

DRAFT
VIRGINIA BOARD OF OPTOMETRY
SPECIAL CONFERENCE COMMITTEE
SEPTEMBER 27, 2006

TIME & PLACE: September 27, 2006 at 9:00 a.m., at the Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 4, Richmond, Virginia.

MEMBERS PRESENT: W. Ernest Schlabach, Jr., O.D.
Paula H. Boone, O.D.

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director
Cynthia Gaines, Senior Adjudication Analyst, APD
Carol Stamey, Administrative Assistant
Susan Beaseaker, Compliance

MATTER SCHEDULED: **Allan G. Dosik, O.D., 0601-000973**
Case No.: 105250
Dr. Dosik was present and not represented by Counsel.

PRELIMINARY MATTER: The conference was conducted to discuss allegations that he may have violated portions of the laws and regulations governing the practice of optometry in the Commonwealth of Virginia and his compliance with a Consent Order entered July 13, 2005. The allegations are contained in an attached notice of informal conference dated August 15, 2006.

After discussing the allegations in the Notice with Dr. Dosik, the Committee convened in closed session for deliberations pursuant to Section 2.2-3711.A (15) of the Code of Virginia. Having certified that the matters discussed in the preceding closed session met the requirements of Section 2.1-3712 of the Code, the Committee reconvened and announced its decision.

DECISION: After consideration of the evidence and statements concerning the allegations, the Committee voted to remand the matter to the full board for a formal hearing.

ADJOURNMENT: The conference adjourned at 10:25 a.m.

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

Elizabeth A. Carter, Ph.D.
Executive Director

August 15, 2006

Allan G. Dosik, O.D.
6200 North 28th Street
Arlington, Virginia 22207

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: NOTICE OF INFORMAL CONFERENCE
License No.: 0601- 000973
Case No.: 105250

Dear Dr. Dosik:

This is an official notification that an Informal Conference will be held before a Special Conference Committee of the Board of Optometry ("Board") on **September 27, 2006 at 9:00 a.m.**, at the Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, Virginia, Conference Room 4 (directions enclosed). If you have any additional documents to be presented on your behalf, please bring five (5) copies with you.

The conference will be conducted pursuant to § 2.2-4019, § 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950) as amended ("the Code"), and is being held to review your compliance with the Board's Order entered July 13, 2005 and to review allegations that you may have violated certain laws and regulations governing the practice of optometry in the Commonwealth of Virginia. Specifically:

1. You may be in violation of Term 1 of the Board's Order, in that you were required to obtain four hours of continuing education in record-keeping no later than November 1, 2005. The Board granted you an extension to complete this course by March 31, 2006. You did not complete this course until April 5, 2006.

2. As required in Term 3 of the Board's Order, your office was to be the subject of an announced inspection. On February 10, 2006, an unannounced inspection was conducted on your practice. As part of the inspection, twenty (20) patient records were randomly selected for review. The following deficiencies were identified:

a. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (A) (1) (a) of the Regulations of the Board of Optometry, in that records for Clients B – E, G, L, Q, R, and T did not include a case history.

b. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (A) (1) (b) of the Regulations of the Board of Optometry, in that the records for Clients G, Q, and T, did not include acuity measurements.

c. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (A) (1) (c) of the Regulations of the Board of Optometry, in that Clients A, B, G, H, M, O and T did not include an internal health evaluation.

d. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (A) (1) (d) of the Regulations of the Board of Optometry, in that

records for Clients M and O did not include an external health evaluation.

e. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (A) (1) (e) of the Regulations of the Board of Optometry, in that records for Clients F and I did not include recommendations and directions to the patient.

f. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (A) (2) (b) of the Regulations of the Board of Optometry, in that records for Clients B, K, N and R did not include an assessment of the corneal curvature.

g. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (A) (2) (c) of the Regulations of the Board of Optometry, in that records for Clients C, D, J, K, L, N, P, Q, R, and S did not include an assessment of the corneal/lens relationship.

3. You may be in violation of § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-70 (D) of the Regulations of the Board of Optometry, in that as required in Term 4 of the Board's Order, you were to submit proof of continuing education for the licensure renewal period of January 1, 2005 through December 31, 2005. As of the date of this notice, you have failed to provide proof of completion sixteen (16) continuing education hours for your license renewal.

The purpose of an informal conference is to allow the Special Conference Committee, which consists of not less than two members of the Virginia Board of Optometry to inquire into, and discuss with you personally, these allegations. After reviewing the alleged violations with you, the Committee will make a recommendation of appropriate action. The Committee is authorized to take the following actions:

1. The Committee may exonerate you;
2. The Committee may place you on probation with such terms as it may deem appropriate;
3. The Committee may reprimand you;
4. The Committee may impose a monetary penalty pursuant to § 54.1-2401 of the Code;
5. The Committee may modify a previous order; or
6. The Committee may refer the case to the Board of Optometry or a panel thereof for a formal hearing. If the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee may offer you a consent order in lieu of a formal hearing.

You have the right to information, which will be relied upon by the Board in making a decision. Therefore, I enclosed a copy of the documents, which will be distributed to the members of the Committee and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Also, enclosed are copies of the relevant sections of the Administrative Process Act, which govern

proceedings of this nature, as well as the laws and regulations relating to the practice of optometry in Virginia that are cited in this notice.

A request to continue this proceeding must be made in writing and directed to me at the address listed on this letter. Such request must be received by 5:00 p.m. on August 31, 2006. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after August 31, 2006 will not be considered.

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by August 31, 2006. Further, it is your responsibility to provide the enclosed materials to your attorney.

Should you fail to appear at the informal conference the Board may proceed to a formal administrative hearing in order to impose sanctions. Should you have any questions regarding this notice, please contact me, at (804) 662-9910.

Sincerely,

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

Enclosures

cc: Robert A. Nebiker, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
Members, Special Conference Committee
Cynthia E. Gaines, Adjudication Specialist
Marta Ishmael, Inspector (# 105250)
Susan Beasecker, Compliance Case Manager (# 105250)

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DRAFT
VIRGINIA BOARD OF OPTOMETRY
SPECIAL CONFERENCE COMMITTEE
SEPTEMBER 27, 2006

TIME & PLACE: September 27, 2006 10:35 a.m., at the Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 4, Richmond, Virginia.

MEMBERS PRESENT: W. Ernest Schlabach, O.D.
William T. Tillar, O.D.

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director
Cynthia Gaines, Senior Adjudication Analyst, APD
Carol Stamey, Administrative Assistant

MATTER SCHEDULED: **Sandra L. Grossett, O.D.**
License No. 0618000263
Case Number: 104346
Dr. Grossett was present and represented by Counsel, Michael Goodman.

PRELIMINARY MATTER: The conference was conducted to discuss allegations that she may have violated §54.1-3215 (3), (16) and (17) and 18 VAC 105-20-40 of the laws and regulations governing the practice of optometry in the Commonwealth of Virginia. The allegations are contained in attached Notice of Informal Conference dated August 15, 2006.

DECISION: After discussing the allegations in the Notice with Dr. Grossett, the Committee convened in closed session for deliberations pursuant to Section 2.2-3711.A.28 of the Code of Virginia. Having certified that the matters discussed in the preceding closed session met the requirements of Section 2.1-3712 of the Code, the Committee reconvened and announced its decision. Upon properly seconded motion by Dr. Tillar, the Committee dismissed the allegations and the case was closed with a finding of no violation.

ADJOURNMENT: The conference adjourned at 11:16 a.m.

W. Ernest Schlabach, O.D.
Chair

Elizabeth A. Carter, Ph.D.
Executive Director

October 23, 2006

Sandra Grossett, O.D.
Access Eye Center
110 Cambridge Street
Fredericksburg, Virginia 22405

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: NOTICE OF INFORMAL CONFERENCE
License No.: 0618-000263
Case No.: 104346

Dear Dr. Grossett:

This is an official notification that an Informal Conference will be held before a Special Conference Committee of the Board of Optometry on **September 27, 2006 at 10:30 a.m.**, at the Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, Virginia, Conference Room 4 (directions enclosed). If you have any additional documents to be presented on your behalf, please bring five (5) copies with you. Additionally, please bring documentation of all continuing education credits you have completed in the past three renewal years (2003, 2004 and 2005).

The conference will be conducted pursuant to § 2.2-4019, § 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950) as amended ("the Code"), and is being held to review allegations that you may have violated certain laws and regulations governing the practice of optometry in the Commonwealth of Virginia. Specifically:

2. You may have violated § 54.1-3215 (3) of the Code, in that on or about April 13, 2005, Client A presented for a routine contact lens examination, where you prescribed and fitted her with mono-vision contact lens. On or about April 18, 2005, Client A telephoned your office advising that she was having difficulty with the new contact lens. Client A was given an appointment for July 22, 2005, which was later cancelled by your receptionist. You failed to address Client A's concerns and perform a follow up contact lens examination.

2. You may have violated § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-40 of the Regulations of the Board of Optometry, in that you failed to maintain a complete record of Client A's April 13, 2005 record.

The purpose of an informal conference is to allow the Special Conference Committee, which consists of not less than two members of the Virginia Board of Optometry to inquire into, and discuss with you personally, these allegations. After reviewing the alleged violations with you, the Committee will make a recommendation of appropriate action. The Committee is authorized to take the following actions:

1. The Committee may exonerate you;
2. The Committee may place you on probation with such terms as it may deem appropriate;
3. The Committee may reprimand you;

4. The Committee may impose a monetary penalty pursuant to § 54.1-2401 of the Code; or

5. The Committee may refer the case to the Board of Optometry or a panel thereof for a formal hearing. If the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee may offer you a consent order in lieu of a formal hearing.

You have the right to information, which will be relied upon by the Board in making a decision. Therefore, I enclosed a copy of the documents, which will be distributed to the members of the Committee and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Also, enclosed are copies of the relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as the laws and regulations relating to the practice of optometry in Virginia that are cited in this notice.

A request to continue this proceeding must be made in writing and directed to me at the address listed on this letter. Such request must be received by 5:00 p.m. on August 31, 2006. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after August 31, 2006, will not be considered.

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by August 31, 2006. Further, it is your responsibility to provide the enclosed materials to your attorney.

Should you fail to appear at the informal conference the Board may proceed to a formal administrative hearing in order to impose sanctions. Should you have any questions regarding this notice, please contact me, at (804) 662-9910.

Sincerely,

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

Enclosures

cc: Robert A. Nebiker, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
Members, Special Conference Committee
Cynthia E. Gaines, Adjudication Specialist
Tony C. Butera, D.P.M., Senior Investigator (# 104346)

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DRAFT
VIRGINIA BOARD OF OPTOMETRY
SPECIAL CONFERENCE COMMITTEE
SEPTEMBER 27, 2006

TIME & PLACE: September 27, 2006 1:00 p.m., at the Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 4, Richmond, Virginia.

MEMBERS PRESENT: W. Ernest Schlabach, O.D.
Paula H. Boone, O.D.

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director
Cynthia Gaines, Senior Adjudication Analyst, APD
Carol Stamey, Administrative Assistant

MATTER SCHEDULED: **Sidney H. Slavin, O.D.**
License No. 0601000505
Case Number: 101854
Dr. Slavin was present and not represented by Counsel.

DECISION: After discussing the allegations in the Notice with Dr. Slavin, the Committee convened in closed session for deliberations pursuant to Section 2.2-3711.A.28 of the Code of Virginia. Having certified that the matters discussed in the preceding closed session met the requirements of Section 2.1-3712 of the Code, the Committee reconvened and announced its decision.

After consideration of the evidence and statements concerning the allegations, the Committee voted to adopt findings of fact and conclusions of law and issued an Order with a finding of violation with no sanction

Dr. Slavin violated of §54.1-3204 (1) and §54.1-3215 (16) of the Code, and 18 VAC 105-20-60 (A) and (C) of the Regulations of the Board of Optometry, in that he practiced optometry with an expired license. Specifically, he failed to renew his license by December 31, 2004, and continued to practice until he renewed on March 4, 2005.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Dr. Slavin unless a written request to the Board for a formal hearing on the allegations made against him

is received from Dr. Slavin within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

ADJOURNMENT:

The conference adjourned at 1:50 p.m.

W. Ernest Schlabach, O.D.
Chair

Elizabeth A. Carter, Ph.D.
Executive Director

August 21, 2006

Sidney H. Slavin, O.D.
2810 Burrard Street
Richmond, Virginia 23233

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: NOTICE OF INFORMAL CONFERENCE
License No.: 0601-000505
Case No.: 101854

Dear Dr. Slavin:

This is an official notification that an Informal Conference will be held before a Special Conference Committee of the Board of Optometry on **September 27, 2006 at 1:00 p.m.**, at the Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, Virginia, Conference Room 4 (directions enclosed). If you have any additional documents to be presented on your behalf, please bring five (5) copies with you. Additionally, please bring documentation of all continuing education credits you have completed in the past three renewal years (2003, 2004 and 2005).

The conference will be conducted pursuant to § 2.2-4019, § 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950) as amended ("the Code"), and is being held to review allegations that you may have violated certain laws and regulations governing the practice of optometry in the Commonwealth of Virginia. Specifically:

3. You may have violated §54.1-3204 (1) and §54.1-3215 (16) of the Code, and 18 VAC 105-20-60 (A) and (C) of the Regulations of the Board of Optometry, in that you practiced optometry with an expired license. Specifically, you failed to renew your license by December 31, 2004, and continued to practice until you renewed on March 4, 2005.

The purpose of an informal conference is to allow the Special Conference Committee, which consists of not less than two members of the Virginia Board of Optometry to inquire into, and discuss with you personally, these allegations. After reviewing the alleged violations with you, the Committee will make a recommendation of appropriate action. The Committee is authorized to take the following actions:

1. The Committee may exonerate you;
2. The Committee may place you on probation with such terms as it may deem appropriate;
3. The Committee may reprimand you;
4. The Committee may impose a monetary penalty pursuant to § 54.1-2401 of the Code; or
5. The Committee may refer the case to the Board of Optometry or a panel thereof for a formal hearing. If the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee may offer you a consent order in lieu of a formal hearing.

You have the right to information, which will be relied upon by the Board in making a decision. Therefore, I enclosed a copy of the documents, which will be distributed to the

members of the Committee and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Also, enclosed are copies of the relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as the laws and regulations relating to the practice of optometry in Virginia that are cited in this notice.

A request to continue this proceeding must be made in writing and directed to me at the address listed on this letter. Such request must be received by 5:00 p.m. on August 31, 2006. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after August 31, 2006, will not be considered.

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by August 31, 2006. Further, it is your responsibility to provide the enclosed materials to your attorney.

Should you fail to appear at the informal conference the Board may proceed to a formal administrative hearing in order to impose sanctions. Should you have any questions regarding this notice, please contact me, at (804) 662-9910.

Sincerely,

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

Enclosures

cc: Robert A. Nebiker, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
Members, Special Conference Committee
Cynthia E. Gaines, Adjudication Specialist
Charles C. Holt, Investigator (# 101854)

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**VIRGINIA BOARD OF OPTOMETRY
SPECIAL CONFERENCE COMMITTEE**

- TIME & PLACE:** September 27, 2006 2:02 p.m., at the Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 4, Richmond, Virginia.
- MEMBERS PRESENT:** W. Ernest Schlabach, O.D.
Paula H. Boone, O.D.
- STAFF PRESENT:** Elizabeth A. Carter, Ph.D., Executive Director
Cynthia Gaines, Senior Adjudication Analyst, APD
Carol Stamey, Administrative Assistant
- MATTER SCHEDULED:** **Robert A. Samit, O.D., 0601001139**
Case No.: 101176
Dr. Samit was present and represented by Counsel, Arthur H. Blitz.
- PRELIMINARY MATTER:** The conference was conducted to discuss allegations that he may have violated §54.1-3204 (6), §54.1-3215 (6) (9), (16) and (17), 18 VAC 105-20-40 (3) and 18 VAC 105-20-45 (4) of the laws and regulations governing the practice of optometry in the Commonwealth of Virginia. The allegations are contained in attached Notice of Informal Conference dated August 22, 2006.
- DECISION:** After consideration of the evidence and statements concerning the allegations, the Committee voted to adopt findings of fact and conclusions of law and issued an Order. The language is as follows:
- Findings of Fact
1. Dr. Samit is in violation of § 54.1-3204 (6) and § 54.1-3215 (9) and (17) of the Code, in that he caused misleading advertising to appear on the internet for “MyEyeDr” which indicated that there are “experts at every office,” and that his practices specialize in the treatment of eye diseases.
 2. Dr. Samit is in violation § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (4) of the Regulations of the Board of Optometry, in that records of four clients he examined between July 7, 2005 and March 6, 2006, were reviewed. Dr. Samit failed to sign treatment records for Client A, seen on July 7, 18, and 25, 2005; Client B, seen on March 3, 2006; and Client C, seen July 25, 2005.
 3. Dr. Samit is in violation § 54.1-3215 (16) and

(17) of the Code and 18 VAC 105-20-50.B.1 of the Regulations Governing Optometry, in that he failed to register his professional designations for seven of ten practice locations until approximately February 22, 2006. Specifically:

- a. 4203 Fairfax Corner East, Fairfax, Virginia 22030, opened May 2004;
- b. 1950 Old Gallows Road, #100, Vienna, Virginia 22182, opened April 2005;
- c. 2823 Clarendon Boulevard, Arlington, Virginia 22201, opened January 2004;
- d. 509 Maple Avenue West, Vienna, Virginia 22180, opened September 2004;
- e. 901 North Stuart Street, # 210, Arlington, Virginia 22203, opened August 2005;
- f. 7367 Atlas Walkway, Gainesville, Virginia 20155, opened May 2005; and
- g. 6406 Springfield Plaza, Springfield, Virginia 22150, opened November 2003.

4. Dr. Samit is in violation § 54.1-3215 (6) and (17) of the Code, and 18 VAC 105-20-40 (3) of the Regulations of the Board of Optometry, in that the names of optometrist working in his practices were not always posted in an area conspicuous to the public.

5. Dr. Samit stated to the Committee that the word “expert” had been replaced with “professionals” on his internet site.

6. Based on the evidence presented, the Committee found that Dr. Samit is improperly using his professional designation.

ORDER

1. Within six months from the date this Order becomes final, Dr. Samit shall obtain four hours of continuing education in recordkeeping and shall be in addition to the sixteen (16) continuing education hours required for renewal of his license.

2. Within six months following the completion of the recordkeeping course, Dr. Samit shall be the subject of an unannounced records audit by an inspector/investigator of the Department of Health

Professions.

3. Dr. Samit shall be assessed a monetary penalty of seven thousand dollars (\$7,000.00).

4. Within twelve (12) months from the date this Order becomes final, all ten (10) of Dr. Samit's My Eye Dr. Optometrists offices shall be the subject of unannounced inspections by an inspector/investigator of the Department of Health Professions. The inspector/investigator shall inspect all advertising and signage of each practice.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Dr. Samit unless a written request to the Board for a formal hearing on the allegations made against his is received from Dr. Samit within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

ADJOURNMENT:

The conference adjourned at 3:10 p.m.

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

Elizabeth A. Carter, Ph.D.
Executive Director

August 22, 2006

Robert A. Samit, O.D.
7009 Deep Creek Court
Bethesda, Maryland 20817

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

RE: NOTICE OF INFORMAL CONFERENCE
License No.: 0601-001139
Case No.: 101176

Dear Dr. Samit:

This is an official notification that an Informal Conference will be held before a Special Conference Committee of the Board of Optometry on **September 27, 2006 at 2:00 p.m.**, at the Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, Virginia, Conference Room 4 (directions enclosed). If you have any additional documents to be presented on your behalf, please bring five (5) copies with you. Additionally, please bring documentation of all continuing education credits you have completed in the past three renewal years (2003, 2004 and 2005).

The conference will be conducted pursuant to § 2.2-4019, § 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950) as amended ("the Code"), and is being held to review allegations that you may have violated certain laws and regulations governing the practice of optometry in the Commonwealth of Virginia. Specifically:

4. You may have violated § 54.1-3204 (6) and § 54.1-3215 (9) and (17) of the Code, in that you caused misleading advertising to appear on the internet for MyEyeDr, that indicated that there are "experts at every office," and that your practices specialize in the treatment of eye diseases.

2. You may have violated § 54.1-3215 (16) and (17) of the Code, and 18 VAC 105-20-45 (4) of the Regulations of the Board of Optometry, in that records of four clients you examined between July 7, 2005 and March 6, 2006, were reviewed. You failed to sign treatment records for Client A, seen on July 7, 18, and 25, 2005; Client B, seen on March 3, 2006; and Client C, seen July 25, 2005.

