

## **Arizona State Board of Optometry Meeting Minutes 1-800CONTACTS Complaints**

### **September 16, 2016**

A voluminous complaint from 1-800 Contacts was received by the Board office on March 8, 2016. On March 15, 2016, after preliminary review of the documentation submitted, Board staff requested further information from the complainant as no patient names or other identifying patient information was included in the complaints. On May 26, 2016, Board staff received a response from the complainant stating information requested would not be provided as they are irrelevant to the misconduct cited in the complaints. The complaints were then sent out to the optometrists named in the complaint. Some doctors chose to call the complainant in an attempt to get patient names, which prompted the complainant to contact the Board to now provide the patient names.

On September 1, 2016, the complainant called to request to withdraw a portion of the complaints submitted to the Board. Board staff responded on September 7, 2016 informing the complainant that they may provide additional information regarding each of these complaints and the Board would process accordingly. The Board informed the complainant that if new information was received, the complaints would not be heard at the September 16, 2016 meeting in order to further process the new information as a licensee has 20 days to respond to a complaint pursuant to A.R.S. 32-1744(C). On September 12, 2016, the Board received a CD with patient names for each complaint.

Dr. Chrisagis made a call to the public at 9:15 a.m. Mr. Keith Call, counsel for 1-800 Contacts was present to address the Board stating he was not employed by the company at the time the complaints were submitted and that he would not have handled the submission the way it was done. He stated no one is to blame for that however, and that the company wants to help streamline the process of the Board's complaint handling for efficiency and effectiveness and if the company can assist with additional evidence or information to let them know.

Mr. Thomas Galvin, attorney for the Rose Law Group who handled the 1-800 Contacts complaint locally was present and introduced himself to the Board.

### **November 18, 2016**

Ms. Whelan reported that new information was submitted by 1-800 Contacts less than 24 hours prior to the scheduled Board meeting. Mr. Keith Call from 1-800 Contacts was present to address the Board. He stated the key issue is, "Are Arizona optometrists failing to produce copies of the prescription when requested?" Dr. Mach asked if this was for verification of the prescription or for an actual copy of the prescription. Mr. Call stated it was for an actual prescription. Mr. Call went on to state that the Fairness to Contact Lens Consumers Act gives 1-800 Contacts a "pass" from needing a signed consent from patients to request a copy of the prescription on their behalf. Mr. Whiteman expressed that this complaint might be better handled by the courts instead of the Board. He suggested that the Board give 1-800 Contacts seven (7) days to address any and all questions to the Board in writing, with the next set of affidavits submitted for review in 30 days and the rest in 60 days, etc.

Mr. Call again stated intent of the complaints was to force compliance with the law through well-written letters of concern and that 1-800 Contacts would be possibly willing to limit the number of doctors to around 20 of the most egregious offenders. As the Board received the 3261 complaints against 525 doctors, it must review them as submitted; and discussed reviewing them in batches at the next several meetings beginning in January of 2017.

The Board discussed that it might like to see the agency agreement or procedure followed by the agent to get to that agreement, as well as 1-800 Contacts' authority for bringing a complaint on behalf of the patient; authorization for the requester of the prescription and why 1-800 Contacts thinks the Board is required to interpret its own law.

MOTION: Dr. Peller moved to get all information on all 525 doctors by December 31, 2016 from 1-800 Contacts. No further information will be accepted after that time and the Board will move forward with whatever information has been submitted to date. Dr. Lamb seconded the motion.

VOTE: Motion passed 7-0.

MOTION: Mr. Whiteman moved to require 1-800 Contacts to provide, by December 2, 2016, a memo to the Board with their intent for this complaint going forward. Dr. Lamb seconded the motion.

VOTE: Motion passed 7-0.

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0

Doyle Holle, O.D. IR#201708

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Mach seconded the motion.

VOTE: Motion passed 7-0.

Larry Holle, O.D. IR#201709

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Quintilio DiGiacomo, O.D. IR#201710

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Tiffany Uelner, O.D. IR#201711

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Richard Glonek, O.D. IR#201712

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Peter Lehmann, O.D. IR#201714

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Helen Paulin, O.D. IR#201715

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Patricia Stamper, O.D. IR#201717

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Roger Juarez, O.D. IR#201718

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Lynne Noon, O.D. IR#201719

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Sheila Willems, O.D. IR#201722

Dr. Willems was present with her attorney, Mr. Mark Romaneski, who cited a legal concern, as grounds for dismissal, the fact that as a doctor at the Veterans Administration, **Dr. Willems does**

not write contact lens prescriptions. Mr. Call, attorney for 1-800 Contacts asked the Board to dismiss the complaint against Dr. Willems.

MOTION: Dr. Mach moved to dismiss this complaint at the request of Mr. Call from 1-800 Contacts. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

John Twelker, O.D. IR#201723

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Sheryl Simms, O.D. IR#201724 Dr. Simms was present, with her attorney Mr. Christopher Dang, to address the Board stating that she only had one patient named in the complaint; she responded accordingly and requested that the Board dismiss the complaint.

MOTION: Dr. Chrisagis moved to go into executive session for legal advice. Dr. Lamb seconded the motion.

VOTE: Motion passed 7-0.

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Rita Bhakta, O.D. IR#201725

Rand Siekert, O.D. IR#201726

David Diaz, O.D. IR#201727

Elizabeth Madara, O.D. IR#201728

Frederic Weitz, O.D. IR#201729

Grace Yoon, O.D. IR#201731

Howard Rosner, O.D. IR#201732

Larry Allgood, O.D. IR#201735

Matthew Schroeder, O.D. IR#201736

Michele Whitacre, O.D. IR#201737

Dr. Whitacre was present, with her attorney Mr. Kevin Whitacre, to address the Board. Dr. Whitacre addressed the Board stating she took this complaint very seriously by appearing before the Board and that she has not seen the patient in question in over two years as the complaint was from a different office. Mr. Whitacre addressed the Board stating that complaint contained inadequate factual basis, was weak at best and the names of the doctors and the patients were not spelled correctly so he wonders how accurate the complaint is, and requested that the Board dismiss this complaint.

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Neville Dalal, O.D. IR#201738

Quan Nguyen, O.D. IR#201739 Dr. Nguyen was present to address the Board stating he did not appreciate being named in this complaint from 1-800 Contacts as he feels he always complies with the law.

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Raymond Sherban, O.D. IR#201740

Robert Sun, O.D. IR#201741

Sonia Chung, O.D. IR#201742

Christine Bartoletti, O.D. IR#201743

Tanya Lewis Polec, O.D. IR#201744

Christopher Marmo, O.D. IR#201746

Dr. Marmo was present to address the Board. He stated that patient submitted is not his and the forms that were sent by 1-800 Contacts were not patient release forms that he needed to submit the requested documentation.

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Brent Wilson, O.D. IR#201747

Stacey Burson, O.D. IR#201748

Stephen Martin, O.D. IR#201749

Bethanie Deemer, O.D. IR#201750

Todd Smith, O.D. IR#201751

Paul Woolf, O.D. IR#201752

Stephen Spencer, O.D. IR#201753

Thomas Determan, O.D. IR#201754

MOTION: Dr. Lamb moved to continue the complaint and request the final records/documents from 1-800 Contacts by December 2 and December 31, 2016 respectively for item numbers 17-25, 27, 29-33, 35-42. Dr. Peller seconded the motion.

VOTE: Motion passed 7-0.

Eric Johansen, O.D. IR#201799

Dr. Mach summarized the case as the patient went to Walmart to have a prescription filled but Cochise Eye & Laser Center wouldn't release the prescription. Dr. Johansen stated in his response that the prescription was given to the patient at the time of service and that he would not get another one. No record of a phone call from Walmart was in the record however, Dr. Mach felt that if the patient made the request for another copy of the prescription, it should have been provided.

MOTION: Dr. Peller moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Mach seconded the motion. Motion and second were withdrawn due to further discussion regarding the rule requiring release of a prescription when requested.

**SECOND MOTION:** Dr. Mach moved to issue a **Letter of Concern** for failure to release a prescription pursuant to A.A.C. R4-21-306(e)(c).

VOTE: Motion passed 5-1. Dr. Husz voted no. Mr. Whiteman was absent from the discussion.

David Kaplan, O.D. IR#2017100

Dr. Peller summarized the case as patient went in to see Dr. Kaplan for an eye exam however Dr. Kaplan was not on the patient's insurance. There was a physician in the office who was listed as a medical provider on the patient's insurance; just not the optometrist.

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

VOTE: Motion passed 7-0.

### January 20, 2017

#### **EXECUTIVE DIRECTOR'S REPORT:**

Budget: 50% of FY elapsed; Board spending at 37.60% with a beginning cash balance of \$224,258 and an ending cash balance of \$214,106. The total cost of processing the 1-800 Contacts complaint is not yet included in the Board's spending.

#### **1-800 Contacts update:**

The Board, at its November 18, 2016 requested that 1-800 Contacts submit, by December 31, 2016, any and all documentation they wish the Board to review for this complaint. After that date, no further information for this complaint would be accepted. The Board also asked for a memo of intent as to the direction 1-800 Contacts was going with the complaint because, since the submission, there has been great dialogue by 1-800 Contacts as to what they actually wanted with this complaint. 1-800 Contacts complied with the Board's request and submitted both the memo and additional documentation as of December 31, 2016. Board staff is reviewing the materials at this time in order to properly process the new information and move forward with resolving this complaint. Continued review of the 1-800 Contacts complaint may be heard starting with the February 17, or March 17 Board meeting.

### February 17, 2017

#### **EXECUTIVE DIRECTOR'S REPORT:**

Budget: 58.33% of FY elapsed; Board spending at 45.65% with a beginning cash balance of \$214,106.91 and an ending cash balance of \$207,051.02. The total cost of processing the 1-800 Contacts complaint is not yet included in the Board's spending.

#### **PRESIDENT'S REPORT: Dr. Chrisagis**

Dr. Chrisagis thanked Ms. Whelan for adhering to the request to get information out earlier than usual, as it has aided the Board members in properly reviewing the voluminous materials for the meeting. He informed the public that the Board has a statutory obligation to review all complaints that come in and although the Board has never had this many complaints, it will be

treating the complaints filed by 1-800 Contacts like all others; one at a time hearing from both the doctor and the complainant, if present.

**REVIEW AND DISCUSSION OF COMPLAINTS FILED BY 1-800 CONTACTS AGAINST PHYSICIANS WHO ARE NOT LICENSED WITH THE BOARD OF OPTOMETRY:**

Ms. Whelan advised the Board that when the original complaint was filed by 1-800 Contacts, the list of 525 named doctors were not all optometrists; there were 53 doctors who are ophthalmologists. As this Board investigates every complaint that comes in, if it's not this Board's jurisdiction because the licensee is an M.D. or D.O., it gets sent to the proper Board for review. This case was no exception; at this time, 53 complaints total were sent to either the Medical Board and the Osteopathic Board.

