

**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  
MAY 19, 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 9:03 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 – absent from 10:38 a.m. to 11:13 a.m.  
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**

None.

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

1. Loc Pham, O.D. IR#2017106

Dr. Lamb summarized the case as Dr. Pham examined the patient and made a diagnosis of cataracts and “peripapillary atrophy”. The patient subsequently got a second opinion from an ophthalmologist however, the patient didn’t have the correct diagnosis and asked the M.D. about “primary optic atrophy”. The M.D. told the patient they did not have cataracts, which Dr. Lamb found questionable in a 61-year-old patient. Dr. Pham was present to address the Board stating he was sorry there was miscommunication between him and the patient and that when he dilated the eyes during this exam, he did see the cataract and the peripapillary atrophy. The patient was present to address the Board stating that she was 58 years old when the cataract was originally diagnosed and that she could not get a written report of her diagnosis when requested from Dr. Pham. She stated that she did not believe she had the condition prescribed by Dr. Pham as her medical record stated she had no conditions of concern. The patient stated she felt that we need to be very careful with our health care providers and that it is not okay to just dismiss a patient’s concerns, and that she has no trust in Dr. Pham due to the lack of response on his part. Dr. Lamb stated to the patient that both conditions that Dr. Pham diagnosed are “normal” diagnoses for people of her age. He explained that the peripapillary atrophy was an anatomical diagnosis but due to the possible poor communication by Dr. Pham, it caused alarm to her. Dr. Lamb did not feel that there were any problems with Dr. Pham’s ability as a doctor or his diagnostic skills; just his communication and that the diagnoses were correct.

**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 6-0. Dr. Peller recused due to conflict of interest.

2. John Tanner, O.D. IR#2017109

Dr. Husz summarized the case as the patient was seen for an exam and that the doctor did not perform a refraction, however, there is a refraction in the records, showing no significant change from the last exam.

**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.

3. Paul Woolf, O.D. IR#2017110

Dr. Mach summarized the complaint as possible deceptive advertising for Dr. Woolf's practice as an advertisement in the yellow pages showed a comparison of AMD vs. non-AMD treatment where one might be misled to think that the condition could be cured or that the "AMD treatment" was somehow better than another treatment.

**MOTION:** Dr. Mach moved to send a Letter of Concern for violation of A.A.C. R4-21-302 for inaccurate advertising. Mr. Whiteman seconded the motion.

**VOTE:** Motion passed 7-0.

4. Sharon Peterson, O.D. IR#2017151

Dr. Lamb summarized the case as Dr. Peterson prescribed, without seeing the patient, eye drops to the minor child of a friend, however, no comprehensive exam was performed and there were no medical records. Dr. Peterson was present telephonically to address the Board stating the father of the child called her and described the symptoms to her, asking for help in treating the eye. She stated that she thought it would be okay to prescribe drops as she has met the minor child before but not in the capacity of a doctor/patient relationship.

**MOTION:** Dr. Mach moved to issue a letter of concern for violation of A.A.C. R4-21-304 and R4-21-305 for failure to perform a comprehensive eye exam, proper medical recordkeeping and prescribing medication to a patient that had not been seen by the doctor. Dr. Husz seconded the motion.

**VOTE:** Motion passed 7-0.

5. Andrew Ochiltree, O.D. IR#2017152

Ms. Whelan summarized the complaint as a notice of malpractice was received by the Board and a complaint opened pursuant to A.R.S. §32-3203. She sent a notice of complaint to Dr. Ochiltree who responded to the Board's request and sent records for the patient in question. After review of the submitted records, the Board discussed the allegations contained in the notice of malpractice. Dr. Mach stated that the patient was seen in November 2016 and the was diagnosed with cataracts at that time. The patient was subsequently seen by Dr. Ochiltree in January 2017 and was diagnosed with a retinal detachment. The Board could not determine when the retinal detachment may have occurred as there was no dilation of the patient by Dr. Ochiltree in either in November or January. Dr. Ochiltree was not present to answer questions; the Board felt that they needed to hear from Dr. Ochiltree to glean further facts in this case to make an appropriate conclusion.

**MOTION:** Mr. Whiteman moved to hold an Informal Interview pursuant to A.R.S. §32-1743(A)(12) to inquire about dilation and treatment of patient pursuant to A.A.C. R4-21-304. Dr. Mach seconded the motion.

**VOTE:** Motion passed 7-0.

6. Shane Theobald, O.D. IR#201757

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Theobald failed to release a copy of the contact lens prescription when requested. Four patients were requested; one, a response was sent to 1-800 Contacts, two, no record of a request from 1-800 Contacts and one was not a patient of the record. Dr. Theobald was present to address the Board stating that his practice protocol is to always release a copy of the prescription once it is finalized. He stated that patients may also get a copy of the prescription any time it is requested. Dr. Theobald also indicated that the practice address and fax number submitted by 1-800 Contacts was over seven years old and he was no longer using that information.

Mr. Keith Call, counsel for 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.

7. Erik Ornstein, O.D. IR#201760

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Ornstein failed to release a copy of the contact lens prescription when requested. Two patients were requested; no record of a request from 1-800 Contacts for either patient was received. Dr. Ornstein was present to address the Board stating that he changed practices and did not have access to the patient records in question as the records were stored by a third-party company who would was in a contract dispute with the doctor and therefore wouldn't release the record. Dr. Ornstein stated his office protocol is to always release the contact lens prescription when requested in writing.

Mr. Keith Call, counsel for 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.

8. V. Craig Stuart, O.D. IR#201767

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Stuart failed to release a copy of the contact lens prescription when requested. Eight patients were requested; two patents were not his, no record of a request from 1-800 Contacts for the other six patients was received.

Mr. Keith Call, counsel for 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 6-0. Mr. Whiteman was absent from the vote.

9. Stephen Christensen, O.D. IR#201768

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Christensen failed to release a copy of the contact lens prescription when requested. Two patients were requested, no record of a request from 1-800 Contacts for either patient was received.

Mr. Keith Call, counsel for 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 6-0. Mr. Whiteman was absent from the vote.

10. Spencer Ray, O.D. IR#201782

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Ray failed to release a copy of the contact lens prescription when requested. Two patients were requested, both prescriptions were faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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 6-0.

11. Gail Schechter, O.D. IR#201784

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Schechter failed to release a copy of the contact lens prescription when requested. Twelve patients were requested; some multiple times. All requests were responded to by Dr. Schechter.

Mr. Keith Call, counsel for 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 6-0. Mr. Whiteman was absent from the vote.

12. Catherine Hollenbach , O.D. IR#201787

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hollenbach failed to release a copy of the contact lens prescription when requested. Eight patients were requested; some multiple times. All requests were responded to by Dr. Hollenbach.

Mr. Keith Call, counsel for 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. Mr. Whiteman was absent from the vote.

13. Taylor McMullen, O.D. IR#201791

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. McMullen failed to release a copy of the contact lens prescription when requested. Four patients were requested; one, no record of a request from 1-800 Contacts, two requests were faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 6-0. Mr. Whiteman was absent from the vote.

14. Jennifer Sarmiento, O.D. IR#201792

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Sarmiento failed to release a copy of the contact lens prescription when requested. One patient requested; request faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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 6-0. Mr. Whiteman was absent from the vote.

15. Douglas Miner, O.D. IR#2017111

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Miner failed to release a copy of the contact lens prescription when requested. Two patients requested; two requests faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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 6-0. Mr. Whiteman was absent from the vote.

16. Jeffrey Lewis, O.D. IR#2017112

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lewis failed to release a copy of the contact lens prescription when requested. Fifteen patients requested; seven patients not in the practice, two prescriptions were expired; six requests faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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 6-0. Mr. Whiteman was absent from the vote.

17. Tami Lang, O.D. IR#2017113

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lang failed to release a copy of the contact lens prescription when requested. Four patients requested; two patients not in the practice; one request not received; one request faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 6-0. Mr. Whiteman was absent from the vote.

