

FLORIDA | Board of Optometry

OFFICIAL MINUTES

June 22, 2018

DoubleTree Hotel
5780 Major Boulevard
Orlando, Florida 32819



Stuart Kaplan, O.D., *Chair*
Christopher King, O.D., *Vice-Chair*
Anthony Spivey, DBA, *Executive Director*

The Florida Board of Optometry held a meeting on Friday, June 22, 2018, commencing at 9:00 a.m. This meeting was held at the DoubleTree Hotel, 5780 Major Boulevard, Orlando, Florida 32819 to which all persons were invited to attend. Participants in this public meeting were made aware that these proceedings were being recorded and that an audio file of the meeting will be posted to the board's website.

AGENDA

Section I began: 9:00 a.m.

I. CALL TO ORDER (Roll Call):

Dr. Stuart Kaplan, O.D., Chair
Dr. Christopher King, Vice Chair, O.D., F.A.A.O.
Dr. Katie Spear, O.D. (Absence Excused)
Dr. David Rouse, O.D.,
Dr. Stephen Kepley, O.D.
Mr. John Griffin, J.D.
Ms. Lucille Turner, J.D.

Board Staff Present:

Dr. Anthony Spivey, DBA, Executive Director
Ms. Kelly Woodard, Regulatory Supervisor

Board Counsel:

Lawrence Harris, Assistant Attorney General

Court Reporter:

American Court Reporting
(407)-896-1813

Section I ended: 9:03 a.m.

Section II began: 9:03 a.m.

II. APPROVAL OF MINUTES

i. April 10, 2018

Action: Motion to approve the meeting minutes made by Dr. King. Second made by Dr. Rouse.

Vote: 6 yeas/ 0 opposed. Motion carried.

Section II ended: 9:03 a.m.

Section III began: 9:03 a.m.

Section III: Discussion ensued to defer this section to the end of the meeting
Returned to Section III at 1:55 p.m.

41 **III. APPLICATIONS FOR REVIEW**

42

43 **i. Anthony Gish, O.D.**

44

45 **Action:** Motion to apply the current statute to the application made by Mr. Griffin.

46 Second made by Dr. Rouse.

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48 **Vote:** 6 yeas/ 0 opposed. Motion carried.

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50 **ii. Abdelhafeth Awad, O.D.**

51

52 **Action:** Motion to apply the current statute to the application made by Mr. Griffin.

53 Second made by Dr. Rouse.

54

55 **Vote:** 6 yeas/ 0 opposed. Motion carried.

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57 **Section III ended: 2:01 p.m.**

58 **Section IV began: 9:10 a.m.**

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60 **IV. REQUEST FOR ADDITIONS TO TOPA FORMULARY**

61

62 **i. Aerie Pharmaceuticals, Inc.**

63

64 The board instructed staff to revise the website to reflect the addition of Rhopressa-
65 Netarsudil 0.02% ophthalmic solution and notify all licensees.

66

67 **Action:** Motion to approve the addition to Florida Administrative Code 64B13-18-.002
68 made by Dr. King. Second made by Dr. Kepley.

69

70 **Vote:** 6 yeas/ 0 opposed. Motion carried.

71

72 **Action:** Motion to open rule Rule 64B13-18.002, FAC for development by revising
73 subsection 8 to add a new class (f) Rock Inhibitors made by Dr. Kepley. Second made by
74 Ms. Turner.

75

76 **Vote:** 6 yeas/ 0 opposed. Motion carried.

77

78 Mr. Harris asked whether the proposed rules would have adverse impacts on small
79 business and whether regulatory costs would exceed two hundred thousand dollars within
80 one year of implementation. Dr. Kaplan stated there would be no adverse impact or
81 increase of costs.

82

83 **Action:** Motion to approve Dr. Kaplan's response made by Mr. Griffin. Second made by
84 Dr. Kepley.

85

86 **Vote:** 6 yeas/ 0 opposed. Motion carried.

87

88 Mr. Harris asked whether the proposed rules would have adverse impacts on small
89 business and whether regulatory costs would exceed one million dollars within five years
90 of implementation. Dr. Kaplan stated there would be no adverse impact or increase of
91 costs.

