

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

**DEPARTMENT OF HEALTH  
MEDICAL QUALITY ASSURANCE  
BOARD OF OPTOMETRY**

**MINUTES  
GENERAL BUSINESS MEETING**

**Hilton Daytona Beach Resort  
100 North Atlantic Avenue  
Daytona Beach, FL 32118**

**July 17, 2013**

Agenda items are subject to being taken up at anytime during the meeting. 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.

**General Board Business started: 9:10 a.m.**

**CALL TO ORDER:**

Dr. Timothy Underhill, Chairman, called the meeting to order at 9:10 a.m. Those present for all or part of the meeting included the following:

**BOARD MEMBERS:**

Timothy Underhill, O.D., Chair  
Terrance Naberhaus, O.D., Vice-Chair  
Tamara Maule, O.D.  
Stuart Kaplan, O.D.  
Christopher King, O.D.  
Rosa McNaughton, Esq.  
Rod Presnell, R.Ph.

**BOARD STAFF:**

Bill Miller, Executive Director  
Sharon Guilford, Program Operations Administrator

**BOARD COUNSEL:**

Rachel Clark, Assistant Attorney General  
Office of Attorney General  
Lawrence Harris, Assistant Attorney General  
Office of Attorney General

**PROSECUTING ATTORNEY:**

Elana Jones, Assistant General Counsel  
Department of Health

**COURT REPORTER:**

Volusia Reporting  
386-255-2150

1 **APPROVAL OF MINUTES:**

2  
3 **June 13, 2013 – Telephone Conference Call**  
4 **May 16, 2013 – Telephone Conference Call**  
5 **April 11, 2013 – Telephone Conference Call**  
6 **March 14, 2013 – Telephone Conference Call**  
7 **January 25, 2013 – Full Board Meeting**  
8

9 **Dr. Naberhaus moved to approve the above minutes with corrections to page 24, line 5**  
10 **replacing Pharmacy with Optometric The motion was seconded and carried 7/0.**

11  
12 **General Board Business ended: 9:13 a.m.**

13 **Disciplinary started: 9:13 a.m.**  
14

15 **FINAL ORDER ACTION:**

16  
17 **Motion for Final Order by Settlement Agreement:**

18  
19 **Sean P. Coughlin, O.D. – Case Number 10-11236**  
20 **PCP: Naberhaus/Presnell**  
21

22 Dr. Coughlin was present, sworn and was represented by Mr. Richard B. Schwamm, Esq.

23  
24 Ms. Jones informed the board that the respondent had violated:

- 25
  - Section 463.016(1)(h), F.S.26

27 Ms. Jones advised the board that the settlement agreement contained the following provisions:

- 28
  - appearance
  - administrative fine of \$1,000.00, payable within ninety (90) days
  - administrative costs of \$2,000.00, payable within ninety (90) days31

32 Mr. Schwamm addressed the board on behalf of Dr. Coughlin. Dr. Coughlin also addressed the  
33 board.

34  
35 Discussion ensued.  
36

37 **Dr. King moved to accept the settlement agreement. The motion was seconded and carried**  
38 **5/0.**  
39

40 **PROSECUTION REPORT:**

41  
42 Ms. Jones provided an overview of the prosecution report.  
43

44 **Dr. Maule moved to approve the continued prosecution of the older cases (one year and**  
45 **over) and to accept the prosecution report. The motion was seconded and carried 7/0.**  
46

47 Dr. Naberhaus requested Ms. Jones that the contract information appears to indicate that Dr.  
48 McClane was removed from the expert witness list.  
49

1 Ms. Jones stated that if cases were reviewed by Dr. McClane as a consultant then she believed it  
2 would not be appropriate for him to be the expert witness in those cases.

3  
4 The members concurred.

5  
6 **Discipline ended: 9:38 a.m.**

7 **General Board Business started: 9:38 a.m.**

8  
9 **DECLARATORY STATEMENT:**

10  
11 **Christopher Frey, O.D. – Scope of Practice**

12  
13 Dr. Underhill stated that Dr. Frey had withdrawn his Declaratory Statement.

14  
15 **PETITIONS FOR VARIANCE/WAIVER:**

16  
17 **Steven C. Tillman, O.D. – Rule 64B13-5.001, Florida Administrative**  
18 **Code – Hours Requirement**

19  
20 Dr. Tillman was present but was not represented by counsel.

