

**Douglas A. Ducey**  
Governor

**John Chrisagis, O.D.**  
President

**Marla Husz, O.D.**  
Vice President



**Arizona State Board of Optometry**  
1400 West Washington, Suite 230  
Phoenix, AZ 85007

**Margaret Whelan**  
Executive Director

---

Telephone (602) 542-8155 • Fax (602) 542-3093

**FINAL MINUTES FOR REGULAR MEETING  
OCTOBER 13, 2017 SCHEDULED TO COMMENCE AT 9:00 A.M.**

**Board Members**

John Chrisagis, O.D., President  
Marla Husz, O.D., Vice-President  
Michael Lamb, O.D.  
Brian Mach, O.D.  
Mark Peller, O.D.  
George A. Evanoff, Public Member  
Blake Whiteman, Public Member

**Staff:**

Margaret Whelan, Executive Director  
Paula Hollins, Licensing Administrator

**Legal Counsel:**

Mona Baskin, Assistant Attorney General

**A. CALL TO ORDER:**

**Dr. Chrisagis**

Dr. Chrisagis called the meeting to order at 9:00 a.m.

**B. ROLL CALL:**

**Ms. Hollins**

Members Present:

John Chrisagis O.D., President  
Mark Peller, O.D.  
Marla Husz, O.D., Vice President  
Michael Lamb, O.D.  
Brian Mach, O.D.  
George A. Evanoff, Public Member

Members Absent:

Blake Whiteman, Public Member

Legal Counsel Present:

Mona Baskin, Assistant Attorney General

Staff Present:

Margaret Whelan, Executive Director  
Paula Hollins, Licensing Administrator

**C. PRESIDENT'S REPORT:**

**Dr. Chrisagis**

Dr. Chrisagis reported that he is aware that the Governor's office is interviewing candidates for new Board member appointments. He thanked those that have been serving past their term for continuing to serve on the Board.

**D. REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

1. Michael DeRubeis IR#2017161

Dr. Peller summarized the case as the patient couldn't see out of the progressive lenses; the lenses were remade twice and using an outside prescription, a full refund was made to the patient.

**MOTION:** Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

Patient was present via telephone to address the Board stating he was still waiting for his insurance benefits to be reinstated and that he doesn't think Dr. DeRubeis's office is working with the insurance company to get it reinstated.

**VOTE:** Motion passed 6-0.

2. Michael Lamb, O.D. IR#201801

Dr. Peller summarized the case as the patient was upset that Dr. Lamb was not an M.D. as he thought. The patient was present to address the Board stating he felt that his medical records did not tell the truth; the referrals were to an ophthalmologist which is who the patient thought he was seeing. The patient felt that he received excessive exams or portions of exams when he was expecting a consultation on his cataracts for possible surgery. The patient stated he had serious confusion over policies and procedures and the lack of communication by Dr. Lamb created a serious issue for the patient and his treatment choices. Michael Ryan, attorney for Dr. Lamb was present and addressed the Board stating the complaint is only about Dr. Lamb holding himself out to be an M.D. However, when a patient comes into an exam room, they would see the licenses and certificates on the wall showing Dr. Lamb is an O.D. and not an M.D. He stated the complaint is meritless based on the fact that there is no evidence of wrongdoing or malpractice by Dr. Lamb. Mr. Ryan also noted that the complainant filed the exact same complaint with the insurance company who investigated the matter and received a response of dismissal of the complaint from the review committee of physicians.

**MOTION:** Dr. Mach moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Lamb recused from the discussion and vote.

3. Kelly Corbridge, O.D. IR#201802

Dr. Peller summarized the case as last patient record was from 2009 and was in storage. Patient did not want a new eye exam; is amblyopic in one eye, glasses needed to be remade as patient still couldn't see. The money spent on the lenses was refunded to the patient. Dr. Corbridge was present via telephone and addressed the Board stating the patient was unhappy because she thought her records were improperly destroyed when in fact, they were old and in storage.

