

**BOARD OF OPTOMETRY  
BOARD MEETING  
MAY 5, 2010**

**TIME AND PLACE:** The Board of Optometry (Board) meeting was called to order at 11:03 a.m. on Wednesday, May 5, 2010, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Room 3, Henrico, Virginia.

**PRESIDING OFFICER:** David H. Hettler, O.D., President

**MEMBERS PRESENT:** Gregory P. Jellenek, O.D.  
W. Ernest Schlabach, O.D.  
Jacquelyn S. Thomas, Citizen Member  
Angela Tsai, O.D.

**MEMBERS NOT PRESENT:** Jonathan R. Noble, O.D.

**STAFF PRESENT:** Leslie L. Knachel, Executive Director for the Board  
Eric A. Gregory, Assistant Attorney General, Board Counsel  
Dianne Reynolds-Cane, Director  
Arne Owens, Chief Deputy Director  
Elaine Yeatts, Senior Regulatory Analyst  
Carol Stamey, Operations Manager

**OTHERS PRESENT:** Cal Whitehead, Virginia Society of Eye Physicians and Surgeons (VSEPS)  
Raeston King, Ophthalmology  
Neal Kauder, VisualResearch, Inc.  
Kim Langston, VisualResearch, Inc.

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

**PUBLIC COMMENT:** No public comment was presented.

**AGENDA:** The agenda was revised to include a Director's report and a briefing from VisualResearch and discussion of Pre-Hearing Consent Orders (PHCO), per diem and a closed session.

**APPROVAL OF MINUTES:** Dr. Jellenek moved to approve the minutes of the January 26, 2010, and December 8, 2009, full Board meetings and the CPT Code Committee meeting of October 29, 2009. The motion was seconded and carried.

the issue is already addressed in the current statutes. The motion was seconded and carried.

#### **Approval of By-Laws**

Ms. Knachel informed the Board that the By-Laws were revised to include the Committees' job descriptions and to correct the number formatting.

Dr. Hettler requested that the committee membership include two or more board members. Dr. Schlabach moved to accept all amendments as presented. The motion was seconded and carried.

#### **Annual ARBO Meeting Attendance**

Dr. Hettler appointed Dr. Noble as the voting delegate to attend the ARBO meeting in June. Additionally, he reported that Ms. Knachel and Dr. Schlabach are attending the meeting.

Dr. Hettler reported that he would be attending the VOA's meeting in June and would be presenting a report of the Board's activities.

#### **Informal Conference Board Member Assignment**

Ms. Knachel addressed the Board regarding board member disciplinary case assignment (probable cause determination). As a time and cost savings measure, Ms. Knachel informed the Board that two members of the Board could be assigned cases to hear on a particular date even though the cases may have been reviewed by other board members who determined probable cause.

It was the consensus of the Board that Ms. Knachel develop a procedure guidance document for the Board's review.

#### **CPT Code Request from Dr. Rinearson**

Dr. Rinearson requested that the following non-invasive CPT codes be approved: 67840, 67850, 17000, 17003, 17004, 17110 and 17111. Dr. Jellenek moved to approve the CPT codes as requested in Dr. Rinearson's letter dated April 20, 2010. The motion was seconded and carried.

#### **Pre-Hearing Consent Orders**

Ms. Knachel addressed the Board regarding delegation of authority to the executive director to negotiate PHCO's and

Consent Orders with the chair of the Special Conference Committee or Chair in the matter of a formal hearing. Dr. Schlabach moved to table the matter for one year. The motion was seconded and carried.

**Per Diem**

Dr. Schlabach voiced his concern over the loss of per diem. Further, he noted that board members should receive the same compensation for per diem as the General Assembly.

**CLOSED SESSION:**

Dr. Tsai moved that the Board convene a closed meeting pursuant to § 2.2-3711.A(28) of the Code of Virginia for consultation with legal counsel. Additionally, Dr. Tsai moved that the Director, Dr. Reynolds-Cane, Mr. Arne Owens, Ms. Knachel, Mr. Gregory, Ms. Stamey, Mr. Jim Banning, Ms. Faye Lemon, Mr. Peter Opper, and Mr. Sammy Johnson attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

**OPEN SESSION:**

It was discovered that an incorrect motion had been made for the closed session. Thus, Dr. Schlabach moved to withdraw the motion for closed session. The motion was seconded and carried. Dr. Tsai moved to reconsider the motion. The motion was seconded and carried.

Dr. Tsai 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.

**CLOSED SESSION:**

Dr. Tsai 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. Additionally, Dr. Tsai moved that Mr. Arne Owens, Ms. Knachel, Mr. Gregory, Ms. Yeatts, Ms. Stamey, Mr. Jim Banning, Ms. Faye Lemon, Mr. Peter Opper, Mr. Sammy Johnson and Ms. Wanda Jackson 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. Tsai 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.

**COMMITTEE REPORTS:**

**Professional Designation Committee (PDC)**

Dr. Schlabach reported that the PDC had met and voted to go forward with a statutory proposal similar to the Board of Dentistry's trade name statute. Additionally, the PDC proposed an additional committee meeting in early June.

**PRESIDENT'S REPORT:**

**Virginia Optometric Association (VOA) Letter Regarding Revised Regulations**

Dr. Hettler addressed the Board regarding the VOA's response to the Board's notification of newly effective regulations that was e-mailed to all licensees on March 17, 2010. Ms. Thomas moved that the Board understands the VOA's concerns, to send out Board notifications in a more timely manner as short newflashes and it encouraged open lines of communication.

**EXECUTIVE DIRECTOR'S REPORT:**

**Statistics**

Ms. Knachel presented a statistical analysis of the optometry licensees and disciplinary cases as follows:

licensees

204 (non-TPA)

215 (PD)

1284 (TPA)

1703 Total

open cases

18 in investigation

6 at probable cause

6 at APD

1 pending closure

31 Total

**Budget**

Ms. Knachel reported that the current cash balance on hand was \$283,134 and that the 2013 projected cash shortfall was being addressed in a NOIRA.

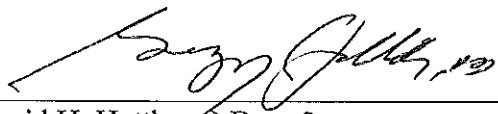
**NEW BUSINESS:**

Dr. Schlabach thanked Dr. Hettler for his service,

commitment and accomplishments during his tenure with the Board.

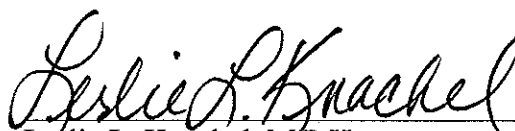
**ADJOURNMENT:**

The board concluded its meeting at 1:30 p.m.



David H. Hettler, O.D.  
President

GREGORY P. FOLEY, O.D.



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