

**BOARD OF OPTOMETRY  
BOARD MEETING  
SEPTEMBER 13, 2005**

**TIME AND PLACE:** The meeting was called to order at 9:30 a.m. on Tuesday, September 13, 2005 at the Department of Health Professions, Conference Room 3, 6603 W. Broad St., Richmond, VA.

**PRESIDING OFFICER:** David H. Hettler, O.D, President

**MEMBERS PRESENT:** Paula H. Boone, O.D.  
Gregory P. Jellenek, O.D.  
W. Ernest Schlabach, Jr., O.D.  
Jacquelyn S. Thomas, Citizen Member  
William T. Tillar, O.D.

**STAFF PRESENT:** Emily Wingfield, Assistant Attorney General, Board Counsel  
Elizabeth A. Carter, Ph.D., Executive Director for the Board  
Elaine Yeatts, Senior Regulatory Analyst  
Carol Stamey, Administrative Assistant  
Sammy Johnson, Enforcement Division

**MEMBERS ABSENT:** All Board members were present.

**OTHERS PRESENT:** Betty Graumlich, NAOO  
Marc Hudson, VOA  
Bruce Keeney, VOA  
Cori Berersdof  
Cal Whitehead, VSO

**QUORUM:** With six members of the Board present, a quorum was established.

**REVIEW AND APPROVAL OF AGENDA:** The topic of temporary license as result of Hurricane Katrina was added to the agenda. The training on hearings was moved to follow the President's Report.

**PUBLIC COMMENT:** Dr. Cheezum requested the Board to explore the possibility of expunging disciplinary action taken almost two decades ago against his license. He stated that the incident involved an incorrect advertisement placed by the telephone company. He further noted that today's licensees are afforded the process of a confidential consent agreement for such minor violations. Dr. Cheezum requested that the Board and/or the agency address the issue.

Mr. Nebiker indicated that there is no provision in Virginia statute to allow any health regulatory board to expunge its disciplinary records. For the Board to pursue such a statutory change would entail all of the boards. Further, if such a measure passed, it would open the boards to the untenable position of having to potentially rehear all previous cases and "second-guess" the previous board on the basis of dated evidence and circumstances.

Dr. Cheezum presented comment regarding professional designation titling utilizing certain affiliation terms. He noted that the Board had previously reviewed the issue of affiliated titling and deemed it acceptable.

The Board thanked him for his comments.

**APPROVAL OF MINUTES:**

**Action** On properly seconded motion by Dr. Boone, the Board voted unanimously to approve the minutes of the June 8, 2005 meetings.

**PRESENTATION FROM AGENCY DIRECTOR:**

Mr. Nebiker presented a brief summary of the agency's proposed budget and the issues driving the proposal. He noted, specifically, the need for reorganization of the agency's executive staffing for boards. Since the 1980's, there have been seven board executive directors for the then thirteen, now fourteen boards with well over a doubling of licensees in the interim and additional regulatory programs. Therefore, he is requesting the addition of an eighth executive director position for the Board of Long-Term Care Administrators and a realignment of boards across the positions. Currently, the Board of Long-Term Care Administrators shares its executive director with Dentistry. The new position will take over the Board of Long-Term Care Administrators, and will also be responsible for the Board of Audiology & Speech-Language Pathology and Board of Physical Therapy. The later two boards currently share an executive director along with the Board of Funeral Directors and Embalmers. The Board of Optometry currently shares their Dr. Carter with the Board of Health Professions and Board of Veterinary Medicine. The reorganization will move the Board of Veterinary Medicine to the executive director for the Board of Funeral Directors and Embalmers and free up more of Dr. Carter's time for Optometry and Health Professions.

Mr. Nebiker apprised the Board of an Executive Order that had been issued by the Governor to assist in the licensure of healthcare professionals affected by Hurricane Katrina. He stated that the Order relaxed the requirements for licensure

documentation to allow for temporary licensure with delayed fees.

**REGULATORY UPDATE:**

Ms. Yeatts reported that the regulatory fee reduction had been delayed for one year. She noted that the merger of the license and TPA certification into one reduced fee may reduce the Board's surplus monies.

**Adoption of Final Regulations for Incorporation of TPA Certification**

**Action** On properly seconded motion by Dr. Schlabach, the Board voted unanimously to repeal Chapter 30 and merge it into Chapter 20 of the Optometry regulations and include the inadvertently omitted \$200 TPA application fee.

**DISCUSSION ITEMS:**

**Clarification of the \$500 Reinstatement Fee After Disciplinary Action**

Board staff had requested clarification of the appropriate reinstatement application fee(s) after disciplinary action. It was determined that licensees seeking reinstatement of licensure after suspension or revocation shall pay a total of \$500.

