

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
FEBRUARY 17, 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
Brian Mach, O.D.
Michael Lamb, O.D.
Blake Whiteman, Public Member
George A. Evanoff, Public Member

Legal Counsel:

Mona Baskin, Assistant Attorney General

Staff Present:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

C. PRESIDENT'S REPORT:

Dr. Chrisagis

Dr. Chrisagis thanked Ms. Whelan for adhering to the request to get information out earlier than usual, as it has aided the Board members in properly reviewing the voluminous materials for the meeting. He informed the public that the Board has a statutory obligation to review all complaints that come in and although the Board has never had this many complaints, it will be treating the complaints filed by 1-800 Contacts like all others; one at a time hearing from both the doctor and the complainant, if present.

D. REVIEW AND DISCUSSION OF COMPLAINTS FILED BY 1-800 CONTACTS AGAINST PHYSICIANS WHO ARE NOT LICENSED WITH THE BOARD OF OPTOMETRY:

Ms. Whelan advised the Board that when the original complaint was filed by 1-800 Contacts, the list of 525 named doctors were not all optometrists; there were 53 doctors who are ophthalmologists. As this Board investigates every complaint that comes in, if it's not this Board's jurisdiction because the licensee is an M.D. or D.O., it gets sent to the proper Board for review. This case was no exception; at this time, 53 complaints total were sent to either the Medical Board and the Osteopathic Board.

E. REVIEW AND DISCUSSION OF 1-800 CONTACTS MEMORANDUM IN RESPONSE TO BOARD'S NOVEMBER 18, 2016 REQUEST FOR ADDITIONAL INFORMATION:

Ms. Whelan asked the Board if they had any legal questions about the memorandum submitted.

MOTION: Dr. Husz moved to go in to executive session for legal advice pertaining to the November 18, 2016 memorandum request and response. Dr. Mach seconded the motion.

VOTE: Motion passed 6-0

The Board went in to Executive Session at 9:10 a.m.
The Board reconvened Regular Session at 9:40 a.m.

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

1. Matthew Campouris, O.D. IR#201707

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Campouris failed to release a copy of the contact lens prescription when requested. Dr. Campouris responded that there was no patient by that name in his practice.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

2. Doyle Holle, O.D. IR#201708

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Holle failed to release a copy of the contact lens prescription when requested. Dr. Holle responded that he does not practice at the location where the patient was seen and does not have a patient by that name in his practice.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

3. Larry Holle, O.D. IR#201709

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Holle failed to release a copy of the contact lens prescription when requested. Six patients were requested; one a response was sent to 1-800 Contacts, four no record of a request from 1-800 Contacts and one there was a response to 1-800 Contacts approving the request. Dr. Chrisagis noted that there were 11 complaints filed against eight patients. The records were sent in; five of the eight had verifications that the doctor attempted to comply with the requests.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

4. Quintilio DiGiacomo, O.D. IR#201710

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. DiGiacomo failed to release a copy of the contact lens prescription when requested. There were two patients requested; both were seen in Dr. DiGiacomo's practice in New Mexico under his New Mexico license and not in Arizona.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

5. Tiffany Uelner, O.D. IR#201711

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Uelner failed to release a copy of the contact lens prescription when requested. There were nine patients requested; six there was no proof of receipt of a request from 1-800 Contacts, two there were no records provided and one there was a record in storage as the patient was last seen in 2010. Dr. Chrisagis stated that in Dr. Uelner's response to the Board, she stated that she doesn't keep requests from 1-800 Contacts in the patient records. Therefore, the Board is unable determine if the doctor complied with a request as there is no record or evidentiary support of a response to 1-800 Contacts. Dr. Mach felt that was a violation of the recordkeeping laws/rules.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Mach moved to issue a Letter of Concern for not maintaining proper records under A.A.C. R4-21-306 by not keeping a record of prescription release request. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 7-0.

