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President

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Vice President



Arizona State Board of Optometry
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FINAL MINUTES FOR REGULAR SESSION MEETING: SEPTEMBER 22, 2010

Board Members

Caroline Griego, O.D., President
Stacey Meier, O.D., Vice-President
Brian Mach, O.D.
Donald Jarnagin, O.D.
Curtis R. Winkler, M.D.
Rick Krug, Public Member

Staff:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

Legal Counsel:

Keely Versteegen, Assistant Attorney General

A. CALL TO ORDER: Dr. Griego

Dr. Griego called the meeting to order at 9:07 a.m.

B. ROLL CALL: Ms. Hollins

Board Members Present: Caroline Griego, O.D., President
Stacey J. Meier, O.D., Vice President
Brian Mach, O.D.
Rick Krug, Public Member

Board Members Absent: Donald Jarnagin, O.D.
Curtis Winkler, M.D.

Legal Counsel Present: Keely Versteegen, Assistant Attorney General

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

C. PRESIDENT'S REPORT: Dr. Griego

None

D. FORMAL HEARING:

9:00 a.m.

1. ASBOO vs. Renata Majda, O.D.

IR#200834

Allegation: Criminal charges, which may include felonies, for fraud, theft and forgery.

Dr. Griego summarized the facts of the case as Dr. Majda was found guilty, by the Superior Court of the State of Arizona, of 16 felony counts including fraud, theft and forgery.

Antonio Bustamante, attorney for the defense made a motion for a continuance.

MOTION: Dr. Mach denied motion for a continuance. Mr. Krug seconded the motion.

VOTE: Motion passed 3-1.

The Board went into Executive Session at 9:10 a.m.

The Board reconvened Regular Session at 9:15 a.m.

The Board discussed whether they wanted Dr. Majda to practice during this time when the complaint against her has not been resolved. Dr. Griego suggested an Interim Consent Agreement and Order so that Dr. Majda is not allowed to practice optometry until the final disposition of this case.

MOTION: Mr. Krug moved to issue an interim consent agreement and order causing Dr. Majda to cease practice until this case is heard and completed, currently scheduled for the November 19, 2010 meeting. Dr. Meier seconded the motion.

VOTE: Motion passed 4-0.

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

2. ASBOO vs. Neil Weinstein, O.D. and Mark Hechtman, O.D.

IR#201017

Allegation: Patient records not secure through software issues regarding passwords and changes to patient records.

Dr. Meier summarized the facts in the case regarding the security of the patients records and the software Al Bernstein, President of Nationwide Vision who was present indicated that they have already implemented new software or password policies to comply with current HIPAA laws.

MOTION: Dr. Mach moved to dismiss complaint to Formal Hearing. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

3. R.G. vs. Gary Greene, O.D.

IR#201019

Allegation: Miscommunication/billing records

Dr. Mach summarized the facts of the case, reviewing the additional patient records obtained by staff pursuant to the Board's direction at the July 16, 2010 meeting. The Board discussed whether Dr. Greene lacks proficiency at using the electronic records system or if the records are actually incomplete; potentially causing billing issues which may be considered fraudulent. Dr. Griego recommended the Board issue a letter of concern with continuing education.

MOTION: Mr. Krug moved to send complaint to Informal Interview for the purposes of further discussion of recordkeeping and billing issues. Dr. Mach seconded the motion.

VOTE: Motion passed 4-0.

4. J.S. vs. Kaci Kramer-Oldroyd, O.D.

IR#201020

Allegation: Doctor failed or refused to correct problem; treated patient rudely

Dr. Mach summarized the facts of the case as an update of the complaint from the July 16, 2010 meeting where staff was instructed to obtain additional medical records for patient J. S. Dr. Mach noted that the records were dated six months after the initial visit by the patient, which differed from the date of actual service. Dr. Mach recommended the Board move to Informal Interview for purposes of discussion of the recordkeeping and billing issues.

MOTION: Dr. Mach moved to send complaint to Informal Interview. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

5. S.C vs. Paul Cinalli, O.D.

IR#201101

Allegation: Improper correction/fit of eyeglasses; eyes were seriously injured; optometrist failed or refused to correct problem

Dr. Griego summarized the facts of the case as patient alleges they were fitted with wrong contact lenses and that Dr. Cinalli also missed a diagnosis of keratitis. Dr. Griego recommended the Board dismiss the complaint due to lack of violation of the optometric practice act.

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

VOTE: Motion passed 4-0.

6. R.D. vs. Guy McDougal, O.D.

IR#201102

Allegation: Patient wanted routine eye exam but was charged a medical exam fee and insurance was billed.

Dr. Meier summarized the facts of the case as the patient states they informed Dr. McDougal that they wanted a routine eye exam and would pay out of pocket. According to Dr. McDougal, the patient presented with headaches and dizziness, causing him to perform a medical exam as necessary for these symptoms; therefore, the medical insurance was billed. Dr. Meier recommended the Board dismiss the complaint due to lack of violation of the optometric practice act.

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

VOTE: Motion passed 4-0.

7. P.B. and M.B. vs. John Castro, O.D.

IR#201103

Allegation: Eyeglasses made improperly, false or misleading advertising, fraudulent billing/recordkeeping

Dr. Mach summarized the facts of the case as patient alleges eyeglasses were not made correctly and doctor did not try to remedy the problem.. Dr. Mach recommended the Board dismiss the complaint and issue a letter of concern as a licensed optometrist cannot hold himself out to be a specialist. All uses of the term "Board Certified" must be removed from letterhead, business cards, prescription pads and any other advertising containing the term, and discontinued from further use. In addition, the doctor has failed to maintain records as required, which the Board feels may constitute unprofessional conduct.

