

FLORIDA | Board of Optometry

MEETING MINUTES

September 27, 2019

Department of Health
4042 Bald Cypress Way
Tallahassee, Florida, 32399



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, September 27, 2019, commencing at 9:00 a.m. This meeting was held at the Department of Health, 4042 Bald Cypress Way, Tallahassee, Florida at meet me number (888) 585-9008, participant code 136-103-141, 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: 9:01 a.m.

1 **I. CALL TO ORDER (Roll Call):**

2
3 Stuart Kaplan, O.D., Chair
4 Christopher King, O.D., FAAO (Vice-Chair)
5 Katie Spear, O.D.
6 David Rouse, O.D.,
7 Stephen Kepley, O.D.
8 John Griffin, J.D.

9
10 **Board Staff Present:**

11
12 Dr. Anthony Spivey, DBA, Executive Director
13 Kelly Woodard, Regulatory Supervisor
14 Nicole Wiley, Regulatory Specialist
15 Richard Hudson, Regulatory Specialist
16 Keri Kilgore, Regulatory Specialist

17
18 **Board Counsel:**

19
20 Deborah Loucks, Assistant Attorney General

21
22 **Prosecution Services:**

23
24 Rose Garrison, Assistant General Counsel

25
26 **Court Reporter:**

27
28 For the Record
29 (850) 222-5491

30
31 **Section I ended: 9:02 a.m.**

32 **Section II began: 9:02 a.m.**

33
34 **II. APPROVAL OF MINUTES:**

36 **i. July 17, 2019**

37
38 Ms. Loucks advised of a correction to the Rule number on Line 302 and 303.

39
40 **Action:** Motion to approve the minutes with corrections made by Dr. Rouse. Second made by
41 Dr. Kepley.

42
43 **Vote:** 6 yeas/0 opposed. Motion Carried.

44
45 **Section II ended: 9:04 a.m.**

46 **Section III began: 9:04 a.m.**

47
48 **III. PROSECUTION REPORT:**

49
50 Ms. Rose Garrison, Assistant General Counsel provided statistics regarding the
51 prosecutions currently open in the Department.

52
53 **Action:** Motion to continue prosecution of cases older than one year made by Dr.
54 Kepley. Second made by Dr. Spear.

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

57
58 **Section III ended: 9:06 a.m.**

59 **Section IV began: 9:06 a.m.**

60
61 **IV. RATIFICATION LIST:**

62
63 **a. Licensure**

64
65 **i. Optometrist**

66
67 **Action:** Motion to ratify the approval of licensees made by Mr. Griffin. Second made by Dr.
68 Rouse.

69
70 **Vote:** 6 yeas/0 opposed. Motion Carried.

71
72 **b. Continuing Education**

73
74 **i. Report of Continuing Education Providers & Courses approved by Board Staff**

75
76 **Action:** Motion to ratify the approval of providers and courses made by Dr. King. Second
77 made by Dr. Rouse.

78
79 **Vote:** 6 yeas/0 opposed. Motion Carried.

80
81 **ii. Report of Continuing Education Providers & Courses approved by CE Committee**

82 **Chair**

83
84 **Action:** Motion to ratify the approval of providers and courses made by Dr. Kepley. Second
85 made by Dr. King.

86
87 **Vote:** 6 yeas/0 opposed. Motion Carried.

88
89 **Section IV ended: 9:13 a.m.**

90 **Section XII taken out of order at 9:14 a.m.**

91 **Section V began: 9:27 a.m.**

92
93 **V. CONTINUING EDUCATION**

94
95 **i. Course #20-664899 – 2019 FOMA Med-Year Seminar**

96 **ii. Course #20-735740 – Human Trafficking (Live) series**

97 **iii. Course #20-671553 – What Optometrists should know about Human Trafficking**

98
99 **Action:** Motion to approve all three of the courses made by Dr. Rouse. Second made by Dr.
100 Kepley.

101
102 **Vote:** 6 yeas/0 opposed. Motion Carried.

