

Douglas A. Ducey
Governor

John Chrisagis, O.D.
President

Marla Husz, O.D.
Vice President



Arizona State Board of Optometry
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Executive Director

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**FINAL MINUTES FOR REGULAR MEETING
DECEMBER 8, 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 9:05 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:

Michael Raine, Assistant Attorney General

Staff Present:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

C. PRESIDENT'S REPORT:

Dr. Chrisagis

Dr. Chrisagis welcomed Assistant Attorney General Michael Raine and thanked him for filling in for Ms. Baskin.

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

1. Helen Paulin, O.D. IR#201715

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Paulin did not respond to a request for a copy of a prescription. There were 45 complaints for 33 patients; 3 of the patients were never seen by Dr. Paulin, 6 patients' records were in storage, 7 prescriptions were expired, 1 there was no contact lens exam so there was no prescription. Fourteen (14) prescriptions were valid however only one response was sent back to 1-800 Contacts by Dr. Paulin.

Keith Call, attorney for 1-800 Contacts was present to address the Board stating that Dr. Paulin's address and fax number were verified and that the evidence is clear that Dr. Paulin did not respond to requests.

MOTION: Dr. Mach moved to issue a Letter of Concern for violation of the Fairness to Contact Lens Consumers Act for not responding to a medical records request. Dr. Peller seconded the motion.

VOTE: Motion passed 5-1. Dr. Husz voted no.

2. Larry Allgood, O.D. IR#201735

Dr. Mach summarized the case as 1-800-Contacts alleges that Dr. Allgood did not respond to a request for copy of a prescription. There were 23 complaints for 14 patients. Dr. Allgood's response to the Board is incomplete at this time and the Board is unable to determine if Dr. Allgood responded to the prescription requests from 1-800 Contacts.

MOTION: Dr. Mach moved to go to Informal Interview pursuant to §32-1743 for failure to properly respond to the complaint pursuant to A.R.S. §32-1744(C) and for recordkeeping pursuant to A.A.C. R4-21-305. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0

3. Erika Wilken, O.D. IR#2017194

Dr. Peller summarized the case as 1-800-Contacts alleges that Dr. Wilken failed to respond to a request for a copy of a prescription. There were 36 complaints for 13 patients; Dr. Wilken stated in her response that no requests were received from 1-800 Contacts for any of the of the patients.

Keith Call, attorney for 1-800 Contacts was present to address the Board stating that this is about a request for copy of a prescription versus just the verification of it and that he has copies of the requests sent to Dr. Wilken; the fax numbers are correct. He stated that the period of violation was August 1, 2014 through September 3, 2015 and that on December 4, 2017, the fax numbers were verified again by 1-800 Contacts as valid fax numbers.

MOTION: Dr. Mach moved to issue a Letter of Concern for violation of the Fairness to Contact Lens Consumers Act for not responding to a medical records request. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

4. Ricci Rios, O.D. IR#2017222

Dr. Peller summarized the case as 1-800-Contacts alleges that Dr. Rios failed to provide a copy of a prescription when requested. There were 66 complaints for 26 patients; 5 requests were for expired prescriptions, 16 patients there were no requests for a copy of a prescription, 2 patients were not patients of Dr. Rios.

Keith Call, attorney for 1-800 Contacts was present to address the Board stating there were 66 violations and no responses were sent for any. He stated that the fact that the prescription is expired or not the doctor's patient is not an excuse for failure to comply with the FCLCA and patient protection demands compliance. Mr. Call stated that if the most significant violators are warned, the word will get out that all doctors need to comply with the law.

MOTION: Dr. Mach moved to issue a Letter of Concern for violation of the Fairness to Contact Lens Consumers Act for not responding to a medical records request. Dr. Peller seconded the motion.

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

5. David Anderson, O.D. IR#2017223

Dr. Mach summarized the case as 1-800-Contacts alleges that Dr. Anderson failed to release a copy of a prescription when requested. There were 74 completes for 34 patients. Dr. Anderson submitted no response or narrative, only incomplete medical records.

MOTION: Dr. Mach moved to go to Informal Interview pursuant to A.R.S. §32-1743 for failure to properly respond to the complaint pursuant to A.R.S. §32-1744(C) and for recordkeeping pursuant to A.A.C. pursuant to §32-1743 for failure to properly respond to the complaint pursuant to A.R.S. §32-1744(C) and for recordkeeping pursuant to A.A.C. R4-21-305. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

6. Jeffrey Girardin, O.D. IR#201891

Dr. Peller summarized the case as 1-800-Contacts alleges Dr. Girardin failed to release a copy of a contact lens prescription when requested. There were 13 patients, none for which a request was received from 1-800 Contacts.