**Professional Designation Titling and § 54.1-3205(D)**

Dr. Carter informed the Board that professional designation title review and approval will be strictly construed based upon the existing regulations and statutes. She further stated that applications requesting titles that appear to be false, misleading or claim superiority will be denied and handled on a case by case basis.

Dr. Carter informed the Board that the issue of § 54.1-3205(D) will be placed on the board's next meeting agenda.

**Request Regarding Plano Safety Glasses w/Bifocal Add Powers**

The Board determined that plano safety glasses with bifocal add powers were considered prescriptive devices requiring a prescription. Further, the Board requested that Dr. Carter draft a letter informing Mr. Keen that the dispensing of said glasses constituted the practice of optometry.

**Continuing Education Audit Procedures**

Due to a high percentage of audited licensees failing to have obtained appropriate and/or sufficient continuing education hours for 2004, the Board reviewed the existing continuing education (CE) audit procedures. They determined that the audit letter was clear in its request and did not recommend

any revisions or additions. The chief manpower issue was in the review of the appropriateness of the continuing education submitted during audits. The technical nature of some courses, especially those dealing with pharmacological agents, makes it difficult for laymen to ascertain whether the coursework complies with the requirements.

**Action** On properly seconded motion by Dr. Schlabach, the Board voted unanimously that an expert, preferably a former board member, be obtained to review all CE.

Also regarding CE, Dr. Schlabach reported that he will be attending the Association of Regulatory Boards of Optometry (ARBO) meeting on licensure mobility where they will also be discussing the tracking of individual optometrist's CE through "OE Tracker." He will present the results of the meeting at the next meeting of the Board.

### **Elections**

**Action** On properly seconded motion by Dr. Boone, the Board voted unanimously to accept the existing slate of officers for the following year.

### **2006 Calendar**

**Action** On properly seconded motion by Dr. Jellenek, the Board voted unanimously to accept the 2006 calendar meeting dates as follows:

February 7<sup>th</sup>

May 10<sup>th</sup>

August 3<sup>rd</sup>

November 17<sup>th</sup>

## **COMMITTEE REPORTS:**

### **TPA Formulary Committee**

Dr. Tillar reported that the Committee had met this morning and recommended no changes to the formulary.

### **Professional Designation Committee**

Dr. Boone reported that six (6) applications have been processed. She stated that the Committee requests that the application instructions emphasize the Regulations' requirements and inform the applicant that titles which constitute claims of superiority, those with mercantile connotations, or those that are deceptive or misleading will not be approved.

### **Newsletter Committee**

Dr. Schlabach reported that he had submitted articles for the upcoming newsletter and Dr. Hettler advised that he would be

forwarding the President's Letter. Additionally, it was recommended that articles regarding closing and selling a practice, professional designations and CE be incorporated into the newsletter.

Dr. Hettler requested that a mailing be forwarded to all licensees listing the website link to the newsletter. Further, he requested that a tally be provided on how many Internet hits are obtained on the link.

#### **CPT Code Committee**

Dr. Hettler reported that there were no actions to report from the Committee.

#### **Legislative/Regulatory Review Committee**

Dr. Hettler reported that there were no actions to report from the Committee.

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

#### **Board of Health Professions Report**

Dr. Carter reported that the Board of Health Professions had just completed its study into the need to license naturopaths, reviewed and approved the agency's budget to include reorganization and the impact of telehealth on the various professions. Dr. Carter reported that each board has been requested to review the issue of telehealth and report its findings to the Board of Health Professions by August 1, 2006. Dr. Hettler requested a meeting of the Credentials Committee be scheduled in December to review the matter.

#### **Case Agency Standards and Other Statistics**

Dr. Carter presented a brief summary of the agency's disciplinary performance standards and a statistical analysis of the licensee and case counts. She reported that the agency is meeting its case standards fifty (50) percent of the time.

#### **ARBO Update**

Dr. Schlabach presented a brief overview of his meeting with ARBO. Specifically, he reported on the following issues: low scores on Part I of the national examination, plano case injuries, Council on Optometric Professional Education, licensure mobility, the future of optometric genetics and diseases, TPA requirement for licensure, malpractice, elections, resolutions and budget issues. He stated that the next ARBO interim meeting is scheduled in October.

### **PRESIDENT'S REPORT:**

Dr. Hettler welcomed the newest board member, Jacquelyn S. Thomas and also noted the reappointment of Dr. Boone.

**TRAINING ON INFORMAL AND FORMAL HEARINGS:**

Ms. Wingfield presented a slide presentation on the procedures and protocol for conducting informal and formal hearings.

**NEW BUSINESS:**

No new business was presented.

**ADJOURNMENT:**

The Board concluded its meeting at noon.

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David H. Hettler, O.D.  
President

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Elizabeth A. Carter, Ph.D.  
Executive Director