BOARD OF OPTOMETRY
BOARD MEETING
DECEMBER 7, 2004

TIME AND PLACE: The meeting was held at the Department of Health Professions, 6603 West Broad Street, Room 4, at 9:00 a.m.

CHAIRMAN: David H. Hettler, O.D., Chair

MEMBERS PRESENT:
Paula H. Boone, O.D.
Gregory P. Jellenek, O.D.
W. Ernest Schlabach, Jr., O.D.
William T. Tillar, O.D.

MEMBERS NOT PRESENT: Cathleen Burk, Citizen Member

STAFF PRESENT:
Elizabeth A. Carter, Ph.D.
Emily Wingfield, Assistant Attorney General, Board Counsel
Robert Nebiker, Agency Director
Elaine Yeatts, Senior Research Analyst
Carol Stamey, Administrative Assistant

OTHERS PRESENT:
Pat Jackson, O.D., VOA
Bruce Keeney, VOA
Marc Hudson, O.D.
Cal Whitehead, VA Society of Ophthalmology
Tom Lisk, LR
Christy Tomlinson, DCI
Jenny Vithoulkas, DCI
Charlie Davis, DCI
Mary Fox, LR

PUBLIC COMMENT: Mr. Cal Whitehead, VA Society of Ophthalmology, addressed two issues regarding the proposed TPA regulations. He requested that the Board consider the definition of ocular adnexa and the definition and treatment guidelines for angle closure and narrow angle glaucoma. Mr. Whitehead submitted a copy of the VSO's recommended language. It is incorporated into the minutes as Attachment 1.

Mr. Whitehead also requested the Board's guidance on HB160 and SB272, involving prohibition of optometrists practicing in commercial or mercantile settings. Specifically, he requested the board's opinion on how the proposed legislation may impact an optometrist's ability to practice in an ophthalmology office that also houses an optical

shop.

APPROVAL OF MINUTES:

◈**Action** - On properly seconded motion by Dr. Schlabach, the Board voted unanimously to approve the minutes of the October 6, 2004 meeting.

AGENDA REVIEW:

Dr. Hettler noted the following additions to the agenda:
- closed session for review of a CE waiver;
- discussion of HB160 and SB272 by Ms. Yeatts.

BOARD BUSINESS:

Infant See™ Program, Letter from the VOA
Ms. Wingfield, Board Counsel, advised the Board that §54.1-3215.9 references fraudulent and deceptive *advertising.* The measure guards against "bait and switch" efforts whereby the consumer's acceptance of "free" services is somehow contingent upon other purchase. She advised that there is no Virginia statute that prohibits the provision of truly free optometric services, as long as a licensee practices in accordance with the statutes and regulations.

Adoption of Amendment to the TPA Formulary and Treatment Guidelines
Ms. Yeatts informed the board that the versions of the regulations in the agenda packet were incorrect. She presented the TPA formulary and treatment guidelines under the exemption of the APA for adoption by the board and they are incorporated into the minutes as Attachment 2.

◈**Action** – On properly seconded motion by Dr. Schlabach, the board voted unanimously to adopt the TPA formulary and treatment guidelines as proposed.

The public comment submitted by Mr. Cal Whitehead, VSO, was referred to the Legislative/Regulatory Review Committee for consideration at the January 21, 2005 meeting.

Review of HB160 and SB272
Ms. Yeatts presented an overview of HB160 and SB272. She noted that the legislation had been carried over from 2004 and a delayed and effective date of December 31, 2005 had been added. Mr. Nebiker informed the board that additional legislation will be introduced with amendments to §54.1-3205.

CLOSED SESSION:

◈**Action** – On properly seconded motion by Dr.

Boone, the Board convened a closed meeting pursuant to Section 2.2-3711.A.7 of the Code of Virginia for consultation with legal counsel in the matter of HB160 and SB272 legislation. Additionally, it was moved that Mr. Nebiker, Dr. Carter and Ms. Stamey remain in the closed meeting.

OPEN SESSION:

◈**Action** – On properly seconded motion by Dr. Boone, the Board certified that the matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed session were heard, discussed or considered during the closed session just concluded.

The Board took no action and moved to the next agenda item.

COMMITTEE REPORTS:

Dr. Schlabach reported that he had attended a meeting in St. Louis on the Association of Board of Optometry (ARBO) licensure mobility development program (i.e., CELMO). He presented a final copy of CELMO's application for licensees seeking registration with them. It will be presented at the SECO meeting in Atlanta. A copy of the CELMO application is incorporated into the minutes as Attachment 3.

Credentials Committee
Dr. Boone reported that the Committee had received one reinstatement application.

Professional Designation Committee
Dr. Boone reported that the Committee had received two applications for a professional designation title.

PRESIDENT'S REPORT:

Dr. Hettler appointed Dr. Schlabach as the Board representative to ARBO.

Dr. Hettler noted it appeared that Ms. Burk was resigning from the Board and wished to commend her for her service and efforts to the Board.

EXECUTIVE DIRECTOR'S REPORT:

Dr. Carter presented the statistics on licensure and case load. A copy of the statistics is incorporated into the minutes as Attachment 4.

Dr. Carter also presented a copy of a letter to be posted to the website detailing the changes to the statutes and regulations adopted today and e-mailed and mailed to all licensees and interested parties. The letter is incorporated into the minutes as

Attachment 5.

NEW BUSINESS:

Dr. Hettler reported that the Board had received a petition for rulemaking. Ms. Yeatts noted that the petition must be submitted to the registrar for a twenty-one day (21) comment and within ninety (90) days the board must respond to the petition.

Dr. Carter will request that the applicant submit his application and documentation for submission to the Credentials Committee for review.

Dr. Schlabach reported that a former member of the board, Charles Johnston, had passed away. The Board asked that a letter expressing condolences be sent to Ms. Johnston.

REQUEST FOR CE WAIVER:

A request for a waiver of the 2004 continuing education credits was received in the matter of Charles E. Cook, O.D.

CLOSED SESSION:

◈**Action** – On properly seconded motion by Dr. Boone, the Board convened a closed meeting pursuant to Section 2.2-3711.A.15 of the Code of Virginia for the purpose of consideration and discussion of medical records of Charles E. Cook, O.D. that are excluded from the Freedom of Information Act by Virginia Code Section 2.2-3705. Additionally, it moved that Dr. Carter and Ms. Stamey remain in the closed meeting.

OPEN SESSION:

◈**Action** – On properly seconded motion by Dr. Boone, the Board certified that the matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed session were heard, discussed or considered during the closed session just concluded.

◈**Action** – On properly seconded motion by Dr. Tillar, the Board voted unanimously to grant a waiver of the 2004 continuing education requirements to Charles E. Cook, O.D.

ADJOURNMENT:

The meeting adjourned at 10:20 a.m.

David H. Hettler, O.D., President

Elizabeth A. Carter, Ph.D., Executive Director

Attachment 1

December 6, 2004

For Board of Optometry consideration:

Definition of Ocular Adnexa:

18VAC105-20-46. Treatment guidelines for TPA[~~certification~~ certified optometrists].

A. TPA-certified optometrists may treat diseases and abnormal conditions of the [~~following structures of the~~] human eye and its adnexa which may be [~~appropriately~~] treated with [medically appropriate]pharmaceutical agents as referenced in 18VAC105-20-47. [The adnexa is defined as orbital contents specifically including the cornea, conjunctiva, episclera, orbital fat, extraocular muscles, lacrimal gland and the eyelid, eyelashes, and lacrimal drainage system. Nothing in these guidelines shall permit the treatment of the paranasal sinuses, the brain, the oropharyngeal cavity and systemic disease processes including but not limited to hypertension, diabetes, and collagen vascular diseases.

Definitions and Treatment Guidelines for Angle Closure and Narrow Angle Glaucoma

C. The [definitions and] protocol for treatment of angle closure [and narrow angle] glaucoma shall be as follows:

[1. As used in this chapter, angle closure glaucoma shall mean a closed angle in the involved eye with significantly increased intraocular pressure, and corneal microcystic edema.]

2. Treatment shall be limited to the initiation of immediate emergency care with appropriate pharmaceutical agents as prescribed by this chapter;

3. Once the diagnosis of [~~acute~~] angle closure glaucoma has been established by the optometrist, the ophthalmologist to whom the patient is to be referred should be contacted immediately;

4. If there are no medical contraindications, an oral osmotic agent may be administered as well as an oral carbonic anhydrase inhibitor and any other medically accepted, Schedule III, IV or VI, oral antiglaucomic agent as may become available; and

5. Proper topical medications as appropriate may also be administered by the optometrist.

6. As used in this chapter, narrow angle glaucoma shall mean a decreased angle in the involved eye with acute, sub-acute, latent, intermittent or chronic elevated intraocular pressure. [Treatment shall include timely referral to an ophthalmologist for consideration of preventive invasive procedures.]

7. Once the diagnosis of narrow angle glaucoma has been established by the optometrist, the ophthalmologist to whom the patient is to be referred should be contacted.

Attachment 2

Board of Optometry

FINAL EXEMPT AMENDED REGULATIONS

Promulgated under § 54.1-3223 of the Code of Virginia

(Changes in the proposed exempt regulations are bracketed.)

18VAC105-20-46. Treatment guidelines for TPA[~~certification~~ certified optometrists].

A. TPA-certified optometrists may treat diseases and abnormal conditions of the [~~following structures of the~~] human eye and its adnexa which may be [~~appropriately~~] treated with [medically appropriate]pharmaceutical agents as referenced in 18VAC105-20-47. [The adnexa is defined as conjoined, subordinate or immediately associated anatomic parts of the human eye, including eyelids and eyebrows.]

[~~1. Lids and adnexa;~~

~~2. Lacrimal system;~~

~~3. Cornea;~~

~~4. Conjunctiva; and~~

~~5. Episclera.~~]

B. In addition, the following may be treated:

1. Glaucoma (excluding the treatment of congenital and infantile glaucoma). Treatment of angle closure shall follow the [definition and] protocol prescribed in subsection C of this section.

2. Ocular-related post-operative care in cooperation with patient's surgeon.

3. Ocular trauma to the above tissues as in subsection A of this section.

4. Uveitis.

5. Anaphylactic shock (limited to the administration of intramuscular epinephrine).

C. The [definition and] protocol for treatment of angle closure glaucoma shall be as follows:

1. As used in this chapter, angle closure glaucoma shall mean a closed angle in the involved eye with significantly increased intraocular pressure, and corneal microcystic edema.

2. Treatment shall be limited to the initiation of immediate emergency care with appropriate pharmaceutical agents as prescribed by this chapter;

3. Once the diagnosis of [~~acute~~] angle closure glaucoma has been established by the optometrist, the ophthalmologist to whom the patient is to be referred should be contacted immediately;

4. If there are no medical contraindications, an oral osmotic agent may be administered as well as an oral carbonic anhydrase inhibitor and any other medically accepted, Schedule III, IV or VI, oral antiglaucomic agent as may become available; and

5. Proper topical medications as appropriate may also be administered by the optometrist.

D. An oral Schedule VI immunosuppressive agent shall only be used when 1) the condition fails to appropriately respond to any other treatment regimen; 2) such agent is prescribed in consultation with a physician; and 3) treatment with such agent includes monitoring of systemic effects.

18VAC105-20-47. Therapeutic pharmaceutical agents.

i. Decongestants; and

j. Immunosuppressive agents.

3. Orally administered Schedule VI agents:

a. Aminocaproic acids (including antifibrinolytic agents);

b. Anti-allergy (including antihistamines and leukotriene inhibitors);

c. Anti-fungal;

d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);

e. Anti-infective (including antibiotics and antivirals);

f. Anti-inflammatory (including steroidal and non-steroidal);

g. Decongestants; and

h. Immunosuppressive agents.

B. Schedule I, II and V drugs are excluded from the list of therapeutic pharmaceutical agents.

Attachment 3

CELMO
Council for Endorsed Licensure Mobility for Optometrists

Association of Regulatory Boards of Optometry

COUNCIL ON ENDORSED LICENSURE MOBILITY FOR OPTOMETRISTS

CELMO

(Pronounced *cellmo*)
(November 2004 revision)

I. CELMO CONCEPT – AN ARBO COMMITTEE

Program Name: Council on Endorsed Licensure Mobility for Optometrists (CELMO)

Purpose: To assist state optometry boards in reviewing applications for licensure from established practitioners in other jurisdictions.

Goals: To provide a license mobility vehicle by which state optometry boards can address the difficult task and burden of how to deal with the issue of licensure by endorsement in a uniform and consistent manner.

NOTE: It is acknowledged that each individual state board of optometry reserves the right to make its own determinations regarding licensure and this program in no way lessens that power, authority, and responsibility.

II. CELMO ELIGIBILITY REQUIREMENTS

The Optometrist must:

- have a doctor of optometry (O.D.) degree from a school or college of optometry accredited by the Accreditation Council on Optometric Education (ACOE).
- have been engaged in active practice for three of the last four years.
- have authority to prescribe medications (therapeutic pharmaceutical agents) in the state in which currently practicing.
- be in good standing with every state board from which a license is currently held.
- report all disciplinary actions taken by any state board or other entity.
- pay all applicable CELMO fees.

CELMO will obtain reports from the Healthcare Integrity and Protection Data Bank (HIPDB) and the National Practitioner Data Bank (NPDB) regarding the applicant.

III. PROGRAM OUTLINE

- Initial application fee = $50.00 and certificate fee = $200.00
  - 50 hours of COPE-approved CE over the 2-year period immediately preceding the application to CELMO.
    - A minimum of 20 hours is required from COPE group B; **4 of those hours** are required to be **CEE (Continuing Education with Examination).**
    - A minimum of 20 hours is required from COPE group C; **4 of those hours** are required to be **CEE (Continuing Education with Examination).**
    - The remaining 10 hours must be taken from COPE groups A, B, or C.
- The CELMO certificate will be valid for two years.
- Renewal certificate fee - $100
  - 50 hours of COPE-approved CE over the 2-year period immediately preceding the application to CELMO.
    - A minimum of 20 hours is required from COPE group B; **4 of those hours** are required to be **CEE (Continuing Education with Examination).**
    - A minimum of 20 hours is required from COPE group C; **4 of those hours** are required to be **CEE (Continuing Education with Examination).**
    - The remaining 10 hours must be taken from COPE groups A, B, or C.
- CE attendance documentation will be the responsibility of the practitioner. Once CELMO CE requirements have been completed, the practitioner shall forward copies of CE documentation to the CELMO office at ARBO. Upon request, copies of these records may be made available to the state board/(s) which is/(are) considering the licensure of the practitioner
- Any submission of fraudulent information or the failure to submit material information will result in immediate denial or rescission of the CELMO certificate and such action shall be reported to all applicable state boards.
- Upon request, CELMO will provide comparative information to the state boards of current licensure requirements and scope of practice provisions of other jurisdictions.

Council for Endorsed Licensure
Mobility for Optometrists

CELMO INITIAL APPLICATION FORM

Application Date: ____/____/____

Practitioner's Name: _____ DOB: ____/____/____

Address: _____

City/State/Zip: _____

Phones: o:_____ h:_____ cell:_____

E-mail Address: _____

School/College of Optometry_____ Date of Graduation:_____

Current and Past Licenses and License Numbers:

State	Current?	License #	State	Current?	License #
_____	Yes/No	_____	_____	Yes/No	_____
_____	Yes/No	_____	_____	Yes/No	_____
_____	Yes/No	_____	_____	Yes/No	_____

Have you been in active practice for three of the last four years? ☐ Yes ☐ No

List all practice locations: Dates of practice: Average number hours/week:

_____

_____

_____

_____

Are you in good standing with every state board from which a license is currently held?

☐Yes ☐ No If No, then explain:

_____

_____

Have you had any disciplinary actions taken by any state board or other entity?

☐ No ☐ Yes If yes, then list all disciplinary actions taken:

State: Date: Action taken:

_____

_____

_____

(CELMO will obtain reports from the Healthcare Integrity and Protection Databank (HIPDB) and the National Practitioners Databank (NPDB) regarding the applicant.

Please complete the continuing education chart below and attach proof of your 50 hours of continuing education to fulfill the CELMO requirement.

COPE Category B: Ocular Disease & Management: Glaucoma, Peri-operative Management of Ophthalmic Surgery, Refractive Surgery Management, Treatment and Management of Ocular Disease-Anterior Segment, Treatment and Management of Ocular Disease-Posterior Segment.

Minimum – **20 hours with 4 hours CEE** (continuing education with examination).

Date	COPE Course #	Course Title	Location	Administrator	# Hours	# CEE Hours

Total Group B = _____ Total CEE Group B = _____

COPE Category C: Related Systemic Disease: Neuro-Optometry, Pharmacology, Principles of Diagnosis, Systemic/Ocular Disease

Minimum – **20 hours with 4 hours CEE** (continuing education with examination).

Date	COPE Course #	Course Title	Location	Administrator	# Hours	# CEE Hours

Total Group C = _____ Total CEE Group C = _____

The REMAINING 10 HOURS FROM ANY COMBINATION OF COPE Category A: Clinical Optometry: Contact Lenses, Functional Vision/Pediatrics, General Optometry, Low Vision **or COPE Category B or COPE Category C**:

Date	COPE Course #	Course Title	Location	Administrator	# Hours	# CEE Hours

Total of the Optional Combination of Groups A, B, and C = _____

Council for Endorsed Licensure
Mobility for Optometrists

Please enclose a check for $50.00 for an initial application. The additional $200.00 certificate fee is due at the completion of the audit and verification process. Make checks payable to CELMO.

For payment by credit card:
Circle One: Visa or MasterCard : Account #:_____Expiration date:_____
Name as printed on the credit card:_____
Signature: _____

Mail to: CELMO
1750 South Brentwood Blvd.
Suite 503
St. Louis, MO 63144-1341

I hereby certify that the responses in this attestation and information in the documents are accurate, complete and current as of this date. Any material change in this information will be reported to CELMO. (NOTE: ORIGINAL ink signature must be submitted.)

I understand that nay submission of fraudulent information or failure to submit material information will result in immediate denial or rescission of the CELMO certificate and such action shall be reported to all applicable State Boards.

I also hereby authorize CELMO to utilize and distribute this information as CELMO deems necessary in order to process and evaluate my application.

Signed: _____

_____
(PRINT Name of signature)

_____
(Direct telephone number)

Date: _____

Council for Endorsed Licensure
Mobility for Optometrists

CELMO RENEWAL APPLICATION FORM

Application Date: ____/____/____

Practitioner's Name: _____ DOB: ____/____/____

Address: _____

City/State/Zip: _____

Phones: o:_____ h:_____ cell:_____

E-mail Address: _____

School/College of Optometry_____ Date of Graduation:_____

Current and Past Licenses and License Numbers:

State	Current?	License #	State	Current?	License #
_____	Yes/No	_____	_____	Yes/No	_____
_____	Yes/No	_____	_____	Yes/No	_____
_____	Yes/No	_____	_____	Yes/No	_____

Have you been in active practice for three of the last four years? ☐ Yes ☐ No

List all practice locations: Dates of practice: Average number hours/week:

_____

_____

_____

Are you in good standing with every state board from which a license is currently held?

☐Yes ☐ No If No, then explain:

_____

_____

Have you had any disciplinary actions taken by any state board or other entity?

☐ No ☐ Yes If yes, then list all disciplinary actions taken:

State: Date: Action taken:

_____

_____

_____

(CELMO will obtain reports from the Healthcare Integrity and Protection Databank (HIPDB) and the National Practitioners Databank (NPDB) regarding the applicant.

Please complete the continuing education chart below and attach proof of your 50 hours of continuing education to fulfill the CELMO requirement.

COPE Category B: Ocular Disease & Management: Glaucoma, Peri-operative Management of Ophthalmic Surgery, Refractive Surgery Management, Treatment and Management of Ocular Disease-Anterior Segment, Treatment and Management of Ocular Disease-Posterior Segment.

Minimum – **20 hours with 4 hours CEE** (continuing education with examination).

Date	COPE Course #	Course Title	Location	Administrator	# Hours	# CEE Hours

Total Group B = _____ Total CEE Group B = _____

COPE Category C: Related Systemic Disease: Neuro-Optometry, Pharmacology, Principles of Diagnosis, Systemic/Ocular Disease

Minimum – **20 hours with 4 hours CEE** (continuing education with examination).

Date	COPE Course #	Course Title	Location	Administrator	# Hours	# CEE Hours

Total Group C = _____ Total CEE Group C = _____

The REMAINING 10 HOURS FROM ANY COMBINATION OF COPE Category A: Clinical Optometry: Contact Lenses, Functional Vision/Pediatrics, General Optometry, Low Vision **or COPE Category B or COPE Category C**:

Date	COPE Course #	Course Title	Location	Administrator	# Hours	# CEE Hours

Total of the Optional Combination of Groups A, B, and C = _____

CELMO

Council for Endorsed Licensure
Mobility for Optometrists

Please enclose a check for $100.00 for RENEWAL fee. Make checks payable to CELMO.

For payment by credit card:
Circle One: Visa or MasterCard: Account #:_____Expiration date:_____
Name as printed on the credit card:_____
Signature: _____

Mail to: CELMO
1750 South Brentwood Blvd.
Suite 503
St. Louis, MO 63144-1341

I hereby certify that the responses in this attestation and information in the documents are accurate, complete and current as of this date. Any material change in this information will be reported to CELMO. (NOTE: ORIGINAL ink signature must be submitted.)

I understand that nay submission of fraudulent information or failure to submit material information will result in immediate denial or rescission of the CELMO certificate and such action shall be reported to all applicable State Boards.

I also hereby authorize CELMO to utilize and distribute this information as CELMO deems necessary in order to process and evaluate my application.

Signed: _____

_____
(PRINT Name of signature)

_____
(Direct telephone number)

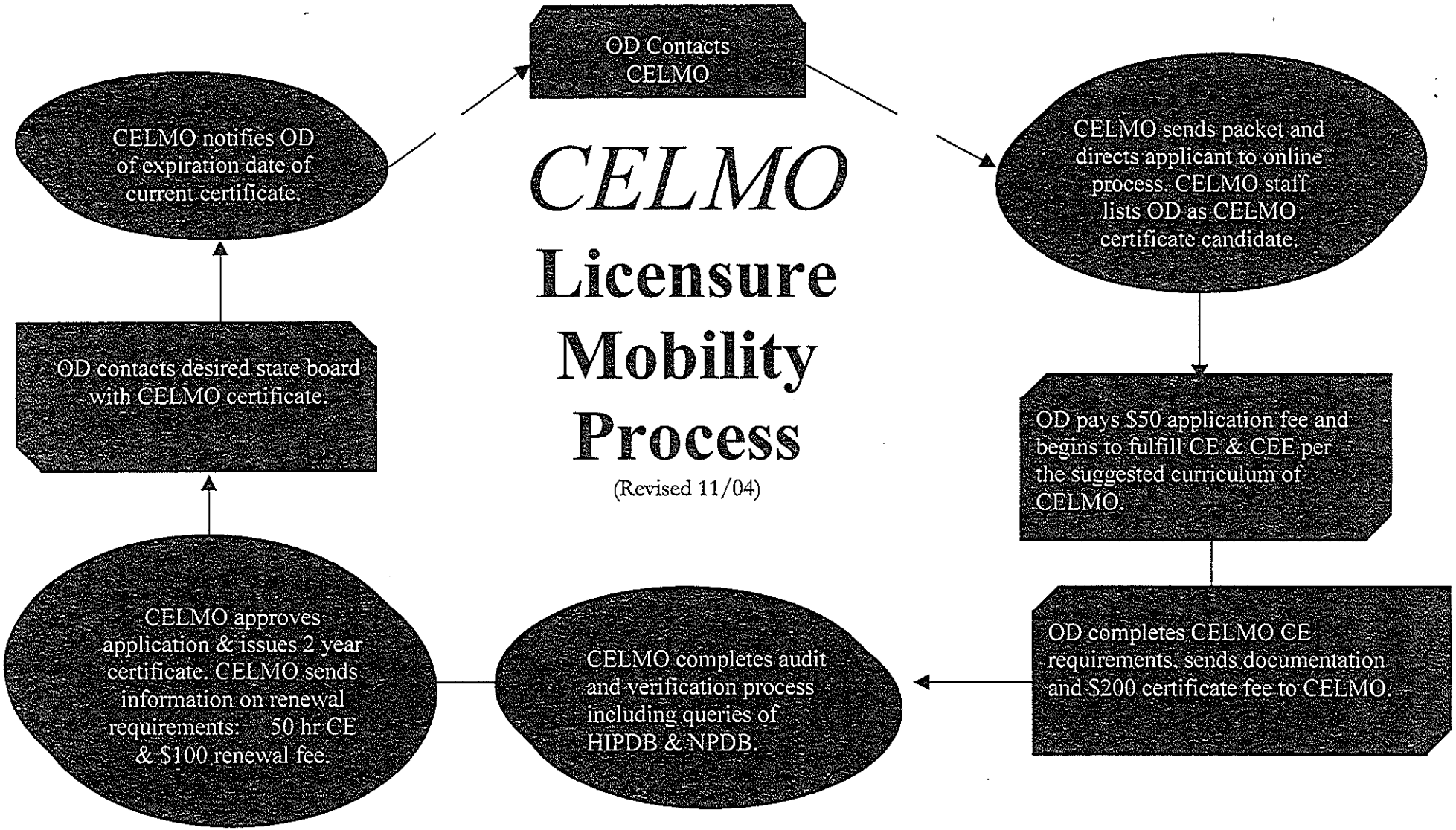
Date: _____

ARBO
Association of Regulatory Boards of Optometry, Inc.

Association of Regulatory Boards of Optometry

ARBO: www.arbo.org
COPE: www.copeonline.org
OptometryCE: www.OptometryCE.org
Tel: (314) 785-6000
Fax: (314) 785-6002
Email: arbo@arbo.org

1750 S. Brentwood Blvd., Suite 503, St. Louis, MO 63144-1341


OD Contacts CELMO
CELMO sends packet and directs applicant to online process. CELMO staff lists OD as CELMO certificate candidate.
OD pays $50 application fee and begins to fulfill CE & CEE per the suggested curriculum of CELMO.
OD completes CELMO CE requirements. sends documentation and $200 certificate fee to CELMO.
CELMO completes audit and verification process including queries of HIPDB & NPDB.
CELMO approves application & issues 2 year certificate. CELMO sends information on renewal requirements: 50 hr CE & $100 renewal fee.
OD contacts desired state board with CELMO certificate.
CELMO notifies OD of expiration date of current certificate.
CELMO
Licensure Mobility Process
(Revised 11/04)

CELMO

Council on Endorsed Licensure
Mobility for Optometrists

Council on Endorsed Licensure Mobility for Optometrists

Certificate

Has fulfilled the requirements of the Council on Licensure Mobility for Optometrists which represents the highest standard of optometric continuing education approved by the Council on Optometric Practitioner Education (COPE).

Issue Date:_____

Expiration Date:_____

ARBO President

CELMO Chairperson

ARBO

A service of the Association of Regulatory Boards of Optometry, Inc.

Attachment 4

License Count Report

Board	*Occupation*	*State*	*License Status*	*Count*
Optometry				
	Optometrist			
		Virginia	Current Active	895
		Out of state	Current Active	507
	Sum For *Optometrist*			***1402***
	Professional Designation			
		Virginia	Current Active	130
		Out of state	Current Active	2
	Sum For *Professional Designation*			***132***
	TPA Certified Optometrist			
		Virginia	Current Active	796
		Out of state	Current Active	286
	Sum For *TPA Certified Optometrist*			***1082***
Sum for Optometry				***2616***
Grand Total				***2616***

Attachment 5

COMMONWEALTH of VIRGINIA

Robert A. Nebiker
Director

Department of Health Professions
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712

www.dhp.virginia.gov
TEL (804) 662-9900
FAX (804) 662-9943
TDD (804) 662-7197

December 8, 2004

Dear Interested Parties:

Chapter 744 of the Acts of the Assembly (2004) (HB856) amended the following sections of the *Code of Virginia* relating to the practice of optometry: §§54.1-3200, 54.1-3211, 54.1-3222, 54.1-3223, and 54.1-3303 (see attached). This legislation required the Board of Optometry to promulgate emergency regulations for implementation within 280 days of its enactment. The regulations become effective today and remain in effect until December 7, 2005. This same legislation also significantly expanded the prescriptive authority of optometrists which necessitated amendments to the regulations governing the therapeutic pharmaceutical agents (TPA) formulary and treatment guidelines under the provisions of §54.1-3223.

Highlights of the statutory and regulatory amendments are described on the following pages. However, due to the extensive nature of the amendments, a copy of the full statutes and regulations governing optometry should be referenced. A copy of the regulations is provided with this letter.

Additional copies as well as all statutes regarding optometry may be downloaded from the Board's website:

www.dhp.virginia.gov/optometry/optometry_laws_regs.htm.

They are also available by contacting the Board office at 6603 W. Broad St., 5th Fl., Richmond, VA 23230-1712, at (804) 662-9910 or (804) 662-7098 (fax), or by e-mail at optbd@dhp.virginia.gov. Please advise the Board office of any questions you may have.

Sincerely yours,

David H. Hettler, O.D.
President
Virginia Board of Optometry

Cordially,

Elizabeth A. Carter, Ph.D.
Executive Director for the
Virginia Board of Optometry

Virginia Board of Optometry
Amendments Effective December 8, 2004

Statutory Amendments

Chapter 744 (2004) significantly expands the prescriptive authority of therapeutic pharmaceutical agents (TPA) certified optometrists to include Schedule III *through* VI controlled substances and devices as set forth in the *Virginia Drug Control Act* to treat diseases, including abnormal conditions, of the human eye and its adnexa, as determined by the Board. Oral TPAs used to treat ocular pain now include Schedule III *through* VI controlled substances. Also, Schedule VI *oral* as well as topical agents appropriate to treat diseases and abnormal conditions of the eye and its adnexa are now permitted. The legislation also struck from statute the specific listing of permitted diagnostic pharmaceutical agents (DPA). In lieu of a specific list, permissible DPAs are Schedule VI controlled substances used to examine and determine abnormal or diseased conditions of the eye or related structures. The legislation also requires all newly licensed optometrists to meet TPA certification requirements. Current licensees who were licensed prior to July 1, 2004 who are not also TPA certified may not use TPAs but may maintain licensure. The text of the legislation follows. Italicized text denotes the new language, and strikethroughs show where language has been struck from the statute.

CHAPTER 744

An Act to amend and reenact §§ 54.1-3200, 54.1-3211, 54.1-3221, 54.1-3222, 54.1-3223 and 54.1-3303 of the Code of Virginia, relating to the practice of optometry.

[H 856]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3200, 54.1-3211, 54.1-3221, 54.1-3222, 54.1-3223 and 54.1-3303 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3200. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Optometry.

"Optometrist" means any person practicing the profession of optometry as defined in this chapter and the regulations of the Board.

"Practice of optometry" means the examination of the human eye to ascertain the presence of defects or abnormal conditions which may be corrected or relieved by the use of lenses, prisms or ocular exercises, visual training or orthoptics; the employment of any subjective or objective mechanism to determine the accommodative or refractive states of the human eye or range or power of vision of the human eye; the use of testing appliances for the purpose of the measurement of the powers of vision; the examination, diagnosis, and optometric treatment in accordance with this chapter, of conditions and visual or muscular anomalies of the human eye; the use of diagnostic pharmaceutical agents set forth in § 54.1-3221; and the prescribing or adapting of lenses, prisms or ocular exercises, visual training or orthoptics for the correction, relief, remediation or prevention of such conditions. An optometrist may treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents only as permitted under this chapter.

"TPA-certified optometrist" means an optometrist who is licensed under this chapter and who has successfully completed the requirements for TPA certification established by the Board pursuant to Article 5 (§ 54.1-3222 et seq.) of this chapter. Such certification shall enable an optometrist to *prescribe and administer Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to* treat ~~certain~~ diseases, including abnormal conditions, of the human eye and its adnexa, as determined by the Board~~, with certain therapeutic pharmaceutical agents specified by the Board~~. Such certification shall not, however, permit treatment through surgery, including, but not limited to, laser surgery or other invasive modalities, except for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

The foregoing shall not restrict the authority of any optometrist licensed or certified under this chapter for the removal of superficial foreign bodies from the human eye and its adnexa or from delegating to personnel in his personal employ and supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by optometrists, if such activities or functions are authorized by and performed for such optometrists and responsibility for such activities or functions is assumed by such optometrists.

§ 54.1-3211. Examination.

The Board shall set the necessary standards to be attained in the examinations to entitle the candidate to receive a license to practice optometry.

The examination shall be given at least semiannually if there are any candidates who have applied to the Board for examination at least ~~thirty~~ *30* days before the date for the examination.

The examination shall include anatomy; physiology; pathology; general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications and emergency care associated with the use of diagnostic pharmaceutical agents; and the use of the appropriate instruments.

The Board may determine a score ~~which~~ *that* it considers satisfactory on any written examination of the National Board of Examiners in Optometry. The Board may waive its examination for a person who achieves a satisfactory score on the examination of the National Board of Examiners in Optometry.

Those persons licensed on or before June 30, 1997, to practice optometry in this state but not certified to administer diagnostic pharmaceutical agents may continue to practice optometry but may not administer diagnostic pharmaceutical agents without satisfying the requirements of this section. Those persons licensed after June 30, 1997, shall be considered as certified to administer diagnostic pharmaceutical agents. *After June 30, 2004, every person who is initially licensed to practice optometry in Virginia shall meet the qualifications for a TPA-certified optometrist.*

§ 54.1-3221. "Diagnostic pharmaceutical agents" defined; utilization; acquisition.

A. Certified optometrists may administer diagnostic pharmaceutical agents only by topical application to the human eye. "Diagnostic pharmaceutical agents" shall be defined as ~~the following drugs in strengths not to exceed these stated:~~

~~1. Mydriatics and cycloplegics known as tropicamide in a 1.0 percent solution, phenylephrine hydrochloride in a 2.5 percent solution and cyclopentolate hydrochloride in a 1.0 percent solution to be used only on persons three years of age or older;~~

~~2. Anesthetic agents known as proparacaine hydrochloride in a 0.5 percent solution, tetracaine in a 0.5 percent solution and benoxinate hydrochloride in a 0.4 percent solution;~~

~~3. The miotic known as pilocarpine in a 1.0 percent solution; and~~

~~4. Dapiprazole hydrochloride in a 0.5 percent solution~~ *Schedule VI controlled substances as set forth in the Drug Control Act (§ 54.1-3400 et seq.) that are used for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures.*

B. Any optometrist who utilizes diagnostic pharmaceutical agents without being certified as required by this article shall be subject to the disciplinary sanctions provided in this chapter.

C. Licensed drug suppliers or pharmacists are authorized to supply optometrists with diagnostic pharmaceutical agents upon presentation of evidence of Board certification for administration of such drugs.

§ 54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents.

A. The Board shall certify an optometrist to prescribe for and treat ~~certain~~ diseases or abnormal conditions of the human eye and its adnexa with ~~certain~~ therapeutic pharmaceutical agents, if the optometrist files a written application, accompanied by the fee required by the Board and satisfactory proof that the applicant:

1. Is licensed by the Board as an optometrist and certified to administer diagnostic pharmaceutical agents pursuant to Article 4 (§ 54.1-3220 et seq.) of this chapter;

2. Has satisfactorily completed such didactic and clinical training programs for the treatment of diseases and abnormal conditions of the eye and its adnexa as are determined, after consultation with a school or college of optometry and a school of medicine, to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients; and

3. Passes such examinations as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients.

B. TPA certification shall enable an optometrist to *prescribe and administer, within his scope of practice, Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to* treat ~~certain~~ diseases and abnormal conditions of the human eye and its adnexa as determined ~~by the Board with certain therapeutic pharmaceutical agents specified~~ by the Board, within the following conditions:

1. Treatment with oral therapeutic pharmaceutical agents shall be limited to ~~the~~ *(i)* analgesics included on Schedules III ~~and~~ *through* VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to alleviate ocular pain *and (ii) other Schedule VI controlled substances as defined in § 54.1-3455 of the Drug Control Act appropriate to treat diseases and abnormal conditions of the human eye and its adnexa.*

2. ~~Prescriptions for oral analgesics to relieve ocular pain shall be limited to dosages for no more than seventy-two hours.~~

~~3.~~ Therapeutic pharmaceutical agents shall include topically applied Schedule VI drugs as defined in § 54.1-3455 of the Drug Control Act.

4 3. ~~Treatment of glaucoma shall require prior consultation with the patient's physician or other appropriate physician, and shall exclude treatment of congenital and infantile glaucoma.~~ Treatment of angle closure glaucoma shall be limited to initiation of immediate emergency care.

~~5~~ *4. Treatment of infantile or congenital glaucoma shall be prohibited.*

5. Treatment through surgery or other invasive modalities shall not be permitted, except for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine~~, such as that included in a bee sting kit~~.

6. Entities permitted or licensed by the Board of Pharmacy to distribute or dispense drugs, including, but not limited to, wholesale distributors and pharmacists, shall be authorized to supply TPA-certified optometrists with those therapeutic pharmaceutical agents specified by the Board on the TPA-Formulary.

§ 54.1-3223. Regulations relating to instruction and training, examination, and therapeutic pharmaceutical agents.

A. The Board shall promulgate such regulations governing the treatment of ~~certain~~ diseases and abnormal conditions of the human eye and its adnexa with ~~certain~~ therapeutic pharmaceutical agents by TPA-certified optometrists as are reasonable and necessary to ensure an appropriate standard of medical care for patients, including, but not limited to, determinations of the diseases and abnormal conditions of the human eye and its adnexa ~~which~~ *that* may be treated by TPA-certified optometrists, treatment guidelines, and the drugs specified on the TPA-Formulary.

In establishing standards of instruction and training, the Board shall consult with a school or college of optometry and a school or college of medicine and shall set a minimum number of hours of clinical training to be supervised by an ophthalmologist. The didactic and clinical training programs may include, but need not be limited to, programs offered or designed either by schools of medicine or schools or colleges of optometry or both or some combination thereof.

The Board may prepare, administer, and grade appropriate examinations for the certification of optometrists to administer therapeutic pharmaceutical agents or may contract with a school of medicine, school or college of optometry, or other institution or entity to develop, administer, and grade the examinations.

In order to maintain a current and appropriate list of therapeutic pharmaceuticals on the TPA-Formulary, current and appropriate treatment guidelines, and current and appropriate determinations of diseases and abnormal conditions of the eye and its adnexa ~~which~~ *that* may be treated by TPA-certified optometrists, the Board may, from time to time, amend such regulations. Such regulations shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.), except to any extent that they may be specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031; the Board's regulations shall, however, comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.). The Board shall, however, conduct a public hearing prior to making amendments to the TPA-Formulary, the treatment guidelines or the determinations of diseases and abnormal conditions of the eye and its adnexa ~~which~~ *that* may be treated by TPA-certified optometrists. Thirty days prior to conducting such hearing, the Board shall give written notice by mail of the date, time, and place of the hearing to all currently TPA-certified optometrists and any other persons requesting to be notified of the hearings and publish notice of its intention to amend the list in the Virginia Register of Regulations. During the public hearing, interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any TPA-Formulary amendments. Proposed and final amendments of the list shall also be published, pursuant to § 2.2-4031, in the Virginia Register of Regulations. Final amendments to the TPA-Formulary shall become effective upon filing with the Registrar of Regulations. The TPA-Formulary shall be the inclusive list of the therapeutic pharmaceutical agents that a TPA-certified optometrist may prescribe.

B. To assist in the specification of the TPA-Formulary, there shall be a seven-member TPA-Formulary Committee, as follows: three Virginia TPA-certified optometrists to be appointed by the Board of Optometry, one pharmacist appointed by the Board of Pharmacy from among its licensees, two ophthalmologists appointed by the Board of Medicine from among its licensees, and the chairman who shall be appointed by the Board of Optometry from among its members. The ophthalmologists appointed by the Board of Medicine shall have demonstrated, through professional experience, knowledge of the optometric profession. In the event the Board of Pharmacy or the Board of Medicine fails to make appointments to the TPA-Formulary Committee within ~~thirty~~ *30* days following ~~July 1, 1996~~ *the Board of Optometry's requesting such appointments*, or within ~~thirty~~ *30* days following any subsequent vacancy, the Board of Optometry shall appoint such members.

The TPA-Formulary Committee shall recommend to the Board those therapeutic pharmaceutical agents to be included on the TPA-Formulary for the treatment of ~~certain~~ diseases and abnormal conditions of the eye and its adnexa by TPA-certified optometrists.

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription ~~which~~ *that* appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

C. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine authorized to issue such prescription if the prescription complies with the requirements of this chapter and Chapter 34 (§ 54.1-3400 et seq.) of this title, known as the "Drug Control Act."

D. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

E. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in Chapter 34 of this title in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

F. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title may issue prescriptions in good faith or provide manufacturers'

professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to *(i)* oral analgesics included in Schedules III ~~and~~ *through* VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), ~~when~~ *which are* appropriate to relieve ocular pain, ~~and~~ *(ii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa, (iii)* topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act, *and (iv) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.*

2. That the Board of Optometry shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

Regulatory Amendments

The Board has repealed the "Regulations for Certification for Therapeutic Pharmaceutical Agents" (§18 VAC 105-30-10 *et seq.*, hereafter referred to as "Chapter 30") and subsumed and amended the relevant portions under the "Regulations of the Virginia Board of Optometry" (§18 VAC 105-20-10 *et seq.*, hereafter referred to as "Chapter 20"). The relevant amendments are described by reference to Chapter 20 regulation sections. Reference to the Chapter 30 sections are provided where appropriate in italics:

105-20-05 - Definitions for "board," "TPA" and "TPA certification" have been moved unaltered from *105-30-10.*

105-20-10 & 105-20-15 reflects the new automatic requirement for TPA certification of new licensees on and after July 1, 2004 (ref. *105-30-30*).

105-20-16 provides the education and examination requirements for TPA certification. Also specifies the postgraduate training for someone who fails the Treatment and Management of Ocular Disease (TMOD) examination three times (ref. *105-30-35 & 105-30-40*).

105-20-20 sets the fees. There is a net reduction in cost. The new licensure application fee (which includes TPA certification) is $300. Formerly, it was $445 for licensure and TPA certification. The annual licensure renewal for those without TPA certification is unchanged at $150. However, the annual licensure renewal with TPA certification is $200 total (ref. *105-30-120*). Formerly, it was $150 for licensure and $75 for TPA certification. (NOTE: the renewal fees apply to *next* year's renewal).

105-20-46 & 105-20-47. These are new sections which provide for revisions to former Chapter 30's sections 60 and 70 (repealed) by setting forth new treatment guidelines and TPA formulary. Detailed text for each section is provided with

105-20-70 requires annual renewal of TPA certification with licensure and at least two (2) hours of continuing education directly related to prescribing and administering TPAs

---

Commonwealth of Virginia

REGULATIONS

OF THE

VIRGINIA BOARD OF OPTOMETRY

Title of Regulations: 18 VAC 105-20-10 et seq.

Statutory Authority: § 54.1-2400 and Chapter 32 of Title 54.1 of the *Code of Virginia*

Revised Date: December 8, 2004

(804) 662-9910 (TEL)
(804) 662-7098 (FAX)
email: optbd@dhp.virginia.gov

Board of Optometry

CHAPTER 20
REGULATIONS GOVERNING THE PRACTICE OF OPTOMETRY

18VAC105-20-05. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Board" means the Virginia Board of Optometry.

"TPA" means therapeutic pharmaceutical agents.

"TPA certification" means authorization by the Virginia Board of Optometry for an optometrist to treat diseases and abnormal conditions of the human eye and its adnexa and to prescribe and administer certain therapeutic pharmaceutical agents.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

18VAC105-20-10. Licensure by examination.

A. The applicant, in order to be eligible for licensure by examination to practice optometry in the Commonwealth shall meet the requirements for TPA certification in 18VAC105-20-16 and shall:

1. Be a graduate of a school of optometry accredited by the Council on Optometric Education; have an official transcript verifying graduation sent to the board;

2. Request submission of an official report from the National Board of Examiners in Optometry of a score received on each required part of the examination of the National Board of Examiners in Optometry or other board-approved examination; and

3. Submit a completed application and the prescribed fee.

B. Applicants who passed the National Board Examination prior to May 1985 shall apply for licensure by endorsement as provided for in 18VAC105-20-15.

C. Required examinations.

1. For the purpose of §54.1-3211 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure. After July 1, 1997, the board shall require passage as determined by the board of Parts I, II, and III of the National Board Examination.

2. As part of the application for licensure, an applicant must sign a statement attesting that he has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

18VAC105-20-15. Licensure by endorsement.

A. An applicant for licensure by endorsement shall meet the requirements for TPA certification in 18VAC105-20-16, pay the fee as prescribed in 18VAC105-20-20 and file a completed application that certifies the following:

1. The applicant has successfully completed a licensing examination or certification in optometry in any jurisdiction of the United States that is approximately comparable to the Virginia examination at the time of initial licensure.

2. The applicant has been engaged in active clinical practice for at least 36 months out of the last 60 months immediately preceding application.

3. The applicant is not a respondent in a pending or unresolved malpractice claim.

4. Each jurisdiction in which the applicant is currently licensed has verified that:

a. The license is full and unrestricted, and all continuing education requirements have been completed, if applicable;

b. The applicant is not a respondent in any pending or unresolved board action;

c. The applicant has not committed any act which would constitute a violation of §54.1-3204 or §54.1-3215 of the Code of Virginia; and

d. The applicant has graduated from an accredited school or college of optometry.

B. The applicant shall also provide proof of competency in the use of diagnostic pharmaceutical agents (DPAs) which shall consist of a report from the national board of passing scores on all sections of Parts I and II of the National Board Examination taken in May 1985 or thereafter. If the applicant does not qualify through examination, he shall provide other proof of meeting the requirements for the use of DPA as provided in §§54.1-3220 and 54.1-3221 of the Code of Virginia.

C. As part of the application for licensure, an applicant must sign a statement attesting that he has read, understands, and will comply with the statutes and regulations governing the practice of optometry in Virginia.

D. In the case of a federal service optometrist, the commanding officer shall also verify that the applicant is in good standing and provide proof of credentialing and quality assurance review to satisfy compliance with applicable requirements of subsection A of this section.

E. In the event the examinations for initial licensure are determined not comparable, the board may require the applicant to take and pass a regional or national practical examination.

F. An optometrist previously licensed in Virginia is not eligible for licensure by endorsement but may apply for reinstatement of licensure under 18VAC105-20-60.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

18VAC105-20-16. Requirements for TPA certification.

A. An applicant for licensure shall meet the following requirements for TPA certification:

1. Complete a full-time, postgraduate or equivalent graduate-level optometric training program which is approved by the board and which shall include a minimum of 20 hours of clinical supervision by an ophthalmologist; and

2. Take and pass the TPA certification examination, which shall be Treatment and Management of Ocular Disease (TMOD) of the National Board of Optometric Examiners or if TPA-certified by a state examination, provide evidence of comparability to the NBOE examination that is satisfactory to the board.

B. A candidate for certification by the board who fails the examination as required in 18VAC105-20-16 B, following three attempts, shall complete additional postgraduate training as determined by the board to be eligible for TPA certification.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

18VAC105-20-20. Fees.

A. Required fees.

Initial application and licensure (including TPA certification) $300
Annual licensure renewal without TPA certification $150
Annual licensure renewal with TPA certification $200
Late renewal without TPA certification $50
Late renewal with TPA certification $65
Returned check $25
Professional designation application $100
Annual professional designation renewal (per location) $50
Late renewal of professional designation $20
Reinstatement application fee (including renewal and late fees) $450
Reinstatement application after disciplinary action $500
Duplicate wall certificate $25
Duplicate license $10
Licensure verification $10

B. Unless otherwise specified, all fees are nonrefundable.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

18VAC105-20-30. (Repealed).

18VAC105-20-40. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to violate any statute or regulation governing the practice of optometry or to fail to:

1. Use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."

2. Maintain records on each patient for not less than five years from the date of the most recent service rendered.

3. Post in an area of the optometric office which is conspicuous to the public, a chart or directory listing the names of all optometrists practicing at that particular location.

4. Maintain patient records, perform procedures or make recommendations during any eye examination, contact lens examination or treatment as necessary to protect the health and welfare of the patient.

5. Notify patients in the event the practice is to be terminated, giving a reasonable time period within which the patient or an authorized representative can request in writing that the records or copies be sent to any other like-regulated provider of the patient's choice or destroyed.

18VAC105-20-41. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

A. Decision to delegate.

In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

B. Criteria for delegation.

Cases may be delegated to an agency subordinate upon approval by a committee of the board, except those in which an optometrist may have conducted his practice in such a manner as to endanger the health and welfare of his patients or the public.

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include current or past board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

(Amended under emergency regulations effective August 25, 2004, through August 24, 2005)

18VAC105-20-45. Standards of practice.

A. A complete record of all examinations made of a patient shall include a diagnosis and any treatment and shall also include but not be limited to:

1. During a comprehensive eye examination:

a. Case history;

b. Acuity measure;

c. Internal health evaluation;

d. External health evaluation; and

e. Recommendations and directions to the patients, including prescriptions.

2. During an initial contact lens examination:

a. The requirements of a comprehensive eye examination;

b. Assessment of corneal curvature;

c. Assessment of corneal/contact lens relationship;

d. Acuity through the lens; and

e. Directions for the care and handling of lenses and an explanation of the implications of contact lenses with regard to eye health and vision.

3. During a follow-up contact lens examination:

a. Assessment of corneal/contact lens relationship and anterior segment health;

b. Acuity through the lens; and

c. Such further instructions as in subdivision 2 of this subsection, as necessary for the individual patient.

4. In addition, the record of any examination shall include the signature of the attending optometrist and, if indicated, refraction of the patient.

B. The following information shall appear on a prescription for ophthalmic goods:

1. The printed name of the prescribing optometrist;

2. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;

3. The name of the patient;

4. The signature of the optometrist;

5. The date of the examination and an expiration date, if medically appropriate; and

6. Any special instructions.

C. Sufficient information for complete and accurate filling of an established contact lens prescription shall include but not be limited to the power, the material or manufacturer or both, the base curve or appropriate designation, the diameter when appropriate, and medically appropriate expiration date.

D. A licensed optometrist shall provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid. In addition, he shall provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if no reappointment is recommended within 60 days after the last visit.

18VAC105-20-46. Treatment guidelines for TPA certified optometrists.

A. TPA-certified optometrists may treat diseases and abnormal conditions of the human eye and its adnexa which may be treated with medically appropriate pharmaceutical agents as referenced in 18VAC105-20-47. The adnexa is defined as conjoined, subordinate or immediately associated anatomic parts of the human eye, including eyelids and eyebrows.

B. In addition, the following may be treated:

1. Glaucoma (excluding the treatment of congenital and infantile glaucoma). Treatment of angle closure shall follow the definition and protocol prescribed in subsection C of this section.

2. Ocular-related post-operative care in cooperation with patient's surgeon.

3. Ocular trauma to the above tissues as in subsection A of this section.

4. Uveitis.

5. Anaphylactic shock (limited to the administration of intramuscular epinephrine).

C. The definition and protocol for treatment of angle closure glaucoma shall be as follows:

1. As used in this chapter, angle closure glaucoma shall mean a closed angle in the involved eye with significantly increased intraocular pressure, and corneal microcystic edema.

2. Treatment shall be limited to the initiation of immediate emergency care with appropriate pharmaceutical agents as prescribed by this chapter;

3. Once the diagnosis of angle closure glaucoma has been established by the optometrist, the ophthalmologist to whom the patient is to be referred should be contacted immediately;

4. If there are no medical contraindications, an oral osmotic agent may be administered as well as an oral carbonic anhydrase inhibitor and any other medically accepted, Schedule III, IV or VI, oral antiglaucomic agent as may become available; and

5. Proper topical medications as appropriate may also be administered by the optometrist.

D. An oral Schedule VI immunosuppressive agent shall only be used when 1) the condition fails to appropriately respond to any other treatment regimen; 2) such agent is prescribed in consultation with a physician; and 3) treatment with such agent includes monitoring of systemic effects.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

18VAC105-20-47. Therapeutic pharmaceutical agents.

A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:

1. Oral analgesics - Schedule III, IV and VI narcotic and non-narcotic agents.

2. Topically administered Schedule VI agents:

a. Alpha-adrenergic blocking agents;

b. Anesthetic (including esters and amides);

c. Anti-allergy (including antihistamines and mast cell stabilizers);

d. Anti-fungal;

e. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);

f. Anti-infective (including antibiotics and antivirals);

g. Anti-inflammatory;

h. Cycloplegics and mydriatics;

i. Decongestants; and

j. Immunosuppressive agents.

3. Orally administered Schedule VI agents:

a. Aminocaproic acids (including antifibrinolytic agents);

b. Anti-allergy (including antihistamines and leukotriene inhibitors);

c. Anti-fungal;

d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);

e. Anti-infective (including antibiotics and antivirals);

f. Anti-inflammatory (including steroidal and non-steroidal);

g. Decongestants; and

h. Immunosuppressive agents.

B. Schedule I, II and V drugs are excluded from the list of therapeutic pharmaceutical agents.

C. Over-the-counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed or dispensed.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

18VAC105-20-50. Professional designations.

A. In addition to the name of the optometrist as it appears on the license, an optometrist may practice in an office that uses only one of the following:

1. The name of an optometrist who employs him and practices in the same office;

2. A partnership name composed of some or all names of optometrists practicing in the same office; or

3. A professional designation, if the conditions set forth in subsection B of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a professional designation for the optometric office in which they conduct their practices provided the following conditions are met:

1. A professional designation shall be registered with the board by a licensed optometrist who has an ownership or equity interest in the optometric practice and who must practice in any location with that registered designation and who shall assume responsibility for compliance with this section and with the statutes and regulations governing the practice of optometry.

2. A professional designation shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.

3. No licensed optometrist may, at any time, register to practice optometry under more than one professional designation.

4. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the word "optometry" or reasonably recognizable derivatives thereof unless the name of the optometrist is used with the professional designation with the O.D. designation, Doctor of Optometry or optometrist.

5. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.

6. The names of all optometrists who practice under the professional designation shall be maintained in the records of the optometric office for five years following their departure from the practice.

7. The name of the licensed optometrist providing care shall appear on all statements of charges and receipts given to patients.

8. An optometrist may use a professional designation which contains the name of an inactive, retired, removed, or deceased optometrist for a period of no more than one year from the date of succession to a practice and so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

18VAC105-20-60. Renewal of licensure; reinstatement; renewal fees.

A. Every person authorized by the board to practice optometry shall, on or before December 31 of every year, submit a completed renewal application and pay the prescribed annual licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address. All changes of mailing address or name shall be furnished to the board within 30 days after the change occurs. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address given and shall not relieve the licensee of the obligation to comply.

C. The license of every person who does not return the completed form and fee by December 31 of each year may be renewed for up to one year by paying the prescribed renewal fee and late fee, provided the requirements of 18VAC105-20-70 have been met. After December 31, a license that has not been renewed is lapsed. Practicing optometry in Virginia with a lapsed license may subject the licensee to disciplinary action and additional fines by the board.

D. An optometrist whose license has been lapsed for more than one year and who wishes to resume practice in Virginia shall apply for reinstatement. The executive director may grant reinstatement provided that:

1. The applicant can demonstrate continuing competence;

2. The applicant has satisfied current requirements for continuing education for the period in which the license has been lapsed, not to exceed two years; and

3. The applicant has paid the prescribed reinstatement application fee.

E. The board may require an applicant who has allowed his license to expire and who cannot demonstrate continuing competency to pass all or parts of the board-approved examinations.

18VAC105-20-70. Requirements for continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 16 hours of continuing education taken by the applicant during the previous license period.

1. Fourteen of the 16 hours shall pertain directly to the care of the patient. The 16 hours may include up to two hours of recordkeeping for patient care and up to two hours of training in cardiopulmonary resuscitation (CPR). Optometrists with TPA certification shall complete at least two hours annually of continuing education directly related to the prescribing and administration of TPA's.

2. For optometrists who are certified in the use of therapeutic pharmaceutical agents, at least two of the required continuing education hours shall be directly related to the prescribing and administration of such drugs.

3. Courses that are solely designed to promote the sale of specific instruments or products and courses offering instruction on augmenting income are excluded and will not receive credit by the board.

B. Each licensee shall attest to fulfillment of continuing education hours on the required annual renewal form. All continuing education shall be completed prior to December 31 unless an extension or waiver has been granted by the Continuing Education Committee.

C. All continuing education courses shall be offered by an approved sponsor listed in subsection G of this section. Courses that are not approved by a board-recognized sponsor in advance shall not be accepted for continuing education credit. For those courses that have a post-test requirement, credit will only be given if the optometrist receives a passing grade as indicated on the certificate.

D. Licensees shall maintain continuing education documentation for a period of not less than three years. A random audit of licensees may be conducted by the board which will require that the licensee provide evidence substantiating participation in required continuing education courses within 14 days of the renewal date.

E. Documentation of hours shall clearly indicate the name of the continuing education provider and its affiliation with an approved sponsor as listed in subsection G of this section. Documents that do not have the required information shall not be accepted by the board for determining compliance. Correspondence courses shall be credited according to the date on which the post-test was graded as indicated on the continuing education certificate.

