

**BOARD OF OPTOMETRY
BOARD MEETING
MAY 11, 2011
DEPARTMENT OF HEALTH PROFESSIONS
HENRICO, VIRGINIA**

TIME AND PLACE: The Board of Optometry (Board) meeting was called to order at 10:30 a.m. at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Room 2, Henrico, Virginia.

PRESIDING OFFICER: Gregory P. Jellenek, O.D., Chair

MEMBERS PRESENT: Jonathan R. Noble, O.D.
W. Ernest Schlabach, Jr., O.D.
Angela Tsai, O.D.
M. E. Jackson, O.D.
Carole Stadfield, Citizen Member

MEMBERS NOT PRESENT: All members were present.

STAFF PRESENT: Neal Kauder, VisualResearch, Inc.
Cal Whitehead, Virginia Society of Eye Physicians and Surgeons (VSEPS)
Ralston King, VSEPS
Edward Mullen, National Association of Optometrists and Opticians
Bruce Keeney, Virginia Optometric Association (VOA)

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

ORDERING OF AGENDA Dr. Jellenek requested that the order of the agenda be revised to include the following items, “Board Reports” as an item in the Executive Director’s Report, and “Appointment of Dr. Schlabach as voting delegate at the upcoming Association of Regulatory Boards of Optometry (ARBO) Meeting” as an item under New Business. Dr. Noble moved to approve the order of the agenda with the addition of these items. The motion was seconded and carried.

PUBLIC COMMENT: No public comment was presented.

APPROVAL OF MINUTES: Dr. Tsai moved to approve the minutes of the January 24, 2011, Full Board meeting. The motion was seconded and carried.

DIRECTOR’S REPORT: The report was deferred until the arrival of Dr. Reynolds-Cane.

LEGISLATIVE/REGULATORY UPDATE: Ms. Yeatts reported that there were no regulations in progress at this time. She informed the Board that the 2011 General

Assembly session had ended and development of legislation for 2012 was underway. Ms. Yeatts recommended that the Board identify 2012 legislative recommendations as the proposals must be completed by August 2011.

DISCUSSION ITEMS:

Current Procedural Terminology (CPT) Codes

At the Board meeting held January 24, 2011, the Board requested that the review and discussion of CPT codes be placed on the agenda for the next meeting in conjunction with the release of the 2011 CPT code publication containing descriptive language. As requested, Dr. Noble provided the 2011 CPT code publication for reference. Upon review of the publication's descriptive language, the following motions were made:

Dr. Noble moved to add CPT Codes 92132-92134 and delete 92135. The motion was seconded and carried.

Dr. Schlabach moved to add CPT Codes 92227 and 92228. The motion was seconded and carried.

Dr. Tsai moved to add CPT Code 96372. The motion was seconded and carried. Dr. Tsai moved to withdraw her motion upon additional review and concerns raised regarding its descriptive language; the motion was seconded and carried.

DIRECTOR'S REPORT:

Dr. Reynolds-Cane, Director, presented an overview of the agency's accomplishments and activities over the past year. Specifically, she noted the passage of all five DHP legislative proposals, continuance of the Health Practitioners' Monitoring Program with Virginia Commonwealth University, participation in two successful National Drug Take Back Day events, completion of the agency wide strategic plan and collaboration of the Health Care Workforce Data Center (HWDC) and the Virginia Department of Health in obtaining federal funding for the advancement of healthcare workforce research. Additionally, Dr. Reynolds-Cane provided an update on the completion of the DHP HWDC nurse study and the strides being made by DHP to disseminate information to the public via media presentations and briefings. Dr. Reynolds-Cane reported that she currently is serving as a Senior Advisor on the Virginia Health Reform Initiative Advisory Council as well as a member of the Lyme Disease Taskforce and Homeless Initiative.

DISCUSSION ITEMS CONTINUED:

Sanctioning Reference Points (SRP) Predefined Sanctions

- **Continuing Education (CE) Audit Update**

Ms. Stamey provided the Board with the results of the 2010 CE Audit and gave an overview of issues that occurred during the audit. The audit results and issues that she provided were as follows:

- 116 licensees audited of which 104 were notified

- electronically;
- 8% resulted in non-compliance;
- 36 licensees had complete CE recorded in OE Tracker;
- 43 licensees had partial CE recorded in OE Tracker;
- 14 licensees did not participate in OE Tracker;
- 28 licensees were registered with OE Tracker; however, no CE data;
- non-compliance issues were the result of licensees obtaining unacceptable courses or unapproved sponsors; and
- CE certificates were missing vital information.

CE Audit Sanction Guidance Document

Ms. Knachel informed the Board of the need to remove the CE sanctioning guidelines from the SRP worksheet to improve efficiency for making adjustments to the guidelines and to reduce costs associated with updating and reconstructing the manuals. She reported that the proposed CE audit guidance document was drafted based on a review of sanction guidance documents from other boards within the agency.

Upon review and amendments made to the draft guidance document, Dr. Noble moved to adopt the guidance document as revised. The motion failed and the Board requested that Ms. Knachel provide a second revised draft of the guidance document via email to the board members to ensure that all changes had been made and to incorporate draft # 2 into the agenda packets for the next full board meeting.

Confidentiality

Howard Casway reviewed confidentiality, records retention and Freedom of Information statutes that are applicable to board members. He offered clarification on the statutes and addressed other questions from the board members and staff.

