

February 7, 2020  
Board Room 3  
9:00 a.m.

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**Call to Order – Fred E. Goldberg, O.D., Board President**

- Welcome
  - Emergency Egress Procedures
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**Ordering of Agenda – Dr. Goldberg**

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**Public Comment – Dr. Goldberg**

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.

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**Approval of Minutes – Dr. Goldberg**

**Pages 1-4**

- November 8, 2019 – Full Board Meeting (includes Public Hearing)
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**Director’s Report – Dr. Brown**

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**Legislative/Regulatory Update – Elaine Yeatts**

**Pages 5-9**

- Legislative update
  - Regulatory update
    - Waiver for e-prescribing – under review by administration
    - Repeal of professional designation rules and fees – under review by administration
    - Handling fee – Comment period underway and will end on 2/19/2020
    - Inactive licenses – Publication in Register on 02/03/2020 for 30 day public comment period; expected effective date is 03/04/2020
    - Addition of gabapentin to TPA formulary – effective date of 01/22/2020
    - Periodic Review – Effective 12/11/2019
    - Prescribing Opioids – Effective 11/13/2019
- 

**Discussion Items**

**Page 10-16**

- Update to Guidance Document 105-14: Bylaws – **Leslie Knachel**
  - Consideration to accept board meeting attendance to meet CE requirements – **Ms. Yeatts**
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**Board Member Training**

Closing Cases – **Kelli Moss**

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**Board Counsel Report – Charis Mitchell**

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**President’s Report – Dr. Goldberg**

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**Board of Health Professions Report – Dr. Clayton-Jeter**

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**Staff Reports**

**Pages 17-25**

- Executive Director’s Report – **Leslie Knachel**
    - Statistics
    - ARBO
      - 2020 Annual meeting
      - Member Board Update
    - News from NBEO
    - Results of CE Audit
    - Outreach emails
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- Regulatory Update (prescribing opioids and periodic review)
  - Addition of gabapentin
  - CE audit report
  - Discipline Report – **Kelli Moss**
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**Next Meeting – July 17, 2020**

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**Meeting Adjournment – Dr. Goldberg**

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This information is in DRAFT form and is subject to change.

PD removal

**BOARD OF OPTOMETRY  
FULL BOARD MEETING  
November 8, 2019**

**TIME AND PLACE:** The Virginia Board of Optometry (Board) meeting was called to order at 9:04 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 3, Henrico, Virginia 23233.

**PRESIDING OFFICER:** Helene Clayton-Jeter, O.D., President

**MEMBERS PRESENT:** Fred E. Goldberg, O.D.  
Steven A. Linas, O.D.  
Clifford A. Roffis, O.D.  
Lisa Wallace-Davis, O.D.  
Devon Cabot – Citizen Member

**MEMBERS NOT PRESENT:** All members were present.

**STAFF PRESENT:** Barbara Allison-Bryan, M.D., Chief Deputy Director  
Lisa Hahn, Chief Operating Officer  
Leslie L. Knachel, Executive Director  
Kelli Moss, Deputy Executive Director  
Charis Mitchell, Assistant Attorney General, Board Counsel  
Anthony C. Morales, Operations Manager  
Laura Paasch, Administrative Assistant  
Rebecca Schultz, Policy Analyst  
Elaine Yeatts, Senior Policy Analyst

**OTHERS PRESENT:** Bo Keeney, Virginia Optometric Association (VOA)

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

Dr. Clayton-Jeter congratulated Ms. Cabot and Dr. Wallace-Davis on their reappointments to the Board.

**PUBLIC HEARING:** Dr. Clayton-Jeter opened the public hearing at 9:05 a.m. to receive comments on the proposed changes to the *Regulations of the Virginia Board of Optometry* to add gabapentin to the TPA formulary.

No public comment was presented.

Dr. Clayton-Jeter closed the hearing at 9:06 a.m.

**ORDERING OF AGENDA** Dr. Linas moved to accept the agenda as provided.

The motion was seconded and carried.

**APPROVAL OF MINUTES:** Dr. Roffis moved to approve the meeting minutes for the following meetings as presented:

- June 28, 2019 – Full Board Meeting (includes Public Hearing)
- June 28, 2019 – Continuing Education Committee Meeting
- August 19, 2019 – TPA Formulary Committee Meeting

- September 5, 2019 – Professional Designation Committee Meeting
- September 5, 2019 – Called Board Meeting

The motion was seconded and carried.

**PUBLIC COMMENT:**

No public comment was presented.

**DIRECTOR'S REPORT:**

Ms. Hahn provided an update on current and future building security enhancements.

Dr. Allison-Bryan provided information on the recent Board Member training session and launch of the Board's new website. She discussed the results of the recent agency financial audit and the importance of timely submission of reimbursement requests.

**LEGISLATIVE/REGULATORY UPDATE:**

**Legislative Update**

Ms. Yeatts introduced Ms. Rebecca Schultz as the agency's new Policy Analyst.

No legislative updates at this time.

**Regulatory Update**

Ms. Yeatts discussed the following regulatory actions:

- Periodic review will become effective on December 11, 2019. Ms. Knachel stated that a mass email about the changes will be sent to licensees prior to the effective date.