Keith Call, attorney for 1-800 Contacts was present and addressed the Board stating that the fax numbers and the addresses are correct and that the Board needs to discipline the doctor based on the preponderance of evidence.

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

VOTE: Motion passed 4-2. Drs. Chrisagis and Mach voted no.

7. Sherri Horwitz, O.D. IR#201892

Dr. Peller summarized the case as 1-800-Contacts alleges that Dr. Horwitz did not respond to a request for copy of a prescription. There were 31 complaints for 21 patients. There appeared to be a lack of response by Dr. Horwitz as no narrative or medical records were submitted, only a brief statement.

MOTION: Dr. Mach moved to issue a Letter of Concern for violation of the Fairness to Contact Lens Consumers Act.

The motion died for lack of a second.

MOTION: Dr. Chrisagis moved to go to Informal Interview pursuant to A.R.S. §32-1743 for failure to properly respond to the complaint pursuant to A.R.S. §32-1744(C). Dr. Mach seconded the motion.

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

8. Kaci Kramer-Oldroyd, O.D. IR#201893

Dr. Peller summarized the case as 1-800-Contacts alleges that Dr. Kramer-Oldroyd failed to release a copy of a prescription when requested. There were 46 complaints for 14 patients. Dr. Peller saw no responses to the complaints in the chart and Dr. Kramer-Oldroyd did not state in her narrative whether she responded to the requests. Dr. Kramer-Oldroyd was present to address the Board stating that the fax number used by 1-800 Contacts is not a working fax number for her office as it goes to a digital folder in a main mail box at the surgical center and not to her office.

Keith Call, attorney for 1-800 Contacts was present and addressed the Board stating that the fax number is Dr. Kramer-Oldroyd's fax number and that just because it's old or ineffective does not mean she doesn't have to respond to a request sent via fax. Mr. Call when on to state that on November 10, 2016, 1-800 Contacts verified the fax number on the phone with a person in Dr. Kramer-Oldroyd's office.

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 5-1. Dr. Mach voted no.

9. Stewart Mecom, O.D. IR#201894

Dr. Peller summarized the case as 1-800-Contacts alleges that Dr. Mecom failed to respond to a request for a copy of a prescription. There were 44 complaints for 21 patients; three of the requests were responded to by Dr. Mecom.

Keith Call, attorney for 1-800 Contacts was present to address the Board stating the date range for this complaint was July 28, 2014 through September 3, 2015. He also stated that the fax number for Dr. Mecom's office was verified by 1-800 Contacts and is a correct and valid fax number, so Dr. Mecom should have received all the requests and subsequently responded to all them.

MOTION: Dr. Mach moved to issue a Letter of Concern for violation of the Fairness to Contact Lens Consumers Act for not responding to a medical records request. Dr. Peller seconded the motion.

VOTE: Motion passed 5-1. Dr. Husz voted no.

10. Charles Roberts, O.D. IR#201895

Dr. Chrisagis summarized the as 1-800-Contacts alleges that Dr. Roberts failed to respond to a request for copy of a prescription. There were 25 complaints for 10 patients; 5 requests were responded to by Dr. Roberts, 3 were not his patients and 1, no request received. Dr. Mach stated he felt that under the FCLCA, a response is required, even if it's not the doctor's patient.

Keith Call, attorney for 1-800 Contacts was present to address the Board stating that the fax number was recently verified by 1-800 Contacts and is correct and that only 5 of the 25 requests received were responded to by Dr. Roberts. Mr. Call stated he agreed with Dr. Mach that a response should be sent back to 1-800 Contacts even if it's not the doctor's patient so that 1-800 Contacts knows there is an issue.

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.

11. Michael DeRubeis, O.D. IR#201896

Dr. Peller summarized the case as 1-800-Contacts alleges that Dr. DeRubeis failed to provide a copy of a prescription when requested. There were 37 complaints for 23 patients. No requests received for 18 of the patients, 4 were not his patients and one request was responded to by Dr. DeRubeis.

Keith Call, attorney for 1-800 Contacts was present to address the Board stating that once again, the Board has sworn evidence that the fax number is correct and that Dr. DeRubeis received all of the requests for copies of the prescriptions, but failed to respond to all requests. Mr. Call believes that Dr. DeRubeis has poor office management as he “doesn’t buy” that 90% of the faxed requests were not received.