Bylaws

Ms. Knachel informed the Board of the need to eliminate specific language from the Bylaws that was unrelated to the activities of the Board. The following amendments were recommended:

Article III. Subsection A.3 – Delete the last sentence stating, “The Board delegates the approval of optometry continuing education programs to the committee.”

Article IV. Subsection B. – Add to the end of the first sentence, “unless specified in the Board order.” Delete the last sentence stating, “The Credentials Committee shall consider the reinstatement application if the lapse is more than one year.”

Article IV. Subsection G. – Delete the entire subsection and reorder *Subsections H. & I.* to *G. & H.*

Following a discussion of the proposed amendments, Dr. Noble moved to adopt the amended Bylaws. The motion was seconded and carried.

Probable Cause (PC) Review Process

Ms. Knachel presented to the Board that they may want to consider having one board member review cases, with the option of review by a second board member if necessary. She explained that conducting the PC review process in this manner would be less costly and consistent with processes used by other regulatory boards within the agency. The Board requested that the matter be placed on the next board meeting agenda for further discussion.

REGULATORY/LEGISLATIVE REVIEW COMMITTEE REPORT:

Dr. Noble informed the Board that the Regulatory/Legislative Review Committee (RLRC) had met and reviewed proposed guidance documents regarding vision screenings and advertising of credentials/certification. He presented the amended draft guidance document regarding free vision screenings and upon review by the Board, Dr. Jackson moved to adopt the Vision Screening draft guidance document as amended. The motion was seconded and carried.

Dr. Noble reported that the RLRC had reviewed the proposed Advertising Guidance Document and a draft presented by Dr. Jackson. He further reported that the RLRC had requested for the next board meeting that staff collect advertising language of other boards within the agency and combine the drafts proposed by staff and Dr. Jackson for easy comparison between the two documents.

PRESIDENT'S REPORT:

Dr. Jellenek noted the appointment of a new Dean to the School of Optometry in Grundy, Virginia.

EXECUTIVE DIRECTOR'S REPORT:

Statistics

Ms. Knachel provided statistical information on licensure and disciplinary cases.

Health Practitioner Monitoring Program (HPMP) Statistical Follow-Up

As requested at a previous full board meeting, Ms. Knachel provided a follow-up report that two licensed optometrists participated in HPMP in the last 10 years. One participant entered in 2007 and one in 2008. Both participants have been fully compliant with the program and have returned to practice.

Newsletter

Ms. Knachel requested newsletter articles from the Board and

explained that article delegations could be made at the July full board meeting. She noted that it would be better to publish the newsletter in October in advance of the licensure renewal period.

Budget Line Item Request for Information

As requested by the Board at the previous full board meeting, Ms. Knachel provided a report regarding specific budget line items and an overview of the revenues and expenditures.

Paperless License

Ms. Knachel informed the Board that the agency is considering the one-time issuance of a license permit in an effort to improve agency efficiency, reduce costs and curtail mailed licenses falling into unintended hands. She requested the Board's input regarding how the issuance of a one-time licensure permit may affect them. The response of the board members was that it did not appear to be a concern. The Board did inquire as to whether a licensure permit could be renewed and printed by the licensee as an option. She reported that this option is under review by the agency.

ARBO, The Greensheet – Council on Optometric Practitioner Education (COPE) CE Reviewer

Ms. Knachel directed the Board to ARBO's newsletter article regarding the encouragement of all regulatory board members to become COPE reviewers. The Board did not provide any comment regarding the issue.

Dr. Schlabach informed the Board that Ms. Knachel would be giving a presentation via teleconference at the ARBO meeting scheduled to be held in Salt Lake City, Utah.

Estimated Cost to Complete Minutes on Town Hall

At the previous board meeting, the Board requested that Ms. Knachel research the cost associated with obtaining and posting minutes on the Virginia Regulatory Town Hall (Town Hall) website that were incomplete or missing attachments. The Town Hall website began posting minutes in 2000 at a time when scanning technology was not readily available. Ms. Stamey contacted the Library of Virginia to determine the associated costs and reported that the number of missing pages totaled 162 at a cost of \$41.50. It was the consensus of the Board to go forward with obtaining the missing documents for scanning to the Town Hall website.

Board Reports

Ms. Knachel informed the Board that she was available to prepare reports for Board members who are requested to speak at optometric association meetings. The Board reports typically include topics such as board statistics, regulatory changes, fees, CE audit information, responses to contemporary issues and

questions and continued competence.

Ms. Knachel also reported that she had received a request from ARBO to submit a board report that included statistics and the Board's position on the issues of "board certification" and "continued competence". Ms. Knachel reviewed the information that would be submitted to ARBO. Dr. Schlabach requested a copy of the report since he would be attending the ARBO meeting.

NEW BUSINESS:

Dr. Noble moved to designate Dr. Schlabach as a voting delegate at the upcoming ARBO annual meeting if permissible because he is a member of the ARBO Executive Committee. The motion was seconded and carried.

Dr. Noble informed the Board, on behalf of the Board of Health Professions, that regulation of genetic counselors had been recommended; however, it could be limited to title protection or certification.

Dr. Schlabach thanked Mr. Casway for filling in as Counsel for the Board of Optometry.

ADJOURNMENT:

The board concluded its meeting at 2:28 p.m.

Gregory P. Jellenek, O.D.
Chair

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