

**Janice K. Brewer**  
Governor

**Brian Mach, O.D.**  
President

**Rick Krug, Public Member**  
Vice President



*Arizona State Board of Optometry*  
1400 West Washington, Suite 230  
Phoenix, AZ 85007

**Margaret Whelan**  
Executive Director

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Telephone (602) 542-8155 • Fax (602) 542-3093

**FINAL MINUTES FOR REGULAR MEETING  
FEBRUARY 21, 2014 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.

**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  
Marla Husz, O.D.  
Mark Peller, O.D.  
John Chrisagis, O.D.  
Michael Lamb, O.D.

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

Legal Counsel Present: Mona Baskin, Assistant Attorney General

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

**C. PRESIDENT'S REPORT:**

None.

**D. INFORMAL INTERVIEW: 9:00 a.m.**

1. V.H. vs. Stacey Burson, O.D. IR#201406

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

This case was continued from December 20, 2013 Board meeting.

Ms. Whelan provided a summary of this case from the October 18, 2013 and December 20, 2013 minutes. Dr. Burson was present at this meeting with her counsel Kevin C. Nicholas Esq.

Dr. Mach proceeded with the informal interview. Dr. Burson was sworn in and the interview was opened up to the Board for discussion. Dr. Peller expressed some concerns the Board had regarding this complaint in that only the optometric technicians reviewed the visual fields and not the doctor. If the fields were "normal" when they were taken by the technician, they were not reviewed by Dr. Burson. No Goldmann Tonometer was used. The Board felt that the time frame was too long to let the patient go between exams when the pressures were high. The patient complained of persistent headaches in 2011 when she came back to see Dr. Burson. There was no full threshold field performed at that time. The Board questioned Dr. Burson as to whether not she routinely reviewed the patient V.H.'s systemic medications as the patient was on nasal steroid and antidepressant medication. Dr. Burson stated she did not. The Board also noted that diabetes is a factor in glaucoma suspect and felt that Dr. Burson did not follow up with the patient on that issue.

The findings of fact in this case were that there were high pressures and Dr. Burson did not recall the patient for one year. The patient had high pressures and open angles and Dr. Burson did not dilate the patient. The Board felt that the loss of vision could have been prevented with more frequent follow-ups throughout the year as opposed just a one-year follow-up.

All Board members deliberated on each of the three allegations contained in the notice of informal interview and came to a conclusion of law regarding unprofessional conduct in this case. The Board felt that Dr. Burson did not meet the standard of care as outlined in A.A.C. R4-21-304 and failed to maintain records pursuant to A.R.S. §12-2297.

**MOTION:** Dr. Chrisagis moved to, against the license of Stacey Burson, O.D., accept the findings of fact and conclusions of law for an amended allegation #1 in the notice of informal interview (On or about August 12, 2009 Dr. Burson saw patient V.H. for an eye exam. Dr. Burson found the ocular pressure to be high and performed other tests; visual fields screening, ophthalmoscopy and Pachymetry and recommended a one-year follow-up.) Dr. Lamb seconded the motion.

**VOTE:** Motion passed 5-0.

**SECOND MOTION:** Dr. Lamb moved to, against the license of Stacey Burson, O.D., accept the findings of fact and conclusions of law for an amended allegation #2 in the notice of informal interview (On or about August 12, 2009, patient history

revealed patient V.H. is diabetic and hypertensive however Dr. Burson did not notate anywhere on the record that the patient was diabetic nor did the records show that she asked to see a hemoglobin A1C test/report. Patient V.H. has extensive family history of diabetes and hypertension yet there was no documentation in the record asking the patient about her blood sugar or hypertension.) Dr. Peller seconded the motion.

**AMENDED SECOND MOTION:** Dr. Lamb amended the second motion to strike the portion of the allegation that reads, "...nor did the records show that she asked to see a hemoglobin A1C test/report". Dr. Peller seconded the amended motion

**VOTE:** Motion passed 5-0.

**THIRD MOTION:** Dr. Lamb moved to, against the license of Stacey Burson, O.D., accept the findings of fact and conclusions of law for an amended allegation #3 in the notice of informal interview (When patient V.H. returned for a follow-up exam on or about January 28, 2011, Dr. Burson may have failed to create/maintain a complete exam record. On or about January 28, 2011, Dr. Burson may have failed to diagnose the condition of glaucoma at that time.) Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 5-0.

**FOURTH MOTION:** Dr. Peller moved to accept as Conclusions of Law; violation of A.A.C. R4-21-304 and A.A.C. R4-21-305. Dr. Chrisagis seconded the motion.

	Vote	Brian Mach, O.D. President	Mark Peller, O.D.	Marla Husz, O.D.	John Chrisagis, O.D.	Michael Lamb, O.D.
YES	5	X	X	X	X	X
NO	0					
ABSTAIN	0					
ABSENT	0					

**VOTE:** Motion passed 5-0.

**FINAL MOTION:** Dr. Husz moved to issue a non-disciplinary order for continuing education ("CE") based on the Findings of Fact and Conclusions of Law; to include eight (8) hours of COPE approved CE in the diagnosis, treatment and management of glaucoma; to be completed within one year from the date of the Order. Dr. Chrisagis seconded the motion.