**REVIEW AND DISCUSSION OF 1-800 CONTACTS MEMORANDUM IN RESPONSE TO BOARD'S NOVEMBER 18, 2016 REQUEST FOR ADDITIONAL INFORMATION:**

Ms. Whelan asked the Board if they had any legal questions about the memorandum submitted. MOTION: Dr. Husz moved to go in to executive session for legal advice pertaining to the November 18, 2016 memorandum request and response. Dr. Mach seconded the motion. VOTE: Motion passed 6-0

**REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

Matthew Campouris, O.D. IR#201707

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Campouris failed to release a copy of the contact lens prescription when requested. Dr. Campouris responded that there was no patient by that name in his practice. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Doyle Holle, O.D. IR#201708

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Holle failed to release a copy of the contact lens prescription when requested. **Dr. Holle responded that he does not practice at the location where the patient was seen and does not have a patient by that name in his practice.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Larry Holle, O.D. IR#201709

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Holle failed to release a copy of the contact lens prescription when requested. **Six patients were requested; one a response was sent to 1-800 Contacts, four no record of a request from 1-800 Contacts and one there was a response to 1-800 Contacts approving the request.** Dr. Chrisagis noted that there were 11 complaints filed against eight patients. The records were sent in; **five of the eight had**

verifications that the doctor attempted to comply with the requests. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Quintilio DiGiacomo, O.D. IR#201710

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. DiGiacomo failed to release a copy of the contact lens prescription when requested. There were two patients requested; both were seen in Dr. DiGiacomo's practice in New Mexico under his New Mexico license and not in Arizona. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Tiffany Uelner, O.D. IR#201711

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Uelner failed to release a copy of the contact lens prescription when requested. There were nine patients requested; six there was no proof of receipt of a request from 1-800 Contacts, two there were no records provided and one there was a record in storage as the patient was last seen in 2010. Dr. Chrisagis stated that in Dr. Uelner's response to the Board, she stated that she doesn't keep requests from 1-800 Contacts in the patient records. Therefore, the Board is unable determine if the doctor complied with a request as there is no record or evidentiary support of a response to 1-800 Contacts. Dr. Mach felt that was a violation of the recordkeeping laws/rules. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Mach moved to issue a **Letter of Concern for not maintaining proper records** under A.A.C. R4-21-306 by not keeping a record of prescription release request. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 7-0

Richard Glonek, O.D. IR#201712

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Glonek failed to release a copy of the contact lens prescription when requested. Dr. Glonek has a mostly rehabilitative practice and does not generally fit or prescribe contact lenses. Dr. Husz asked Dr. Glonek when he last prescribed contact lenses. Dr. Glonek was present to address the Board stating he prescribed a sclera lens about eight months ago. Dr. Glonek stated he got a call on a Saturday from an automated system asking for verification of a contact lens prescription. One of the patients wasn't his patient and the second patient had a Plano lens. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0

Peter Lehmann, O.D. IR#201714

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lehmann failed to release a copy of the contact lens prescription when requested. Four patients were requested; two there was no request from 1-800 Contacts, two of them the prescription was finalized by a different optometrist. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0

Adam Lee, O.D. IR#201716

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lee failed to release a copy of the contact lens prescription when requested. Five patients were requested; none of the patients were found to be Dr. Lee's patients. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Patricia Stamper, O.D. IR#201717

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Stamper failed to release a copy of the contact lens prescription when requested. Dr. Stamper stated she no longer had a copy of the response to 1-800 Contacts even though the patient was seen in 2014. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Peller moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Lamb seconded the motion. Dr. Lamb felt that Dr. Stamper did not keep proper records as required under the recordkeeping rule. Dr. Peller withdrew his motion. Dr. Lamb withdrew his second to the motion.

SECOND MOTION: Dr. Lamb moved to issue a Letter of Concern for not maintaining proper records under A.A.C. R4-21-306 by not keeping a record of prescription release request. Dr. Mach seconded the motion.

VOTE: Motion passed 7-0.

Roger Juarez, O.D. IR#201718

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Juarez failed to release a copy of the contact lens prescription when requested for five patients. He stated he received a response from September 2016 where Dr. Juarez stated he had no patient names so he could not respond to the complaint. Dr. Juarez did not submit a second response when the patient names were provided in November 2016 and the Board felt they needed more information to make a decision on this case. The Board directed staff to obtain a supplemental response to include patient records and a more detailed narrative.

Lynne Noon, O.D. IR#201719

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Noon failed to release a copy of the contact lens prescription when requested for three patients. Dr. Noon's practice is mostly low vision and she seldom prescribes contact lenses nor did she receive any requests from

1-800 Contacts for the three patients in question. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Lindsey Clyde, O.D. IR#201720

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Clyde failed to release a copy of the contact lens prescription when requested. There were two patients requested; both were given copies of their prescription upon completion of exam. **There was no request in the records from 1-800 Contacts for a copy of the prescription for either patient. One of the patients wrote in that they had no idea that their name was used in a complaint that they did not file.**

Melissa Ho, attorney for Dr. Clyde was present and addressed the Board stating that Dr. Clyde takes her practice very seriously and provided two responses to the Board as the first response was based on the initial complaint filed by 1-800 Contacts where **there were no patient names or any other identifying information.** Once the Board was able to obtain at least a patient name, Dr. Clyde was able to provide a response however, **her patients were not happy that their names were used in a complaint against a doctor that they care about a great deal.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0

Eric Clyde, O.D. IR#201721

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Clyde failed to release a copy of the contact lens prescription when requested. **There was one patient requested who was not seen or treated by Dr. Clyde.** Melissa Ho, attorney for Dr. Clyde was present and addressed the Board stating that Dr. Clyde takes his practice very seriously and provided the best response possible considering initially **he did not have the identity of the patient and when he subsequently received that information, the patient was not his.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

John Twelker, O.D. IR#201723

Dr. Mach summarized the case as 1-800 Contacts alleges that Dr. Twelker failed to release a copy of the contact lens prescription when requested. Dr. Twelker works in a major-medical center and does not personally handle medical records requests. Dr. Twelker was present to address the Board stating there **was no patient name on the complaint and the CaptureID number submitted did not identify the patient.** Dr. Twelker wrote a letter to 1-800 Contacts asking for the patient name. **The name was submitted without any other identifying information. Dr. Twelker stated it was a very common name and there were at least 50 patients in the practice with the same name.** Dr. Twelker made a subsequent call to 1-800 Contacts to get more identifying information such as a middle initial, date of birth, address or date of service however, 1-800 Contacts refused to provide further information stating he had what he needed. Dr. Twelker

closed by saying that he has never received any complaints from his patients regarding release of a prescription. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Sheryl Simms, O.D. IR#201724

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Simms failed to release a copy of the contact lens prescription when requested. There was one patient requested; patient was not Dr. Simms's patient. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0

Rita Bhakta, O.D. IR#201725

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bhakta failed to release a copy of the contact lens prescription when requested. Three patients; one no record of patient, one was responded to and the third patient no communication from 1-800 Contacts was received. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Rand Siekert, O.D. IR#201726

Dr. Mach summarized the case as 1-800 Contacts alleges that Dr. Siekert failed to release a copy of the contact lens prescription when requested. Dr. Siekert works in a major medical center and does not personally handle medical records requests. Dr. Siekert was present to address the Board stating that in this era of the ACA and communication with EMR and meaningful use and trying to work with pharmacies and optical services vendors, it's good for patient care, good for patient follow-through and the office does their best to keep good communication with all parties. In closing, Dr. Siekert referenced the last paragraph of his written response stating this is the first time he has been informed of a complaint of this nature and that he was unaware of patients or contact lens vendors having problems obtaining valid contact lens prescriptions. Dr. Siekert asked the Board to review this matter further to find out how the patients and contact lens vendors were trying to contact him to obtain this information as his office complies with Arizona State Law and the federal Fairness to Contact Lens Consumer Act. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

David Diaz, O.D. IR#201727

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Diaz failed to release a copy of the contact lens prescription when requested. One patient; common name, at least 30 patients in

practice found with same last name; no other identifying information was provided. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case. MOTION: Dr. Peller moved to **dismiss** the case due to lack of violation of the optometric practice act. Dr. Chrisagis seconded the motion. VOTE: Motion passed 7-0.

Elizabeth Madara, O.D. IR#201728

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Madara failed to release a copy of the contact lens prescription when requested. **One patient; request never received by Dr. Madara.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Dr. Peller recused due to conflict.

Frederick Weitz, O.D. IR#201729

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Weitz failed to release a copy of the contact lens prescription when requested. **Five patients; requests were received and responded to, meeting the requirement of the law however, the Board felt the state of Dr. Weitz's medical records does not meet the standards in A.A.C. R4- 21-305 Recordkeeping.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Mach moved to issue a **Letter of Concern for inadequate and incomplete documentation in the medical records unrelated to the 1-800 Contacts complaint.** Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0. Dr. Peller recused due to conflict of interest.

Glenn Bassett, O.D. IR#201730

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bassett failed to release a copy of the contact lens prescription when requested. There were **42 patients requested; 11 were not his patients, 32 were his and records were provided by Dr. Bassett.** Dr. Mach asked where the faxed requests were sent. Dr. Bassett said they were faxed to Visionworks and not the doctor's office inside Visionworks. Dr. Bassett was present to address the Board stating that the staff has started sharing information with him about the challenges with 1-800 Contacts. A recent issue was that the office received a request for a patient; it was sent back in time and a subsequent request was received a few days later. Dr. Bassett called 1-800 Contacts on February 4, 2017 at 12:20 p.m. to inquire about the duplicate request and spoke to representative Dana (no last name given) who said it was an erroneous **request sent out by the computer** and that she had no record of the request. She then stated that "You didn't have to fill that out" to which Dr. Bassett's staff replied, "Oh, yes we do". Dana, the 1-800 Contacts representative then when on to say, "**Our computer just pooped it out**" which raised a question of the reliability of the computer system and whether it is sending out random requests, etc. Mr. Tom Galvin was present stating he would convey Dr. Bassett's comments to 1-800 Contacts.

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

VOTE: Motion passed 7-0.

Grace Yoon, O.D. IR#201731

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Yoon failed to release a copy of the contact lens prescription when requested. **There was one patient requested; Dr. Yoon never received faxed request from 1-800 Contacts.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Howard Rosner, O.D. IR#201732

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Rosner failed to release a copy of the contact lens prescription when requested. **The doctor closed practice in 2012 and no longer sells contacts. Six requests for two patients; all requests filled.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Dr. Peller recused due to conflict.

