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Governor

Caroline Griego, O.D.
President

Brian Mach, 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 SESSION MEETING: JUNE 10, 2011

Board Members

Caroline Griego, O.D., President
Brian Mach, Vice-President
Marla Husz, O.D.
John Chrisagis, O.D.
Curtis R. Winkler, M.D.
Rick Krug, Public Member

Staff:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

Legal Counsel:

Camila Alarcon, Assistant Attorney General

A. CALL TO ORDER:

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

B. ROLL CALL:

Board Members Present: Caroline Griego, President
Brian Mach O.D., Vice President
John Chrisagis, O.D.
Marla Husz, O.D.
Rick Krug, Public Member

Board Members Absent: Curtis Winkler, M.D.

Legal Counsel Present: Camila Alarcon, Assistant Attorney General

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

C. PRESIDENT'S REPORT:

Dr. Griego gave a fond farewell on the last day of her second term and that she appreciates and welcomes the newer board members and the new members coming on to the board.

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

1. Brian Courtright, O.D. vs. Jonathan Bundy, O.D. IR#201120

Allegation: Misleading/False Advertising

Dr. Griego summarized the facts in the case as a complaint brought forth by a neighboring optometrist regarding advertising in a local yellow pages ad claiming that Drs. Bundy and Sullivan's advertising may be misleading or making claims that are not true as they did not designate themselves as optometrists. The ad only lists Sullivan and Bundy as "Dr. Jonathan Bundy" et al, and not specifically "Jonathan Bundy, O.D." While the ad is clear that Drs. Bundy and Sullivan are providing eye care, it does not delineate what type of doctors they are, i.e. ophthalmologists, osteopaths, optometrists, etc. as required in A.R.S. §32-3213.

MOTION: Mr. Krug moved to issue a Letter of Concern for not including the "O.D." or other optometrist designation as required in statute, which is potentially misleading to the public. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

2. Brian Courtright, O.D. vs. Matthew Sullivan, O.D. IR#201121

Allegation: Misleading/False Advertising

Dr. Griego summarized the facts in the case as a complaint brought forth by a neighboring optometrist regarding advertising in a local yellow pages ad claiming that Drs. Bundy and Sullivan's advertising may be misleading or making claims that are not true as they did not designate themselves as optometrists. The ad only lists Sullivan and Bundy as "Dr. Jonathan Bundy" et al, and not specifically "Jonathan Bundy, O.D." While the ad is clear that Drs. Bundy and Sullivan are providing eye care, it does not delineate what type of doctors they are, i.e. ophthalmologists, osteopaths, optometrists, etc. as required in A.R.S. §32-3213.

MOTION: Mr. Krug moved to issue a Letter of Concern for not including the "O.D." or other optometrist designation as required in statute, which is potentially misleading to the public. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

3. Brian Courtright, O.D. vs. Renita Frost, O.D. IR#201122

Allegation: Misleading/False Advertising

Dr. Husz summarized the facts in the case as a complaint brought forth by a neighboring optometrist regarding advertising in a local print ad where Dr. Frost appears in an ad with the statement "Voted Best Eyec Care Center in Prescott Valley 2008, 2009 , 2010" with the survey source listed underneath. Dr. Frost is an independent contractor as stated under her picture and that the business, Antone Optical is owned by Ms. Antone and not Dr. Frost. It appears that the ad was the optician's advertisement and not Dr. Frost's and that the survey only pertains to the

optical center/business and not Dr. Frost as the practicing optometrist. Also, the ad is published under the heading of "Optical" and not optometrist.

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

VOTE: Motion passed 5-0.

After the vote, Dr. Griego noted that in the complaint submitted by Dr. Brian Courtright, on his correspondence, he listed himself as a "specialist" and directed staff to open a complaint regarding a possible violation of the optometric practice act.

4. G.P. vs. Kevin Huff, O.D. IR#201124

Allegation: Improper correction/fit of contact lenses; defective or poor quality contact lenses; optometrist failed or refused to correct the problem

Dr. Mach summarized the facts in the case as patient G.P. is an elderly person seen by Dr. Huff referred to him by retina specialist for a low vision evaluation as patient had wet macular degeneration and is under treatment with methotrexate and dexamethazone injections. According to medical records submitted by Dr. Huff and the patient, an eyeglass prescription was given and both agreed not to fill prescription until further treatment by retina specialist. During that time, patient's vision declined. The patient felt that eyeglass prescription might help at that time and filled the prescription and was not happy with quality of vision. Dr. Huff offered to re-evaluate G.P.'s vision and no change was found during second evaluation. G.P. is not happy with prescription and wants money back. Dr. Huff refunded \$49 to G.P.

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

VOTE: Motion passed 5-0.