92 **Action:** Motion to approve Dr. Kaplan’s response made by Dr. Kepley. Second made by
93 Mr. Griffin.

94
95 **Vote:** 6 yeas/ 0 opposed. Motion carried.

96
97 Mr. Harris asked whether the proposed rules would be subject to a minor violation. Minor
98 violation means that it will not directly affect the public health, safety, or welfare and is
99 able to be resolved with citation or notice of non-compliance. Dr. Kaplan stated there
100 would be no minor violations.

101
102 **Action:** Motion to approve Dr. Kaplan’s response made by Dr. Rouse. Second made by
103 Dr. Kepley.

104
105 **Section IV ended: 9:18 a.m.**

106 **Section VI addressed out of order**

107 **Section V began: 9:35 a.m.**

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109 **V. RATIFICATION LIST:**

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111 **a. Licensure**

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113 **i. Optometrist**

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115 **Action:** Motion to ratify licensees made by Ms. Turner. Second made by Dr. Rouse.

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117 **Vote:** 6 yeas/ 0 opposed. Motion carried.

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119 **b. Continuing Education**

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121 **i. Providers & Courses approved by CE Chair Report**

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123 **Action:** Motion to ratify the approval of continuing education courses made by Dr.
124 Kepley. Second made by Ms. Turner.

125
126 **Vote:** 6 yeas/ 0 opposed. Motion carried.

127
128 **ii. Providers & Courses approved by Board Staff Report**

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130 **Action:** Motion to ratify the approval of continuing education courses made by Mr.
131 Griffin. Second made by Dr. Rouse.

132
133 **Vote:** 6 yeas/ 0 opposed. Motion carried.

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135 **Section V ended: 9:38 a.m.**

136 **Section VI began: 9:18 a.m. Returned to Section V at 9:35 a.m. and began Section**
137 **VI again at 9:38 a.m.**

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139 **VI. CONTINUING EDUCATION COMMITTEE’S RECOMMENDATION:**

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141 **i. Florida Mandatory Opioid CME/Board of Medicine/Osteopathic Medicine**

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Dr. King advised that the information lacked specifics.

Action: Motion to approve the course made by Dr. King. Second made by Ms. Turner.

Vote: 6 yeas/ 0 opposed. Motion carried.

ii. Florida Mandatory Opioid CME/MBA/CAE

Action: Motion to deny the approval of the course based on insufficient information made by Dr. Rouse. Second made by Dr. Kepley.

Action: Motion amended to require review of the course by Dr. Rouse before denial made by Dr. King. Second made by Dr. Kepley.

Vote: 6 yeas/ 0 opposed. Motion carried.

iii. Florida Mandatory Opioid CME/FMA/FOMA

Representatives, Jason Winn and Mary Thomas of FMA explained that the course they provide is currently online and that they would be sending the lecturers live formats. Jason Winn advised that the course was already approved by multiple boards and that they wish to seek approval of the course also known as Safe Prescribing of Controlled Substances.

Action: Motion to approve the course made by Dr. King. Second made by Dr. Rouse.

Vote: 6 yeas/ 0 opposed. Motion carried.

iv. Florida Mandatory Opioid CME/ACCME

Action: Motion to deny the approval of the course based on insufficient information made by Dr. Rouse. Second made by Dr. Kepley.

Action: Motion amended to require review of the course by Dr. Rouse before denial made by Dr. King. Second made by Dr. Kepley.

Vote: 6 yeas/ 0 opposed. Motion carried.

Section VI ended: 9:49 a.m.
Section VII began: 9:49 a.m.

VII. ANNUAL REVIEW OF ORAL DRUG COURSE:

Leonard Carson, General Counsel for the Florida Optometric Association, directed the board to review Florida Statute 463.0055. Mr. Carson advised that the twenty hour oral course was approved by the board in 2013 and that there has been no substantial change. Mr. Carson requested continued approval of the course.

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Action: Motion to approve the continuance of the course made by Dr. Kepley. Second made by Ms. Turner.

Vote: 6 yeas/ 0 opposed. Motion carried.

