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Rick Krug, Public Member
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**FINAL MINUTES FOR REGULAR MEETING
AUGUST 17, 2012 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.
Vacant, Physician

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
Rick Krug, Public Member, Vice President
John Chrisagis, O.D.
Michael Lamb, O.D.
Mark Peller, O.D.

Board Members Absent: Marla Husz, O.D.

Legal Counsel Present: Mona Baskin, Assistant Attorney General

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

C. PRESIDENT'S REPORT:

Dr. Mach

None

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

1. ASBOO vs. Frederick Weitz, O.D. IR#201301

Allegation: Malpractice (Report received from NPDB).

Dr. Lamb summarized the facts in the case as the patient is an eight-year-old girl who came in with a possible eye injury to her right eye. The doctor examined the patient's eye and found everything to be normal with regards to the injury (patient was hit with the ball in the eye). The patient has a very high anisometropia in the right eye and the left eye has a moderate refractive amblyopia of 20/100. Due to the patient's age, Dr. Weitz felt the patient was not a candidate for contact lenses and fit eyeglasses. The exam was routine and normal. Sometime later, the doctor received a records request from a malpractice attorney. He complied with the records request and did not see the patient again. Dr. Lamb stated he does not see any violation of the optometric practice act.

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

VOTE: Motion passed 5-0.

2. ASBOO vs. Joseph Olish, O.D. IR#201303

Allegation: Malpractice (Report received from NPDB).

Dr. Chrisagis summarized the facts in the case as patient came in for a routine eye exam but later stated that the doctor did not diagnose a bump on her eye which turned out to be basal cell carcinoma. It appeared, from reading the malpractice claim report, that the patient was fishing for settlement as she was a paralegal for attorney and sued the doctor shortly after her exam. In reviewing the doctor's records, there was no documentation of a bump on the eyelid which may or may not have been present at the time of the exam. The board cautioned the doctor on "charting by exception".

Dr. Chrisagis recommended dismissing the malpractice portion of the complaint and issuing a letter of concern for poor record-keeping.

MOTION: Dr. Chrisagis moved to issue Letter of Concern for the lack of comprehensive documentation from the patient's exam and lack of follow-up. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

3. ASBOO vs. Gary Bonnin, O.D. IR#201304

Allegation: Malpractice (Report received from NPDB).

Dr. Mach summarized the facts in the case as patient was seen by the fill-in doctor, Dr. Robert Relling. After examination of the patient, the diagnosis was glaucoma suspect. Dr. Relling instructed the patient

to follow-up in 30 days, however, the patient did not return until at least two years later. Dr. Mach recommended dismissing the case due to lack of violation of the optometric practice act.

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

VOTE: Motion passed 5-0.

4. ASBOO vs. Bradley Smith, O.D. IR#201307

Allegation: Deceptive advertising; use of the term specialist

Mr. Krug summarized the facts in the case as the term “specializing” was seen in an advertisement for Dr. Smith's practice where he states he “specializes in contact lens fitting” and “medical based eye exams”. The language in rule specifically prohibits use of the term or any derivative of the term specialist. Mr. Krug recommended the Board issue a letter concern for improper use of the term “specializing”.

MOTION: Mr. Krug moved to issue a Letter of Concern for improper use of the term “specializing” in advertising. Dr. Lamb seconded the motion.

VOTE: Motion passed 5-0.

5. D.H. vs. David Anderson, O.D. IR#201308

Allegation: Unprofessional conduct; animated discussion with patient

Mr. Krug summarized the facts in the case as patient D.H. submitted a letter to the Board stating that she felt Dr. Anderson was out of line as there was what she considered an inappropriate discussion of the doctor's personal views on social issues during the exam. The Board discussed whether or not there may have been unprofessional conduct regarding the issues discussed in this conversation however without any tangible evidence, the Board could not ascertain any violation of the optometric practice act.

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

VOTE: Motion passed 5-0.

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

6. Duran, Jessica
7. Grant, Rachel
8. Nguyen, Thuy

MOTION: Dr. Lamb moved to approve item 6 and 7 for licensure. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

MOTION: Dr. Lamb moved to approve item 8 for licensure contingent upon receiving negative FBI/DPS report. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

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

- 9. Johnson, Randal
- 10. Moen, Robert
- 11. Yazdanpanah, Nooshin

MOTION: Dr. Lamb moved to approve items 9 and 11 for licensure. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

MOTION: Dr. Lamb moved to approve item 10 for licensure contingent upon receiving negative FBI/DPS report. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 5-0.

G. 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 2013

	Continuing Education	Date	No. of hours requested
a.	Barnet Dulaney Perkins Eye Center-Use of silicone oil	09/27/12	1 Regular

MOTION: Dr. Chrisagis moved to approve item a. Dr. Peller seconded the motion.

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

H. OPEN DISCUSSION ON POSSIBLE CHANGES TO THE OPTOMETRIC PRACTICE ACT:

- 12. Recommendation by subcommittee

The Board reviewed and discussed possible changes to the optometric practice act as submitted by the subcommittee.

I. SUNSET FACTORS REVIEW AND APPROVAL FOR SUBMISSION TO JLAC:

The Board reviewed the Sunset Factors, as submitted by Ms. Whelan; there were no changes requested. Sunset factors will be submitted to Senator Barto's office by August 31, 2012 to meet the deadline as required for the Joint Legislative Audit Committee reports.

J. REVIEW AND DISCUSSION OF BOARD CERTIFICATION; AOS; ABO CERTIFIED:

13. Articles on AOS and ABO positions

The Board reviewed the articles and took no action as the Board still does not support the “board certification” process or any types of board certification at this time.

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

14. July 6, 2012 Subcommittee Meeting
15. July 13, 2012 Regular Session Minutes
16. August 10, 2012 Subcommittee Meeting

MOTION: Dr. Lamb moved to approve items 14 and 16 as written. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 3-0. Only subcommittee members voted to approve their minutes.

MOTION: Dr. Lamb moved to approve item 15 as written. Dr. Peller seconded the motion.

VOTE: Motion passed 5-0.

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

17. Evaluation Forms

The Board went into executive session at 10:40 a.m. to discuss the annual performance of Ms. Whelan, Executive Director of the Board. The Board reconvened regular session at 10:46 a.m.

M. REVIEW, DISCUSSION AND VOTE ON PERSONNEL ISSUES PERTAINING TO ITEM L. ABOVE:

The Board discussed and based on performance, an increase of 2% to the salary of the Executive Director.

MOTION: Dr. Peller moved to approve a 2% increase to the base salary of the Executive Director. Dr. Lamb seconded the motion.

VOTE: Motion passed 5-0.

N. EXECUTIVE DIRECTOR’S REPORT:

18. Budget
19. Sunset review subcommittee meeting
20. Future agenda items

Ms. Whelan reported that the budget is in the second month of the new fiscal year (2013) and so far is on track to finish the year just under appropriations. The sunset review subcommittee meetings were very successful. The subcommittee has suggested some necessary housekeeping and clarification changes to our current statutes and hopes to submit the changes for the next upcoming legislative session in January of 2013. No future agenda items were requested at this time.

O. CALL TO PUBLIC:

Dr. Mach made a call to the public at 10:51 a.m. No one addressed the Board.

The meeting was adjourned at 10:52 a.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date