- Emergency regulation for Waiver of Electronic Prescribing

Dr. Goldberg moved to adopt the emergency regulations and a Notice of Intended Regulatory Action, (NOIRA) to replace the emergency regulations. The motion was seconded and carried.

- Regulatory Amendment (18VAC105-20-20) to adjust fee for returned checks

Dr. Clayton-Jeter moved to adopt the amendment by fast track action. The motion was seconded and carried.

- Final regulatory amendment to add gabapentin to TPA formulary

Dr. Goldberg moved to adopt the amendment as provided. The motion was seconded and carried.

- Final regulatory amendment to authorize issuance of inactive licenses

Dr. Linas moved to adopt the final action to regulation as proposed in the agenda. The motion was seconded and carried.

- Consideration of recommendation from the Professional Designation Committee

Ms. Cabot moved to amend 18VAC105-20-20 by removing the fees associated with Professional Designations; to amend 18VAC105-20-40 by deleting section number 13 and to repeal 18VAC105-20-50 by fast track action. The motion was seconded and carried.

**DISCUSSION ITEMS:**

**Update to Guidance Document 105-14: Bylaws**

Ms. Knachel requested that the Board consider amending the bylaws by changing the effective date to January 1 of each year for a newly elected board president.

Dr. Goldberg moved to adopt the amendment as provided. The motion was seconded and carried.

**Report from CE Committee**

Dr. Roffis reported that the CE Committee met after the last board meeting to discuss whether to add additional CE providers to the list found in regulations. The Committee's recommendation is to not change the regulations and direct any inquiries to the list available entities that may sponsor, accredit or approve CE.

**Consideration of allowing board meeting attendance to meet CE requirements**

Dr. Clayton-Jeter discussed the issue of allowing board meeting attendance to meet CE requirements. The Board discussed the pros and cons related to this issue. The Board directed staff to conduct research regarding how other regulatory boards address this issue for presentation during the next board meeting.

**BOARD MEMBER TRAINING:**

Ms. Moss provided a presentation on navigating and annotating electronic case files.

**COUNSEL REPORT:**

Ms. Mitchell did not have anything to report.

**PRESIDENT'S REPORT:**

Dr. Clayton-Jeter stated that she hopes that the Board will continue to remain transparent and move forward with a greater Board presence by educating licensees.

**BOARD OF HEALTH  
PROFESSION'S REPORT:**

Dr. Clayton-Jeter reported that the last meeting was postponed and that during the August meeting she was awarded a plaque to commemorate her time as Chair.

The new Board Chair encourages members to wear newly issued pins to identify their membership.

The regulatory committee reported on the status of the Music Therapy licensure

Dr. Allison-Bryan spoke on the status of Music Therapy Licensure and Dr. Clayton-Jeter commented on how the Art Therapists also wanted to be licensed a year ago but the BHP denied their request as an example of a similar discipline with very different outcomes. Dr. Allison-Bryan further elaborated on the differences in the two outcomes.

**STAFF REPORTS:**

**Executive Director's Report – Ms. Knachel**

Ms. Knachel reported on the following:

- Board statistics;
- Association of Regulatory Boards of Optometry, (ARBO) 2020 Annual Meeting;
- New Website Format;
- Outreach
  - TPA Formulary Notification
  - Renewals
  - Mass Emails; and
- CE Audit

**ARBO ANNUAL MEETING REPORT:**

Dr. Goldberg provided an overview of the 2019 ARBO annual meeting. He stated that ARBO was celebrating its 100 year anniversary.

**DISCIPLINE REPORT:**

Ms. Moss provided an overview of the caseload statistics.

**NEW BUSINESS:**

**Officer Elections**

**Board Vice-President**

Dr. Linas nominated Ms. Cabot, which was seconded.

Dr. Roffis nominated Dr. Wallace-Davis which was seconded.

Ms. Knachel conducted a roll-call vote. Dr. Clayton-Jeter announced that Ms. Cabot and Dr. Wallace-Davis tied by a 3-to-3 vote.

Ms. Cabot withdrew her nomination.

Ms. Knachel conducted the roll-call vote again. Dr. Clayton-Jeter announced that Dr. Wallace-Davis was elected Vice-President by a 6-to-0 vote.

**Board President**

Dr. Wallace-Davis nominated Dr. Goldberg, which was seconded. No additional nominations were received.

Ms. Knachel conducted the roll-call vote. Dr. Clayton-Jeter announced that Dr. Goldberg was elected President by a 6-to-0 vote.

**NEW MEETING:**

The next scheduled full board meeting is February 7, 2020.

**ADJOURNMENT:**

The meeting adjourned at 11:42 a.m.