John Peterson, O.D. IR#201733

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Peterson failed to release a copy of the contact lens prescription when requested. Dr. Chrisagis stated that Dr. Peterson formerly practiced in Tucson, now practices in Fountain Hills but was able to get the records. He saw **sufficient evidence in the records showing that Dr. Peterson responded to all requests for copies of a prescription.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Karen Wyckoff, O.D. IR#201734 Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wyckoff failed to release a copy of the contact lens prescription when requested. **Six patients; all requests filled by Dr. Wyckoff.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Matthew Schroeder, O.D. IR#201736

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Schroeder failed to release a copy of the contact lens prescription when requested. **Dr. Schroeder states he never received faxed requests and that the practice is large so they may not have come to his office.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0

Michele Whitacre, O.D. IR#201737

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Whitacre failed to release a copy of the contact lens prescription when requested. Dr. Whitacre left the practice in February of 2014; two patients; both requests were received and filled by the doctor. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Neville Dalal, O.D. IR#201738

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Dalal failed to release a copy of the contact lens prescription when requested. There were three patients requested; one was never seen by Dr. Dalal, one had a faxed referral from 1-800 Contacts and that last patient was unable to be identified. Dr. Husz found it interesting that the faxed request from 1-800 Contacts that the fax was addressed to "Clinic, Z." Dr. Dalal was present to address the Board and stated that the fax number that 1-800 Contacts had for his office was incorrect and that on one of the complaints, his name was misspelled. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Quan Nguyen, O.D. IR#201739

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Nguyen failed to release a copy of the contact lens prescription when requested. Two patients; one not seen by Dr. Nguyen and the second patient request was responded to by the doctor. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0

Raymond Sherban, O.D. IR#201740

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Sherban failed to release a copy of the contact lens prescription when requested. Two patients; both faxes received and responded to by the doctor. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Robert Sun, O.D. IR#201741

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Sun failed to release a copy of the contact lens prescription when requested. Doctor states he never received a faxed request for a copy of a prescription; only verification. One request, the patient's name doesn't match any patient of record in the doctor's practice. One, a response was faxed back to 1-800 Contacts and

one of the alleged requests was not received by the doctor's office. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Sonia Chung, O.D. IR#201742

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Chung failed to release a copy of the contact lens prescription when requested. There were six patients requested; two were never seen by Dr. Chung and four were responded to. Dr. Chung was present to address the Board stating that she called 1-800 Contacts to inquire about the complaints and their process for prescription verification. She had some concern that she was told by 1-800 Contacts that even if the office was closed and the answering machine picked up; the prescription would be considered verified and then filled. Dr. Chrisagis asked Dr. Chung if 1-800 Contacts made a differentiation between verification and supplying a contact lens prescription; Dr. Chung stated they did not. Ms. Baskin asked Dr. Chung who she spoke to at 1-800 Contacts. Dr. Chung gave the names of Brandon Bowes and Gage, no last name given. Mr. Galvin addressed the Board stating that Dr. Chung's comments were duly-noted and will be taken in to consideration.

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

VOTE: Motion passed 7-0.

Christine Bartoletti, O.D. IR#201743

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bartoletti failed to release a copy of the contact lens prescription when requested. There were two patients requested; one was not a patient of the doctor and one was responded back to 1-800 Contacts. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Tanya Lewis Polec, O.D. IR#201744

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Polec failed to release a copy of the contact lens prescription when requested. One patient was requested; a response was sent by the doctor. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Paul Wagner, O.D. IR#201745

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wagner failed to release a copy of the contact lens prescription when requested. There were six patients requested, all requests were responded to. Dr. Wagner was present to address the Board stating that he had a request from the mother of a patient asking for a three-month prescription for her minor child when the prescription was only valid for one more month. Dr. Wagner responded to 1-800

Contacts informing them to only fill one month. On May 6, 2016, Dr. Wagner's staff contacted 1-800 Contacts regarding this issue; they responded stating they will fill whatever the patient asks for as long as the prescription is currently valid. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Christopher Marmo, O.D. IR#201746

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Marmo failed to release a copy of the contact lens prescription when requested. **There were three patients requested; two were not patients of the doctor and one was responded to and faxed back to 1-800 Contacts.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Brent Wilson, O.D. IR#201747

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wilson failed to release a copy of the contact lens prescription when requested. **There were two patients requested; one was not a patient of the doctor and one was responded to and faxed back to 1-800 Contacts.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Stacey Burson, O.D. IR#201748

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Burson failed to release a copy of the contact lens prescription when requested. **There were two patients requested; one request was refused as the prescription was not correct and one no record of a request.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Stephen Martin, O.D. IR#201749

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Martin failed to release a copy of the contact lens prescription when requested. **There were two patients requested; doctor showed no request made for either patient.** Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Bethanie Deemer, O.D. IR#201750

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Deemer failed to release a copy of the contact lens prescription when requested. There were two patients requested; both patients had common names, doctor was unable to determine who the requests were for without further identifying information. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Todd Smith, O.D. IR#201751

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Smith failed to release a copy of the contact lens prescription when requested. There were three patients requested; none of which could be identified by the doctor as the patient names were common and the doctor had multiple patients in the practice with the same name. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Paul Woolf, O.D. IR#201752

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Woolf failed to release a copy of the contact lens prescription when requested. There were 11 requests for ten patients; one no record and nine were responded to and faxed back to 1-800 Contacts. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Stephen Spencer, O.D. IR#201753

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Spencer failed to release a copy of the contact lens prescription when requested. There were four patients requested; one was sent back to 1-800 Contacts, one, the prescription was expired, one no record of the patient, one no record of the request from 1-800 Contacts. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Thomas Determan, O.D. IR#201754

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Determan failed to release a copy of the contact lens prescription when requested. There was one patient requested; patient did not have a contact lens exam, therefore, no prescription existed for this patient. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0

Jacqueline Lucas, O.D. IR#201755

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lucas failed to release a copy of the contact lens prescription when requested. There were five patients requested; three were not her patients and two were last seen in 2011 so the records were no longer in Dr. Lucas's possession pursuant to the records retention law. Dr. Lucas was present to address the Board stating that two of her patients that she no longer sees are temporary residents who do not see her on a regular basis and who were also instructed to no longer wear contact lenses due to poor ocular health. Dr. Lucas stated that the patients continued to receive contacts from 1-800 Contacts even without a current valid prescription. Mr. Tom Galvin, attorney representing 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

### March 17, 2017

#### **EXECUTIVE DIRECTOR'S REPORT:**

Budget: As of February 28, 2017, 66.67% of FY elapsed; Board spending at 51.78% with a beginning cash balance of \$207,051 and an ending cash balance of \$266,634. The total cost of processing the 1-800 Contacts complaint is not yet included in the Board's spending.

#### **REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

Brian Baird, O.D. IR#201756

Dr. Chrisagis summarized that there were six complaints against six patients. Dr. Baird shows notes in his records that these were phone requests; all were sent back with one form returned with an expired prescription.

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

VOTE: Motion passed 7-0.

Amy Crump, O.D. IR#201759

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Crump failed to release a copy of the contact lens prescription when requested. There were 17 complaints; some were duplicate and triplicate requests. Some of the requests were the same patient but the name was misspelled so it appeared to be a different patient. Most of the patients there was no request made; some of the patients had the same name with no other identifying information. Dr. Peller felt Dr. Crump substantially complied with all requests from 1- 800 Contacts.

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

VOTE: Motion passed 7-0.

James Liston, O.D. IR#201761

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Liston failed to release a copy of the contact lens prescription when requested. There were 12 complaints against nine patients.

Dr. Lamb stated that Dr. Liston responded that there were no records found for these patients. Dr. Chrisagis stated that Dr. Liston's response stated that none of the patients corresponded to the RXCaptureID number provided by 1-800 Contacts and that they wouldn't because that is an internal control to 1-800 Contacts and not Dr. Liston. Dr. Chrisagis felt that Dr. Liston needs to look at the patient names and attempt to get the records even if they are from a previous practice. Dr. Mach asked Dr. Chrisagis to table the complaint for further information. Dr. Chrisagis directed staff to solicit Dr. Liston for a supplemental response with named patient records if obtainable.

Karen Walker, O.D. IR#201762

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Walker failed to release a copy of the contact lens prescription when requested. A request for a copy of a patient's contact lens prescription was submitted by 1-800 Contacts; Dr. Walker responded to the request, giving a copy of the prescription to 1-800 Contacts for the one patient.

MOTION: Dr. Peller moved to **dismiss** the case due to lack of violation of the optometric practice act. Dr. Lamb seconded the motion. Dr. Walker was present to address the Board. She stated that after going through the first three pages of the complaint, she finally found the actual complaint which was on page 4, line 6; "failed to respond to request". One of the prescriptions was not finalized as of the date of the request from 1-800 Contacts. Dr. Walker spoke with the patient named in the complaint; the patient did not know about the complaint nor did she agree with the complaint being filed on her behalf and that she was not harmed by the prescription not being released until the prescription was finalized. On counts 2 and 3 of the complaint, Dr. Walker states she did not violate any statutes or rules of the practice of optometry in Arizona. Dr. Walker states that 1-800 Contacts violated A.R.S. §32-1771(C) which states, "Contact lenses may not be sold or dispensed except pursuant to a prescription order that conforms to state and federal regulations governing prescriptions" and also violated 15 USC section 7603(a) which states, "A seller may sell contact lenses only in accordance with a contact lens prescription for the patient that is (1) presented to the seller by the patient or prescriber directly or by facsimile; or (2) verified by direct communication." Dr. Walker stated that to say that she engaged in unprofessional conduct and did not comply with the law is "over the top character assassination" and that it is shocking in light of 1-800 Contacts' own violation of the federal and state laws. Thomas Galvin, attorney for Rose Law Group was present on behalf of 1-800 Contacts. He had advised the Board he had no comment at this time other than to state that he would take all comments from the licensees back to his client for consideration for this and each complaint. Mr. Whiteman stated he had issues with this complaint being filed with the Board in the form of a civil complaint with counts, and not in the form of a factual narrative. VOTE: Motion passed 7-0.

Donald Siegel, O.D. IR#201765

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Siegel failed to release a copy of the contact lens prescription when requested. There were requests for two patient prescriptions; both were faxed back to 1-800 Contacts to comply with the request.

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

VOTE: Motion passed 7-0.

Ryan Stuart, O.D. IR#201766

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Stuart failed to release a copy of the contact lens prescription when requested. There were requests for three patient prescriptions; Dr. Stuart showed no record of a request for two of the patients and the third patient had no valid prescription.

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

VOTE: Motion passed 7-0.

Taylor Hutchins, O.D. IR#201770

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hutchins failed to release a copy of the contact lens prescription when requested. There were three separate requests for one patient prescription; Dr. Hutchins faxed back responses on three separate occasions to 1-800 Contacts to comply with the request.