6. Richard Glonek, O.D. IR#201712

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Glonek failed to release a copy of the contact lens prescription when requested. Dr. Glonek has a mostly rehabilitative practice and does not generally fit or prescribe contact lenses. Dr. Husz asked Dr. Glonek when he last prescribed contact lenses. Dr. Glonek was present to address the Board stating he prescribed a sclera lens about eight months ago. Dr. Glonek stated he got a call on a Saturday from an automated system asking for verification of a contact lens prescription. One of the patients wasn't his patient and the second patient had a Plano lens.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

7. Peter Lehmann, O.D. IR#201714

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lehmann failed to release a copy of the contact lens prescription when requested. Four patients were requested; two there was no request from 1-800 Contacts, two of them the prescription was finalized by a different optometrist.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

8. Adam Lee, O.D. IR#201716

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lee failed to release a copy of the contact lens prescription when requested. Five patients were requested; none of the patients were found to be Dr. Lee's patients.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

9. Patricia Stamper, O.D. IR#201717

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Stamper failed to release a copy of the contact lens prescription when requested. Dr. Stamper stated she no longer had a copy of the response to 1-800 Contacts even though the patient was seen in 2014.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

Dr. Lamb felt that Dr. Stamper did not keep proper records as required under the recordkeeping rule.

Dr. Peller withdrew his motion. Dr. Lamb withdrew his second to the motion.

SECOND MOTION: Dr. Lamb moved to issue a Letter of Concern for not maintaining proper records under A.A.C. R4-21-306 by not keeping a record of prescription release request. Dr. Mach seconded the motion.

VOTE: Motion passed 7-0.

10. Roger Juarez, O.D. IR#201718

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Juarez failed to release a copy of the contact lens prescription when requested for five patients. He stated he received a response from September 2016 where Dr. Juarez stated he had no patient names so he could not respond to the complaint. Dr. Juarez did not submit a second response when the patient names were provided in November 2016 and the Board felt they needed more information to make a decision on this case. The Board directed staff to obtain a supplemental response to include patient records and a more detailed narrative.

11. Lynne Noon, O.D. IR#201719

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Noon failed to release a copy of the contact lens prescription when requested for three patients. Dr. Noon's practice is mostly low vision and she seldom prescribes contact lenses nor did she receive any requests from 1-800 Contacts for the three patients in question.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

12. Lindsey Clyde, O.D. IR#201720

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Clyde failed to release a copy of the contact lens prescription when requested. There were two patients requested; both were given copies of their prescription upon completion of exam. There was no request in the records from 1-800 Contacts for a copy of the prescription for either patient. One of the patients wrote in that they had no idea that their name was used in a complaint that they did not file. Melissa Ho, attorney for Dr. Clyde was present and addressed the Board stating that Dr. Clyde takes her practice very seriously and provided two responses to the Board as the first response was based on the initial complaint filed by 1-800 Contacts where there were no patient names or any other identifying information. Once the Board was able to obtain at least a patient name, Dr. Clyde was able to provide a response however, her patients were not happy that their names were used in a complaint against a doctor that they care about a great deal.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

13. Eric Clyde, O.D. IR#201721

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Clyde failed to release a copy of the contact lens prescription when requested. There was one patient requested who was not seen or treated by Dr. Clyde. Melissa Ho, attorney for Dr. Clyde was present and addressed the Board stating that Dr. Clyde takes his practice very seriously and provided the best response possible considering initially he did not have the identity of the patient and when he subsequently received that information, the patient was not his.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

14. John Twelker, O.D. IR#201723

Dr. Mach summarized the case as 1-800 Contacts alleges that Dr. Twelker failed to release a copy of the contact lens prescription when requested. Dr. Twelker works in a major-medical center and does not personally handle medical records requests. Dr. Twelker was present to address the Board stating there was no patient name on the complaint and the CaptureID number submitted did not identify the patient. Dr. Twelker wrote a letter to 1-800 Contacts asking for the patient name. The name was submitted without any other identifying information. Dr. Twelker stated it was a very common name and there were at least 50 patients in the practice with the same name. Dr. Twelker made a subsequent call to 1-800 Contacts to get more identifying information such as a middle initial, date of birth, address or date of service however, 1-800 Contacts refused to provide further information stating he had what he needed. Dr. Twelker closed by saying that he has never received any complaints from his patients regarding release of a prescription.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

