

BOARD OF OPTOMETRY
Board Meeting
July 15, 2016
9:00 a.m.

Call to Order

Dr. Droter, President

Ordering of Agenda

Dr. Droter

Public Comment

Dr. Droter

The Board will receive all public comment related to agenda items at this time. The Board will not receive comment on any regulatory process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Director's Report

Dr. Brown

Approval of Minutes

Dr. Droter

- February 19, 2016, Full Board

Legislative/Regulatory Update

Ms. Yeatts

- Exempt Changes to Continuing Education (CE) Regulations – HB564
- Public Participation Guidelines Revision
- Volunteer Hours for CE – HB319
- Petition for Rulemaking – Response

Discussion Items

- Attendance at Annual Meeting for Association of Regulatory Boards of Optometry
- Report on Continuing Education Audit Process
- Report on SECO

Dr. Linas

Ms. Knachel

Dr. Droter/Dr. Clayton-Jeter

Board of Health Professions Report

Dr. Clayton-Jeter

President's Report

Dr. Droter

Executive Director's Report

Ms. Knachel

- Statistics
- Budget

New Business

- Officer Election
- Plaque Presentation

Dr. Droter

Dr. Droter

Ms. Knachel

Adjournment

Dr. Droter

**BOARD OF OPTOMETRY
FULL BOARD MEETING
FEBRUARY 19, 2016**

TIME AND PLACE: The Board of Optometry (Board) meeting was called to order at 9:00 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Room 1, Henrico, Virginia 23233.

PRESIDING OFFICER: Joseph E. Droter, O.D., Chair

MEMBERS PRESENT: Helene Clayton-Jeter, O.D.
Steven A. Linas, O.D.
Lisa Wallace-Davis, O.D.

MEMBERS NOT PRESENT: Devon Cabot, Citizen Member
Douglas Weberling, O.D.

STAFF PRESENT: David E. Brown, D.C., Director
Lisa R. Hahn, MPA, Chief Deputy Director
Leslie L. Knachel, Executive Director
Elaine Yeatts, Senior Policy Analyst
Carol Stamey, Operations Manager

OTHERS PRESENT: Bruce Keeney, Virginia Optometric Association (VOA)
Bo Keeney, VOA
Jonathan R. Noble, O.D.

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

ORDERING OF AGENDA No changes were made to the agenda.

PRESENTATION OF BOARD PLAQUE: Dr. Noble was presented with a plaque in recognition of his service to the Commonwealth as a board member for eight years.

PUBLIC COMMENT: Mr. Keeney thanked Ms. Yeatts for her assistance with HB564 that involved changes to continuing education requirements.

Mr. Keeney requested that the board consider posting full agenda packages to the Board's and the Town Hall's websites.

DIRECTOR'S REPORT: Dr. Brown introduced Lisa R. Hahn, MPA, as the agency's new chief deputy director. In addition, he provided an update on the Department's recent activities related to the Task Force on Prescription Drug Abuse and the Prescription Monitoring Program.

APPROVAL OF MINUTES: Dr. Droter commented that the copy of the minutes in the agenda package contained an error that had been previously corrected. Leslie Knachel and Carol Stamey confirmed that draft had been corrected and posted to the website; however, the uncorrected draft had inadvertently been included in the agenda package.

Dr. Linas moved to approve the minutes with the correction to the officer election process. The motion was seconded and carried.

**REGULATORY/
LEGISLATIVE UPDATE:**

2016 Legislation Update

Ms. Yeatts provided an overview of the 2016 legislation that affects the boards within the Department of Health Professions.

Regulatory Update

- **Changes to Continuing Education (comment period closed 12/30/2015)**

Ms. Yeatts reported on the comments from the Notice of Intended Regulatory Action (NOIRA) related to continuing education (CE) changes. She commented that legislation (HB564) regarding CE for optometrists that was introduced during the 2016 General Assembly session would supersede the changes identified in the NOIRA. Therefore, she recommended that the Board withdraw the NOIRA.

Ms. Yeatts indicated that after July 1, 2016, when the requirements of HB564 become effective, the Board would adopt regulations that reflect the CE changes outlined in the legislation. At that time, the Board could consider the inclusion of additional regulatory changes such as acceptance of the Continued Professional Development Examination in Optometry (CPDO) to meet CE requirements.

Ms. Knachel stated that she will provide updated information on the CPDO for the Board members.

Dr. Linas moved to withdraw the NOIRA due to pending legislation related to CE requirement. The motion was seconded and carried.

- **Conforming TPA list to law (effective on 9/23/15)**

Ms. Yeatts reported the update to the regulations related to the rescheduling of hydrocodone combination products became effective on September 23, 2015.

- **Periodic Review Discussion**

Ms. Yeatts reported that although the Board has taken a number of regulatory actions in the past few years it was time to do a complete review. She recommended that the Board start a periodic review of its regulations in the fall. For the next meeting, Ms. Yeatts indicated that she will provide a review of all regulatory actions taken since the last periodic review.

