

**BOARD OF OPTOMETRY
PROFESSIONAL DESIGNATION COMMITTEE
MAY 5, 2010**

- TIME AND PLACE:** The Board of Optometry's (Board) Professional Designation Committee (PDC) meeting was called to order at 9:10 a.m. at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Room 3, Henrico, Virginia.
- CHAIRMAN:** W. Ernest Schlabach, Jr., O.D., Chair
- MEMBERS PRESENT:** David H. Hettler, O.D., Ex-officio
- MEMBERS NOT PRESENT:** Jonathan R. Noble, O.D.
- STAFF PRESENT:** Leslie L. Knachel, Executive Director
Eric Gregory, Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Regulatory Analyst
Carol Stamey, Operations Manager
- OTHERS PRESENT:** Gregory P. Jellenek, O.D., Board Member
- PUBLIC COMMENT:** No public comment was presented.
- APPROVAL OF MINUTES:** Dr. Hettler moved to approve the minutes of the January 26, 2010, PDC meeting. The motion was seconded and carried.
- DISCUSSION ITEMS:** **Research on What Other States are Doing with Regard to Professional Designation Titles**
Ms. Knachel informed the committee that a survey of 14 states revealed that the majority of the states do not require registration fees for the use of titles.
- Cost of Professional Designation Investigations**
Ms. Knachel reported that the cost to investigate a complaint involving a professional designation issue averaged between \$1000 and \$1500 per case.
- With regard to the budget, it was determined that the current registration of professional designations attributed approximately \$10,000 on a yearly basis.
- CLOSED SESSION:** Dr. Hettler moved that the Board convene a closed meeting pursuant to § 2.2-3711.A(7) of the Code of Virginia for consultation with legal counsel to address the issues of: Status

of Pennsylvania Regulations and Lawsuits Pertaining to Professional Designation Titles, Opinion on Difference Between Commercial and Free Speech and Interpretation of 18VAC105-20-50, 18VAC105-20.B.4 and Application Approval Process. Additionally, Dr. Hettler moved that Ms. Knachel, Ms. Yeatts, Mr. Gregory, Dr. Jellenek and Ms. Stamey, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the board in its deliberations.

OPEN SESSION:

Dr. Hettler moved to certify that only public matters lawfully exempted from open meeting requirements under Virginia law were discussed in the closed meeting and only public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the board. The motion was seconded and passed.

**DISCUSSION ITEMS
CONTINUED:**

Recommended Proposed Changes to the PD Regulations
Per the previous PDC meeting, Dr. Schlabach and Dr. Noble were to independently prepare suggested changes to the professional designation regulations. Drafts with suggested changes were discussed during the PDC. The draft that the PDC moved forward with is incorporated into the minutes as Attachment 1. Upon further review of the draft by the PDC and staff, the following recommendations for changes were made:

18VAC105-20-50.B.1 – further discuss the issue of the definition of “practice” and the number of hours in which an optometrist must be physically present in a PD location;

18VAC105-20-50.B.2.b – replace “infers” with “implies”;

18VAC105-20-50.B.3 – it was determined that more research is required;

18VAC105-20-50.B.4 -- delete the last sentence as it is already required by statute and it was also noted that singular language implies plural and

18VAC105-20-50.B.5 – delete, is a requirement of all licensees and is addressed in the regulations regarding standards of conduct and in statute, 54.1-3203;

The PDC requested that Ms. Yeatts, Ms. Knachel and Mr. Gregory draft a proposed statute to mirror the trade name statute under the Board of Dentistry for review by Dr. Noble

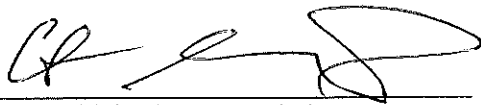
and Dr. Schlabach. Additionally, the PDC requested an additional meeting in early June.

NEW BUSINESS:

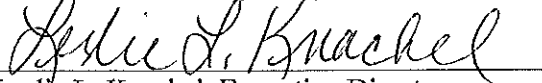
No new business was presented.

ADJOURNMENT:

The meeting adjourned at 10:50 a.m.



W. Ernest Schlabach, O.D., Chair



Leslie L. Knachel, Executive Director

DR. SCHLABACH/NOBLE DRAFT II 4/29/20010

18VAC105-20-50. Professional designations.

A. No person shall practice, offer to practice, or hold himself out as practicing optometry under any name that does not meet one of the following requirements:

1. The name of the optometrist as it appears on their license.
2. The name of an optometrist who employs him and practices in the same office;
3. A partnership name composed of some or all names of optometrists practicing in the same office; or
4. 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 paying an application and/or a renewal fee by a licensed optometrist an optometrist licensed to practice in the Commonwealth of Virginia who has an ownership or equity interest in the optometric practice and who must practice and be physically present (actively seeing and/or providing optometric care to patients at least 8 hours per month) in any location with that uses 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.~~

2. The list of approved professional designations shall be available to the public on the board's web site and shall include the name and address of the optometrist who has registered the professional designation with the board and the location(s) where the professional designation is used.

a. No optometrist may use a professional designation which is the same as another optometrist's professional designation on the board's list.

b. No professional designation shall be permitted to be registered which infers the optometric practice is affiliated with another person (other than the owner), corporation

,or entity not legally allowed to practice optometry in the Commonwealth of Virginia.
(example: XYX Corporation Vision Clinic)

d. Names of professional designations which, in the judgment of the board, are false, misleading, or deceptive, imply superiority, or are similar to the name of an inferred affiliation with a commercial or mercantile establishment will be prohibited .

e. Those board approved professional designations on file with the board at the time of the approval of these changes shall automatically be included on the board list until the registering optometrist discontinues use of the professional designation, retires or ceases to practice.

3. No licensed optometrist may, at any time, register to practice optometry under more than one professional designation. If an optometrist chooses to change or discontinue use of their professional designation, they shall notify the board, in writing, within 30 days of so doing. The optometrist may then apply for a new professional designation. The board will post a notice of the discontinuation of the old professional designation, on its web site and show a link between the old and any new professional designation approved by the board.

4. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the word "optometry", optometric, optometrist, doctors of optometry, or a 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.~~ The designation "O.D." may only be used in conjunction with a licensee's name.

5. In the entrance, or reception area, or examination room of the optometric office, a chart or a directory listing the names of all optometrists practicing at that particular location and a copy of their license(s) 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."