15. Sheryl Simms, O.D. IR#201724

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Simms failed to release a copy of the contact lens prescription when requested. There was one patient requested; patient was not Dr. Simms's patient.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

16. Rita Bhakta, O.D. IR#201725

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bhakta failed to release a copy of the contact lens prescription when requested. Three patients; one no record of patient, one was responded to and the third patient no communication from 1-800 Contacts was received.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

17. Rand Siekert, O.D. IR#201726

Dr. Mach summarized the case as 1-800 Contacts alleges that Dr. Siekert failed to release a copy of the contact lens prescription when requested. Dr. Siekert works in a major-medical center and does not personally handle medical records requests. Dr. Siekert was present to address the Board stating that in this era of the ACA and communication with EMR and meaningful use and trying to work with pharmacies and optical services vendors, it's good for patient care, good for patient follow-through and the office does their best to keep good communication with all parties. In closing, Dr. Siekert referenced the last paragraph of his written response stating this is the first time he has been informed of a complaint of this nature and that he was unaware of patients or contact lens vendors having problems obtaining valid contact lens prescriptions. Dr. Siekert asked the Board to review this matter further to find out how the patients and contact lens vendors were trying to contact him to obtain this information as his office complies with Arizona State Law and the federal Fairness to Contact Lens Consumer Act.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

18. David Diaz, O.D. IR#201727

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Diaz failed to release a copy of the contact lens prescription when requested. One patient; common name, at least 30 patients in practice found with same last name; no other identifying information was provided.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

19. Elizabeth Madara, O.D. IR#201728

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Madara failed to release a copy of the contact lens prescription when requested. One patient; request never received by Dr. Madara.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Dr. Peller recused due to conflict.

20. Frederick Weitz, O.D. IR#201729

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Weitz failed to release a copy of the contact lens prescription when requested. Five patients; requests were received and responded to, meeting the requirement of the law however, the Board felt the state of Dr. Weitz's medical records does not meet the standards in A.A.C. R4-21-305 Recordkeeping.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Mach moved to issue a Letter of Concern for inadequate and incomplete documentation in the medical records unrelated to the 1-800 Contacts complaint. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0. Dr. Peller recused due to conflict of interest.

21. Glenn Bassett, O.D. IR#201730

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bassett failed to release a copy of the contact lens prescription when requested. There were 42 patients requested; 11 were not his patients, 32 were his and records were provided by Dr. Bassett. Dr. Mach asked where the faxed requests were sent. Dr. Bassett said they were faxed to Visionworks and not the doctor's office inside Visionworks. Dr. Bassett was present to address the Board stating that the staff has started sharing information with him about the challenges with 1-800 Contacts. A recent issue was that the office received a request for a patient; it was sent back in time and a subsequent request was received a few days later. Dr. Bassett called 1-800 Contacts on February 4, 2017 at 12:20 p.m. to inquire about the duplicate request and spoke to representative Dana (no last name given) who said it was an erroneous request sent out by the computer and that she had no record of the request. She then stated that "You didn't have to fill that out" to which Dr. Bassett's staff replied, "Oh, yes we do". Dana, the 1-800 Contacts representative then when on to say, "Our computer just pooped it out" which raised a question of the reliability of the computer system and whether it is sending out random requests, etc.

Mr. Tom Galvin was present stating he would convey Dr. Bassett's comments to 1-800 Contacts.

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 7-0.

22. Grace Yoon, O.D. IR#201731

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Yoon failed to release a copy of the contact lens prescription when requested. There was one patient requested; Dr. Yoon never received faxed request from 1-800 Contacts.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

23. Howard Rosner, O.D. IR#201732

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Rosner failed to release a copy of the contact lens prescription when requested. The doctor closed practice in 2012 and no longer sells contacts. Six requests for two patients; all requests filled.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Dr. Peller recused due to conflict.

