

November 8, 2019
Board Room 3
9:00 a.m.

Call to Order – Helene Clayton-Jeter, O.D., Board President

- Welcome
- Emergency Egress Procedures

9:05 a.m. Public Hearing – Dr. Clayton-Jeter

Pages

To receive public comments on the proposed changes to the *Regulations of the Virginia Board of Optometry* to add gabapentin to the TPA formulary.

Public Hearing Adjournment

Business Meeting of the Board

Ordering of Agenda – Dr. Clayton-Jeter

Public Comment – Dr. Clayton-Jeter

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.

Approval of Minutes – Dr. Clayton-Jeter

Pages 2-12

- 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

Director's Report – Dr. Brown

Legislative/Regulatory Update – Elaine Yeatts

Pages 13-56

- Legislative update
- Regulatory update
 - Emergency regulation for Waiver of Electronic Prescribing (action required)
 - Regulatory amendment (18VAC105-20-20) to adjust fee for returned checks (action required)
 - Final regulatory amendment to add gabapentin to TPA formulary (action required)
 - Final regulatory amendment to authorize issuance of inactive licenses (action required)
 - Consideration of recommendation from the Professional Designation Committee

Discussion Items

Page 57-65

- Update to Guidance Document 105-14: Bylaws – **Leslie Knachel**
- Report from CE committee – **Clifford Roffis, O.D./Ms. Knachel**
- Consideration of allowing board meeting attendance to meet CE requirements – **Dr. Clayton-Jeter/Ms. Knachel**

Board Member Training

Navigating and Annotating Electronic Case Files – **Kelli Moss**

Board Counsel Report – Charis Mitchell

President's Report – Dr. Clayton-Jeter

Board of Health Professions Report – Dr. Clayton-Jeter

Association of Regulatory Boards of Optometry Annual Meeting Report – Dr. Goldberg

Staff Reports

Pages 66-70

- **Executive Director's Report – Leslie Knachel**
 - Statistics
 - ARBO 2020 Annual meeting
 - New website format
 - Outreach
 - TPA Formulary Notification
 - Renewals
 - Mass Emails
 - CE audit report
 - **Discipline Report – Kelli Moss**
-

New Business – Dr. Clayton-Jeter

Elections

Next Meeting – February 7, 2019

Meeting Adjournment – Dr. Clayton-Jeter

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

PD removal

**BOARD OF OPTOMETRY
FULL BOARD MEETING
June 28, 2019**

TIME AND PLACE: The Virginia Board of Optometry (Board) meeting was called to order at 9:01 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Henrico, Virginia 23233.

PRESIDING OFFICER: Helene Clayton-Jeter, O.D. Chair

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

MEMBERS NOT PRESENT: All members were present.

STAFF PRESENT: Lisa Hahn, Chief Operating Officer
Leslie L. Knachel, Executive Director
Kelli Moss, Deputy Executive Director
Charis Mitchell, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Policy Analyst
Elizabeth Carter, Healthcare Workforce Data Center
Yetty Shobo, Healthcare Workforce Data Center
Anthony C. Morales, Operations Manager
Laura Paasch – Administrative Assistant
Lena Moore – Administrative Assistant

OTHERS PRESENT: Laura McHale, Virginia Optometric Association (VOA)

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

ORDERING OF AGENDA Ms. Knachel requested that a presentation from the Healthcare Workforce Data Center Survey be added under the “Discussion Items” portion of the agenda.

Dr. Linas moved to accept the agenda with the addition. The motion was seconded and carried.

PUBLIC COMMENT: There was no public comment.

APPROVAL OF MINUTES: Dr. Roffis moved to approve the meeting minutes for the February 8, 2019 – Full Board Meeting and Public Hearing.

The motion was seconded and carried.

PUBLIC HEARING PUBLIC COMMENT: The Public Hearing opened at 9:05 a.m.

PUBLIC HEARING ADJOURNMENT: The Public Hearing concluded at 9:06 a.m. There was no public comment provided on the regulatory action.

DIRECTOR'S REPORT:

Ms. Hahn reported on the Department of Health Professions' website update.

**LEGISLATIVE/REGULATORY
UPATE:**

2019 Legislative Update

Ms. Yeatts provided an overview of the following 2019 legislation session. She commented that HB2559 requires the development of waiver process for electronic prescribing. She indicated that waiver process is being discussed and information will be presented to the Board during its next meeting.

Ms. Yeatts reported that the 2019 legislation reschedules gabapentin as a Schedule V controlled substance. The regulations exclude Schedule V controlled substances from the drugs that can be prescribed by optometrist. Ms. Knachel indicated that initially the Schedule V designation for gabapentin did not appear to affect optometrists. However, new information provided indicated that that a small subset of optometrists providing post-operative care may be affected by the legislative change.

Ms. Yeatts indicated if the Board wishes to add any Schedule V controlled substances to the TPA formulary, a regulatory change is needed. In addition, she stated that per the Code of Virginia the TPA-Formulary Committee would need to be convened to review any additions to the TPA-formulary and make recommendations to the Boards prior to proceeding with any regulatory change.

The Board discussed the issue.

Dr. Goldberg moved that the Board convene the TPA-Formulary Committee composed, as required by the Code of Virginia, of four optometrists, two ophthalmologists and one pharmacist to review the addition of appropriate Schedule V controlled substance to the TPA-formulary.

The motion was seconded and carried.

Dr. Goldberg volunteered to chair the committee and Drs. Linas and Wallace-Davis volunteered to serve on the committee. The Board requested that Ms. Knachel contact Jonathan Noble, O.D. to participate and the Boards of Medicine and Pharmacy to appoint their committee members.

Update on Regulatory Actions

- **Inactive Licenses**

Ms. Yeatts reported that the comment period is underway and will end on 8/23/2019.

- **Periodic Review**

Ms. Yeatts reported that this regulatory action is in the final stage of the promulgation process and is at the Secretary's Office.

- **Prescribing of opioids**

Ms. Yeatts stated that the final proposed regulations for opioid prescribing were before the Board for adoption as proposed or adoption with amendments. She commented that the Virginia Optometric Association provided a statement in support of the regulations during the public hearing held on February 8, 2019, and there were no other public comments during the 60-day comment period.

Dr. Linas moved to adopt final Regulations as proposed and published.

The motion was seconded and carried.

DISCUSSION ITEMS:

Healthcare Workforce Data Center (HWDC) Presentation

Dr. Carter and Dr. Shobo presented the results of the HWDC's 2018 survey of Virginia's Optometrists to the Board.

Revenue, Expenditures, and Cash Balance Analysis

Ms. Knachel provided a brief review of the Revenue, Expenditures and Cash Balance Analysis of the Board. She stated that the recommendation is to take no action to change licensure fees at this time.

Enforcement Presentation

Ms. Schmitz provided an overview of the Enforcement Unit and complaint investigation procedures.

BOARD MEMBER TRAINING:

Ms. Moss provided a presentation on the use of electronic equipment in the disciplinary process.

BOARD COUNSEL REPORT:

Ms. Mitchell had nothing to report.

PRESIDENT'S REPORT:

Dr. Clayton-Jeter had nothing to report.

OF HEALTH PROFESSION'S REPORT:

Dr. Clayton-Jeter stated that the Board of Health Professions reported that seats are now filled on the Board.

ASSOCIATION OF REGULATORY BOARDS OF OPTOMETRY, (ARBO) ANNUAL MEETING REPORT:

Dr. Goldberg thanked Ms. Knachel for her support, insight and expertise during the ARBO meeting. He commented that he serves on the ARBO Nominating Committee. He stated the historical significance of having an Executive Director, (from the Maryland Board of Optometry), elected to the ARBO Board of Directors.

STAFF REPORTS:

Executive Director's Report – Ms. Knachel

License Count Report for Optometry

Ms. Knachel provided an update on board statistics.

Ms. Knachel gave an update to the paperless licensing system. She indicated that additional information provided closer to the next renewal cycle in 2020.

Discipline Report – Ms. Moss

Ms. Moss provided an overview of the caseload statistics.

NEW BUSINESS:

Dr. Goldberg asked the Board to consider whether there is still a need for the Board to regulate Professional Designations (PD). The Board requested that staff convene the PD Committee to discuss the issue

NEW MEETING:

The next scheduled full board meeting is October 4, 2019.

ADJOURNMENT:

The meeting adjourned at 12:05 p.m.

Helene Clayton-Jeter, O.D.
Chair

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

**BOARD OF OPTOMETRY
CONTINUING EDUCATION COMMITTEE MEETING
MEETING MINUTES
June 28, 2019**

TIME AND PLACE: The Continuing Education Committee meeting was called to order at 12:35 p.m. on Friday, June 28, 2019, at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Henrico, Virginia.

PRESIDING OFFICER: Clifford A. Roffis, O.D.

COMMITTEE MEMBERS: Lisa Wallace-Davis, O.D.

OTHER MEMBERS PRESENT: Devon Cabot, Citizen Member
Steven Linas, O.D.

STAFF PRESENT: Elaine Yeatts, Senior Policy Analyst
Leslie L. Knachel, Executive Director
Kelli Moss, Deputy Director
Anthony C. Morales, Operations Manager
Laura Paasch, Administrative Assistant

OTHERS PRESENT: No others present.

PUBLIC COMMENT: No public comment was presented.

DISCUSSION: Ms. Knachel stated that during the November 2, 2018, board meeting, the Board discussed the recommended regulatory changes. The Board did not adopt the recommended regulatory changes and asked the CE Committee to reconvene to further discuss the issue.

Following the discussion, the Committee recommends that Ms. Knachel direct future inquiries regarding approved entities that may sponsor, accredit or approve a CE course to the regulations. The consensus of the Committee is that an entity not listed in the regulations could seek approval from one of the listed entities which includes the Council on Optometric Practitioner Education (COPE).

The recommendation of the Committee will be provided to the full board at its next board meeting.

ADJOURNMENT: The meeting adjourned at 12:55 p.m.

Clifford A. Roffis, O.D..

