

Janice K. Brewer
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Brian Mach, O.D.
President

Rick Krug, Public Member
Vice President



Arizona State Board of Optometry
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FINAL MINUTES FOR REGULAR SESSION MEETING: JANUARY 20, 2012

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, M.D.

Staff:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

Legal Counsel:

Keely Verstegen, Assistant Attorney General

A. CALL TO ORDER:

Dr. Mach

Dr. Mach called the meeting to order at 9:01 a.m.

B. ROLL CALL:

Ms. Hollins

Board Members Present: Brian Mach O.D., President
Marla Husz, O.D. - Telephonically
John Chrisagis, O.D.
Michael Lamb, O.D.
Mark Peller, O.D.

Board Members Absent: Rick Krug, Public Member, Vice President

Legal Counsel Present: Keely Verstegen, Assistant Attorney General

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

C. PRESIDENT'S REPORT:

Dr Mach attended the third accreditation review for the Midwestern University School of Optometry. The review so far shows that the school is doing well financially, has excellent attendance and the program is sound. The final accreditation will be after the first graduating class in June of 2013.

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

1. T.H. vs. Roger Juarez, O.D. IR#201214

Allegation: Deceptive advertising/statements; refusal to give copy of prescription

Dr. Chrisagis summarized the facts in the case as T.H. went in to see Dr. Juarez who was a new doctor in the practice. The former optometrist who saw T.H. regularly was no longer there. Dr. Chrisagis felt there may have been some issues for T.H. with fees being different from what they were before because of the change in doctors and also how the patient's insurances were billed. There appears to be a disagreement regarding the contact lens prescription given to the patient and also the advertising for the practice. Dr. Chrisagis did not see deceptive advertising but rather a different manner of advertising the business under the new doctor. Dr. Juarez sold T.H. two boxes contact lenses (monthly wear) and wrote on the prescription "only two more boxes may be purchased". When T.H. tried to get the prescription filled at another optical, he felt he was unable to get what he needed because of what Dr. Juarez had written on the prescription. T.H. was present and addressed the Board. He states that he was never informed of a change in doctors at the practice and that there are communication issues between him and the doctor regarding billing and prescriptions. He stated he was unhappy because he didn't feel he was getting the contact lenses he needed as sometimes the lenses get lost or have tears/damage, etc. Dr. Juarez was also present and addressed the Board. He stated that he supports the Board's mission to protect the public through the statutes and rules, most often without exception; and that he follows the wearing guidelines on the contact lens box for the purposes of safety and the best interest of the patient.

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

VOTE: Motion passed 5-0.

2. P.S. vs. Siena, O.D. IR#201215

Allegation: Incorrect eyeglass prescription; doctor was unprofessional

Dr. Lamb summarized the facts in the case as doctor attempted to fit the patient with toric lenses. Patient felt there was disparate treatment as he didn't want toric lenses but felt that he was fitted anyways "against his will". Dr. Lamb felt there was a miscommunication between patient and doctor regarding the types of lenses and what were best for the patient. Dr. Siena appeared at the meeting telephonically. She stated the patient was charged for a regular contact lens exam even though she felt that he would see better with a toric lens due to astigmatism. Dr. Siena stated she never fitted P.S. with a toric lens but rather showed him through the phoropter what his vision would be if he were to wear a toric lens. Patient liked the vision but didn't want to wait for the

lenses to come in or pay for the more costly lenses. Dr. Siena wanted to write the prescription for the toric lenses but patient requested a different lens. Dr. Siena stated that money/cost may have been an issue in P.S.'s decision to not be fitted with toric contact lenses. Dr. Siena stated P.S. was offered several options for treatment but was challenging to please.

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

VOTE: Motion passed 5-0.

3. C.H. vs. Gregory Simpson, O.D. IR#201216

Allegation: Inappropriate, unprofessional behavior

Dr. Husz summarized the facts in the case as patient felt doctor had frustration with patient because she wasn't responding quickly enough during refraction and that he threw a pen at her. Patient also felt there was inappropriate comments/conversation (about women) between the doctor and another office professional within earshot of her. Dr. Peller felt that there are certain standards to which a doctor is held and that this behavior may have fallen below the professional conduct expected of a health care professional.

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

SECOND MOTION: Dr. Lamb moved to withdraw his previous second to the motion and recused himself at this time due to his familiarity with Dr. Simpson.
Dr. Chrisagis seconded the original motion.

VOTE: Motion failed 1-3. Drs. Chrisagis, Mach and Peller voted nay.

THIRD MOTION: Dr. Peller moved to issue a Letter of Concern to Dr. Simpson for possible unprofessional conduct regarding inappropriate comments made in the presence of a patient. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 4-0.

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

4. Blanchard, Brian

MOTION: Dr. Lamb moved to approve item 4 for licensure contingent upon receiving negative reports from FBI/DPS and to submit an updated/current CPR certification. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

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

G. REVIEW, DISCUSSION AND POSSIBLE VOTE ON PENDING LICENSE RENEWAL APPLICATION:

5. Timothy McAuliffe, O.D.

MOTION: Dr. Lamb moved to open a complaint for failure to report DUI in a timely manner. Dr. Chrisagis seconded the motion.

AMENDED MOTION: Dr. Lamb moved to approve item 5 for renewal of licensure and to open a complaint for failure to report DUI in a timely manner. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 5-0.

H. REQUEST FOR A REFUND OF LICENSE RENEWAL LATE FEE:

6. Sharon Peterson, O.D.

MOTION: Dr. Peller moved to deny item 6 for a refund of license renewal late fee. Dr. Chrisagis 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 2012

	Continuing Education	Date	No. of hours requested
a.			

J. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON APPROVAL OF CONTINUING EDUCATION TO SATISFY LETTER OF CONCERN ORDER:

7. Request for approval of additional continuing education to satisfy November 18, 2011 Letter of Concern for Michael Sachen, O.D.

Dr. Sachen submitted courses to the Board for review to ensure the courses meet the requirements of his order. The courses were recommended by the Arizona Dept. of Economic Security, Office of Division of Developmental Disabilities. Courses include Article 9 and Applied Positive Behavior Support.

MOTION: Dr. Lamb moved to approve courses submitted for use as additional CE to meet the requirements of the order for the Letter of Concern. Dr. Chrisagis seconded the motion.

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

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

8. November 18, 2011 Regular Session Minutes

MOTION: Dr. Lamb moved to approve item 8 as written. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

L. EXECUTIVE DIRECTOR'S REPORT:

- 9. Budget
- 10. Legislation
- 11. Future agenda items

Ms. Whelan reported on the FY12 budget. The Board budget is in its third quarter of the fiscal year having finished 50% of the budget year in December 2011. The board is at 53% spending and a cash balance of \$133,076. Legislation is not being run by the Board but there are two bills right now that may affect the Board if passed. HB2197, which impacts A.R.S. §32-1704 of our statutes, would require the executive director of the board to accept credit cards for payment over the phone. Second is HB2132 regarding unfair practices regarding insurance; discrimination of optometrists (and other professions). This bill would prevent acts of omission (of optometrists) from being part of certain insurances.

M. CALL TO PUBLIC:

Dr. Mach made a call to the public at 10:17 p.m. No one addressed the Board.

Dr. Mach moved to adjourn the meeting at 10:17 p.m. Dr. Peller seconded the motion.

Meeting adjourned at 10:17 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date