Section VII ended: 9:55 a.m.
Section VIII began: 9:55 a.m.

VIII. MEMORANDUM OF AGREEMENT

- i. Memorandum of Agreement**
- ii. Recommended Changes to Contract**
- iii. NBEO Contract**
- iv. NBEO Visit**

Mr. Harris advised that contracts must be renewed every three years. Discussion ensued. Dr. King expressed concerns regarding the contract. Dr. King presented past meeting minutes as factual evidence of matters that were discussed, but never addressed. Dr. Spivey advised that the suggested changes have been submitted to the department’s contract office is awaiting a response to the acceptance or denial. Dr. King advised that the current memorandum of agreement is not compliant with the statute. Mr. Griffin advised that the new statutory language allows the board authority to reject examination services provided by NBEO. Mr. Griffin expressed that it is within the prerogative of the board to request that the department provide explanation of why they may not exercise their statutory authority. Dr. Kepley suggested including scleral depression evaluation as a skill on the NBEO examination, but not as disqualifying criteria.

Section VIII ended: 10:25 a.m.
Section IX began: 10:25 a.m.

IX. PROSECUTION REPORT:

Prosecution counsel was not in attendance to provide the case statistics.

Action: Motion to grant the continuance of cases older than one year made by Dr. Kepley. Second made by Ms. Turner.

Vote: 6 yeas/ 0 opposed. Motion carried.

Section IX ended: 10:29 a.m.
Section X began: 10:29 a.m.

X. CHAIR/VICE CHAIR REPORT:

- a. Annual Recertification of Oral Pharmaceutical Exam**
- b. Vote for Vice Chair**

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Action: Motion to approve Dr. King as the new Vice-Chair made by Dr. Kepley. Second made by Dr. Rouse.

Vote: 6 yeas/ 0 opposed. Motion carried.

Section X ended: 10:29 a.m.
Section XI began: 10:29 a.m.

XI. EXECUTIVE DIRECTOR’S REPORT:

Nothing to Report

Section XI ended: 10:29 a.m.
Section XII began: 10:29 a.m.
Break from 10:40 a.m. to 10:53 a.m.

XII. BOARD COUNSEL REPORT:

- i. May Rules Report**
- ii. June Rules Report**

Mr. Harris presented rules reports and explained that the only outstanding rule for adoption is for the TOPA Formulary.

- iii. 4001.001 Rule Amendment**
- iv. 10.001 Suggested Amendment**
- v. MQA 1128**

Mr. Harris presented proposed language to Chapters 64B13-4.001 and 64B13-4.002, and 64B13-4.004 Florida Administrative Code. The board settled on a final interpretation of Chapter 463, Florida Statutes. Examination scores will be accepted as long as they are no older than 3 years preceding an application for licensure –OR- 3 years after submission of an application.

Action: Motion to accept changes to licensure application and proposed language in 64B13-4.001, 64B13-4.002, and 64B13-4.004 made by Dr. King. Second made by Ms. Turner.

Vote: 5 yeas/ 1 opposed. Motion carried

Mr. Harris asked whether the proposed rules would have adverse impacts on small business and whether regulatory costs would exceed two hundred thousand dollars within one year of implementation. The board agreed that there would be no adverse impact or increase of costs.

Action: Motion to approve the board’s response made by Dr. Rouse. Second made by Dr. Kepley.

Vote: 6 yeas/ 0 opposed. Motion carried.

287 Mr. Harris asked whether the proposed rules would have adverse impacts on small
288 business and whether regulatory costs would exceed one million dollars within five years
289 of implementation. The board agreed that there would be no adverse impact or increase
290 of costs.

291
292 **Action:** Motion to approve the board’s response made by Dr. Kepley. Second made by
293 Ms. Turner.

294
295 **Vote:** 6 yeas/ 0 opposed. Motion carried.

296
297 Mr. Harris asked whether the proposed rules would be subject to a minor violation. Minor
298 violation means that it will not directly affect the public health, safety, or welfare and is
299 able to be resolved with citation or notice of non-compliance. The board agreed that there
300 would be no minor violations.

