

Douglas A. Ducey
Governor

John Chrisagis, O.D.
President

Marla Husz, O.D.
Vice President



Arizona State Board of Optometry
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Margaret Whelan
Executive Director

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**FINAL MINUTES FOR REGULAR MEETING
SEPTEMBER 16, 2016 SCHEDULED TO COMMENCE AT 9:00 A.M.**

Board Members

John Chrisagis, O.D., President
Marla Husz, O.D., Vice-President
Michael Lamb, O.D.
Brian Mach, O.D.
Mark Peller, O.D.
George A. Evanoff, Public Member
Blake Whiteman, Public Member

Staff:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

Legal Counsel:

Mona Baskin, Assistant Attorney General

A. CALL TO ORDER: **Dr. Chrisagis**

Dr. Chrisagis called the meeting to order at 9:05 a.m.

B. ROLL CALL: **Ms. Hollins**

Members Present: John Chrisagis O.D., President
Marla Husz, O.D., Vice President
Brian Mach, O.D.
Michael Lamb, O.D.
George A. Evanoff, Public Member

Members Absent: Mark Peller, O.D.
Blake Whiteman, 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. Bryant Senica, O.D. IR#201621

This case was continued from a previous Board meeting. Dr. Husz questioned why the patient is claiming there was a second plaque removal when the record did not show one. The patient had uveitis when she presented for the initial exam; Dr. Senica did not pursue it as there was no medical history or risk of it being an issue. A defect in the conjunctiva caused Dr. Senica to give the patient an antibiotic. The patient's symptoms changed at every visit and clinical signs improved significantly throughout the course of treatment. The patient developed endophthalmitis after her last visit to Dr. Senica. The patient's vision was 20/100 on the initial visit. Dr. Senica was present to address the Board stating the patient has cataracts and macular degeneration. For the plaque removal, he anesthetized the eye topically with Proparacaine. Dr. Mach felt Tetracaine would have been a more proper anesthetic. Dr. Mach asked who signed the charts; Dr. Senica stated he did. Dr. Mach had concern that the doctor's name was missing in the chart. Notes from the M.D. stated there was a scleral perforation when none was listed in Dr. Senica's notes. Dr. Senica stated there was literature of spontaneous perforation of the sclera. Mr. Michael Ryan, counsel for Dr. Senica addressed the Board stating that patients say things during the exam that records don't support. He then asked the Board if what Dr. Senica did was reasonable and contemporaneous to the medical record. Dr. Mach had some concern over the medical records as there was no narrative, no signature and no signed consents from the patient. Dr. Mach and Dr. Chrisagis felt that Dr. Senica acted appropriately with regards to the patient's care however there were recordkeeping issues.

MOTION: Dr. Husz moved to issue a Letter of Concern for not having the identifying name of the doctor or signature on the medical records, lack of documentation/narrative and lack of documentation of pharmaceutical agents used. Dr. Mach seconded the motion.

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

2. Benjamin C. Yanofsky IR#201625

Dr. Husz summarized the case as patient has keratoconus and requires medically necessary contact lenses. The patient thought the doctor would not take his insurance or that he would not be reimbursed for the lenses. The patient paid no money out-of-pocket as the lenses were 100% covered.

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

VOTE: Motion passed 5-0.

3. Neeka Najmi, O.D. IR#201702

Dr. Chrisagis summarized the case as the patient stated that the eye exam was too quick, the doctor was rude and they had trouble with the eyeglasses. After reviewing the response from Dr. Najmi and the records submitted, there was no evidence of violation of the optometric practice act.

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 5-0.

4. Paul Woolf, O.D. IR#201703

Dr. Lambs summarized the case the patient purchased eyeglasses and didn't like them as they felt they couldn't see out of them. The patient left the office without the glasses and was never reevaluated with the eyeglasses on as the patient never returned to the office.

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.

5. Jeffrey Girardin, O.D. IR#201704

Dr. Lamb summarized the case the patient refused dilation but, at the professional judgment of the doctor, was dilated anyway due to a medically necessary condition requiring dilation. The patient states they could not see the rest of the day due to the dilation and was inconvenienced.

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.

6. Eugene Shifrin, O.D. IR#201705

Dr. Mach summarized the case as a medical malpractice notice from the insurance company came into the Board office. Dr. Shifrin was unaware of the claim and the claim was subsequently settled. Dr. Shifrin stated he had not ever seen that patient. The Board directed staff to get the medical records from the patient involved and continued this case to the November board meeting.