DISCUSSION ITEMS:

Attendance at Annual Meeting for Association of Regulatory Boards of Optometry (ARBO)

Dr. Droter reported that the attendees for the upcoming Boston meeting included Drs. Linas and Clayton-Jeter and Ms. Knachel.

Dr. Clayton-Jeter reported that she will be attending the upcoming regional meeting for the Association of Regulatory Boards of Optometry in Atlanta following the South Eastern Congress of Ophthalmologists (SECO) meeting. In addition, Dr. Droter indicated that he would be attending the regional meeting. Dr. Clayton-Jeter was authorized to represent Virginia if any voting was required.

Report on Continuing Education Audit Process

Ms. Knachel reported on the process followed for conducting a CE audit. In addition, she provided statistics on the audit sample and outcome. The Board requested that Ms. Knachel send an email notification to licensees regarding the audit process to include the use of transcripts from OE Tracker.

Policy Issues

- **Telemedicine**

As requested at the previous board meeting, Ms. Knachel included guidance documents on the subject of telemedicine from the Boards of Medicine and Nursing in the agenda package for the Boards review.

- **Kiosks Performing Refractions**

Dr. Droter requested guidance from board counsel regarding telemedicine, kiosks performing refraction and possible conflict with §54.1-3204 of the Code of Virginia. Follow-up information will be provided at the next board meeting.

- **Developing Technology**

Dr. Droter noted that the board will continue to monitor the issue of technology as it develops.

BOARD OF HEALTH PROFESSIONS REPORT:

Dr. Clayton-Jeter provided an overview of her meeting as a member of the Board of Health Professions meeting which included the following topics:

- Healthcare Workforce Data's survey results reflected an aging population of healthcare professionals;
- Optometry professional survey question regarding the optometrist's degree required revision;
- Possible addition to the Department's website regarding career development with notification to schools and colleges of optometry;
- Dr. Carter will be presenting at ARBO's annual meeting on the Healthcare Workforce Data survey process; and
- Dr. Clayton-Jeter was appointed as Vice-Chair of the Board of Health Professions.

Dr. Droter reported that the Virginia Department of Health was collecting "Meaningful Use" data. He requested that Dr. Clayton-Jeter research what information is being collected and whether it pertains to optometry and report back at the next board meeting.

PRESIDENT'S REPORT:

Dr. Droter reported that he will be at the SECO meeting and the regional ARBO meeting.

EXECUTIVE DIRECTOR'S REPORT:

Statistics

Ms. Knachel reported on licensure and case statistics.

Budget

Ms. Knachel reported on the budget.

NEW BUSINESS:

No new business was identified.

ADJOURNMENT:

The meeting adjourned at 10:43 a.m.

Joseph E. Droter, O.D.
Chair

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

Agenda Item: Board action on Continuing Education

Included in your agenda package are:

Copy of HB564 of the 2016 General Assembly

Copy of draft regulation for 18VAC105-20-70

Copy of summary on NOIRA previously published

Staff Note:

The amendments to 18VAC105-20-70 will conform the Board's regulations to the changes in Code relating to continuing education. Therefore, the action would be exempt from the APA and executive branch review.

There is one remaining issue on the NOIRA that the exempt action does not cover (passage of CPDO for portion of CE requirement).

Board action:

1) **To adopt the amendments to 18VAC105-20-70 as recommended**

2) **To withdraw the NOIRA entirely; or**

To propose an amendment to section 70 to accept passage of CPDO for CE credit

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 89

An Act to amend and reenact § 54.1-3219 of the Code of Virginia, relating to optometrists; continuing education requirements.

Approved March 1, 2016

[H 564]

Be it enacted by the General Assembly of Virginia:

- 1. That § 54.1-3219 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-3219. Continuing education.

A. As a prerequisite to renewal of a license or reinstatement of a license, each optometrist shall be required to ~~take annual courses complete~~ 20 hours of continuing education relating to optometry, as approved by the Board, each year. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle. The courses ~~may~~ shall include, but need not be limited to, the utilization and application of new techniques, scientific and clinical advances, and new achievements of research. The Board shall prescribe criteria for approval of courses of study and credit hour requirements. ~~However, the required number of credit hours shall not exceed sixteen in any one calendar year.~~ The Board may approve alternative courses upon timely application of any licensee. Fulfillment of education requirements shall be certified to the Board upon a form provided by the Board and shall be submitted by each licensed optometrist at the time he applies to the Board for the renewal of his license. The Board may waive individual requirements in cases of certified illness or undue hardship.