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

VOTE: Motion passed 7-0.

Jesse Dominguez, O.D. IR#201780

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Dominguez failed to release a copy of the contact lens prescription when requested. A request for a copy of a contact lens prescription for two patients was submitted by 1-800 Contacts. Dr. Dominguez responded that there was no evidence in his records of a records request by 1-800 Contacts for either patient.

MOTION: Dr. Peller moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Lamb seconded the motion. Dr. Dominguez was present to address the Board. He stated that he called the patients to inquire about the complaint. Both patients were never informed by 1-800 Contacts of the complaint even though the compliant states that they are representing the patient. Dr. Dominguez stated his number one concern is the safety of his patients and that they are suffering by not being seen this morning from him having to appear before the Board for a complaint that has no merit.

VOTE: Motion passed 7-0.

Richard Baim, O.D. IR#201781

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Baim failed to release a copy of the contact lens prescription when requested. There were 15 complaints for 10 patients; two had files been purged pursuant to the records retention law as they were from 2010, five were never received by the doctor and three showed responses to 1-800 Contacts to comply with the request.

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

VOTE: Motion passed 7-0.

Christopher Carpenter, O.D. IR#201785

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Carpenter failed to release a copy of the contact lens prescription when requested. There were two complaints; one patient

was never seen in the practice and there was no copy of a request from 1-800 Contacts in the record for the other patient.

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

VOTE: Motion passed 7-0.

Serge Wright, O.D. IR#201786

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Wright failed to release a copy of the contact lens prescription when requested. **There was one patient/complaint; patient was never seen in the practice.**

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

VOTE: Motion passed 7-0.

Steven Labroff, O.D. IR#201788 Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Labroff failed to release a copy of the contact lens prescription when requested. **There were five complaints; three had no requests from 1-800 Contacts in the records, one patient request was sent back to 1-800 Contacts four times, one prescription was an eyeglass only prescription.**

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

VOTE: Motion passed 7-0.

Jonathan Wold, O.D. IR#201789

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Wold failed to release a copy of the contact lens prescription when requested. **There were four patients; two responses were sent back to 1-800 Contacts, one patient there was no record of a request, one patient's prescription was sent back to 1-800 Contacts on four separate occasions.**

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

VOTE: Motion passed 7-0.

14. Jack Hostetler, O.D. IR#201790

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hostetler failed to release a copy of the contact lens prescription when requested. **There were two patients; one patient there was no record of a request and the second patient, a response was provided to 1-800 Contacts to comply with the request.**

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

VOTE: Motion passed 7-0.

Libbi Tracy, O.D. IR#201793

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Tracy failed to release a copy of the contact lens prescription when requested. **There was one patient; a response was provided to 1-800 Contacts to comply with the request.**

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

VOTE: Motion passed 7-0.

Rhett Burgener, O.D. IR#201794

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Burgener failed to release a copy of the contact lens prescription when requested. There were 12 complaints; some patients were listed two or three times with the names spelled differently. Three patients were seen in a different office, some of the prescriptions were expired but the doctor faxed them back to 1-800 Contacts to comply with the request.

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

VOTE: Motion passed 7-0.

Kevin Wogalter, O.D. IR#201795

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wogalter failed to release a copy of the contact lens prescription when requested. There were two complaints against two patients, neither was seen by Dr. Wogalter.

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

VOTE: Motion passed 7-0.

James Richardson, O.D. IR#201796

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Richardson failed to release a copy of the contact lens prescription when requested. There were four complaints; one patient was last seen in 2008, no records available due to records retention law, one patient was last seen in 2004, one patient was seen in a different office with a different doctor and one patient request was faxed back to 1-800 Contacts to comply with the request.

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

VOTE: Motion passed 7-0.

Eric Jones, O.D. IR#201797

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Jones failed to release a copy of the contact lens prescription when requested. There were five requests for two patients; one patient was never seen in the practice and the second patient, a response was provided to 1-800 Contacts to comply with the request.

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

VOTE: Motion passed 7-0.

### May 19, 2017

#### **EXECUTIVE DIRECTOR'S REPORT:**

Budget: 83.33% of FY elapsed; Board spending at 71% with a beginning cash balance of \$263,006 and an ending cash balance of \$267,532. There is \$9,000 in rent not yet paid which will bring the Board spending closer to the FY lapsed. The total cost of processing the 1-800 Contacts complaint is not yet included in the Board's spending.

## **REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

Shane Theobald, O.D. IR#201757

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Theobald failed to release a copy of the contact lens prescription when requested. Four patients were requested; one, a response was sent to 1-800 Contacts, two, no record of a request from 1-800 Contacts and one was not a patient of the record. Dr. Theobald was present to address the Board stating that his practice protocol is to always release a copy of the prescription once it is finalized. He stated that patients may also get a copy of the prescription any time it is requested. Dr. Theobald also indicated that the practice address and fax number submitted by 1-800 Contacts was over seven years old and he was no longer using that information. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Erik Ornstein, O.D. IR#201760

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Ornstein failed to release a copy of the contact lens prescription when requested. Two patients were requested; no record of a request from 1-800 Contacts for either patient was received. Dr. Ornstein was present to address the Board stating that he changed practices and did not have access to the patient records in question as the records were stored by a third party company who was in a contract dispute with the doctor and therefore wouldn't release the record. Dr. Ornstein stated his office protocol is to always release the contact lens prescription when requested in writing. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

V. Craig Stuart, O.D. IR#201767

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Stuart failed to release a copy of the contact lens prescription when requested. Eight patients were requested; two patents were not his, no record of a request from 1-800 Contacts for the other six patients was received. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Stephen Christensen, O.D. IR#201768

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Christensen failed to release a copy of the contact lens prescription when requested. Two patients were requested, no record of a request from 1-800 Contacts for either patient was received. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Spencer Ray, O.D. IR#201782

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Ray failed to release a copy of the contact lens prescription when requested. Two patients were requested, both prescriptions were faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Gail Schechter, O.D. IR#201784

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Schechter failed to release a copy of the contact lens prescription when requested. Twelve patients were requested; some multiple times. All requests were responded to by Dr. Schechter. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Catherine Hollenbach , O.D. IR#201787 r. Husz summarized the case as 1-800 Contacts alleges that Dr. Hollenbach failed to release a copy of the contact lens prescription when requested. Eight patients were requested; some multiple times. All requests were responded to by Dr. Hollenbach. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Taylor McMullen, O.D. IR#201791

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. McMullen failed to release a copy of the contact lens prescription when requested. Four patients were requested; one, no record of a request from 1-800 Contacts, two requests were faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Jennifer Sarmiento, O.D. IR#201792

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Sarmiento failed to release a copy of the contact lens prescription when requested. One patient requested; request faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Douglas Miner, O.D. IR#2017111

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Miner failed to release a copy of the contact lens prescription when requested. Two patients requested; two requests faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion. OTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Jeffrey Lewis, O.D. IR#2017112

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lewis failed to release a copy of the contact lens prescription when requested. Fifteen patients requested; seven patients not in the practice, two prescriptions were expired; six requests faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Tami Lang, O.D. IR#2017113

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lang failed to release a copy of the contact lens prescription when requested. Four patients requested; two patients not in the practice; one request not received; one request faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Kristin Pope, O.D. IR#2017117

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Pope failed to release a copy of the contact lens prescription when requested. Dr. Pope has been gone from the practice since 2013; 1-800 Contacts did not contact the doctor with a request. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

Jason McCord, O.D. IR#2017121

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. McCord failed to release a copy of the contact lens prescription when requested. Two patients requested; doctor left practice in 2012 before the date of the complaints. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

20. Jarrod Cross, O.D. IR#2017123

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Cross failed to release a copy of the contact lens prescription when requested. **Nine patients requested; doctor was not working at that practice at the time; 1-800 Contacts did not contact the doctor regarding these complaints.**

Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

21. Heather Betsko, O.D. IR#2017125

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Betsko failed to release a copy of the contact lens prescription when requested. **Two patients requested; one patient not in the practice; one request not received.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

Edward Frantsvog, O.D. IR#2017128

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Frantsvog failed to release a copy of the contact lens prescription when requested. **One patient requested; patient has same name as several other patients; not enough identifying information to provide records.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

Pramesh Patel, O.D. IR#2017136

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Patel failed to release a copy of the contact lens prescription when requested. **Dr. Patel was present to address the Board stating that he has practiced for over 20 years and always releases a copy of the prescription when requested. Dr. Patel stated the faxed requests from 1-800 contacts were sent to a practice that he had left two years prior to the date on this complaint.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Dr. Peller recused.

Julie Lam, O.D. IR#2017150

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lam failed to release a copy of the contact lens prescription when requested. **One patient requested; prescription was never finalized.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Kent Blatter, O.D. IR#2017118

Nationwide Vision Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Blatter failed to release a copy of the contact lens prescription when requested. **One patient requested; request not received from 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

Joseph Taddonio, O.D. IR#2017119

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Taddonio failed to release a copy of the contact lens prescription when requested. **Three patients requested; one patient not in the practice; two requests were for expired prescriptions.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

John Ripley, O.D. IR#2017120

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Ripley failed to release a copy of the contact lens prescription when requested. **Two patients requested; no record of requests received.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

Jason Becker, O.D. IR#2017122

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Becker failed to release a copy of the contact lens prescription when requested. **Two patients requested; no record of request from 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

Ghadeer Makoshi, O.D. IR#2017126

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Makoshi failed to release a copy of the contact lens prescription when requested. **Two patients requested; Dr. Makoshi informed the Board that no patient names were provided so she couldn't respond or provide records.** **Ms. Whelan informed the Board that Dr. Makoshi did receive the patient names.** The Board tabled the complaint and directed staff to subpoena the records for the patients in question from Dr. Makoshi. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Husz moved to table. Peller seconded the motion.

VOTE: Motion passed 7-0.

Ernestine Leitman, O.D. IR#2017127

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Leitman failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient last fit for contact lenses in 2007; one request not received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Dr. Peller recused. Mr. Whiteman was absent from the vote.

Dina Hamideh, O.D. IR#2017129

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hamideh failed to release a copy of the contact lens prescription when requested. Ten patients requested; doctor states no requests received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Dr. Peller recused.

Daniel Crook, O.D. IR#2017131

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Crook failed to release a copy of the contact lens prescription when requested. One patient requested; request faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Dr. Peller recused.

Leland Sherlock, O.D. IR#201775

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Sherlock failed to release a copy of the contact lens prescription when requested. Ten patients requested; two patients not in the practice; four requests not received; four requests faxed back to 1-800 Contacts. Mr. Scott King, attorney for Dr. Sherlock was present to address the Board stating he was available to answer questions from the Board regarding Dr. Sherlock; the Board had none. Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating he would incorporate arguments made earlier in Dr. Hardin's case. The Board considered Mr. Call's comments.

