

**FLORIDA** | Board of Optometry

**DRAFT MINUTES**

September 27, 2019

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

DRAFT



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  
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18 **Board Counsel:**

- 19  
20 Deborah Loucks, Assistant Attorney General  
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22 **Prosecution Services:**

- 23  
24 Rose Garrison, Assistant General Counsel  
25

26 **Court Reporter:**

- 27  
28 For the Record  
29 (850) 222-5491  
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31 **Section I ended: 9:02 a.m.**

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

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34 **II. APPROVAL OF MINUTES:**

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**i. July 17, 2019**

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

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

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

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

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

**III. PROSECUTION REPORT:**

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

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

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

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

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

**IV. RATIFICATION LIST:**

**a. Licensure**

**i. Optometrist**

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

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

**b. Continuing Education**

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

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

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

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

82 **Chair**

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

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

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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.**

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93 **V. CONTINUING EDUCATION**

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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.

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

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

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

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107 **VI. FLORIDA OPTOMETRIC FORMULARY:**

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109 **a. Dextenza**

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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.

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

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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.

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

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**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**

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

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181 **Section VII ended: 9:52 a.m.**

182 **Section VIII began: 9:52 a.m.**

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184 **VIII. EXECUTIVE DIRECTOR'S REPORT:**

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

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

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192 **i. Annual Delegation of Authority**

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

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197 **Vote:** 6 yeas/0 opposed. Motion Carried.

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199 **Section VIII ended: 9:56 a.m.**

200 **Section IX began: 9:56 a.m.**

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202 **IX. BOARD COUNSEL REPORT:**

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204 **i. Annual Regulatory Plan 2019-2020**

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

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209 **ii. September Rules Report**

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

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213 **iii. 64B13-3.010**

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

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

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**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.

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**e. Examination – Dr. King**

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

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

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

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

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

**f. FOA – Dr. Kaplan**

Nothing to report.

**g. Healthiest Weight – Dr. King**

Nothing to report.

**h. Legislative – Dr. Kaplan**

Nothing to report.

**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. Rouse**

Nothing to report.

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**Section X ended: 10:23 a.m.**  
**Section XI began: 10:23 a.m.**

**XI. OLD BUSINESS:**

None

**Section XI ended: 10:23 a.m.**  
**Section XII began (taken out of order): 9:14 a.m.**

**XII. NEW BUSINESS:**

**i. CE Human Trafficking Course**

**Section XII ended: 9:27 a.m.**  
**Referred back to Section V at 9:27 a.m.**  
**Section XIII began: 10:23 a.m.**

**XIII. NEXT MEETING DATE:**

**i. January 17, 2020**

Dr. Kaplan asked if the meeting would be live. Dr. Spivey advised that if there are any disciplinary cases on the agenda that it will be live.

**Section XIII ended: 10:23 a.m.**  
**Section XIV began: 10:23 a.m.**

**XIV. PUBLIC COMMENTS**

None

**Section XIV ended: 10:23 a.m.**  
**Section XV began: 10:24 a.m.**

**XV. ADJOURNMENT**

**Action:** Motion to adjourn at 10:24 a.m. made by Dr. King. Second made by Dr. Rouse.

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