B. *Of the 20 hours of continuing education relating to optometry required pursuant to subsection A:*

- 1. At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during the course of the presentation, the licensee and the lecturer may communicate with one another;*

- 2. No more than two hours may consist of courses related to recordkeeping, including coding for diagnostic and treatment devices and procedures or the management of an optometry practice, provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products; and*

- 3. For TPA-certified optometrists, at least 10 hours shall be in the areas of ocular and general pharmacology, diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents, or new or advanced clinical devices, techniques, modalities, or procedures.*

C. *Nothing in this subsection shall prevent or limit the authority of the Board to require additional hours or types of continuing education as part or in lieu of disciplinary action.*

BOARD OF OPTOMETRY

Changes to continuing education

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

A. Each license renewal shall be conditioned upon submission of evidence to the board of ~~46~~ 20 hours of continuing education taken by the applicant during the previous license period. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle.

- ~~1. Fourteen of the 16 hours shall pertain directly to the care of the patient. The 46~~ 20 hours may include up to two hours of recordkeeping for patient care ~~and to two hours of training in cardiopulmonary resuscitation (CPR), including coding for diagnostic and treatment devices and procedures or the management of an optometry practice,~~ provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products.
2. For optometrists who are certified in the use of therapeutic pharmaceutical agents, at least ~~two~~ ten of the required continuing education hours shall be ~~directly related to the treatment of the human eye and its adnexa with pharmaceutical agents in the areas of ocular and general pharmacology, diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents, or new or advanced clinical devices, techniques, modalities, or procedures.~~
3. ~~Courses for which the primary purpose is 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~~ At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during

the course of the presentation, the licensee and the lecturer may communicate with one another.

4. A licensee may also include up to two hours of training in cardiopulmonary resuscitation (CPR).

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. A request for an extension or waiver shall be received prior to December 31 of each year.

C. All continuing education courses shall be offered by an approved sponsor or accrediting body 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 or accrediting body 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, accredited, 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 credit.
12. Providers of training in cardiopulmonary resuscitation (CPR).
13. Optometric Extension Program.

H. In order to maintain approval for continuing education courses, providers or sponsors shall:

1. Provide a certificate of attendance that shows the date, location, presenter or lecturer, content hours of the course and contact information of the provider/sponsor for verification. The certificate of attendance shall be based on verification by the sponsor of

the attendee's presence throughout the course, either provided by a post-test or by a designated monitor.

2. Maintain documentation about the course and attendance for at least three years following its completion.

I. Falsifying the attestation of compliance with continuing education on a renewal form or failure to comply with continuing education requirements may subject a licensee to disciplinary action by the board, consistent with §54.1-3215 of the Code of Virginia.



townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Optometry, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC105-20
Regulation title(s)	Regulations Governing the Practice of Optometry
Action title	Changes in continuing education hours
Date this document prepared	7/17/15

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The goal of the planned regulatory action is to require continuing education that improves the knowledge and skills of optometrists in managing patient care and their practices. The proposed action would: 1) allow optometrists to carry-over up to 50% of the hours (8) earned in excess of the 16 hours required for annual renewal to the next renewal year; 2) require that at least 50% of the hours (8) be taken in live or real-time interactive courses; 3) allow one hour per year of practice management; 4) require TPA-certified optometrists to have 50% of their hours (8) in coursework relating to ocular and general pharmacology, diagnostics and therapeutics or advanced clinical procedures; and 5) allow passage of the Continued Professional Development Examination in Optometry (CPDO) count for a portion of the annual CE requirement.

Legal basis

Agenda Item: Board action on Public Participation Guidelines (PPG)

Included in your agenda package are:

A copy of the applicable law in the Administrative Process Act (APA)

A copy of the applicable section of the Board's PPG regulations

Staff Note:

The action to conform the regulation to language in the Code.

Board action:

To adopt the amendment to 18VAC105-11-50.

Code of Virginia
Title 2.2. Administration of Government
Chapter 40. Administrative Process Act

§ 2.2-4007.02. Public participation guidelines.

A. Public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted, and used by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties and any specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

B. In formulating any regulation, including but not limited to those in public assistance and social services programs, the agency pursuant to its public participation guidelines shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency, to include an online public comment forum on the Virginia Regulatory Town Hall, or other specially designated subordinate and (ii) be accompanied by and represented by counsel or other representative. However, the agency may begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit comments.

2007, cc. 873, 916; 2012, c. 795.

BOARD OF OPTOMETRY

Conforming to Code

Part III

Public Participation Procedures

18VAC105-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency; and (ii) be accompanied by and represented by counsel or other representative. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a *final* adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

Agenda Item: Board action on Continuing Education Regulations

Included in your agenda package are:

A copy of HB319 of the 2016 General Assembly

A copy of the DRAFT regulations (draft is copied from regs adopted by Board of Dentistry)

Staff Note:

The legislation requires promulgation of regulations to allow some volunteer service time to count towards meeting CE requirements. The mandate takes effect January 1, 2017.

