

**BOARD OF OPTOMETRY
BOARD MEETING
JANUARY 20, 2004**

TIME AND PLACE: The meeting was called to order at 8:55 a.m. on Tuesday, January 20, 2004 at the Department of Health Professions, Conference Room 3, 6603 W. Broad St., Richmond, VA.

PRESIDING OFFICER: Thomas R. Cheezum, O.D.

MEMBERS PRESENT: David H. Hettler, O.D.
Roxann L. Robinson, O.D.
Paula H. Boone, O.D.
Cathleen Kelly Burk
William T. Tiller, O.D.

MEMBERS NOT PRESENT: All board members were present.

STAFF PRESENT: Howard Casway, Senior Assistant Attorney General, Board Counsel
Elizabeth A. Carter, Ph.D., Executive Director for the Board
Carol Stamey, Administrative Assistant

OTHERS PRESENT: Stefan P. Cox, Whitehead Consulting, Richmond, VA
Bill Ferguson, Board for Opticians
Jon Bright, Board for Opticians
David E. Smith, NAOO

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

PUBLIC COMMENT: No public comment was presented.

REVIEW AND APPROVAL OF AGENDA: The order of the agenda was revised: Ms. Yeatts' update on the 2004 legislation under Board Discussion was moved to be presented prior to the approval of the agenda.

BOARD DISCUSSION: **2004 Proposed Legislation**
Ms. Yeatts provided an overview on the legislation that had been introduced as of January 20, 2004. Specific legislation that was reviewed was: HB 358 Freedom of Information Act, posting of notice of rights and responsibilities by state public bodies, HB 160/SB 272 Optometrists, grounds for revocation or suspension of license and HB 856 Optometry, practice and licensure.

Action
On properly seconded motion by Dr. Hettler, the Board voted unanimously that the Board was in support of HB 160.

On properly seconded motion by Dr. Boone, the Board voted unanimously that the Board was in support HB 856.

On properly seconded motion by Dr. Robinson, the Board voted

unanimously that its position was in opposition of HB 358.

PUBLIC COMMENT:

No public comment was presented.

APPROVAL OF MINUTES:

On properly seconded motion by Dr. Boone, the Board voted unanimously to approve the minutes of the meeting of October 24, 2003.

BOARD DISCUSSION:

18 VAC 105-20-45 Standards of Practice and Current Scope of Practice, Investigative Issues

Dr. Hettler proposed no changes to the regulations at this time.

Clarification of 18 VAC 105-20-50.B.4, OD Derivative and Titling Used as a Locator

The matter was referred to the Legislative/Regulatory Review Committee for review and recommendations to the full board at the March meeting. The Committee will meet the morning of the full board meeting.

CPT Codes

Dr. Cheezum reported that the CPT Code listing on the website did not contain CPT Codes 96111 and 96115. He requested staff to update the website.

CE Waiver

The request for CE waiver was moved to the end of the agenda.

COMMITTEE REPORTS:

Endorsement Committee

The Committee had no report or issues to present.

CE Committee

Requirement of a valid CE certificate

It was the Committee's position as well as that of the full Board that CE is not considered obtained until the certifying body has issued a validated CE certificate.

Ms. Stamey also reported that there had been copies of CE certificates submitted in which the licensees had taken courses; however, the stamp of attendance was not reflected due to copying. In such cases, the Board's position was that the CE original certificates be requested, reviewed and then returned to the licensee.

Multiple TPA CE Courses

Dr. Boone noted that a request from a licensee had been made to allow his multiple TPA CE courses to apply towards the requirement for TPA training. The Board's position was that

multiple CE courses did not meet the requirement of 18 VAC 105-30-35 and §54.1-3222.

TPA Formulary Committee

The Committee had no report or issues to present.

PRESIDENT'S REPORT:

No report was presented; however, Dr. Cheezum requested that Dr. Hettler update the Board on his upcoming presentation to the Investigator Training next week.

Dr. Hettler reported that he would be attending a training session for the investigators of the Department of Health Professions. He stated that his presentation would consist of records review, prescription pads, examination forms and elements and patient encounters

EXECUTIVE DIRECTOR'S REPORT:

2004 Federal Legislation

Dr. Carter apprised the Board of H.R. 2218, which, if passed, would require any type of contact lens be classified as a medical device and protected, as such, under the FDA.

Dr. Carter also informed the Board that H.R.3140 had become law. It relates to the Federal Trade Commission's development of regulations. It requires that all prescribers verify prescription requests within eight (8) business hours and it does not allow the prescription's expiration date to be less than a year without a medical reason. Dr. Carter stated that the law becomes affective February 6, 2004. Further, that within twelve (12) months, the FTC is required to conduct a study relating to contact lens prescribing in general and how the public is affected by current prescribing requirements.

Dr. Cheezum noted that the law will require optometrists to give a copy of the contact lens prescription to patients at the conclusion of the initial fitting and follow-up care. He also noted that the contact lens sellers will be required to obtain written confirmation of contact lens prescriptions.

Dr. Cheezum reminded the Board members to report patient visual harm or impairment as a result of patients obtaining contact lenses illegally or prescriptions filled beyond the expiration date to the ARBO website.

Dr. Carter introduced Bill Ferguson and John Bright in attendance representing the Board for Opticians.

Dr. Carter reported that the Board for Opticians had seen an increase in RX prescriptions from optometrists with twelve (12) month expiration dates pre-printed. The Board for Opticians is concerned because it appears that an automatic twelve (12) month expiration is rendered without reference to individual patient's

medical condition. The issue will be addressed at the next Legislative/Regulatory Review Committee meeting.

Dr. Carter updated the Board on the case categories, licensure renewal and CE audit statistics for the year 2003. She also noted several concerns of the licensees with regard to the renewal cards. The agency is looking into improvements to the renewal form design to improve visibility and general clarity.

Dr. Carter briefed the Board of the Board of Health Professions (BHP) activities. With regard to the Sanction Reference Study, she reported that four boards were currently under review, the Board of Medicine, Board of Pharmacy, Board of Dentistry, and Board of Nursing. The Board of Medicine would be meeting on January 22 and would vote as to how they would proceed with piloting in February. She stated that the Board is also developing regulations on dialysis technician credentialing and is anticipating a request from the General Assembly to conduct a review of the need to regulate assisted living facility directors/administrators. BHP has also undertaken a review of the Department's Enforcement performance, with a focus on the case prioritizing system as well as a review of the impact of the 1997 legislation that allowed for Special Conference Committee Orders and removed the Board's ability to move directly to formal hearing (other than for summary suspensions).

CE Waiver

On properly seconded motion by Dr. Robinson, the Board voted unanimously to waive the CE requirement for the 2003 licensure renewal to Charles E. Cook, O.D.

NEW BUSINESS:

The Board rescheduled the March meeting to reflect the date of March 19, 2004.

ADJOURNMENT:

The Board concluded its meeting at 10:55 a.m.

Thomas R. Cheezum, O.D.
Presiding Chair

Elizabeth A. Carter, Ph.D.
Executive Director