18. Kristin Pope, O.D. IR#2017117

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Pope failed to release a copy of the contact lens prescription when requested. Dr. Pope has been gone from the practice since 2013; 1-800 Contacts did not contact the doctor with a request.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

19. Jason McCord, O.D. IR#2017121

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. McCord failed to release a copy of the contact lens prescription when requested. Two patients requested; doctor left practice in 2012 before the date of the complaints.

Mr. Keith Call, counsel for 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 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

20. Jarrod Cross, O.D. IR#2017123

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Cross failed to release a copy of the contact lens prescription when requested. Nine patients requested; doctor was not working at that practice at the time; 1-800 Contacts did not contact the doctor regarding these complaints.

Mr. Keith Call, counsel for 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 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

21. Heather Betsko, O.D. IR#2017125

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Betsko failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient not in the practice; one request not received.

Mr. Keith Call, counsel for 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 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

22. Edward Frantsvog, O.D. IR#2017128

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Frantsvog failed to release a copy of the contact lens prescription when requested. One patient requested; patient has same name as several other patients; not enough identifying information to provide records.

Mr. Keith Call, counsel for 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 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

23. Pramesh Patel, O.D. IR#2017136

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Patel failed to release a copy of the contact lens prescription when requested. Dr. Patel was present to address the Board stating that he has practiced for over 20 years and always releases a copy of the prescription when requested. Dr. Patel stated the faxed requests from 1-800 contacts were sent to a practice that he had left two years prior to the date on this complaint.

Mr. Keith Call, counsel for 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 6-0. Dr. Peller recused.

24. Julie Lam, O.D. IR#2017150

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lam failed to release a copy of the contact lens prescription when requested. One patient requested; prescription was never finalized.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 6-0. Mr. Whiteman was absent from the vote.

25. Kent Blatter, O.D. IR#2017118 Nationwide Vision

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Blatter failed to release a copy of the contact lens prescription when requested. One patient requested; request not received from 1-800 Contacts.

Mr. Keith Call, counsel for 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 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

26. Joseph Taddonio, O.D. IR#2017119

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Taddonio failed to release a copy of the contact lens prescription when requested. Three patients requested; one patient not in the practice; two requests were for expired prescriptions.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

27. John Ripley, O.D. IR#2017120

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Ripley failed to release a copy of the contact lens prescription when requested. Two patients requested; no record of requests received.

Mr. Keith Call, counsel for 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 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

28. Jason Becker, O.D. IR#2017122

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Becker failed to release a copy of the contact lens prescription when requested. Two patients requested; no record of request from 1-800 Contacts.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

29. Ghadeer Makoshi, O.D. IR#2017126

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Makoshi failed to release a copy of the contact lens prescription when requested. Two patients requested; Dr. Makoshi informed the Board that no patient names were provided so she couldn't respond or provide records. Ms. Whelan informed the Board that Dr. Makoshi did receive the patient names. The Board tabled the complaint and directed staff to subpoena the records for the patients in question from Dr. Makoshi.

Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

**MOTION:** Dr. Husz moved to table. Peller seconded the motion.

**VOTE:** Motion passed 7-0.

30. Ernestine Leitman, O.D. IR#2017127

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Leitman failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient last fit for contact lenses in 2007; one request not received from 1-800 Contacts.

Mr. Keith Call, counsel for 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 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

31. Dina Hamideh, O.D. IR#2017129

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hamideh failed to release a copy of the contact lens prescription when requested. Ten patients requested; doctor states no requests received from 1-800 Contacts.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 6-0. Dr. Peller recused.

32. Daniel Crook, O.D. IR#2017131

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Crook failed to release a copy of the contact lens prescription when requested. One patient requested; request faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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 6-0. Dr. Peller recused.

33. Leland Sherlock, O.D. IR#201775

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Sherlock failed to release a copy of the contact lens prescription when requested. Ten patients requested; two patients not in the practice; four requests not received; four requests faxed back to 1-800 Contacts. Mr. Scott King, attorney for Dr. Sherlock was present to address the Board stating he was available to answer questions from the Board regarding Dr. Sherlock; the Board had none.

Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating he would incorporate arguments made earlier in Dr. Hardin's case.

The Board considered Mr. Call's comments.

**MOTION:** Mr. Whiteman 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.

34. Stacey Meier, O.D. IR#2017114

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Meier failed to release a copy of the contact lens prescription when requested. Twelve patients requested; six patients not in the practice; four request not received; two requests faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating he would incorporate arguments made earlier in Dr. Hardin's case. He stated there was a failure of the doctor to demonstrate that he responded to all the requests for information in this case as there is a lack of evidence from Dr. Meier that he responded to all requests. Mr. Call stated there were three patients seen prior to 2010 where Dr. Meier did not respond to 1-800 Contacts requests.

The Board considered Mr. Call's comments.

**MOTION:** Dr. Lamb moved to issue a Letter of Concern pursuant to A.R.S. §32-1744(E) for possible violation of A.A.C. R4-21-306 and A.R.S. §32-1771, including Dr. Meier not familiarizing himself with the FCLCA. Dr. Mach seconded the motion.

Dr. Husz stated she disagreed with the motion due to the fact that three of the patients in question were last seen prior 2010 and were outside the records retention law so the request was an unfair request. Dr. Lamb stated that Dr. Meier still should have responded to 1-800 Contacts letting them know if that was the case.

<u>Vote</u>		Brian Mach Optometrist	Mark Peller Optometrist	Marla Husz Optometrist	John Chrisagis, O.D. President	Michael Lamb, O.D. Vice President	George Evanoff Public Member	Blake Whiteman Public Member
YES	4	X			X	X	X	
NO	3		X	X				X
ABSTAIN	0							
ABSENT	0							

**VOTE:** Motion passes 4-3.

35. Gregory Meek, O.D. IR#2017115

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Meek failed to release a copy of the contact lens prescription when requested. Thirty patients requested; four patients not in the practice; eleven requests faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating he would incorporate arguments made earlier in Dr. Hardin’s case. He stated there were 63 violations between September 25, 2014 and September 2, 2015 making Dr. Meek one of the more egregious offenders with only 14 responses to the 30 patients. Mr. Call requested the Board issue a Letter of Concern at a minimum.

The Board considered Mr. Call’s comments.

**MOTION:** Dr. Lamb moved to issue a Letter of Concern pursuant to A.R.S. §32-1744(E) for possible violation of A.A.C. R4-21-306 and A.R.S. §32-1771 including Dr. Meek not familiarizing himself with the FCLCA. Dr. Mach seconded the motion.

<u>Vote</u>		Brian Mach Optometrist	Mark Peller Optometrist	Marla Husz Optometrist	John Chrisagis, O.D. President	Michael Lamb, O.D. Vice President	George Evanoff Public Member	Blake Whiteman Public Member
YES	4	X	X		X	X	X	
NO	2			X				X
ABSTAIN	0							
ABSENT	0							

**VOTE:** Motion passed 5-2. Dr. Husz and Mr. Whiteman voted no.

36. Nancy Hardin, O.D. IR#2017132

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hardin failed to release a copy of the contact lens prescription when requested. Eight patients were requested; five, a response was sent to 1-800 Contacts, two, no record of a request from 1-800 Contacts and one was not a patient of the record. Dr. Hardin was present to address the Board stating that her practice protocol is to always verify a prescription. She stated that patients may also get a copy of the prescription any time it is requested. Dr. Hardin

indicated that there were multiple faxed requests for the same patient and she has a very small practice so they may not have gotten a second or third request.

Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating 1-800 Contacts believes there is a problem with law violations in Arizona with about 48% of doctors who don't follow the law by providing prescriptions upon request. He stated that 1-800 Contacts has provided this Board an opportunity to change behavior of its licensees and take corrective action to make sure that compliance with the law occurs. Mr. Call asked the question, "Did Dr. Hardin violate the law by not responding to a request for a prescription? The answer is yes." He stated that the FCLCA requires that when a copy of the prescription is requested, it must be provided; 1-800 Contacts acting on behalf of its patients made the request for the prescription from Dr. Hardin; she failed to comply. Mr. Call stated that an affidavit has been provided to the Board regarding the requests for records made to the optometrists in Arizona. Mr. Call stated it is not the intent of this complaint to take away anyone's livelihood or jeopardize anyone's practice; the goal is to change the behavior to force compliance with the law.

Dr. Husz made a statement that the Board has already processed at least 10% of the complaints from 1-800 Contacts and there have been no findings to support Mr. Call's number of "48% violation of the law" and asked Mr. Call to provide empirical and statistical data or citation for this statement, which he did not.

Dr. Chrisagis stated that he appreciated Mr. Call's comments in this case however, they were stated previously and were not directly related to this complaint but rather, were directed at the Board to control how the Board does business. Dr. Chrisagis stated that the Board has been more than diligent and fair in processing these complaints and that 1-800 Contacts has not been as fair-minded when it continues to express that Arizona licensed optometrists do not know the law or that they have to follow it.

**MOTION:** Mr. Whiteman moved to issue a Letter of Concern explaining the difference between a request for verification of a prescription and a request for a copy of a prescription. Dr. Mach seconded the motion.

The Board dialogued regarding confusion about the form submitted for the requests for a copy of a prescription versus a request for verification. Mr. Whiteman withdrew his motion for a Letter of Concern. Dr. Mach withdrew his second to the motion.

Dr. Husz moved to go into Executive Session for the purpose of legal advice and review of confidential records. Dr. Mach seconded the motion. Motion passed 7-0.

The Board went into Executive Session at 10:07 a.m.  
The Board reconvened Regular Session at 10:38 a.m.

Ms. Baskin addressed the Board stating that HIPAA does permit covered entities such as 1-800 Contacts to disclose information pursuant to the treatment or "required by law" exceptions.

Mr. Call addressed the Board stating he wanted to respond to some of the comments he heard after his initial statement was made. He stated 1-800 Contacts did not have actual prescriptions

when the request was made and that what the Board may have been looking at was information provided by the patient and entered into their system. Mr. Call also addressed the issue of the type of information required, stating that in the request sent by them is the patient name and address so 1-800 Contacts feels that, that is enough identifying information to fulfill the request. Dr. Chrisagis asked Mr. Call if there are multiple patients with the same name could the doctor ask 1-800 Contacts for more information? Mr. Call stated they could.

**MOTION:** Dr. Lamb moved to issue a Letter of Concern pursuant to A.R.S. §32-1744(E) for possible violation of A.A.C. R4-21-306 and A.R.S. §32-1771 and Dr. Hardin not familiarizing herself with the FCLCA and as it relates to prescription release and verification. Dr. Husz seconded the motion.

**VOTE:** Motion passed 6-0. Mr. Whiteman was absent from the vote.

37. Loc Pham, O.D. IR#201763

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Pham failed to release a copy of the contact lens prescription when requested. Two patients were requested; a response for both was sent to 1-800 Contacts.

Mr. Keith Call, counsel for 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 5-0. Peller recused due to conflict of interest; Mr. Whiteman was absent from the vote.

38. Chantelle Clarizio, O.D. IR#201764

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Clarizio failed to release a copy of the contact lens prescription when requested. Three patients were requested; a response for all was sent to 1-800 Contacts.

Mr. Keith Call, counsel for 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 6-0. Mr. Whiteman was absent from the vote.

39. Taylor Thompson, O.D. IR#201769

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Thompson failed to release a copy of the contact lens prescription when requested. Two patients requested; one prescription never finalized; one request faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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.

40. Stephen Stahl, O.D. IR#201771

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Stahl failed to release a copy of the contact lens prescription when requested. One patient requested; request faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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. Mr. Whiteman seconded the motion.

