463.005(1)(a), (d) FS. Law Implemented 456.057, 456.058, 463.005(1)(a), (d) FS. History—New 11-13-79, Amended 12-19-84, 4-8-85, Formerly 21Q-3.03, Amended 12-16-86, 7-11-88, Formerly 21Q-3.003, 61F8-3.003, Amended 2-14-96, Formerly 59V-3.003, Amended 3-29-98, 4-3-00, 1-2-02, 11-16-05, 1-31-08.

EXHIBIT

E

64B13-3.010 Standards of Practice.

(1) Section 463.016(1)(g), F.S., authorizes the Board to take disciplinary action against an optometrist who is found guilty of "fraud, deceit, negligence, incompetence, or misconduct in the practice of optometry." Conduct which deceives, or defrauds the public and which is thereby prohibited by Section 463.016(1)(g), F.S., shall include, but not be limited to, accepting and performing an optometric practice or procedure which the optometrist knows or has reason to know that he or she is not competent to undertake.

(2) An optometrist shall not use or perform any technique, function, or mode of treatment which the optometrist is not professionally competent to perform. Professional competence as used in this rule may be acquired by formal education, supervised training and experience, continuing education programs which have been approved by the Board, or an appropriate combination of such means.

(3) An optometrist shall provide that degree of care which is full and complete, consistent with the patient conditions presented, the professional competency of the optometrist, and the scope of practice of optometry. An optometrist shall advise or assist her or his patient in obtaining further care when, in the professional judgment of the optometrist, the service of another health care practitioner is required.

(4) Certified optometrists employing the topical ocular pharmaceuticals listed in subsection 64B13-18.002(9), F.A.C., Anti-Glaucoma Agents, shall comply with the following:

(a) Upon initial diagnosis of glaucoma of a type other than those specifically listed in Section 463.0135(2), F.S., the certified optometrist shall develop a plan of treatment and management.

1. The plan will be predicated upon the severity of the existing optic nerve damage, the intraocular pressure, and stability of the clinical course.

2. In the event the certified optometrist cannot otherwise comply with the requirements of subsections 64B13-3.010(1)-(3), F.A.C., a co-management plan shall be established with a physician skilled in the diseases of the human eye and licensed under Chapter 458 or 459, F.S.

(b) Because topical beta-blockers have potential systemic side effects a certified optometrist employing beta-blockers shall, in a manner consistent with Section 463.0135(1), F.S., ascertain the risk of systemic side effects through either a case history that complies with paragraph 64B13-3.007(2)(a), F.A.C., or by communicating with the patient's primary care physician. The certified optometrist shall also communicate with the patient's primary care physician, or with a physician skilled in diseases of the eye and licensed under Chapter 458 or 459, F.S., when, in the professional judgment of the certified optometrist, it is medically appropriate to do so. This communication shall be noted in the patient's permanent record. The methodology of communication is left to the professional discretion of the certified optometrist.

(c) The certified optometrist shall have available, and be proficient in the use of, the following instrumentation:

1. Goldman-type applanation tonometer.
2. Visual fields instrumentation capable of threshold perimetry.
3. Gonioscope.
4. Fundus Camera or detailed sketch of optic nerve head.
5. Biomicroscope.
6. A device to provide stereoscopic view of optic nerve.

(5) A licensed practitioner is required to advise his or her patients who wear extended wear contact lenses to obtain at six month intervals follow-up evaluations by a licensed optometrist, or a licensed physician skilled in the diagnosis and treatment of diseases and conditions of the human eye.

(6) Follow-up evaluations performed by a licensed practitioner on patients who wear contact lenses shall, at a minimum, consist of biomicroscopy evaluation to ensure corneal integrity. Other tests may be employed at the discretion of the licensed practitioner or as indicated by symptoms and needs of the patient.

(7)(a) To be in compliance with paragraph 64B13-3.007(2)(f), F.A.C., certified optometrists shall perform a dilated fundus examination during the patient's initial presentation, and thereafter, whenever medically indicated. If, in the certified optometrist's sound professional judgment, dilation is not performed because of the patient's age, physical limitations, or conditions, the reason(s) shall be noted in the patient's medical record.

(b) Licensed optometrists who determine that a dilated fundus examination is medically indicated shall advise the patient that such examination is medically necessary and shall refer the patient to a qualified health care professional for such examination to be performed. The licensed optometrist shall document the advice and referral in the patient's medical record.

(8) Certified optometrists serving as adjunct professors to schools or colleges of optometry pursuant to Section 463.0057, F.S., may delegate to residents, externs or interns of said school, educational functions or duties beyond the restrictions of Section 463.009, F.S. Such delegated duties or functions shall be in accordance with Section 463.002(6), F.S. For purposes of this rule, residents, externs or interns of qualified schools or colleges of optometry are not defined as nonlicensed supportive personnel.

(9) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in Chapter 893, F.S., for any other than legitimate purposes, constitutes grounds for disciplinary action by the Board.

Specific Authority 463.005(1) FS. Law Implemented 463.005(1), 463.0135(1), 463.016(1) FS. History—New 9-16-80, Amended 12-20-82, Formerly 21Q-3.10, Amended 7-11-88, 6-18-92, 1-28-93, Formerly 21Q-3.010, Amended 3-16-94, Formerly 61F8-3.010, Amended 8-24-94, 9-21-94, 2-13-95, 12-31-95, Formerly 59V-3.010, Amended 6-15-00, 2-7-01, 11-16-05, 11-5-07, 11-4-08.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



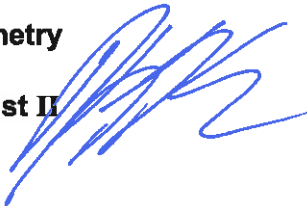
Rick Scott
Governor

Celeste Philip, MD, MPH
Surgeon General and Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

TO: Board Members, Board of Optometry

FROM: Keri Kilgore, Regulatory Specialist II 

DATE: August 1, 2016

RE: Report of Continuing Education Providers & Courses approved by CE Committee Chair

Please see the enclosed attachments of Continuing Education Providers & Courses that have been approved by CE Committee Chair during the period April 7, 2016 – July 31, 2016.

Thank you.

Keri Kilgore

The Completely Automated Continuing Education (CE) Compliance Determination System



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Monday through Friday, 8:00 am till 8:00 pm EST

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▶ From **04/07/2016 to 07/31/2016**
▶ Statures Include **APPROVED**

[Refine Search](#) [Print](#)

CE Provider List

Educational Provider Name	CE Broker Provider #	Status	Date
NEW VISION EYE CENTER	50-18801	APPROVED	07/07/2016
SOUTHWEST FLORIDA EYE CARE	50-18705	APPROVED	04/18/2016

Provider Name	Provider #	Course Name	Course #	Status	Approved Date
AHI EDUCATION	50-17499	RECOGNIZING AND PREVENTING RED AND GREEN DISEASE (TQ)	20-529343	APPROVED	4/25/2016
AHI EDUCATION	50-17499	VISION TRAINING FOR THE PRIMARY CARE PRACTICE (TQ)	20-531189	APPROVED	4/25/2016
AHI EDUCATION	50-17499	LABORATORY TESTING FOR THE PRIMARY CARE OPTOMETRIST (TQ)	20-529345	APPROVED	4/25/2016
AHMAD TARABISHY	50-18003	True Story: How a Retinal Exam Can Save a Life	20-550994	APPROVED	4/25/2016
ALAN AKER, MD	50-17788	Droplless Cataract Surgery with Femtosecond Laser - A Beautiful Marriage	20-553028	APPROVED	4/25/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Ocular Side-Effects from Systemic Medications: Case Studies	20-535537	APPROVED	7/5/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Laser Trabeculoplasty (SLT): Has It Become First-Line Therapy?	20-535523	APPROVED	7/12/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Grand Rounds: Ocular Complications of Systemic Disease	20-559894	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Innovations in EyeCare	20-535897	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Simplifying Systemic Antibiotics	20-536457	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	RECENT INNOVATIONS IN SPECIALTY CONTACT LENSES	20-556210	APPROVED	7/1/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Rapid Fire: The Herpes Group	20-536681	APPROVED	7/12/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Individual Patient Factors in Glaucoma Assessment	20-537877	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Diabetes Case Studies: A Collaborative Treatment Approach	20-559890	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Glaucomatous -Type Visual Field Loss Not Due to Glaucoma	20-535895	APPROVED	7/6/2016

