

**BOARD OF OPTOMETRY
PROFESSIONAL DESIGNATION COMMITTEE
JULY 15, 2010**

TIME AND PLACE: The Board of Optometry's (Board) Professional Designation Committee (PDC) meeting was called to order at 9:46 a.m. at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Training Room 1, Henrico, Virginia.

CHAIRMAN: W. Ernest Schlabach, Jr., O.D., Chair

MEMBERS PRESENT: Jonathan R. Noble, O.D.

MEMBERS NOT PRESENT: All members of the Committee were present.

STAFF PRESENT: Leslie L. Knachel, Executive Director
Eric Gregory, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Regulatory Analyst
Carol Stamey, Operations Manager
Asia Williams, Administrative Assistant

OTHERS PRESENT: Bruce Keeney, Virginia Optometric Association (VOA)
Bo Keeney, VOA
Edward Mullen, National Association of Optometrists and Opticians (NAOO)
Betty Graumlich, NAOO
Cal Whitehead, Virginia Society of Eye Physicians and Surgeons

PUBLIC COMMENT: Mr. Keeney, representing the VOA, reported that he and the Board of Trustees of the VOA had reviewed the working draft of the proposed professional designation statute. He stated that he was not in a position to support the proposed draft due to complexities, potential ramifications and significant modifications; however, the VOA was not opposed to assisting the Board to address issues. Further, Mr. Keeney voiced concern over the opening of the practice act, that there is no prior history of issues with existing regulations, that there are differences in interpretation of the statute, and that the business and practice aspect could result in weakening the corporate practice.

APPROVAL OF MINUTES: Dr. Noble moved to approve the minutes of the June 7, 2010, PDC meeting. The motion was seconded and carried.

DISCUSSION ITEMS:

Proposed Professional Designation (PD) Legislation

Ms. Yeatts presented a second draft of proposed statutory legislation that updated and expanded the Board's current statute, § 54.1-3215 of Chapter 32, Title 54.1 of the *Code of Virginia*. Additionally, the second draft of the proposed legislation provided for basic authority to register professional designations under the proposed statute, § 54.1-3204.1 of Chapter 32, Title 54.1 of the *Code of Virginia*. The second draft of the proposed statutory legislation is incorporated into the minutes as Attachment 1.

The PDC reviewed and discussed the second draft and asked the public in attendance if anyone would like to comment. Mr. Keeney, from, the VOA, stated that the proposed statute was not tied to existing regulations and that he had concerns with associates versus owners, corporations and the short review process.

Dr. Noble moved to present the issues to the full board for discussion. The motion was seconded and carried.

PD Committee Titling Approval Form

Ms. Knachel requested that the PDC review the revised PD Title Approval Application Form and provide comment. The PDC requested that a section be added for the PDC member comment and approved the form with revision.

NEW BUSINESS:

No new business was presented.

ADJOURNMENT:

The meeting adjourned at 10:45 a.m.

W. Ernest Schlabach, O.D., Chair

Leslie L. Knachel, Executive Director

Virginia Board of Optometry

Department of Health Professions

DRAFT #2 – Professional Designation Legislation

§ 54.1-3215. ~~Reprimand, revocation and suspension~~ Unprofessional conduct; grounds for refusal or disciplinary action.

~~The Board may revoke or suspend a license or reprimand the licensee for any of the following causes~~ refuse to admit a candidate to any examination; refuse to issue a license or registration to any applicant; reprimand any person; place any person on probation for such time and terms as it may designate; impose a monetary penalty; suspend any license for a stated period of time or indefinitely; or revoke any license or registration for any of the following acts of unprofessional conduct:

1. Fraud or deceit in his practice;
2. Conviction of any felony under the laws of the Commonwealth, another state, the District of Columbia or any United States possession or territory or of any misdemeanor under such laws involving moral turpitude;
3. Conducting his practice in such a manner as to endanger the health and welfare of his patients or the public;
4. Use of alcohol or drugs to the extent such use renders him unsafe to practice optometry or mental or physical illness rendering him unsafe to practice optometry;
5. Knowingly and willfully employing an unlicensed person to do anything for which a license to practice optometry is required;
6. Practicing optometry while suffering from any infectious or contagious disease;
7. Neglecting or refusing to display his license and the renewal receipt for the current year;
8. Obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient;
9. Advertising which directly or indirectly deceives, misleads or defrauds the public, claims professional superiority, or offers free optometrical services or examinations;
10. Employing, procuring, or inducing a person not licensed to practice optometry to so practice;

11. Aiding or abetting in the practice of optometry any person not duly licensed to practice in this Commonwealth;
12. Advertising, practicing or attempting to practice optometry under a name other than one's own name as set forth on the license or with a professional designation not registered in accordance with regulations promulgated by the Board;
13. Lending, leasing, renting or in any other manner placing his license at the disposal or in the service of any person not licensed to practice optometry in this Commonwealth;
14. Splitting or dividing a fee with any person or persons other than with a licensed optometrist who is a legal partner or comember of a professional limited liability company formed to engage in the practice of optometry;
15. Practicing optometry where any officer, employee, or agent of a commercial or mercantile establishment, as defined in subsection C of § 54.1-3205, who is not licensed in Virginia to practice optometry or medicine directly or indirectly controls, dictates, or influences the professional judgment, including but not limited to the level or type of care or services rendered, of the licensed optometrist;
16. Violating other standards of conduct as adopted by the Board;
17. Violating, assisting, inducing or cooperating with others in violating any provisions of law relating to the practice of optometry, including the provisions of this chapter, or of any regulation of the Board.

§ 54.1-3204.1. Professional designations.

No person shall use a professional designation in the practice of optometry without first registering with the Board. The Board shall promulgate regulations for a professional designation in the practice of optometry to include criteria for use of a designation and other requirements necessary to provide accountability for optometric services rendered at the location identified.