21  
22 Dr. Underhill stated that Dr. Tillman was requesting a Petition for Variance/Waiver of Rule  
23 64B2-13.004, F.A.C., of the required continuing education due to a financial hardship.

24  
25 Dr. Tillman stated that he had been working with the board office to determine if the continuing  
26 education certificates submitted were acceptable. He further indicated that many of the courses  
27 were not in CEBroker and did not believe that the board office had approved courses prior to  
28 CEBroker.

29  
30 Ms. Guilford stated that it depends on when he took the courses and if they were approved in the  
31 database prior to CEBroker. She requested the board to allow her to work with Dr. Tillman and  
32 staff to research this issue.

33  
34 The board concurred.

35  
36 Dr. Tillman withdrew his petition.

37  
38 **American Academy of Optometry – Rule 64B13-5.002(3)(c), Florida**  
39 **Administrative Code – Criteria for Approval**

40  
41 Ms. Helen Viksnins, MEd, FAAO, CAE, was present but was not represented by counsel.

42  
43 Dr. Underhill stated that Ms. Viksnins, MEd, FAAO, CAE, on behalf of the FAAO, was  
44 requesting a Petition for Variance/Waiver of Rule 64B13-5.002(3)(c), F.A.C., of the required  
45 continuing education in the area of transcript quality hours due to a financial hardship.

46  
47 Discussion ensued.

48  
49 **Dr. Maule moved to deny Ms. Viksnins's, request to Petition for Variance/Waiver of Rule**  
50 **64B13-5.002(3)(c), F.A.C., for failure to provide evidence of a financial hardship according**  
51 **to Chapter 456.036, F.S. The motion was seconded and carried 7/0.**

1 **Dr. Maule moved to deny the courses “Exploring the Globe with Technologies that Image a**  
2 **Mile Wide and a Mile Deep” and “New Technology Rapid – Fire Session” for failure to**  
3 **meet the requirements in Rule 64B13-5.002(3)(c), F.A.C. The motion was seconded and**  
4 **carried 7/0.**

5  
6 **University of the Incarnate Word, Rosenberg School of Optometry - Rule**  
7 **64B13-5.002(3)(c), Florida Administrative Code – Criteria for Approval**  
8

9 Dr. Sandra Fortenberry, OD, FAAO, was neither present nor represented by counsel.

10  
11 Dr. Underhill stated that Dr. Fortenberry, on behalf of the Rosenberg School of Optometry, was  
12 requesting a Petition for Variance/Waiver of Rule 64B13-5.002(3)(c), F.A.C., of the required  
13 continuing education in the area of transcript quality hours due to a financial hardship.

14 Discussion ensued.

15  
16  
17 **Dr. Naberhaus moved to deny Dr. Fortenberry’s, request to Petition for Variance/Waiver of**  
18 **Rule 64B13-5.002(3)(c), F.A.C., for failure to provide evidence of a financial hardship**  
19 **according to Chapter 456.036, F.S. The motion was seconded and carried 7/0.**  
20

21 **Dr. Maule moved to deny the courses indicated in the petition for failure to meet the**  
22 **requirements in Rule 64B13-5.002(3)(c), F.A.C. The motion was seconded and carried 7/0.**  
23

24 **SIMBRINZA AUTOMATICALLY APPROVED (Combination of two approved drugs**  
25 **currently on formulary)**  
26

27 Dr. Underhill provided an overview of the new requirement allowing the board to add certain  
28 topical ocular pharmaceutical agents according to Chapter 463, F.S.

29  
30 Mr. John Griffin, Esq., with the Florida Optometry Association, (FOA), addressed the board.

31  
32 The board stated no action would be required at this time.  
33

34 **Dr. King moved to accept modifying Rule 64B13-18.002, F.A.C., adding Synthetic**  
35 **Docosanoids indicating Unoprostone isoprophyl – 0.15%. The motion was seconded and**  
36 **carried 7/0.**  
37

38 **Dr. King moved to Notice for Rule Development and to adopt the changes as presented.**  
39 **The motion was seconded and carried 7/0.**  
40

41 **Dr. Naberhaus moved that the proposed rule would not have any adverse impacts on small**  
42 **businesses and the proposed rule would not be likely to directly or indirectly increase**  
43 **regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate**  
44 **in Florida within 1 year after the implementation of the rule. The motion was seconded and**  
45 **carried 7/0.**  
46

47 **CHAIR/VICE-CHAIR REPORT:**  
48

49 **Future Agenda Items**  
50

51 No agenda items provided.

1 **EXECUTIVE DIRECTOR’S REPORT:**

- 2  
3 • **Renewal Report:**  
4 ○ **Optometrist**  
5 ○ **Branch Office**  
6

7 Mr. Miller provided a brief renewal report.

- 8  
9 • **Branch Office License - Rule Section 6413-16.002**

10 Ms. Clark stated Rule 64B13-16.002, F.A.C. Branch Office License – withdrawn due to the  
11 response from the Joint Administrative Proceedings Committee, JAPC, indicating that the statute  
12 requires a separate license.  
13

14  
15 Mr. Harris stated that even if JAPC objects to the language, the board could continue moving  
16 forward in adopting the changes.  
17

18 **Dr. Naberhaus moved to Notice for Rule Development and to draft language to Rule 64B13-**  
19 **16.002, F.A.C. The motion was seconded and carried 7/0.**

20  
21 **BOARD EXECUTIVE DIRECTOR: (Continued)**

22  
23 Mr. Miller stated that the Department of Health will be mailing information to the practitioners of  
24 the new changes to Chapter 381.003, F.S.  
25

26 **Unlicensed Activity Report**

27  
28 Mr. Miller provided an overview of the unlicensed activity report. There was no action taken.

29  
30 Dr. Naberhaus requested Mr. Miller if he knew of the percentage number being prosecuted within  
31 the profession.  
32

33 Mr. Miller stated he did not but will research and provide the board with a report at the next  
34 meeting.  
35

36 **Section 456.076, F.S.**

37  
38 Mr. Miller also stated that the changes in Chapter 456.076, F.S., would impose new provisions  
39 regarding impaired treatment programs. He requested the board to vote on whether to allow the  
40 board chair, credentials committee chair, or to continue allowing the board to review the  
41 applications. A copy of the language was provided to the members.  
42

43 Discussion ensued.

44  
45 **Mr. Presnell moved to continue with the board reviewing the applicants. The motion was**  
46 **seconded and carried 7/0.**

47  
48 **BOARD COUNSEL’S REPORT:**

49 **Rules Status Report**

1 Mr. Harris provided an overview of the Rules Status Updates.

2  
3 Mr. Harris stated that under the discussion regarding Rule 64B13-6.001, F.A.C., the board could  
4 discontinue charging the branch office fees but would require a rule modification.

5  
6 **Correspondence – Drs. Farmer/Horowitz – Petition for Certification to**  
7 **Prescribe Oral Pharmaceutical Agents**

8  
9 Mr. Harris provided an overview of the above correspondence. There was no action taken.

10  
11 Mr. Harris requested the board to review the drafted disciplinary guidelines in Rules 64B13-  
12 15.005 and 15.006, F.A.C.

13  
14 **Dr. Naberhaus moved to Notice for Rule Development and to draft language to Rule 64B13-**  
15 **15.005 and 15.006, F.A.C. The motion was seconded and carried 7/0.**

16  
17 **Dr. Underhill moved to allow Mr. Miller and Mr. Harris to review the drafted language and**  
18 **present it before the board at a TCC. The motion was seconded and carried 7/0.**

19  
20 Mr. Harris provided a review of the drafted language in Rules 64B13-18.001 and 18.003, F.A.C.,  
21 as drafted.

22  
23 **Dr. Naberhaus moved to Notice for Rule Development and to draft language to Rule**  
24 **Chapter 64B13-18, 64B13-18.001 and 18.003, F.A.C. The motion was seconded and carried**  
25 **7/0.**

26  
27 **COMMITTEE REPORTS:**

28  
29 **Budget – Rob Presnell, R.Ph.**

30  
31 Mr. Presnell provided an overview of the report.

32  
33 **Continuing Education – Tamara Maule, O.D.**

34  
35 **CE Providers and Courses approved by CE Chair**  
36 **CE Providers and Courses approved by Staff**

37  
38 Dr. Maule provided an overview of the ratification list of CE Providers & Courses approved by  
39 the CE Committee Chair and Staff.

40  
41 **Dr. Maule moved to approve the ratification lists as provided. The motion was seconded**  
42 **and carried 7/0.**

43  
44 Dr. Maule requested clarification from the board on the number of hours received by a licensee in  
45 the areas of laws and rules and medical errors. She believed the board should limit the number of  
46 hours in the above mentioned areas and to not allow the additional hours to be applied to the  
47 general hours.