AMERICAN ACADEMY OF OPTOMETRY	50-17245	Understanding the Clinical Significance of Conjunctival Lumps, Bumps and Spots	20-535513	APPROVED	7/5/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Pediatric Low Vision-Evaluating and Managing Kids with Bad Eyes	20-536043	APPROVED	7/5/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Pharmacology Rounds	20-562838	APPROVED	7/12/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Ocular Pain Management for the Primary Care Optometrist	20-559880	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Florida Jurisprudence	20-536453	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	New Options for the Irregular Cornea	20-535893	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Lumps & Bumps: A Practical Guide to Evaluation and Technique Removal	20-559884	APPROVED	7/6/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Pediatric Systemic Disease: Ocular Concerns and Complications	20-535519	APPROVED	7/12/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	Exploring The Autoimmune Diseases: A Systemic Approach	20-561476	APPROVED	7/12/2016
AMERICAN ACADEMY OF OPTOMETRY	50-17245	What's New in Cerebrovascular Disease	20-561124	APPROVED	7/12/2016
AMERICAN OPTOMETRIC ASSOCIATION	50-17638	Tales from the Crib: 7 Infant Case Reports	20-556684	APPROVED	7/6/2016
AMERICAN OPTOMETRIC ASSOCIATION	50-17638	The Struggling Student - 4 Case Types	20-556410	APPROVED	7/12/2016
AMERICAN OPTOMETRIC ASSOCIATION	50-17638	Conversations in Optic Nerve and Retinal Vascular Disease	20-528219	APPROVED	5/12/2016
AMERICAN OPTOMETRIC ASSOCIATION	50-17638	Concussions - Where Does Optometry Fit In?	20-556402	APPROVED	7/12/2016
AMERICAN OPTOMETRIC ASSOCIATION	50-17638	Essentials in Cataract Patient Care	20-556724	APPROVED	7/6/2016
AMERICAN OPTOMETRIC ASSOCIATION	50-17638	Oral Meds in Eye Care	20-556730	APPROVED	7/6/2016

AMERICAN OPTOMETRIC ASSOCIATION	50-17638	Diabetes Case Reports	20-558412	APPROVED	7/12/2016
AMERICAN OPTOMETRIC ASSOCIATION	50-17638	Rules and Exceptions in Neuro-Ophthalmic Disease	20-556714	APPROVED	7/6/2016
BREVARD OPTOMETRIC ASSOCIATION	50-2859	Ocular Tumors	20-532405	APPROVED	5/27/2016
BREVARD OPTOMETRIC ASSOCIATION	50-2859	Management of Uveitic Glaucoma	20-548514	APPROVED	4/12/2016
BREVARD OPTOMETRIC ASSOCIATION	50-2859	Florida Jurisprudence 2016	20-538369	APPROVED	7/5/2016
CENTRAL FLORIDA SOCIETY OF OPTOMETRIC PHYSICIANS	50-3707	Amniotic Tissue Uses in EyeCare	20-546344	APPROVED	7/6/2016
CENTRAL FLORIDA SOCIETY OF OPTOMETRIC PHYSICIANS	50-3707	Urgent and Notable Retina Cases	20-555282	APPROVED	5/12/2016
COASTAL EYE INSTITUTE	50-3158	Evaluation of the Pupil/Retina Update 2016	20-523413	APPROVED	4/25/2016
EYE ASSOCIATES OF PINELLAS	50-17136	HIPAA Security - Why Now?	20-535761	APPROVED	7/5/2016
EYE HEALTH CENTER OF FLORIDA	50-17269	Co-Management Regulation	20-546326	APPROVED	4/12/2016
FLORIDA OPTOMETRIC ASSOCIATION	50-2499	Florida Laws and Rules for Optometric Physicians	20-555348	APPROVED	7/12/2016
FLORIDA OPTOMETRIC ASSOCIATION	50-2499	Florida Laws and Rules for Optometric Physicians	20-555332	APPROVED	7/12/2016
FLORIDA OPTOMETRIC ASSOCIATION	50-2499	Laser Therapy for the Open Angle Glaucoma's: ALT SLT	20-555362	APPROVED	7/12/2016
FLORIDA OPTOMETRIC ASSOCIATION	50-2499	Laser Procedures for the Management of Glaucoma and More	20-555368	APPROVED	7/6/2016
FLORIDA OPTOMETRIC ASSOCIATION	50-2499	Anterior Segment Grand Rounds	20-555388	APPROVED	7/6/2016

FLORIDA OPTOMETRIC ASSOCIATION	50-2499	Prevention of Medical Errors and the Optometric Practice	20-555384	APPROVED	5/27/2016
FLORIDA OPTOMETRIC ASSOCIATION	50-2499	A Review of PQRS and Other Bonus Programs for 2016	20-555382	APPROVED	7/12/2016
FLORIDA OPTOMETRIC ASSOCIATION	50-2499	Diagnosing and Managing Ocular Emergencies and Urgencies	20-558124	APPROVED	7/6/2016
FOUNDATION FOR OCULAR HEALTH, INC.	50-10116	Femtosecond Laser Cataract and Premium IOLs	20-535411	APPROVED	7/5/2016
FOUNDATION FOR OCULAR HEALTH, INC.	50-10116	Anterior Segment Grand Rounds	20-534227	APPROVED	7/5/2016
FOUNDATION FOR OCULAR HEALTH, INC.	50-10116	Favorite Cases, Anterior and Posterior Segment	20-536789	APPROVED	7/5/2016
FOUNDATION FOR OCULAR HEALTH, INC.	50-10116	Your Best Case	20-534235	APPROVED	7/5/2016
GEORGIA OPTOMETRIC ASSOCIATION	50-11235	Current Concepts in Glaucoma	20-554344	APPROVED	4/25/2016
GEORGIA OPTOMETRIC ASSOCIATION	50-11235	Advanced Interpretation of the OCT	20-554282	APPROVED	4/25/2016
HILLSBOROUGH SOCIETY OF OPTOMETRISTS	50-2636	The Future of Cataract Surgery	20-529739	APPROVED	4/18/2016
HILLSBOROUGH SOCIETY OF OPTOMETRISTS	50-2636	Neuro-Ophthalmic Emergencies	20-525657	APPROVED	4/12/2016
INSTITUTE FOR BRAIN POTENTIAL	50-9415	MEMORY, STRESS, AND ALZHEIMERS DISEASE: FOCUS: NUTRITIONAL STRATEGIES TO PROTECT THE BRAIN AND HEART	20-528659	APPROVED	4/15/2016
JOHN H. NIFFENEGGER	50-18936	MAKO Study to Investigate Squalamine Lactate Eye Drops	20-536101	APPROVED	7/5/2016
LAKE REGION OPTOMETRIC ASSOCIATION	50-4418	OCT	20-532057	APPROVED	5/12/2016