MOTION: Dr. Mach moved to dismiss complaint and issue a Letter of Concern pursuant to the above recommendation. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

8. Alex Smith, O.D. vs. Mark Page, O.D.

IR#201104

Allegation: Deceptive advertising or statements

Dr. Meier summarized the facts of the case as Dr. Smith believes Dr. Page's advertising with the statement "Arizona's Premier Optometrist" holds Dr. Page out to be more qualified or a "better" doctor than any other optometrist in the State and feels that the statement is therefore misleading to the public. Dr. Meier recommended the Board dismiss the complaint due to lack of violation of the optometric practice act.

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

VOTE: Motion passed 4-0.

9. S.J. vs. Priscilla Lee, O.D.

IR#201105

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

Dr. Griego summarized the facts of the case as the patient alleges when their new glasses were picked up, they were blurry and patient could not see out of them. Patient is displeased that there was no concern of this issue by Dr. Lee, and there was no follow up to attempt to correct the problem and that Dr. Lee simply referred patient to an M.D. instead of trying to remedy the situation. Dr. Griego recommended the Board dismiss the complaint due to lack of violation of the optometric practice act.

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

VOTE: Motion passed 4-0.

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

- 10. Black, David
- 11. Murphy, Rory
- 12. Ngo, Thuy-Dem
- 13. Pierre, Laroushna
- 14. Scott, Kristin

MOTION: Dr. Mach moved to approve items 10 thru 13 for licensure. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

MOTION: Dr. Mach moved to approve item 14 for licensure contingent upon negative DPS report. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

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

- 15. Plotkin, Ronald

MOTION: Dr. Griego moved to approve item 15 for licensure. Dr. Meier seconded the motion.

VOTE: Motion passed 4-0.

H. REVIEW, DISCUSSION AND POSSIBLE VOTE ON PHARMACEUTICAL AGENT CERTIFICATE APPLICATIONS:

16. Raymond Sherban, O.D.

MOTION: Dr. Meier moved to approve item 16 for Pharmaceutical Agent Certificate. Dr. Mach seconded the motion.

VOTE: Motion passed 4-0.

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 2011

	Continuing Education	Date	No. of hours requested
a.	Current Treatment Modalities in Glaucoma & Vitreoretinal Disease	October 20, 2010	1.5 Regular
b.	Ophthalmology & Vision Science Rounds/ Visiting Lecturer Series	July 17, 2009 – June 18, 2010	51 Regular

MOTION: Dr. Griego moved to approve item a as submitted. Dr. Mach seconded the motion.

VOTE: Motion passed 4-0.

MOTION: Dr. Griego moved to deny item b. The Board felt that it was educational but it did not fulfill the requirements, as it was not submitted in a timely manner with the required documents and it did not appear to be open to all optometrists as required in A.A.C. R4-21-210. Dr. Mach seconded the motion.

VOTE: Motion passed 4-0.

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

17. Letter from Brandon Becken, 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 4-0.

K. REQUEST FOR CLARIFICATION OF BILLING CODES USED BY OPTOMETRISTS IN BILLING FOR TREATMENT:

The Board took no action at this time.

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

MOTION: Dr. Mach moved to keep current incumbents. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

M. REVIEW, DISCUSSION AND POSSIBLE APPROVAL OF PROPOSED LANGUAGE FOR LEGISLATION:

18. Proposed language for legislation

The Board discussed small changes to endorsement law changing it to two years in same jurisdiction instead of the proposed one year. Also, the Board would like to see a second public member instead of another optometrist member.

N. REVIEW, DISCUSSION AND POSSIBLE VOTE ON CIRCULATION OF FRAUDULENT CONTACT LENS AND EYEGLOSS PRESCRIPTIONS:

19. Presentation by Brian Mach, O.D.

The Board discussed issues of possible fraudulent prescriptions and instructed staff to send inquiry to the office of the Attorney General as well as the Pharmacy Board.

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

20. July 16, 2010 Regular Session Minutes

21. July 16, 2010 Executive Session Minutes

MOTION: Dr. Griego moved to approve items 20 and 21 as written. Dr. Mach seconded the motion.

VOTE: The motion passed 3-0. Dr. Meier abstained.

P. EXECUTIVE DIRECTOR'S REPORT:

22. Budget/Furloughs

23. Rules

24. Future agenda items

Ms. Whelan reported on the upcoming furlough dates when all State offices will be closed. The furlough dates are posted on the optometry board website at www.optometry.az.gov. The budget remains within the appropriated funds of the agency, however, the fund will be swept the amount of the furloughs as no savings are realized since the Board is not a general fund agency.

Rules package is moving along. Packet should be on the November 2, 2010 GRRC agenda with an immediate effective date if the requested exception is approved. If not, the effective date will be January 2, 2011.

No future agenda items were requested at this time.

Q. CALL TO PUBLIC:

Dr. Griego

Dr. Griego made a call to the public at 12:16 p.m. No one addressed the Board.

Dr. Griego moved to adjourn the meeting at 12:17 p.m. Mr. Krug seconded the motion.

Meeting adjourned at 12:17 p.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date