Leslie L. Knachel, M.P.H

Board Member

Executive Director

Date

Date

**BOARD OF OPTOMETRY
TPA FORMULARY COMMITTEE
MEETING MINUTES
August 19, 2019**

TIME AND PLACE: The TPA Formulary Committee, (Committee) meeting was called to order at 1:00 p.m. on Monday, August 19, 2019, at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Henrico, Virginia.

PRESIDING OFFICER: Fred Goldberg, O.D.

COMMITTEE MEMBERS: Lisa Wallace-Davis, O.D.
Steven Linas, O.D.
Jonathan Noble, O.D.
Geoffrey Cooper, M.D.
Pam Chavis, M.D.
Cindy Warriner, Pharmacist

OTHER MEMBERS PRESENT: Helen Clayton-Jeter, O.D.

STAFF PRESENT: Elaine Yeatts, Senior Policy Analyst
Leslie L. Knachel, Executive Director
Anthony C. Morales, Operations Manager
Laura Paasch, Administrative Assistant
Ashley Carter, Deputy for Prescription Monitoring Program, (PMP) Analytics

OTHERS PRESENT: Mark Hickman, Commonwealth Strategy Group, (CSG)/Virginia Society of Eye Physicians and Surgeons, (VSEPS)
Cal Whitehead, CSG/VSEPS

ORDERING OF AGENDA: No changes or additions were made to the agenda.

PUBLIC COMMENT: No public comment was presented.

DISCUSSION ITEMS: Ms. Yeatts stated the 2019 General Assembly placed gabapentin in the list of Schedule V controlled substances. She stated the Code of Virginia does not prohibit TPA-certified optometrists from prescribing Schedule V controlled substances, but the regulations exclude Schedule V. The Board of Optometry requested that the TPA-Formulary Committee be convened to consider the addition of certain Schedule V controlled substances, specifically gabapentin and pre-gabalin.

Ms. Carter presented information on the number of gabapentin prescriptions written by optometrists and ophthalmologists.

The Committee discussed issues related to managing pain in patients using gabapentin and other drugs.

Ms. Yeatts commented that the Committee should consider one of the following three action options:

- Leave the regulations as they are with Schedule V controlled substances excluded from the TPA-Formulary;
- Keep the Schedule V controlled substance exclusion with the exception of gabapentin; and
- Add Schedule V controlled substances into the TPA-Formulary.

Dr. Linas moved to keep the Schedule V controlled substance exclusion with the exception of gabapentin. The motion was seconded.

The committee discussed the issue further.

Dr. Cooper moved to amend the previous motion to include mandatory querying of the Prescription Monitoring Program prior to issuing a prescription for gabapentin and that the prescription should not exceed seven days. The motion was seconded.

A polled vote resulted in 2 aye and 5 nay votes. The motion failed.

A polled vote for the original motion resulted in 5 aye and 2 nay votes. The motion carried.

NEW BUSINESS:

No new business was presented.

ADJOURNMENT:

The meeting adjourned at 2:34 p.m.

Fred Goldberg, O.D.,
Committee Chair

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

Date

Date

**BOARD OF OPTOMETRY
PROFESSIONAL DESIGNATION COMMITTEE MEETING
MEETING MINUTES
SEPTEMBER 5, 2019**

TIME AND PLACE: The Professional Designation, (PD) Committee meeting was called to order at 9:00 a.m. at the Westerre Conference Center, 3931 Westerre Parkway, Room 118, Henrico, VA 23233

PRESIDING OFFICER: Devon Cabot, Citizen Member

COMMITTEE MEMBERS: Fred E. Goldberg, O.D.

OTHER MEMBERS PRESENT: No other members were present.

STAFF PRESENT: Barbara Allison-Bryan, M.D., Chief Deputy Director
Leslie L. Knachel, Executive Director
Charis Mitchell, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Policy Analyst
Anthony C. Morales, Operations Manager

OTHERS PRESENT: Bruce Keeney, Virginia Optometric Association, (VOA)
Mark Hickman, Commonwealth Strategy Group, (CSG)/Virginia Society of Eye Physicians and Surgeons, (VSEPS)

PUBLIC COMMENT: No public comment was presented.

DISCUSSION: **Professional Designations**
Ms. Yeatts reviewed the current regulations pertaining to professional designations found in 18VAC105-20-50. She pointed out that many of the requirements are found in other sections of the Code of Virginia or regulations pertaining to the practice of optometry. In addition, she pointed out that the Code of Virginia does not specifically authorize the Board to register professional designations.
The Committee discussed the issue.
Dr. Goldberg moved to strike from the Regulations of the Virginia Board of Optometry section 18VAC105-20-50. Professional Designations and related Professional Designation fees found in 18VAC105-20-20.
The motion was seconded and carried.

NEW BUSINESS: No new business.

ADJOURNMENT: The meeting adjourned at 9:28 a.m.

Devon Cabot, Chair

Leslie L. Knachel, M.P.H

Board Member

Executive Director

Date

Date

**BOARD OF OPTOMETRY
FULL BOARD MEETING
September 5, 2019**

TIME AND PLACE: The Virginia Board of Optometry (Board) meeting was called to order at 10:00 a.m. at the Westerre Conference Center, 3931 Westerre Parkway, Room 118, Henrico, VA 23233

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

MEMBERS PRESENT: Fred E. Goldberg, O.D.
Steven A. Linas, O.D.
Devon Cabot – Citizen Member

MEMBERS NOT PRESENT: Clifford A. Roffis, O.D.
Lisa Wallace-Davis, O.D.

STAFF PRESENT: Barbara Allison-Bryan, M.D., Chief Deputy Director
Leslie L. Knachel, Executive Director
Charis Mitchell, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Policy Analyst
Anthony C. Morales, Operations Manager

OTHERS PRESENT: Bo Keeney, Virginia Optometric Association (VOA)
Bruce Keeney, VOA
Mark Hickman, Commonwealth Strategy Group, (CSG)/Virginia Society of Eye Physicians and Surgeons, (VSEPS)

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

ORDERING OF AGENDA No changes or additions were made to the agenda.

PUBLIC COMMENT: No public comment was presented. A letter was submitted by VSEPS (See Attachment 1) which was provided to the Board.

DISCUSSION ITEMS: **Therapeutic Pharmaceutical Agents (18VAC105-20-47)**
Ms. Yeatts informed the Board that the TPA-Formulary Committee met on August 19, 2019. The Committee's recommendation is to add gabapentin to the TPA Formulary.

The Board discussed the issue.

Dr. Goldberg moved to accept the proposed amendment to the regulations as provided. The motion was seconded and carried.

NEW BUSINESS: Ms. Knachel provided information that October 4, 2019, meeting would be rescheduled later in the year.

ADJOURNMENT: The meeting adjourned at 10:26 a.m.

Helene Clayton-Jeter, O.D.,
President

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

Attachment 1



PO Box 3268, Glen Allen, VA 23060-3268
Phone: 804-261-9898 Fax: 804-261-9991
Web Address: www.vseyemd.org

EYE MDs of VIRGINIA

September 3, 2019

Virginia Board of Optometry
Attention: Leslie Knachel, Executive Director
Via Email: leslie.knachel@vbo.virginia.gov

Dear Members of the Board of Optometry and Ms. Knachel:

The Virginia Society of Eye Physicians and Surgeons (VSEPS), representing Virginia's ophthalmologists and our patients, appreciates the opportunity to comment on the actions of the TPA Formulary Committee on August 19, 2019.

We understand that recent legislation by the General Assembly adding gabapentin to Schedule V from Schedule VI controlled substances precipitated the TPA Formulary Committee's decision to convene and exempt gabapentin from the current regulatory Schedule V exclusion from the TPA formulary.

We have strong concerns with the prescribing of gabapentin and similar drugs for eye care. These drugs are typically prescribed for either systemic conditions (shingles or diabetes) or pain as a result of these conditions—not for eye care or post-eye surgery pain. Ophthalmologists rarely prescribe gabapentin; instead, they refer treatment for the conditions typically addressed by these drugs to the patient's primary care physician, neurologist or pain management specialist. Nationally, few ophthalmologists or optometrists prescribe gabapentin for any purpose, according to 2016 Medicare Part D data from the American Academy of Ophthalmology.

Gabapentin was moved to Schedule V for good reason. Gabapentinoids have emerged as opioid enhancers with increased risks and potential side effects to patients. The healthcare community must be responsive to new pharmacological information and risks. States throughout the country have either implemented restrictions, or are considering restrictions, on gabapentinoids because of the potential for abuse.

Gabapentin is not indicated for most eye care conditions and presents the risk of significant complications and interactions. A patient may have an unintended systemic non-ophthalmic reaction to gabapentin. Eye care providers are typically not the appropriate prescribers of gabapentin or similar drugs. Gabapentinoids are most appropriately prescribed by a patient's primary medical doctor, neurologist or pain management medical doctor. Patients on this medication require careful medical monitoring. Only medical doctors familiar with the actions, indications, potential side effects and contraindications should prescribe these drugs.

For these reasons, VSEPS opposes the TPA Formulary Committee's divided decision. We instead recommend further study of this issue to ensure a full understanding of gabapentin and to protect patient safety, as the healthcare community's understanding of these drugs continues to evolve.

Thank you for your time and consideration.

Sincerely,

Anthony Viti, MD
President, VSEPS

Cc: Cal Whitehead and Mark Hickman, Commonwealth Strategy Group

**Agenda Item: Adoption of Regulation for Waiver of Electronic Prescribing
by Emergency Action**

Included in agenda package:

Copy of HB2559 – Amendments to Code to require electronic prescribing of an opioid by July 1, 2020

Draft of amendments to prescriptive authority regulations

Staff note:

Enactment clause on HB2559 requires adoption of regulations within 280 days, so the Board must amend by an emergency action.

Action: Adoption of emergency regulations and a Notice of Intended Regulatory Action (NOIRA) to replace the emergency regs

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 664

An Act to amend and reenact §§ 54.1-3408.02, as it shall become effective, and 54.1-3410 of the Code of Virginia, relating to electronic transmission of certain prescriptions; exceptions.