**VOTE:** Motion passed 7-0.

41. Roger Ethington, O.D. IR#201772

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Ethington failed to release a copy of the contact lens prescription when requested. Five patients requested; one patient not in the practice; one request for a patient with multiple patients with same name; three no requests received from 1-800 Contacts.

Mr. Keith Call, counsel for 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. Rochelle Myers, O.D. IR#201773

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Myers failed to release a copy of the contact lens prescription when requested. Three patients requested; one patient not in the practice; one request not received; one request faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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.



43. Matthew Palmer, O.D. IR#201774

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Palmer failed to release a copy of the contact lens prescription when requested. Five patients requested; one patient not in the practice; four requests not received from 1-800 Contacts.

Mr. Keith Call, counsel for 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.

44. Kristia Owens, O.D. IR#201776

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Owens failed to release a copy of the contact lens prescription when requested. Five patients requested; three patients with multiple patients by the same name; one patient not in the practice; one request faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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.

45. Barry Pasco, O.D. IR#201777

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Pasco failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient not in the practice; one request not received from 1-800 Contacts.

Mr. Keith Call, counsel for 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.

46. Bradley Walker, O.D. IR#201778

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Walker failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient not in the practice; one request not received from 1-800 Contacts.

Mr. Keith Call, counsel for 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.

47. Arlynn Roper, O.D. IR#201779

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Roper failed to release a copy of the contact lens prescription when requested. Fourteen patients requested; twelve requests not received; two requests faxed back to 1-800 Contacts.

Mr. Keith Call, counsel for 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. Mr. Evanoff seconded the motion.

**VOTE:** Motion passed 7-0.

48. James Hooper, O.D. IR#2017124

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Hooper failed to release a copy of the contact lens prescription when requested. Eight patients requested; six patients not in the practice; one multiple patients with same name; one no request received from 1-800 Contacts.

Mr. Keith Call, counsel for 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.

49. Steven Wan, O.D. IR#2017133

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Wan failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient not in the practice; one response sent back to 1-800 Contacts.

Mr. Keith Call, counsel for 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. Mr. Whiteman seconded the motion.

**VOTE:** Motion passed 7-0.

50. Yen Ng, O.D. IR#2017135

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Ng failed to release a copy of the contact lens prescription when requested. Five patients requested; one response sent back to 1-800 Contacts; five no request received.

Mr. Keith Call, counsel for 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.

51. Jason Pick, O.D. IR#2017138

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Pick failed to release a copy of the contact lens prescription when requested. Five patients requested; one patient not in the practice; four no response to 1-800 Contacts due to records being in storage.

Mr. Keith Call, counsel for 1-800 Contacts was present and asked the Board to issue a Letter of Concern due to Dr. Pick's admission of no response to the requests from 1-800 Contacts.

The Board considered Mr. Call's comments.

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

Dr. Lamb stated that the patients were seen four years prior to the requested date and their records are off-site; why would 1-800 Contacts request records for a patient that old? Dr. Lamb felt this was an impossible request to the doctor.

**VOTE:** Motion passed 6-1. Dr. Mach voted no.

52. James Fabricant, O.D. IR#2017143

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Fabricant failed to release a copy of the contact lens prescription when requested. The request was for a patient who never had a contact lens exam and therefore, no prescription.

Mr. Keith Call, counsel for 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.

53. Joseph Reitano, O.D. IR#2017147

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Reitano failed to release a copy of the contact lens prescription when requested. Nine patients requested; nine responses sent back to 1-800 Contacts.

Mr. Keith Call, counsel for 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.

54. Heidi Frank, O.D. IR#2017148

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Frank failed to release a copy of the contact lens prescription when requested. Five patients requested; five responses sent back to 1-800 Contacts.

Mr. Keith Call, counsel for 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.

55. Alissa Wong, O.D. IR#2017149

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wong failed to release a copy of the contact lens prescription when requested. One patient requested; one response sent back to 1-800 Contacts.

Mr. Keith Call, counsel for 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.