Board action:

- 1) **To adopt the amendments to Chapter 20 by fast-track action with submission after effective date of changes to regulations under an APA exemption**

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 82

An Act to amend and reenact § 54.1-2400 of the Code of Virginia, relating to continuing education requirements; volunteer health services.

Approved March 1, 2016

[H 319]

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2400 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2400. General powers and duties of health regulatory boards.

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.
2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.
3. To register, certify, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.
4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.
5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.
6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which *that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services.* Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.
7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.
8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.
9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration or multistate licensure privilege in lieu of disciplinary action.
10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated.

This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019, upon receipt of information that a practitioner may be subject to a disciplinary action. The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.

13. To meet by telephone conference call to consider settlement proposals in matters pending before special conference committees convened pursuant to this section, or matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider modifications of previously issued board orders when such considerations have been requested by either of the parties.

14. To request and accept from a certified, registered or licensed practitioner or person holding a multistate licensure privilege to practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner. A confidential consent agreement shall include findings of fact and may include an admission or a finding of a violation. A confidential consent agreement shall not be considered either a notice or order of any health regulatory board, but it may be considered by a board in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. A certified, registered or licensed practitioner who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

2. That the provisions of this act shall become effective on January 1, 2017.

BOARD OF OPTOMETRY

Changes to continuing education

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

A. Each license renewal shall be conditioned upon submission of evidence to the board of 20 hours of continuing education taken by the applicant during the previous license period. A licensee who completes more than 20 hours of continuing education in a year shall be allowed to carry forward up to 10 hours of continuing education for the next annual renewal cycle.

1. The 20 hours may include up to two hours of recordkeeping for patient care, including coding for diagnostic and treatment devices and procedures or the management of an optometry practice, provided that such courses are not primarily for the purpose of augmenting the licensee's income or promoting the sale of specific instruments or products.
2. For optometrists who are certified in the use of therapeutic pharmaceutical agents, at least ten of the required continuing education hours shall be in the areas of ocular and general pharmacology, diagnosis and treatment of the human eye and its adnexa, including treatment with new pharmaceutical agents, or new or advanced clinical devices, techniques, modalities, or procedures.
3. At least 10 hours shall be obtained through real-time, interactive activities, including in-person or electronic presentations, provided that during the course of the presentation, the licensee and the lecturer may communicate with one another.
4. A licensee may also include up to two hours of training in cardiopulmonary resuscitation (CPR).

5. Up to two hours of the hours required for annual renewal may be satisfied through delivery of optometric services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.

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. A request for an extension or waiver shall be received prior to December 31 of each year.

C. All continuing education courses shall be offered by an approved sponsor or accrediting body 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 or accrediting body 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, accredited, 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 credit.
12. Providers of training in cardiopulmonary resuscitation (CPR).
13. Optometric Extension Program.

H. In order to maintain approval for continuing education courses, providers or sponsors shall:

1. Provide a certificate of attendance that shows the date, location, presenter or lecturer, content hours of the course and contact information of the provider/sponsor for verification. The certificate of attendance shall be based on verification by the sponsor of the attendee's presence throughout the course, either provided by a post-test or by a designated monitor.

2. Maintain documentation about the course and attendance for at least three years following its completion.

I. Falsifying the attestation of compliance with continuing education on a renewal form or failure to comply with continuing education requirements may subject a licensee to disciplinary action by the board, consistent with §54.1-3215 of the Code of Virginia.

Agenda Item: Petition for rulemaking

Included in your package are:

A copy of the petition received from Joseph Spivey

A copy of the *Request for Comment*

A copy of comment on the petition

A copy of applicable regulations

Board action:

The Board may reject the petition's request. If rejected, the Board must state their reasons for denying the petition.

OR

The Board may initiate rulemaking by adoption of an amendment by publication of a Notice of Regulatory Action.



COMMONWEALTH OF VIRGINIA

Board of Optometry

9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

(804) 367-4508 (Tel)
(804) 527-4466 (Fax)

Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle initial, Suffix,)

Joseph M. Spivey III

Street Address
19 Howe Lane

540 319 8153

City
Lexington

State
VA

Zip Code
24450

Email Address (optional)
spiveyjatl@outlook.com

Fax (optional)
N/A

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.
2. Revoke the final Answer to the FAQ's that advises that an optometrist is not required to provide a pupillary distance.
3. Adopt a regulation, to-wit: "Upon the request of a patient, at any time, an optometrist shall furnish the patient's pupillary distance measured by the optometrist."

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.
Rationale: the patient has a common law right to such information. It is unethical to withhold such information from the patient.. It is a restraint of trade to withhold such information from the patient. 15 USCA § 1.

4. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

General authority will suffice.

Signature:

Joseph M. Sprague

Date:

1 March 2016

Request for Comment on Petition for Rulemaking

Promulgating Board: **Board of Optometry**

Regulatory Coordinator: Elaine J. Yeatts
(804)367-4688
elaine.yeatts@dhp.virginia.gov

Agency Contact: Leslie Knachel
Executive Director
Board of Optometry
Leslie.knachel@dhp.virginia.gov

Contact Address: Department of Health Professions
9960 Mayland Drive
Henrico, VA 23233

Chapter Affected:

18 vac 105 - 20:	Regulations of the Virginia Board of Optometry
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Statutory Authority: State: Chapter 32 of Title 54.1

Date Petition Received: 03/07/2016

Petitioner: Joseph Spivey

Petitioner's Request

Add a requirement for an optometrist to provide a patient's pupillary distance as measured by the optometrist to the patient upon request.

Agency Plan

In accordance with Virginia law, the petition has been filed with the Register of Regulations and will be published on April 4, 2016. Comment on the petition may be sent by email, regular mail or posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov; comment will be requested until May 4, 2016. Following receipt of all comments on the petition to amend regulations, the Board will decide whether to make any changes to the regulatory language. This matter will be on the Board's agenda for its next meeting scheduled for July 15, 2016, and the petitioner will be informed of the Board's decision after that meeting.

Publication Date 04/04/2016 *(comment period will also begin on this date)*

Comment End Date 05/04/2016

Virginia.gov

Agencies | Governor



Agency

Department of Health Professions

Board

Board of Optometry

Chapter

Regulations of the Virginia Board of Optometry [18 VAC 105 - 20]

All comments for this forum

[Back to List of Comments](#)

Commenter: Bo Keeney, Virginia Optometric Association *

4/8/16 3:04 pm

Opposition to the Petition for Rule Making Regarding Pupillary Distances

This regulatory change is unnecessary and duplicative in that a patient's Pupillary Distance ("PD"), if measured, is automatically a part of their medical record. As such a patient has a right under the Code of Virginia and Board Regulations to their own medical record, including their PD. Furthermore current practice allows other licensed individuals other than an Optometrist to measure a patient's PD. The proposed regulation would require an Optometrist to measure the patients PD rather than authorizing them to delegate this duty to a licensed Optician or entity. Thus the practice of requiring an Optometrist to measure a patient's PD rather than allowing other licensed individuals, such as an Optician or an Ophthalmologists, would be discriminatory in nature.

Commenter: Dr. Robert M Allen, Virginia Optometric Association *

4/8/16 6:19 pm

Oppose Required Release of PD as Part of Eyeglass Prescription

I am opposed to the proposal to require the release of the pupillary distance measurement as part of an eyeglass prescription. Although this is thought to be part of an eyeglass prescription, which is obtained as part of a comprehensive eye examination, it is in fact not the case. This measurement is obtained by the optician while measuring the patient for the proper fitment of eyeglasses. It has never been a part of the clinical aspect of an eye examination. It is not required for any other reason but to fit eyeglasses, which is a separate service and requires time and attention to provide accuracy. We never collect this data in the exam room or during ancillary testing. If the patient is seen in a venue that does not provide eyeglass services, does not employ an optician, etc such as a hospital based environment, many ophthalmologist's offices and many specialty optometric practices, these providers will immediately be in non-compliance with the rule. The need to obtain this measurement on every patient will cost time and therefore legitimately add to the cost of an examination. It should remain where it belongs: in the purview of the optical for the specific purpose of selling eyeglasses. There is no need to add to the economic burden of the general population seeking eyecare for the benefit of a select and small group of people who choose to purchase their eyewear online.

Commenter: Dr. Adam P Parker, Virginia Optometric Association *

4/8/16 6:27 pm

oppose mandatory PD measurements by optometrists or ophthalmologists

Measuring the pupillary distance has never been a requirement during an ocular examination by an optometrist or ophthalmologist but rather the optician responsible for measuring and fitting the eye wear itself. This is not a medical procedure and is not related to the patient's health. This mandatory regulatory change would add an undue burden on these professionals. Additionally, there are many pupillary distances that would be required to be measured accurately to ensure proper vision including distance binocular PD, near binocular PD, left eye monocular PD, and right eye monocular PD. A true measurement of all these requires a skilled optician, a monocular digital pupillometer, and a patient sitting at a desk with their heads perfectly level with the optician. Lastly, only the fitting optician would understand an actual patient's requirements including frame and lens choices as these are only finalized during an eye wear purchase. Forcing optometrists or ophthalmologists to do this inaccurately in an examination room setting is unfair to these professionals, unfair to the patients, and also unfair to the skilled opticians that offer this service.

Commenter: Stephen Record, Optometrist *

4/9/16 11:02 am

Requirement for Optometrists to provide PD at patient request

In our practice, PD measurement is performed by our opticians using digital devices and provided for a fee to the patient. This is not a medical procedure but is a critical measurement for proper fitting and manufacture of prescription eyeglasses. There can be several different "PD" measurements depending on what the particular eyeglasses are prescribed for, eg Progressive Multifocals, Computer glasses, Reading glasses, Driving glasses, Shooting glasses, etc.. I am very strongly against this proposed requirement.