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Helene Clayton-Jeter, O.D.,  
President

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

**Agenda Item: Regulatory Actions - Chart of Regulatory Actions  
(As of January 24, 2020)**

Chapter		Action / Stage Information
[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	<u>Waiver for e-prescribing</u> [Action 5438] Emergency/NOIRA - At Secretary's Office for 8 days
[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	<u>Repeal of professional designation rules and fees</u> [Action 5426] Fast-Track - At Secretary's Office for 29 days
[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	<u>Handling fee</u> [Action 5427] Fast-Track - Register Date: 1/20/20 Effective: 3/5/20
[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	<u>Inactive licenses</u> [Action 5006] Final - Register Date: 2/3/20 Effective: 3/4/20
[18 VAC 105 - 20]	Regulations of the Virginia Board of Optometry	 <u>Addition of gabapentin to TPA formulary</u> [Action 5375] Final - Register Date: 12/23/19 Effective: 1/22/20

## Report of 2020 General Assembly

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### **HB 601 Administrative Process Act; review of occupational regulations.**

*Chief patron:* Freitas

*Summary as introduced:*

**Administrative Process Act; review of occupational regulations.** Creates a procedure by which a person may petition an agency to review whether an existing occupational regulation is necessary for the protection or preservation of the health, safety, and welfare of the public and meets other statutorily enumerated criteria. The bill also creates a cause of action whereby any person who is adversely affected or aggrieved by an occupational regulation that such person believes is not necessary for the protection or preservation of the health, safety, and welfare of the public or does not meet other statutorily enumerated criteria may seek judicial review of such regulation. The bill provides that the burden of proof shall be upon the party complaining of the occupational regulation to demonstrate by a preponderance of the evidence that the challenged occupational regulation on its face or in its effect burdens the entry into or participation in an occupation and, thereafter, the burden shall be upon the agency to demonstrate by a preponderance of the evidence that the challenged occupational regulation is necessary to protect or preserve the health, safety, and welfare of the public and complies with certain other statutorily enumerated requirements. The bill provides that if the court finds in favor of the party complaining of the agency action, the court shall declare the regulation null and void.

01/06/20 House: Referred to Committee on General Laws

01/24/20 House: Assigned GL sub: Professions/Occupations and Administrative Process

### **HB 648 Prescription Monitoring Program; information disclosed to Emergency Department Information.**

*Chief patron:* Hurst

*Summary as introduced:*

**Prescription Monitoring Program; information disclosed to the Emergency Department Information Exchange; redisclosure.** Provides for the mutual exchange of information between the Prescription Monitoring Program and the Emergency Department Information Exchange and clarifies that nothing shall prohibit the redisclosure of confidential information from the Prescription Monitoring Program or any data or reports produced by the Prescription Monitoring Program disclosed to the Emergency Department Information Exchange to a prescriber in an electronic report generated by the Emergency Department Information Exchange so long as the electronic report complies with relevant federal law and regulations governing privacy of health information.

01/27/20 House: Read third time and passed House BLOCK VOTE (99-Y 0-N)

01/27/20 House: VOTE: (99-Y 0-N)

01/28/20 Senate: Referred to Committee on Education and Health



**HB 967 Military service members and veterans; expediting the issuance of credentials to spouses.**

*Chief patron:* Willett

*Summary as introduced:*

**Professions and occupations; expediting the issuance of credentials to spouses of military service members.** Provides for the expedited issuance of credentials to the spouses of military service members who are ordered to federal active duty under Title 10 of the United States Code if the spouse accompanies the service member to the Commonwealth or an adjoining state or the District of Columbia. Under current law, the expedited review is provided more generally for active duty members of the military who are the subject of a military transfer to the Commonwealth. The bill also authorizes a regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions or any other board in Title 54.1 (Professions and Occupations) to waive any requirement relating to experience if the board determines that the documentation provided by the applicant supports such waiver.

01/27/20 House: Read third time and passed House (98-Y 0-N)

01/28/20 Senate: Referred to Committee on General Laws and Technology

**HB 982 Professions and occupations; licensure by endorsement.**

*Chief patron:* Webert

*Summary as introduced:*

**Professions and occupations; licensure by endorsement.** Establishes criteria for an individual licensed, certified, or having work experience in another state, the District of Columbia, or any territory or possession of the United States to apply to a regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions and be issued an occupational license or government certification if certain conditions are met.

01/07/20 House: Referred to Committee on General Laws

01/15/20 House: Assigned GL sub: Professions/Occupations and Administrative Process

01/23/20 House: House subcommittee amendments and substitutes offered

01/23/20 House: Subcommittee recommends reporting with substitute (7-Y 1-N)

**HB 1040 Naturopathic doctors; Board of Medicine to license and regulate.**

*Chief patron:* Rasoul

*Summary as introduced:*

**Naturopathic doctors; license required.** Requires the Board of Medicine to license and regulate naturopathic doctors, defined in the bill as an individual, other than a doctor of medicine, osteopathy, chiropractic, or podiatry, who may diagnose, treat, and help prevent diseases using a system of practice that is based on the natural healing capacity of individuals,

using physiological, psychological, or physical methods, and who may also use natural medicines, prescriptions, legend drugs, foods, herbs, or other natural remedies, including light and air.

01/07/20 House: Referred to Committee on Health, Welfare and Institutions

01/15/20 House: Assigned HWI sub: Health Professions

01/23/20 House: House subcommittee amendments and substitutes offered

01/23/20 House: Subcommittee recommends reporting with substitute (4-Y 2-N)

**HB 1328 Offender medical and mental health information and records; exchange of information to facility.**

*Chief patron:* Watts

*Summary as introduced:*

**Exchange of offender medical and mental health information and records.** Provides that a health care provider who has been notified that a person to whom he has provided services is committed to a local or regional correctional facility must disclose to the person in charge of the facility any information necessary and appropriate for the continuity of care of the person committed. The bill also provides protection from civil liability for such health care provider, absent bad faith or malicious intent.

