

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
NOVEMBER 20, 2015 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
Marla Husz, O.D., Vice President
Brian Mach, O.D.
Michael Lamb, O.D.
Mark Peller, O.D.
George A. Evanoff, Public Member
Blake Whiteman, Public Member – joined meeting at 9:03 a.m.

Legal Counsel:

Mona Baskin, Assistant Attorney General

Staff Present:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

C. PRESIDENT'S REPORT:

Dr. Chrisagis

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

1. David Anderson, O.D. IR#201525

This case is continued from the July 17, 2015 Board meeting as the Board is awaiting further response from Dr. Anderson, including police report. Dr. Anderson was invited but was not present at this meeting and the Board still has not received the Department Report ("DR") from the Phoenix Police Department.

The Board directed staff to continue to invite Dr. Anderson to appear in person before the Board at the January 15, 2016 meeting and to obtain the initial DR from the Phoenix Police Department.

2. Leslie Weintraub, O.D. IR#201601

Dr. Mach summarized the case as notice of malpractice for not properly diagnosing/treating a corneal condition. The patient saw an ophthalmologist who treated the patient aggressively for a corneal ulcer. Dr. Weintraub was referred the patient for follow-up care. Dr. Weintraub continued to treat the patient with antibiotics; cultured the eye and maintained proper care until the ulcer healed.

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.

3. Donald Schore, O.D. IR#201603

The Board tabled its review and discussion until the patient's medical records from Dr. Schore and another treating physician are provided to the Board.

4. G. Ken Johnson, O.D. IR#201605

Dr. Peller summarized the case as an insurance issue as patient was not Dr. Johnson's; no exam was ever performed. Patient wanted office to "retro bill" an exam as their insurance was inactive.

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.

5. Carey Shifrin, O.D. IR#201606

Dr. Lamb summarized the case as patient presented for an eye exam, expected insurance to cover treatment; it didn't. Dr. Lamb had questions about the diagnosis as the medical insurance was billed for posterior sub capsulated haze present. Patient had no significant complaint so it was

unclear as to why a medical exam was performed. Only an FDT Perimetry was performed but a visual field test was billed. An established exam versus a new patient exam was billed. It appeared there was information sent to the medical insurance for profit as there looks to be upcoding based on the diagnosis and treatment. Dr. Shifrin was present to address the Board stating the patient didn't want to be dilated and did not want a medical exam. She stated that there may be staff issues regarding the billing. Dr. Shifrin stated there was a posterior sub capsulated haze which to her is a cataract and is normally billed under CPT code 92802; the refraction fee was waived. The Board still felt that the patient was upcharged for services rendered and that the billing codes used were inappropriate for the Medicare Waiver/Advance Beneficiary Notice (ABN) and for the diagnosis and treatment of this patient.

MOTION: Dr. Husz moved to issue a Letter of Concern for unprofessional conduct for inappropriate billing of services rendered; to include an additional four (4) hours of Continuing Education in medical billing and coding that is COPE or Board approved. The four CE hours shall be in addition to the 32 hours required for license renewal. Dr. Mach seconded the motion.

VOTE: Motion passed 6-0. Dr. Peller recused from the discussion and vote.

6. Alex Smith, O.D. IR#201607

Dr. Peller summarized the case as patient woke up in intense pain and was seen by Dr. Smith who diagnosed the patient with dry eye. The patient felt that Dr. Smith did not address the eye pain. Dr. Smith performed an exam and treated the patient for dry eye which resolved the pain issue. Dr. Smith addressed some other potential causes with the patient.

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

VOTE: Motion passed 7-0.

E. REVIEW, DISCUSSION AND POSSIBLE VOTE ON HIRING AN EXAM WRITER FOR THE JURISPRUDENCE EXAM ADMINISTERED BY THE BOARD:

Ms. Whelan advised the Board that the Jurisprudence exam needs to be revised as there have been rules changes affecting the accuracy of the exam as well as the upcoming changes to the rules in early 2016. The Board directed staff to get proposals from professional exam writers for revision of the exam.

F. REVIEW, DISCUSSION AND POSSIBLE VOTE REGARDING COMPLIANCE WITH PROBATIONARY ORDER:

7. Lawrence Stern, O.D., IR#201502

MOTION: Dr. Lamb moved to accept the completed Continuing Education to satisfy the May 1, 2015 Non-disciplinary Order for CE for Lawrence Stern, O.D., IR#201502. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

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

- 8. Pierce, Janice
- 9. Trinh, Linda

MOTION: Dr. Lamb moved to approve items 8 and 9 for licensure. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

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

None

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 2016

	Continuing Education	Date	No. of hours requested
a.	Lasik & Dysfunctional Lens Syndrome/ SAOS	12/8/15	2 Regular
b.	Refractive & Cataract Co-Mgmt. Process/NVision Center	12/3/15 & 12/7/15	2 Regular for each date

MOTION: Dr. Lamb moved to accept item a. Dr. Husz seconded the motion.

VOTE: Motion passed 7-0.

MOTION: Dr. Peller moved to accept item b. Dr. Husz seconded the motion.

VOTE: Motion passed 6-0. Dr. Mach recused from discussion and vote.

J. REVIEW, DISCUSSION AND POSSIBLE ACTION ON BOARD MEMBER TRAINING REQUIREMENT PURSUANT TO A.R.S. 32-3218:

The Board discussed its options to receive training from several sources including the Attorney General’s Office. Ms. Baskin informed the Board she would be able to provide at least 3 hours of training. Ms. Whelan advised she would invite a representative from the Pharmacy Board to present for one hour of instruction/training. The Board members already have four hours from the required ethics training through the Governor’s office. Board members have other hours of training through conferences and Board meetings as well. The Board member training requirement set forth in the above named statute will be met in full by the entire Board in January or March of 2016.

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

- 10. September 18, 2015 Regular Session Minutes

MOTION: Dr. Husz moved to approve item 10 as written. Dr. Mach seconded the motion.

VOTE: Motion passed 7-0.

L. EXECUTIVE DIRECTOR'S REPORT:

11. Budget
12. Rules update
13. Future agenda items
14. Future Board meeting dates

Ms. Whelan reported that FY16 budget is 33.333% elapsed. The beginning cash balance as of October 31, 2015 is \$217,518 with an ending cash balance of \$228, 228. Future agenda items were discussion of use of the term "Board Certified", expanding number of CE hours required for renewal and Board member training. Future Board meeting dates are January 15, 2016 and March 18, 2016.

M. EXECUTIVE SESSION TO DISCUSS PERSONNEL ISSUES/EVALUATION OF EXECUTIVE DIRECTOR:

15. Evaluation Forms

The Board tabled this discussion until January 16, 2016 meeting.

N. REVIEW, DISCUSSION AND VOTE ON PERSONNEL ISSUES PERTAINING TO ITEM M. ABOVE:

The Board tabled this discussion until January 16, 2016 meeting.

O. CALL TO PUBLIC:

Dr. Chrisagis made a call to the public at 10:37 a.m. No one addressed the Board.

P. MOTION TO ADJOURN:

Dr. Mach moved to adjourn the meeting at 10:37 a.m. Dr. Peller seconded the motion.

The meeting was adjourned at 10:37 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date