[H 2559]

Approved March 21, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3408.02, as it shall become effective, and 54.1-3410 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-3408.02. (Effective July 1, 2020) **Transmission of prescriptions.**

A. Consistent with federal law and in accordance with regulations promulgated by the Board, prescriptions may be transmitted to a pharmacy as an electronic prescription or by facsimile machine and shall be treated as valid original prescriptions.

B. Any prescription for a controlled substance that contains an ~~opioid~~ *opioid* shall be issued as an electronic prescription.

C. *The requirements of subsection B shall not apply if:*

1. *The prescriber dispenses the controlled substance that contains an opioid directly to the patient or the patient's agent;*

2. *The prescription is for an individual who is residing in a hospital, assisted living facility, nursing home, or residential health care facility or is receiving services from a hospice provider or outpatient dialysis facility;*

3. *The prescriber experiences temporary technological or electrical failure or other temporary extenuating circumstance that prevents the prescription from being transmitted electronically, provided that the prescriber documents the reason for this exception in the patient's medical record;*

4. *The prescriber issues a prescription to be dispensed by a pharmacy located on federal property, provided that the prescriber documents the reason for this exception in the patient's medical record;*

5. *The prescription is issued by a licensed veterinarian for the treatment of an animal;*

6. *The FDA requires the prescription to contain elements that are not able to be included in an electronic prescription;*

7. *The prescription is for an opioid under a research protocol;*

8. *The prescription is issued in accordance with an executive order of the Governor of a declared emergency;*

9. *The prescription cannot be issued electronically in a timely manner and the patient's condition is at risk, provided that the prescriber documents the reason for this exception in the patient's medical record; or*

10. *The prescriber has been issued a waiver pursuant to subsection D.*

D. *The licensing health regulatory board of a prescriber may grant such prescriber, in accordance with regulations adopted by such board, a waiver of the requirements of subsection B, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.*

§ 54.1-3410. **When pharmacist may sell and dispense drugs.**

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written, except for those drugs dispensed to a patient in a hospital pursuant to a chart order; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

E. (Effective July 1, 2020) ~~No pharmacist shall dispense a controlled substance that contains an opiate unless the prescription for such controlled substance is issued as an electronic prescription. A dispenser who receives a non-electronic prescription for a controlled substance containing an opioid is not required to verify that one of the exceptions set forth in § 54.1-3408.02 applies and may dispense such controlled substance pursuant to such prescription and applicable law.~~

2. That the Board of Medicine, the Board of Nursing, the Board of Dentistry, and the Board of Optometry shall promulgate regulations to implement the provisions of this act regarding prescriber waivers to be effective within 280 days of its enactment.

3. That the Secretary of Health and Human Resources shall convene a work group of interested stakeholders, including the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Dental Association, the Virginia Association of Health Plans, and the Virginia Pharmacists Association, to evaluate the implementation of the electronic prescription requirement for controlled substances and shall report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022. The work group's report shall identify the successes and challenges of implementing the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid.

18VAC105-20-47. Therapeutic pharmaceutical agents.

A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:

1. Oral analgesics - Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedule III, IV and VI narcotic and nonnarcotic agents.
2. Topically administered Schedule VI agents:
 - a. Alpha-adrenergic blocking agents;
 - b. Anesthetic (including esters and amides);
 - c. Anti-allergy (including antihistamines and mast cell stabilizers);
 - d. Anti-fungal;
 - e. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
 - f. Anti-infective (including antibiotics and antivirals);
 - g. Anti-inflammatory;
 - h. Cycloplegics and mydriatics;
 - i. Decongestants; and
 - j. Immunosuppressive agents.
3. Orally administered Schedule VI agents:
 - a. Aminocaproic acids (including antifibrinolytic agents);
 - b. Anti-allergy (including antihistamines and leukotriene inhibitors);
 - c. Anti-fungal;
 - d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);

- e. Anti-infective (including antibiotics and antivirals);
- f. Anti-inflammatory (including steroidal and nonsteroidal);
- g. Decongestants; and
- h. Immunosuppressive agents.

B. Schedule I, II and V drugs are excluded from the list of therapeutic pharmaceutical agents.

C. Over-the-counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed or dispensed.

D. Beginning July 1, 2020, a prescription for a controlled substance that contains an opioid shall be issued as an electronic prescription consistent with § 54.1-3408.02 of the Code of Virginia. Upon written request, the board may grant a one-time waiver of the requirement for electronic prescribing, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.

Statutory Authority

§§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 8, eff. December 8, 2004; amended, Virginia Register Volume 31, Issue 26, eff. September 23, 2015.

Board action: Amendment to fee for returned checks

Included in agenda package:

Applicable sections of the Code of Virginia

Revised Fee section

Staff note:

Auditors from the Office of the Comptroller have advised DHP that we should be charging \$50 for a returned check, rather than the current \$35. That amount was based on language in § 2.2-614.1. However, § 2.2-4805 (from the Va. Debt Collection Act) requires the fee for a returned check to be \$50.

Board counsel for DHP boards has advised that the handling fee of \$50 in Virginia Code 2.2-4805 governs. Section 2.2-614.1 states that a "penalty of \$35 or the amount of any costs, whichever is greater," shall be imposed. By amending § 2.2-4805 in 2009, the General Assembly determined that the costs, in the form of a "handling fee," is \$50, and thus greater than the \$35 penalty imposed under 2.2-614.1.

Therefore, all board regulations will need to be amended to reflect the higher "handling" fee.

§ 2.2-4805. Interest, administrative charges and penalty fees

A. Each state agency and institution may charge interest on all past due accounts receivable in accordance with guidelines adopted by the Department of Accounts. Each past due accounts receivable may also be charged an additional amount that shall approximate the administrative costs arising under § 2.2-4806. Agencies and institutions may also assess late penalty fees, not in excess of ten percent of the past-due account on past-due accounts receivable. The Department of Accounts shall adopt regulations concerning the imposition of administrative charges and late penalty fees.

B. Failure to pay in full at the time goods, services, or treatment are rendered by the Commonwealth or when billed for a debt owed to any agency of the Commonwealth shall result in the imposition of interest at the judgment rate as provided in § 6.2-302 on the unpaid balance unless a higher interest rate is authorized by contract with the debtor or provided otherwise by statute. Interest shall begin to accrue on the 60th day after the date of the initial written demand for payment. A public institution of higher education in the Commonwealth may elect to impose a late fee in addition to, or in lieu of, interest for such time as the institution retains the claim pursuant to subsection D of § 2.2-4806. Returned checks or dishonored credit card or debit card payments shall incur a handling fee of \$50 unless a higher amount is authorized by statute to be added to the principal account balance.

C. If the matter is referred for collection to the Division, the debtor shall be liable for reasonable attorney fees unless higher attorney fees are authorized by contract with the debtor.

D. A request for or acceptance of goods or services from the Commonwealth, including medical treatment, shall be deemed to be acceptance of the terms specified in this section.

1988, c. 544, § 2.1-732; 2001, c. 844; 2009, c. 797.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia

Title 2.2. Administration of Government

Chapter 6. General Provisions

§ 2.2-614.1. Authority to accept revenue by commercially acceptable means; service charge; bad check charge.

A. Subject to § 19.2-353.3, any public body that is responsible for revenue collection, including, but not limited to, taxes, interest, penalties, fees, fines or other charges, may accept payment of any amount due by any commercially acceptable means, including, but not limited to, checks, credit cards, debit cards, and electronic funds transfers.

B. The public body may add to any amount due a sum, not to exceed the amount charged to that public body for acceptance of any payment by a means that incurs a charge to that public body or the amount negotiated and agreed to in a contract with that public body, whichever is less. Any state agency imposing such additional charges shall waive them when the use of these means of payment reduces processing costs and losses due to bad checks or other receivable costs by an amount equal to or greater than the amount of such additional charges.

C. If any check or other means of payment tendered to a public body in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the public body unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties, shall be as if he had never offered any such payment. A penalty of \$35 or the amount of any costs, whichever is greater, shall be added to such amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § 58.1-12 shall not apply.

2002, c. 719; 2004, c. 565.

18VAC105-20-20. Fees.

A. Required fees.

Initial application and licensure (including TPA certification)	\$250
Application for TPA certification	\$200
Annual licensure renewal without TPA certification	\$150
Annual licensure renewal with TPA certification	\$200
Late renewal without TPA certification	\$50
Late renewal with TPA certification	\$65
<u>Returned Handling fee for returned check or dishonored credit card or debit card</u>	\$35 <u>\$50</u>
Professional designation application	\$100
Annual professional designation renewal (per location)	\$50
Late renewal of professional designation	\$20
Reinstatement application fee (including renewal and late fees)	\$400
Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.

C. From October 31, 2018, to December 31, 2018, the following fees shall be in effect:

Annual licensure renewal without TPA certification	\$75
Annual licensure renewal with TPA certification	\$100
Annual professional designation renewal (per location)	\$25

Statutory Authority

§§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Historical Notes

Derived from VR510-01-1 § 2, eff. October 30, 1985; amended, Virginia Register Volume 4, Issue 3, eff. December 9, 1987; Volume 4, Issue 19, eff. July 20, 1988; Volume 5, Issue 10, eff. March 13, 1989; Volume 8, Issue 4, eff. January 1, 1992; Volume 11, Issue 20,

Agenda Item: Board Action on Adoption of amendment to TPA Formulary

Included in your agenda package are:

Copy of Code sections relating to amending the TPA formulary

Copy of publication of proposed regulations as required by § 54.1-3223 of the Code

Copy of proposed regulation

Staff note:

The Code of Virginia sets out the process to be followed when amending the TPA Formulary – see 54.1-3223. The Board adopted proposed regulations at its meeting on 9/5/19. It then posted notice of a public hearing and the proposed regulations with a 30-day period for comment. Following the comment period, the Board conducted a public hearing just prior to this meeting and before the adoption of final regulations.

