

**BOARD OF OPTOMETRY
BOARD MEETING
NOVEMBER 19, 2010**

TIME AND PLACE: The Board of Optometry (Board) meeting was called to order at 9:21 a.m. on Friday, November 19, 2010, at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Room 3, Henrico, Virginia.

PRESIDING OFFICER: Gregory P. Jellenek, O.D., Chair

MEMBERS PRESENT: Jonathan R. Noble, O.D.
W. Ernest Schlabach, Jr., O.D.
Angela Tsai, O.D.
M. E. Jackson, O.D.

MEMBERS NOT PRESENT: Jacquelyn S. Thomas, Citizen Member

STAFF PRESENT: Leslie L. Knachel, Executive Director for the Board
Eric A. Gregory, Assistant Attorney General, Board Counsel
Arne Owens, Chief Deputy Director
Charles Giles, Budget Manager
Elaine Yeatts, Senior Policy Analyst
Carol Stamey, Operations Manager
Asia Williams, Administrative Assistant
James Banning, Director of the Administrative Proceedings Division

OTHERS PRESENT: Kim Langston, VisualResearch, Inc.
Bruce Keeney, Virginia Optometric Association (VOA)
Bo Keeney, VOA
Edward Mullen, National Association of Optometrists and Opticians
Cal Whitehead, Virginia Society of Eye Physicians and Surgeons
Demetrios Melis, Board of Opticians with the Department of Professional and Occupational Regulation (DPOR)

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

ORDERING OF AGENDA Dr. Jellenek requested that the order of the agenda be revised to include a Closed Session at the end of the discussion/action items. Dr. Schlabach moved to approve the order of the agenda with the addition of this item. The motion was seconded and carried.

PUBLIC COMMENT: On behalf of the VOA, Bruce Keeney congratulated Dr. Jackson on his board appointment and expressed appreciation to the Board for maintaining the list of CPT codes.

DIRECTOR’S REPORT:

Arne W. Owens, Chief Deputy Director, addressed the Board in the absence of Dr. Dianne Reynolds-Cane.

New Board Member Orientation

Mr. Owens congratulated Dr. Jackson on his appointment and welcomed him to the Board. Mr. Owens noted that the New Board Member Orientation, held on October 27, 2010, was successful in providing an overview of the agency and the role of board members.

Healthcare Workforce Data Center

Mr. Owens advised the Board that the Healthcare Workforce Data Center (HWDC) has established a broad database used to inform policy makers involved in the implementation of healthcare reform. Specifically, he noted the release of a physicians’ data report compiled by the HWDC reflecting a projected shortage of doctors. Mr. Owens reported that 36% of physicians remain in Virginia upon completion of their residency training and expressed that efforts are underway to encourage more graduates to remain in Virginia.

National Drug Take Back Day, September 25, 2010

Mr. Owens highlighted the results of National Drug Take Back Day held on September 25, 2010. He informed the Board that with support through out all the states, and assistance from the Virginia State Police, Public Health, and eighty localities, two and a half tons of unused and expired drugs were successfully collected. Mr. Owens noted that there is demand for repetition of the initiative due to its significant success.

Virginia Healthcare Reform Initiative

Mr. Owens acknowledged the ongoing progress of six task forces created to focus on key areas of the healthcare reform initiative. These task forces are gathering information that will be presented to the Governor’s Advisory Council at the upcoming meeting in December. Mr. Owens and Dr. Reynolds-Cane, Director of DHP, serve as advisors on the Capacity Task Force, for which they are currently gathering information to address “scope of practice” issues.

APPROVAL OF MINUTES:

Dr. Noble moved to approve the minutes of the July 15, 2010, Full Board meeting. The motion was seconded and carried.

Dr. Schlabach moved to approve the minutes of the July 15, 2010, Professional Designation Committee meeting. The motion was seconded and carried.

Dr. Tsai moved to approve the minutes of the July 15, 2010,

Continuing Education Committee meeting. The motion was seconded and carried.

Dr. Schlabach moved to approve the minutes of the July 15, 2010, Legislative/Regulatory Review Committee meeting. The motion was seconded and carried.

Dr. Schlabach moved to approve the minutes of the September 26, 2007, Continuing Education Committee meeting. The motion was seconded and carried.

REGULATORY ACTION:

Adoption of Fee Increase, Proposed Regulations

Elaine Yeatts, Senior Policy Analyst, presented an updated projected revenue and expenditure analysis for the Board. She commented that the Board's fiscal year (FY) 2010 actual cash balance was better than the amount projected when the Notice of Intended Regulatory Action was adopted. However, revised projections show expenditures will eventually outpace revenue which will eventually result in a cash shortfall. Mr. Giles, Budget Manager, explained that the Code requires the agency to analyze each board's fees thus necessitating a projection of future expenditures. Projecting future expenditures involves anticipating cost increases from sources such as the Virginia Information Technology Agency, personnel services, and office leases. Mr. Giles reported that continual efforts are being made to reduce expenditures whenever possible. At this time, Ms. Yeatts recommended that the Board leave the Notice of Intended Regulatory Action in place and not take any action to increase fees. She stated that actual revenue and expenditures will be reviewed at the end of FY11 and an updated analysis will be presented to the Board. It was the consensus of the Board to not take any action at this time.

DISCUSSION ITEMS:

Sanctioning Reference Points Training

Kim Langston provided a refresher training session on the Sanctioning Reference Points (SRP). Ms. Langston directed attention to the previously adopted SRP worksheet, highlighting the worksheet factors and scoring. She inquired as to whether the worksheet should remain (Board) specific or generalized. The Board requested the adopted SRP worksheet remain unchanged. Ms. Langston reported that an analysis of compliance revealed that the Board was 83% in agreement with SRP.