3. You may have violated § 54.1-3215 (16) and (17) of the Code and 18 VAC 105-20-50.B.1 of the Regulations Governing Optometry, in that you failed to register your professional designations for seven of ten practice locations until approximately February 22, 2006. Specifically:

- a. 4203 Fairfax Corner East, Fairfax, Virginia 22030, opened May 2004;
- b. 1950 Old Gallows Road, #100, Vienna, Virginia 22182, opened April 2005;
- c. 2823 Clarendon Boulevard, Arlington, Virginia 22201, opened January 2004;

- d. 509 Maple Avenue West, Vienna, Virginia 22180, opened September 2004;
- e. 901 North Stuart Street, # 210, Arlington, Virginia 22203, opened August 2005;
- f. 7367 Atlas Walkway, Gainesville, Virginia 20155, opened May 2005; and
- g. 6406 Springfield Plaza, Springfield, Virginia 22150, opened November 2003.

4. You may have violated § 54.1-3215 (6) and (17) of the Code, and 18 VAC 105-20-40 (3) of the Regulations of the Board of Optometry, in that the names of optometrist working in your practices were not always posted in an area conspicuous to the public.

The purpose of an informal conference is to allow the Special Conference Committee, which consists of not less than two members of the Virginia Board of Optometry to inquire into, and discuss with you personally, these allegations. After reviewing the alleged violations with you, the Committee will make a recommendation of appropriate action. The Committee is authorized to take the following actions:

- 1. The Committee may exonerate you;
- 2. The Committee may place you on probation with such terms as it may deem appropriate;
- 3. The Committee may reprimand you;
- 4. The Committee may impose a monetary penalty pursuant to § 54.1-2401 of the Code; or
- 5. The Committee may refer the case to the Board of Optometry or a panel thereof for a formal hearing. If the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee may offer you a consent order in lieu of a formal hearing.

You have the right to information, which will be relied upon by the Board in making a decision. Therefore, I enclosed a copy of the documents, which will be distributed to the members of the Committee and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Also, enclosed are copies of the relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as the laws and regulations relating to the practice of optometry in Virginia that are cited in this notice.

A request to continue this proceeding must be made in writing and directed to me at the address listed on this letter. Such request must be received by 5:00 p.m. on August 31, 2006. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after August 31, 2006, will not be considered.

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of

counsel will not be considered unless received by August 31, 2006. Further, it is your responsibility to provide the enclosed materials to your attorney.

Should you fail to appear at the informal conference the Board may proceed to a formal administrative hearing in order to impose sanctions. Should you have any questions regarding this notice, please contact me, at (804) 662-9910.

Sincerely,

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

Enclosures

cc: Robert A. Nebiker, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
Members, Special Conference Committee
Cynthia E. Gaines, Senior Adjudication Analyst
Marta Ishmael, Inspector (# 101176)

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DRAFT
VIRGINIA BOARD OF OPTOMETRY
SPECIAL CONFERENCE COMMITTEE
SEPTEMBER 27, 2006

TIME & PLACE: September 27, 2006 3:20 p.m., at the Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 4, Richmond, Virginia.

MEMBERS PRESENT: Paula H. Boone, O.D.
Gregory P. Jellenek, O.D.

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director
Cynthia Gaines, Senior Adjudication Analyst, APD
Carol Stamey, Administrative Assistant

MATTER SCHEDULED: **Alan J. Shotwell, O.D.**
License No. 0618000127
Case Number: 100774
Dr. Shotwell was present and not represented by Counsel.

PRELIMINARY MATTER: The conference was conducted to discuss allegations that he may have violated §54.1-2405, §54.1-3215 (3), (16) and 18 VAC 105-20-40 (2) of the laws and regulations governing the practice of optometry in the Commonwealth of Virginia. The allegations are contained in attached Notice of Informal Conference dated August 15, 2006.

DECISION: After consideration of the evidence and statements concerning the allegations, the Committee voted to adopt findings of fact and conclusions of law and issued an Order. The language is as follows:

Findings of Fact

1. Dr. Shotwell is in violation of § 54.1-2405 and § 54.1-3215(3) and (17) of the Code, in that prior to closing his office in May 2003, Dr. Shotwell failed to notify his clients either by mail or publishing a notice in a newspaper of general circulation in the area of his practice. Further, Dr. Shotwell failed to inform his clients as to how to receive copies of their optometric records until December 2005, two and a half years later.