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

VOTE: Motion passed 7-0.

Stacey Meier, O.D. IR#2017114

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Meier failed to release a copy of the contact lens prescription when requested. Twelve patients requested; six patients not in the practice; four request not received; two requests faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating he would incorporate

arguments made earlier in Dr. Hardin's case. He stated there was a failure of the doctor to demonstrate that he responded to all the requests for information in this case as there is a lack of evidence from Dr. Meier that he responded to all requests. Mr. Call stated there were three patients seen prior to 2010 where Dr. Meier did not respond to 1-800 Contacts requests. The Board considered Mr. Call's comments.

MOTION: Dr. Lamb moved to issue a **Letter of Concern** pursuant to A.R.S. §32-1744(E) for possible violation of A.A.C. R4-21-306 and A.R.S. §32-1771, including Dr. Meier not familiarizing himself with the FCLCA. Dr. Mach seconded the motion. Dr. Husz stated she disagreed with the motion due to the fact that three of the patients in question were last seen prior to 2010 and were outside the records retention law so the request was an unfair request. Dr. Lamb stated that Dr. Meier still should have responded to 1-800 Contacts letting them know if that was the case.

VOTE: Motion passes 4-3.

Gregory Meek, O.D. IR#2017115 Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Meek failed to release a copy of the contact lens prescription when requested. **Thirty patients requested; four patients not in the practice; eleven requests faxed back to 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating he would incorporate arguments made earlier in Dr. Hardin's case. He stated there were 63 violations between September 25, 2014 and September 2, 2015 making Dr. Meek one of the more egregious offenders with only 14 responses to the 30 patients. Mr. Call requested the Board issue a Letter of Concern at a minimum. The Board considered Mr. Call's comments.

MOTION: Dr. Lamb moved to issue a **Letter of Concern** pursuant to A.R.S. §32-1744(E) for possible violation of A.A.C. R4-21-306 and A.R.S. §32-1771 including Dr. Meek not familiarizing himself with the FCLCA. Dr. Mach seconded the motion.

VOTE: Motion passed 5-2. Dr. Husz and Mr. Whiteman voted no.

Nancy Hardin, O.D. IR#2017132

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hardin failed to release a copy of the contact lens prescription when requested. **Eight patients were requested; five, a response was sent to 1-800 Contacts, two, no record of a request from 1-800 Contacts and one was not a patient of the record.** Dr. Hardin was present to address the Board stating that her practice protocol is to always verify a prescription. She stated that patients may also get a copy of the prescription any time it is requested. Dr. Hardin indicated that there were multiple faxed requests for the same patient and she has a very small practice so they may not have gotten a second or third request. **Mr. Keith Call, counsel for 1-800 Contacts was present and addressed the Board stating 1-800 Contacts believes there is a problem with law violations in Arizona with about 48% of doctors who don't follow the law by providing prescriptions upon request.** He stated that 1-800 Contacts has provided this Board an opportunity to change behavior of its licensees and take corrective action to make sure that compliance with the law occurs. Mr. Call asked the question, "Did Dr. Hardin violate the law by not responding to a request for a prescription? The answer is yes." He stated that the FCLCA requires that when a copy of the prescription is requested, it must be provided; 1-800 Contacts acting on behalf of its patients made the request for the prescription from Dr. Hardin; she failed to comply. Mr. Call stated that an affidavit has been provided to the Board regarding the requests for records made to the optometrists in Arizona. Mr. Call stated it is not the intent of this complaint to take away anyone's livelihood or

jeopardize anyone's practice; the goal is to change the behavior to force compliance with the law. Dr. Husz made a statement that the Board has already processed at least 10% of the complaints from 1-800 Contacts and there have been no findings to support Mr. Call's number of "48% violation of the law" and asked Mr. Call to provide empirical and statistical data or citation for this statement, which he did not. Dr. Chrisagis stated that he appreciated Mr. Call's comments in this case however, they were stated previously and were not directly related to this complaint but rather, were directed at the Board to control how the Board does business. Dr. Chrisagis stated that the Board has been more than diligent and fair in processing these complaints and that 1-800 Contacts has not been as fair-minded when it continues to express that Arizona licensed optometrists do not know the law or that they have to follow it.

MOTION: Mr. Whiteman moved to issue a Letter of Concern explaining the difference between a request for verification of a prescription and a request for a copy of a prescription. Dr. Mach seconded the motion.

The Board dialogued regarding confusion about the form submitted for the requests for a copy of a prescription versus a request for verification. Mr. Whiteman withdrew his motion for a Letter of Concern. Dr. Mach withdrew his second to the motion.

Dr. Husz moved to go into Executive Session for the purpose of legal advice and review of confidential records. Dr. Mach seconded the motion. Motion passed 7-0. The Board went into Executive Session at 10:07 a.m.

The Board reconvened Regular Session at 10:38 a.m. Ms. Baskin addressed the Board stating that HIPAA does permit covered entities such as 1-800 Contacts to disclose information pursuant to the treatment or "required by law" exceptions. Mr. Call addressed the Board stating he wanted to respond to some of the comments he heard after his initial statement was made. He stated 1-800 Contacts did not have actual prescriptions when the request was made and that what the Board may have been looking at was information provided by the patient and entered into their system. Mr. Call also addressed the issue of the type of information required, stating that in the request sent by them is the patient name and address so 1-800 Contacts feels that, that is enough identifying information to fulfill the request. Dr. Chrisagis asked Mr. Call if there are multiple patients with the same name could the doctor ask 1-800 Contacts for more information? Mr. Call stated they could.

MOTION: Dr. Lamb moved to issue a Letter of Concern pursuant to A.R.S. §32-1744(E) for possible violation of A.A.C. R4-21-306 and A.R.S. §32-1771 and Dr. Hardin not familiarizing herself with the FCLCA and as it relates to prescription release and verification. Dr. Husz seconded the motion.

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Loc Pham, O.D. IR#201763

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Pham failed to release a copy of the contact lens prescription when requested. Two patients were requested; a response for both was sent to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 5-0. Peller recused due to conflict of interest; Mr. Whiteman was absent from the vote.

Chantelle Clarizio, O.D. IR#201764

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Clarizio failed to release a copy of the contact lens prescription when requested. Three patients were requested; a response for all was sent to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0. Mr. Whiteman was absent from the vote.

Taylor Thompson, O.D. IR#201769

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Thompson failed to release a copy of the contact lens prescription when requested. Two patients requested; one prescription never finalized; one request faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Stephen Stahl, O.D. IR#201771

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Stahl failed to release a copy of the contact lens prescription when requested. One patient requested; request faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Roger Ethington, O.D. IR#201772

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Ethington failed to release a copy of the contact lens prescription when requested. Five patients requested; one patient not in the practice; one request for a patient with multiple patients with same name; three no requests received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Rochelle Myers, O.D. IR#201773

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Myers failed to release a copy of the contact lens prescription when requested. Three patients requested; one patient not in the practice; one request not received; one request faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Matthew Palmer, O.D. IR#201774

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Palmer failed to release a copy of the contact lens prescription when requested. Five patients requested; one patient not in the practice; four requests not received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Kristia Owens, O.D. IR#201776

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Owens failed to release a copy of the contact lens prescription when requested. Five patients requested; three patients with multiple patients by the same name; one patient not in the practice; one request faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Barry Pasco, O.D. IR#201777

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Pasco failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient not in the practice; one request not received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Bradley Walker, O.D. IR#201778

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Walker failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient not in the practice; one request not received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Arlynn Roper, O.D. IR#201779

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Roper failed to release a copy of the contact lens prescription when requested. Fourteen patients requested; twelve requests not received; two requests faxed back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

James Hooper, O.D. IR#2017124

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Hooper failed to release a copy of the contact lens prescription when requested. Eight patients requested; six patients not in the practice; one multiple patients with same name; one no request received from 1-800 Contacts.

Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Steven Wan, O.D. IR#2017133

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Wan failed to release a copy of the contact lens prescription when requested. Two patients requested; one patient not in the practice; one response sent back to 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Yen Ng, O.D. IR#2017135

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Ng failed to release a copy of the contact lens prescription when requested. Five patients requested; one response sent back to 1-800 Contacts; five no request received. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Jason Pick, O.D. IR#2017138

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Pick failed to release a copy of the contact lens prescription when requested. Five patients requested; one patient not in the practice; four no response to 1-800 Contacts due to records being in storage. Mr. Keith Call, counsel for 1-800 Contacts was present and asked the Board to issue a Letter of Concern due to Dr. Pick's admission of no response to the requests from 1-800 Contacts. The Board considered Mr. Call's comments.

MOTION: Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion. Dr. Lamb stated that the patients were seen four years prior to the requested date and their records are off-site; why would 1-800 Contacts request records for a patient that old? Dr. Lamb felt this was an impossible request to the doctor.

VOTE: Motion passed 6-1. Dr. Mach voted no.

James Fabricant, O.D. IR#2017143

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Fabricant failed to release a copy of the contact lens prescription when requested. The request was for a patient who never had a contact lens exam and therefore, no prescription. Mr. Keith Call, counsel for 1-800

Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Joseph Reitano, O.D. IR#2017147

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Reitano failed to release a copy of the contact lens prescription when requested. **Nine patients requested; nine responses sent back to 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Heidi Frank, O.D. IR#2017148

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Frank failed to release a copy of the contact lens prescription when requested. **Five patients requested; five responses sent back to 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

Alissa Wong, O.D. IR#2017149

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Wong failed to release a copy of the contact lens prescription when requested. **One patient requested; one response sent back to 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 7-0.

## June 23, 2017

### **EXECUTIVE DIRECTOR'S REPORT:**

Budget: 91.67% of FY elapsed; Board spending at 79.50% with a beginning cash balance of \$267,532 and an ending cash balance of \$280,384. The Board is appropriated \$260,100 for FY18 beginning July 1, 2017. **There was a one-time \$60K increase to the appropriation for this FY; \$10K to cover the cost of the 1- 800 Contacts complaints processing and the rest to the eLicensing project expected to roll out in early March of 2018.**

### **REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

Daniel McGehee, O.D. IR#201858

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. McGehee failed to release a copy of the contact lens prescription when requested. **24 patients; 5 requests were responded to, 15 no record of a request from 1-800 Contacts, 7 of the patients were seen only between 2007 and 2011, 2 were not patients of the doctor and one, the doctor couldn't identify the patient.** Dr.

McGehee was present to address the Board stating that back in 2002, there were issues with 1-800 Contacts working with optometrists in Arizona to get the passive verification so he felt this complaint situation would be just as arduous. Dr. McGehee stated that he always responds to any request for records and that 1-800 Contacts.

