

**BOARD OF OPTOMETRY  
FULL BOARD MEETING  
NOVEMBER 7, 2012**

**TIME AND PLACE:** The Board of Optometry (Board) meeting was called to order at 11:03 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Room 3, Henrico, Virginia.

**PRESIDING OFFICER:** Angela Tsai, O.D., Vice Chair

**MEMBERS PRESENT:** Hal Breedlove, O.D.  
Joseph E. Droter, O.D.  
Jonathan R. Noble, O.D.  
Douglas R. Weberling, O.D.

**MEMBERS NOT PRESENT:** Citizen Member, Vacant

**STAFF PRESENT:** Leslie L. Knachel, Executive Director  
Charis Mitchell, Assistant Attorney General, Board Counsel  
Allyson Tysinger, Senior Assistant Attorney General,  
Arne Owens, Chief Deputy Director  
Diane E. Powers, Director of Communications  
Teresa Garbee, Communications Assistant  
Elaine Yeatts, Senior Policy Analyst  
Carol Stamey, Operations Manager  
Tamara Farmer, Administrative Assistant

**OTHERS PRESENT:** Ralston King, Virginia Society of Eye Physicians and Surgeons  
Bruce Keeney, Virginia Optometric Association (VOA)  
Bo Keeney, VOA

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

**ORDERING OF AGENDA** Requests for revision of the agenda included the following:

- Addition of “Introductions”;
- Addition of Approval of Professional Designation Committee minutes; and
- Addition of a Board of Health Profession’s (BHP) Report by Dr. Noble.

Dr. Noble moved to approve the order of the agenda as requested. The motion was seconded and carried.

**INTRODUCTIONS:** Dr. Tsai welcomed the new board members.

**PUBLIC COMMENT:** No public comment was presented.

**DIRECTOR’S REPORT:** Mr. Owens welcomed the new board members and thanked them for their service to the Commonwealth.

Mr. Owens provided the following updates:

- 1) DHP's Prescription Monitoring Program is participating with the National Governor' Association Policy Academy to develop a statewide plan to reduce prescription drug abuse; and
- 2) The BHP is reviewing the transitioning of military members, spouses and veterans back into the workforce. To assist military personnel in this transition, the BHP is developing a website link containing relevant licensure requirements and additional available resources.

**APPROVAL OF MINUTES:**

**Full Board**

Dr. Noble moved to approve the May 9, 2012, meeting minutes as presented. The motion was seconded and carried.

**Professional Designation Committee**

Dr. Noble moved to approve the February 8, 2012, committee meeting minutes as presented. The motion was seconded and carried.

**REGULATORY UPDATE:**

Ms. Yeatts informed the Board of the Governor's Regulatory Reform Project. The overall goal of the project is to identify unnecessary or overly burdensome regulations that could be changed or repealed. She noted the timeline for completion of the various stages of the workplan.

**DISCUSSION ITEMS:**

**Report on 50 State Conference Call on Decorative Contact Lenses Presented by Food and Drug Administration (FDA)/Federal Trade Commission (FTC)**

Ms. Knachel reported that she and Ms. Stamey attended a 50 state conference call provided by the FDA/FTC to discuss safety concerns and risks associated with decorative contact lenses sold without valid prescriptions. The FDA requested that the states help disseminate information related to this issue. Ms. Knachel and Ms. Powers, Communications Director, developed with input from Board members a media advisory for dissemination and website posting. Ms. Powers provided an overview of the media communications handled by DHP.

Due to the potential harm to consumers regarding the sale of decorative contact lenses sold through unauthorized distributors, the Board requested that Ms. Knachel research jurisdictional and liability issues for presentation at the next board meeting. Further, it was requested that Ms. Knachel research contact lens fitting by an optician.

**Closure of Cases Approved as By-Law Amendment on 5/9/2012**

Ms. Knachel reported that the amendments to the by-laws adopted on May 9, 2012, contained a transcription error in item D of the "Delegations of Authority" section. Specifically, the word "non" should have been included with "standard of care." The correction was made and the by-laws were reposted.

**Use of Sanctioning Reference Point (SRP) Worksheets for Pre-**

### **Hearing Consent Orders**

Ms. Knachel informed the Board of Director's Policy # 76-3.2 regarding the use of SRP worksheets. The policy provides for the Board to decide whether to use the SPR worksheet at the pre-hearing level. She indicated that the Board would need to vote on this policy decision.

