

**Janice K. Brewer**  
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 MEETING  
DECEMBER 20, 2013 SCHEDULED TO COMMENCE AT 9:00 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, Public Member

**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  
Marla Husz, O.D.  
John Chrisagis, O.D.  
Michael Lamb, O.D.  
Mark Peller, O.D.

Board members absent: Rick Krug, Public Member, Vice-President

Legal Counsel present: Mona Baskin, Assistant Attorney General

Staff present: Margaret Whelan, Executive Director  
Paula Hollins, Licensing Administrator-Present; left meeting at 9:35 a.m.

**C. PRESIDENT'S REPORT: Dr. Mach**

No president's report.

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

1. ASBOO vs. Thomas Ginman, O.D. IR#201403

Allegation: Self-report pursuant to A.R.S. 32-3208

Dr. Peller presented the complaint as Dr. Ginman appropriately reported an arrest within the time frame pursuant to A.R.S. §32-3208. The Board requested further documentation from Dr. Ginman regarding the final disposition of the case which Dr. Ginman provided for this review. The records indicated that Dr. Ginman fulfilled the court's requirements and that the court case is closed.

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

**VOTE:** Motion passed 5-0.

2. V.H. vs. Stacey Burson, O.D. IR#201406

Allegation: Optometrist failed or refused to correct problem; possible misdiagnosis

Dr. Peller presented the complaint as the Board continued this case from the October 18, 2013 Board meeting in order to obtain medical records from the patient's other treating physicians. Patient was originally seen August 12, 2009. Dr. Burson found high IOP's by NCT of 31 and 29. She retook pressures with the Tonopen and found it to be 24 and 27. She made the recommendation of the patient returning in one year. Based on her records, there was no dilation just an Optomap. Dr. Burson did perform pachymetry and visual fields screening test however it came to light that is the practice of Dr. Burson not keep visual fields tests that appear normal. Patient did not return one year but came back in two years. NCT pressures were 19 at that time. Patient complained of persistent headaches for three weeks prior to the exam. During both exams, Dr. Burson stated that the angles were wide open and the chamber is deep. When the patient returned to have LPI, the pressures were very high so patient went to ophthalmologist Dr. Rabinowitz who performed an LPI and noted that the angles were in fact narrow and the chamber is shallow. Dr. Burson was not present to address the Board at this time however the Board feels that in order to make proper decisions in this case, they need to speak with Dr. Burson.

**MOTION:** Dr. Chrisagis moved to go to an Informal Interview for further investigation regarding possible failure to diagnose intermittent angle glaucoma, poor recordkeeping, including destruction of records and possible violation of A.R.S. §32-1701(8)(f)(g)(o), A.A.C. R4-21-304 and R4-21-305. Dr. Peller seconded the motion.

**VOTE:** Motion passed 5-0.

3. S.C. vs. Kurt Lowman, O.D. IR#201407

**Allegation:** Improper correction/fit of eyeglasses/contact lenses; optometrist failed or refused to correct problem.

Dr. Husz presented the complaint as Dr. Lowman saw patient S. C. and she was wearing old PMA and PMMA hard lenses. He re-fit her with gas permeable lenses with the exact same prescription from the PMMA a lenses. Patient purchased lenses outside of Dr. Lowman's office. Patient came back because she said the lenses weren't fitting correctly. Dr. Lowman checked the lenses and gave her a new prescription adjusting the fit, but the patient never filled the new prescription. Dr. Lowman was present and answered questions from the Board regarding what he had done to remedy the situation. Dr. Lowman stated he refunded the exam fee, refraction fee and the contact lens fitting fee.