Commenter: Christine W. Cook, O.D., F.A.A.O., Diplmate, American Board of Optometry *

4/13/16 11:08 am

Pupillary Distances are part of the service of fitting glasses, not performed by Optometrists.

Optometrists do not typically measure Pupillary Distances (PD) as part of the ocular health examination. This is typically performed by an optician who is measuring patients for glasses. They use equipment specifically designed for this activity, which most optometrists do not use as part of an eye examination. If one is recorded in the record it typically is included in measurements taken by a computerized pre-testing device. These measurements are approximations and typically not accurate enough by which to prescrib or fit glasses. The proposed regulation would require an Optometrist to measure the patients PD rather than authorizing them to delegate this duty to a licensed Optician or entity. Thus the practice of requiring an Optometrist to measure a patient's PD rather than allowing other licensed individuals, such as an Optician or an Ophthalmologists, would be discriminatory in nature. Additionally, if the glasses are not purchased from the same establishment who would be required to perform the PD Measurement, there would need to be a charge to the patient for such measurement, as it is not part of the ocular health examination. Please do not place this discriminatory language into action.

Commenter: Dr. Jenny Alsop, Optometrist *

4/14/16 11:58 am

Pupillary Distance is not part of an eye exam, it is part of a glasses fitting

The pupillary distance is not part of a eye examination to check ocular health and a spectacle prescription. It is not a medical procedure, and is not a required part of a medical record. The pupillary distance or "PD" should be measured by the person or persons responsible for making the spectacle prescription, such as opticians, as this is their expertise and is associated with the fitting of the frame and lenses to the patient. The PD can vary based upon the use of the

spectacle prescription, and there for it is far more appropriate for the fitter of the glasses to produce this measurement as a part of that process. Additionally, this is discriminatory in that it would be a requirement of optometrists, and trained professionals such as licensed opticians or ophthalmologists. This requirement is unnecessary and would only create undue burden, please do not change the current rule.

Commenter: Dr Scott Mann, Invision | Optometrists *

4/18/16 11:31 am

Opposed - This consumer service should be provided by the optician filling the glasses Rx.

The pupillary distance is a measurement that helps the optician manufacture glasses with the lenses centered on the eyes of the patient. As such, this measurement should be obtained by the optician that the patient (consumer) has chosen to manufacture their glasses, not the optometrist that provided the eye examination. As a practical matter the state licensed opticians in our offices have been responsible for these measurements for over 20 years. I oppose this requirement because it would usurp the optician's role of measuring pupillary distance and incorrectly assign it to the optometrist.

Commenter: Michael Jukes

4/19/16 4:21 am

micky

.Optometrists do not typically measure Pupillary Distances (PD) as part of the ocular health examination. This is typically performed by an optician who is measuring patients for glasses. They use equipment specifically designed for this activity, which most optometrists do not use as part of an eye examination. If one is recorded in the record it typically is included in measurements taken by a computerized pre-testing device. These measurements are approximations and typically not accurate enough by which to prescrib or fit glasses. The proposed regulation would require an Optometrist to measure the patients PD rather than authorizing them to delegate this duty to a licensed Optician or entity. Thus the practice of requiring an Optometrist to measure a patient's PD rather than allowing other licensed individuals, such as an Optician or an Ophthalmologists, would be discriminatory in nature. Additionally, if the glasses are not purchased from the same establishment who would be required to perform the PD Measurement, there would need to be a charge to the patient for such measurement, as it is not part of the ocular health examination. Please do not place this discriminatory language into action.

Commenter: Adam S. Melton, Doctor of Optometry *

4/26/16 6:14 pm

Opposed

The pupillary distance (PD) is a measurement that should be assessed at the time of frame selection as this is a variable number depending on the frame style, lens type and intended use. Requiring the optometrist to measure the PD after the patient has picked out a frame and lens type would cause an undo burden to the patient in both incurred fees from the optometrist performing this service and time spent from the patient making an appointment to measure the PD. Pupillary distance measurements taken during the examination by the optometrist are used for binocular instrument purposes and does not always translate to spectacle frame use. This proposal is also descriminating against opticians in that they are very capable of taking this measurement.

Commenter: Dora Adamopoulos, OD *

5/2/16 7:24 pm

Opposed to required PD by optomerists

The accurate measurement of pupillary distance, optical center, and seg height are all determined during the selection and fitting of eyeglasses, not during an eye examination. A PD measurement has never been a part of the clinical portion of an eye examination. My colleagues who work in a hospital or medically based setting and do not perform refractions would be in non-compliance with this requirement. In Virginia, we have licensed opticians who are trained and skilled for the proper fitting, measuring, manufacturing and dispensing of eyeglasses and a PD falls under their scope of training. Requiring an optometrist to provide a PD while not requiring an optician or ophthalmologist to provide one is discriminatory in nature.

