BOARD OF OPTOMETRY
PROFESSIONAL DESIGNATION COMMITTEE
JANUARY 26, 2010

TIME AND PLACE: The Board of Optometry's (Board) Professional Designation Committee (PDC) meeting was called to order at 9:08 a.m. at the Department of Health Professions, 9960 Mayland Drive, 2nd Floor, Training Room 2, Henrico, Virginia.

CHAIRMAN: W. Ernest Schlabach, Jr., O.D., Chair

MEMBERS PRESENT:
Jonathan R. Noble, O.D.
David H. Hettler, O.D., Ex-officio

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:
Thomas R. Cheezum, O.D., American Optometric Society
Betty Graumlich, National Association of Optometrists and Opticians

PUBLIC COMMENT: Thomas R. Cheezum, O.D., representing the Virginia Optometric Association (VOA), expressed concerns regarding the proposed elimination of the professional designation regulations. Dr. Cheezum provided written comment which is incorporated into the minutes as Attachment 1.

APPROVAL OF MINUTES: Dr. Noble moved to approve the minutes of the August 27, 2009, PDC meeting. The motion was seconded and carried.

DISCUSSION ITEMS:

Draft Regulatory Language Relative to Professional Designations

Dr. Schlabach requested that Mr. Gregory research the issues listed below and present his findings at the next meeting of the PDC.

1) Regulations in and lawsuits against Pennsylvania pertaining to professional designation titles.

2) Research what other states are doing with regard to professional designations.

3) Provide a written opinion regarding the difference between commercial and free speech.

4) Research the definition of "false or misleading."

Dr. Schlabach also requested that Board staff research the costs associated with conducting investigations related to professional designation complaints.

Dr. Noble moved that he and Dr. Schlabach further review the proposed regulations and independently draft recommendations for presentation at the next scheduled meeting of the professional designation committee.

Professional Designation Titles Currently Being Used
The professional designation committee reviewed the current listing of registered titles. It was determined that the current format of the computer generated report did not include the entire professional designation as registered. Ms. Stamey was requested to provide a reformatted listing that contains the complete names as registered as well as the name of the registering optometrist.

NEW BUSINESS: No new business was presented.

ADJOURNMENT: The meeting adjourned at 9:55 a.m.

W. Ernest Schlabach, O.D., Chair

Leslie L. Knachel, Executive Director

Attachment 1

Recommendations for Changes to Section 18VAC105-20-50 of the Regulations Pertaining to the Practice of Optometry in the Commonwealth of Virginia

Section A – No changes to current language

Section B – As follows:

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 a licensed optometrist who has an ownership or equity interest in the optometric practice and who must practice in any location with 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. *The list of approved professional designations shall be available to the public on the board's web site and shall include the name (s) of the optometrist(s) who has/have registered the professional designation with the board.*

a. All professional designations must include the name of the optometrist registering the professional designation with the board. (Example: Richmond Eye Center of Dr. Sally Jones, O.D.).

b. No optometrist may use a professional designation which is the same or similar to that of another professional designation on the board's list.

c. No professional designation shall be permitted to be registered which infers the optometric practice is affiliated with a person, corporation, or entity not legally allowed to practice optometry. (Example: XYX Corporation Vision Clinic)

d. Names which, in the judgment of the board, are false, misleading, or deceptive 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.

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 must notify the board, in writing, within 30 days of doing so. The board shall then list the new professional designation, or discontinuation of its use, on its web site with a notation of the previous name included.*

Sections 4 through 8 are unchanged

Reasoning Behind Recommended Changes to 18VAC105-20-50

1. Board staff is finding it difficult to monitor use of professional designations by optometrists in terms of payment for initial registration and application fees and annual renewal fees.

2. Several disciplinary cases brought before the board are for nonpayment of renewal fees or failure to properly apply for the authority to use a professional designation. This puts an undue burden on investigative and administrative staff of the board and its limited financial resources.

How the Proposed Changes Resolve These Reasons for Changes and Allow the Board to Fulfill Its Obligation to the Citizens of the Commonwealth

1. The chief responsibility of the board of optometry is to protect the health and welfare of the citizens of the Commonwealth. Since the board office will have on file the name of the optometrist or optometrists associated with a specific professional designation, if a citizen files a claim for improper care and only knows the professional designation name for the office they were seen in, the proposed changes will allow the board staff to associate that name with the specific optometrist (s) affiliated with that office and pursue any disciplinary action against the proper optometrist..

2. The proposed changes will reduce the current cost and burden of the present regulations by significantly reducing the number of disciplinary actions, and their resultant costs to the board.

3. By allowing an optometrist to only have one professional designation at a time, you reduce the chance of an unscrupulous or unqualified optometrist hiding behind multiple professional designations or names which is a very significant problem currently in other industries in the state such as licensed contractors.

4. The only financial impact of these changes is the loss of initial application and renewal fees. However, the decreased number of disciplinary cases filed for non payment of these fees and the resulting decrease in cost of board investigative and administrative staff time will more than offset that loss of board revenue.