LISA PAE	50-15742	Macular Mysteries and Neuro-ophthalmology & Oculoplastics Conditions	20-522295	APPROVED	4/25/2016
MIAMI DADE OPTOMETRIC PHYSICIANS ASSOCIATION	50-2786	Is OCT Right for Me?	20-551922	APPROVED	4/13/2016
MIAMI DADE OPTOMETRIC PHYSICIANS ASSOCIATION	50-2786	I Have Something in My Eye(lid)	20-522073	APPROVED	4/18/2016
MILLENNIUM LASER EYE CENTERS	50-15136	Refractive Surgery Update 2016	20-529259	APPROVED	4/25/2016
NATIONAL GLAUCOMA SOCIETY	50-5632	MY FAVORITE CASES	20-519119	APPROVED	5/17/2016
NEW VISION EYE CENTER	50-18801	TECHNOLOGY UPDATE 2016	20-529521	APPROVED	7/7/2016
NORTH CAROLINA STATE OPTOMETRIC SOCIETY	50-17964	Marketing and Communications Plan Creation for the non-communications expert	20-556390	APPROVED	7/12/2016
NORTH CAROLINA STATE OPTOMETRIC SOCIETY	50-17964	Marketing and Communications Training Building your business while providing quality health care	20-556376	APPROVED	7/12/2016
NORTH CENTRAL FLORIDA OPTOMETRIC SOCIETY	50-2653	30 CHEERS FOR 30 YEARS	20-526493	APPROVED	4/15/2016
NORTH CENTRAL FLORIDA OPTOMETRIC SOCIETY	50-2653	CONTROVERSIES IN REFRACTIVE SURGERY	20-551858	APPROVED	4/13/2016
NORTH CENTRAL FLORIDA OPTOMETRIC SOCIETY	50-2653	Florida Jurisprudence	20-526471	APPROVED	4/25/2016
NORTH CENTRAL FLORIDA OPTOMETRIC SOCIETY	50-2653	Ocala Spring Eye Symposium 2016	20-556846	APPROVED	7/5/2016
NORTH CENTRAL FLORIDA OPTOMETRIC SOCIETY	50-2653	AMBLYOPA MANAGEMENT FOR THE PRIMARY CARE PRACTITIONER	20-526463	APPROVED	4/25/2016
NORTHEAST FLORIDA OPTOMETRIC SOCIETY	50-1462	Corneal Ectasia and Treatment Options	20-532883	APPROVED	7/12/2016
NORTHEAST FLORIDA OPTOMETRIC SOCIETY	50-1462	NEFOS August Monthly Meeting	20-563280	APPROVED	7/6/2016

NORTHEAST FLORIDA OPTOMETRIC SOCIETY	50-1462	Ups & Downs, Ins & Outs of Oculoplastics: Case Studies in Ophthalmology	20-545636	APPROVED	7/12/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	SCLERAL LENS FITTING FOR THE IRREGULAR CORNEA	20-549208	APPROVED	4/13/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	CLINICAL DISCUSSIONS IN GLAUCOMA	20-533045	APPROVED	5/27/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	Oral Pharmaceuticals in Pediatric Primary Eye Care Lecture	20-533959	APPROVED	7/5/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	UNDERSTANDING AND MANAGING STRABISMUS IN THE PEDIATRIC POPULATION	20-530915	APPROVED	4/25/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	NAVIGATING THE NASOLACRIMAL DUCT SYSTEM	20-549218	APPROVED	4/13/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	UPDATE ON ORAL MEDICATIONS	20-533043	APPROVED	5/27/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	POST OPERATIVE SUB ACUTE ENDOPHTHALMITIS	20-531585	APPROVED	5/5/2016

NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	VALUE BASED REIMBURSEMENT	20-533053	APPROVED	6/30/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	Premium IOL?s	20-563758	APPROVED	7/25/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	TRUE OCULAR EMERGENCIES	20-533041	APPROVED	5/27/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	Glaucoma and Retina on Trial: Clinical Implications of Landmark Studies	20-534005	APPROVED	7/11/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	SUCCESSFULLY TREATING BINOCULAR VISION PROBLEMS USING VISION THERAPY IN PATIENTS WITH CONCURRENT OCULAR PATHOLOGY	20-533547	APPROVED	6/30/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	UPDATE ON OCULAR TUMORS	20-533039	APPROVED	5/27/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	COLLAGEN CROSS-LINKING	20-529743	APPROVED	4/13/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	The Future of Retinal Imaging has Arrived	20-533981	APPROVED	7/12/2016

NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	Amniotic Membrane Graft in Optometry	20-536635	APPROVED	7/5/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	DISCUSSIONS IN NEURO-OPHTHALMIC DISEASE	20-533049	APPROVED	5/27/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	Keys to Preventable Vision Loss in Pediatric Population	20-534203	APPROVED	7/5/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	VISUAL SEQUELAE OF TRAUMATIC BRAIN INJURY: WHAT ARE THE SYMPTOMS AND HOW CAN WE HELP?	20-532793	APPROVED	5/27/2016
NSU COLLEGE OF OPTOMETRY- OFFICE OF CONTINUING EDUCATION AND ALUMNI AFFAIRS	50-2837	Splitting the Difference (Foveal Retinoschisis)	20-558520	APPROVED	7/5/2016
OPTOMETRIC EXTENSION PROGRAM FOUNDATION, INC.	50-3652	VT/Learning Related Visual Problems Course	20-532513	APPROVED	7/12/2016
QUANTUM OPTICAL, INC	50-4752	Mapping A Blue Light Game Plan	20-536893	APPROVED	7/26/2016
RAND EYE FOUNDATION	50-3173	The NEW DSEK: No sutures, No local anesthetic Injections! and Corneal Wound Healing	20-563856	APPROVED	7/25/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEW16 2201 Blue Light and Digital Eye Strain - Educating Patients and Providing Solutions	20-538921	APPROVED	7/12/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 31B2 DEBT MANAGEMENT FOR YOUNG PROFESSIONALS	20-529647	APPROVED	5/12/2016

REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 25B4 HOW TO BECOME THE DESTINATION LOCATION	20-526151	APPROVED	4/15/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEW16 22B4 Everybody Loves Warby (And Why ECPs Should Too)	20-538935	APPROVED	7/5/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VE16 32C6 CLINICAL CASE MANAGEMENT IN THE ICD-10 ERA ANTERIOR SEGMENT	20-526119	APPROVED	4/18/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEW16 31B4 Reduce Your Spectacle Lens Bill & Implement Lens Bundling	20-539773	APPROVED	7/12/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEW16 11C1The Basics of Uveitis	20-538917	APPROVED	7/5/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEW16 31B6 The HOW behind the WOW at Retail	20-539777	APPROVED	7/25/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 25C2 GETTING THE MOST OUT OF YOUR OCT FOR RETINA, GLAUCOMA AND ANTERIOR SEGMENT DIAGNOSIS, MANAGEMENT AND PROGRESSION	20-526089	APPROVED	4/15/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 2201 BLUE LIGHT AND DIGITAL EYE STRAIN - EDUCATING PATIENTS AND PROVIDING SOLUTIONS	20-527505	APPROVED	4/15/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 22B4 SECRETS OF HIRING TOP TALENT WHEN YOUR MAGIC WAND IS BROKEN	20-524707	APPROVED	4/12/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 25C7 THE GREATEST OCULAR SURFACE DISEASE COURSE-EVER	20-551832	APPROVED	4/18/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 11C4 OCULOPLASTIC AND AESTHETIC EYE CARE IN AN OPTOMETRIC PRACTICE - OPPORTUNITY ABOUNDS	20-526077	APPROVED	4/12/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 24O2 WHAT'S THE FUTURE OF ONLINE REFRACTION?	20-529609	APPROVED	4/18/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 41C4 PREVENTION OF MEDICAL ERRORS	20-544276	APPROVED	5/5/2016

REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 25C1 THE OPTOMETRIST'S GUIDE TO CATARACT AND REFRACTIVE SURGERY	20-529607	APPROVED	4/18/2016
REED ELSEVIER/VISION COUNCIL OF AMERICA	50-1049	VEE16 25C3 GLAUCOMA FOR THE EVERYDAY OPTOMETRIST	20-526155	APPROVED	4/15/2016
RETINA CONSULTANTS OF SW FLORIDA	50-1694	Grand Rounds 5-14-16	20-551894	APPROVED	4/15/2016
RETINA HEALTH CENTER	50-1695	Encapsulated Cell Therapy: An Investigational Treatment for Wet AMD	20-551114	APPROVED	4/15/2016
RETINA SPECIALTY INSTITUTE	50-16756	Advancing Retinal Disease Treatment: Dry AMD Clinical Trial Highlights 2016 and	20-563670	APPROVED	7/12/2016
RETINA SPECIALTY INSTITUTE	50-16756	Approaching Common Retinal Disorders: Choosing Between Multiple Therapeutic Options.	20-539065	APPROVED	7/5/2016
RETINA SPECIALTY INSTITUTE	50-16756	Update on the management and the treatment of Retinal Vein Occlusion (RVO)	20-539541	APPROVED	7/12/2016
RETINA SPECIALTY INSTITUTE	50-16756	Current Clinical Trials Guiding Future Therapy for Diabetic Retinopathy	20-554420	APPROVED	4/25/2016
RETINA SPECIALTY INSTITUTE	50-16756	Physician Roundtable Discussion: Approaching Common Retinal Disorders: Choosing Between Multiple Therapeutic Options	20-556018	APPROVED	6/30/2016
RETINA SPECIALTY INSTITUTE	50-16756	Advanced Imaging Technology to Improve Diagnosis and Treatment in Retinal Disease	20-554422	APPROVED	4/25/2016
RETINA SPECIALTY INSTITUTE	50-16756	Florida Jurisprudence Laws and Rules of Practice	20-537979	APPROVED	7/5/2016
RETINA SPECIALTY INSTITUTE	50-16756	Case Studies - Diagnosing, Imaging and Referring	20-527133	APPROVED	4/15/2016
RETINA SPECIALTY INSTITUTE	50-16756	Uveitis	20-562842	APPROVED	7/5/2016

RETINA SPECIALTY INSTITUTE	50-16756	Retinal Emergencies	20-533613	APPROVED	6/30/2016
RETINA SPECIALTY INSTITUTE	50-16756	Retinal Vascular Occlusions	20-539535	APPROVED	7/12/2016
RETINA SPECIALTY INSTITUTE	50-16756	Update on Intraocular Tumors, Melanoma and Choroidal Nevi	20-537669	APPROVED	7/6/2016
RETINA SPECIALTY INSTITUTE	50-16756	Age Related Macular Degeneration	20-554578	APPROVED	4/25/2016
SARASOTA RETINA INSTITUTE	50-2776	"Don't Worry...It Will All Go Away" & "NAION: New Treatments to an Old Problem"	20-532179	APPROVED	5/17/2016
SOUTHERN COLLEGE OF OPTOMETRY	50-16204	Seeing Double: The Chronic and Urgent Causes of Diplopia	20-525489	APPROVED	4/12/2016
SOUTHERN COLLEGE OF OPTOMETRY	50-16204	Injection Procedures for Primary Eye Care Clinical Skills Lab	20-525441	APPROVED	4/12/2016
SOUTHERN COLLEGE OF OPTOMETRY	50-16204	Assessing Low Vision Options on Smartphones and Tablets	20-550170	APPROVED	4/15/2016
SOUTHERN COLLEGE OF OPTOMETRY	50-16204	Diagnosis and Treatment of Visual Disorders in a Population of Professional Athletes Post-Concussion	20-525477	APPROVED	4/12/2016
SOUTHWEST FLORIDA EYE CARE	50-18705	OCULAR COHERENCE TOMOGRAPHY	20-526737	APPROVED	4/18/2016
SUNY COLLEGE OF OPTOMETRY	50-2772	Prevention of Medical Errors	20-557682	APPROVED	7/5/2016
SUNY COLLEGE OF OPTOMETRY	50-2772	OSD, DED, DTS ? Ocular Surface Health: So Much More than Dry Eyes	20-527615	APPROVED	4/18/2016
TAMPA BAY EYECARE NETWORK, INC.	50-2690	Your Cataract is a Little Different	20-559130	APPROVED	7/5/2016
TAMPA BAY EYECARE NETWORK, INC.	50-2690	Commitment to Care	20-533383	APPROVED	7/1/2016
TEXAS OPTOMETRIC ASSOCIATION	50-15194	Tip of the Iceberg	20-532641	APPROVED	7/12/2016

THE EYE ASSOCIATES	50-17676	The Bascom Palmer Files	20-530363	APPROVED	4/25/2016
THE EYE INSTITUTE OF WEST FLORIDA	50-2664	Common Orbital Inflammatory Diseases	20-526563	APPROVED	4/15/2016
THE EYE INSTITUTE OF WEST FLORIDA	50-2664	Principles and Practice of Refractive Cataract Surgery	20-528565	APPROVED	4/15/2016
THE EYE INSTITUTE OF WEST FLORIDA	50-2664	?The Twitch?: Diagnosis and Treatment of Blepharospasm and Hemifacial Spasm	20-563944	APPROVED	7/25/2016
TREASURE COAST OPTOMETRIC SOCIETY	50-2768	Is OCT Right for Me?	20-555536	APPROVED	5/31/2016
TROPICAL CE	50-12235	Walk Softly And Carry A Big Stick- New Therapeutics For Clinical Practice	20-555502	APPROVED	5/31/2016
TROPICAL CE	50-12235	The Best of the Worst Ocular Urgencies and Emergencies	20-557584	APPROVED	7/5/2016
TROPICAL CE	50-12235	Anterior Segment Disease Therapy A Look Into The Future	20-555498	APPROVED	5/31/2016
TROPICAL CE	50-12235	Florida Jurisprudence	20-521075	APPROVED	5/17/2016
TROPICAL CE	50-12235	Microbial Keratitis	20-534367	APPROVED	7/5/2016
TROPICAL CE	50-12235	Modern Management of Ocular Occlusive Disease	20-557580	APPROVED	7/5/2016
TROPICAL CE	50-12235	Assessing the Glaucomatous Optic Nerve	20-557586	APPROVED	7/5/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	The Must Have Systemic Medications for Special Populations	20-532191	APPROVED	5/27/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	Management of Ocular Pain and Inflammation	20-532161	APPROVED	5/27/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	Whats New, Whats Next in Glaucoma	20-560894	APPROVED	7/5/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	So Now What	20-560896	APPROVED	7/12/2016

UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	The Secondary Glaucomas	20-539499	APPROVED	7/6/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	Prevention of Medical Errors within Eye Care	20-532311	APPROVED	5/27/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	Florida Jurisprudence: Florida Statutes 463, Admin Rules 64-B13	20-532123	APPROVED	5/12/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	Do You Want Steroids with THAT	20-532157	APPROVED	5/12/2016
UNIVERSITY OF ALABAMA AT BIRMINGHAM SCHOOL OF OPTOMETRY	50-3513	OCT Interpretation of Retinal Disease As Seen With SDOCT Imaging	20-557994	APPROVED	7/6/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	GO HIGH-TECH STATE OF THE ART SURGICAL CO-MANAGEMENT	20-554900	APPROVED	5/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Ophthalmic Therapeutic Update	20-538111	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	The Future of Cataract Surgery	20-535053	APPROVED	7/6/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Sjogrens Disease, a Model for the Treatment of Ocular Surface Disease	20-535067	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Ocular Manifestations in Autoimmune Diseases	20-538101	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Rheumatology, Thyroid Dysfunction and the Eye	20-535065	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	COMMON AND NOT SO COMMON CONTACT LENS COMPLICATIONS	20-554898	APPROVED	5/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	MORE THAN MEETS THE EYE	20-554896	APPROVED	5/5/2016

UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Fitting the Irregular Cornea	20-558740	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Diagnosing and Managing Ocular Emergencies and Urgencies	20-538105	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	My Favorite Cases	20-535057	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Session 7: Final Thoughts Regarding OrthoK	20-558746	APPROVED	7/5/2016
UNIVERSITY OF HOUSTON COLLEGE OF OPTOMETRY	50-15468	Session 3: New Horizons in Myopia Control	20-558738	APPROVED	7/12/2016
VISN 8 OPTOMETRY	50-10326	Resident Talk #2	20-551260	APPROVED	4/18/2016
VISN 8 OPTOMETRY	50-10326	RESIDENT TALK #3	20-551264	APPROVED	4/18/2016
VISN 8 OPTOMETRY	50-10326	Principles & Applications of Vitreous Surgery	20-551244	APPROVED	4/18/2016
VISN 8 OPTOMETRY	50-10326	Resident Talk #1	20-551250	APPROVED	4/18/2016
WEST FLORIDA OPTOMETRIC ASSOCIATION	50-2761	Florida Jurisprudence	20-550250	APPROVED	4/15/2016
WEST FLORIDA OPTOMETRIC ASSOCIATION	50-2761	Vision Development and the Infant Toddler Examination	20-550244	APPROVED	4/25/2016
WEST FLORIDA OPTOMETRIC ASSOCIATION	50-2761	Prevention of Medical Errors within Eye Care	20-550222	APPROVED	4/15/2016
WEST FLORIDA OPTOMETRIC ASSOCIATION	50-2761	Visual Information Processing Seeing the Big Picture and Understanding It	20-550246	APPROVED	4/25/2016
WEST FLORIDA OPTOMETRIC ASSOCIATION	50-2761	The Binocular Vision Examination	20-550248	APPROVED	4/15/2016

Florida Board of Optometry Ratification List

04-07-2016 to 08-01-2016

Lic Nbr	Issue Date	Licensee Name
5177	04/15/2016	Gough, Nicola Jane
5178	04/27/2016	Kinney, Micah Jason
5179	04/27/2016	Patel, Margi A
5180	05/03/2016	Patel, Hiren Baldevbhai
5181	05/05/2016	Azman, Benjamin E
5182	05/10/2016	Duffield, Patricia
5183	05/10/2016	Batalo, Dillon Anthony
5184	05/13/2016	Galle, Daniel R
5185	05/17/2016	O'Connor, Brett Daniel
5186	05/19/2016	Mclaughlin, Rebecca Suzanne
5187	05/20/2016	Mann, Jason Scott
5188	05/25/2016	Zink, Laura Jean
5189	05/25/2016	Parrish, Jordan Michael
5190	05/25/2016	Patel, Tania
5191	05/25/2016	Roberts, William Rafael
5192	05/25/2016	Sunkin, Gerald Christopher
5193	05/25/2016	Wilson, Sarah Rose
5194	05/25/2016	Yakovleva, Nataliya A
5195	05/25/2016	Cabrera, Osvaldo
5196	05/25/2016	Diamantakos, Angela Rodopi
5197	05/25/2016	George, Gincy Ann
5198	05/26/2016	Gampel, Dana Lindsay
5199	05/26/2016	Ginzburg, Ilya
5200	05/26/2016	La Rosa, Robb William
5201	05/26/2016	Hu, Chuan
5202	05/26/2016	Harris, Brian Christopher
5203	05/26/2016	Ragan, Donald Kevin Jr
5204	05/26/2016	Mansito, Candice Nicole
5205	05/26/2016	Marotto, Alycia Ann
5206	05/27/2016	Mcintosh, Samantha Kimberly
5207	05/27/2016	Molina, Linnett Marie
5208	05/27/2016	Joseph, Shannon
5209	05/27/2016	Musto, Marc O D
5210	05/27/2016	La Rosa, Cristina
5211	05/27/2016	Fisher, Kelly Anne
5212	05/31/2016	Quesada Moore, Stephanie
5213	05/31/2016	Saint Jean, Caleb
5214	05/31/2016	Louissaint, Vanessa
5215	05/31/2016	Batton, Catherine Lee Ann
5216	05/31/2016	Edriskhalaf, Faten

5217	06/01/2016	Hamilton, Christopher Jonmichael
5218	06/01/2016	Quan, Steven Charles
5219	06/01/2016	Garcia, Michael Alan
5220	06/02/2016	Qureshi, Alvina Jawaid
5221	06/03/2016	Castro, Brenda
5222	06/06/2016	Sodhi, Jasmine
5223	06/06/2016	Harrelson, Jay Richard
5224	06/06/2016	Ramsook, Sandhya Shannon
5225	06/06/2016	Severinsky, Boris
5226	06/06/2016	Blechman, Jenna Renee
5227	06/07/2016	Diaz, Natalie Kristen Od
5228	06/07/2016	Farinacci, Christina Nicole O D
5229	06/07/2016	Chow, Man Kin
5230	06/07/2016	Avdic, Tea
5231	06/08/2016	Cordero-Vargas, Francisco Javier Od
5232	06/09/2016	Lund, Jessica Lynn
5233	06/09/2016	Balasquide, Giovana Marie
5234	06/09/2016	Le, Jamie Quemai Thanh
5235	06/13/2016	Tille, Charles Andrew
5236	06/13/2016	Geary, Daniel Andrew
5237	06/16/2016	Patel, Parisha
5238	06/16/2016	Griffith, Philip Charles
5239	06/17/2016	Hoover, Sabina Muhamud
5240	06/17/2016	Seaman, Bryan John
5241	06/17/2016	Rao, Samantha J
5242	06/20/2016	Calderon Ramirez, Luis Ronald
5243	06/21/2016	Jaat, Hira Rehman
5244	06/22/2016	Keating, Alyssa
5245	06/24/2016	Bernatsky, Rachel Sara
5246	06/28/2016	Ming, Calista Siobhan
5247	06/29/2016	Obenza, Maribel Racho
5248	07/06/2016	Woolwine, Joshua Carson
5249	07/08/2016	Pham, Tony Nguyen
5250	07/08/2016	Perez, Belkis
5251	07/11/2016	Morette, Johnny Paul O D
5252	07/11/2016	Daldine, Christopher Joseph
5253	07/12/2016	Samuel, Patricia Palma
5254	07/13/2016	Renaud, Lauren Elizabeth
5255	07/14/2016	Luong, Doris C
5256	07/15/2016	Dugas, Brooke Nicole
5257	07/18/2016	Phyfer, Robert Cyrus
5258	07/19/2016	Bettis, Kyle J
5259	07/21/2016	Shah, Rishi
5260	07/21/2016	Lord, Elise Aubrey
5261	07/25/2016	Findlater, Nathalie
5262	07/25/2016	Melendez, Maria Cristina
5263	07/25/2016	Nedelcu, John Ionut

5264	07/26/2016	Nguyen, Joseph Phuc Quang
5265	07/26/2016	Wacker, Benjamin Hale O D
5266	07/27/2016	Chen, Fenfei

Total: 90

Florida Board of Optometry Faculty Certificate Ratification List
04/07/2016 to 08/01/2016

Lic Nbr	Issue Date	Licensee Name
74	06/13/2016	Wilczek, Margaret Anna
75	07/11/2016	Baker, Lindsay
76	07/22/2016	Sayani, Amar

Total: 3

DOH PROSECUTOR'S REPORT

BOARD OF OPTOMETRY

Meeting Date August 19, 2016

TO: Anthony Spivey, Executive Director

FROM: Cheryl D. Roberts, Assistant General Counsel

DATE: August 10, 2016

RE: Current Open / Pending OT cases

Total cases open/active in PSU:	20
Cases in EAU:	0
Cases under legal review:	11
Cases where PC recommendation made:	3
Total cases where PC has been found:	1
Cases in holding status:	0
Cases awaiting supplemental investigation:	1
Cases requested formal hearing (DOAH):	2**
Cases in intake status:	0
Agendaed for current or future Board Meeting:	2
Cases older than one year:	14**

**cases requested a formal hearing before DOAH still in settlement negotiations, one being resent to expert

**cases older than one year, 2 are on the current board meeting agenda, 2 are being sent back for expert review, 2 were tabled from last PCP for further investigation, 1 will be recommended for closure, 1 being reviewed further, 1 in settlement negotiations

MEMORANDUM

To: Optometry Board

From: Board Counsel
Diane L. Guillemette

Re: Rule 64B13-3.003

Date: July 26, 2016

A Board member asked that we look at 64B13-3.003(8), F.A.C.