Health Practitioner's Monitoring Program (HPMP)§ 54.1-2516

Ms. Knachel informed the Board that Peggy Wood was unable to attend the meeting, and she would reschedule the presentation for a later date.

**National Board of Examiners in Optometry (NBEO)
Injection Skills Survey**

Ms. Knachel informed the Board that she had completed and submitted the NBEO Injections Skills Survey. Additionally, she addressed the Board regarding the incorporation of NBEO Injection Skills (intravenous and intramuscular) into the Part III Clinical Skills Examination (CSE) and its implications for state boards. Ms. Knachel stated she had been communicating with a NBEO representative and was informed that currently thirty-three states integrate some scope of IM and IV injections skills, while fourteen states maintain a broader scope of injections skills. The NBEO representative stated that the passage of the specific injection skills portion will be provided as a breakout score. Ms. Knachel requested the Board's input as to whether the Board wanted to pursue requiring the passage of the injection skills by new applicants and current licensees. Dr. Schlabach stated that he would be attending the NBEO's Exam Overview meeting and would provide the Board with a report on any further information at the next meeting. The Board requested that the item be placed on the next full board meeting agenda for discussion.

Implantable Telescope for End-Stage Macular Degeneration

Ms. Knachel reported that an inquiry had been received by the board office regarding how optometrists having expertise in low vision care may advertise this specialty. Eric Gregory, Board Counsel, indicated that the determination should be based upon whether the advertisement could be construed as false, misleading or a claim of superiority. Mr. Gregory further stated that an optometrist holding himself out as having "special interest in" or "specializing in" low vision care, must be substantiated by bona fide credentials. The Board requested that Ms. Knachel and Ms. Yeatts draft language for a guidance document that addresses advertising of "expertise" for discussion at the next full board meeting.

**ABO Board Certification/Guidance Document
Regarding Use of Advertising for Certification**

Ms. Knachel requested input from the Board on the correspondence received from Michael P. Rosenblatt, O.D., Vice-President of Strategic Affairs for the American Optometric Society. The correspondence requested that the Board issue a formal opinion on how doctors of optometry may represent themselves if they are certified by the American Board of Optometry. The Board requested that Ms. Knachel and Ms. Yeatts include draft language that addresses advertising board certification in the guidance document requested in the immediately preceding agenda item.

CPT Codes

The Board requested that the review and discussion of CPT codes 92132-92134 and deletion of 92135 be delayed until the CPT code publication has been released in 2011 containing the descriptive language. The item was requested to be placed on the Board's next meeting agenda.

Probable Cause Case Review Sheets

Ms. Knachel briefly explained revisions to the disciplinary Probable Cause Case Review Sheet. During review of the revisions, Dr. Schlabach inquired about the function of advisory letters. Ms. Knachel advised that she would explore how other boards within the agency utilize advisory letters and report back to the Board.

Newsletter Articles

Ms. Knachel informed the Board that she had received several articles from board members in response to the discussion that occurred during the last board meeting. She informed the Board that the newsletter could be published by December 15, 2010. She informed the board members that articles submitted are edited to ensure accuracy. An edited article will be returned to the respective board members for approval. Further, that a draft of the newsletter would be sent to all board members and published upon the final approval of Dr. Jellenek, Board President.

2011 Calendar

The Board scheduled full board meetings for the following dates in 2011:

January 24, 2011 at 9:30 a.m.

May 11, 2011 at 9:30 a.m.

July 20, 2011 at 9:30 am

November 16, 2011 at 9:30 am

The Board scheduled the following dates in 2011 for Informal Conferences:

January 20, 2011

April 13, 2011

June 8, 2011

September 21, 2011

October 11, 2011

Committee Appointments

Dr. Jellenek made the following committee assignments:

Credentials Committee – Dr. M.E. Jackson to replace Dr. David Hettler (term expired); and

Legislative/Regulatory Review Committee – Dr. M.E. Jackson to replace Dr. David Hettler (term expired).

CLOSED SESSION:

Dr. Noble moved that the Board convene a closed meeting pursuant to § 2.2-37.11 (A) (7) of the Code of Virginia for consultation with and the provision of legal advice by the Assistant Attorney General in the matter of statutory and regulatory interpretation and application. Additionally, Dr. Noble moved that Ms. Knachel, Ms. Yeatts, Mr. Banning, Ms. Stamey and Ms. Williams attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the board in its deliberation. The motion was seconded and carried.

Dr. Schlabach moved to certify that the Board heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried.

PRESIDENT’S REPORT:

No President’s Report was provided

EXECUTIVE DIRECTOR’S REPORT:

Budget

Ms. Knachel reported that the cash balance as of September 30, 2010 was \$122, 807.

Statistics

Ms. Knachel informed the Board that as a result of the e-renewal notification project launched in November, thirty-two percent of licensed optometrists had renewed as of November 18, 2010, reducing the number of paper renewals to be mailed on December 1, 2010.

Ms. Knachel provided the following statistical information:

Open disciplinary cases

Investigation: 6

Probable Cause: 13

Administrative Proceedings Division: 3

Informal Conference: 1

Licensees

202 (non-TPA)

226 (PD)

1364 (TPA)

1792 Total

Ms. Knachel announced that the board’s website was recently

updated to provide quicker access to the Laws and Regulations section.

NEW BUSINESS:

There was no new business.

ADJOURNMENT:

The board concluded its meeting at 1:10 p.m.

Gregory P. Jellenek, O.D.
Chair

Leslie L. Knachel, M.P.H.
Executive Director