301
302 **Action:** Motion to approve the board’s response made by Mr. Griffin. Second made by
303 Ms. Turner.

304
305 **vi. CE CS Course**

306
307 Mr. Harris presented proposed language to Chapters 64B13-5.001 and 64B13-5.002,
308 Florida Administrative Code. Dr. Peter Santisi of the Florida Optometric Association
309 expressed his concerns of the importance of the continuing education courses being live.
310 The board discussed online versus distance learning. Discussion ensued with the board
311 members. In its discussion, the board agreed that any previously approved distance
312 learning course presented by the National Glaucoma Society will qualify as meeting the
313 requirements for approved licensure renewal continuing education.

314
315 **Action:** Motion to accept proposed language amendments in 64B13-5.001 which would
316 allow up to four hours of distance learning to be used towards licensure renewal
317 continuing education credits as follows: Two hours to comply with the recently passed
318 HB21 controlled substances requirement and two hours of optometric practice
319 management made by Dr. Kepley. Second made by Dr. Rouse.

320
321 **Vote:** 5 yeas/ 1 opposed. Motion carried.

322
323 **Action:** Motion to accept proposed language amendments in 64B13-5.002 made by Dr.
324 King. Second made by Dr. Rouse.

325
326 **Vote:** 6 yeas/ 0 opposed. Motion carried.

327
328 Mr. Harris asked whether the proposed rules would have adverse impacts on small
329 business and whether regulatory costs would exceed two hundred thousand dollars
330 within one year of implementation. Dr. Kaplan stated that there would be no adverse
331 impact or increase of costs.

332
333 **Action:** Motion to approve Dr. Kaplan’s response made by Dr. Rouse. Second made by
334 Dr. Kepley.

335
336 **Vote:** 6 yeas/ 0 opposed. Motion carried.

337

338 Mr. Harris asked whether the proposed rules would have adverse impacts on small
339 business and whether regulatory costs would exceed one million dollars within five years
340 of implementation. Dr. Kaplan stated that there would be no adverse impact or increase
341 of costs.

342
343 **Action:** Motion to approve Dr. Kaplan’s response made by Ms. Turner. Second made by
344 Dr. Kepley.

345
346 **Vote:** 6 yeas/ 0 opposed. Motion carried.

347
348 Mr. Harris asked whether the proposed rules would be subject to a minor violation. Minor
349 violation means that it will not directly affect the public health, safety, or welfare and is
350 able to be resolved with citation or notice of non-compliance. The board agreed that there
351 would be no minor violations.

352
353 **Action:** Motion to approve the board’s response made by Dr. Kepley. Second made by
354 Ms. Turner.

355
356 **Vote:** 6 yeas/ 0 opposed. Motion carried.

357
358 **vii. Chapter 15 Disciplinary Rules**

359
360 Mr. Harris presented proposed language to Chapter 64B13-15-.005, 64B13-15.006, and
361 64B13-15.008 Florida Administrative Code. Mr. Harris revised and added new language
362 regarding first violation guidelines including second or subsequent violations.

363
364 **Action:** Motion to accept proposed language made by Ms. Turner. Second made by Dr.
365 King.

366
367 **Vote:** 6 yeas/ 0 opposed. Motion carried

368
369 **Action:** Motion to open rule 64B13-15-.005, 64B13-15.006, and
370 64B13-15.008, FAC for development made by Ms. Turner. Second made by Dr. Rouse.

371
372 **Vote:** 6 yeas/ 0 opposed. Motion carried.

373
374 Mr. Harris asked whether the proposed rules would have adverse impacts on small
375 business and whether regulatory costs would exceed two hundred thousand dollars within
376 one year of implementation. The board agreed that there would be adverse impact or
377 increase of costs.

378
379 **Action:** Motion to approve the board’s response and prepare statement of regulatory
380 costs (SERC) made by Ms. Turner. Second made by Dr. King.

381
382 **Vote:** 6 yeas/ 0 opposed. Motion carried.

383
384 Mr. Harris asked whether the proposed rules would have adverse impacts on small
385 business and whether regulatory costs would exceed one million dollars within five years
386 of implementation. The board agreed that there would be no adverse impact or increase
387 of costs.