	Vote	Brian Mach, O.D. President	Mark Peller, O.D.	Marla Husz, O.D.	John Chrisagis, O.D.	Michael Lamb, O.D.
YES	5	X	X	X	X	X
NO	0					
ABSTAIN	0					
ABSENT	0					

**VOTE:** Motion passed 5-0.

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

2. J.T. vs. James Parks, O.D. IR#201415

Allegation: Patient was given an incorrect eyeglass prescription.

Dr. Peller summarized the case as patient J. T. Saw Dr. Parks for an eye exam and was given a prescription for eyeglasses based on him having cataracts. The patient stated he still wasn't seeing well the new eyeglasses after one week. He saw another optometrist on July 5, 2013 and the doctor told him that he did not have cataracts as previously stated by Dr. Parks. The second optometrist gave the patient a different prescription for eyeglasses and the patient was able to see through the new glasses. Patient J.T. is a longtime patient Dr. Parks and was disappointed that he felt that Dr. Parks gave him a prescription for eyeglasses for which he could not see. On November 29, 2013, patient J.T. submitted a letter to the Board withdrawing his complaint against Dr. Parks stating there was a misunderstanding or miscommunication between him and Dr. Parks and that the situation has been remedied.

**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 5-0.

3. ASBOO vs. Sharon Peterson, O.D. IR#201416

Allegation: Failure to report a misdemeanor in a timely manner pursuant to A.R.S. §32-3208.

Dr. Peterson submitted further documentation regarding the arrest disclosed on her renewal notice, however there was no final disposition included in the records. The Board tabled the complaint in order to obtain additional information regarding dismissal of the complaint or completion of terms set forth by the court.

4. ASBOO vs. Stephen Stahl, O.D. IR#201417

Allegation: Failure to properly diagnose and treat severe dry eye and keratitis.

The Board received a notice of malpractice from the National Practitioner Data Bank (“NPDB”) and subsequently opened a complaint as required in A.R.S. §32-3203. Dr. Stahl was present via telephone

and answered questions from the Board. Dr. Lamb led the discussion to determine whether or not Dr. Stahl acted appropriately based on the allegations contained in the NPDB report. It appeared that the patient presented (to Dr. Stahl) with severe dry eye and keratitis for which Dr. Stahl treated with a steroid drop. Dr. Stahl states that the patient had been prescribed different combinations of steroids as part of her treatment even before her first visit to him in January 2010. Dr. Stahl examined the patient again in October 2011. Dr. Stahl felt that the patient's intraocular pressures and vision were stable after the continued treatment of the steroids and felt safe continuing the same treatment when the patient returned in May 2012, even though she had worsened symptoms in the left eye. Dr. Stahl also noted at that time that the patient losing her punctual plug demonstrated worsened exposure keratitis in the left eye and had subconjunctival hemorrhage. Dr. Stahl gave the patient non-steroidal drops and ointments and told patient to decrease the use of the steroid (Tobradex) as much as possible and return as needed. Dr. Lamb noted that no ocular pressures had been taken by Dr. Stahl on the first of the three visits. No baseline IOP on steroids was noted for the entire time the patient was visiting Dr. Stahl. In one month, the patient's pressure went from 20 to 48. Dr. Stahl took no pressures in May when he saw the patient last. Dr. Stahl informed the Board that as a result of the malpractice claim, he has already taken continuing education courses to meet the terms of the malpractice claim. The Board is looking at a possible violation of A.A.C. R4-21-304 and tabled complaint to the next board meeting in order to obtain copies of the continuing education hours attended by Dr. Stahl and have further discussion regarding the pressures not being taken.

5. S.I. vs. Russell Woods, O.D. IR#201418

Allegation: Refusal to give copy of the prescription; rude treatment by the office staff

Dr. Mach summarized the case as patient was seen on October 14, 2013 by Dr. Woods for an eye exam and contact lens fitting. Patient states she received an eye exam which she was happy with but when she went to make a follow-up appointment to complete the fitting for the contact lenses, she was treated rudely by the appointment scheduler. As the patient did not follow up with the doctor, she did not get a full prescription but was given a prescription for trial lenses only to follow-up with another optometrist. Patient states she felt she was entitled to a copy of the full prescription as her insurance company paid for it and she wanted to take her business elsewhere because the staff at the doctor's office was rude. Since the eye exam was performed appropriately and the Board does not regulate practice management, Dr. Mach recommended dismissal due to lack 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. Peller seconded the motion.

**VOTE:** Motion passed 4-0. Dr. Lamb recused due to conflict of interest.

6. R.C. vs. Carissa Swanson, O.D. IR#201419

Allegation: Equipment was dirty; no proper diagnosis/prescription due to dirty equipment.