01/24/20 House: Committee substitute printed 20106592D-H1

01/28/20 House: Read first time

01/29/20 House: Read second time

01/29/20 House: Committee substitute agreed to 20106592D-H1

**HB 1506 Pharmacists; prescribing, dispensing, and administration of controlled substances.**

*Chief patron:* Sickles

*Summary as introduced:*

**Pharmacists; prescribing, dispensing, and administration of controlled substances.** Authorizes the prescribing, dispensing, and administration of certain controlled substances by a pharmacist, provided that such pharmacist prescribes, dispenses, or administers such controlled substances in accordance with a statewide protocol developed by the Board of Pharmacy in consultation with the Board of Medicine and set forth in regulations of the Board of Pharmacy. The bill clarifies that an accident and sickness insurance policy that provides reimbursement for a service that may be legally performed by a licensed pharmacist shall provide reimbursement for the prescribing, dispensing, or administration of controlled substances by a pharmacist when such prescribing, dispensing, or administration is in accordance with regulations of the Board of Pharmacy.

01/08/20 House: Referred to Committee on Health, Welfare and Institutions

01/15/20 House: Assigned HWI sub: Health Professions

**SB 540 Health professionals; unprofessional conduct, reporting.**

*Chief patron:* Vogel

*Summary as introduced:*

**Health professionals; unprofessional conduct; reporting.** Requires the chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth to report to the Department of Health Professions any information of which he may become aware in his professional capacity that indicates a reasonable belief that a health care provider is in need of treatment or has been admitted as a patient for treatment of substance abuse or psychiatric illness that may render the health professional a danger to himself, the public or his patients, or that he determines, following review and any necessary investigation or consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, indicates that there is a reasonable probability that such health professional may have engaged in unethical, fraudulent, or unprofessional conduct. Current law requires information to be reported if the information indicates, after reasonable investigation and consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, a reasonable probability that such health professional may have engaged in unethical, fraudulent, or unprofessional conduct.

01/07/20 Senate: Prefiled and ordered printed; offered 01/08/20 20105063D

01/07/20 Senate: Referred to Committee on Education and Health

01/16/20 Senate: Assigned Education sub: Health Professions

## VIRGINIA BOARD OF OPTOMETRY BY-LAWS

### Article I. Officers of the Board

#### A. Election of officers.

1. The officers of the Board of Optometry (Board) shall be a President and a Vice-President.
2. At the first meeting of the organizational year, the Board shall elect its officers. Nominations for office shall be selected by open ballot. Voting will be by roll-call ballot and require a majority.
3. The organizational year for the Board shall be from July 1<sup>st</sup> through June 30<sup>th</sup>. At the first regularly scheduled meeting of the organizational year, the Board shall elect its officers with an effective date of January 1<sup>st</sup>. The term of office shall be one year.
4. A vacancy occurring in any office shall be filled during the next meeting of the Board.

#### B. Duties of the Officers

1. President.

The President shall preside at all meetings and formal administrative hearings in accordance with parliamentary rules and the Administrative Process Act, and requires adherence of it on the part of the Board members. The President shall appoint all committees unless otherwise ordered by the Board.

2. Vice-President.

The Vice-President shall, in the absence or incapacity of the President, perform pro tempore all of the duties of the President.

3. In the absence of the President and Vice-President, the President shall appoint another board member to preside at the meeting and/or formal administrative hearing.

4. The Executive Director shall be the custodian of all Board records and all papers of value. She/He shall preserve a correct list of all applicants and licensees. She/He shall manage the correspondence of the Board and shall perform all such other duties as naturally pertain to this position.

### Article II. Meetings

**A. Number and organization of meetings.**

1. For purposes of these bylaws, the Board schedules full board meetings to take place during each quarter, with the right to change the date or cancel any board meeting; with the exception that one meeting shall take place annually.
2. A majority of the members of the Board shall constitute a quorum for the transaction of business. The current edition of Robert's Rules of Order, revised, shall apply unless overruled by these bylaws or when otherwise agreed.

**B. Attendance of board members.**

Members shall attend all scheduled meetings of the Board and committee to which they serve. In the event of two consecutive unexcused absences at any meeting of the Board or its committees, the President shall make a recommendation about the Board member's continued service to the Director of the Department of Health Professions for referral to the Secretary of Health and Human Resources and Secretary of the Commonwealth.

**C. Order of Business.**

The order of the business shall be as follows:

1. Call to order with statement made for the record of how many and which board members are present and that it constitutes a quorum.
2. Public Comment
3. Approval of minutes.
4. The Executive Director and the President shall collaborate on the remainder of the agenda.

**Article III. Committees**

**A. Standing committees.**

**I. Special Conference Committee.**

This committee shall consist of two Board members who shall review information regarding alleged violations of the optometry laws and regulations and determine if probable cause exists to proceed with possible disciplinary action. The President shall also designate another Board member as an alternate on this committee in the event one of the standing committee members becomes ill or is unable to attend a scheduled conference date. Further, should the caseload increase to the level that additional special conference committees are needed, the President may appoint additional committees.

2. Credentials Committee.

The committee shall consist of two or more Board members. The members of the committee shall ~~may~~ review non-routine licensure applications to determine the credentials of the applicant and the applicability of the statutes and regulations when the Board President deems necessary.

3. Continuing Education Committee.

This committee shall consist of two or more Board members who shall meet as required to review matters related to continuing education.

4. Regulatory/Legislative Committee.

The committee shall consist of two or more board members. The Board delegates to the Regulatory/Legislative Committee to recommend actions to petitions for rulemaking. This committee is responsible for the development of proposals for new regulations or amendments to existing regulations with all required accompanying documentation; the drafting of responses to public comment as required in conjunction with rulemaking; conducting the required review of all existing regulations as required by the Board's Public Participation Guidelines and any Executive Order of the Governor; and any other tasks related to regulations. In accordance with the Administrative Process Act, any proposed draft regulation and response to public comment shall be reviewed and approved by the full board prior to publication. The Board delegates the authority to develop proposals for legislative initiatives of the Board. Any proposed draft legislation and response to public comment shall be reviewed and approved by the full Board prior to publication.

5. Professional Designation (PD) Committee.

The committee shall consist of two or more Board members. The members of the committee shall review PD applications to determine if the requested PD name complies with the regulations.

B. Ad Hoc Committees.

There may be Ad Hoc Committees, appointed as needed and shall consist of two or more persons appointed by the Board who are knowledgeable in the particular area of practice or education under consideration by the Board. The committee shall review matters as requested by the Board and advise the Board relative to the matters or make recommendations for consideration by the Board.

#### Article IV. General Delegation of Authority

A. The Board delegates to Board staff the authority to issue and renew licenses and registrations for which statutory and regulatory qualifications have been met.

B. The Board delegates to the Executive Director the authority to reinstate licenses and registrations when the reinstatement is due to the lapse of the license or registration rather than a disciplinary action and there is no basis upon which the Board could refuse to reinstate.

C. The Board delegates to the Executive Director the authority to grant long-term continuing education waivers on a case-by-case basis to licensees with a verified long-standing illness and an attestation of not practicing. The Executive Director shall inform the licensee of the appropriate statute and shall direct the licensee to notify the Board if their situation changes, in which case the waiver may be extended, reconsidered or withdrawn.

D. The Board delegates to the Executive Director authority to grant an extension for good cause of up to 90 days for the completion of continuing education requirements upon written request from the licensee prior to the renewal date.

E. The Board delegates authority to the Executive Director to close non-jurisdictional cases and fee dispute cases without review by a board member.

F. The Board delegates to the Executive Director the authority to review information regarding alleged violations of law or regulation with at least one board member on a rotating basis to make a determination as to whether probable cause exists to proceed with possible disciplinary action.

G. The Board delegates to the Executive Director the authority to conduct an annual continuing education audit and take action as prescribed in any guidance document adopted by the Board on continuing education audits.

H. The Board delegates to the Executive Director the authority to take action as prescribed in any guidance document adopted by the Board on practicing with an expired license.

I. The Board delegates to the Executive Director the authority to negotiate consent orders with the Chair of a Special Conference Committee or formal administrative hearing.

J. The Board delegates to Board staff the authority to develop and approve any and all forms used in the daily operations of Board business, to include, but not limited to, licensure applications, renewal forms and documents used in the disciplinary process.

K. The Board delegates to the Executive Director the authority to sign as entered any Order or Consent Order resulting from the disciplinary process or other administrative proceeding.

L. The Board delegates to the Executive Director, the authority to provide guidance to the agency's Enforcement Division in any situation in which a complaint is of questionable jurisdiction and an investigation may not be necessary. The Executive Director will provide a quarterly report on such situations, if any.

M. The Board delegates to the President the authority to represent the Board in instances where Board "consultation" or "review" may be requested where a vote of the Board is not required, and a meeting is not feasible.

N. Delegated tasks shall be summarized and reported to the board at each regularly scheduled meeting.

O. The Board delegates authority to the Executive Director to issue an Advisory Letter to the person who is the subject of a complaint pursuant to Va. Code § 54.1-2400.2(F), when a probable cause review indicates a disciplinary proceeding will not be instituted.

P. The Board delegates authority to the Executive Director to accept from a licensee or registrant, in lieu of disciplinary action, a Confidential Consent Agreement, pursuant to Va. Code § 54.1-2400(14), consistent with any guidance documents adopted by the Board.

#### **Article V. Amendments.**

A board member or staff personnel may propose an amendment to these bylaws by presenting the amendment in writing to the Executive Director for distribution to all Board members, the Board's legal counsel and staff personnel prior to any regularly scheduled meeting of the Board. An amendment to the bylaws shall be adopted, upon favorable vote of at least two-thirds of the Board members present at said meeting.

DRAFT 02/07/20



## **Virginia Board of Optometry**

### **Guidelines for Processing Applications for Licensure**

The Executive Director for the Board of Optometry is delegated authority to issue an initial license, renew a license or reinstate a license for those applicants who meet the qualifications as set forth in the law and regulations, provided no grounds exist pursuant to § 54.1-2400 (7) and § 54.1-3204 or §54.1-3215 of the *Code of Virginia* and 18VAC105-20-40 of the *Regulations Governing of the Virginia Board of Optometry*.

An affirmative response to any question on an application for licensure related to grounds for the Board to refuse to issue a license shall be referred to the Board President to determine how to proceed.