Board action:

Adoption of amendments to 18VAC105-20-47 as a final exempt action

Code of Virginia

Sections relating to amending the TPA Formulary

§ 54.1-3223. Regulations relating to instruction and training, examination, and therapeutic pharmaceutical agents.

A. The Board shall promulgate such regulations governing the treatment of diseases and abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents by TPA-certified optometrists as are reasonable and necessary to ensure an appropriate standard of medical care for patients, including, but not limited to, determinations of the diseases and abnormal conditions of the human eye and its adnexa that may be treated by TPA-certified optometrists, treatment guidelines, and the drugs specified on the TPA-Formulary.

In establishing standards of instruction and training, the Board shall consult with a school or college of optometry and a school or college of medicine and shall set a minimum number of hours of clinical training to be supervised by an ophthalmologist. The didactic and clinical training programs may include, but need not be limited to, programs offered or designed either by schools of medicine or schools or colleges of optometry or both or some combination thereof. The Board may prepare, administer, and grade appropriate examinations for the certification of optometrists to administer therapeutic pharmaceutical agents or may contract with a school of medicine, school or college of optometry, or other institution or entity to develop, administer, and grade the examinations.

In order to maintain a current and appropriate list of therapeutic pharmaceuticals on the TPA-Formulary, current and appropriate treatment guidelines, and current and appropriate determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists, the Board may, from time to time, amend such regulations. Such regulations shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.), except to any extent that they may be specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031; the Board's regulations shall, however, comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.). The Board shall, however, conduct a public hearing prior to making amendments to the TPA-Formulary, the treatment guidelines or the determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists. Thirty days prior to conducting such hearing, the Board shall give written notice by mail of the date, time, and place of the hearing to all currently TPA-certified optometrists and any other persons requesting to be notified of the hearings and publish notice of its intention to amend the list in the Virginia Register of Regulations. During the public hearing, interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any TPA-Formulary amendments. Proposed and final amendments of the list shall also be published, pursuant to § 2.2-4031, in the Virginia Register of Regulations. Final amendments to the TPA-Formulary shall become effective upon filing with the Registrar of Regulations. The TPA-Formulary shall be the inclusive list of the therapeutic pharmaceutical agents that a TPA-certified optometrist may prescribe.

B. To assist in the specification of the TPA-Formulary, there shall be a seven-member TPA-Formulary Committee, as follows: three Virginia TPA-certified optometrists to be appointed by the Board of Optometry, one pharmacist appointed by the Board of Pharmacy from among its licensees, two ophthalmologists appointed by the Board of Medicine from among its licensees,

and the chairman who shall be appointed by the Board of Optometry from among its members. The ophthalmologists appointed by the Board of Medicine shall have demonstrated, through professional experience, knowledge of the optometric profession. In the event the Board of Pharmacy or the Board of Medicine fails to make appointments to the TPA-Formulary Committee within 30 days following the Board of Optometry's requesting such appointments, or within 30 days following any subsequent vacancy, the Board of Optometry shall appoint such members.

The TPA-Formulary Committee shall recommend to the Board those therapeutic pharmaceutical agents to be included on the TPA-Formulary for the treatment of diseases and abnormal conditions of the eye and its adnexa by TPA-certified optometrists.

§ 2.2-4002. Exemptions from chapter generally.

A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the following agencies shall be exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031: ...

14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

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]

Action: Addition of gabapentin to TPA formulary

[Edit Action](#) [Withdraw Action](#)

General Information

Action Summary	House bill 2557 placed the drug gabapentin as a controlled substance in Schedule V. Regulations of the Board of Optometry currently prohibit optometrists from prescribing Schedule V drugs. Since July 1, 2019, optometrists have not been able to prescribe gabapentin; therefore, the only alternative they now have for pain control for certain patients is prescribing of an opioid. To remediate the problem, the Board is amending 18VAC105-20-47 to add gabapentin to the TPA formulary. There is also a correction to that section to reflect that there is an exception allowed in A 1 for prescribing hydrocodone in combination with acetaminophen. Subsections A and B are currently inconsistent.
Chapters Affected	Only affects this chapter.
Exempt from APA	Yes, this action is exempt from Article II of the APA and executive branch review. Exempt Citation: 2.2-4002(14)
RIS Project	Yes [006134]
New Periodic Review	This action will not be used to conduct a new periodic review.

Stages

Stages associated with this regulatory action.

Stage ID	Stage Type	Status
<u>8745</u>	Proposed	Comment period is underway and will end on 10/30/2019.

Create a new stage for this action

For guidance please see the following sections of our user guide:

[Flow charts of the regulatory process](#)

Contact Information

Name / Title:	Leslie L. Knachel / Executive Director
Address:	9960 Mayland Drive Suite 300 Richmond, VA 23233
Email Address:	leslie.knachel@dhp.virginia.gov

Regulations

3. The signature of the patient care team physician who is practicing with the nurse practitioner or a clear statement of the name of the patient care team physician who has entered into the practice agreement.

D. In accordance with § 54.1-2957.01 of the Code of Virginia, a physician shall not serve as a patient care team physician to more than six nurse practitioners with prescriptive authority at any one time.

E. Exceptions.

1. A nurse practitioner licensed in the category of certified nurse midwife and holding a license for prescriptive authority may prescribe in accordance with a written or electronic practice agreement with a consulting physician or may prescribe Schedule VI controlled substances without the requirement for inclusion of such prescriptive authority in a practice agreement.

2. A nurse practitioner who is licensed in a category other than certified nurse midwife or certified registered nurse anesthetist and who has met the qualifications for autonomous practice as set forth in 18VAC90-30-86 may prescribe without a practice agreement with a patient care team physician.

V.A.R. Doc. No. R19-5512; Filed September 5, 2019, 3:49 p.m.

BOARD OF OPTOMETRY

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Optometry is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 14 of the Code of Virginia, which exempts the Board of Optometry from the Administrative Process Act when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1 of the Code of Virginia.

Title of Regulation: 18VAC105-20. Regulations Governing the Practice of Optometry (amending 18VAC105-20-47).

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: October 30, 2019.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 597-4130, FAX (804) 527-4471, or email leslie.knachel@dhp.virginia.gov.

Background: Chapter 214 of the 2019 Acts of Assembly placed the drug gabapentin as a controlled substance in

Schedule V. Regulations of the Board of Optometry currently prohibit optometrists from prescribing Schedule V drugs. Since July 1, 2019, optometrists have not been able to prescribe gabapentin, making prescribing of an opioid the only alternative an optometrist currently has for pain control for certain patients.

Summary:

The amendments (i) add gabapentin to the therapeutic pharmaceutical agent formulary and (ii) correct text to reflect an exception allowed for prescribing hydrocodone in combination with acetaminophen.

18VAC105-20-47. Therapeutic pharmaceutical agents.

A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer, and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:

1. Oral analgesics - Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedule III, IV, and VI narcotic and nonnarcotic agents.
2. Topically administered Schedule VI agents:
 - a. Alpha-adrenergic blocking agents;
 - b. Anesthetic (including esters and amides);
 - c. Anti-allergy (including antihistamines and mast cell stabilizers);
 - d. Anti-fungal;
 - e. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
 - f. Anti-infective (including antibiotics and antivirals);
 - g. Anti-inflammatory;
 - h. Cycloplegics and mydriatics;
 - i. Decongestants; and
 - j. Immunosuppressive agents.
3. Orally administered Schedule VI agents:
 - a. Aminocaproic acids (including antifibrinolytic agents);
 - b. Anti-allergy (including antihistamines and leukotriene inhibitors);
 - c. Anti-fungal;
 - d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
 - e. Anti-infective (including antibiotics and antivirals);

- f. Anti-inflammatory (including steroidal and nonsteroidal);
- g. Decongestants; and
- h. Immunosuppressive agents.

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

C. Over-the-counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed, or dispensed.

VA.R. Doc. No. R20-6134; Filed September 5, 2019, 1:23 p.m.

TITLE 22. SOCIAL SERVICES
STATE BOARD OF SOCIAL SERVICES

Final Regulation

Titles of Regulations: 22VAC40-60. Standards and Regulations for Licensed Adult Day Care Centers (repealing 22VAC40-60-10 through 22VAC40-60-1020).

22VAC40-61. Standards and Regulations for Licensed Adult Day Care Centers (adding 22VAC40-61-10 through 22VAC40-61-560).

Statutory Authority: § 63.2-1733 of the Code of Virginia.

Effective Date: December 29, 2019.

Agency Contact: Cynthia Carneal Heflin, Licensing Consultant, Division of Licensing Programs, Department of Social Services, 801 East Main Street, 9th Floor, Richmond, VA 23219, telephone (804) 726-7140, FAX (804) 726-7132, TTY (800) 828-1120, or email cynthia.carneal@dss.virginia.gov.

Summary:

The regulatory action repeals the existing Standards and Regulations for Licensed Adult Day Care Centers (22VAC40-60) and replaces it with a new regulation, Standards and Regulations for Licensed Adult Day Care Centers (22VAC40-61). The new regulation updates standards to (i) reflect changed practices and procedures, (ii) reflect current federal and state law and regulation, and (iii) improve the organization of the regulation and increase clarity and consistency.

The State Board of Social Services did not adopt proposed 22VAC40-61-40 regarding quality assurance in the final regulation. Other changes to the proposed regulation include (i) requiring that at least two staff members be

certified in cardiopulmonary resuscitation instead of a certification requirement for all direct care staff; (ii) amending the requirement for a Virginia driver's license to allow those who maintain a driver's license in a border state to fulfill transportation requirements; (iii) removing requirements already stated in federal statute and regulations; and (iv) clarifying requirements and terms.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

CHAPTER 61
STANDARDS AND REGULATIONS FOR LICENSED
ADULT DAY CARE CENTERS

Part I
General Provisions

22VAC40-61-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control, eating, and feeding. A person's degree of independence in performing these activities is a part of determining required care needs and necessary services.

"Administer medication" means to open a container of medicine or to remove the ordered dosage and to give it to the participant for whom it is ordered in such a manner as is ordered or is appropriate.

"Adult" means any person 18 years of age or older.

"Adult day care center" or "center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm, or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments, or institutions owned, operated, or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm, or disabled adults.

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983 of the Code of Virginia.

Addition of gabapentin to TPA formulary

18VAC105-20-47. Therapeutic pharmaceutical agents.

A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer, and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:

1. Oral analgesics - Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedule III, IV, and VI narcotic and nonnarcotic agents.

2. Topically administered Schedule VI agents:

a. Alpha-adrenergic blocking agents;

b. Anesthetic (including esters and amides);

c. Anti-allergy (including antihistamines and mast cell stabilizers);

d. Anti-fungal;

e. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);

f. Anti-infective (including antibiotics and antivirals);

g. Anti-inflammatory;

h. Cycloplegics and mydriatics;

i. Decongestants; and

j. Immunosuppressive agents.

3. Orally administered Schedule VI agents:

a. Aminocaproic acids (including antifibrinolytic agents);

b. Anti-allergy (including antihistamines and leukotriene inhibitors);

c. Anti-fungal;

d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);

e. Anti-infective (including antibiotics and antivirals);

f. Anti-inflammatory (including steroidal and nonsteroidal);

g. Decongestants; and

h. Immunosuppressive agents.

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

C. Over-the-counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed, or dispensed.

Agenda Item: Board Action on Regulations for Inactive License

Included in your agenda package are:

Copy of statutory authority for inactive licenses

Proposed regulations

Staff note:

There was a 60-day comment period from 6/24/19 to 8/23/19; no comment was received.

Board action:

- **Adoption of final regulation as proposed and presented in agenda package**

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

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

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) 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.)....

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....

Project 5434 - NOIRA

BOARD OF OPTOMETRY

Inactive licenses

18VAC105-20-20. Fees.

A. Required fees.

Initial application and licensure (including TPA certification)	\$250
Application for TPA certification	\$200
Annual licensure renewal without TPA certification	\$150
Annual licensure renewal with TPA certification	\$200
<u>Annual renewal of inactive license</u>	<u>\$100</u>
Late renewal without TPA certification	\$50
Late renewal with TPA certification	\$65
<u>Late renewal of inactive license</u>	<u>\$35</u>
Returned check	\$35
Professional designation application	\$100
Annual professional designation renewal (per location)	\$50
Late renewal of professional designation	\$20
Reinstatement application fee (including renewal and late fees)	\$400
Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.

C. From October 31, 2018, to December 31, 2018, the following fees shall be in effect:

Annual licensure renewal without TPA certification	\$75
Annual licensure renewal with TPA certification	\$100
Annual professional designation renewal (per location)	\$25

18VAC105-20-61. Inactive licensure; reactivation.

A. An optometrist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain continuing education requirements and shall not be entitled to perform any act requiring a license to practice optometry in Virginia.

B. A licensee whose license has been inactive and who requests reactivation of an active license shall file an application, pay the difference between the inactive and active renewal fees for the current year, and provide documentation of having completed continuing education hours equal to the requirement for the number of years in which the license has been inactive, not to exceed 40 contact hours.

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

A. Each license renewal of an active license 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 10 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. Two hours of the 20 hours required for annual renewal may be satisfied through delivery of professional 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 the renewal deadline 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 the renewal deadline 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 (COPE).
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 or 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: Board Action on recommendation from the Professional Designation Committee

Included in your agenda package are:

Copy of Optometry law in Code of Virginia

Copy of Section 40 in regulation

Copy of minutes of PD committee

Copy of DRAFT regulatory action

Board action:

To accept the recommendation of the Committee or to take no action

Chapter 32 of Title 54.1 of the Code of Virginia

Optometry

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§ 54.1-3200. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Optometry.

"Optometrist" means any person practicing the profession of optometry as defined in this chapter and the regulations of the Board.

"Practice of optometry" means the examination of the human eye to ascertain the presence of defects or abnormal conditions which may be corrected or relieved by the use of lenses, prisms or ocular exercises, visual training or orthoptics; the employment of any subjective or objective mechanism to determine the accommodative or refractive states of the human eye or range or power of vision of the human eye; the use of testing appliances for the purpose of the measurement of the powers of vision; the examination, diagnosis, and optometric treatment in accordance with this chapter, of conditions and visual or muscular anomalies of the human eye; the use of diagnostic pharmaceutical agents set forth in § 54.1-3221; and the prescribing or adapting of lenses, prisms or ocular exercises, visual training or orthoptics for the correction, relief, remediation or prevention of such conditions. An optometrist may treat certain diseases or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents only as permitted under this chapter. The practice of optometry also includes the evaluation, examination, diagnosis, and treatment of abnormal or diseased conditions of the human eye and its adnexa by the use of medically recognized and appropriate devices, procedures, or technologies. However, the practice of optometry does not include treatment through surgery, including laser surgery, other invasive modalities, or the use of injections, including venipuncture and intravenous injections, except as provided in § 54.1-3222 or for the treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

"TPA-certified optometrist" means an optometrist who is licensed under this chapter and who has successfully completed the requirements for TPA certification established by the Board pursuant to Article 5 (§ 54.1-3222 et seq.). Such certification shall enable an optometrist to prescribe and administer Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to treat diseases, including abnormal conditions, of the human eye and its adnexa, as determined by the Board. Such certification shall not, however, permit treatment through surgery, including, but not limited to, laser surgery, other invasive modalities, or the use of injections, including venipuncture and intravenous injections, except as provided in § 54.1-3222 or for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

The foregoing shall not restrict the authority of any optometrist licensed or certified under this chapter for the removal of superficial foreign bodies from the human eye and its adnexa or from delegating to personnel in his personal employ and supervised by him, such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance and which are usually or customarily delegated to such persons by

optometrists, if such activities or functions are authorized by and performed for such optometrists and responsibility for such activities or functions is assumed by such optometrists.

Code 1950, § 54-368; 1988, cc. 243, 737, 765; 1991, c. 290; 1996, cc. 152, 158, 365, 436; 2004, c. 744; 2015, c. 355; 2018, c. 280.

§ 54.1-3201. What constitutes practice of optometry.

Any person who in any way advertises himself as an optometrist or uses the title of doctor of optometry (O.D.) or any other letters or title in connection with his name which in any way conveys the impression that he is engaged in the practice of optometry shall be deemed to be practicing optometry within the meaning of this chapter.

(Code 1950, § 54-368; 1988, cc. 243, 737, 765.)

§ 54.1-3202. Exemptions.

This chapter shall not apply to:

1. Physicians licensed to practice medicine by the Board of Medicine or to prohibit the sale of nonprescription eyeglasses and sunglasses; or

2. Any optometrist rendering free health care to an underserved population in Virginia who (i) does not regularly practice optometry in Virginia, (ii) holds a current valid license or certificate to practice optometry in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care in an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of his license or certification in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any optometrist whose license or certificate has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow an optometrist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.

(Code 1950, § 54-369; 1988, c. 765; 2002, c. 740; 2008, c. 674; 2009, cc. 353, 761.)

§ 54.1-3203. License to be displayed.

Every person practicing optometry shall display his license in a conspicuous place in the principal office in which he practices.

(Code 1950, § 54-386; 1988, c. 765.)

§ 54.1-3204. Prohibited acts.

It shall be unlawful for any person:

1. To practice optometry in this Commonwealth without holding a license issued by the Board. Practicing or offering to practice optometry, or the public representation of being qualified to practice the same by any person not authorized to practice optometry, shall be sufficient evidence of a violation of the law.
2. To impersonate a licensed optometrist of like or different name.
3. To buy or sell or fraudulently obtain a diploma or license.
4. To do any act for which if he were an optometrist his license could be revoked as provided by this chapter.
5. To possess any trial lenses, trial frames, graduated test cards, appliances or instruments used in the practice of optometry, self-testing devices or eyeglass vending machines for the purpose of fitting or prescribing glasses in the practice of optometry, unless he is or unless he regularly employs on the premises a licensed optometrist or a licensed physician.
6. To publish or cause to be published in any manner an advertisement that is false, deceptive or misleading, contains a claim of professional superiority or violates regulations of the Board governing advertising by optometrists.
7. To sell, provide, furnish, supply or duplicate eyeglasses, or lenses for the correction of vision without the prescription of a licensed physician or licensed optometrist, unless he is the holder of a license to practice optometry or a license to practice medicine under the laws of this Commonwealth.
8. To sell or dispense contact lenses, including plano or cosmetic lenses, without holding a license issued by the Board. This subdivision shall not apply to a licensed optician operating or working in a retail establishment, when selling or dispensing contact lenses, including plano or cosmetic lenses, upon the valid written prescription of an individual licensed to practice medicine or osteopathy, or a licensed optometrist.
9. To dispense, administer, or sell an ophthalmic device containing Schedule III, IV, or VI controlled substances or an over-the-counter medication without holding a license issued by the Board, including TPA certification. An "ophthalmic device" shall mean any device, as defined in the Drug Control Act (§ 54.1-3400 et seq.) customarily used primarily for ophthalmic purposes, including an ophthalmic device classified by the United States Food and Drug Administration as a drug. Nothing in this subsection shall preclude a pharmacist from dispensing an ophthalmic device, as defined in this subsection, upon the written and valid prescription of an optometrist,

providing the patient is then advised by the pharmacist to return for follow-up care to the optometrist prescribing the ophthalmic device.

The provisions of this section shall be enforced in accordance with this chapter and § 54.1-2506.

(Code 1950, § 54-396; 1976, c. 758; 1977, c. 161; 1979, c. 39; 1988, c. 765; 2009, cc. 353, 761.)

§ 54.1-3205. Practicing in a commercial or mercantile establishment.

A. It shall be unlawful for any optometrist to practice his profession as a lessee of or in a commercial or mercantile establishment, or to advertise, either in person or through any commercial or mercantile establishment, that he is a licensed practitioner and is practicing or will practice optometry as a lessee of or in the commercial or mercantile establishment.

B. No licensed optometrist shall practice optometry as an employee, directly or indirectly, of a commercial or mercantile establishment, unless such commercial or mercantile establishment was employing a full-time licensed optometrist in its established place of business on June 21, 1938.

C. For the purposes of this section, the term "commercial or mercantile establishment" means a business enterprise engaged in the selling of commodities.

D. For the purposes of this section, an optometrist shall be deemed to be practicing in a commercial or mercantile establishment if he practices, whether directly or indirectly, as an officer, employee, lessee or agent of any person or entity in any location that provides direct access to or from a commercial or mercantile establishment. Direct access includes any entrance or exit, except an entrance or exit closed to the public and used solely for emergency egress pursuant to applicable state and local building and fire safety codes, that prohibits a person from exiting the building or structure occupied by such practice or establishment (i) onto an exterior sidewalk or public way or (ii) into a common area that is not under the control of either the optometry practice or the commercial or mercantile establishment, such as into the common areas of an enclosed shopping mall. For the purposes of this section, neither an optometric practice nor an ophthalmologic practice which sells eyeglasses or contact lenses ancillary to its practice shall be deemed a commercial or mercantile establishment. Further, any entity that is engaged in the sale of eyeglasses or contact lenses, the majority of the beneficial ownership of which is owned by an ophthalmologic practice and/or one or more ophthalmologists, shall not be deemed a commercial or mercantile establishment.

E. This section shall not be construed to prohibit the rendering of professional services to the officers and employees of any person, firm or corporation by an optometrist, whether or not the compensation for such service is paid by the officers and employees, or by the employer, or jointly by all or any of them.

(Code 1950, §§ 54-388, 54-397.1; 1968, c. 505; 1976, c. 758; 1977, c. 161; 1979, c. 39; 1988, c. 765; 2005, cc. 711, 720.)

§ 54.1-3205.1. Supervision by unlicensed persons prohibited.

No optometrist shall be directly or indirectly supervised within the scope of the practice of optometry by any officer, employee, or agent of a commercial or mercantile establishment, as defined in subsection C of § 54.1-3205, who is not a Virginia-licensed optometrist or physician. No officer, employee, or agent of a commercial or mercantile establishment, who is not a Virginia-licensed optometrist or physician, shall directly or indirectly control, dictate, or influence the professional judgment, including but not limited to the level or type of care or services rendered, of the practice of optometry by a licensed optometrist.

(1990, c. 307.)

§ 54.1-3206. Report of conviction or injunction to Board; revocation or suspension of license.

It shall be the duty of the clerk of every circuit court in which any person is convicted of any violation of this chapter or enjoined from unlawfully practicing optometry to report the same to the Board. The Board may thereupon suspend or revoke any certificate or license held by the person so convicted or enjoined. Every such report shall be directed to the secretary of the Board.

(1979, c. 39, § 54-398.02; 1988, c. 765.)

§ 54.1-3207. Board of Optometry.

The Board shall be composed of six members as follows: five licensed optometrists and one citizen member. Licensed optometrists appointed to the Board shall be individuals who, at the time of appointment, (i) have been engaged in the practice of optometry for at least five years, (ii) have met all requirements for practice as an optometrist set forth in this chapter and are qualified to engage in the full scope of the practice of optometry, and (iii) are actively engaged in the delivery of clinical care to patients. The terms of office of the members shall be four years.

Code 1950, §§ 54-371, 54-375; 1979, c. 39; 1986, c. 464; 1988, cc. 42, 765; 1996, cc. 152, 158; 2019, c. 340.

§ 54.1-3208. Nominations.

Nominations may be made for each professional vacancy from a list of at least three names submitted to the Governor by the Virginia Optometric Association, Incorporated. The Governor may notify the Association promptly of any professional vacancy other than by expiration and like nominations may be made for the filling of the vacancy. In no case shall the Governor be bound to make any appointment from among the nominees of the Association.

(Code 1950, § 54-372; 1986, c. 464; 1988, c. 765.)

§ 54.1-3209. Oaths and testimony.

Any member of the Board may, upon being designated by a majority of the Board, administer oaths or take testimony concerning any matter within the jurisdiction of the Board.

(Code 1950, § 54-377; 1988, c. 765.)

§ 54.1-3210. Seal; executive director.

The Board shall adopt a seal of which the executive director shall have the custody. The executive director shall keep a record of all proceedings of the Board, which shall be open to the public for inspection.

(Code 1950, § 54-378; 1988, c. 765.)

§ 54.1-3211. Examination.

The Board shall set the necessary standards to be attained in the examinations to entitle the candidate to receive a license to practice optometry.

The examination shall be given at least semiannually if there are any candidates who have applied to the Board for examination at least 30 days before the date for the examination.

The examination shall include anatomy; physiology; pathology; general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications and emergency care associated with the use of diagnostic pharmaceutical agents; and the use of the appropriate instruments.

The Board may determine a score that it considers satisfactory on any written examination of the National Board of Examiners in Optometry. The Board may waive its examination for a person who achieves a satisfactory score on the examination of the National Board of Examiners in Optometry.

Those persons licensed on or before June 30, 1997, to practice optometry in this state but not certified to administer diagnostic pharmaceutical agents may continue to practice optometry but may not administer diagnostic pharmaceutical agents without satisfying the requirements of this section. Those persons licensed after June 30, 1997, shall be considered as certified to administer diagnostic pharmaceutical agents. After June 30, 2004, every person who is initially licensed to practice optometry in Virginia shall meet the qualifications for a TPA-certified optometrist.

(Code 1950, §§ 54-380 through 54-382; 1972, c. 824; 1973, c. 90; 1988, c. 765; 1996, cc. 365, 436; 2004, c. 744.)

§ 54.1-3212. Qualifications of applicants.

An application for a license to practice optometry shall be made in writing and shall be accompanied by satisfactory proof that the applicant has been graduated and received a doctor of optometry degree from a school of optometry approved by the Board.

(Code 1950, § 54-382; 1972, c. 824; 1973, c. 90; 1988, c. 765.)

§ 54.1-3213. Issuance of license; fee; renewal.

Every candidate successfully passing the examination shall be licensed by the Board as possessing the qualifications required by law to practice optometry.

The fee for examination and licensure shall be prescribed by the Board and shall be paid to the executive director of the Board by the applicant upon filing his application.

Every license to practice optometry granted under the provisions of this chapter shall be renewed at such time, in such manner and upon payment of such fees as the Board may prescribe.

(Code 1950, §§ 54-383, 54-393, 54-394; 1970, c. 341; 1976, c. 32; 1977, c. 161; 1979, c. 39; 1988, c. 765.)

§ 54.1-3214.

Repealed by Acts 2016, c. 92, cl. 1.

§ 54.1-3215. Reprimand, revocation and suspension.

The Board may revoke or suspend a license or reprimand the licensee for any of the following causes:

1. Fraud or deceit in his practice;
2. Conviction of any felony under the laws of the Commonwealth, another state, the District of Columbia or any United States possession or territory or of any misdemeanor under such laws involving moral turpitude;
3. Conducting his practice in such a manner as to endanger the health and welfare of his patients or the public;
4. Use of alcohol or drugs to the extent such use renders him unsafe to practice optometry or mental or physical illness rendering him unsafe to practice optometry;
5. Knowingly and willfully employing an unlicensed person to do anything for which a license to practice optometry is required;
6. Practicing optometry while suffering from any infectious or contagious disease;
7. Neglecting or refusing to display his license and the renewal receipt for the current year;
8. Obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient;

9. Advertising which directly or indirectly deceives, misleads or defrauds the public, claims professional superiority, or offers free optometrical services or examinations;
10. Employing, procuring, or inducing a person not licensed to practice optometry to so practice;
11. Aiding or abetting in the practice of optometry any person not duly licensed to practice in this Commonwealth;
12. Advertising, practicing or attempting to practice optometry under a name other than one's own name as set forth on the license;
13. Lending, leasing, renting or in any other manner placing his license at the disposal or in the service of any person not licensed to practice optometry in this Commonwealth;
14. Splitting or dividing a fee with any person or persons other than with a licensed optometrist who is a legal partner or comember of a professional limited liability company formed to engage in the practice of optometry;
15. Practicing optometry where any officer, employee, or agent of a commercial or mercantile establishment, as defined in subsection C of § 54.1-3205, who is not licensed in Virginia to practice optometry or medicine directly or indirectly controls, dictates, or influences the professional judgment; including but not limited to the level or type of care or services rendered, of the licensed optometrist;
16. Violating other standards of conduct as adopted by the Board;
17. Violating, assisting, inducing or cooperating with others in violating any provisions of law relating to the practice of optometry, including the provisions of this chapter, or of any regulation of the Board.

(Code 1950, § 54-388; 1968, c. 505; 1976, c. 758; 1977, c. 161; 1979, c. 39; 1988, c. 765; 1990, c. 307; 1992, c. 574; 1999, c. 937.)

§ 54.1-3216. .

Repealed by Acts 2004, c. 64.

§ 54.1-3217. .

Repealed by Acts 1997, c. 556.

§ 54.1-3218. .

Repealed by Acts 2003, cc. 753 and 762.

§ 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 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 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. 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.

1976, c. 32, § 54-394.1; 1988, c. 765; 2016, c. 89.

§ 54.1-3220. Certification for administration of diagnostic pharmaceutical agents.

In order to become certified to administer diagnostic pharmaceutical agents for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures, an optometrist shall:

1. Complete successfully a Board-approved course in general and ocular pharmacology as it relates to the practice of optometry which shall consist of at least fifty-five classroom hours including a minimum of fifteen classroom hours in general pharmacology, twenty classroom hours in ocular pharmacology and twenty classroom hours of clinical laboratory presented by a college or university accredited by a regional or professional accreditation organization which is

recognized or approved by the Council on Post Secondary Accreditation or by the United States Department of Education.

2. Pass a Board-approved, performance-based examination on general and ocular pharmacology designed to test knowledge of the proper use, characteristics, pharmacological effects, indications, contraindications and emergency care associated with the use of diagnostic pharmaceutical agents as defined in this article.

(1983, c. 6, § 54-386.1; 1988, c. 765; 1996, cc. 365, 436.)

§ 54.1-3221. "Diagnostic pharmaceutical agents" defined; utilization; acquisition.

A. Certified optometrists may administer diagnostic pharmaceutical agents only by topical application to the human eye. "Diagnostic pharmaceutical agents" shall be defined as Schedule VI controlled substances as set forth in the Drug Control Act (§ 54.1-3400 et seq.) that are used for the purpose of examining and determining abnormal or diseased conditions of the human eye or related structures.

B. Any optometrist who utilizes diagnostic pharmaceutical agents without being certified as required by this article shall be subject to the disciplinary sanctions provided in this chapter.

C. Licensed drug suppliers or pharmacists are authorized to supply optometrists with diagnostic pharmaceutical agents upon presentation of evidence of Board certification for administration of such drugs.

(1983, c. 6, § 54-386.2; 1988, c. 765; 1992, c. 146; 2004, c. 744.)

§ 54.1-3222. TPA certification; certification for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents.

A. The Board shall certify an optometrist to prescribe for and treat diseases or abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents (TPAs), if the optometrist files a written application, accompanied by the fee required by the Board and satisfactory proof that the applicant:

1. Is licensed by the Board as an optometrist and certified to administer diagnostic pharmaceutical agents pursuant to Article 4 (§ 54.1-3220 et seq.);

2. Has satisfactorily completed such didactic and clinical training programs for the treatment of diseases and abnormal conditions of the eye and its adnexa as are determined, after consultation with a school or college of optometry and a school of medicine, to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients; and

3. Passes such examinations as are determined to be reasonable and necessary by the Board to ensure an appropriate standard of medical care for patients.

B. TPA certification shall enable an optometrist to prescribe and administer, within his scope of practice, Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedules III through VI controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) to treat diseases and abnormal conditions of the human eye and its adnexa as determined by the Board, within the following conditions:

1. Treatment with oral therapeutic pharmaceutical agents shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen, and analgesics included on Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act, which are appropriate to alleviate ocular pain and (ii) other Schedule VI controlled substances as defined in § 54.1-3455 of the Drug Control Act appropriate to treat diseases and abnormal conditions of the human eye and its adnexa.

2. Therapeutic pharmaceutical agents shall include topically applied Schedule VI drugs as defined in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.).

3. Administration of therapeutic pharmaceutical agents by injection shall be limited to the treatment of chalazia by means of injection of a steroid included in Schedule VI controlled substances as set forth in § 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.). A TPA-certified optometrist shall provide written evidence to the Board that he has completed a didactic and clinical training course provided by an accredited school or college of optometry that includes training in administration of TPAs by injection prior to administering TPAs by injection pursuant to this subdivision.

4. Treatment of angle closure glaucoma shall be limited to initiation of immediate emergency care.

5. Treatment of infantile or congenital glaucoma shall be prohibited.

6. Treatment through surgery or other invasive modalities shall not be permitted, except as provided in subdivision 3 or for treatment of emergency cases of anaphylactic shock with intramuscular epinephrine.

7. Entities permitted or licensed by the Board of Pharmacy to distribute or dispense drugs, including, but not limited to, wholesale distributors and pharmacists, shall be authorized to supply TPA-certified optometrists with those therapeutic pharmaceutical agents specified by the Board on the TPA-Formulary.

1996, cc. 152, 158; 2004, c. 744; 2015, c. 355; 2018, c. 280.

§ 54.1-3223. Regulations relating to instruction and training, examination, and therapeutic pharmaceutical agents.

A. The Board shall promulgate such regulations governing the treatment of diseases and abnormal conditions of the human eye and its adnexa with therapeutic pharmaceutical agents by

TPA-certified optometrists as are reasonable and necessary to ensure an appropriate standard of medical care for patients, including, but not limited to, determinations of the diseases and abnormal conditions of the human eye and its adnexa that may be treated by TPA-certified optometrists, treatment guidelines, and the drugs specified on the TPA-Formulary.

In establishing standards of instruction and training, the Board shall consult with a school or college of optometry and a school or college of medicine and shall set a minimum number of hours of clinical training to be supervised by an ophthalmologist. The didactic and clinical training programs may include, but need not be limited to, programs offered or designed either by schools of medicine or schools or colleges of optometry or both or some combination thereof.

The Board may prepare, administer, and grade appropriate examinations for the certification of optometrists to administer therapeutic pharmaceutical agents or may contract with a school of medicine, school or college of optometry, or other institution or entity to develop, administer, and grade the examinations.

In order to maintain a current and appropriate list of therapeutic pharmaceuticals on the TPA-Formulary, current and appropriate treatment guidelines, and current and appropriate determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists, the Board may, from time to time, amend such regulations. Such regulations shall be exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.), except to any extent that they may be specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031; the Board's regulations shall, however, comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.). The Board shall, however, conduct a public hearing prior to making amendments to the TPA-Formulary, the treatment guidelines or the determinations of diseases and abnormal conditions of the eye and its adnexa that may be treated by TPA-certified optometrists. Thirty days prior to conducting such hearing, the Board shall give written notice by mail of the date, time, and place of the hearing to all currently TPA-certified optometrists and any other persons requesting to be notified of the hearings and publish notice of its intention to amend the list in the Virginia Register of Regulations. During the public hearing, interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any TPA-Formulary amendments. Proposed and final amendments of the list shall also be published, pursuant to § 2.2-4031, in the Virginia Register of Regulations. Final amendments to the TPA-Formulary shall become effective upon filing with the Registrar of Regulations. The TPA-Formulary shall be the inclusive list of the therapeutic pharmaceutical agents that a TPA-certified optometrist may prescribe.

B. To assist in the specification of the TPA-Formulary, there shall be a seven-member TPA-Formulary Committee, as follows: three Virginia TPA-certified optometrists to be appointed by the Board of Optometry, one pharmacist appointed by the Board of Pharmacy from among its licensees, two ophthalmologists appointed by the Board of Medicine from among its licensees, and the chairman who shall be appointed by the Board of Optometry from among its members. The ophthalmologists appointed by the Board of Medicine shall have demonstrated, through professional experience, knowledge of the optometric profession. In the event the Board of Pharmacy or the Board of Medicine fails to make appointments to the TPA-Formulary Committee within 30 days following the Board of Optometry's requesting such appointments, or

within 30 days following any subsequent vacancy, the Board of Optometry shall appoint such members.

The TPA-Formulary Committee shall recommend to the Board those therapeutic pharmaceutical agents to be included on the TPA-Formulary for the treatment of diseases and abnormal conditions of the eye and its adnexa by TPA-certified optometrists.

(1996, cc. 152, 158; 2004, c. 744.)

§ 54.1-3224. Denial, etc., of TPA certification; disciplinary actions; summary suspension under certain circumstances.

A. The Board of Optometry may deny, refuse to renew, revoke, or suspend any TPA-certificate issued to a TPA-certified optometrist, or applied for by a licensed optometrist in accordance with the provisions of this article, or may discipline or reprimand any certificate holder for violations of this chapter or the Board's regulations.

B. The Board may take action summarily to suspend a TPA-certified optometrist's certification under this section by means of a telephone conference call if, in the opinion of a majority of the Board, (i) a good faith effort to convene a regular meeting of the Board has failed and (ii) there is an imminent danger to the public health or safety which warrants this action.

(1996, cc. 152, 158.)

18VAC105-20-40. Standards of Conduct.

The board has the authority to deny, suspend, revoke, or otherwise discipline a licensee for a violation of the following standards of conduct. A licensed optometrist shall:

- 1. Use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."**
- 2. Disclose to the board any disciplinary action taken by a regulatory body in another jurisdiction.**
- 3. Post in an area of the optometric office which is conspicuous to the public, a chart or directory listing the names of all optometrists practicing at that particular location.**
- 4. Maintain patient records, perform procedures or make recommendations during any eye examination, contact lens examination or treatment as necessary to protect the health and welfare of the patient and consistent with requirements of 18VAC105-20-45.**
- 5. Notify patients in the event the practice is to be terminated or relocated, giving a reasonable time period within which the patient or an authorized representative can request in writing that the records or copies be sent to any other like-regulated provider of the patient's choice or destroyed in compliance with requirements of § 54.1-2405 of the Code of Virginia on the transfer of patient records in conjunction with closure, sale, or relocation of practice.**
- 6. Ensure his access to the practice location during hours in which the practice is closed in order to be able to properly evaluate and treat a patient in an emergency.**
- 7. Provide for continuity of care in the event of an absence from the practice or, in the event the optometrist chooses to terminate the practitioner-patient relationship or make his services unavailable, document notice to the patient that allows for a reasonable time to obtain the services of another practitioner.**
- 8. Comply with the provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records and related to the provision of patient records to another practitioner or to the patient or his personal representative.**
- 9. Treat or prescribe based on a bona fide practitioner-patient relationship consistent with criteria set forth in § 54.1-3303 of the Code of Virginia. A licensee shall not prescribe a controlled substance to himself or a family member other than Schedule VI as defined in § 54.1-3455 of the Code of Virginia. When treating or prescribing for self or family, the practitioner shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.**
- 10. Comply with provisions of statute or regulation, state or federal, relating to the diversion, distribution, dispensing, prescribing, or administration of controlled substances as defined in § 54.1-3401 of the Code of Virginia.**

11. Not enter into a relationship with a patient that constitutes a professional boundary violation in which the practitioner uses his professional position to take advantage of the vulnerability of a patient or his family to include, but not be limited to, actions that result in personal gain at the expense of the patient, a nontherapeutic personal involvement, or sexual conduct with a patient. The determination of when a person is a patient is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the prohibition.

12. Cooperate with the board or its representatives in providing information or records as requested or required pursuant to an investigation or the enforcement of a statute or regulation.

