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Brian Mach, O.D.
President

Rick Krug, Public Member
Vice President



Arizona State Board of Optometry
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Executive Director

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**FINAL MINUTES FOR REGULAR MEETING
JULY 19, 2013 SCHEDULED TO COMMENCE AT 09:00 A.M.**

Board Members

Brian Mach, O.D., President
Rick Krug, Public Member, Vice-President
Marla Husz, O.D.
John Chrisagis, O.D.
Michael Lamb, O.D.
Mark Peller, O.D.
Vacant, Physician

Staff:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

Legal Counsel:

Mona Baskin, Assistant Attorney General

A. CALL TO ORDER: Dr. Mach

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

B. ROLL CALL: Ms. Hollins

Board Members Present: Brian Mach O.D., President
Rick Krug, Public Member, Vice President
Marla Husz, O.D.
Mark Peller, O.D.
John Chrisagis, O.D. - telephonically

Board Members Absent: Michael Lamb, O.D.

Legal Counsel Present: Mona Baskin, Assistant Attorney General

Staff Present: Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

C. PRESIDENT'S REPORT:

Dr. Mach

Dr. Mach reported on the 2013 ARBO conference stating that, compared to other states' boards, The Arizona State Board of Optometry is a "rudimentary" Board as far as having to handle serious misapplication of the scope of practice by practitioners. He noted that the DEA opened offices in Kentucky and Tennessee due to misuse and abuse of controlled substances by professionals in those states, although none of the professionals named were optometrists. ARBO's goal for continuing education (CE) is moving towards accepting only COPE approved CE. It was also suggested that state boards remove the "automatic approval" for CE events sponsored by local, regional and national optometric associations. Arizona currently recognizes and accepts OE Tracker reports as an optional function for recording CE for renewal purposes. Dr. Mach would like to see Arizona move towards making the OE Tracker reporting a requirement and that all CE for renewal purposes be accepted only through the OE tracker.

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

1. R.C. vs. Brenda Binder, O.D. IR#201327

Allegation: Optometrist failed or refused to correct problem; possible misdiagnosis

Dr. Mach presented the complaint as patient R.C. went in to see Dr. Binder complaining of an irritated eye. Dr. Binder saw the patient and felt there was no active infection, but that there was possibly recurrent erosion; and placed the patient on a steroid drop, requesting the patient follow-up in a few days. When the patient came back, there were increased symptoms and increased pain and Dr. Binder noted a pseudomonas ulcer. The patient subsequently went to an ophthalmologist, a corneal specialist and retinal specialist and ultimately had a corneal transplant. Dr. Mach stated that in the records, Dr. Binder suspected corneal erosion (so there was a definite breach of the epithelium) and still put the patient a steroid drop without antibiotic coverage.

MOTION: Dr. Husz moved to go to an Informal Interview for further investigation and discussion of possible misdiagnosis and mistreatment of the condition of the eye. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0. Dr. Peller recused.

2. S.D. vs. Michael DeRubeis, O.D. IR#201328

Allegation: Optometrist refused reorder/verify online contact lens prescription

Dr. Peller presented the complaint as patient S.D. was complaining that an online contact lens distributor could not fill a prescription because the doctor's office refused to reorder/verify the prescription as it was ten (10) days out from the expiration date. A.R.S. §32 1774(C) allows only the amount of contact lenses needed to get to the expiration date be dispensed. Dr. DeRubeis offered to give trial lenses to the patient until the patient came back for an eye exam to get the full prescription. Dr. Mach felt that the doctor should have told the patient and the online company that he would authorize the prescription for the remaining ten (10) days of the original prescription and that if the company wanted to fill the prescription for that timeframe they could.

Dr. Peller felt that the offering of the trial lenses fulfilled the requirement of the remaining ten (10) days of the prescription. Mr. Krug asked the question, "Should the doctor's office have verified the prescription knowing there was still ten (10) days left on the prescription?" Dr. Peller felt that validating the prescription for the remaining ten (10) days would bring up a whole new realm of liability for the for the practitioner who would "ok" that.

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.

3. ASBOO vs. Joshua McAdams, O.D. IR#201329

Allegation: Misleading/improper advertising

Dr. Husz presented the complaint as Dr. McAdams placed ad in yellow pages that stated he was a "local full time M.D. Eye Doctor". Dr McAdams claims it was a misprint and was not caught prior to print. Dr. Peller stated that he felt that Dr. McAdams did attempt to change the designation and that the change was confirmed by the advertising company however, when the ad ran, the information was still incorrect and the changes were not made. Ms. Baskin pointed out that Dr. McAdams also did not follow A. R. S. §32-3213 which requires all professionals provide their proper professional designations in advertising.

MOTION: Dr. Husz moved to issue a Letter of Concern for improper advertising and not disclosing that he is an optometrist. Mr. Krug seconded the motion.

VOTE: Motion passed 4-1. Dr. Peller voted no.

4. Fatima Qureshi, O.D. vs. Greg Tuckman, O.D. IR#201330

Allegation: Falsification of records by optical/optician

Dr. Mach presented the complaint as several patients were seen by Dr. Qureshi and given contact lens prescriptions. When the patients came back for follow-ups, they noticed that Dr. Qureshi was not present but that someone else filled in pertinent information and records had been altered. After the complaint was filed, the complainant (Dr. Qureshi) arbitrarily withdrew the complaint.