**MOTION:** Dr. Peller moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Lamb seconded the motion.

**VOTE:** Motion passed 6-0.

4. Amy Thomas, O.D. IR#201803

Dr. Husz summarized the case as Dr. Thomas does vision therapy; the patient was referred by a friend for myopia "cure". Testing needed to be done, was started but was halted in the middle of the exam and the patient was subsequently charged for the exam. Dr. Lamb noted that the patient stated she was told there would be no fee and was then charged, causing some confusion. The patient was present via telephone and addressed the Board stating she didn't know there would be a charge as she thought the first visit was a consultation for information on the process. She felt that Dr. Thomas gave her inaccurate information regarding the vision therapy and the potential treatment plan. Dr. Lamb had some concern that Dr. Thomas may be advertising that myopia can be "cured". Dr. Chrisagis had some concern about Standard of Care as no refraction was done. Dr. Lamb inquired as to how Dr. Thomas is going to prevent myopia in a child without performing an exam.

**MOTION:** Dr. Mach moved to go to Informal Interview to discuss possible issues with the fact that the testing doesn't support the diagnosis, there was no exam, no refraction was done and statements were made regarding curing myopia and incomplete recordkeeping pursuant to A.A.C. R4-21-304 and R4-21-305(A); and Unprofessional Conduct pursuant to A.R.S. §32-1701(8)(B). Dr. Lamb seconded the motion.

**VOTE:** Motion passed 6-0.

5. Joel Ackerman, O.D. IR#201804

Dr. Chrisagis summarized the case as this was a contact lens exam; the patient had problems and needed adjustments. The patient was charged again for what she considered a follow-up. The Board felt the original fitting fee should cover the follow-up if it is within 90 days however, if Dr. Ackerman's office policy is to charge for a follow-up, then it is an appropriate charge.

**MOTION:** Dr. Chrisagis moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Lamb seconded the motion.

**VOTE:** Motion passed 6-0.

6. Daniel Lewis, O.D. IR#201805

Dr. Husz summarized the case as the doctor refused to measure the patient's inter-pupillary distance ("PD"). Staff offered to give the electronic measurements taken by the computer but the patient refused as he wanted the doctor to do the measurement.

**MOTION:** Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

## **E. CONSENT AGENDA**

### **1. CASES RECOMMENDED FOR DISMISSAL; CONSENT AGENDA; REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE FOLLOWING CASE(S):**

7. Robert Maynard, O.D. IR#2017185
8. Charles Kesner, O.D. IR#201806
9. James Abbott, O.D. IR#201810
10. Michael Zucker, O.D. IR#201813
11. Mark Fechtel, O.D. IR#201873
12. Amy Czyz, O.D. IR#201885
13. Neha Amin Lacorte, O.D. IR#201872
14. Michael Sellers IR#201870
15. John Murphy, O.D. IR#201869
16. Aleta Gong, O.D. IR#201811
17. David Tetrault, O.D. IR#201884
18. Theresa Setlock, O.D. IR#201888
19. Stuart Greenberg, O.D. IR#201850
20. Melissa Muller, O.D. IR#201855
21. Lawrence Stern, O.D. IR#201856
22. Brett Gramlich, O.D. IR#201865
23. Katrina Nichols, O.D. IR#201848
24. Cheryl Schmitt, O.D. IR#201857
25. Jeremy Olsen, O.D. IR#201847
26. Mark Page, O.D. IR#201845
27. Richard Stewart, O.D. IR#201866
28. Clark Campbell, O.D. IR#201864
29. Vincent Van Houten, O.D. IR#201819
30. G. Elden Blair, O.D. IR#201860
31. Brian Stephens, O.D. IR#201862
32. David Timochko, O.D. IR#201807
33. Elliott Snyder, O.D. IR#201868
34. Thomas Babu, O.D. IR#201809
35. Beth Frankel, O.D. IR#201834
36. David Kaplan, O.D. IR#201835