24. John Peterson, O.D. IR#201733

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Peterson failed to release a copy of the contact lens prescription when requested. Dr. Chrisagis stated that Dr. Peterson formerly practiced in Tucson, now practices in Fountain Hills but was able to get the records. He saw sufficient evidence in the records showing that Dr. Peterson responded to all requests for copies of a prescription.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

25. Karen Wyckoff, O.D. IR#201734

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wyckoff failed to release a copy of the contact lens prescription when requested. Six patients; all requests filled by Dr. Wyckoff.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

26. Matthew Schroeder, O.D. IR#201736

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Schroeder failed to release a copy of the contact lens prescription when requested. Dr. Schroeder states he never received faxed requests and that the practice is large so they may not have come to his office.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

27. Michele Whitacre, O.D. IR#201737

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Whitacre failed to release a copy of the contact lens prescription when requested. Dr. Whitacre left the practice in February of 2014; two patients; both requests were received and filled by the doctor.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

28. Neville Dalal, O.D. IR#201738

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Dalal failed to release a copy of the contact lens prescription when requested. There were three patients requested; one was never seen by Dr. Dalal, one had a faxed referral from 1-800 Contacts and that last patient was unable to be identified. Dr. Husz found it interesting that the faxed request from 1-800 Contacts that the fax was addressed to "Clinic, Z." Dr. Dalal was present to address the Board and stated that the fax number that 1-800 Contacts had for his office was incorrect and that on one of the complaints, his name was misspelled.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

29. Quan Nguyen, O.D. IR#201739

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Nguyen failed to release a copy of the contact lens prescription when requested. Two patients; one not seen by Dr. Nguyen and the second patient request was responded to by the doctor.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

30. Raymond Sherban, O.D. IR#201740

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Sherban failed to release a copy of the contact lens prescription when requested. Two patients; both faxes received and responded to by the doctor.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

31. Robert Sun, O.D. IR#201741

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Sun failed to release a copy of the contact lens prescription when requested. Doctor states he never received a faxed request for a copy of a prescription; only verification. One request, the patient's name doesn't match any patient of record in the doctor's practice. One, a response was faxed back to 1-800 Contacts and one of the alleged requests was not received by the doctor's office.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

32. Sonia Chung, O.D. IR#201742

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Chung failed to release a copy of the contact lens prescription when requested. There were six patients requested; two were never seen by Dr. Chung and four were responded to. Dr. Chung was present to address the Board stating that she called 1-800 Contacts to inquire about the complaints and their process for prescription verification. She had some concern that she was told by 1-800 Contacts that even if the office was closed and the answering machine picked up; the prescription would be considered verified and then filled. Dr. Chrisagis asked Dr. Chung if 1-800 Contacts made a differentiation between verification and supplying a contact lens prescription; Dr. Chung stated they did not. Ms. Baskin asked Dr. Chung who she spoke to at 1-800 Contacts. Dr. Chung gave the names of Brandon Bowes and Gage, no last name given.

Mr. Galvin addressed the Board stating that Dr. Chung's comments were duly-noted and will be taken in to consideration.

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 7-0.

33. Christine Bartoletti, O.D. IR#201743

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bartoletti failed to release a copy of the contact lens prescription when requested. There were two patients requested; one was not a patient of the doctor and one was responded back to 1-800 Contacts.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

34. Tanya Lewis Polec, O.D. IR#201744

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Polec failed to release a copy of the contact lens prescription when requested. One patient was requested; a response was sent by the doctor.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

35. Paul Wagner, O.D. IR#201745

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wagner failed to release a copy of the contact lens prescription when requested. There were six patients requested, all requests were responded to. Dr. Wagner was present to address the Board stating that he had a request from the mother of a patient asking for a three-month prescription for her minor child when the prescription was only valid for one more month. Dr. Wagner responded to 1-800 Contacts informing them to only fill one month. On May 6, 2016, Dr. Wagner's staff contacted 1-800 Contacts regarding this issue; they responded stating they will fill whatever the patient asks for as long as the prescription is currently valid.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