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

VOTE: Motion passed 4-0. Dr. Peller recused.

E. REVIEW, DISCUSSION AND POSSIBLE VOTE ON ACTION ON SELF REPORT PURSUANT TO A.R.S. §32-3208; CRIMINAL CHARGES; MANDATORY REPORTING REQUIREMENTS; CIVIL PENALTY:

5. Thomas Ginman, O.D.

The Board discussed the letter submitted for reporting purposes and determined it judicious to open a complaint to review the facts when the final disposition of the arrest is made.

MOTION: Dr. Peller moved to open a complaint for further review of the arrest as reported and table the discussion until October meeting. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

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

6. Crandell, Chelsea
7. Filatova, Elena
8. Fornara, Jason
9. Meyer, Michelle
10. Otto, Marc
11. Ngo, Andrew
12. Shah, Khushali
13. Singla, Anchita

The Board discussed its options for issuing a license to the doctor in item 10. The doctor was present and addressed the Board, acknowledging the issues from the past and that he has moved forward in his life and feels that he is an excellent clinician who is prepared to practice the profession of optometry at the highest standards.

MOTION: Dr. Peller moved to continue item 10 until the next meeting in order for the doctor to obtain, by a Board approved practitioner, a psychological evaluation for anger management and possible substance abuse in order to determine safety practice. Mr. Krug seconded the motion.

VOTE: Motion passed 5-0.

MOTION: Dr. Husz moved to approve items 6, 7, 11, and 12 for licensure. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

MOTION: Dr. Peller moved to table item 8 until the next meeting so that the doctor may provide a detailed explanation as the doctor has not provided, upon first request, the required documentation explaining FBI/DPS report. The documentation must include police records and final disposition of the arrests. Dr. Mach seconded the motion.

VOTE: Motion passed 5-0.

MOTION: Dr. Peller moved to approve items 9 and 13 contingent for licensure upon negative FBI/DPS report. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

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

- 14. Schrenzel, Richard
- 15. Tanner, John

MOTION: Dr. Peller moved to approve items 14 and 15 for licensure. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

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

Fiscal Year 2014

	Continuing Education	Date	No. of hours requested
a.	Doctor- "What am I looking at?"-Timothy Hodges, M.D.	08/13/13	2 Regular
b.	Are we getting better outcomes combining LensSx and Ora?- Barnet Dulaney Perkins Eye Centers	08/08/13	1 Regular
c.	Anti-VEGF Modern Treatment of Retinal Disease-Barnet Dulaney Perkins Eye Centers	7/31/13 08/08/13	1 Regular 1 Regular

MOTION: Dr. Husz moved to approve items a-c. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

I. REVIEW, CONSIDERATION AND POSSIBLE APPROVAL OF COURSE REVIEWERS FOR THE COUNCIL ON OPTOMETRIC PRACTITIONER EDUCATION (COPE):

- 16. Sunny Sanders, O.D.
- 17. Alicia Feis, O.D.

MOTION: Dr. Peller moved to approve Drs. Sunny Sanders and Alicia Feis as COPE reviewers. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

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

18. June 21, 2013 Regular Session Minutes

MOTION: Dr. Husz moved to approve item 18 as written. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

K. ELECTION OF OFFICERS PURSUANT TO THE PROVISIONS OF A.R.S. §32-1703(A):

MOTION: Dr. Husz moved to approve Dr. Mach to continue as Board President and Mr. Rick Krug to continue as Board Vice President. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

L. EXECUTIVE DIRECTOR'S REPORT:

19. Budget
20. Proposed rulemaking for new/amended statutes pursuant to SB1433
21. Prescription Monitoring Program (PMP); registration; reporting requirements
22. Future agenda items

Ms. Whelan reported that as of June 30, 2013, 100% of the fiscal year budget had elapsed. The Board ended the budget year at 98.37% of appropriations spent with a beginning cash balance of \$115,658 and an ending cash balance of \$131,000. In July or August, a docket to promulgate rules for new and amended statutes pursuant to Senate Bill 1433 and also other clean-up of the rules will be opened. The Board will send a letter or postcard to licensees regarding the Prescription Monitoring Program (PMP). The law was enacted for the Pharmacy Board back in 2008 and requires doctors who prescribe controlled substances to either register or report to the prescription monitoring program. If a doctor actually dispenses in the office, the doctor is required to register and report. If the doctor only writes prescriptions, they are only required to register but do not have to report. As this is in law, the Board needs ensure all licensees are registered and reporting as appropriate. One future agenda items was requested: Discussion on whether or not the Board would (change rule that it) only accept COPE approved CE courses and no longer accept courses that are not COPE or courses that are currently accepted by rule for local national or regional optometric associations.

M. CALL TO PUBLIC:

Dr. Mach made a call to the public at 10:07 a.m. No one was present to address the Board.

Dr. Peller moved to adjourn the meeting at 10:07 a.m. Mr. Krug seconded the motion. The meeting was adjourned at 10:07 a.m.

END OF MINUTES: