

BOARD FOR OPTICIANS

MINUTES OF MEETING

The Board for Opticians met on Friday, May 2, 2003 at the Department of Professional and Occupational Regulation (DPOR), 3600 West Broad Street, Richmond, Virginia. The following members were present:

Jon D. Bright, Chair
Marcia Denise Carney, M.D.
E. Carter Lowry
Gerald W. Shell

Board member not in attendance: Helen O'Connor Darby

The DPOR staff present for all or for portions of the meeting included:

Sandra Whitley Ryals, Chief Deputy Director
Karen W. O'Neal, Deputy Director, Regulatory Programs
William H. Ferguson, II, Executive Director
Zelda W. Dugger, Board Administrator
Steven L. Arthur, Deputy Director, Administration and Finance
James L. Guffey, Deputy Director for Enforcement
Rashaun K. Minor, Administrative Assistant

Also in attendance was: Michelle Nelms, Opticians Association of Virginia
Greg Gearheart, Opticians Association of Virginia
Robert Flippen, Opticians Association of Virginia

Jon D. Bright, Chair, determined there was a quorum and called the Call to Order meeting to order at 9:40 a.m.

Mr. Lowry made a motion to approve the agenda as amended. Mr. Shell seconded the motion. Continuing Education, Definitions, HIPPA, Apprenticeship Standards, and Board Member Resolution were added. The members voting "yes" were Mr. Bright, Dr. Carney, Mr. Lowry and Mr. Shell. There were no negative votes. The motion passed unanimously. Approval of Agenda

The Chair asked for any public comment. Public Comment

Mr. Greg Gearheart, Virginia Opticians Association Board Member, requested that the Virginia Board of Opticians adopt mandatory continuing education requirements for license renewals to ensure continued competency. Mr. Gearheart stated with the rapid expansion

of products, materials, and techniques, demand opticians to maintain an up-to-date knowledge in their respective area of responsibility. Mr. Gearheart stated that mandatory continuing education is not a perfect method of ensuring continued competency, but it is clearly better than no such requirement. Mr. Gearheart stated that the majority of opticians are ready and willing to submit to mandatory continuing education requirements. It is in the best interest of the profession and in the best interest of the public (Mr. Gearheart submitted his letter to the Board - Attachment A)

Mr. Robert Flippen, Virginia Opticians Association Board Member, stated to the Board with the extreme technological advances in the field of Opticianry there is potential risk to public safety. Mr. Flippen cited health and safety issues as well as quality of vision and worker productivity. Mr. Flippen stated that the Optical Laboratories Association's publication cited there is an increase of new product releases. Mr. Flippen stated there is also an increase in patients whose care requires more expertise than in previous years. Mr. Flippen stated with the new advances and increase in the patient population that it is a clear indicator that Virginia opticians need to regularly update their basic knowledge and fitting skills to properly care for Virginia consumers. Mr. Flippen stated that requiring mandatory continuing education is essential for opticians to maintain a minimum skill level to serve and protect the citizens of the Commonwealth. Mr. Flippen concluded that many states have already seen the need for continuing education for opticians. Mr. Flippen suggested to the Board that a minimum of 8 hours of Board-approved education for each biennial license renewal period with an additional 2 hours for opticians with a contact lens endorsement. (Mr. Flippen submitted his letter to the Board - Attachment B).

Mr. Lowry made a motion to approve the minutes as written of the Board for Optician meeting January 10, 2003. Mr. Shell seconded the motion. The members voting "yes" were Mr. Bright, Dr. Carney, Mr. Lowry and Mr. Shell. There were no negative votes. The motion passed unanimously.

**Approval of
Minutes –
January 10, 2003
Board Meeting**

Steve L. Arthur, Deputy Director for Administration and Finance, provided training to the Board on DPOR's administration and finance responsibilities and procedures, including revenue, expenditure, and appropriation, budget and fee analysis.

Training

Mr. Arthur concluded by fielding general questions from Board Members.

The Board reviewed its examination statistics for informational purposes.

Examination
Statistics

The Board reviewed its quarterly statistics for informational purposes.

Quarterly Board
Statistics

James L. Guffey, Deputy Director for Enforcement, provided training to the Board on the disciplinary process, enforcement activities and authority including the administrative process act (APA), agency organization, statutory authority and enforcement proceedings.

Training

Mr. Guffey advised the Board that practicing as an optician with out a license is a criminal offense.

Mr. Guffey held a mock informal fact-finding conference to demonstrate how a conference is conducted.

Mr. Guffey concluded by fielding general questions from Board members.