**MOTION:** Dr. Lamb 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. Timothy McAuliffe, O.D. IR#201408

**Allegation:** Failure to disclose arrest in timely manner pursuant to A.R.S. §32-3208

Dr. Lamb presented the complaint as Dr. McAuliffe was arrested and found guilty of a misdemeanor in 2008. He did not self-report as required under A.R.S. §32-3208. Dr. McAuliffe disclosed on his 2013 license renewal form that he had an arrest within the past two years, even though the arrest was in 2008. The law requires that a doctor self-report within 10 days from the date of the incident or it constitutes unprofessional conduct. The Board discussed whether there was an issue regarding the time of the arrest even though Dr. McAuliffe disclosed on his renewal for 2013 as the renewal only asks if the arrest was in in the past two years. Since the arrest was actually in 2008 the disclosure should have been on the 2009 and possibly 2011 renewals for licensure. The Board did not review the 2009 and 2011 renewal applications and therefore did not take either renewal notice into consideration in this case.

**MOTION:** Dr. Lamb moved to issue a letter of concern for failure to report a qualifying arrest in a timely manner pursuant to A.R.S. §32-3208. Dr. Peller seconded the motion.

**VOTE:** Motion passed 4-0. Dr. Chrisagis recused.

5. K.Z. vs. Tony Cohn, O.D. IR#201409

**Allegation:** Optometrist failed to include expiration date on eyeglass prescriptions

Dr. Mach presented the complaint as an optical establishment has been receiving prescriptions from Dr. Cohn without expiration dates on them. In order for dispensing opticians to fulfill a prescription, it must have an issue and expiration date. The copy of the prescription received by

the optical establishment shows that there was no expiration date on this prescription for eyeglasses.

**MOTION:** Dr. Mach moved to issue a letter of concern for failure to include expiration dates on prescriptions as required in A.A.C. R4-21-306(B)(1)(e). Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 5-0.

6. T.G. vs. Michael Pittelli, O.D. IR#201410

Allegation: Optometrist was rude and unprofessional.

Dr. Mach presented the complaint as patient T.G. complained that Dr. Pittelli was being rude and rushing through the exam. Patient complained of diplopia which was not addressed in the exam other than to tell the patient the condition is because of his age. The patient has had RK surgery which may affect the condition of diplopia. The Board was unable to determine the demeanor of the doctor as neither the doctor nor the patient was present to address the Board.

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

**VOTE:** Motion passed 5-0.

7. E.B. vs. Zahra Lalwani Lassee, O.D. IR#201411

Allegation: Optometrist failed or refused to correct problem; refusal to give copy of prescription

Dr. Chrisagis presented the complaint as patient wanted the doctor to measure interpupillary distance and segment height to order eyeglasses online. Dr. Lalwanee Lasee took the measurements but did not provide the prescription to the patient; however, the PD was still missing from the prescription.

**MOTION:** Dr. Husz moved to issue a letter of concern for failure to include interpupillary distance on the initial eyeglass prescription pursuant to A.A.C. R4-21-306(B)(1)(c). Dr. Peller seconded the motion.

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

8. S.P. and D.C. vs. Kelly Corbridge, O.D. IR#201412

Allegation: Promotion of nutritional supplements as treatment.

Dr. Mach presented the complaint as patient S.P. went to see Dr. Corbridge for routine eye exam. D.C. had been in a few days earlier for exam. Dr. Corbridge didn't find anything wrong other than complaint of intermittent loss of color vision with a family history of MS. Dr. Corbridge gave advice as far as following up or not following up with a neurologist. The complaint is that

