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Governor

Brian Mach, O.D.
President

Rick Krug, Public Member
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 22, 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.
L. Markham McHenry, D.O.

Staff:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

Legal Counsel:

Jeanne Galvin, 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
Rick Krug, Public Member, Vice President - Telephonically
Marla Husz, O.D.
Michael Lamb, O.D.
Mark Peller, O.D.
John Chrisagis, O.D.

Board Members Absent: L. Markham McHenry, D.O.

Legal Counsel Present: Jeanne Galvin, Assistant Attorney General

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

C. PRESIDENT'S REPORT:

Dr. Mach

Dr. Mach reported that Dr. Lamb will be attending ARBO on his behalf.

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

1. L.R. vs. Christina Miller, O.D. IR#201220

Allegation: Improper correction/fit of eyeglasses; unauthorized person in exam room

Dr. Mach summarized the facts in the case as L.R. visited Dr. Miller complaining that his eyeglasses were not working properly. Dr. Miller had reported the patient to MVD per the voluntary reporting law. The patient's driver's license was revoked at that time. According to Dr. Miller's records, it appears that the patient has severe macular degeneration and Dr. Miller felt the visual acuity did not meet the requirements for driving. L.R. went to another doctor who determined that the visual acuity was adequate to pass the driver test. Based on the second doctor's opinion, patient has resubmitted documentation to MVD to have the driver's license reinstated.

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

VOTE: Motion passed 5-0. Dr. Lamb was absent for discussion and vote.

2. J. B. vs. James Blumenthal, O.D. IR#201226

Allegation: Dr. refused to give patient contact lens prescription

Dr. Chrisagis summarized the facts in the case as patient J.B. felt that the cost of the gas permeable contact lenses was too high and that he did not get a copy of his prescription. Dr. Blumenthal stated there was no final prescription due to the fact that the trial and follow-up was not completed by the patient.

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

VOTE: Motion passed 5-0. Dr. Peller recused.

3. ASBOO vs. Tina Porzukowiak, O.D. IR#201227

Allegation: Use of term "Board Certified" as designation on website

Ms. Whelan summarized the facts in the case as the term was seen on Dr. Porzukowiak's website where she practices that she is "board certified". The language in rule specifically prohibits use of the term or any derivative of the term specialist. Ms. Whelan recommended the Board issue a letter concern for improper use of the term "board certified".

MOTION: Dr. Husz moved to issue a letter of concern for improper use of the term "board certified". Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

4. B.C. vs. Richard Koop, O.D. and Joseph Taddonio, O.D. IR#201228

Allegation: Doctor charged pt. for prescription; didn't dilate eyes (on diabetic pt.)

Dr. Mach summarized the facts in the case as patient B.C. is diabetic, went in for diabetic eye exam in September 2011; was dilated and received eyeglasses. Patient returned four months later to have glasses checked as patient felt they weren't working. The patient claims she wasn't dilated and was charged \$10 for the refraction charge five months after the initial appointment when in fact the charge was for a recheck. Patient returned to the office five weeks after that for an eyeglass check and was not charged another fee at that time.

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

VOTE: Motion passed 6-0.

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

5. Frederick Weitz, O.D

Allegation: Report of Medical Malpractice received by the Board.

MOTION: Dr. Husz moved to open a complaint for item 5. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

6. Joseph Olish, O.D.

Allegation: Report of Medical Malpractice received by the Board.

MOTION: Dr. Husz moved to open a complaint for item 5. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

7. Gary Bonnin, O.D.

Allegation: Report of Medical Malpractice received by the Board.

MOTION: Dr. Husz moved to open a complaint for item 5. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

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

8. Becker, Jason

9. Dalal, Neville

10. Dasen, Katerina

- 11. Frillarte, Erin
- 12. Jones, Kari
- 13. Ly, David
- 14. McAdams, Joshua
- 15. Na, Liah
- 16. Samson, Jamie
- 17. Sun, Robert
- 18. Vu, Mai
- 19. Wong, Aletheia
- 20. Yoon, Grace

MOTION: Dr. Lamb moved to approve items 8, 11, 12, 14, 15, 17, 18, and 20 for licensure. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

MOTION: Dr. Lamb moved to approve items 9, 10, 13, 16, and 19 for licensure contingent upon receipt of a negative DPS/FBI fingerprint report. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

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

- 21. Brown, Thomas

MOTION: Dr. Peller moved to approve item 21 for licensure. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

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

- 22. Suzanne Tsang, O.D.

MOTION: Dr. Lamb moved to deny item 22 for refund of license renewal late fee. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

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.	Laser Assisted Refractive Cataract Surgery		1 Regular
b.	Bi-Annual Retina Review/ Bausch & Lomb	7/12/12	2 Regular
c.	Applying New Data to Improve Standard of Care in Retinal Disease	9/25/12	1.5 Regular

d.	Common Conditions treated by Ophthalmic Plastic Surgeons	08/23/12	1 Regular
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MOTION: Dr. Husz moved to deny item a. as no date for the course was ever submitted. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

MOTION: Dr. Lamb moved to approve items b and c. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

MOTION: Dr. Husz moved to approve item d. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0. Dr Lamb recused.

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

23. March 16, 2012 Regular Session Minutes

24. April 20, 2012 Regular Session Minutes

MOTION: Dr. Lamb moved to approve items 23 as written. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

MOTION: Dr. Lamb moved to approve items 24 as written. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

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

MOTION: Dr. Lamb moved to approve Mr. Rick Krug to continue as Board Vice President. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 5-0. Mr. Krug did not vote.

MOTION: Dr. Lamb moved to approve Dr. Mach to continue as Board President. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0. Dr. Mach did not vote.

L. OPEN DISCUSSION ON POSSIBLE CHANGES TO THE OPTOMETRIC PRACTICE ACT THROUGH THE AGENCY SUNSET REVIEW:

Dr. Mach appointed a subcommittee of the board to discuss possible legislative changes. Dr. Mach appointed himself, Dr. Lamb and Dr. Chrisagis to the subcommittee. The subcommittee shall meet at least once before the August 17, 2012 board meeting and report to the board on possible changes to the Optometric Practice Act at that time.

M. EXECUTIVE DIRECTOR'S REPORT:

- 25. Budget
- 26. Legislation
- 27. Sunset review
- 28. Future agenda items

Ms. Whelan reported that the fiscal year ends on June 30, 2012. The Board came in at approximately 97% spending with appropriation left. Legislative session has ended. Bills previously discussed did not move any further. Sunset review is due September 1, 2012. A copy of the report will be submitted to the Board at the August 17, 2012 Board meeting. No future agenda items were requested.

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

- 29. Evaluation Forms

The Assistant Attorney General asked that the board table discussion and vote regarding the evaluation forms until the next meeting as the statutes stated on the agenda under the executive session law were incorrectly stated.

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

The Board discussed the salary of the executive director. The intention of the board is to increase the base salary of the executive director by 2%. The vote on the salary increase is tabled until next meeting pursuant to item N. above.

P. CALL TO PUBLIC:

Dr. Mach made a call to the public at 10:04 a.m. Dr. Meier addressed the board regarding meeting in Flagstaff.

The meeting was adjourned at 10:05 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date