Mr. Bright gave back ground information on the practical examination for multiple jurisdictions. Mr. Bright informed the Board that the New York Board entered into a contract with Capital Hill Testing and renewed their contract for 5 more years with the potential to become a multiple jurisdiction exam.

Practical
Examination for
Multiple
Jurisdictions

Mr. Bright stated that Florida, South Carolina and Rhode Island have also expressed an interest in a multi-jurisdictional examination. Mr. Bright stated that the practical exam cost to candidates in New York is \$450.00. Virginia regulations state that the total examination fee shall not exceed a cost of \$300.00 to the applicant. Mr. Bright stated the exam cost are higher in New York because of fees that New York incurs such as testing sites which must be neutral sites and are usually at hotels and equipment is not donated as in Virginia but are rented, adding to the cost of the exam. Mr. Bright stated there is a question of fairness if the examination fees are not similar or identical in all jurisdictions using the same examination. The price in New York was set in the process of bidding for their current examination.

The consensus of the Board was to send a letter to the New York Board affirming support of a multiple jurisdiction practical examination and participation in a task analysis but to convey that because of budgetary

constraints the Virginia Board is not able to provide financial support for subject matter experts' travel.

Mr. Ferguson advised the Board that the Emergency Regulation and the Notice of Intended Regulatory Action to replace the emergency regulations has been approved by the Department and Planning and Budget and the Secretary's Office. At this time the regulations are in the Governor's Office awaiting approval.

Other Business

Regulations

Mr. Ferguson stated to the Board that the process to increase fees is going forward.

Fees

Mr. Lowry stated that the profession has changed over the years with advances in technology and that the Board should do what they can to have well-trained and well-education individuals to provide professional opticianary care to Virginia citizens. Mr. Lowry stated that the Board should consider and exam the viability of requiring continuing education to ensure continued qualified opticians.

**Continuing
Education**

By consensus the Board agreed to proceed to add continuing education to the regulations and propose legislation to the statues.

Mr. Lowry stated that in the regulation's definition "Licensed optician" means any person who is the holder of a license issued by the Board for Opticians and "Optician" means any person not exempted by §54.1-1701 of the Code of Virginia who prepares or dispenses, eyeglasses, spectacles, lenses, or related appurtenances for the intended wearers or users on prescriptions from licensed physicians or licensed optometrists, or as duplications or reproductions of previously prepared eyeglasses, spectacles, lenses, or related appurtenances; or who, in accordance with such prescriptions, duplications or reproductions, measures, adapts, fits, and adjusts eyeglasses, spectacles, lenses, or appurtenances to the human face. The two definitions are confusing and misleading to the public. It leads the reader to believe that there is a distinction between "Licensed opticians" and "Opticians" when the statues state no person shall practice or offer to practice as an optician in the Commonwealth unless they hold a license issued by the Board. Mr. Lowry suggested to the Board to either eliminate one of the definition or combine the two definitions into one clear definition.

Definitions

By consensus the Board moved to propose legislation to clarify the definitions in statue.

Mr. Bright stated to the Board that there is a new federal law that was

HIPAA

put into effect April 2003 called the Health Insurance Portability and Accountability Act known as "HIPAA".

Dr. Carney stated that HIPAA is intended to protect the confidentiality of patient health records and secure health data and that there must be an agreement with any third party to whom any protected health information is shared with and that the third party must agree to maintain the confidentiality and security of the shared information.

Mr. Bright stated that since HIPAA is a Federal law that the Board does not have to make any action to regulate HIPAA requirements.

Mr. Bright stated that there are variations of the apprenticeship programs and curriculums. Mr. Bright had spoken with Mr. Penny of the US Department of Labor and Industry about national standards. **Apprenticeship Programs**

Mr. Lowry agreed to continue research into apprenticeship standards by contacting Mr. Penny and Ms. Bev Donati of the Virginia DOLI.

Dr. Carney left the meeting at 1:30 p.m. to meet obligations.

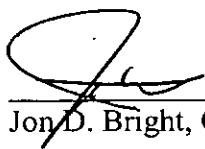
**Board Member
Departure**

The Board upon a motion made by Mr. Lowry and seconded by Mr. Shell voted to approve a resolution for Dr. Karlin for his participation on the Board. The members voting "yes" were Mr. Bright, Mr. Lowry and Mr. Shell. Dr. Carney was not present. There were no negative votes. The motion passed unanimously.

Resolution

There being no further business to be brought before the Board, the Chairman adjourned the meeting at 1:54 p.m.

Adjournment



Jon D. Bright, Chairman



Louise Fontaine Ware, Secretary

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