Dr. Corbridge is promoting nutritional supplements as opposed to giving sound medical advice. Dr. Corbridge was present via telephone to address the Board. Dr. Chrisagis asked Dr. Corbridge what his intent was by not wanting to say anything to the patient regarding the possibility of MS causing the intermittent colorblindness and pre-existing conditions on the insurance. Dr. Corbridge stated he did not remember the exact conversation but when he and the patient discussed the diagnosis, he told patient he didn't feel it was a good diagnosis and that the wrong diagnosis can affect the insurance negatively. A discussion regarding federal health care ensued and Dr. Corbridge gave his opinion regarding the issue to the patient who disagreed with Dr. Corbridge's view. Dr. Lamb communicated to Dr. Corbridge that the patient, in the written complaint, said that he suggested she not pursue the diagnosis of MS even though she has a history of MS on both sides of the family and asked if Dr. Corbridge deterred the patient from any additional testing due to possible insurance issues. Dr. Corbridge states he told the patient going to the neurologist would be the proper next step. Dr. Lamb asked Dr. Corbridge why the supplement was recommended when MS was a possible diagnosis. Dr. Corbridge states that he was addressing the fact that inflammatory diseases related to MS such as optic neuritis; that some natural supplements can reduce inflammation of this type of disease. Dr. Peller noted that, in the end, the record did state that Dr. Corbridge told the patient would be best to see a neurologist.

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

**VOTE:** Motion passed 5-0.

9. ASBOO vs. Brian Easley, O.D. IR#201413

**Allegation:** Failure to maintain records; failure to maintain current public/ mailing address/phone number

Dr. Mach presented the complaint as Dr. Easley did not notify the board of an address change within 10 days pursuant to A.R.S. §32-1742 nor did he return phone calls made by the Executive Director to obtain a current address. There was also an issue of patient records that were left behind by Dr. Easley from his former practice, however, in Dr. Easley's response to the complaint from the Board; he stated that he owns the building where the records are stored and that they are indeed locked up.

**MOTION:** Dr. Lamb moved to issue a letter of concern for violation of A.R.S. §32-1742 for not properly notifying the board of an address change and not returning a phone call from the Board. Dr. Peller seconded the motion.

**VOTE:** Motion passed 4-0. Dr. Husz recused.

10. A.L. vs. Barry Blonder, O.D. IR#201414

**Allegation:** Optometrist refused to provide eye exam without glaucoma test.

Dr. Mach presented the complaint as patient felt that IOP test was being offered to him as a mandatory requirement of the regular eye exam in order to inflate the cost. However, this was an

inquiry only and the patient never came in to see the doctor once he found out the cost of the exam. For the record, intraocular pressures are required, without additional cost, to be taken by the doctor as part of a regular eye exam.

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

**VOTE:** Motion passed 5-0.

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

11. Diaz, David
12. Esposito, Christina
13. Nguyen, Michelle
14. Simons, Robert

**MOTION:** Dr. Lamb moved to approve items 12-14 for licensure. Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 5-0.

**MOTION:** Dr. Lamb moved to approve item 11 for licensure. Dr. Husz seconded the motion.

The Board discussed Dr. Diaz not being licensed anywhere for over a year after graduating optometry school. The Board also looked at Dr. Diaz's NBEO scores and the dates in which the parts were passed.

**VOTE:** Motion passed 5-0.

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

15. Berman, Lee
16. Tanner, William

**MOTION:** Dr. Lamb moved to approve items 15-16 for licensure. Dr. Peller seconded the motion.

**VOTE:** Motion passed 5-0.

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

17. David Barnhart, O.D.

**MOTION:** Dr. Lamb moved to approve item 17 for a Pharmaceutical Agent Certificate. Dr. Chrisagis 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 2014**

	<b>Continuing Education</b>	<b>Date</b>	<b>No. of hours requested</b>
a.	New & Emerging Treatments and Advances in Retina-Assoc. Retina Consultants	12/04/13	3 Regular

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

**VOTE:** Motion passed 5-0.

**I. REVIEW, DISCUSSION AND POSSIBLE VOTE ON BRINGING REMAINING DPA AND TPA SCOPE ONLY LICENSEES UP TO THE HIGHEST SCOPE OF PRACTICE:**