An applicant whose license has been revoked or suspended for any reason other than nonrenewal by another jurisdiction is not eligible for licensure in Virginia unless the license has been reinstated by the jurisdiction which revoked or suspended it. Pursuant to §54.1-2408 of the Code of Virginia, such applicants shall be advised in writing of their ineligible status by the Executive Director.

## **DHP Boards that permit CE credit for Board attendance**

### **Funeral**

One hour per year shall cover compliance with laws and regulations governing the profession, and at least one hour per year shall cover preneed funeral arrangements. The one-hour requirement on compliance with laws and regulations may be met once every two years by attendance at a meeting of the board or at a committee of the board or an informal conference or formal hearing.

### **Physical Therapy**

Up to two of the Type 2 continuing education hours may be satisfied by attendance at a meeting of the board or disciplinary proceeding conducted by the board.

### **Pharmacy**

C. Of the 15 contact hours required for annual renewal, at least three hours shall be obtained in courses or programs that are live or real-time interactive. Included in the three hours, the following may be credited:

1. A maximum of one hour for attendance at a board meeting or formal hearing; or
2. A maximum of one hour for serving as a preceptor for a pharmacy student or resident in an accredited school or program or for a foreign-trained student obtaining hours of practical experience.

### **Counseling (Proposed)**

5) Attendance at board meetings or disciplinary proceedings. Activity shall count for actual time of meeting or proceeding for a maximum of two hours during one renewal period.

## Optometry Monthly Snapshot for December 2019

Optometry has closed as many cases In December as received. Optometry has closed 0 patient care cases and 1 non-patient care cases for a total of 1 case.

Case Closed	
Patient Care	0
Non patient care	1
<b>Total</b>	<b>1</b>

Optometry has received 1 patient care cases and 0 non-patient care case for a total of 1 cases.

Cases received	
Patient Care	1
Non patient care	0
<b>Total</b>	<b>1</b>

As of December 31, 2019, there were 17 Patient care cases open and 10 non-patient care cases open for a total of 27 cases.

Cases Open	
Patient Care	17
Non patient care	10
<b>Total</b>	<b>27</b>

There were 2015 Optometry licensees as of January 2, 2020. The number of current licenses are broken down by profession in the following chart.

Current Licenses	
Optometrist	97
Professional Designation	270
TPA Certified Optometrist	1648
<b>Total</b>	<b>2015</b>

There were 1 licenses Issued for Optometry for the month of December. The number of licenses issued are broken down by profession in the following chart.

License Issued	
TPA Certified Optometrist	1
<b>Total</b>	<b>1</b>



COPE OE TRACKER CELMO MEETINGS ABOUT ARBO MEMBER RESOURCES INFO CENTER

#### HOT LINKS

OE TRACKER Login  
 COPE Reviewer Login  
 COPE Administrator Login  
 ARBO Member Boards Login  
 OE TRACKER Mobile App  
 Fall 2019 Greensheet

#### 2020 ARBO Annual Meeting



#### ARBO 2020 Annual Meeting

June 21-23, 2020  
 Hilton Alexandria Old Town  
 Alexandria, Virginia

Please join us for the 2020 ARBO Annual Meeting in Alexandria, Virginia (suburb of Washington, DC). Members and staff of Regulatory Boards of Optometry in the United States, Canada, Australia, and New Zealand are invited to attend this important meeting. The ARBO Annual Meeting provides an excellent forum for keeping up-to-date with regulatory issues. This is a great opportunity to interact with your regulatory colleagues discussing hot topics and shared concerns in the regulatory community.

**Meeting Agenda:** COMING SOON

**Travel Scholarship Information:** COMING SOON

**Meeting Registration:** Complete the delegate registration form to register both voting and non-voting delegates who will be attending the meeting. The registration fee for the 2020 meeting is \$500 for both voting and non-voting delegates.

**EARLY REGISTRATION FEE:** Register by May 1, 2020 and get \$100 of your registration. The registration fee before May 1, 2020 is \$400 per delegate. After May 1, 2020 the registration fee is \$500 per delegate.

[Online Delegate Registration](#) [Online Delegate Registration](#)

[Printable Delegate Registration Form](#)

**Non-Member/Observer Registration:** The registration fee for non-members/observers is \$550.00. Please fill out the registration form and fax or email it to the ARBO office.

**Hotel Reservation Information:** Rooms are being held at the Hilton Alexandria Old Town for attendees of the ARBO Annual Meeting at a group rate of \$214.00 (+ taxes and fees) per night (single/double). In order to take advantage of the group rate, you must make your room reservation by Friday May 29, 2020

**Online Reservations:** To make, modify or cancel your hotel reservation online please visit <https://www.hilton.com/en/hl/groups/personalized/D/DCAOTHF-RBO-20200619/index.jhtml>

**Phone Reservations:** To make your reservation by phone call 800-774-1500 and reference group code ARBO.



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## **Association of Regulatory Boards of Optometry**

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Fax: (888) 703-4848  
Email: [arbo@arbo.org](mailto:arbo@arbo.org)**

**To: ARBO Member Board Executive Directors and Administrators**

**From: ARBO Board of Directors**

**Date: January 6, 2020**

**RE: ARBO/NBEO Negotiations**

### **ARBO Member Boards:**

Happy New Year! As you know, the ARBO Board of Directors has been working for the past two years to negotiate a new agreement with the National Board of Examiners in Optometry (NBEO) which would allow greater input and transparency into the exams utilized by ARBO member boards. The current agreement has expired and we have not been able to come to terms with NBEO that recognize the importance of ARBO's exclusivity nor the requested input and transparency.

