

**BOARD OF OPTOMETRY  
BOARD MEETING  
JULY 12, 2002**

**TIME AND PLACE:** Called to order at 8:30 p.m., the Department of Health Professions.

**PRESIDING OFFICER:** Samuel C. Smart, O.D.

**MEMBERS PRESENT:** Roxann Robinson, O.D.  
Gary H. St. Clair, O.D.  
Paula H. Boone, O.D.  
Jeff Smith, Citizen Member

**MEMBERS NOT PRESENT:** Thomas R. Cheezum, O.D.

**STAFF PRESENT:** Howard M. Casway, Assistant Attorney General, Board Counsel  
Elaine Yeatts, Policy Analyst  
Elizabeth A. Carter, Ph.D., Executive Director  
Carol Stamey, Administrative Assistant

**OTHERS PRESENT:** Randy Hutcheson, McSweeney & Crump  
Bruce Keeney, Virginia Optometric Association

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

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

**REVIEW AND APPROVAL OF AGENDA:** There were no revisions to the agenda.

**APPROVAL OF MINUTES:** On properly seconded motion by Mr. Smith, the minutes of the April 26, 2002 meeting were approved.

**ANNUAL ARBO REPORT PRESENTED BY DR. SMART AND DR. CARTER:** Dr. Smart presented his report of the ARBO meeting of June 2002, and it is incorporated into the minutes as Attachment 1. With regard to HIPPA, Dr. Smart commented that various states sunset minor disciplinary infractions, HIPPA does not.

Mr. Keeney noted that patient confidentiality and privacy requirements are spread throughout the different

sections of Virginia Code. He suggested that the Board of Health Professions compile the requirements and Code references for its licensees in light of the HIPPA requirements.

Dr. Carter presented an update on the Johnson & Johnson anti-trust issue. An assistant attorney general from Maryland reported that he was unaware of any patient harm from the dispensing of contact lenses through alternative sources (i.e., not through eye care professional's optical dispensaries). She reported that the Virginia Board office and some of the practitioners at the ARBO meeting from other states had begun receiving information on patient harm from contact lenses bought without valid prescriptions, largely plano colored lenses, obtained through a wide variety of venues including: beauty shops and supply stores, dress shops, even at antique swap meets and yard sales. She also reported that the FDA has contacted the Virginia Board office and is working in conjunction with the Department on complaints concerning patient harm from illegally obtained contact lenses.

On properly seconded motion by Dr. Robinson, the Board voted unanimously that the Board of Optometry write the Board for Opticians to make them aware of this issue and to also write the Board of Cosmetology and Barbers to ask them to notify their licensees of the health dangers and illegality of dispensing contact lenses from their places business.

On properly seconded motion by Dr. Robinson, the Board voted unanimously that the Board of Optometry contact the Boards for Opticians and Medicine to collect data regarding the harm of patients resulting from the unlicensed sale of contact lenses.

Dr. Carter reported that the World Council on Optometry had met at the same location and during the same time as the annual ARBO meeting. She noted that with the general move toward globalization and the rise in requests for licensure application from foreign trained optometrists being experienced by most if not all states, ARBO and/or the AOA must begin developing a mechanism(s) for fairly determining the equivalency of optometric educational programs outside of the U.S.

and Canada.

Dr. Smart encouraged the Board members to participate as examiners or observers in the administration of the national board examinations

**GENERAL BOARD DISCUSSION:**

**Legislative Proposal Requiring TPA Competency**

On properly seconded motion by Dr. Robinson, the Board voted unanimously that the Board propose for inclusion in the Governor's package a legislative proposal that would require all applicants for licensure be TPA certified as of June 30, 2003. The draft legislation is incorporated into the minutes as Attachment 2 with a notation that the dates of 2002 be revised to 2003.

Dr. Smart and Dr. Carter will finalize the proposed legislative package upon consultation with Mr. Casway.

**Regulatory Review Calendar**

Ms. Yeatts overviewed the chart of regulatory actions (see Attachment 3) and noted that the public comment deadline for the general and TPA regulatory proposals is August 16, 2002.

Ms. Yeatts informed the Board that their Voluntary Practice Regulations were at the Governor's office awaiting approval.

**Response to Public Comment**

In response to public comment regarding reinstatement of a lapsed license, the Board referred to its previous meeting minutes of April 26, 2002.