36. Christopher Marmo, O.D. IR#201746

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Marmo failed to release a copy of the contact lens prescription when requested. There were three patients requested; two were not patients of the doctor and one was responded to and faxed back to 1-800 Contacts.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

37. Brent Wilson, O.D. IR#201747

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wilson failed to release a copy of the contact lens prescription when requested. There were two patients requested; one was not a patient of the doctor and one was responded to and faxed back to 1-800 Contacts.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

38. Stacey Burson, O.D. IR#201748

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Burson failed to release a copy of the contact lens prescription when requested. There were two patients requested; one request was refused as the prescription was not correct and one no record of a request.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

39. Stephen Martin, O.D. IR#201749

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Martin failed to release a copy of the contact lens prescription when requested. There were two patients requested; doctor showed no request made for either patient.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

40. Bethanie Deemer, O.D. IR#201750

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Deemer failed to release a copy of the contact lens prescription when requested. There were two patients requested; both patients had common names, doctor was unable to determine who the requests were for without further identifying information.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

41. Todd Smith, O.D. IR#201751

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Smith failed to release a copy of the contact lens prescription when requested. There were three patients requested; none of which could be identified by the doctor as the patient names were common and the doctor had multiple patients in the practice with the same name.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

42. Paul Woolf, O.D. IR#201752

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Woolf failed to release a copy of the contact lens prescription when requested. There were 11 requests for ten patients; one no record and nine were responded to and faxed back to 1-800 Contacts.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

43. Stephen Spencer, O.D. IR#201753

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Spencer failed to release a copy of the contact lens prescription when requested. There were four patients requested; one was sent back to 1-800 Contacts, one, the prescription was expired, one no record of the patient, one no record of the request from 1-800 Contacts.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

44. Thomas Determan, O.D. IR#201754

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Determan failed to release a copy of the contact lens prescription when requested. There was one patient requested; patient did not have a contact lens exam, therefore, no prescription existed for this patient.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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 7-0.

45. Jacqueline Lucas, O.D. IR#201755

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lucas failed to release a copy of the contact lens prescription when requested. There were five patients requested; three were not her patients and two were last seen in 2011 so the records were no longer in Dr. Lucas's possession pursuant to the records retention law. Dr. Lucas was present to address the Board stating that two of her patients that she no longer sees are temporary residents who do not see her on a regular basis and who were also instructed to no longer wear contact lenses due to poor ocular health. Dr. Lucas stated that the patients continued to receive contacts from 1-800 Contacts even without a current valid prescription.

Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

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

46. Hothi, Gurjeevan

Dr. Mach stated that this is an application for regular licensure. In filling out the application, the applicant failed to disclose an arrest. The Board subsequently received notice of a report and is considering it as part of licensure for this applicant. Ms. Whelan asked the Board to consider issuing a license to this applicant with one of the following: no additional action; with a Letter of Concern for failure to report an incident or with a Consent Agreement. Dr. Hothi was present to address the Board. Dr. Husz asked Dr. Hothi why he failed to disclose the arrest. Dr. Hothi responded that when he submitted the application, the court hadn't finalized the disposition of the case. Dr. Chrisagis asked Dr. Hothi if he thought it would have been prudent to report the incident either way. Dr. Hothi responded that he had hoped the case would close before having to report it. He apologized to the Board for not reporting the incident.

MOTION: Dr. Mach moved to approve, with a Letter of Concern for non-disclosure of a misdemeanor arrest/conviction on the initial application for licensure, item 46 for licensure. Dr. Lamb seconded the motion.

VOTE: Motion passed 7-0.