What this means for ARBO as an organization is that ARBO will no longer receive any financial payments from NBEO. The ARBO Board is continuing discussions with the NBEO, however, ARBO is no longer required to exclusively promote and endorse the NBEO exams thus allowing our organization to explore alternative options to the current entry-level examinations.

What does this change mean for the ARBO member boards? In the short term, not much will change. ARBO's member boards will still be able to utilize the NBEO exams as one component of licensure. In the long term, ARBO could potentially develop new assessment programs under the direct control of our member boards providing needed input and transparency and also enhancing the long-term financial security of ARBO.

ARBO will continue to operate within its mission of serving our member boards which regulate the profession of optometry in the interest of public profession. We will keep you updated throughout the year and we plan to have more information to discuss with you at our annual meeting in June 2020. If you have any questions please contact Lisa Fennell, ARBO Executive Director at [LFennell@arbo.org](mailto:LFennell@arbo.org).

## **Leslie Knachel**

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**From:** odekirkod@suddenlinkmail.com  
**Sent:** Thursday, January 16, 2020 8:42 AM  
**To:** leslie.knachel@dhp.virginia.gov  
**Cc:** 'Lisa Fennell'  
**Subject:** Member board update

Dear ARBO member boards,

You recently received an update on ARBO's two year negotiation with NBEO, and that the current agreement with NBEO has now expired. What does this mean for you, our member boards going forward?

- First and foremost you will still be able to utilize the NBEO examinations for your candidates for licensure. In the short-term, nothing will change.
- Looking forward, being free of the exclusivity requirement, ARBO can now explore other examination options. Even though ARBO has a long history with the NBEO, we have never looked into what other testing organizations could provide. Healthcare has many competency-based examinations, and we will now be able to see what other vendors have to offer.
- Having no agreement with NBEO also means that ARBO will not receive the traditional income we have used to fund programs and activities for our members. The ARBO Board of Directors will re-prioritize our budget so that we will continue to support your jurisdiction and address your needs.
- ARBO will look into the prospect and feasibility of owning our own test. This could not only provide an income stream that could fund many more programs, but would allow our members to have direct access to decision making and content to assure that the exam is meeting the needs of your jurisdiction.
- ARBO will continue to attempt to negotiate a new agreement with NBEO, but regardless, we now have an unprecedented opportunity to explore other options for entry-to-practice testing. The ARBO Board of Directors feel strongly that in order to truly serve you, our member boards, we must perform our due diligence to see what our other options are and report our findings to you at our Annual Meeting.

In closing, ARBO has had a long and successful history with the NBEO and perhaps we can still come to terms that will allow our members more meaningful input with greater transparency. ARBO's mission is grounded in our member boards and the public you serve and we will not waiver from that mission. We will keep you updated as more information becomes available and you will have a full report at the Annual Meeting. If you have any questions please let me know.

The ARBO Board of Directors and Staff wish you and yours all the very best in this 20/20 New Year.

Best Regards,

Steve Odekirk, OD

ARBO Director



# NATIONAL BOARD OF EXAMINERS IN OPTOMETRY

Advancing the Assessment of Competence®

## **NEWS FROM NBEO**

The National Board of Examiners in Optometry® (NBEO) continuously strives to provide high quality examinations. We would like to share a few organizational updates as the new year begins.

### ***Part III Clinical Skills Examination (CSE®) restructuring continues***

Substantial progress has been made on the Part III exam restructure over the past year, and this project will continue in 2020. The restructure task force has been extremely active in generating a preliminary exam blueprint which is expected to be finalized by the end of the year. Further details regarding the goals and methodology of the restructure can be found in an article published in the December edition of *Optometry and Vision Science*<sup>1</sup>. Additionally, an upcoming job task analysis (JTA) will provide the optometric community an opportunity to give critical feedback that will contribute to the exam's content. The JTA will be distributed later this month. Click [here](#) for more information about the job task analysis.

### ***Updated website planned for summer 2020***

NBEO is preparing to update our website in the summer of 2020 to make it more user-friendly. Watch for details in the coming months at [www.optometry.org](http://www.optometry.org).

### ***National Center of Clinical Testing in Optometry expansion complete***

NCCTO® renovations are complete with the addition of four examination lanes and more locker space. This addition has allowed for more flexibility in candidate scheduling.



<sup>1</sup> Hobbs, Brianne and Bryant, Jill. 2019. "Examination innovation: Transforming the National Board of Examiners in Optometry's Clinical Skills Examination." *Optometry and Vision Science* 96 (12): 896-897. doi: 10.1097/OPX.0000000000001455.