Commenter: Walter Whitley, OD *

5/3/16 5:01 am

Oppose PD Requirement by Optometrists

The PD measurement is not part of an eye exam and should not be required by optometrists. The proposed regulation would require an Optometrist to measure the patients PD rather than authorizing them to delegate this duty to a licensed Optician or entity. Thus the practice of requiring an Optometrist to measure a patient's PD rather than allowing other licensed individuals, such as an Optician or an Ophthalmologists, would be discriminatory in nature.

Commenter: Dr. Lisa V. Gontarek, Optometrist *

5/3/16 11:29 am

Opposition to the Petition for Rule Making Regarding Pupillary Distances

Measuring a patient's pupillary distance (PD) is not done during an eye examination. It is not part of an eye glass prescription and not part of an ocular health examination. This measurement is specifically done when a patient is being fitted for eyeglasses. Usually, an optician takes this important measurement. The ability to accurately measure a PD takes skill and the understanding of the frame size and shape and how it relates to the patient's prescription, the patient's needs, and the lens design that will best serve those needs. To regulate that an optometrist or ophthalmologist is required to take this measurement would be an undue burden to those professionals, discriminatory to opticians, and most of all, it would not be in the best interest of the patient.

i am opposed to this new petition! Please do not change the current rule.

Commenter: Lucas Spiker, O.D. *

5/3/16 3:28 pm

In opposition to proposed PD requirements

Pupillary distance (PD) is a measurement only used in the fabrication of glasses. It is not part of the eye health and vision examination performed by the optometrist. Therefore, the responsibility lies with the professional fitting the patient's glasses frame and lenses. Additionally, requiring optometrists to measure the PD in the exam room using inadequate and outdated methods is not in the best interest of the patient.

Commenter: Colonial Eye Care *

5/3/16 3:38 pm

Opposed PD Requirement

It is not the standard of care for the eyecare provider to preform the PD procedure. The PD is usually tested by the Optician when ordering glasses.

Commenter: Dr. Jennifer Davis, Vision Tech Optometry Center *

5/3/16 3:57 pm

Opposition: petition requiring optometrist to provide a patient's PD as measured by the optometrist

This regulatory change is totally unnecessary and duplicative. The patient's Pupillary Distance ("PD"), if measured, is automatically a part of their medical record. As such, a patient has a right under the Code of Virginia and Board Regulations to their own medical record, including their PD.

Furthermore, the current practice is such that other licensed individuals (other than an Optometrist) are allowed to measure a patient's PD. The proposed regulation would require an Optometrist to measure the patients PD rather than authorizing them to delegate this duty to a licensed Optician or entity - this would be unnecessary and discriminatory in nature.

Commenter: Gerald Neidigh *

5/3/16 10:34 pm

Oppose Petition to require Optometrists to measure PD

This requirement is unnecessary and redundant and discriminatory. Ophthalmologists, optometrists, optometric and ophthalmic technicians, and other staff members can all measure and/or be trained to measure Pupillary distances. This petition is asking to require optometrists only to measure and provide PDs to all patients and take more of the optometrists time away from more critical patient care. Also, when a PD is measured it is part of the patient's record and thus the patient has access to it. It is unclear as to what the purpose of this petition truly is, again it appears to be unnecessary overregulation.

Commenter: Jen Weigel, OD, FAAO *

5/4/16 7:44 pm

Requirement for PD measurement to be taken by Optometrist

Requiring that an Optometrist provide a pupillary distance measurement as part of the glasses prescription is not appropriate. Most times, a PD measurement is taken upon selection of glasses by an optician, not necessarily as a part of the eye examination. The PD measurement can usually be measured accurately by many trained members of an Optometrist's office staff, so to specifically state that an Optometrist is required to take this measurement is not a wise use of resources.

Additionally, my specific practice does not have an optical. While I am mostly preparing and care for patients that have had eye surgery, on rare occasion I will prescribe glasses. I do not have digital pupillometers in my office to accurately measure these different parameters. To require me to provide a PD measurement would either prevent me from writing glasses prescriptions (assuming that I want to take the measurement accurately).

Thank you for allowing comments.

Jen Weigel, OD, FAAO

Virginia Optometric Association

* Nonregistered public user

18VAC105-20-45. Standards of practice.

A. An optometrist shall legibly document in a patient record the following:

1. During a routine or medical eye examination:

- a. An adequate case history, including the patient's chief complaint;**
- b. The performance of appropriate testing;**
- c. The establishment of an assessment or diagnosis; and**
- d. A recommendation for an appropriate treatment or management plan, including any necessary follow up.**

2. During an initial contact lens examination:

- a. The requirements of a routine or medical eye examination as prescribed in subdivision 1 of this subsection;**
- b. Assessment of corneal curvature;**
- c. Evaluation of contact lens fitting;**
- d. Acuity through the lens; and**
- e. Directions for the wear, care, and handling of lenses.**

3. During a follow-up contact lens examination:

- a. Evaluation of contact lens fitting and anterior segment health;**
- b. Acuity through the lens; and**
- c. Such further instructions 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. Contact lens.