5. ASBOO vs. Jill Rago, O.D. IR#201125

Allegation: Misleading/False advertising

Dr. Mach summarized the facts in the case as Dr. Rago had an advertisement in "Phoenix Magazine" where the ad stated she was a "nationally certified optometrist". The issue regarding the language in the ad is that the Board does not allow advertising using certification of any kind at this time. In her response to the Board, Dr. Rago interpreted the statement from the NBEO that "National Board of Examiners in Optometry certifies that...has met the requirements for and has passed the complete sequence of examination developed by National Board to assess fitness to practice optometry" to mean she is "nationally certified" having passed the full exam. However, the NBEO statement does not imply that a doctor is "certified" for the purposes of anything more than a passing score on its exam. While it may not have been intentional on her part, future use of the term "certified" needs to be addressed by Dr. Rago.

MOTION: Dr. Husz moved to issue a Letter of Concern since as a licensed optometrist in this state, optometrists are responsible for knowing the statutes and rules of this Board and with that cannot hold themselves out to be a specialist. Dr. Mach seconded the motion.

VOTE: Motion passed 5-0.

E. REVIEW, DISCUSSION, AND POSSIBLE ACTION TO OPEN A COMPLAINT:

6. Jerry Mullen, O.D.

The Board reviewed the renewal application and did not open a complaint.

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

7. Hobbs, Brianne

MOTION: Dr. Mach moved to approve item 7 for licensure. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

8. Kennedy, Christina

MOTION: Dr. Mach moved to approve item 8 for licensure contingent upon the passing NBEO scores Parts I, II, III and TMOD. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

9. Miyasaka, Richard

MOTION: Dr. Mach moved to approve item 9 for licensure contingent upon the passing NBEO scores Parts I, II, III and TMOD. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

10. Osmotherly, Kaila

MOTION: Dr. Mach moved to approve item 10 for licensure. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

11. Peterson, John

MOTION: Dr. Mach moved to approve item 11 for licensure contingent upon the passing NBEO scores Parts I, II, III and TMOD. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

12. Pratt, Murray

MOTION: Dr. Mach moved to approve item 12 for licensure contingent upon the passing NBEO scores Parts I, II, III and TMOD. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

13. Woo, Stephanie

MOTION: Dr. Mach moved to approve item 13 for licensure contingent upon the passing NBEO scores Parts I, II, III and TMOD. Dr. Husz seconded the motion.

VOTE: Motion passed 5-0.

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

14. Houser, William

MOTION: Dr. Griego moved to approve item 14 for licensure. Dr. Mach seconded the motion.

VOTE: Motion passed 5-0.

15. Kimble, Laura

MOTION: Dr. Griego moved to approve item 15 for licensure contingent upon receipt of a negative DPS/FBI report. Dr. Mach 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 2011

	Continuing Education	Date	No. of hours requested
a.	“31 st Annual Resident and Alumni Day”-Jones Eye Institute at the Univ. of Arkansas Medical School	6/10/11	6 Regular

MOTION: Dr. Husz moved to approve item a. Mr. Krug seconded the motion.

VOTE: Motion passed 5-0.

I. REVIEW, DISCUSSION AND POSSIBLE VOTE ON BOARD CERTIFICATION:

16. Request for Board position from ARBO

The Board discussed the issue of Board Certification as it stands currently and feels that it cannot be supported without ARBO's direct involvement. Therefore, the Arizona State Board of Optometry does not support Board Certification at this time.

J. REQUEST FOR A WAIVER OF LICENSE RENEWAL LATE FEE:

17. Letter from Robert Kelly, O.D.

MOTION: Dr. Mach moved to deny the request contained in item 17 as A.A.C. R4-21-205(A) states in part that, "...timely renewal is a licensee's responsibility..." Therefore, the Board affirmed that it is the responsibility of the doctor to know the statutes and rules and follow them accordingly. Mr. Krug seconded the motion.

VOTE: Motion passed 5-0.

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

18. May 19, 2011 Regular Session Minutes

MOTION: Dr. Griego moved to approve item 18 as written. Dr. Mach seconded the motion.

VOTE: Motion passed 5-0.

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

MOTION: Dr. Griego moved to elect Dr. Brian Mach as Board President. Mr. Krug seconded the motion.

VOTE: Motion passed 5-0.

SECOND MOTION: Dr. Griego moved to elect Mr. Rick Krug, Public Member as Board Vice-President. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 5-0.

M. EXECUTIVE DIRECTOR'S REPORT:

- 19. Budget
- 20. New Board members/position
- 21. Presentation of plaques
- 22. Future agenda items

Ms. Whelan reported that FY11 budget year is ending on June 30th. The Board's finances are in good shape as our spending is at approximately at 87% of appropriated budget. The Governor's office should have the

new board members appointed by end of June. New members will fill the positions of Dr. Griego, Dr. Winkler and Mr. Krug, public member should he not be reappointed. In the last legislative session, a new optometrist member position was established. That position will be established on July 19, 2011 pursuant to statute. That will give the board seven (7) members total with a quorum still at four members. We will now have 5 optometrists, 1 public and 1 physician member. A civil service award was presented to Dr. Griego and Dr. Winkler in appreciation for service to the Board. No future agenda items were requested.

N. CALL TO PUBLIC:

Dr. Griego made a call to the public at 10:20 a.m. No one addressed the Board.

Dr. Griego moved to adjourn the meeting at 10:21 a.m. Dr. Mach seconded the motion.

Meeting adjourned at 10:21 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date