37.	Stuart Bark, O.D.	IR#201837
38.	Howard Bacon, O.D.	IR#201838
39.	Brian Michaels, O.D.	IR#201831
40.	Curtis Dechant, O.D.	IR#201830
41.	Barry Blonder, O.D.	IR#201828
42.	Nicholas Koshuta, O.D.	IR#201821
43.	Patrick Padrnos, O.D.	IR#201822
44.	Jeffrey Franz, O.D.	IR#201823
45.	Zuraida Zainalabidin, O.D.	IR#201815
46.	Angela Hodges, O.D.	IR#201817
47.	Steven Holt, O.D.	IR#201818
48.	Barbara Wiese, O.D.	IR#201820
49.	James Francois, O.D.	IR#201886
50.	Ken Factor, O.D.	IR#201832
51.	Kenneth Lord, O.D.	IR#201882
52.	Karen Grandi, O.D.	IR#201871
53.	Marvin Fineberg, O.D.	IR#201827
54.	Kevin Helmuth, O.D.	IR#201824
55.	Thomas Melfi, O.D.	IR#2017205
56.	Thomas Bottoms, O.D.	IR#2017206
57.	Peter Rosenberg, O.D.	IR#2017212
58.	Anna Jones, O.D.	IR#201844
59.	Richard Lampert, O.D.	IR#201874
60.	Jill Rago, O.D.	IR#201876
61.	David Mallavia, O.D.	IR#201880
62.	Bessie Campouris, O.D.	IR#201867
63.	Paul Cinalli, O.D.	IR#201881
64.	Paula Peterson, O.D.	IR#201816
65.	Ljiljana Aleksic, O.D.	IR#2017221
66.	Justin Jones, O.D.	IR#201846
67.	Renita Frost, O.D.	IR#201849
68.	Terry Williams, O.D.	IR#201825
69.	Bryan Fuller, O.D.	IR#201877
70.	Thomas Pace, O.D.	IR#201854
71.	Tammy Nguyen, O.D.	IR#201829
72.	Yi Sen Cheung, O.D.	IR#201851
73.	Gino Carmolli, O.D.	IR#201808
74.	James Lewis, O.D.	IR#201836
75.	Jerry Burger, O.D.	IR#201842
76.	Bryce Palmer, O.D.	IR#201861
77.	Carey Shifrin, O.D.	IR#201887

**MOTION:** Dr. Peller moved to dismiss items 29-31 and 76 due to lack of violation of the optometric practice act. Dr. Husz seconded the motion.

Mr. Scott King, Attorney was present on behalf of the doctors in items 29-31 and 76. He had no comments at this time.

**VOTE:** Motion passed 5-0. Dr. Lamb recused from the discussion and vote.

**MOTION:** Dr. Husz moved to dismiss items 55-57 due to lack of violation of the optometric practice act. Dr. Mach seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Peller recused from the discussion and vote.

**MOTION:** Dr. Mach moved to take items 15-17, 19, 21, 32, 58 and 61 separately from the Consent Agenda and review each one individually. Dr. Lamb seconded the motion.

**VOTE:** Motion passed 6-0.

**MOTION:** Dr. Lamb moved to dismiss items 7-14, 18, 20, 22-28, 33-54, 59, 60, 62-75, and 77 due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

Lawrence Stern, O.D. IR#201856

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Stern failed to release a copy of the contact lens prescription when requested. 2 complaints for 2 patients; no requests received for either patient. Dr. Stern was present to address the Board stating that he provided what he had and there were no requests from 1-800 Contacts for a copy of a prescription.

**MOTION:** Dr. Husz moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

John Murphy, O.D. IR#201869

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Murphy failed to release a copy of the contact lens prescription when requested. 1 patient; 1 request received; Dr. Murphy responded to the request from 1-800 Contacts. Dr. Mach noted that 1-800 Contacts did not do their due diligence as they should not have filed a complaint against a doctor who complied with the law and responded to their request.

