

**BOARD OF OPTOMETRY
SUMMARY SUSPENSION/BOARD MEETING
JUNE 8, 2005**

TIME AND PLACE: The meeting was called to order at 10:30 a.m. on Wednesday, June 8, 2005 at the Department of Health Professions, Conference Room 3, 6603 W. Broad St., Richmond, VA.

PRESIDING OFFICER: David H. Hettler, O.D, President

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

STAFF PRESENT: Emily Wingfield, Assistant Attorney General, Board Counsel
William Clay Garrett, Assistant Attorney General
Cynthia Gaines, Senior Adjudication Analyst
Elizabeth A. Carter, Ph.D., Executive Director for the Board
Carol Stamey, Administrative Assistant
Susan Beaseaker, Compliance
Charles Holt, Enforcement

OTHERS PRESENT: Bruce Keeney, VOA
M. E. Jackson, VOA
Betty Gramulich, NAOO

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

**SUMMARY SUSPENSION:
HARRY L. CLAYMAN, O.D.** Mr. Garrett, Assistant Attorney General, presented evidence on behalf of the Commonwealth that the continued practice of optometry by Harry L. Clayman, O.D., license number 0601000188 may present a substantial danger to the health and safety of the citizens of the Commonwealth and requested that the Board summarily suspend Dr. Clayman's license pursuant to § Va. Code 54.1-2408.1.

CLOSED SESSION: On properly seconded motion by Dr. Boone, the Board convened a closed meeting pursuant to Section 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Harry L. Clayman, O.D.

OPEN SESSION: On properly seconded motion by Dr. Boone, the Board certified that the matters discussed in the preceding closed session met the requirements of Section 2.2-3711.A.28 of the Code, the Committee re-convened and announced its decision.

◆Action Upon properly seconded motion by Dr. Boone, the Board voted to summarily suspend the license of Harry L. Clayman, O.D. and to offer a Consent Order that included the option for Dr. Clayman to voluntarily surrender his license. Further, absent Dr. Clayman's acceptance of the voluntary surrender, a formal hearing is to be scheduled.

**ADJOURNMENT OF SUMMARY
SUSPENSION:**

The summary suspension meeting adjourned at 10:50 a.m.

REGULAR BOARD MEETING:

The regular board meeting was called to order.

TIME AND PLACE:

The meeting was called to order at 11:13 a.m. on Wednesday, June 8, 2005 at the Department of Health Professions, Conference Room 3, 6603 W. Broad St., Richmond, VA.

PRESIDING OFFICER:

David H. Hettler, O.D, President

MEMBERS PRESENT:

Paula H. Boone, O.D.
Martha Gilbert
Gregory P. Jellenek, O.D.
W. Ernest Schlabach, Jr., O.D.
William T. Tillar, O.D.

STAFF PRESENT:

Emily Wingfield, Assistant Attorney General, Board Counsel
Elizabeth A. Carter, Ph.D., Executive Director for the Board
Elaine Yeatts, Senior Regulatory Analyst
Carol Stamey, Administrative Assistant
Sammy Johnson, Enforcement Division

MEMBERS ABSENT:

All Board members were present.

OTHERS PRESENT:

Betty Graumlich, NAOO
M.E. Jackson, VOA
Bruce Keeney, VOA
Bill Ferguson, Board for Opticians

QUORUM:

With six members of the Board present, a quorum was established.

**REVIEW AND APPROVAL OF
AGENDA:**

The discussion topic "CE audit review" was moved further down in the agenda.

APPROVAL OF MINUTES:

◆Action On properly seconded motion by Dr. Schlabach, the Board voted unanimously to approve the minutes of the March 8, 2005 meeting as amended.

◆Action On properly seconded motion by Dr. Boone, the Board voted unanimously to approve the minutes of the January 27, 2005 meeting.

PUBLIC COMMENT:

No public comment was presented.

REGULATORY UPDATE:

Ms. Yeatts provided a brief regulatory update on the agency subordinate regulations and the proposed merger of TPA certification regulations into Chapter 20 of the optometry regulations.

DISCUSSION ITEMS:

REQUEST FROM ARBO/COPE

◆Action On properly seconded motion by Dr. Schlabach, the board voted unanimously to confirm the appointment of Samuel C. Smart, O.D. as a COPE reviewer.

REGULATORY ACTION:

Adoption of Final Regulations for Delegation of Informal Fact-Finding to an Agency Subordinate

Ms. Yeatts reported that no public comment had been received and adoption of the emergency regulations is required.

◆Action On properly seconded motion by Dr. Tillar, the board voted unanimously to adopt the final regulations replacing the emergency regulations.

Review of Website FAQ Link, “General Information for Continuing Education Providers”

The Board was provided an amended proposed website link to provide additional guidance to continuing education sponsors.

◆Action On properly seconded motion by Dr. Boone, the Board voted unanimously to approve the proposed website link with the addition of the word “description” to the CE certificates section.

The Board also discussed consideration of biannual renewal and an increase in the percentage of licensees audited for CE review.

Sammy Johnson, Deputy Director, Enforcement Division, presented a brief summary of the results of the 2003 CE audit. He further reported that the 2004 CE audit letters had been mailed and the results of the audit would be presented at the September meeting.

Addition to Website FAQ Link, Patient Treatment and

Prescriptive Authority

◆**Action** On properly seconded motion by Dr. Tillar, the Board voted unanimously to add the following information to the FAQ website link as presented by Ms. Wingfield with a link to section 18 VAC 105-20-47.

The Board and its staff cannot give specific advice on patient treatment decisions. Please refer to 18 VAC 105-20-47 for a list of drugs the Board deems appropriate for a TPA certified optometrist to prescribe to treat diseases and abnormal conditions of the eye and its adnexa. If you are unsure what schedule a drug is placed in, you may wish to consult a pharmacist or a current reference manual that lists drug schedules.

Approval to Receive Licensure Verification Directly from States via Fax

◆**Action** On properly seconded motion by Dr. Jellenek, the Board voted unanimously that licensure verification could be received via fax provided that the verification was followed up by a hard copy.

Mercantile Practice Prohibitions/Complaint Processing

Because the regulations do not go into effect until December 31st, the issue was slated for a future meeting with possible assignment to the Legislative/Regulatory Review Committee.

Budget and Fee Reduction

Dr. Carter informed the Board that it appeared there was a budget surplus of \$300,000. She further explained that the surplus monies could be balanced via a one time licensure fee reduction if surplus monies remained after the merger of the licensure permits and fees. Dr. Carter also noted that the budget would be reviewed again and presented at the September meeting.

Request for CE Extension/Waiver

◆**Action** On properly seconded motion by Dr. Schlabach, the Board voted unanimously to grant a CE Waiver to Philip M. Quisenberry, O.D. for the 2005 licensure renewal period (January 2004 through December 2004).

COMMITTEE REPORTS:

Professional Designation Committee

Dr. Boone reported that the committee had met to review titling issues and to consider the removal of the professional designation regulations. It was the recommendation of the committee that the board consider the possibility of removing the requirement of the professional designation registration.

Further, that staff prepare background research along with legal opinion from Ms. Wingfield for assignment to the Legislative/Regulatory Review Committee. The recommendation was acceptable to Board.

Continuing Education Committee

Dr. Tillar requested that the Board reconsider the acceptance of recordkeeping articles sponsored by HIPPA and Medicare. The recommendation was acceptable to the Board.

Dr. Hettler informed the Board of his concern regarding the high percentage of non-compliant licensees for the licensure period November 1, 2002 through December 31, 2003.

On properly seconded motion by Dr. Tillar, the Board voted unanimously that a first offense result in a Confidential Consent Agreement (CCA) and that the licensee be audited for the next three (3) years. Further, that if an audit results in a second offense, that the licensee be fined \$300 for first (1) missing credit hour and \$200 per missing credit for the remaining missing credit hours.

Newsletter Committee

Dr. Hettler requested that any newsletters articles be submitted to the Board office no later than August 1st.

Dr. Jellenek agreed to submit articles on continuing education and Dr. Schlabach will submit articles on professional designations and include an update to the "Frequently Asked Questions" website. Dr. Hettler requested that newsletters transmitted via e-mail include the Board's website links.

Credentials Committee

Dr. Boone reported that six (6) applicants had been approved for licensure, three (3) of which were reinstatements.

CPT Code Committee

Dr. Hettler reported that CPT code 92136 (retinal photo, nerve fiber analysis) be added to the approved listing of CPT codes.

On properly seconded motion by Dr. Tillar, the Board voted unanimously to add CPT code 92136 to the approved listing of CPT codes.

Legislative/Regulatory Review Committee

Dr. Hettler informed the Board that the Committee had no actions to report.

**EXECUTIVE DIRECTOR'S
REPORT:**

Dr. Carter reported that the Boards of Nursing, Dentistry, Pharmacy and Veterinary Medicine were in the various stages of the sanction reference studies. She further informed the Board that the Board of Health Professions was holding a public hearing and conducting a study on the need to license naturopaths, receiving comment from the dialysis patient care technician regulations, conducting a study on telehealth and reviewing the agency's budget at the July meeting.

PRESIDENT'S REPORT:

Dr. Hettler noted that Dr. Schlabach will be representing Virginia at the ARBO June meeting.

NEW BUSINESS:

Dr. Boone expressed her sincere gratitude for the opportunity to serve as a board member and that she is looking forward to serving again if reappointed.

Dr. Tillar informed the Board that Jimmy Carter had endorsed Infant See.

ADJOURNMENT:

The Board concluded its meeting at 12:25 p.m.

David H. Hettler, O.D.
President

Elizabeth A. Carter, Ph.D.
Executive Director