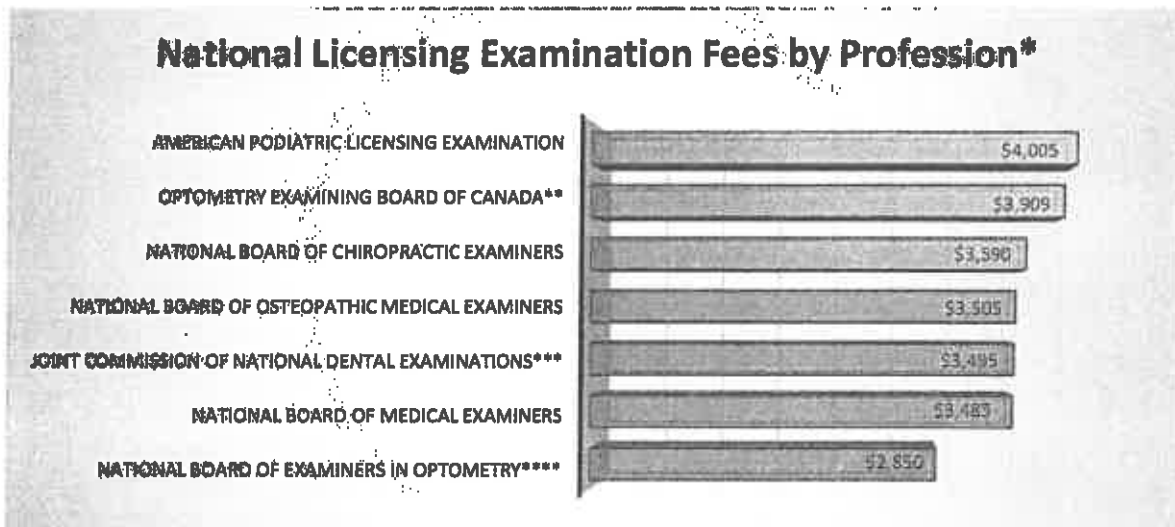


## Laser and Surgical Procedures Examination

The Laser and Surgical Procedures Examination (LSPE™) went live in the fall of 2019. We will be entering the second administration year beginning in August 2020, with registration opening in March. For more information about LSPE, click [here](#).

### Part I, II, and III Examination fees increase effective February 15th

NBEO continues to take its commitment to fiscal responsibility seriously while balancing organizational expenses and initiatives. As a part of NBEO's strategic plan to best serve the public, the organization annually reviews the examination fee structure during its overall financial review. Accordingly, NBEO has determined that exam fees will increase by \$100 for the Part I, II, and III exams effective February 15, 2020. NBEO is still able to keep total examination costs lower than other health professions (shown in the chart below).



\*The amount displayed is the total cost to complete the exam sequence from information publicly available as of 1/13/2020

\*\*Canadian to US exchange rate as of 1/13/2020

\*\*\*Regional exam pricing subject to change

\*\*\*\*The amount displayed is the total cost with the exam fee increase.

The table below shows which examinations will be affected in 2020.

NBEO® Part Exam	Will NOT be impacted by exam fee increase	Will be impacted by exam fee increase
Part I- ABS®	March 2020	August 2020 and test dates thereafter
Part II- PAM®	April 2020	December 2020 and test dates thereafter
Part III- CSE®	August 1, 2019 ~ July 31, 2020	August 1, 2020 and test dates thereafter

Thank you for your ongoing support and the opportunity to serve you in 2020!

### About the NBEO

Established in 1951, the National Board of Examiners in Optometry® is an independent, non-governmental, non-profit organization whose examinations are universally accepted for optometric licensure in the United States and accepted internationally. The NBEO's mission is to serve the public and profession of optometry by developing, administering, scoring and reporting results of valid examinations that assess competence.

From: Virginia Board of Optometry  
Date: Friday, Nov. 22, 2019  
Subject: Regulatory Updates



## Virginia Department of Health Professions

Board of Optometry

### Virginia Board of Optometry

#### REGULATORY UPDATES

##### **Prescribing of Opioids**

The emergency regulations for prescribing opioids have been replaced by final regulations. To review the final text [Click Here](#). The changes became effective on 11/13/19 and have been incorporated into the [Regulations of the Virginia Board of Optometry](#) posted on the Board's website.

##### **Periodic Review**

A periodic review of the *Regulations of the Virginia Board of Optometry* which started in March 2017 will become effective on **December 11, 2019**.

For more information, please access the following links:

To review an overview of the changes (starting on page 5) [Click Here](#).

To review the specific changes made to the *Regulations of the Virginia Board of Optometry* (effective 12/11/19) which include the new sections (underlined) and the deleted sections (strikeouts) [Click Here](#). The changes from the periodic review will be incorporated into the [Regulations of the Virginia Board of Optometry](#) on 12/11/19 and posted on the Board's website.

Questions may be directed to [optbd@dhp.virginia.gov](mailto:optbd@dhp.virginia.gov)  
Please put "Regulations" in the subject line of email

Board of Optometry

## Virginia Board of Optometry

### Regulatory Update

The Board of Optometry has completed the regulatory process to add **gabapentin** to the TPA-Formulary. Effective January 22, 2020, **gabapentin** may be prescribed by a TPA-Certified Optometrist per the Regulations of the Virginia Board of Optometry which states the following:

*18VAC105-20-47. Therapeutic pharmaceutical agents. B. Schedule I, II, and V drugs are excluded from the list of therapeutic pharmaceutical agents with the exception of controlled substances in Schedule II consisting of hydrocodone in combination with acetaminophen and gabapentin in Schedule V.*

Questions may be directed to [optbd@dhp.virginia.gov](mailto:optbd@dhp.virginia.gov)

Website: Board of Optometry