**EXECUTIVE DIRECTOR'S  
REPORT:**

**Solicitation for Articles for the Annual Newsletter**

Dr. Carter requested articles for submission to the annual newsletter to be mailed out prior to licensure renewal.

Dr. Carter noted that a listing of the generic drug schedule will be posted in the next newsletter.

Dr. Carter reported that all minutes of meetings must be posted to the Commonwealth calendar's website within ten (10) days of the meeting date as unapproved draft. Upon approval of the minutes, the final approved

minutes are to be posted within three (3) days of approval. With regard to minutes of informal conferences posted to the Commonwealth calendar website, Mr. Casway informed the Board that members who did not participate in the informal conference should not review the informal conference minutes.

**PRESIDENT'S REPORT:**

Dr. Smart's report was given at the beginning of the meeting.

**NEW BUSINESS:**

Mr. Keeney requested that the CPT Codes Committee review the latest Medicare codes for incorporation into the current Board approved CPT code listing.

Dr. Boone agreed to serve on the Credentials Review Committee.

**ADJOURNMENT:**

On properly seconded motion by Mr. Smith, the Board concluded its meeting at 12:00 noon.

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Samuel C. Smart, O.D., President

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

Virginia Board of Optometry  
2003 Session of the General Assembly

Draft Legislation OPT

A BILL to amend and reenact §§54.1-3200, 54.1-3211, and 54.1-3222 relating to the practice of optometry and requirements for licensure.

Be it enacted by the General Assembly of Virginia:  
That §§54.1-3200, 54.1-3211 and §54.1-3222 of the *Code of Virginia* be 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 *on or before June 30, 2002* 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 treat certain diseases, including abnormal conditions, of the human eye and its adnexa, as determined by the Board, with certain 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.

**§54.1-3222. TPA certification; certification for treatment of certain diseases or abnormal conditions with certain 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 *or is applying for licensure after June 30, 2002;*

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 *for licensees licensed initially after June 30, 2002* shall enable an optometrist 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 analgesics included on Schedules III and 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.

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. 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. 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.

*C. Effective July 1, 2002, every person who desires to practice optometry in this state must have passed a Board approved examination on the treatment of certain diseases and abnormal conditions of the human eye with therapeutic pharmaceutical agents in accordance with subsection B.3. Those persons licensed on or before June 30, 2002 to practice optometry in this state but who are not TPA-certified may continue to practice optometry but may not prescribe or use therapeutic pharmaceutical agents without satisfying the requirements of this section.*

## **TPA Competency Requirement for Licensure Proposal**

### **List of affected entities:**

Licensure applicants would be affected. The Virginia Optometric Association will want to comment on this.

Although not directly affected, because the level of competency in the licensed optometrist would be raised, ophthalmologists may wish to monitor this proposed bill. As such, the Virginia Society of Ophthalmology and the Medical Society of Virginia may wish to comment on this.



**BOARD OF OPTOMETRY  
REGULATORY ACTIONS**

	18 VAC 105-20 Regulations Governing the Practice of Optometry	18 VAC 105-30 Regulations Governing Therapeutic Pharmaceutical Agents
<b>NAME OF ACTION</b>	Volunteer practice <b>EMERGENCY</b>	Periodic Review - Comment period 12/4/00 - 1/4/01
<b>BOARD ADOPTS</b>	N/a	4/4/01
<b>PRE-NOIRA</b>	N/a	4/26/01
<b>PRE-NOIRA submitted</b>	4/26/02 & 6/28/02	4/16/01
<b>GOV. APPROVE</b>	N/a	5/7/01 - DPB 8/2/01 - SHHR 10/1/01 - GOV
<b>NOIRA published</b>	N/a	11/5/01 to 12/5/01
<b>30-day comment</b>		
<b>Board adopts proposed regulation</b>	N/a	1/25/02
<b>SUBMIT</b>	N/a	2/20/02
<b>DPB/SHHR</b>		
<b>DPB approves</b>	N/a	3/25/02
<b>SHHR approves</b>	N/a	3/29/02
<b>GOV. approves</b>	N/a	5/15/02
<b>PUBLISH PROP REG (60 day comment period)</b>	N/a	6/17/02
<b>PUBLIC HEARING</b>	N/a	7/14/02
<b>COMMENT PERIOD ENDS</b>	N/a	8/16/02
<b>BOARD ADOPTS FINAL REG</b>	4/26/02	9/27/02
<b>PUBLISH (30 day period)</b>		
<b>REG IN EFFECT</b>		