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

47. Miller, Scott

Dr. Husz asked whether Dr. Miller held a previous license in Arizona. Ms. Whelan informed the Board that he did and that he is outside the reinstatement time frame and therefore must apply as a new applicant under A.A.C. R4-21-206(C). She also informed the Board that Dr. Miller had no complaints or disciplinary actions prior to his license expiring in 2011.

MOTION: Dr. Peller moved to approve item 47 for licensure. Dr. Mach seconded the motion.

VOTE: Motion passed 7-0.

I. 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 2017

	Continuing Education	Date	No. of hours requested
a.	AZ Retina Associates- Crystalline Retinopathies	2/23/17	2 Regular
b.	AZ Retina Associates- All you ever wanted to know about retinal detachments	3/28/17	2 Regular

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

VOTE: Motion passed 7-0.

J. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON APPROVAL OF TESTING CENTER FOR PROCTORING OF JURISPRUDENCE EXAM PURSUANT TO A.A.C. R4-21-203(C):

48. University of Arkansas Fort Smith, Fort Smith, AR

The Board reviewed the materials submitted and determined that the testing center is acceptable to proctor the Jurisprudence exam for licensure.

MOTION: Dr. Husz moved to approve item 48 for a testing center for proctoring of Jurisprudence exam. Dr. Mach seconded the motion.

VOTE: Motion passed 7-0.

K. REVIEW, DISCUSSION AND POSSIBLE ACTION ON ADOPTING AN AMENDMENT TO THE APPLICATION FOR VOLUNTEER HEALTH SERVICES UNDER A.R.S. §32-3217:

Ms. Whelan submitted some administrative changes for further clarification to the application. The Board reviewed the amendments.

MOTION: Dr. Husz moved to approve the amended application for the volunteer Health Services. Dr. Mach seconded the motion.

VOTE: Motion passed 7-0.

L. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON INCREASING, IN A.R.S. 32-1726, THE REQUIRED NUMBER OF HOURS OF CONTINUING EDUCATION FOR LICENSE RENEWAL:

Dr. Mach feels that the number of hours should be increased as the current requirement is sub-par. Ms. Whelan suggested maybe not increasing the number of hours but adding Continuing Education with Exam (“CEE”) as a requirement. Mr. Whiteman stated he would not be in favor of an increase as he does not see an issue with the types of complaints before the Board as it correlates to the need for an increase to the number of hours. The Board may discuss this issue again but took no action at this time.

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

49. January 20, 2017 Regular Session Minutes

MOTION: Dr. Husz moved to approve item 49 as submitted. Mr. Evanoff seconded the motion.

VOTE: Motion passed 7-0.

50. November 18, 2016 Second Executive Session Minutes

MOTION: Dr. Husz moved to approve item 50 as submitted. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

N. EXECUTIVE DIRECTOR’S REPORT:

51. Budget update

52. Legislative update; HB2378; HB2271; HB2290/SB1071; HB2307; HB2341; HB2515
SB1123; SB1437; SB1452

53. Future agenda items

54. Future Board meeting dates

Budget:

58.33% of FY elapsed; Board spending at 45.65% with a beginning cash balance of \$214,106.91 and an ending cash balance of \$207,051.02. The total cost of processing the 1-800 Contacts complaint is not yet included in the Board’s spending.

Legislation:

Ms. Whelan reported on the status of each bill listed on the agenda, recommending that the Board and the public check the Arizona Legislative website at www.azleg.gov for the most up to date information on these (and any other) bills.

Future agenda items requested were Telemedicine; specifically, type of exam and definition of telemedicine. Future Board meeting dates are March 17, 2017 and May 19, 2017.

O. CALL TO PUBLIC:

Dr. Chrisagis made a call to the public at 11:33 a.m.

Mr. Thomas Galvin representing the Rose Law Group on behalf of 1-800 Contacts addressed the Board; he thanked the Board for their time and efforts in processing this complaint.

P. MOTION TO ADJOURN:

Dr. Peller moved to adjourn the meeting at 11:35 a.m. Dr. Lamb seconded the motion.

The meeting was adjourned at 11:35 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date