The statute upon which the rule is based, Section 456.058, states “at least 2 years.”

Does the Board want to consider changing the amount of time the documents must be kept?

64B13-3.003 Patient Records; Transfer or Death of Licensed Practitioner.

(1) The licensed practitioner must legibly sign the entry in his or her records for each patient encounter. If the practitioner maintains electronic patient records, the practitioner may affix an electronic signature which can be generated by using either public key infrastructure or signature dynamics technology, and meets the following criteria:

(a) The electronic signature is unique to the person using it;

(b) The electronic signature is capable of verification;

(c) The electronic signature is under the sole control of the person using it;

(d) The electronic signature is linked to the record in such a manner that the electronic signature is invalidated if any data in the record are changed.

(2) A licensed practitioner shall maintain full and independent responsibility and control over all records relating to his or her patients and his or her optometric practice. All such records shall remain confidential except as otherwise provided by law and shall be maintained by the licensed practitioner in compliance with Rule 64B13-3.001, F.A.C. For the purposes of this rule, "maintain full and independent responsibility and control" means that the records shall be maintained in the licensed practitioner's office or solely in the possession of the licensed practitioner, and that the licensed practitioner shall not share, delegate, or relinquish either possession of the records or his or her responsibility or control over those records with or to any entity which is not itself a licensed practitioner.

(3) The records relating to the patients of a multidisciplinary group of licensed health care professionals as provided in Section 463.014(1)(a), F.S., or relating to the patients of a partnership or professional association as provided in Section 463.014(1)(b), F.S., may be maintained by the group practice, partnership, or professional association on behalf of all licensed practitioners employed by the group practice, partnership, or professional association.

(4) For the purposes of this rule, "entity which itself is not a licensed practitioner" shall refer to any corporation, lay body, organization, individual, or commercial or mercantile establishment which is not a licensed practitioner or which is not comprised solely of licensed health care professionals, the primary objective of whom is the diagnosis and treatment of the human body.

(5) For the purposes of this rule, "commercial or mercantile establishment" shall include an establishment in which the practice of opticianry is conducted pursuant to Chapter 484, Part I, Florida Statutes, and an establishment in which optical goods are sold.

(6) A licensed practitioner shall keep patient records for a period of at least five years after the last entry. Upon the discontinuance of his or her practice, the licensed practitioner shall either transfer all patient records which are less than five years old to an eye care practitioner licensed pursuant to Chapter 463, 458, or 459, F.S., where they may be obtained by patients, or he or she shall keep them in his or her possession for at least five years and make them available to be obtained by patients.

(7) A licensed practitioner who retires or otherwise discontinues his or her practice shall cause to be published in the newspaper of greatest general circulation in each county where the licensed practitioner practiced, a notice indicating to his or her patients that the licensed practitioner's patient records are available from a specified eye care practitioner licensed pursuant to Chapter 458, 459, or 463, F.S., at a certain location. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the Board office for filing.

(8)(a) The executor, administrator, personal representative, or survivor of a deceased licensed practitioner shall retain patient records concerning any patient of the deceased licensed practitioner for at least five years from the date of death of the licensed practitioner.

(b) Within one (1) month from the date of death of the licensed practitioner, the executor, administrator, personal representative, or survivor of the deceased licensed practitioner shall cause to be published in the newspaper of greatest general circulation in each county where the licensed practitioner practiced, a notice indicating to the patients of the deceased licensed practitioner the location at which whose patients may obtain their patient records. The notice shall be published once during each week for four (4) consecutive weeks. A copy of the published notice shall be delivered to the Board office for filing.

Specific Authority 456.058, 463.005(1)(a), (d) FS. Law Implemented 456.057, 456.058, 463.005(1)(a), (d) FS. History—New 11-13-79, Amended 12-19-84, 4-8-85, Formerly 21Q-3.03, Amended 12-16-86, 7-11-88, Formerly 21Q-3.003, 61F8-3.003, Amended 2-14-96, Formerly 59V-3.003, Amended 3-29-98, 4-3-00, 1-2-02, 11-16-05, 1-31-08.

456.058. Disposition of records of deceased practitioners or practitioners relocating or terminating practice

Each board created under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 465, chapter 466, part I of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462, shall provide by rule for the disposition, under that chapter, of the medical records or records of a psychological nature of practitioners which are in existence at the time the practitioner dies, terminates practice, or relocates and is no longer available to patients and which records pertain to the practitioner's patients. The rules shall provide that the records be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

Credits

Laws 1997, c. 97-261, § 85; Fla.St.1999, § 455.677. Renumbered as 456.058 by Laws 2000, c. 2000-160, § 80, eff. July 4, 2000. Amended by Laws 2000, c. 2000-318, § 115, eff. July 1, 2000.

(<https://www.shire.com/en>)

Newsroom

FDA Approves Shire's Xiidra™ (lifitegrast ophthalmic solution) 5% – The Only Treatment Indicated for the Signs and Symptoms of Dry Eye Disease

July 11, 2016

- An estimated 16 million people in the U.S. are diagnosed with dry eye disease
- Xiidra is the first prescription eye drop FDA-approved to treat both the signs and symptoms of dry eye disease
- U.S. launch of Xiidra planned for third quarter 2016

Lexington, Mass. – July 11, 2016 19:09 ET – Shire plc (LSE: SHP, NASDAQ: SHPG) announces that the U.S. Food and Drug Administration (FDA) has approved Xiidra (lifitegrast ophthalmic solution) 5%, a twice-daily eye drop solution indicated for the treatment of the signs and symptoms of dry eye disease in adult patients. Xiidra is the only prescription eye drop indicated for the treatment of both signs and symptoms of this condition. Shire expects to launch Xiidra in the United States in the third quarter of 2016.

“The approval of Xiidra marks a new day in treatment options for patients with dry eye disease, with the only prescription eye drop approved in the U.S. specifically to treat both the signs and symptoms of the condition,” said Flemming Ornskov, M.D., MPH, CEO, Shire. “As Shire’s first FDA-approved medicine in ophthalmics, this significant milestone advances our goal of becoming the global leader in this category, where there are unmet patient needs. We have a robust ophthalmics pipeline, and we look forward to leveraging Xiidra as our entrée into the space as we continue to develop additional innovative eye care treatment options.”

An estimated 16 million adults in the U.S. are diagnosed with dry eye disease. An often chronic ocular disease, dry eye is associated with inflammation that may eventually lead to damage to the surface of the eye. An eye care professional can diagnose dry eye disease based on signs and symptoms and determine management options, which could include the use of a prescription treatment.

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“The clinical program supporting the approval of Xiidra is the largest for an investigational-stage dry eye disease candidate, including a Phase 2 study in 2,500 patients,” said Edward Holland, M.D., Professor of Clinical Ophthalmology, University of Cincinnati and a clinical trial investigator

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for Xiidra. "The clinical trial program design took into consideration many of the challenges of past dry eye research. It's exciting to see Xiidra as the first prescription eye drop FDA-approved for both the signs and symptoms of the condition."

Xiidra is a prescription eye drop solution used to treat the signs and symptoms of dry eye disease. It is dosed twice per day, approximately 12 hours apart, in each eye. The safety and efficacy of Xiidra was studied in 1,181 patients (of which 1,067 patients received lifitegrast 5%) in four placebo-controlled 12-week trials. Each of the four studies assessed the effect of Xiidra on both the signs and symptoms of dry eye disease at baseline, week two, six and 12. Assessment of symptoms was based on change from baseline in patient reported eye dryness score (EDS; 0-100 visual analogue scale). Assessment of signs was based on inferior corneal staining score (ICSS; 0-4 scale). In all four studies, a larger reduction in EDS was observed with Xiidra at six and 12 weeks. In two of the four studies, an improvement in EDS was seen with Xiidra at two weeks. At week 12, a larger reduction in ICSS favoring Xiidra was observed in three of the four studies. The most common adverse reactions reported in 5 to 25 percent of patients were instillation site irritation, altered taste sensation (dysgeusia) and reduced visual acuity.