103
104 **Section V ended: 9:28 a.m.**

105 **Section VI began: 9:28 a.m.**

106
107 **VI. FLORIDA OPTOMETRIC FORMULARY:**

108
109 **a. Dextenza**

110
111 Dr. Kaplan advised that he owned stock in the company and asked that Dr. King address the
112 request on his behalf. Discussion ensued regarding the current dosage and delivery. The board
113 determined that the medication was listed twice in the formulary.

114
115 **Action:** Motion to approve the addition of Dextenza (dexamethasone ophthalmic insert) 0.4
116 mg to Florida Administrative Code 64B13-18.002 and remove subsection (5) (f) made by Dr.
117 Rouse. Second made by Dr. Kepley.

118
119 **Vote:** 6 yeas/0 opposed. Motion Carried.

120
121 Ms. Loucks asked whether the proposed rules would have adverse impacts on small business
122 and whether regulatory costs would exceed two hundred thousand dollars within one year of
123 implementation. Dr. King confirmed that there would not be any adverse impact or increase of
124 costs.

125
126 **Action:** Motion to approve Dr. King's response made by Dr. Rouse. Second made by Mr.
127 Griffin.

Vote: 6 yeas/0 opposed. Motion Carried.

Ms. Loucks asked whether the proposed rules would be subject to a minor violation. Minor violation means that it will not directly affect the public health, safety, or welfare and is able to be resolved with citation or notice of non-compliance. Dr. King confirmed that there would not be any minor violations.

Action: Motion to approve Dr. King's response made by Dr. Rouse. Second made by Mr. Griffin.

Vote: 6 yeas/0 opposed. Motion Carried.

b. Klarity-C

Action: Motion to approve Klarity-C (Cyclosporine) at a higher percentage in subsection 9(c) of the Florida Administrative Code 64B13-18.002 from 0.05% to 0.1% and remove subsection 9(h) made by Dr. King. Second made by Dr. Rouse.

Vote: 6 yeas/0 opposed. Motion Carried.

Ms. Loucks 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. Dr. Kaplan confirmed that there would not be any adverse impact or increase of costs.

Action: Motion to approve Dr. Kaplan's response made by Mr. Griffin. Second made by Dr. King.

Vote: 6 yeas/0 opposed. Motion Carried.

Ms. Loucks asked whether the proposed rules would be subject to a minor violation. Minor violation means that it will not directly affect the public health, safety, or welfare and is able to be resolved with citation or notice of non-compliance. Dr. Kaplan confirmed that there would not be any minor violations.

Action: Motion to approve Dr. Kaplan's response made by Dr. Kepley. Second made by Dr. King.

Vote: 6 yeas/0 opposed. Motion Carried.

Section VI ended: 9:46 a.m.

Section VII began: 9:46 a.m.

VII. CHAIR/VICE CHAIR REPORT

Dr. Kaplan advised that this meeting would be Dr. King's last and that many of the board member's terms have expired or are set to expire soon. Dr. Spivey explained the Governor's appointment process. Dr. Kaplan asked the board to vote on a new Vice Chair member. Dr. Rouse nominated Dr. Kepley for the role. Dr. Kepley advised that he has reapplied to be on the board and accepts the role as Vice-Chair. Dr. King advised that he would still attend the Vice Chair meeting in October.

Section VII ended: 9:52 a.m.

Section VIII began: 9:52 a.m.

VIII. EXECUTIVE DIRECTOR'S REPORT:

Dr. Spivey announced the annual Chair/Vice-Chair meeting on October 18th at the Donald L. Tucker Civic Center.

Dr. Spivey advised of scam calls that licensees are receiving from people posing as Department of Health employees and that a notice has been placed on each board's website.

i. Annual Delegation of Authority

Action: Motion to approve the annual delegation of authority made by Mr. Griffin. Second made by Dr. Spear.

Vote: 6 yeas/0 opposed. Motion Carried.

Section VIII ended: 9:56 a.m.

Section IX began: 9:56 a.m.

IX. BOARD COUNSEL REPORT:

i. Annual Regulatory Plan 2019-2020

Ms. Loucks presented the Annual Regulatory Plan. Mr. Griffin advised that there were a few typographical errors.

ii. September Rules Report

Ms. Loucks presented the rule report and advised of the rules which are now in effect.

iii. 64B13-3.010

Ms. Loucks presented a draft of the proposed language. Dr. Kaplan and Dr. Rouse advised of spelling errors in the draft.