MOTION: Dr. Mach moved to issue a Letter of Concern for violation of the Fairness to Contact Lens Consumers Act for not responding to a medical records request. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

12. David Rockwell, O.D. IR#201897

Dr. Peller summarized the case as 1-800-Contacts alleges that Dr. Rockwell failed to respond to a request for a copy of a prescription. There were 32 complaints for 16 patients. Dr. Rockwell stated no requests were received and that the office has a system in place to track faxed requests for information.

Keith Call, attorney for 1-800 Contacts was present to address the Board stating that on November 10, 2016, 1-800 Contacts verified that the fax number is still valid and correct and that Dr. Rockwell has failed to properly respond to a request for a copy of a prescription.

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

VOTE: Motion passed 4-1. Dr. Mach voted no. Dr. Lamb recused from the discussion and vote.

E. CONSENT AGENDA

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

- | | | |
|-----|------------------------|------------|
| 13. | Roger Juarez, O.D. | IR#201718 |
| 14. | James Liston, O.D. | IR#201761 |
| 15. | Andrew Frank, O.D. | IR#2017179 |
| 16. | Jason Ransdell, O.D. | IR#2017184 |
| 17. | Alicia McCallen, O.D. | IR#2017198 |
| 18. | William Gitchell, O.D. | IR#2017204 |
| 19. | Carol Schulte, O.D. | IR#201812 |
| 20. | Sharon Peterson, O.D. | IR#201814 |
| 21. | Samuel Soesbe, O.D. | IR#201826 |
| 22. | Tammy Nguyen, O.D. | IR#201833 |
| 23. | Jennifer Gorman, O.D. | IR#201840 |
| 24. | Matthew Lopez, O.D. | IR#201841 |
| 25. | Scott Potter, O.D. | IR#201843 |

26.	Cody Quarnberg, O.D.	IR#201858
27.	Lawrence Irene, O.D.	IR#201859
28.	Brent Hartzell, O.D.	IR#201863
29.	Steven Weisman, O.D.	IR#201875
30.	Robert Mitchell, O.D.	IR#201879
31.	Jamie Hiscox, O.D.	IR#201883
32.	Michael Berger, O.D.	IR#201898
33.	Robert Koppany, O.D.	IR#201899
34.	Amy Michelle Lee, O.D.	IR#2018101
35.	Aleta Doroudian, O.D.	IR#2018102
36.	Jan McVey, O.D.	IR#2018103
37.	Russell Slaugh, O.D.	IR#2018104
38.	William Crum, O.D.	IR#2018105
39.	Jacob Miller, O.D.	IR#2018106
40.	Christopher Heetland, O.D.	IR#2018107
41.	Kirk Reed, O.D.	IR#2018108
42.	Phdra Natalie Shaba, O.D.	IR#2018109
43.	Jonathan Bundy, O.D.	IR#2018110
44.	Greg Stipek, O.D.	IR#2018111
45.	Michael Pittelli, O.D.	IR#2018112
46.	Vincent Piraino, O.D.	IR#2018113
47.	Jennifer Hoepfner, O.D.	IR#2018114
48.	Tara Ransdell, O.D.	IR#2018115
49.	Andrea Barsness, O.D.	IR#2018116
50.	Jacquelyn Wyman, O.D.	IR#2018117
51.	Roger Vesper, O.D.	IR#2018118
52.	Guy McDougal, O.D.	IR#2018121
53.	Lars Carlson, O.D.	IR#2018122
54.	Brian Easley, O.D.	IR#2018123
55.	Alicia Feis, O.D.	IR#2018124
56.	Sara Frye, O.D.	IR#2018125
57.	Joshua McAdams, O.D.	IR#2018126
58.	Andrew Ochiltree, O.D.	IR#2018127
59.	Brian Sturgill, O.D.	IR#2018128
60.	David Schanes, O.D.	IR#2018129
61.	Patrick Barry, O.D.	IR#2018133
62.	Beth Pyle-Smith, O.D.	IR#2018134
63.	Jody Dagan, O.D.	IR#2018135
64.	Jashpal Rajasansi, O.D.	IR#2018136
65.	Michael Martin, O.D.	IR#2018137
66.	Maureen Meyer, O.D.	IR#2018138
67.	Murray Pratt, O.D.	IR#2018139
68.	Christopher Lee, O.D.	IR#2018140
69.	Dan Leber, O.D.	IR#2018141
70.	Torrence Watkins, O.D.	IR#2018142
71.	Tania Sobchuk, O.D.	IR#2018143
72.	Brooke Vetter, O.D.	IR#2018144
73.	John Schrolucke, O.D.	IR#2018145

74. Laura Schillig, O.D. IR#2018146

MOTION: Dr. Lamb moved to dismiss items 13-18 and 20-74 due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

Item 19 was taken separately from the consent agenda at the request of Dr. Husz.