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

2. An optometrist shall provide a patient with a copy of the patient's contact lens prescription at the end of the contact lens fitting, even if the patient doesn't ask for it. An optometrist may first require all fees to be paid, but only if he requires immediate payment from patients whose eye examinations reveal no need for corrective eye products.

3. An optometrist shall provide or verify the prescription to anyone who is designated to act on behalf of the patient, including contact lens sellers.

4. An optometrist shall not require patients to buy contact lens, pay additional fees or sign a waiver or release in exchange for a copy of the contact lens prescription.

5. An optometrist shall not disclaim liability or responsibility for the accuracy of an eye examination.

D. Spectacle lens.

1. A licensed optometrist shall provide a written prescription for spectacle lenses immediately after the eye examination is completed. He may first require all fees to be paid, but only if he requires immediate payment from patients whose eye examinations reveal no need for corrective eye products.

2. An optometrist shall not require patients to buy ophthalmic goods, pay additional fees or sign a waiver or release in exchange for a copy of the spectacle prescription.

3. An optometrist shall not disclaim liability or responsibility for the accuracy of an eye examination.

E. Practitioners shall maintain a patient record for a minimum of five years following the last patient encounter with the following exceptions:

1. Records that have previously been transferred to another practitioner or health care provider or provided to the patient or his personal representative; or

2. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.

F. Practitioners shall post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality.

Regulations Actions for Board of Optometry

Past Actions		
Action Title	Latest Stage	Status
Conforming TPA list to law	Final	Stage complete. This regulation became effective on 9/23/2015.
Reduction in renewal fees for 2015	Final	Stage complete. This regulation became effective on 9/23/2015.
Reduction in renewal fees for 2013	Final	Stage complete. This regulation became effective on 10/23/2013.
Regulatory reform changes	Fast-Track	Stage complete. This regulation became effective on 1/15/2015.
Clarification of continuing education requirements	Final	Stage complete. This regulation became effective on 3/17/2010.
Standards of conduct	Final	Stage complete. This regulation became effective on 3/17/2010.
Change of addresses	Final	Stage complete. This regulation became effective on 7/1/2009.
Changes to restricted volunteer registration	Final	Stage complete. This regulation became effective on 8/6/2008.
Additional requirements for licensure by examination	Fast-Track	Stage complete. This regulation became effective on 9/24/2007.
Fee reduction	Final	Stage complete. This regulation became effective on 10/4/2006.
Edit to name of testing agency	Final	Stage complete. This regulation became effective on 7/12/2006.
Change in returned check fee	Final	Stage complete. This regulation became effective on 4/5/2006.
Incorporation of requirements for TPA certification	Final	Stage complete. This regulation became effective on 11/30/2005.
Delegation to an agency subordinate	Final	Stage complete. This regulation became effective on 6/15/2005.
Adoption of treatment guidelines and TPA Formulary	Final	Stage complete. This regulation became effective on 12/8/2004.
Volunteer practice by out-of-state optometrists	Final	Stage complete. This regulation became effective on 7/2/2003.
Periodic review	Final	Stage complete. This regulation became effective on 1/15/2003.
Reinstatement fee reduction	Final	Stage complete. This regulation became effective on 6/6/2001.
Reduction in reinstatement fees	Final	Stage complete. This regulation became effective on 6/6/2001.

License Count Report for Optometry

Board	Occupation	State	License Status	License Count
Optometry	Optometrist			
	Optometrist	Virginia	Current Active	28
	Optometrist	Out of state	Current Active	96
	Total for Optometrist			124
	Professional Designation			
	Professional Designation	Virginia	Current Active	245
	Professional Designation	Out of state	Current Active	11
	Total for Professional Designation			256
	TPA Certified Optometrist			
	TPA Certified Optometrist	Virginia	Current Active	1,134
	TPA Certified Optometrist	Out of state	Current Active	401
	Total for TPA Certified Optometrist			1,535
	Total for Optometry			1,915

DISCIPLINARY CASES

- Investigations – 6 (4 STC)
- Probable Cause – 12 (9 STC)
- APD – 7 (6 STC)

Virginia Department of Health Professions
Cash Balance
As of May 31, 2016

	<u>105- Optometry</u>
Board Cash Balance as of June 30, 2015	\$ 568,468
YTD FY16 Revenue	247,545
Less: YTD FY16 Direct and In-Direct Expenditures	<u>275,747</u>
Board Cash Balance as May 31, 2016	<u><u>540,266</u></u>