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

VOTE: Motion passed 6-0.

David Christensen, O.D. IR#2017130

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Christensen failed to release a copy of the contact lens prescription when requested. 5 patients; 3 no record of a request from 1-800 Contacts, I was not a patient of the doctor and one the doctor couldn't identify the patient.

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

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

Tammy Lavicka, O.D. IR#2017134

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lavicka failed to release a copy of the contact lens prescription when requested. Dr. Lavicka left the practice in 2013; patients in the complaint were seen after she left the practice. Dr. Lavicka still obtained the records from the previous practice and submitted them to the Board as part of her response to this complaint. Dr. Lavicka was present and addressed the Board stating that most of the records have been destroyed pursuant to the records retention law by the previous practice and that some of them were moved from paper to electronic with no record of the patient.

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

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

Khrystopher Gates, O.D. IR#2017137

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Gates failed to release a copy of the contact lens prescription when requested. 1 patient; Dr. Gates left the practice prior to the dates of the requests in the complaint; patient in the complaint was seen after he left the practice.

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

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

Aaron Lambson, O.D. IR#2017140

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lambson failed to release a copy of the contact lens prescription when requested. 2 patients; Dr. Lambson left the practice prior to the dates of the requests in the complaint; patients in the complaint were seen after he left the practice.

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

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

Zahra Lalwani-Lasee, O.D. IR#2017141

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Lalwani-Lasee failed to release a copy of the contact lens prescription when requested. 4 complaints for 2 patients; Dr. Lalwani-Lasee left the practice prior to the dates of the requests in the complaint; patients in the complaint was seen after she left the practice.

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

VOTE: Motion passed 6-0.

Sepideh Saleki, O.D. IR#2017142

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Saleki failed to release a copy of the contact lens prescription when requested. 1 patient; no record of a request from 1-800 Contacts. Mr. Gregory Harris, Attorney was present representing Dr. Saleki; he asked the Board to dismiss the complaint based on the fact that there was no record of a request and that if there was, Dr. Saleki would have complied with the request.

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

VOTE: Motion passed 6-0.

Eva Lavinia Takacs, O.D. IR#2017144

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Takacs failed to release a copy of the contact lens prescription when requested. 7 complaints for 6 patients; 3 no record of a request from 1-800 Contacts, 2 were not patients of the doctor and one request was received and responded to by Dr. Takacs.

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

VOTE: Motion passed 6-0.

Asinech Hellan, O.D. IR#2017145

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hellan failed to release a copy of the contact lens prescription when requested. 2 patients; both requests were responded to by Dr. Hellan.

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

VOTE: Motion passed 6-0.

Maury Kessler, O.D. IR#2017146

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Kessler failed to release a copy of the contact lens prescription when requested. 19 complaints for 12 patients; 9 requests were responded to by Dr. Kessler, 2 of the patients were phone requests; no request in writing was made and 1 no record of a request from 1-800 Contacts,

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

VOTE: Motion passed 6-0.

July 21, 2017

## **EXECUTIVE DIRECTOR'S REPORT:**

Budget: 100% of FY elapsed; Board spending at 99.44% with a beginning cash balance of \$280,384 and an ending cash balance of \$283,608.

## **REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

David Thomas, O.D. IR#201706

Dr. Chrisagis summarized the case as 1-800 Contacts alleges that Dr. Thomas failed to release a copy of the contact lens prescription when requested. 93 complaints on 30 patients; 12 requests were responded to; some prescriptions were expired, 16 no record of a request from 1-800 Contacts received, one was not a patient of the doctor and one, the doctor couldn't identify the patient. Dr. Thomas was present to address the Board stating that he always responds to any request for records and that 1-800 Contacts has the wrong fax number. Mr. Keith Call, counsel for 1-800 Contacts was present to address the Board stating that the fax number is valid and that all requests should be responded to regardless of whether the prescription is expired.

MOTION: Dr. Lamb moved to issue a Letter of Concern for not releasing a copy of the prescription pursuant to A.A.C. R4-21-305(E)(F) and for not following the FCLCA regarding release of contact lens prescriptions. Dr. Mach seconded the motion.

VOTE: Motion failed 0-6.

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

VOTE: Motion passed 6-0.

Thomas Sowash, O.D. IR#201713

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Sowash failed to release a copy of the contact lens prescription when requested. There were faxes sent to Dr. Sowash who does not see patients. Attorney Andrew Sniegowski was present representing Dr. Sowash. He stated he doesn't feel Dr. Sowash should be a target based on the size of his practice and that Dr. Sowash is aware that he should comply with all requests. Dr. Sowash was present and addressed the Board stating he does not see patients in his Arizona practice. Mr. Keith Call, counsel for 1-800 Contacts was present to address the Board stating that there were 44 violations from August of 2014 to September of 2015 and that the Board received sworn evidence that faxes were sent to a proper fax number.

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

VOTE: Motion passed 6-0. Dr. Husz moved to go into Executive Session for the purpose of legal advice and review of confidential records. Dr. Mach seconded the motion. Motion passed 6-0.

Terri Gieske, O.D. IR#201783

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Gieske failed to release a copy of the contact lens prescription when requested. 17 patients; three patients were not seen by Dr. Gieske, 7 no record of a request from 1-800 Contacts and it appears that 7 requests were not responded to by the doctor. Mr. Keith Call, counsel for 1-800 Contacts was present to address the Board stating that there were 36 violations in this case and the doctor did not respond to all requests.

MOTION: Dr. Mach moved to issue a **Letter of Concern** for failure to release records pursuant to A.R.S. 32-1744(E) and A.A.C. R4-21-305(A)(3)(E)(F). Mr. Evanoff seconded the motion.  
VOTE: Motion passed 6-0.

Lisa Ahuactzin, O.D. IR#2017116

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Ahuactzin failed to release a copy of the contact lens prescription when requested. **4 patients; one no copy of the prescription was available as patient did not follow up to complete; patient last seen in 2011, two patients no request was received from 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

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

William Huber, O.D. IR#2017203

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Huber failed to release a copy of the contact lens prescription when requested. **1 patient; no prescription available as patient did not follow up to complete.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

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

Richard Koop, O.D. IR#2017210

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. R. Koop failed to release a copy of the contact lens prescription when requested. **6 patients; no copy of a request from 1-800 Contacts was received for 3 of the patients, 1 patient was not a patient of Dr. R. Koop.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Mach moved to issue a **Letter of Concern** for failing to respond to a request for a copy of the prescription pursuant to A.A.C. R4-21-305(E)(F). Dr. Lamb seconded the motion.

VOTE: Motion passed 4-1. Dr. Peller recused. Dr. Husz voted no.

Mira Bisembina, O.D. IR#2017213

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bisembina failed to release a copy of the contact lens prescription when requested. **1 patient; was not a patient of Dr. Bisembina.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

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

Peggy Sue Koop, O.D. IR#2017214

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. P. Koop failed to release a copy of the contact lens prescription when requested. **1 patient requested; had not been seen by Dr. P. Koop since 2010.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

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

Mark Peller, O.D. IR#2017220

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Peller failed to release a copy of the contact lens prescription when requested. **1 patient requested; had not been seen in the practice since 2007 and was not a patient of Dr. Peller.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

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

Stuart Adams, O.D. IR#2016163

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Adams failed to release a copy of the contact lens prescription when requested. **4 patients requested; all requests responded to by Dr. Adams.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Trina Cheng, O.D. IR#2017165

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Cheng failed to release a copy of the contact lens prescription when requested. **1 patient requested; all requests responded to by Dr. Cheng.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

John Pearson, O.D. IR#2017167

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Pearson failed to release a copy of the contact lens prescription when requested. **2 patients requested; all requests responded to by Dr. Pearson.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Robert Brown, O.D. IR#2018169

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Brown failed to release a copy of the contact lens prescription when requested. **2 patients; all requests responded to by Dr. Brown.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Peller moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Husz seconded the motion. Dr. Mach had some concern over the medical

records; the signature of the doctor was illegible and there was no identification of the prescribing doctor. Dr. Peller withdrew his motion to dismiss. Dr. Husz withdrew her second to the motion.

MOTION: Dr Mach moved to issue a **Letter of Concern** for **failure to maintain proper records** under A.A.C. R4-21-305(A)(3) as signature of the treating optometrist was illegible and there was no printed name of the prescribing optometrist on the prescriptions. Dr. Chrisagis seconded the motion.

VOTE: Motion passed 6-0.

Raymond Corona, O.D. IR#2017170

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Corona failed to release a copy of the contact lens prescription when requested. **9 complaints for 6 patients; all requests responded to by Dr. Corona.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case. Dr. Mach had some concern over the medical records; the signature of the doctor was illegible and there was no identification of the prescribing doctor.

MOTION: Dr Mach moved to issue a **Letter of Concern** for **failure to maintain proper records** under A.A.C. R4-21-305(A)(3) as signature of the treating optometrist was illegible and there was no printed name of the prescribing optometrist on the prescriptions. Dr. Lamb seconded the motion.

VOTE: Motion passed 6-0.

Navdeep Gill, O.D. IR#2017176

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Gill failed to release a copy of the contact lens prescription when requested. **1 patient; no requests received by 1-800 Contacts.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Michael Johnson, O.D. IR#2017177

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Johnson failed to release a copy of the contact lens prescription when requested. **4 complaints for 3 patients; all requests responded to by Dr. Johnson.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Franklin Middleman, O.D. IR#2017180

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Middleman failed to release a copy of the contact lens prescription when requested. **1 patient; all requests responded to by Dr. Middleman.** Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Leslie Weintraub, O.D. IR#2017181

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Weintraub failed to release a copy of the contact lens prescription when requested. 1 patient; all requests responded to by Dr. Weintraub. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Kenneth Jeffers, O.D. IR#2017182

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Jeffers failed to release a copy of the contact lens prescription when requested. 1 patient; all requests responded to by Dr. Jeffers. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Dawn Heffelfinger, O.D. IR#2017186

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Heffelfinger failed to release a copy of the contact lens prescription when requested. 4 patients; all requests responded to by Dr. Heffelfinger. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Dana Bates, O.D. IR#2017187

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Bates failed to release a copy of the contact lens prescription when requested. 3 patients; 2 no request received from 1-800 Contacts, 1 request responded to by Dr. Bates. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Timothy Powell, O.D. IR#2017197

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Powell failed to release a copy of the contact lens prescription when requested. 1 patients; all requests responded to by Dr. Powell. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

David Toland, O.D. IR#2017199

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Toland failed to release a copy of the contact lens prescription when requested. 1 patient; not a patient of Dr. Toland. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Daniel Thomas, O.D. IR#2017200

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Thomas failed to release a copy of the contact lens prescription when requested. 1 patient; no requests received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Chau Do, O.D. IR#2017201 Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Do failed to release a copy of the contact lens prescription when requested. 4 complaints for 2 patients; 1 patient is not Dr. Do's, patient T.M. was last seen over seven years ago, records are no longer in possession of the doctor, all other requests responded to by Dr. Do. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Kent Kneip, O.D. IR#2017202

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Kneip failed to release a copy of the contact lens prescription when requested. 3 patients; 1 no request received from 1-800 Contacts, 1 patient not Dr. Kneip's patient, all other requests responded to by Dr. Kneip. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

VOTE: Motion passed 6-0.