2. Dr. Shotwell is in violation § 54.1-3215(3) and (16) of the Code, and 18 VAC 105-2-40 (2) of the Regulations of the Board of Optometry, in that he failed to maintain records on his patients for three years from the last date of their last visit. Specifically, Dr. Shotwell sold his records to

another practitioner in the Fredericksburg area.

3. Dr. Shotwell stated to the Special conference Committee that he stopped practicing optometry in January 2006.

Order

Bases upon the Findings of Fact and Conclusions of Law, it was ordered that no sanctions be imposed.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Dr. Shotwell unless a written request to the Board for a formal hearing on the allegations made against his is received from Dr. Shotwell within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

ADJOURNMENT:

The conference adjourned at 3:50 p.m.

Paula H. Boone, O.D.
Chair

Elizabeth A. Carter, Ph.D.
Executive Director

August 15, 2006

Alan J. Shotwell, O.D.
Box 36
28394 Rapidan Road
Rapidan, Virginia 22733

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RE: NOTICE OF INFORMAL CONFERENCE
License No.: 0618-000127
Case No.: 100774

Dear Dr. Shotwell:

This is an official notification that an Informal Conference will be held before a Special Conference Committee of the Board of Optometry on **September 27, 2006 at 3:00 p.m.**, at the Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, Virginia, Conference Room (directions enclosed). If you have any additional documents to be presented on your behalf, please bring five (5) copies with you. Additionally, please bring documentation of all continuing education credits you have completed in the past three renewal years (2003, 2004 and 2005).

The conference will be conducted pursuant to § 2.2-4019, § 2.2-4021 and § 54.1-2400(10) of the Code of Virginia (1950) as amended ("the Code"), and is being held to review allegations that you may have violated certain laws and regulations governing the practice of optometry in the Commonwealth of Virginia. Specifically:

5. You may have violated § 54.1-2405 and § 54.1-3215 (3) and (17) of the Code, in that prior to closing your office in May 2003, you failed to notify your clients either by mail or publishing a notice in a newspaper of general circulation in the area of your practice. Further, you failed to inform your clients as to how to receive copies of their optometric records until December 2005, two and a half years later.

2. You may have violated § 54.1-3215 (3) and (16) of the Code, and 18 VAC 105-2-40 (2) of the Regulations of the Board of Optometry, in that you failed to maintain records on your patients for three years from the last date of their last visit. Specifically, you sold your records to another practitioner in the Fredericksburg area.

The purpose of an informal conference is to allow the Special Conference Committee, which consists of not less than two members of the Virginia Board of Optometry to inquire into, and discuss with you personally, these allegations. After reviewing the alleged violations with you, the Committee will make a recommendation of appropriate action. The Committee is authorized to take the following actions:

1. The Committee may exonerate you;
2. The Committee may place you on probation with such terms as it may deem appropriate;
3. The Committee may reprimand you;

4. The Committee may impose a monetary penalty pursuant to § 54.1-2401 of the Code; or

5. The Committee may refer the case to the Board of Optometry or a panel thereof for a formal hearing. If the Committee is of the opinion that a suspension or revocation of your license may be justified, the Committee may offer you a consent order in lieu of a formal hearing.

You have the right to information, which will be relied upon by the Board in making a decision. Therefore, I enclosed a copy of the documents, which will be distributed to the members of the Committee and will be considered by the Committee when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Also, enclosed are copies of the relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as the laws and regulations relating to the practice of optometry in Virginia that are cited in this notice.

A request to continue this proceeding must be made in writing and directed to me at the address listed on this letter. Such request must be received by 5:00 p.m. on August 31, 2006. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after August 31, 2006, will not be considered.

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by August 31, 2006. Further, it is your responsibility to provide the enclosed materials to your attorney.

Should you fail to appear at the informal conference the Board may proceed to a formal administrative hearing in order to impose sanctions. Should you have any questions regarding this notice, please contact me, at (804) 662-9910.

Sincerely,

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

Enclosures

cc: Robert A. Nebiker, Director, Department of Health Professions
James L. Banning, Director, Administrative Proceedings Division
Members, Special Conference Committee
Cynthia E. Gaines, Adjudication Specialist
Lila Theberge, Investigator (# 100774)

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