Action: Motion to approve the language with corrections made by Dr. Kepley. Second made by Dr. King.

Vote: 6 yeas/0 opposed. Motion Carried.

Ms. Loucks 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. Dr. Kaplan confirmed that there would not be any adverse impact or increase of costs.

Action: Motion to approve Dr. Kaplan's response made by Dr. King. Second made by Dr. Kepley.

Vote: 6 yeas/0 opposed. Motion Carried.

Ms. Loucks asked whether the proposed rules would be subject to a minor violation. Minor violation means that it will not directly affect the public health, safety, or welfare and is able to be resolved with citation or notice of non-compliance. Dr. Kaplan confirmed that there would not be any minor violations.

Action: Motion to approve Dr. Kaplan's response made by Mr. Griffin. Second made by Dr. King.

Vote: 6 yeas/0 opposed. Motion Carried.

Section IX ended: 10:03 a.m.

Section X began: 10:03 a.m.

X. COMMITTEE REPORTS:

a. Budget – Dr. Kepley

Dr. King expressed concerns of excess revenue collected by the department and how it is handled. Discussion ensued. Dr. Spivey explained the process of how excess funds are handled and distributed amongst the department.

b. Continuing Education – Dr. Rouse

Nothing to report.

c. Complaints, Investigation, and Enforcement Liaison – Dr. Kaplan

Nothing to report.

d. Disciplinary Compliance – Dr. Kaplan

Dr. Kaplan asked about an appeal made on a disciplinary case from the last meeting agenda.

266 **e. Examination – Dr. King**

267
268 Dr. King advised that the 20-hour oral certification course and state board examination
269 needed to be recertified annually. Dr. King advised that Part 3 of the NBEO examination
270 will be changing.

271
272 **Action:** Motion to recertify oral certification course made by Dr. King. Second made by Dr.
273 Rouse.

274
275 **Vote:** 6 yeas/0 opposed. Motion Carried.

276
277 **Action:** Motion to recertify the state board examination made by Dr. King. Second made by Dr.
278 Kepley.

279
280 **Vote:** 6 yeas/0 opposed. Motion Carried.

281
282 **f. FOA – Dr. Kaplan**

283
284 Nothing to report.

285
286 **g. Healthiest Weight – Dr. King**

287
288 Nothing to report.

289
290 **h. Legislative – Dr. Kaplan**

291
292 Nothing to report.

293
294 **i. Probable Cause - Dr. Spear**

295
296 Nothing to report.

297
298 **j. Probationary – Dr. Kaplan**

299
300 Nothing to report.

301
302 **k. Rules – Dr. Kaplan**

303
304 Nothing to report.

305
306 **l. Unlicensed Activity – Dr. Rouse**

307
308 Nothing to report.

310 **Section X ended: 10:23 a.m.**
311 **Section XI began: 10:23 a.m.**
312
313 **XI. OLD BUSINESS:**
314
315 None
316
317 **Section XI ended: 10:23 a.m.**
318 **Section XII began (taken out of order): 9:14 a.m.**
319
320 **XII. NEW BUSINESS:**
321
322 **i. CE Human Trafficking Course**
323
324 **Section XII ended: 9:27 a.m.**
325 **Referred back to Section V at 9:27 a.m.**
326 **Section XIII began: 10:23 a.m.**
327
328 **XIII. NEXT MEETING DATE:**
329
330 **i. January 17, 2020**
331
332 Dr. Kaplan asked if the meeting would be live. Dr. Spivey advised that if there are any
333 disciplinary cases on the agenda that it will be live.
334
335 **Section XIII ended: 10:23 a.m.**
336 **Section XIV began: 10:23 a.m.**
337
338 **XIV. PUBLIC COMMENTS**
339
340 None
341
342 **Section XIV ended: 10:23 a.m.**
343 **Section XV began: 10:24 a.m.**
344
345 **XV. ADJOURNMENT**
346
347 **Action:** Motion to adjourn at 10:24 a.m. made by Dr. King. Second made by Dr. Rouse.
348
349 **Vote:** 6 yeas/0 opposed. Motion Carried.
350