Michael Rollins, O.D. IR#2017217

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Rollins failed to release a copy of the contact lens prescription when requested. 2 patients; 1 patient not Dr. Rollins's, 1 no request received from 1-800 Contacts. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

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

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

Michael Clark, O.D. IR#2017218

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Clark failed to release a copy of the contact lens prescription when requested. 5 complaints on 4 patients; 1 was an eyeglass

exam, 1 request not received from 1-800 Contacts, all other requests responded to by Dr. Clark. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case. MOTION: Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Mr. Evanoff seconded the motion. VOTE: Motion passed 5-0. Dr. Peller recused.

Melissa Gabriel, O.D. IR#2017219

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Gabriel failed to release a copy of the contact lens prescription when requested. All patients listed in the complaint from 1-800 Contacts were seen in the practice after Dr. Gabriel left the practice. Mr. Keith Call, counsel for 1-800 Contacts was present but had no comment on this case.

MOTION: Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Mr. Evanoff seconded the motion. VOTE: Motion passed 5-0. Dr. Peller recused.

### August 18, 2017

#### **EXECUTIVE DIRECTOR'S REPORT:**

Budget: 8.33% of FY elapsed; with a beginning cash balance of \$283,608 and an ending cash balance of \$288,340. The Board is appropriated \$222,200 for FY18. There was a one-time \$10K increase to the appropriation for this FY to cover the cost of the 1-800 Contacts complaints processing and \$2100 for general adjustments. For FY19 budget, there is an annualized cost of \$2231 (related to the move) for armed security in the new building, WiFi, eFax and an FTE to handle the customer service window in the lobby.

Future agenda items: Dr. Chrisagis requested a consent agenda for board meetings containing multiple 1-800 Contacts complaints; Board member appointments/update.

#### **REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

Victor Rosen, O.D. IR#2017175

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Rosen failed to release a copy of the contact lens prescription when requested. 2 patients; 1 not a patient, 1 didn't return to finalize the contact lens prescription.

MOTION: Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion. VOTE: Motion passed 6-0.

Kendra Eck, O.D. IR#2017178

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Eck failed to release a copy of the contact lens prescription when requested. 3 patients; no requests received from 1-800 Contacts.

MOTION: Dr. Lamb moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Peller seconded the motion. VOTE: Motion passed 6-0.

Thomas Johnson, O.D. IR#2017188

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Johnson failed to release a copy of the contact lens prescription when requested. 3 patients; 2 were never seen in this office, 1 patient no request was received from 1-800 Contacts.

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

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

Matthew Hunter, O.D. IR#2017189

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Hunter failed to release a copy of the contact lens prescription when requested. 1 patient; no request was received from 1-800 Contacts.

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

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

Martin Brussels, O.D. IR#2017190

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Brussels failed to release a copy of the contact lens prescription when requested. 1 patient; Dr. Brussels never practiced in the office alleged in the complaint; no request was received from 1-800 Contacts.

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

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

Marshall Palmer, O.D. IR#2017191

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Palmer failed to release a copy of the contact lens prescription when requested. 1 patient with a very common name; doctor unable to identify which patient as there are several in practice with same name and no birthdates or other identifying information was provided by 1-800 Contacts.

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

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

Jeffrey Olsen, O.D. IR#2017192

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Olsen failed to release a copy of the contact lens prescription when requested. 5 patients; doctor unable to identify which patients were requested as there are several in practice with same name and no birthdates or other identifying information was provided by 1-800 Contacts.

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

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

Ryan Wiggins, O.D. IR#2017208

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Wiggins failed to release a copy of the contact lens prescription when requested. 2 patients; 1 response sent back by Dr. Wiggins and 1, no request was received from 1-800 Contacts.

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

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

Roberto Lucca, O.D. IR#2017209

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Lucca failed to release a copy of the contact lens prescription when requested. **7 patients; 3 no request was received by 1-800 Contacts, 3 response sent back by Dr. Lucca and 1 no patient by that name in practice.**

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

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

Rhonda Nell, O.D. IR#2017211

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Nell failed to release a copy of the contact lens prescription when requested. **9 patients; 3 no request was received by 1-800 Contacts, 2 response sent back by Dr. Nell and 4 not patients in practice.**

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

VOTE: Motion passed 5-0. Dr. Peller

Miguel Char, O.D. IR#2017215

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Char failed to release a copy of the contact lens prescription when requested. **1 patient who was not Dr. Char's patient.**

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

VOTE: Motion passed 6-0.

Michael Sachen, O.D. IR#2017216 Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Sachen failed to release a copy of the contact lens prescription when requested. **3 patients; 2 no request was received by 1-800 Contacts and 1 not patient in practice.**

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

VOTE: Motion passed 6-0.

16. Roger Juarez, O.D. IR#201718 Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Juarez failed to release a copy of the contact lens prescription when requested. **There were 5 complaints for 3 patients, Dr. Juarez stated the names were too common and he needed more identifying information to respond and provide records.**

MOTION: Dr. Peller moved to dismiss due to lack of violation of the optometric practice act. Dr. Husz seconded the motion. Dr. Mach stated the names were not common and that Dr. Juarez needs to properly respond as his response to the Board is insufficient. Dr. Mach suggested tabling the complaint to request medical records. Ms. Whelan informed the Board that several requests have been made by staff for further clarification of the response; none has been submitted. Dr. Peller withdrew his motion to dismiss. Dr. Husz withdrew her second to the motion.

MOTION: Dr. Mach moved to go to Informal Interview to inquire why the doctor is not properly responding to the Board's requests. Dr. Peller seconded the motion. Ms. Baskin advised the Board of its options regarding subpoena versus informal interview. Dr. Husz stated that it appears that Dr. Juarez thinks his response is proper so he just needs to send the records to complete his response and for the Board to properly determine compliance. Dr. Husz felt the Board should subpoena the records and not go to informal interview. Dr. Mach withdrew his motion to go to informal interview. Dr. Peller withdrew his second to the motion.

MOTION: Dr. Lamb moved to subpoena the records of all the patients in Dr. Juarez's practice with the same name who were named in the complaint from 1-800 Contacts. Dr. Mach seconded the motion.

VOTE: Motion passed 6-0.

Christopher Parot, O.D. IR#2017164

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Parot failed to release a copy of the contact lens prescription when requested. 6 patients; 5 prescriptions were expired; 1 no request was received by 1-800 Contacts and 1 not patient in practice.

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

VOTE: Motion passed 6-0.

Karen Chow, O.D. IR#2017166

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Chow failed to release a copy of the contact lens prescription when requested. 1 patient; no such patient in practice.

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

VOTE: Motion passed 6-0.

Lincoln Daynes, O.D. IR#2017168

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Daynes failed to release a copy of the contact lens prescription when requested. 1 patients; prescription was expired, Dr. Daynes responded sending the expired prescription.

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

VOTE: Motion passed 6-0.

Kayle Haws, O.D. IR#2017171

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Haws failed to release a copy of the contact lens prescription when requested. 5 patients; Dr. Haws responded to all requests.

MOTION: Dr. Peller moved to dismiss the case due to lack of violation of the optometric practice act. Dr. Lamb seconded the motion. Dr. Mach stated he had a problem with the medical record as there is no printed name or date stamp on the record nor is there a doctor's signature.

Dr. Haws appeared before the Board telephonically. Dr. Mach asked Dr. Haws about the records not having any identifying information. Dr. Haws stated the date is at the top of the page of each record. Dr. Mach stated that the record must have the date and signature at the bottom of each record. Dr. Haws stated that this is the office form and that his signature is at the bottom and the

date is at the top, however, it does not have the printed name on it. Dr. Haws stated he no longer works at this office.

VOTE: Motion passed 5-1. Dr. Mach voted no.

Kelly Moffat, O.D. IR#2017172

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Moffat failed to release a copy of the contact lens prescription when requested. 6 patients; 2 not patients of the practice, 1 response sent by Dr. Moffat, 3 no requests received from 1-800 Contacts.

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

VOTE: Motion passed 6-0.

Seth Morgan, O.D. IR#2017173

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Morgan failed to release a copy of the contact lens prescription when requested. 6 patients; 2 responses sent to 1- 800 Contacts, 4 requests went to the wrong office; doctor did not see patients at that location.

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

VOTE: Motion passed 6-0.

Jeffrey Martin, O.D. IR#2017174

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Martin failed to release a copy of the contact lens prescription when requested. 5 patients; 1 patient could not be identified as name too common and no birthdate or other identifying information was provided by 1-800 Contacts, 3 no requests were received by 1-800 Contacts and 1 was responded to even though the request was a phone call and not a written request.

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

VOTE: Motion passed 6-0.

Andrew Frank, O.D. IR#2017179

Dr. Peller summarized the case as 1-800 Contacts alleges that Dr. Frank failed to release a copy of the contact lens prescription when requested. Dr. Frank did not send a narrative response but sent records.

MOTION: Dr. Mach moved to issue a Letter of Concern for failure to respond pursuant to the FLCLA. Mr. Evanoff seconded the motion. Dr. Husz disagreed with the motion for a letter of concern because the lack of response appeared to be the same oversight as some of the other submissions. Ms. Whelan interjected that staff did not distinguish that the response was incomplete and asked the Board to continue the complaint to a future meeting so that a letter requesting more information from Dr. Frank could be sent. Dr. Mach withdrew his motion for a letter of concern. Mr. Evanoff withdrew his second of the motion.

Chad Carlsson, O.D. IR#2017183

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Carlsson failed to release a copy of the contact lens prescription when requested. 2 patients; 1 not a patient and 1 request was responded to by Dr. Carlsson.

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

VOTE: Motion passed 6-0.

Jason Ransdell, O.D. IR#2017184

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Ransdell failed to release a copy of the contact lens prescription when requested. **15 complaints for 2 patients; Dr. Ransdell indicated in his response that he needed more information to respond as there were no birthdates, social security numbers or other identifying information submitted.**

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

VOTE: Motion failed 3-3. Dr. Mach, Dr. Chrisagis and Mr. Evanoff voted no. Dr. Chrisagis stated that even though it is only two patients, the names are not common enough where the doctor can't provide a specific record. Ms. Whelan stated she would follow up with Dr. Ransdell to get an amended response with the patient names and information as provided.