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

- 56. Anderson, Nicole
- 57. Bhullar, Sharanvir
- 58. Huynh, Van-Anh
- 59. Kargenian, Angela
- 60. Kum, Clarissa
- 61. Vafae, Pooneh

**MOTION:** Dr. Lamb moved to approve items 56, 57, 58, 60, and 61 for licensure. Dr. Peller seconded the motion.

**VOTE:** Motion passed 7-0.

**MOTION:** Dr. Lamb moved to approve item 59 for licensure contingent upon negative criminal history report. Dr. Peller seconded the motion.

**VOTE:** Motion passed 7-0.

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

- 62. Alavi, Poneh
- 63. Weaver, Shon

**MOTION:** Dr. Lamb moved to approve items 62 and 63 for licensure. Dr. Peller seconded the motion.

**VOTE:** Motion passed 7-0.

**G. 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**

	<b>Continuing Education</b>	<b>Date</b>	<b>No. of hours requested</b>
a.	Associated Retina Consultants, "Perspectives on Treatment with Dexamethasone"	6/2/17	1 Regular
b.	Associated Retina Consultants, "New & Emerging Treatments & Advances in Retina"	5/26/17	1 Regular

**MOTION:** Dr. Husz moved to deny items a. and b. for continuing education due to lack of required course outline and no signature on either application. Dr. Peller seconded the motion.

**VOTE:** Motion passed 7-0.

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

- 64. Gail Schechter, O.D.

The Board discussed Dr. Schechter's request for an extension and determined it met the requirements under A.A.C. R4-21-212.

**MOTION:** Dr. Lamb moved to approve item 64 for an extension of time to February 28, 2018 to complete Continuing Education for the purposes of license renewal. Dr. Peller seconded the motion.

**VOTE:** Motion passed 7-0.

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

- 65. Testing Center at The University of Memphis, Memphis, TN
  - a. <http://www.memphis.edu/testing/services/proctor.php>
- 66. White River Junction VA Medical Center, White River Jct., VT
  - a. <https://www.va.gov/directory/guide/facility.asp?id=147>
- 67. Illinois College of Optometry
  - a. <http://www.ico.edu/>

**MOTION:** Dr. Husz moved to approve items 65-67 as testing centers for proctoring of Jurisprudence exam.

Dr. Mach would like to take each item separately. Dr. Husz withdrew her motion.

Dr. Mach stated he had a problem with item 66 as there is no demand for this location and they are not a testing center.

**MOTION:** Dr. Lamb moved to approve items 65 and 67 as testing centers for proctoring of Jurisprudence exam. Dr. Peller seconded the motion.

**VOTE:** Motion passed 7-0.

**MOTION:** Dr. Mach moved to deny item 66 as a testing center for proctoring of Jurisprudence exam. Dr. Husz seconded the motion.

**VOTE:** Motion passed 4-3. Drs. Peller and Lamb and Mr. Whiteman voted no.

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

- 68. Budget update
- 69. Legislative update; HB2378; HB2271; HB2290/SB1071; HB2307; HB2341; HB2372, HB2515 SB1123; SB1437; SB1452
- 70. Future agenda items
- 71. Future Board meeting dates

**Budget:**

83.33% of FY elapsed; Board spending at 71% with a beginning cash balance of \$263,006 and an ending cash balance of \$267,532. There is \$9,000 in rent not yet paid which will bring the Board spending closer to the FY lapsed. 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](http://www.azleg.gov) for the most up to date information on these (and any other) bills.

No future agenda items were requested. Future Board meeting dates are June 23, 2017 and July 21, 2017.

**K. CALL TO PUBLIC:**

Dr. Chrisagis made a call to the public at 12:21 p.m.

Mr. Thomas Galvin w/Rose Law Group, counsel for 1-800 Contacts addressed the Board. He thanked the Board for their time and efforts in processing this complaint.

**L. MOTION TO ADJOURN:**

Mr. Evanoff moved to adjourn the meeting at 12:22 p.m. Dr. Peller seconded the motion.

The meeting was adjourned at 12:22 p.m.

**END OF MINUTES:**

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

\_\_\_\_\_  
Date