48  
49 Ms. Guilford recommended that the rule be modified to include limiting the number hours  
50 received in the areas of laws and rules and medical errors.

1 Mr. Harris recommended that the rule be modified.

2  
3 Discussion ensued.

4  
5 **Dr. Maule moved to Notice for Rule Development and to draft language to Rule Chapter**  
6 **64B13-5.001, F.A.C. The motion was seconded and carried 7/0.**

7  
8 **Complaints, Investigation & Enforcement – Stuart Kaplan, O.D.**

9  
10 No report.

11  
12 **Corporate Practice – Vacant**

13  
14 No report.

15  
16 **Disciplinary Compliance – Rosa McNaughton, Esquire**

17  
18 Ms. McNaughton provided a brief report.

19  
20 Ms. McNaughton requested Ms. Guilford to notify the compliance officer in sending updated  
21 reports on any pending disciplinary cases and future cases.

22  
23 **Examination – Christopher King, O.D.**

24  
25 **Discussion of Optometry Licensure Examination drafted contract**

26  
27 Dr. King provided an overview of the drafted contract.

28  
29 Dr. Naberhaus stated that the registration date will be from August 2013 to April 2014 and did  
30 not know if this would be possible with the contract not in place for Florida candidates.

31  
32 Dr. King was not sure but his assumption provided by Ms. Jennifer Wenhold, Manager Testing  
33 Services with the Bureau of Operations, that the contract will be in place.

34  
35 Ms. McNaughton also wanted to make sure the board had the final approval of the vendor and  
36 contract.

37  
38 Mr. Miller responded by email to Ms. Wenhold of the board's concerns and was informed that  
39 this would not be an issue.

40  
41 Mr. Harris requested the board to hold a meeting to discuss the mentioned rules by telephone  
42 conference in the near future.

43  
44 **FOA – Tim Underhill, O.D.**

45  
46 No report.

47  
48 **Legislation – Tim Underhill, O.D.**

49  
50 **Discussion of New Legislation - CS/CS/HB 239**

1 Mr. Griffin provided an overview of the course to be administered to any certified optometrist  
2 effective October 1, 2013, as defined in Chapter 463, F.S.

- 3
- 4 • Course has been completed
- 5 • Developed by the Florida Medical Association and the Florida Pharmacy Association
- 6 • Florida Medical Association and the Florida Optometry Association has met and
- 7 entered into a contract with the American Safety Association
- 8 • Exam and content was designed by the panel of individuals obtain by the Florida
- 9 Medical Association
- 10 • Exam consist of 32 questions with the passing score at least 70%
- 11 • Initial attempt resulting in failing the exam, licensee will receive one addition free
- 12 exam
- 13 • Second attempt resulting in failing the exam, license will be required to complete the
- 14 entire course including passing the examination
- 15 • Course will be offered annually
- 16

17 Mr. Griffin requested the approval of the FOA/FMA course and examination.

18  
19 **Dr. Naberhaus moved to approve the FOA/FMA course and examination. The motion was**  
20 **seconded and carried 7/0.**

21  
22 **Probable Cause – Rod Presnell, R.Ph.**

23  
24 **Stats**

25  
26 Information only.

27  
28 **Rules – Terrance Naberhaus, O.D.**

29  
30 **Discussion of Rule Development for New Legislation CS/CS/HB 239**

31  
32 **Unlicensed Activity – Stuart Kaplan, O.D.**

33  
34 No report.

35  
36 **APPROVAL OF PROPOSED 2014 MEETING DATES & LOCATIONS**

37  
38 The board approved the proposed 2014 meeting dates and locations as follows:

- 39
- 40 • March 21<sup>st</sup> (Orlando)
- 41 • July 23<sup>th</sup> (FOA – Marriott Harbor Beach Resort – Ft. Lauderdale)
- 42 • November 14<sup>th</sup> (Orlando)
- 43

44 **NEXT MEETING DATE:**

45  
46 **December 5<sup>th</sup> – Tampa (Marriott Tampa Westshore)**

47  
48 Information only.

1 Dr. Penny Zeigler, Medical Director with the Professionals Resource Network, Inc., (PRN)  
2 introduced herself as the new Medical Director for PRN replacing Dr. Judy Rivenbark effective  
3 July 8, 2013.

4

5 **General Board Business ended: 12:45 p.m.**

6

7 **ADJOURNMENT:**

8

9 The meeting was adjourned at 12:45 p.m.