MOTION: Dr. Lamb **moved to subpoena** the records of all the patients in Dr. Ransdell's practice with the same name who were named in the complaint from 1-800 Contacts. Dr. Peller seconded the motion.

VOTE: Motion passed 6-0.

Peter Ryan, O.D. IR#2017193

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Ryan failed to release a copy of the contact lens prescription when requested. **The address where the request was sent was incorrect and the requests were for another doctor who is deceased.**

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

VOTE: Motion passed 6-0.

John Castro, O.D. IR#2017195

Dr. Husz summarized the case as 1-800 Contacts alleges that Dr. Castro failed to release a copy of the contact lens prescription when requested. **4 patients; 1 no patient by that name in practice, 3 requests were responded to by Dr. Castro who stated that 1-800 Contacts also had a wrong fax number to send back the documentation.**

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

VOTE: Motion passed 6-0.

Alice Kwok, O.D. IR#2017196

Dr. Lamb summarized the case as 1-800 Contacts alleges that Dr. Kwok failed to release a copy of the contact lens prescription when requested. **1 patient; minor patient, mother asked that the child's information not be released to anyone. Dr. Kwok responded as such to 1-800 Contacts.**

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

VOTE: Motion passed 6-0.

October 13, 2017

**CASES RECOMMENDED FOR DISMISSAL; CONSENT AGENDA; Review, discussion and possible action on the following case(s):**

All cases dismissed except as noted (1)

- |                              |            |                                |                   |
|------------------------------|------------|--------------------------------|-------------------|
| 1. Robert Maynard, O.D.      | IR#2017185 | 36. Nicholas Koshuta, O.D.     | IR#201821         |
| 2. Charles Kesner, O.D.      | IR#201806  | 37. Patrick Padrnos, O.D.      | IR#201822         |
| 3. James Abbott, O.D.        | IR#201810  | 38. Jeffrey Franz, O.D.        | IR#201823         |
| 4. Michael Zucker, O.D.      | IR#201813  | 39. Zuraida Zainalabidin, O.D. | IR#201815         |
| 5. Mark Fechtel, O.D.        | IR#201873  | 40. Angela Hodges, O.D.        | IR#201817         |
| 6. Amy Czyz, O.D.            | IR#201885  | 41. Steven Holt, O.D.          | IR#201818         |
| 7. Neha Amin Lacorte, O.D.   | IR#201872  | 42. Barbara Wiese, O.D.        | IR#201820         |
| 8. Michael Sellers           | IR#201870  | 43. James Francois, O.D.       | IR#201886         |
| 9. John Murphy, O.D.         | IR#201869  | 44. Ken Factor, O.D.           | IR#201832         |
| 10. Aleta Gong, O.D.         | IR#201811  | 45. Kenneth Lord, O.D.         | IR#201882         |
| 11. David Tetrault, O.D.     | IR#201884  | 46. Karen Grandi, O.D.         | IR#201871         |
| 12. Theresa Setlock, O.D.    | IR#201888  | 47. Marvin Fineberg, O.D.      | IR#201827         |
| 13. Stuart Greenberg, O.D.   | IR#201850  | 48. Kevin Helmuth, O.D.        | IR#201824         |
| 14. Melissa Muller, O.D.     | IR#201855  | 49. Thomas Melfi, O.D.         | IR#2017205        |
| 15. Lawrence Stern, O.D.     | IR#201856  | 50. Thomas Bottoms, O.D.       | IR#2017206        |
| 16. Brett Gramlich, O.D.     | IR#201865  | 51. Peter Rosenberg, O.D.      | IR#2017212        |
| 17. Katrina Nichols, O.D.    | IR#201848  | 52. Anna Jones, O.D.           | IR#201844         |
| 18. Cheryl Schmitt, O.D.     | IR#201857  | 53. Richard Lampert, O.D.      | IR#201874         |
| 19. Jeremy Olsen, O.D.       | IR#201847  | 54. Jill Rago, O.D.            | IR#201876         |
| 20. Mark Page, O.D.          | IR#201845  | 55. Bessie Campouris, O.D.     | IR#201867         |
| 21. Richard Stewart, O.D.    | IR#201866  | 56. Paul Cinalli, O.D.         | IR#201881         |
| 22. Clark Campbell, O.D.     | IR#201864  | 57. Paula Peterson, O.D.       | IR#201816         |
| 23. Vincent Van Houten, O.D. | IR#201819  | 58. Ljiljana Aleksic, O.D.     | IR#2017221        |
| 24. G. Elden Blair, O.D.     | IR#201860  | 59. Justin Jones, O.D.         | IR#201846         |
| 25. Brian Stephens, O.D.     | IR#201862  | 60. Renita Frost, O.D.         | IR#201849         |
| 26. David Timochko, O.D.     | IR#201807  | 61. Terry Williams, O.D.       | IR#201825         |
| 27. Elliott Snyder, O.D.     | IR#201868  | 62. Bryan Fuller, O.D.         | IR#201877         |
| 28. Thomas Babu, O.D.        | IR#201809  | 63. Thomas Pace, O.D.          | IR#201854         |
| 29. Beth Frankel, O.D.       | IR#201834  | 64. Tammy Nguyen, O.D.         | IR#201829         |
| 30. David Kaplan, O.D.       | IR#201835  | 65. Yi Sen Cheung, O.D.        | IR#201851         |
| 31. Stuart Bark, O.D.        | IR#201837  | 66. Gino Carmolli, O.D.        | IR#201808         |
| 32. Howard Bacon, O.D.       | IR#201838  | 67. James Lewis, O.D.          | IR#201836         |
| 33. Brian Michaels, O.D.     | IR#201831  | 68. Jerry Burger, O.D.         | IR#201842         |
| 34. Curtis Dechant, O.D.     | IR#201830  | 69. Bryce Palmer, O.D.         | IR#201861         |
| 35. Barry Blonder, O.D.      | IR#201828  | 70. Carey Shifrin, O.D.        | IR#201887         |
| 71. David Mallavia, O.D.     | IR#201880  | Non-disciplinary               | Letter of Concern |

December 8, 2017

**CONSENT AGENDA**

The Consent Agenda items may be considered for approval as a single action unless a Board member or any other interested party wishes to remove an item for discussion. The Board may vote to go into Executive Session to discuss and consider records exempt by law from public inspection, including the receipt and discussion of information or testimony that is confidential by State or Federal law 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).

**CASES RECOMMENDED FOR DISMISSAL; CONSENT AGENDA; REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE FOLLOWING CASE(S):**

All cases dismissed

1. Roger Juarez, O.D. IR#201718
2. James Liston, O.D. IR#201761
3. Andrew Frank, O.D. IR#2017179
4. Jason Ransdell, O.D. IR#2017184
5. Alicia McCallen, O.D. IR#2017198
6. William Gitchell, O.D. IR#2017204
7. Carol Schulte, O.D. IR#201812
8. Sharon Peterson, O.D. IR#201814
9. Samuel Soesbe, O.D. IR#201826
10. Tammy Nguyen, O.D. IR#201833
11. Jennifer Gorman, O.D. IR#201840
12. Matthew Lopez, O.D. IR#201841
13. Scott Potter, O.D. IR#201843
14. Cody Quarnberg, O.D. IR#201858
15. Lawrence Irene, O.D. IR#201859
16. Brent Hartzell, O.D. IR#201863
17. Steven Weisman, O.D. IR#201875
18. Robert Mitchell, O.D. IR#201879
19. Jamie Hiscox, O.D. IR#201883
20. Michael Berger, O.D. IR#201898
21. Robert Koppany, O.D. IR#201899
22. Amy Michelle Lee, O.D. IR#2018101
23. Aleta Doroudian, O.D. IR#2018102
24. Jan McVey, O.D. IR#2018103
25. Russell Slaugh, O.D. IR#2018104
26. William Crum, O.D. IR#2018105
27. Jacob Miller, O.D. IR#2018106
28. Christopher Heetland, O.D. IR#2018107
29. Kirk Reed, O.D. IR#2018108
30. Phdra Natalie Shaba, O.D. IR#2018109
31. Jonathan Bundy, O.D. IR#2018110
32. Greg Stipek, O.D. IR#2018111
33. Michael Pittelli, O.D. IR#2018112
34. Vincent Piraino, O.D. IR#2018113
35. Jennifer Hoepfner, O.D. IR#2018114
36. Tara Ransdell, O.D. IR#2018115
37. Andrea Barsness, O.D. IR#2018116
38. Jacquelyn Wyman, O.D. IR#2018117
39. Roger Vesper, O.D. IR#2018118
40. Guy McDougal, O.D. IR#2018121
41. Lars Carlson, O.D. IR#2018122
42. Brian Easley, O.D. IR#2018123
43. Alicia Feis, O.D. IR#2018124
44. Sara Frye, O.D. IR#2018125
45. Joshua McAdams, O.D. IR#2018126
46. Andrew Ochiltree, O.D. IR#2018127
47. Brian Sturgill, O.D. IR#2018128
48. David Schanes, O.D. IR#2018129
49. Patrick Barry, O.D. IR#2018133
50. Beth Pyle-Smith, O.D. IR#2018134
51. Jody Dagan, O.D. IR#2018135
52. Jashpal Rajasansi, O.D. IR#2018136
53. Michael Martin, O.D. IR#2018137
54. Maureen Meyer, O.D. IR#2018138
55. Murray Pratt, O.D. IR#2018139
56. Christopher Lee, O.D. IR#2018140
57. Dan Leber, O.D. IR#2018141
58. Torrence Watkins, O.D. IR#2018142
59. Tania Sobchuk, O.D. IR#2018143
60. Brooke Vetter, O.D. IR#2018144
61. John Schrolucke, O.D. IR#2018145
62. Laura Schillig, O.D. IR#2018146

**REVIEW, DISCUSSION AND POSSIBLE ACTION ON INVESTIGATIVE REVIEWS/COMPLAINTS:**

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).

1. Helen Paulin, O.D.	IR#201715	Letter of Concern
2. Larry Allgood, O.D.	IR#201735	Informal Interview
3. Erika Wilken, O.D.	IR#2017194	Letter of Concern
4. Ricci Rios, O.D.	IR#2017222	Letter of Concern
5. David Anderson, O.D.	IR#2017223	Informal Interview
6. Jeffrey Girardin, O.D.	IR#201891	Dismissed
7. Sherri Horwitz, O.D.	IR#201892	Informal Interview
8. Kaci Kramer-Oldroyd, O.D.	IR#201893	Dismissed
9. Stewart Mecom, O.D.	IR#201894	Letter of Concern
10. Charles Roberts, O.D.	IR#201895	Dismissed
11. Michael DeRubeis, O.D	IR#201896	Letter of Concern
12. David Rockwell, O.D.	IR#201897	Dismissed