

Janice K. Brewer
Governor

Caroline Griego, O.D.
President

Stacey J. Meier, O.D.
Vice President



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

Margaret Whelan
Executive Director

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

FINAL MINUTES FOR REGULAR SESSION MEETING: NOVEMBER 19, 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 Verstegen, Assistant Attorney General

A. CALL TO ORDER:

Dr. Griego

Dr. Griego called the meeting to order at 9:05 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.
Curtis Winkler, M.D.
Rick Krug, Public Member

Board Members Absent:

Donald Jarnagin, O.D.

Legal Counsel Present:

Keely Verstegen, Assistant Attorney General
Christopher Munns, Assistant Attorney General, Solicitor General's Office

Staff Present:

Margaret Whelan, Executive Director
Paula Hollins, Licensing Administrator

C. PRESIDENT'S REPORT:

Dr. Griego

Dr. Griego notified the Board that Dr. Jarnagin submitted his resignation to the Governor's Office due to conflict of interest as he was appointed Interim Dean of the College of Optometry at Midwestern University.

D. FORMAL HEARING:

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.

Mr. Bustamante presented personal witnesses on behalf of Dr. Majda. Several friends and acquaintances presented information to the Board about Dr. Majda's character. The Board heard testimony from all witnesses and then discussed its options for action against Dr. Majda concerning the final disposition from the court proceedings.

The Board discussed revocation, civil penalty, suspension, reprimand and probation. Dr. Winkler suggested a decree of censure with probation. During discussion, the Board determined that there were no parameters to support probation with the decree of censure as Dr. Majda's issue was not patient care related and the court's disposition was substantial.

MOTION: Dr. Mach moved to accept the findings of fact and conclusions of law from the interim consent agreement and order and issue decree of censure and order to Dr. Majda for unprofessional conduct involving moral turpitude pursuant to A.R.S. §32-1743. Dr. Griego seconded the motion.

VOTE: Motion passed 5-0.

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

2. ASBOO vs. Justin Johnson, O.D.

IR#201106

Allegation: Failure to write complete eyeglass or contact lens prescriptions as required in rule

Mr. Krug summarized the facts in the case, as Dr. Johnson clearly did not sign some of the eyeglass prescriptions as submitted to the Board, and that the rule requires signatures on all prescriptions for eyeglasses and contact lenses.

MOTION: Dr. Griego moved to dismiss complaint and issue a Letter of Concern for writing incomplete eyeglass prescriptions and not following the law as required. Mr. Krug seconded the motion.

VOTE: Motion passed 5-0.

3. ASBOO vs. Tara Miller, O.D.

IR#201107

Allegation: Failure to write complete eyeglass or contacts lens prescriptions as required in rule

Mr. Krug summarized the facts in the case as Dr. Miller clearly did not sign some of the eyeglass prescriptions as submitted to the Board, and that the rule requires signatures on all prescriptions for eyeglasses and contact lenses.

Dr. Miller appeared before the Board. She stated that the prescriptions were from an employer for whom she no longer works and that the prescriptions were reissued to the patient and were not the originals that she had signed when she first saw the patients.

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

VOTE: Motion passed 5-0.

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

IR#201108

Allegation: Deceptive advertising or statements, use of the term "Premier".

Dr. Mach summarized the facts of the case, as Dr. Page believes Dr. Smith's advertising with the statement "Arizona's Premier Optometrist" holds Dr. Smith 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. Mach 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. Mr. Krug seconded the motion.

VOTE: Motion passed 5-0.

5. L.C. vs. Richard Stewart, O.D.

IR#201109

Allegation: Dissatisfaction with services received, contact lens prescription incorrect

Dr. Winkler summarized the facts in the case as patient L.C. brought her daughter to see Dr. Stewart for contact lenses. Daughter was having recurrent eye infections with current brand of contact lenses being used. Dr. Stewart gave daughter another brand of trial contact which turned out to be significantly higher cost than the original ones. L.C. was unhappy that final contact lens prescription was more costly and full prescription was not written as Dr. Stewart left practice before trial period was done.

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

VOTE: Motion passed 5-0.

6. S.H. vs. Stuart Adams, O.D.

IR#201110

Allegation: Deceptive advertising/statements; improper correction/fit of eyeglasses; optometrist failed or refused to correct problem.

Dr. Meier summarized the facts in the case as S.H. felt there was a lack of communication with Dr. Adams regarding eyeglass lenses prescription. S.H. wanted lenses remade as she felt lenses were made incorrectly and she could not see out of them. Dr. Adams remade lenses several times for new/different prescription, re-polishing, new/different frames, and AR coating.

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

VOTE: Motion passed 5-0.

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

7. Bernie Trejo, O.D.

8. Michael Pittelli, O.D.

MOTION: Dr. Winkler moved to open a complaint for items 7 and 8. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

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

9. Bywater, Bradley

MOTION: Dr. Meier moved to approve item 9 for licensure. Mr. Krug seconded the motion.

VOTE: Motion passed 4-0.

10. Vega-Hernandez, Diana

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

VOTE: Motion passed 4-0.

11. Yevseyenkov, Vladimir

MOTION: Dr. Meier moved to approve item 11 for licensure. Dr. Griego seconded the motion.

VOTE: Motion passed 4-0.

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

None

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

12. Bret Harrison, O.D.

MOTION: Dr. Mach moved to approve item 12 for a Pharmaceutical Agent Certificate. Dr. Meier seconded the motion.

VOTE: Motion passed 4-0.

J. 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.	Painting a Moving Train	November 5, 2010	3 Regular, 1 Practice Mgmt.

MOTION: Mr. Krug moved to deny item a for CE the Board felt it did not meet the requirement as stated in R4-21-210(D). Dr. Meier seconded the motion.

VOTE: Motion passed 4-0.

K. REVIEW AND DISCUSSION OF DEFINITION/DELINEATION OF MEDICAL EYE EXAMS VERSUS STANDARD EYE EXAMS:

13. Letter from Mike Sachen, O.D.

Dr. Sachen was present at the meeting to open the discussion. The Board discussed the letter and took no action at this time.

Dr. Winkler left the meeting at 11:50 a.m.

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

14. September 22, 2010 Regular Session Minutes

15. September 22, 2010 Executive Session Minutes

MOTION: Mr. Krug moved to approve items 14 and 15 as written. Dr. Mach seconded the motion.

VOTE: Motion passed 4-0.

M. EXECUTIVE DIRECTOR'S REPORT:

16. Budget/Furloughs
17. Rules
18. 2011 Board meetings
19. 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 has passed effective November 16, 2010.

Board meetings in 2011 are the 3rd Friday of the month. Board is mandated to meet at least six times per year. All Board meeting dates are posted on the website at www.optometry.az.gov under the "Consumer Information" link.

No future agenda items were requested at this time.

N. CALL TO PUBLIC:

Dr. Griego

Dr. Griego made a call to the public at 12:06 p.m. No one addressed the Board.

Mr. Krug moved to adjourn the meeting at 12:07 p.m. Dr. Mach seconded the motion.

Meeting adjourned at 12:07 p.m.

END OF MINUTES:

Margaret Whelan, Executive Director

Date