13. Not practice with an expired or unregistered professional designation.

14. Not violate or cooperate with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.) or 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia or regulations of the board.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from VR510-01-1 § 4, eff. October 30, 1985; amended, Volume 04, Issue 03, eff. December 9, 1987; Volume 04, Issue 19, eff. July 20, 1988; Volume 05, Issue 10, eff. March 13, 1989; Volume 08, Issue 04, eff. January 1, 1992; Volume 11, Issue 20, eff. July 26, 1995; Volume 15, Issue 06, eff. January 6, 1999; Volume 19, Issue 07, eff. January 15, 2003; Volume 26, Issue 12, eff. March 17, 2010.

**BOARD OF OPTOMETRY
PROFESSIONAL DESIGNATION COMMITTEE MEETING
MEETING MINUTES
SEPTEMBER 5, 2019**

TIME AND PLACE: The Professional Designation, (PD) Committee meeting was called to order at 9:00 a.m. at the Westerre Conference Center, 3931 Westerre Parkway, Room 118, Henrico, VA 23233

PRESIDING OFFICER: Devon Cabot, Citizen Member

COMMITTEE MEMBERS: Fred E. Goldberg, O.D.

OTHER MEMBERS PRESENT: No other members were present.

STAFF PRESENT: Barbara Allison-Bryan, M.D., Chief Deputy Director
Leslie L. Knachel, Executive Director
Charis Mitchell, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Policy Analyst
Anthony C. Morales, Operations Manager

OTHERS PRESENT: Bruce Keeney, Virginia Optometric Association, (VOA)
Mark Hickman, Commonwealth Strategy Group, (CSG)/Virginia Society of Eye Physicians and Surgeons, (VSEPS)

PUBLIC COMMENT: No public comment was presented.

DISCUSSION: **Professional Designations**

Ms. Yeatts reviewed the current regulations pertaining to professional designations found in 18VAC105-20-50. She pointed out that many of the requirements are found in other sections of the Code of Virginia or regulations pertaining to the practice of optometry. In addition, she pointed out that the Code of Virginia does not specifically authorize the Board to register professional designations.

The Committee discussed the issue.

Dr. Goldberg moved to strike from the Regulations of the Virginia Board of Optometry section 18VAC105-20-50. Professional Designations and related Professional Designation fees found in 18VAC105-20-20.

The motion was seconded and carried.

NEW BUSINESS: No new business.

ADJOURNMENT: The meeting adjourned at 9:28 a.m.

Devon Cabot, Chair

Leslie L. Knachel, M.P.H

go back | open in word

Project 6205 - none**BOARD OF OPTOMETRY****deletion of professional designation****18VAC105-20-20. Fees.****A. Required fees.**

Initial application and licensure (including TPA certification)	\$250
Application for TPA certification	\$200
Annual licensure renewal without TPA certification	\$150
Annual licensure renewal with TPA certification	\$200
Late renewal without TPA certification	\$50
Late renewal with TPA certification	\$65
Returned check	\$35
Professional designation application	\$100
Annual professional designation renewal (per location)	\$50
Late renewal of professional designation	\$20
Reinstatement application fee (including renewal and late fees)	\$400
Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.**C. From October 31, 2018, to December 31, 2018, the following fees shall be in effect:**

Annual licensure renewal without TPA certification	\$75
Annual licensure renewal with TPA certification	\$100
Annual professional designation renewal (per location)	\$25

18VAC105-20-50. Professional designations. (Repealed.)

~~A. In addition to the name of the optometrist as it appears on the license, an optometrist may practice in an office that uses only one of the following:~~

- ~~1. The name of an optometrist who employs him and practices in the same office;~~
- ~~2. A partnership name composed of some or all names of optometrists practicing in the same office; or~~
- ~~3. A professional designation, if the conditions set forth in subsection B of this section are fulfilled.~~

~~B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a professional designation for the optometric office in which they conduct their practices provided the following conditions are met:~~

- ~~1. A professional designation shall be registered with the board by a licensed optometrist who has an ownership or equity interest in the optometric practice and who must practice in any location with that registered designation and who shall assume responsibility for compliance with this section and with the statutes and regulations governing the practice of optometry.~~
- ~~2. A professional designation shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.~~
- ~~3. No licensed optometrist may, at any time, register to practice optometry under more than one professional designation.~~
- ~~4. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the word "optometry" or reasonably recognizable derivatives thereof unless the name of the optometrist is used with the professional designation with the O.D. designation, Doctor of Optometry or optometrist.~~
- ~~5. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.~~
- ~~6. The names of all optometrists who practice under the professional designation shall be maintained in the records of the optometric office for five years following their departure from the practice.~~

~~7. The name of the licensed optometrist providing care shall appear on all statements of charges and receipts given to patients.~~

~~8. An optometrist may use a professional designation which contains the name of an inactive, retired, removed, or deceased optometrist for a period of no more than one year from the date of succession to a practice and so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."~~

**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 1st through June 30th. At the first regularly scheduled meeting of the organizational year, the Board shall elect its officers with an effective date of ~~the next regularly scheduled board meeting~~ January 1. 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.

1. 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 review non-routine licensure applications to determine the credentials of the applicant and the applicability of the statutes and regulations.

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.

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 32. Optometry

§ 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 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 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. 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.

1976, c. 32, § 54-394.1; 1988, c. 765; 2016, c. 89.

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 10 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. Two hours of the 20 hours required for annual renewal may be satisfied through delivery of professional 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 the renewal deadline 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 the renewal deadline 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 (COPE).
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 or 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.

Statutory Authority

§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Historical Notes

Derived from VR510-01-1 § 7, eff. October 30, 1985; amended, Volume 04, Issue 03, eff. December 9, 1987; Volume 04, Issue 19, eff. July 20, 1988; Volume 05, Issue 10, eff. March 13, 1989; Volume 08, Issue 04, eff. January 1, 1992; Volume 11, Issue 20, eff. July 26, 1995; Volume 15, Issue 06, eff. January 6, 1999; Volume 19, Issue 07, eff. January 15, 2003; Volume 22, Issue 04, eff. November 30, 2005; Volume 26, Issue 12, eff. March 17, 2010; Volume 32, Issue 26, eff. September 21, 2016; Volume 33, Issue 11, eff. March 9, 2017; Volume 34, Issue 16, eff. May 2, 2018.

Optometry Monthly Snapshot for September 2019

Optometry has closed more cases in September than received cases. Optometry has closed 0 patient care cases and 3 non-patient care cases for a total of 3 cases.

Case Closed	
Patient Care	0
Non Patient care	3
Total	3

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

Cases received	
Patient Care	0
Non Patient Care	0
Total	0

As of September 30, 2019, there were 17 Patient care cases open and 12 non-patient care cases open for a total of 29 cases.

Cases Open	
Patient Care	17
Non patient care	12
Total	29

There were 2008 Optometry licensees as of October 1, 2019. The number of current licenses are broken down by profession in the following chart.

Current Licenses	
Optometrist	96
Optometrist-Volunteer Registration	7
Professional Designation	269
TPA Certified Optometrist	1636
Total	2008

There were 7 licenses issued for Optometry for the month of September. The number of licenses issued are broken down by profession in the following chart.

License Issued	
Optometrist - Volunteer Registration	1
Professional Designation	3
TPA Certified Optometrist	3
Total for Optometry	7

¹ The cases received and cases closed figures exclude Compliance Tracking Cases

Virginia Department of Health Professions
Cash Balance
As of June 30, 2019

	105- Optometry
Board Cash Balance as June 30, 2018	\$ 505,645
YTD FY19 Revenue	205,430
Less: YTD FY19 Direct and Allocated Expenditures	358,641
Board Cash Balance as June 30, 2019	352,434

Virginia Department of Health Professions
Cash Balance
As of June 30, 2018

	105- Optometry
Board Cash Balance as June 30, 2017	\$ 532,903
YTD FY18 Revenue	354,815
Less: YTD FY18 Direct and Allocated Expenditures	382,073
Board Cash Balance as June 30, 2018	505,645

Virginia Department of Health Professions
Cash Balance
As of June 30, 2017

	105- Optometry
Board Cash Balance as of June 30, 2016	\$ 529,791
YTD FY17 Revenue	353,390
Less: YTD FY17 Direct and In-Direct Expenditures	350,278
Board Cash Balance as June 30, 2017	532,903



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Future ARBO Annual Meetings
<p>June 21-23, 2020 in Alexandria, VA (near Washington, DC)</p> <p>June 20-22, 2021 in Anaheim, CA</p>



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From: Virginia Board of Optometry
Date: Fri, Jun 28, 7:00 PM
Subject: New Standards for hazardous waste pharmaceuticals



Virginia Department of
Health Professions

Board of Optometry

Virginia Board of Optometry

Change to the Code of Virginia

Effective July 1, 2019

The 2019 Virginia General Assembly passed HB2557 which classifies gabapentin as a **Schedule V** controlled substance as of July 1, 2019. Pursuant to 18VA105-20-47(B) of the Regulations of the Board of Optometry, Schedule V drugs are excluded from the list of therapeutic pharmaceutical agents that may be prescribed by a TPA-certified optometrist.

The Board of Optometry is scheduling meetings to begin the regulatory process to consider the addition of appropriate Schedule V drugs to the TPA-Formulary.

Questions may be directed to optbd@dhp.virginia.gov

Please put " Gabapentin" in the subject line of email

Website: [Board of Optometry](#)

From: Virginia Board of Optometry
Date: Thu, Sep 12, 6:30 PM
Subject: Fraudulent Communications



Virginia Department of **Health Professions**

Board of Optometry

Virginia Board of Optometry

The Virginia Board of Optometry has received information that fraudulent communications claiming to be from regulatory authorities, such as a regulatory board or the Drug Enforcement Administration (DEA) are being sent to licensees of the Virginia Department of Health Professions. The communications are being sent by email, fax, phone and the US Postal Service and can be threatening and demanding release of personal information.

Please be aware that the Virginia Board of Optometry will not send such communications. If you believe you are the recipient of a fraudulent communication claiming to be from the Virginia Board of Optometry, please contact the Board at (804) 597-4132 or optbd@dhp.virginia.gov. You may also wish to report the receipt of this type of communication to local law enforcement and the US Postal Service.