Dr. Husz presented the case as patient went to see Dr. Swanson for an eye exam and eyeglass prescription. Dr. Swanson made a thorough explanation of the procedure for the eye exam and proceeded to check the patient's eyes using the Phoropter. The patient felt that during the refraction, the right lens on the Phoropter was foggy and dirty and there was a white film on the lens. He expressed his concerns to Dr. Swanson who dismissed his worries. The patient continued on with the exam but felt

that because the lens appeared dirty, the eyeglass prescription would not be correct. The patient asked Dr. Swanson to please check the lenses and states that Dr. Swanson refused to check the lenses as she stated they were clean. The patient felt the prescription he received was stronger than what he is currently wearing had some concerns due to the lenses being dirty. The patient was upset that Dr. Swanson was indifferent to his concerns and felt that the Phoropter was old, cracked and needed to be cleaned.

**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 5-0.

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

7. Badria, Kathy
8. Mallinger, Leah
9. Trull, Sandra

**MOTION:** Dr. Lamb moved to approve items 7 and 8 for licensure. Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 5-0.

**MOTION:** Dr. Lamb moved to approve item 9 for licensure contingent upon a negative FBI/DPS report. Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 5-0.

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

10. Baker, Scott
11. Pack, Jon
12. Wise, Heidi

**MOTION:** Dr. Lamb moved to approve item 12 for licensure. Dr. Peller seconded the motion.

**VOTE:** Motion passed 5-0.

**MOTION:** Dr. Lamb moved to approve item 11 for licensure contingent upon a negative FBI/DPS report. Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 5-0.

**MOTION:** Dr. Lamb moved to table item 10 as the applicant did not provide, as requested, proper documentation verifying employment required to be eligible for endorsement under A.R.S. §32-1723. Dr. Chrisagis 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**

	<b>Continuing Education</b>	<b>Date</b>	<b>No. of hours requested</b>
a.	Evolution of MIGS-Barnet Dulaney Perkins Eye Center	3/17/14	1 hour
b.	Periocular Malignancies: Identification & Management- Barnet Dulaney Perkins Eye Center	3/17/14	1 hour

**MOTION:** Dr. Husz moved to approve items a and b. Dr. Peller seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Lamb recused due to conflict of interest.

**I. REVIEW, DISCUSSION AND POSSIBLE VOTE ON ALLOWING THE NBEO TO OFFER/PROCTOR ARIZONA JURISPRUDENCE EXAM AT THE NBEO OFFICES:**

13. Presentation by Christina Sorenson, O.D.

Dr. Sorenson presented, to the Board, options for the Arizona jurisprudence exam to be proctored through the NBEO as an Online State Law Exam (“OSLE”). The OSLE assists state boards with administration of their state optometry law examinations. There is no fee to the State Board and a \$25 fee to the applicant for the exam. The exam may be either remote; open-book or proctored; closed-book. Currently, all applicants for licensure must come to Arizona to take the jurisprudence exam. Allowing the NBEO to proctor the exam would be a great benefit for doctors taking the national board's to take the Arizona State Law exam at the same time without the additional costs to fly to and stay in Arizona for the exam. The Board is interested in having the NBEO proctor the exam however, Board counsel asked that the Board allow her to look into the statutory requirements regarding the \$25 fee that will be assessed to the applicants in order to take the jurisprudence exam as there is currently no additional fee other than the application fee to take the exam in Arizona. The Board tabled the discussion to the next meeting at which time the issue of the \$25 fee will be discussed and final determination will be made regarding this matter.

**J. REVIEW, DISCUSSION AND POSSIBLE VOTE ON WALMART CORPORATION OPTICALS DUPLICATING EYEGLASSES BY NEUTRALIZING LENSES WITHOUT A PRESCRIPTION:**

The Board discussed a letter received by Dr. Mach regarding Walmart Corporation instructing its stores to begin neutralizing lenses as of January 2014. As this is a practice that falls outside the scope of practice for optometrists the Board referred this issue to the Arizona Board of Dispensing Opticians for review.

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

14. December 20, 2013 Regular Session Minutes

**MOTION:** Dr. Lamb moved to approve item 14 with amendment of Dr. Peller summarizing in Dr. Burson's case. Dr. Husz seconded the motion.

**VOTE:** Motion passed 5-0.

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

- 15. Budget
- 16. Legislation
- 17. Rules package
- 18. Future agenda items

Ms. Whelan reported that the budget year is 58.33% elapsed and Board spending is at 53.55%. The beginning cash balance was \$128,671.19 with an ending cash balance of \$170,477.91. The Arizona Optometric Association bill is not moving at the moment but is going to be heard in March at the Senate Health Committee. The rules package has been submitted to the Board for review and approval. A few more changes need to be made before the final submission to the Secretary of State's office. A final proposed rules package will be submitted to the Board for approval at the April 18, 2014 board meeting. No future agenda items were requested.

**M. CALL TO PUBLIC:**

Dr. Mach made a call to the public at 11:57 a.m. No one was present to address the Board.

Dr. Chrisagis moved to adjourn the meeting at 11:58 a.m. Dr. Peller seconded the motion. The meeting was adjourned at 11:58 a.m.

**END OF MINUTES:**

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Margaret Whelan, Executive Director

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Date