"Dry eye is a common complaint to eye care professionals, with millions of U.S. adults experiencing the symptoms of this often chronic disease," said Kelly K. Nichols, O.D., MPH, Ph.D., FAAO, Dean of the University of Alabama at Birmingham School of Optometry. "It is critical for eye care professionals to have a dialogue with patients who report symptoms because dry eye can be a progressive ocular surface disease."

The inflammation associated with dry eye is thought to be primarily mediated by T-cells and associated cytokines. One effect of this process may be increased expression of intracellular adhesion molecule-1 (ICAM-1); ICAM 1 may be overexpressed in corneal and conjunctival tissues in dry eye disease. Lifitegrast is a small-molecule integrin antagonist that binds to the integrin lymphocyte function-associated antigen-1 (LFA-1), a cell surface protein found on leukocytes, and blocks the interaction of LFA-1 with its cognate ligand intercellular adhesion molecule-1 (ICAM-1). LFA-1/ICAM-1 interaction can contribute to the formation of an immunological synapse resulting in T-cell activation and migration to target tissues. In vitro studies demonstrated that lifitegrast may inhibit T-cell adhesion to ICAM-1 in a human T-cell line and may inhibit secretion of inflammatory mediators (cytokines) in human peripheral blood mononuclear cells. The exact mechanism of action of lifitegrast in dry eye disease is not known.

What is Xiidra?

Xiidra is a prescription eye drop used to treat the signs and symptoms of dry eye disease.

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The most common side effects of Xiidra include eye irritation, discomfort or blurred vision when the drops are applied to the eyes, and an unusual taste sensation (dysgeusia). To help avoid eye injury or contamination of the solution, do not touch the container tip to your eye or any surface. If you wear contact lenses, remove them before using Xiidra and wait for at least 15 minutes before placing them back in your eyes.

It is not known if Xiidra is safe and effective in children under 17 years of age.

For additional information, click here

(http://www.shirecontent.com/PI/PDFS/XIIDRA_USA_ENG.pdf) for full Prescribing Information including Patient Information and discuss with your doctor.

You are encouraged to report negative side effects of prescription drugs to the FDA. Visit <http://www.fda.gov/medwatch> (<http://www.fda.gov/medwatch>) or call 1-800-FDA-1088.

About Dry Eye Disease

Dry eye is a multifactorial disease of the tears and ocular surface. It is diagnosed by an eye care professional based on patient reported symptoms, such as eye dryness, overall eye discomfort, stinging, burning, a gritty feeling or fluctuating blurry vision, as well as signs, which can be objectively evaluated by an eye care professional through various tests to determine the presence of dry eye disease. The symptoms of dry eye can interrupt daily activities such as reading, driving, working, using technology, watching TV, and spending time outside in bright light and cold or windy conditions. Aging and gender (female) are recognized as traditional risk factors of dry eye disease while modern risk factors include prolonged digital/computer screen time, contact lens wear and cataract or refractive surgery. Dry eye is an often chronic ocular disease associated with inflammation that may eventually lead to damage to the surface of the eye. Dry eye may be progressive and is a common patient complaint to eye care professionals.

Shire's Commitment to Ophthalmics

In May 2014, Shire entered into ophthalmics, solidifying its commitment to growing in this emerging therapeutic area. Shire's multi-faceted approach to discovery, development, and delivery in both rare diseases and specialty conditions includes our efforts to address unmet needs in eye care.

Shire's ophthalmics business has been driven by a combination of strategic acquisitions and organic growth. Committed to growing its reputation as a leading biotech company, Shire is focused on continuing to expand its ophthalmics portfolio to include treatment options for rare diseases and those for anterior and posterior segment eye conditions. In just three years,

acquisitions include Forestig Biotherapeutics, SARCODE Bioscience, Premacure AB, and BIKAM Pharmaceuticals, which have helped bolster Shire's early-, mid- and late-stage ophthalmics

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pipeline. The Company currently has an ophthalmics pipeline of investigational candidates in infectious conjunctivitis, retinopathy of prematurity, autosomal dominant retinitis pigmentosa, and glaucoma.

Stephen Williams, Deputy Company Secretary (responsible for arranging the release of this announcement).

For further information please contact:

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NOTES TO EDITORS

Inside Information

This announcement contains inside information.

About Shire

Shire is the leading global biotechnology company focused on serving people with rare diseases and other highly specialized conditions. We strive to develop best-in-class products, many of which are available in more than 100 countries, across core therapeutic areas including Hematology, Immunology, Neuroscience, Ophthalmics, Lysosomal Storage Disorders, Gastrointestinal, Endocrine and Hereditary Angioedema; and a growing franchise in Oncology.

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Our employees come to work every day with a shared mission: to develop and deliver breakthrough therapies for the hundreds of millions of people in the world affected by rare diseases and other high-need conditions, and who lack effective therapies to live their lives to the fullest.

www.shire.com (<http://www.shire.com>)

Forward-Looking Statements

Statements included herein that are not historical facts, including without limitation statements concerning future strategy, plans, objectives, expectations and intentions, the anticipated timing of clinical trials and approvals for, and the commercial potential of, inline or pipeline products are forward-looking statements. Such forward-looking statements involve a number of risks and uncertainties and are subject to change at any time. In the event such risks or uncertainties materialize, Shire's results could be materially adversely affected. The risks and uncertainties include, but are not limited to, the following:

- disruption from the acquisition and integration of Baxalta Incorporated ("Baxalta") may make it more difficult to conduct business as usual or maintain relationships with patients, physicians, employees or suppliers;
- the company may not achieve some or all of the anticipated benefits of Baxalta's spin-off from Baxter International, Inc. ("Baxter") and the acquisition may have an adverse impact on Baxalta's existing arrangements with Baxter, including those related to transition, manufacturing and supply services and tax matters;
- the failure to achieve the strategic objectives with respect to the acquisition of Baxalta may adversely affect the company's financial condition and results of operations;
- products and product candidates may not achieve commercial success;
- product sales from ADDERALL XR and INTUNIV are subject to generic competition;
- the failure to obtain and maintain reimbursement, or an adequate level of reimbursement, by third-party payers in a timely manner for the company's products may affect future revenues, financial condition and results of operations, particularly if there is pressure on pricing of products to treat rare diseases;
- supply chain or manufacturing disruptions may result in declines in revenue for affected products and commercial traction from competitors; regulatory actions associated with product approvals or changes to manufacturing sites, ingredients or manufacturing processes could lead to significant delays, an increase in operating costs, lost product sales, an interruption of research activities or the delay of new product launches;
- the successful development of products in various stages of research and development is highly uncertain and requires significant expenditures and time, and there is no guarantee that these

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- investigations or enforcement action by regulatory authorities or law enforcement agencies relating to the company's activities in the highly regulated markets in which it operates may result in significant legal costs and the payment of substantial compensation or fines;
- adverse outcomes in legal matters, tax audits and other disputes, including the company's ability to enforce and defend patents and other intellectual property rights required for its business, could have a material adverse effect on the company's revenues, financial condition or results of operations;
- Shire is undergoing a corporate reorganization and was the subject of an unsuccessful acquisition proposal and the consequent uncertainty could adversely affect the company's ability to attract and/or retain the highly skilled personnel needed to meet its strategic objectives;
- failure to achieve the strategic objectives with respect to Shire's acquisition of NPS Pharmaceuticals Inc. or Dyax Corp. ("Dyax") may adversely affect the company's financial condition and results of operations;
- the company is dependent on information technology and its systems and infrastructure face certain risks, including from service disruptions, the loss of sensitive or confidential information, cyber-attacks and other security breaches or data leakages that could have a material adverse effect on the company's revenues, financial condition or results of operations;
- the company may be unable to retain and hire key personnel and/or maintain its relationships with customers, suppliers and other business partners;
- difficulties in integrating Dyax or Baxalta into Shire may lead to the company not being able to realize the expected operating efficiencies, cost savings, revenue enhancements, synergies or other benefits at the time anticipated or at all; and
- other risks and uncertainties detailed from time to time in Shire's, Dyax's or Baxalta's filings with the Securities and Exchange Commission, including those risks outlined in "ITEM 1A: Risk Factors" in Shire's and Baxalta's Annual Reports on Form 10-K for the year ended December 31, 2015.

All forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by this cautionary statement. Readers are cautioned not to place undue reliance on these forward-looking statements that speak only as of the date hereof. Except to the extent otherwise required by applicable law, we do not undertake any obligation to republish revised forward-looking statements to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.



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PAM BONDI
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL
Administrative Law Bureau

Diane L. Guillemette
Assistant Attorney General
PL 01 The Capitol
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Fax (850) 922-6425
Diane.Guillemette@myfloridalegal.com

April 21, 2016

Marjorie Holladay, Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper Building
Tallahassee, Florida 32399-1400

HMQACE

APR 26 2016

RE: Rule No.:64B13-4.004, .007, and .009, F.A.C.

Dear Ms. Holladay,

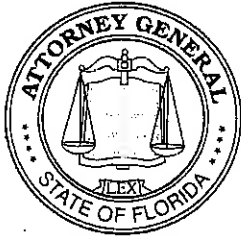
Based upon your letter dated March 14, 2016, please toll the time for the above-referenced rules beginning April 15, 2016. The rules will be taken back before the Board to address the concerns noted in your letter. However the 90-day time limit expires on May 27, 2016, additional time is needed for the Board to meet and consider you comments.

Thank you for your assistance in this matter.

Sincerely,

Diane L. Guillemette, Assistant Attorney General
Counsel to the Board of Optometry

cc: Anthony Spivey, Executive Director ✓
Tammie Britt, Paralegal



PAM BONDI
ATTORNEY GENERAL
STATE OF FLORIDA

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Administrative Law Bureau

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May 19, 2016

HMQACB

MAY 25 2016

Marjorie C. Holladay
Chief Attorney
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

Re: Department of Health: Board of Optometry
Rules 64B13-3.002, .006, .008, .009, .010, .012 and .015, F.A.C.

Dear Ms. Holladay:

I have reviewed your May 5, 2016 letter regarding the above referenced rules and offer the following responses:

- 64B13-3.002:** Reference to Section 456.058 will be deleted from rulemaking authority.
- Reference to Section 456.058 will be deleted from laws implemented. Section 463.005(1)(a) directs the board to adopt rules relating to: “[S]tandards of practice, including, but not limited to, those provided for in s. 463.0135.”
- 64B13-3.002(1):** Section 463.005(1)(a) directs the board to adopt rules relating to: “[S]tandards of practice, including, but not limited to, those provided for in s. 463.0135.” This portion of the rule establishes a standard of practice for patient responsibility.
- 64B13-3.002(2):** Section 463.005(1)(a) directs the board to adopt rules relating to: “[S]tandards of practice, including, but not limited to, those provided for in s. 463.0135.” This portion of the rule establishes a standard of practice for patient responsibility.

- 64B13-3.006:** The word “topical” will be removed from the rule by notice of change.
- The rule requires that a sign be posted by optometrists that are licensed but not certified. With the removal of the descriptor “topical” the rule is consistent with the law as stated in 463.002(3)(b) and 463.0055(1). Section 463.0055(1) will be added to the law implemented.
- 64B13-3.010:** Section 463.0055 will be added to the law implemented.
- 64B13-3.010(3)(a):** The notice will be re-coded and corrected.
- 64B13-3.010(3)(a)2.:** The word “and” will be moved to its correct placement in the sentence.
- 64B13-3.010(8):** The word “practitioner” will be changed to all lower case.
- The spelling of “solely” will be corrected.
- 64B13-3.010(9):** A comma and the word “and” will be added to the text.
- The spelling of “subsection” will be corrected.
- 64B13-3.010(10):** The word “Board” will be capitalized.
- 64B13-3.010(11)(a):** The new text found in this subsection will be underlined.
- 64B13-3.010(12):** “[P]atients record” will be changed to “patient’s record.”
- 64B13-3.012:** Reference to section 463.016(1)(k) will be removed from the law implemented.
- 64B13-3.012(3)[sic]:** This subsection will be renumbered.
- 64B13-3.012(4)[sic]:** This subsection will be renumbered.
- 64B13-3.012(5)[sic]:** This subsection will be renumbered.
- 64B13-3.015(1):** The first sentence of paragraph (1), which was stricken in the notice, will be reinserted by notice of change. That sentence addresses both your comments.

HMQACB

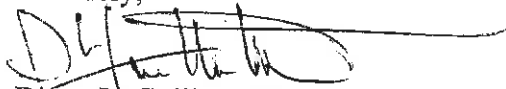
MAY 25 2016

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MAY 25 2016

I hope these responses alleviate your concerns with these rules.

Sincerely,

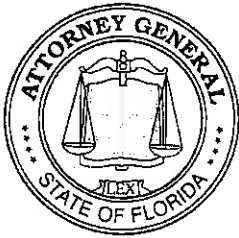


Diane L. Guillemette
Assistant Attorney General
Counsel to the Board of Optometry

HMQACB

MAY 25 2016

cc: Dr. Anthony Spivey, Executive Director
Mr. Edward Tellechea, Bureau Chief



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ATTORNEY GENERAL
STATE OF FLORIDA

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Administrative Law Bureau

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HMQACB

May 27, 2016

Marjorie C. Holladay
Chief Attorney
Joint Administrative Procedure Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

JUN 02 2016
HMQACB

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JUN 02 2016

HMQACB

Re: **Department of Health: Board of Optometry**
Rules 64B13-4.004, .007, and .009, F.A.C.

Dear Ms. Holladay:

I responded to your March 14, 2016 letter by correspondence dated March 30, 2016. As to your concern regarding 64B13-4.004(1) the response stated:

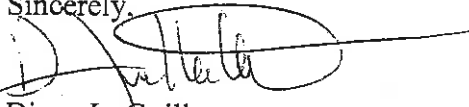
64B13-4.004(1): A notice of change will be filed that will reflect the new application DH-MQA 1128, revised 12/2015. The new application will be provided.

However, since that response, I realized that the rule development did not encompass change to the application. Consequently, the notice of change filed does not reflect a new application.

In our phone conversation on May 26, 2016, we discussed the Optometry Board's intention to change the application in the near future, and my obligation to re-notice the rule for development specifically referencing a change to the application.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,


Diane L. Guillemette
Assistant Attorney General
Counsel to the Board of Optometry

cc:

Dr. Antony Spivey, Executive Director
Tammie Britt, Paralegal Specialist
Cassandra Fullove, Paralegal Specialist
Edward Tellechea, Bureau Chief

BOARD OF OPTOMETRY COMMITTEE ASSIGNMENTS

BUDGET:

Stephen Kepley, O.D.

CONTINUING EDUCATION:

Tamara Maule, O.D.

CORPORATE PRACTICE:

DISCIPLINARY COMPLIANCE:

Stuart Kaplan, O.D.

EXAMINATION:

Christopher King, O.D.

FOA:

Stuart Kaplan, O.D.

LEGISLATION:

Stephen Kepley, O.D.

PROBABLE CAUSE:

Carl Spear, O.D. (current) Past

RULES:

Stuart Kaplan, O.D.

**COMPLAINTS, INVESTIGATION &
ENFORCEMENT LIAISON:**

Stuart Kaplan, O.D.

UNLICENSED ACTIVITY:

Stuart Kaplan, O.D.

HEALTHIEST WEIGHT:

Christopher King, O.D.

PROBATIONARY:

Stuart Kaplan, O.D.