Dr. Noble moved to utilize SRP worksheets at the pre-hearing level. The motion was seconded and carried.

### **Current Procedural Terminology (CPT) Codes**

Ms. Knachel provided a brief synopsis of the issues regarding the posting of CPT codes on the Board's website for the benefit of the new board members.

As requested at a previous board meeting, Ms. Knachel conducted a survey as to whether other states post or publish CPT Codes. She reported that 21 responses were received and none of the respondents publicly posts or publishes CPT Codes. Ms. Mitchell reported that the Code of Virginia does not provide a mechanism for the Board to purchase a distribution license. She noted that § 54.1-3200 of the Code of Virginia defines the scope of practice of optometry and the approval of CPT Codes could be construed as further defining the scope of practice of optometry. The Board discussed concerns that third party payers may not fully reimburse optometrists if approved CPT Codes are not posted by the Board. The Senior Assistant Attorney General, Board Counsel and board staff reiterated that the optometry scope of practice is defined by the Code of Virginia and not through the publication of CPT Codes by the Board. They stressed that an expansion of the optometry scope of practice is under the purview of the General Assembly.

Dr. Droter requested a copy of the previously approved guidance document on CPT Codes and a copy of current requests from licensees asking for approval of specific CPT Codes.

### **Definition of Fraud**

In response to a previous request by the Board, Ms. Mitchell provided the definition of "fraud" from the Black's Law dictionary.

### **Updated Probable Cause Form**

Ms. Knachel presented a revised draft of the Probable Cause Review form. The Board requested that Ms. Knachel review the case types for possible revision.

### **Report on Association of Regulatory Boards of Optometry's (ARBO) Annual Meeting**

Ms. Knachel informed the Board that the report of the ARBO annual meeting was located on ARBO's public website. She noted that the next ARBO annual meeting location is in San Diego, California in June 2013. She indicated that ARBO provides a stipend to attend the meeting. This item will be placed on the Board's next meeting agenda to determine if a board member is interested in attending.

### **White Paper from ARBO**

Ms. Knachel reported that ARBO's "White Paper" had been placed in the agenda packet for informational purposes and no action was needed.

### **Office Elections**

Dr. Tsai called for nominations for officer elections. Dr. Tsai and Dr. Noble were both nominated. Dr. Droter made a motion to close the nominations and take a vote. There being two nominees, the vote was recorded by roll call. The vote was five to one for Dr. Tsai.

Dr. Droter moved to nominate Dr. Noble as Vice Chair. With no other nominations made, the motion was seconded and carried.

### **Committee Assignments**

Dr. Tsai made committee assignments as follows:

- Credentials Committee – Drs. Tsai and Breedlove
- CE Committee – Drs. Droter and Weberling
- Professional Designation – Drs. Noble and Breedlove
- Regulatory/Legislative – Drs. Noble, Tsai, and Weberling.

### **Approval of 2013 Calendar**

Dr. Weberling moved to approve the 2013 calendar as proposed until alternate days can be researched and agreed upon by the board members. The motion was seconded and carried.

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

Dr. Tsai noted there was no report to present.

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

#### **Renewals**

Ms. Knachel reported that the licensure renewals had been disseminated and the on-line licensure renewal questions regarding continuing education had been expanded.

#### **Statistics**

Ms. Knachel provided an overview of the licensure and disciplinary case statistics.

#### **Budget**

Ms. Knachel reported that budget information specific to the Board had been included in the packet. She also reported that scanning disciplinary cases and agenda packets had reduced copying and postal expenses.

Dr. Droter requested that a representative of the Finance Department attend the next board meeting to present an overview of the Board's budget specifically addressing direct expenses and surplus monies.

#### **Newsletter**

Ms. Knachel reported that the newsletter is usually published in December. She noted possible topics could include email address updates, CE and renewals.

**NEW BUSINESS:**

**BHP Report**

Dr. Noble provided an update on the activities of the BHP.

**ADJOURNMENT:**

Dr. Weberling moved to adjourn the meeting at 1:30 p.m. The motion was seconded and carried.

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Angela Tsai, O.D.  
Vice Chair and Acting Chair

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