388

389 **Action:** Motion to approve the board’s response made by Dr. King. Second made by Dr.
390 Rouse.

391
392 **Vote:** 6 yeas/ 0 opposed. Motion carried.

393
394 Mr. Harris asked whether the proposed rules would be subject to a minor violation. Minor
395 violation means that it will not directly affect the public health, safety, or welfare and is
396 able to be resolved with citation or notice of non-compliance. The board agreed that there
397 would be no minor violations.

398
399 **Action:** Motion to approve the board’s response made by Mr. Griffin. Second made by
400 Dr. King.

401
402 **Vote:** 6 yeas/ 0 opposed. Motion carried.

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404 **viii. 18.002 Board Approved**
405 **ix. 64B13-6.001 vs. F.S. 463.006 (Application Fees)**
406 **x. Memorandum of Agreement**
407 **xi. FOA comment to Chapter 2018-78, Laws of Florida**

408
409 Mr. Leonard Carson, General Counsel for the Florida Optometric Association
410 provided presentation related to the background of licensure requirements.
411 Mr. Carson also presented the FOA’s proposals of how they interpret the new statutory
412 language. Discussion ensued with the board members regarding further interpretation.
413 Ms. Angelina Gonzalez of Nova Southeastern University stated that all proposals would
414 seemingly accommodate the students.

- 415
416 **xii. Implementation of Rules for prescribing controlled substances**

417
418 **Break from 12:02 p.m. to 12:12 p.m.**
419 **Section XII ended: 1:50 p.m.**
420 **Section XIII began: 1:50 p.m.**

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422 **XIII. COMMITTEE REPORTS:**

423
424 **a. Budget – Dr. Kepley**

425
426 Nothing to Report

427
428 **b. Continuing Education – Dr. Rouse**

429
430 Nothing to report

431
432 **c. Complaints, Investigation, and Enforcement Liaison – Dr. Kaplan**

433
434 Nothing to report

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436 **d. Disciplinary Compliance – Dr. Kaplan**

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438 Nothing to Report

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e. Examination – Dr. King

Nothing to Report

f. FOA – Dr. Kaplan

Nothing to Report

g. Healthiest Weight – Dr. King

Nothing to Report

h. Legislative – Dr. Kaplan

HB21 already addressed

i. Probable Cause - Dr. Spear

Nothing to Report

j. Probationary – Dr. Kaplan

Nothing to Report

k. Rules – Dr. Kaplan

Nothing to Report

l. Unlicensed Activity – Dr. Spear

Mr. Harris advised the board has received numerous correspondence from an optometrist in Orlando stating that there are vendor(s) selling contact lenses at certain conventions/conferences without the proper license or conducting eye examination. Complaint has been referred to investigative services.

Section XIII ended: 2:01 p.m.

Section XIV began: 2:01 p.m.

XIV. OLD BUSINESS:

None

Section XIV ended: 2:01 p.m.

Section XV began: 2:01 p.m.

XV. NEW BUSINESS:

In addition to HB21 and reporting to the Prescription Drug Monitoring Program, Dr.

488 King addressed the standard of practice guidelines.
489 **Action:** Motion to direct board counsel to identify administrative rules to be amended
490 made by Dr. King. Second made by Mr. Griffin.
491
492 **Vote:** 6 yeas/ 0 opposed. Motion carried.
493
494 **Section XV ended: 2:04 p.m.**
495 **Section XVI began: 2:04 p.m.**
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497 **XVI. NEXT MEETING DATE:**
498
499 **a. September 28, 2018**
500
501 **Section XVI ended: 2:05 p.m.**
502 **Section XVII began: 2:05 p.m.**
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504 **XVII. PUBLIC COMMENTS**
505
506 Angelina Gonzalez of Nova Southeastern spoke on behalf of the students.
507
508 **Section XVII ended: 2:06 p.m.**
509 **Section XVIII began: 2:06 p.m.**
510
511 **XVIII. ADJOURNMENT**
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513 Meeting adjourned at 2:06 p.m.