F. A licensee shall be exempt from the continuing competency requirements for the first renewal following the date of initial licensure by examination in Virginia.

G. An approved continuing education course or program, whether offered by correspondence, electronically or in person, shall be sponsored or approved by one of the following:

1. The American Optometric Association and its constituent organizations.

2. Regional optometric organizations.

3. State optometric associations and their affiliate local societies.

4. Accredited colleges and universities providing optometric or medical courses.

5. The American Academy of Optometry and its affiliate organizations.

6. The American Academy of Ophthalmology and its affiliate organizations.

7. The Virginia Academy of Optometry.

8. Council on Optometric Practitioner Education (C.O.P.E.).

9. State or federal governmental agencies.

10. College of Optometrists in Vision Development.

11. The Accreditation Council for Continuing Medical Education of the American Medical Association for Category 1 or Category 2 credit.

12. Providers of training in cardiopulmonary resuscitation (CPR).

13. Optometric Extension Program.

(Amended under emergency regulations effective from December 8, 2004 to December 7, 2005)

Repeal of Chapter 30

VIRGINIA BOARD OF OPTOMETRY

Title of Regulations: 18 VAC 105-30-10 et seq.
Certification for Therapeutic Pharmaceutical Agents

~~**PART I.**~~
~~**GENERAL PROVISIONS.**~~

~~**18 VAC 105-30-10. Definitions.**~~

~~The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:~~

~~"Board" means the Virginia Board of Optometry.~~

~~"TPA" means therapeutic pharmaceutical agents as set forth in 18 VAC 105-30-70.~~

~~"TPA certification" means authorization by the Virginia Board of Optometry for an optometrist to treat certain diseases, including abnormal conditions, of the human eye and its adnexa and to prescribe and administer certain therapeutic pharmaceutical agents.~~

~~**18 VAC 105-30-20. Public Participation Guidelines.**~~

~~A separate board regulation, 18 VAC 105-10-10 et seq., provides for involvement of the public in the development of all regulations of the Virginia Board of Optometry.~~

~~**PART II.**~~
~~**APPLICATION FOR CERTIFICATION EXAMINATION.**~~

~~**18 VAC 105-30-30. Application for certification by examination.**~~

~~An applicant for TPA certification shall provide:~~

~~1. A completed application on a form provided by the board;~~

~~2. The fee specified in 18 VAC 105-30-120 to be paid at the time of filing the application;~~

3. Additional documents as follows:

a. Evidence of satisfactory completion of the postgraduate optometric training as specified in § 54.1-3222 of the Code of Virginia and in 18 VAC 105-30-35;

b. Verification of unrestricted licensure in all other jurisdictions in which the applicant is licensed as an optometrist; and

c. Documentation of passage of the examination as required in 18 VAC 105-30-40.

18 VAC 105-30-35. Required training for TPA certification.

An applicant applying for TPA certification shall be required to complete a full time, postgraduate or equivalent graduate-level optometric training program which is approved by the board and which include a minimum of 20 hours of clinical supervision by an ophthalmologist.

PART III.
EXAMINATION.

18 VAC 105-30-40. Examination for certification.

A. The TPA certification examination shall be Treatment and Management of Ocular Disease (TMOD) of the National Board of Optometric Examiners or any other examination as approved by the board.

B. A candidate for certification by the board who fails the examination following three attempts shall complete additional postgraduate training as required in 18 VAC 105-30-35 to be eligible to take further examinations.

PART IV.
SCOPE OF PRACTICE FOR AN OPTOMETRIST CERTIFIED TO USE THERAPEUTIC DRUGS.

18 VAC 105-30-50. (Repealed.)

18 VAC 105-30-60. Treatment guidelines.

A. TPA certified optometrists may treat diseases and abnormal conditions of the following structures of the human eye and its adnexa which may be appropriately treated with pharmaceutical agents as referenced in 18 VAC 105-30-70:

1. Lids and adnexa;
2. Lacrimal system;
3. Cornea;
4. Conjunctiva; and

5. Episclera.

B. In addition, the following may be treated:

1. Glaucoma (with prior consultation with the patient's physician or other appropriate physician and excluding the treatment of congenital and infantile glaucoma). Treatment of angle closure shall follow the protocol prescribed in subsection C of this section.
2. Ocular related post-operative care in cooperation with patient's surgeon.
3. Ocular trauma to the above tissues as in subsection A of this section.
4. Uveitis, anterior.
5. Anaphylactic shock (limited to the administration of intramuscular epinephrine).

C. The protocol for treatment of acute angle closure glaucoma shall be as follows:

1. Treatment shall be limited to the initiation of immediate emergency care with appropriate pharmaceutical agents as prescribed by this chapter.
2. Once the diagnosis of acute angle closure glaucoma has been established by the optometrist, the ophthalmologist to whom the patient is to be referred should be contacted immediately;
3. If there are no medical contraindications, an oral osmotic agent may be administered as well as an oral carbonic anhydrase inhibitor and any other medically accepted, Schedule VI, oral antiglaucomic agent as may become available; and
4. Proper topical medications as appropriate may also be administered by the optometrist.

18 VAC 105-30-70. Therapeutic pharmaceutical agents.

A. A certified optometrist may procure for administration, administer and prescribe the following topically applied pharmaceutical agents (Schedule VI) or any therapeutically appropriate combination thereof. For clarification and reference, the list of approved topical preparations shall be those listed in Chapter 12 of the current edition of *Drug Facts and Comparisons Updated Monthly* as it is updated, with the exception of injectible ophthalmic agents and otic preparations. (A copy of current approved list will be provided upon request from the Board of Optometry.)

1. Anti-allergy;
2. Anti-glaucoma;
3. Anti-infective;
4. Anti-inflammatory;
5. Cycloplegic and Mydriatic; and
6. Decongestant.

B. A certified optometrist may procure for administration, administer, or prescribe the following oral pharmaceutical agents: narcotic and non-narcotic analgesics limited to Schedule III and VI. For clarification and reference, Schedule III analgesics shall be those oral analgesic preparations containing codeine or hydrocodone in combination with non-narcotic analgesics. Further, the following list of Schedule VI oral analgesic preparations are approved:

Schedule VI oral analgesics:

Non-steroidal anti-inflammatory drugs:

- ibuprofen
- ketoralac
- nabumetone
- naproxen sodium
- etodolac
- ketoprofen
- diclofenac sodium or diclofenac potassium
- fenoprofen or fenoprofen calcium

Centrally acting analgesics:

- tramodol hydrochloride

C. Over-the-counter topical and oral medications appropriate to the treatment of the eye may be procured for administration, administered, prescribed or dispensed.

D. A certified optometrist may prescribe and dispense contact lenses for therapeutic purposes.

E. A TPA certified optometrist may inject epinephrine intramuscularly for anaphylactic shock.

18 VAC 105-30-80. (Reserved).

PART V.
RENEWAL OF CERTIFICATION.

18 VAC 105-30-90. Renewal of certification.

Every optometrist TPA certified by the board shall renew his certification with the annual renewal of his license to practice optometry. At least two of the continuing education hours required for renewal of an optometrist license shall be directly related to the prescribing and administration of therapeutic pharmaceutical agents.

18 VAC 105-30-100. Expiration of certification.

An optometrist who allows his certification to expire shall be considered not certified by the board. An optometrist who proposes to resume the treatment of certain diseases and administer certain therapeutic pharmaceutical agents shall submit an application for reinstatement, pay the reinstatement fee and provide evidence of continued competency to resume such practice.

18 VAC 105-30-110. (Repealed.)

PART VI.
FEES.

18 VAC 105-30-120. Fees required by the board.

~~A. The following fees are required by the board:~~

~~Application~~	~~$200~~
~~Annual renewal~~	~~$75~~
~~Penalty for late renewal~~	~~$25~~
~~Verification letter to another jurisdiction~~	~~$10~~
~~Returned check~~	~~$25~~
~~Duplicate wall certificate~~	~~$25~~
~~Duplicate certification~~	~~$10~~
~~Reinstatement~~	~~$300~~

~~B. All fees are nonrefundable.~~

~~**Document Incorporated by Reference**~~

~~**Facts and Comparisons, January 1999, updated monthly. Facts and Comparisons may be obtained by calling toll-free, 1-800-223-0554.**~~