MOTION: Dr. Husz moved to continue the case for further investigation and to obtain the medical records for the patient in question. Dr. Lamb seconded the motion.

VOTE: Motion passed 5-0.

7. Tyler Trigg, O.D. IR#201798

Dr. Husz summarized the case as patient saw the doctor who noted the patient had early onset glaucoma. Dr. Trigg sent the patient to another doctor for treatment and diagnosis of glaucoma however none was found by the second doctor. Proper referral was made by Dr. Trigg.

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 5-0.

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:

8. Victor Calderon, O.D

Withdrawn from consideration at this time.

F. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING COMPLIANCE AND REVISION OR TERMINATION OF PROBATIONARY ORDER:

9. Stephen Cohen, O.D.

MOTION: Dr. Mach moved to continue with the audits and report at the November Board meeting. Mr. Evanoff seconded the motion.

VOTE: Motion passed 5-0.

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

10. Clingan, Benjamin

11. Juarez, Andre

12. Keller, Matthew

MOTION: Dr. Husz moved to approve items 10, 11 and 12 for licensure. Dr. Mach seconded the motion.

VOTE: Motion passed 5-0.

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

13. Rosen, Karen

MOTION: Dr. Lamb moved to approve item 13 for licensure. Dr. Mach seconded the motion.

VOTE: Motion passed 5-0.

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.	Associated Retina Consultants-Retina Update 2016	8/31/16 10/5/16	3 Regular 3 Regular
b.	HESLC Fall 2016 CE Event	10/6/16	3 Regular

MOTION: Dr. Lamb moved to approve item a. for continuing education. Dr. Mach seconded the motion.

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

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

VOTE: Motion passed 5-0.

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):

14. Illinois College of Optometry, Chicago, IL

MOTION: Dr. Lamb moved to approve item 14. (ICO) as a testing center for proctoring of the Board's Jurisprudence exam. Dr. Lamb seconded the motion.

VOTE: Motion passed 5-0.

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

15. July 15, 2016 Regular Session Minutes

MOTION: Dr. Husz moved to approve item 15. as submitted. Mr. Evanoff seconded the motion.

VOTE: Motion passed 5-0.

L. EXECUTIVE DIRECTOR'S REPORT:

- 16. Budget update
- 17. 1-800 Contact Lens complaint update
- 18. Future agenda items
- 19. Future Board meeting dates

Ms. Whelan reported that 16.67% of FY has elapsed. Board spending is at 16.36% with a beginning cash balance of \$245,492 and an ending cash balance of \$248,347. The FY18 budget was submitted on

August 31, 2016. A \$40k increase to the appropriation was requested for an e-licensing project through ADOA who is going out to bid on a common licensing system statewide.

A voluminous complaint from 1-800 Contacts was received by the Board office on March 8, 2016. On March 15, 2016, after preliminary review of the documentation submitted, Board staff requested further information from the complainant as no patient names or other identifying patient information was included in the complaints. On May 26, 2016, Board staff received a response from the complainant stating information requested would not be provided as they are irrelevant to the misconduct cited in the complaints. The complaints were then sent out to the optometrists named in the complaint. Some doctors chose to call the complainant in an attempt to get patient names, which prompted the complainant to contact the Board to now provide the patient names.

On September 1, 2016, the complainant called to request to withdraw a portion of the complaints submitted to the Board. Board staff responded on September 7, 2016 informing the complainant that they may provide additional information regarding each of these complaints and the Board would process accordingly. The Board informed the complainant that if new information was received, the complaints would not be heard at the September 16, 2016 meeting in order to further process the new information as a licensee has 20 days to respond to a complaint pursuant to A.R.S. 32-1744(C). On September 12, 2016, the Board received a CD with patient names for each complaint.

No future agenda items were requested.

Future Board meeting dates are November 18, 2016 and January 20, 2017.

M. CALL TO PUBLIC:

Dr. Chrisagis made a call to the public at 9:15 a.m.

Mr. Keith Call, counsel for 1-800 Contacts was present to address the Board stating he was not employed by the company at the time the complaints were submitted and that he would not have handled the submission the way it was done. He stated no one is to blame for that however, and that the company wants to help streamline the process of the Board's complaint handling for efficiency and effectiveness and if the company can assist with additional evidence or information to let them know.

Mr. Thomas Galvin, attorney for the Rose Law Group who handled the 1-800 Contacts complaint locally was present and introduced himself to the Board.

N. MOTION TO ADJOURN:

Mr. Evanoff moved to adjourn the meeting at 10:20 a.m. Dr. Mach seconded the motion.

The meeting was adjourned at 10:20 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date