**MOTION:** Dr. Mach moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

Aleta Gong, O.D.

IR#201811

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Gong failed to release a copy of the contact lens prescription when requested. 4 patients; Dr. Gong responded to all 4 requests from 1-800 Contacts. Dr. Mach noted that 1-800 Contacts did not do their due diligence as they should not have filed a complaint against a doctor who complied with the law and responded to their request.

**MOTION:** Dr. Mach moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

David Tetrault, O.D.

IR#201884

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Tetrault failed to release a copy of the contact lens prescription when requested. 10 patients; 4 were not patients of Dr. Tetrault, 6 responses were sent back to 1-800 Contacts.

**MOTION:** Dr. Mach moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

Stuart Greenberg, O.D.

IR#201850

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Greenberg failed to release a copy of the contact lens prescription when requested. 1 patient; 1 response sent back to 1-800 Contacts by Dr. Greenberg. Dr. Mach noted that 1-800 Contacts did not do their due diligence as they should not have filed a complaint against a doctor who complied with the law and responded to their request.

**MOTION:** Dr. Mach moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

David Timochko, O.D.

IR#201807

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Timochko failed to release a copy of the contact lens prescription when requested. 1 patient; Dr. Timochko does not have a practice in Arizona; he is just licensed here. Dr. Mach noted that 1-800 Contacts did not do their due diligence as they should not have filed a complaint against a doctor who does not actually practice in Arizona.

**MOTION:** Dr. Mach moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

Anna Jones, O.D. IR#201844

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Jones failed to release a copy of the contact lens prescription when requested. Dr. Jones was not licensed in Arizona until May 30, 2015 and was therefore not in practice at the time of the complaint. Dr. Mach noted that 1-800 Contacts did not do their due diligence as they should not have filed a complaint against a doctor who was not yet licensed to practice when the alleged violation happened.

**MOTION:** Dr. Mach moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

David Mallavia, O.D. IR#201880

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Mallavia failed to release a copy of the contact lens prescription when requested. 7 complaints for 6 patients; There is no evidence of the doctor's response to the request from 1-800 Contacts due to the doctor shredding the documents which are required to be maintained for at least six years from the last date of service.

**MOTION:** Dr. Mach moved to issue a Letter of Concern for not maintaining proper records under A.R.S. §12-2297 and A.A.C. R4-21-306 and for failing to maintain records for the proper amount of time. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

**F. REVIEW, DISCUSSION AND POSSIBLE ACTION ON PENDING REGULAR LICENSE APPLICATIONS:**

- 78. Bennett, Mitchell
- 79. Johnson, Leah
- 80. Liao, Grace
- 81. Settlege, Dianne
- 82. Young, Esther

**MOTION:** Dr. Peller moved to approve items 78-82 for licensure. Dr. Lamb seconded the motion.

**VOTE:** Motion passed 6-0.

**G. REVIEW, DISCUSSION AND POSSIBLE ACTION ON PENDING ENDORSEMENT APPLICATIONS:**

- 83. Yates, Mark



**MOTION:** Dr. Mach moved to approve item 83 for licensure. Dr. Lamb seconded the motion.

**VOTE:** Motion passed 6-0.

**H. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON APPROVAL OF CONTINUING EDUCATION AS PROVIDED BY A.R.S. §32-1704(D) and A.A.C. R4-21-210:**

**Fiscal Year 2018**

	<b>Continuing Education</b>	<b>Date</b>	<b>No. of hours requested</b>
a.	Co-managing Cataract, MIGS and Laser Refractive Surgery-BDPEC	10/26/17	1 Regular
b.	Managing the Reluctant Glaucoma Patient-BDPEC	10/26/17	1 Regular
c.	Chicagoland Retina Optometry Update-Chicagoland Eye & Retina Foundation	9/13/17	3 Regular
d.	Ptosis & Blepharoplasty Techniques-Southwestern Eye Center	12/6/17	1 Regular
e.	Cataract Surgery: Where We Have Been & Where We Are Going with Advanced Technology-Southwestern Eye Center	12/6/17	1 Regular

**MOTION:** Dr. Husz moved to approve items a. and b. for continuing education. Dr. Peller seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Lamb recused from the discussion and vote.

**MOTION:** Dr. Mach moved to deny item c. for continuing education as it was lacking a course outline. Dr. Peller seconded the motion.

**VOTE:** Motion passed 6-0.

**MOTION:** Dr. Husz moved to approve items d. and e. for continuing education. Dr. Mach seconded the motion.

**VOTE:** Motion passed 6-0.

**I. REQUEST FOR WAIVER OF HOURS OR EXTENSION OF TIME TO COMPLETE CONTINUING EDUCATION PURSUANT TO A.A.C. R4-21-212.**

84. Nancy Hardin, O.D.

Withdrawn from consideration at this time.

**J. REVIEW, DISCUSSION AND POSSIBLE ACCEPTANCE OF CPR COURSES TO MEET REQUIREMENTS OF A.A.C. R4-21-205.1; LIST COLLECTED BY THE BOARD:**

Ms. Whelan informed the Board that staff has been tracking the courses that have met the requirements of the rule and asked for the Board’s permission to disseminate the list upon request from a licensee. As the Board does not endorse any company or course, Ms. Whelan read a disclaimer statement she intends

for use with the list should the Board allow for the tracked courses to be shared by the Board staff. Dr. Husz felt it was appropriate to give some guidance to those asking for assistance.

**MOTION:** Dr. Lamb moved to allow Board staff to give, upon request, names of courses it has been tracking. Dr. Peller seconded the motion.

**VOTE:** Motion passes 5-1. Dr. Mach voted no.

**K. REVIEW, DISCUSSION AND POSSIBLE APPROVAL OF BOARD MEETING MINUTES:**

85. None.

**L. EXECUTIVE DIRECTOR'S REPORT:**

- 86. Budget update
- 87. E-licensing update
- 88. Move update; projected moving date
- 89. Future agenda items
- 90. Future Board meeting dates

Budget:

25% of FY elapsed; with a beginning cash balance of \$290,276 and an ending cash balance of \$294,110. The Board's spending is currently at 23% of the appropriation.

eLicensing Update:

Funds have been swept to pay for the program. The Board's portion of the funding was \$45,000.

Move Update:

The projected move date is January 5, 2018. Our offices will be on the third floor of 1740 W. Adams St. just a few blocks west of our current location. The cost of the move is \$4,100 which will be swept from the Board's fund. Rent will be decreasing as the Board is utilizing less space in the new building compared to the current building. Board members may get badges as the new building is secure.

Future agenda items:

Dr. Lamb requested an agenda item to discuss the application and requirements for Continuing Education applications submitted to the Board for approval.

Future Board meeting dates:

Future Board meeting dates are December 8, 2017 and January or February 2018, depending on the upcoming move.

**M. CALL TO PUBLIC:**

Dr. Chrisagis made a call to the public at 09:58 a.m.

Dr. Jerry Burger addressed the Board, reading a personal statement regarding 1-800-contacts, denying all allegations in the complaint and that the complaint is accusatory and may be outside the statute of

limitations to file a complaint. He stated that 1-800 Contacts did not do their due diligence in researching him for this complaint as his addresses listed in the complaint were wrong as well as some of the practice names. Thomas Galvin acknowledged he was present on behalf of 1-800 Contacts but did not address the Board.

**N. MOTION TO ADJOURN:**

Dr. Mach moved to adjourn the meeting at 10:47 a.m. Dr. Lamb seconded the motion.

The meeting was adjourned at 10:47 a.m.

**END OF MINUTES:**

\_\_\_\_\_  
Margaret Whelan, Executive Director

\_\_\_\_\_  
Date