

Board of Optometry

January 2021 Conference Call Draft Meeting Minutes

January 8, 2021 at 9:00 A.M. EST

Meet Me #:

888-585-9008

Participation Code:

136-103-141



Stuart Kaplan, OD
Chair

Stephen Kepley, OD
Vice Chair

Anthony B. Spivey, DrBA
Executive Director

**Florida Board of Optometry Meeting Draft Minutes
January 8, 2021**

Participants in these public meetings 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.

Board Members:

Stuart Kaplan, O.D. - Chair
Stephen Kepley, O.D. - Vice Chair
Katie Spear, O.D.
David Rouse, O.D.
John Griffin, J.D.
Denise Burns-LeGros, O.D.
Linville Atkins, J.D.

Board Staff:

Anthony B. Spivey, DrBA - Executive Director
Dontavia Wilson, Program Operations Administrator

Attorneys:

Deborah Loucks, Assistant Attorney General

Court Reporter:

For the Record – (850) 222-5491

Call to Order

Roll Call

Board Members:

Stuart Kaplan, O.D. - Chair
Stephen Kepley, O.D. - Vice Chair
Katie Spear, O.D.
David Rouse, O.D.
John Griffin, J.D.
Denise Burns-LeGros, O.D.
Linville Atkins, J.D.

Board Staff:

Anthony B. Spivey, DrBA - Executive Director
Dontavia Wilson, Program Operations Administrator

Attorneys:

Deborah Loucks, Assistant Attorney General
Kimberly Marshal, Assistant General Counsel

Welcome

The meeting was called to order by the Executive Director at 9:00 a.m. The Chair, Dr. Kaplan, wished everyone a happy new year.

Dr. Kaplan announced that Mr. Hunter Grey had withdrawn his request for a variance and waiver, so it was being pulled from the agenda.

Approval of Minutes

September 11, 2020- Mr. Griffin made a motion to approve the minutes with the following corrections, Lines 8 an 9 delete the sentence, Lines 189,206, and 223 have “previous” misspelled, Line 474 take out the word “with”. Dr. Rouse seconded the motion and it passed unanimously.

July 15, 2020- Mr. Griffin made a motion to approve the minutes with the correction of removing lines 48-52. Ms. Atkins seconded the motion and it passed unanimously.

Prosecutor’s Report

Kimberly Marshall stated the Prosecutor’s Report included in the agenda was prepared the last month, when there were 12 pending cases, and that the pending cases had decreased to nine. Dr. Kepley made a motion to allow the Department of Health to continue to prosecute cases that are one year old or older. Dr. Rouse seconded the motion.

Mr. Griffin asked about Dr. Evans’ appeal. Ms. Marshall informed the board that his appeal was not successful, and the Department prevailed.

The motion passed unanimously. The Board asked to be kept informed about cases that were being appealed. Ms. Marshall agreed to do that for future Board meetings.

Reconsiderations

Elisa Puerto- Present with attorney Julie Gallagher. Ms. Gallagher gave her presentation on Ms. Puerto’s request for a variance of the rule that requires a passing score of 75% or higher on all three parts of the exam. She indicated that her clients scores were only 75% or higher on two of the three parts of the exam. Ms. Gallagher informed the board that her client’s situation was comparable to other cases the board has given variances to and that the situation was a substantial hardship on her client. Board members asked Ms. Puerto questions. Dr. Rouse made a motion to vacate the previous denial and approve the variance based on satisfaction of the statute. Dr. Kepley seconded the motion. The motion passed with Dr. Spear and Ms. Atkins in opposition.

Alyssa Strumpfler- Not Present. Dr. Rouse made a motion to vacate the previous denial and approve the variance based on satisfaction of the statute. Dr. Burns-LeGros seconded the motion. The motion passed with Dr. Spear and Ms. Atkins in opposition.

Angelica McIntyre- 1801/6135- Present. Dr. Rouse made a motion to vacate the previous denial and approve the variance based on satisfaction of the statute. Dr. Burns-LeGros seconded the motion. The motion passed with Dr. Spear and Ms. Atkins in opposition.

Petition for Waiver / Variance

Megan Webb- Present. Dr. Rouse made a motion approve the variance based on satisfaction of the statute. Dr. Kepley seconded the motion. The motion passed with Dr. Spear and Ms. Adkins in opposition.

Rajsee Pandya- Present. Dr. Rouse made a motion approve the variance based on satisfaction of the statute. Mr. Griffin seconded the motion. The motion passed with Dr. Spear and Ms. Atkins in opposition.

Hunter Grey- *Withdrawn.*

Mursal Langer- Present. Mr. Griffin made a motion to approve the variance conditional upon receipt of the exam scores from NBEO. Dr. Kepley seconded the motion. The motion passed with Dr. Spear and Ms. Atkins in opposition.

