

August 31, 2004

Elizabeth A. Carter, Ph.D.  
Executive Director  
Virginia Board of Optometry  
6603 West Broad Street  
Richmond, VA 23230-1712

**RE:                   18 VAC 105-20-10 et seq.  
                      Regulations Governing the Practice of Optometry  
                      18 VAC 105-30-10 et seq.  
                      Regulations on Certification of Optometrists to Use  
                      Therapeutic Pharmaceutical Agents**

Dear Dr. Carter:

I have reviewed the emergency amendments as adopted by the Board of Optometry at its meeting on August 23, 2004. Acting in accordance with the second enactment clause of Chapter 744 of the 2004 Acts of the Assembly, the Board is authorized to promulgate amendments to Chapter 20 and to repeal Chapter 30 as emergency regulations under § 54.1-2.2-4011 of the Code of Virginia, which defines an emergency as one requiring a regulation to be effective within 280 days or less from enactment of a law.

At the same meeting, the Board adopted new provisions for Chapter 20 that incorporate the amended treatment guidelines for use of therapeutic pharmaceutical agents (TPA) and a TPA formulary consisting of a list of the categories of drugs that may be administered or prescribed. The Board is authorized to take such action under an exemption in § 2.2-4002 and under a process for promulgation of treatment guidelines and a formulary specified in § 54.1-3223 of the Code of Virginia.

Therefore, I find amendments to Chapter 20 and the repeal of Chapter 30 to be constitutional and in conformity with existing statutory provisions.

Sincerely,

Emily O. Wingfield  
Assistant Attorney General

cc:     Elaine J. Yeatts  
          Agency Regulatory Coordinator