Ms. Whelan addressed the Board indicating that Dr. Mach had requested this issue be placed on today's agenda for discussion. She reminded the Board that it does not have statutory authority at this time to require that doctors who are not practicing at the highest scope come up to the Pharmaceutical Agent ("PA") level which is currently our highest scope of practice. There are currently 1101 total licensees. Out of those 1101, only 81 are not at the highest scope. Out of those 81, only 32 of those doctors are practicing in Arizona. The breakdown of the 32 doctors practicing in Arizona is as follows: Four of the licenses were issued in the 1960s, six were issued in 1970s, nine in the 1980s and 13 of them issued in the 1990s. The Board was somewhat surprised that the licenses issued in the 1990s were not at the highest scope as the Board's statutory requirement at the time the PA was approved was that doctors had to meet the education of those who graduated in 1993 and 1999. The Board encourages those not practicing at the highest scope to look into obtaining the pharmaceutical agent certificate, however without statutory authority it cannot be mandated at this time.

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

The Board may hold an executive session to discuss records exempt by law from public inspection pursuant to A.R.S. §38-431.03(A)(2). In addition, the board may hold an executive session to discuss or consult with its attorney and to receive legal advice pursuant to A.R.S. §38-431.03(A)(3).

18. October 18, 2013 Regular Session Minutes

The Board reviewed the regular session minutes and noted a few changes that need to be made to Item D.1. In sentence five and six, it should read, "Dr. Peller noted a Pseudomonas ulcer". Sentence 20-21 should end with the word "fine." Start the next sentence with the word "It". The term in sentence 20 should read "anterior chamber reaction". Remove the word "of" in sentence 21 so it should read "and chemosis".

**MOTION:** Dr. Husz moved to accept the regular session minutes as amended. Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 5-0. Dr. Peller abstained from discussion regarding Brenda Binder, O.D.

19. October 18, 2013 Executive Session Minutes

**MOTION:** Dr. Husz moved to accept the executive session minutes as written Dr. Chrisagis seconded the motion.

**VOTE:** Motion passed 4-0. Dr. Peller recused from approval and vote due to conflict of interest.

**K. EXECUTIVE DIRECTOR'S REPORT:**

The Board may hold an executive session to discuss records exempt by law from public inspection pursuant to A.R.S. §38-431.03(A)(2). In addition, the board may hold an executive session to discuss or consult with its attorney and to receive legal advice pursuant to A.R.S. §38-431.03(A)(3).

- 20. Budget
- 21. 2014 Board meeting dates
- 22. Sunrise legislation
- 23. Future agenda items

Ms. Whelan reported that as of November 30, 2013, 41.67% of the fiscal year has elapsed. The Board's spending is at 38.6%. The beginning cash balance is \$120,671 with an ending cash balance of \$168,122. 2014 Board meeting dates have been handed out. Meetings are the third Friday the month. We are mandated to meet six times per year and generally meet every other month to fulfill this requirement. Our next Board meeting will be Friday, February 21, 2014 with the intent to have the next meeting after that on Friday, April 18, 2014 and subsequently Friday, June 20, 2014. The sunrise legislation submitted by the Arizona Optometric Association, which the Board supports, failed in committee; however the bill is not dead but will be restructured with possible amendments. Future agenda items requested were discussion regarding the neutralizing of (eyeglass) lenses without a prescription by the Walmart Corporation. No other future agenda items were requested.

**L. CALL TO PUBLIC:**

The Board may hold an executive session to discuss records exempt by law from public inspection pursuant to A.R.S. §38-431.03(A)(2). In addition, the board may hold an executive session to discuss or consult with its attorney and receive legal advice pursuant to A.R.S. §38-431.03(A)(3). Pursuant to A.R.S. §38-431.01(G), Board members are not allowed to discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. However, members may ask staff to review a matter or may ask that a matter be placed on a future agenda.

Dr. Mach made a call to the public at 10:32 a.m. No one was present to address the Board.

Dr. Chrisagis moved to adjourn the meeting at 10:33 a.m. Dr. Lamb seconded the motion. The meeting adjourned at 10:33 a.m.

**END OF MINUTES:**

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Margaret Whelan, Executive Director

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Date