Ratification

a. Licensure- Optometrist- Dr. Kepley made a motion to approve the ratification list. Dr. Spear seconded the motion and it passed unanimously.

- b. Continuing Education- Providers & Courses Approved by CE Chair- Dr. Kepley made a motion to approve the ratification list. Dr. Spear seconded the motion and it passed unanimously.

Chair/Vice Chair Report

Dr. Kaplan spoke about the Surgeon General extending the renewal date for Optometrists until the end of March. Dr. Kepley asked about the Emergency Rule for CE being for 90 days and the renewal extension date. Discussion ensued.

Executive Director's Report

Dr. Spivey gave a reminder about the Human Trafficking Course that was due by January 1, 2021. He reminded everyone if they have not taken the course, they still have to take it.

Board Counsel Report

December Rules Report- Ms. Loucks referenced to the Rules Report.

Rule 64B13-10.001, F.A.C.- Application for Certification- Ms. Loucks asked the Board to change the language in this rule based on the JAPC correspondence. The language was not included in the Board agenda, it appears two copies of the JAPC letter made it into the agenda instead of one JAPC letter and the proposed language. The Board Chair requested that this rule be added to the next meeting agenda so that the Board can review the proposed language.

Rule 64B13-3.010, F.A.C.- Standards of Practice- Dr. Rouse proposed to update the language to include the correct citations. Dr. Kepley seconded the motion and it passed unanimously.

Ms. Loucks asked, "*Will the proposed rule amendment have an adverse impact on the small business or be likely to directly or indirectly increase regulatory cost to any industry including government in excess of \$200,000 in the aggregate in Florida within one year of the implementation of the rule?*"

Dr. Kepley made a motion that the proposed rule amendment will not have an adverse impact. Dr. Rouse seconded the motion and it passed unanimously.

Ms. Loucks asked, "*Should a violation of this rule or any part of this rule be designated a minor violation?*"

Dr. Rouse made a motion that no violation was necessary. Dr. Kepley seconded the motion and it passed unanimously.

Ms. Loucks asked, "*Do you want to include a sunset provision in this language?*"

Dr. Kepley made a motion to not add a sunset provision. Dr. Rouse seconded the motion and it passed unanimously.

64B13-4.001- Examination Requirements- Dr. Kepley pointed out the need to correct the spelling of Goldman-type to have two n's (Goldmann-type) under (1) 2.e. Discussion ensued. Ms. Loucks stated that she will speak with the Public Records expert at the Attorney Generals office. No action was taken.

Committee Reports

- a. **Budget** – Dr. Kepley referenced the budget report included in the agenda.
- b. **Continuing Education-** Dr. Rouse said that CEBroker and Keri Kilgore have been extremely helpful during the emergency changes due to COVID. He said there have been some learning points through the process and that he looks forward to February when things go back to normal.
- c. **Complaints, Investigation, and Enforcement Liaison** - Dr. Kaplan had nothing to report.
- d. **Disciplinary Compliance** - Dr. Kaplan had nothing to report.
- e. **Examination** - Dr. Kepley had nothing to report.
- f. **FOA** – Dr. Kaplan had nothing to report.

- g. **Healthiest Weight** - Mr. Griffin had nothing to report.
- h. **Legislative** – Dr. Kaplan had nothing to report.
- i. **Probable Cause** – Dr. Spear had nothing to report.
- j. **Probationary** – Dr. Kaplan had nothing to report.
- k. **Rules** – Dr. Kaplan had nothing to report.
- l. **Unlicensed Activity**- Dr. Rouse had nothing to report.

Annual Delegation of Authority

Dr. Rouse made a motion to approve the Annual Delegation of Authority. Dr. Kepley seconded the motion and it passed unanimously.

Old Business

Dr. Kepley asked if there was any movement in the NBEO contract that was made a few months ago. Dr. Spivey indicated that he not received any information on it, but he would reach out to the contract manger and provide an update.

New Business

Dr. Rouse asked about additional diagnostic products being added via rule change. Discussion ensued. Dr. Rouse made a motion to open up the formulary for clean-up and additions. Dr. Kepley seconded the motion. The motion passed unanimously. The rule will be added to the agenda for the April meeting.

Next Meeting Date

April 2, 2021- Dr. Spivey indicated that April 2, 2021 is Good Friday. He stated that he is working with staff to ensure there are no other dates that will be on a holiday or religious holiday. He proposed March 26, 2021 as alternate date for the meeting. Board members and counsel indicated that they had no conflicts with the March 26, 2021 date.

Public Comment

None

Adjournment

Dr. Kepley made a motion to adjourn. The motion was seconded by Dr. Rouse and it passed unanimously.

Meeting adjourned at 11:32 a.m.