Carol Schulte, O.D. IR#201812

Dr. Husz stated she pulled this case from the Consent Agenda as she wanted it noted that on page 3 of the doctor's response to the complaint, it stated that on December 3rd when the office attempted to fax back a response to a request, the fax number listed by 1-800 Contacts was not working and the doctor's office had to call to get a different fax number to send back the response.

MOTION: Dr. Husz moved to dismiss item 19 due to lack of violation of the optometric practice act. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

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

- 75. Shurtz, David
- 76. Sierra-Romero, Marcela

MOTION: Dr. Peller moved to approve items 75 and 76 for licensure. Dr. Lamb seconded the motion.

VOTE: Motion passed 6-0.

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

- 77. Portnoy, Nicole
- 78. Prescott, Jason
- 79. Reedy, Daniel
- 80. Thompson, Christian

MOTION: Dr. Husz moved to approve item 77 for licensure contingent upon negative DPS/FBI report. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

MOTION: Dr. Peller moved to approve items 78, 79 and 80 for licensure. Dr. Lamb seconded the motion.

VOTE: Motion passed 6-0.

H. REVIEW, DISCUSSION AND POSSIBLE ACTION ON APPLICATION FOR VOLUNTEER HEALTH SERVICES UNDER A.R.S. §32-3217:

- 81. J. Troy Bailey, O.D.
- 82. Garrick Peterson, O.D.

MOTION: Dr. Husz moved to accept the Volunteer Application for items 81 and 82 as submitted. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

I. REQUEST FOR A WAIVER OR REFUND OF LICENSE RENEWAL LATE FEE:

- 83. Joel Michaels, O.D.

MOTION: Dr. Mach moved to deny item 83 the request for license renewal late fee. Mr. Evanoff seconded the motion.

VOTE: Motion passed 5-1. Dr. Husz voted no.

J. 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

	Continuing Education	Date	No. of hours requested
a.	None.	n/a	n/a

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

- 84. February 17, 2017 Regular Session Minutes
- 85. March 17, 2017 Regular Session Minutes
- 86. May 19, 2017 Regular Session Minutes
- 87. November 1, 2017 Special Meeting Minutes

MOTION: Dr. Mach moved to approve items 84, 85, 86 and 87 as submitted. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

L. EXECUTIVE DIRECTOR’S REPORT:

- 88. Budget update
- 89. E-licensing update
- 90. Move update
- 91. Future agenda items
- 92. Future Board meeting dates

Budget:

As of November 30, 2017, 41.67% of the FY elapsed with a beginning cash balance of \$294,613 and an ending cash balance of \$254,659. The significant decrease in the ending fund balance is due to the fund sweep for the eLicensing program and rent for the year. The Board's spending is at 35.06% of the appropriation.

eLicensing Update:

The program is moving along; data has been collected from the agencies and the company who was awarded the contract is working with the agencies to get the system mapped out and coded. The roll-out date is still set for March of 2018.

Move Update:

The Board is still on track for the projected move date of January 5, 2018. The new address is 1740 W. Adams St., Suite 3003, Phoenix, AZ 85007. Parking is north of the building; armed security will be implemented in the lobby.

Future agenda items:

None requested.

Future Board meeting dates:

Future Board meeting date is February 9, 2018 with the next meeting after that on April 20, 2018.

M. CALL TO PUBLIC:

Dr. Chrisagis made a call to the public at 10:45 a.m.

William Gitchell, O.D. addressed the Board stating that the faxes received from 1-800 Contacts are illegible, numerous and questioned how many responses are necessary for the same request? He stated that the process 1-800 Contacts uses with the robotic calls and faxes is burdensome and would require a doctor to hire additional staff at a great cost.

N. MOTION TO ADJOURN:

Dr. Peller moved to adjourn the meeting at 10:46 a.m. Mr. Evanoff seconded the motion.

The meeting was adjourned at 10:46 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date