

Tennessee Board of Dispensing Opticians



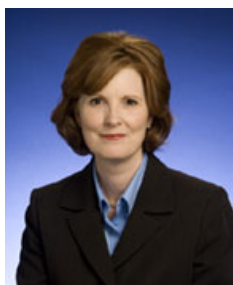
Newsletter

Summer 2007

A regulatory agency of the State of Tennessee

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227 French Landing, Suite 300, Heritage Place Metro Center, Nashville, TN 37243 • <http://health.state.tn.us> (615) 532-5127 or 1-800-778-4123
Office Hours: Monday – Friday 8:00 a.m. to 4:30 p.m. Central Time (except State and Federal holidays) Fax: (615) 532-5369



**SUSAN R. COOPER, M.S.N.,
R.N.
COMMISSIONER
TENNESSEE
DEPARTMENT OF HEALTH**

Susan R. Cooper, M.S.N., R.N. made Tennessee history on January 20, 2007 when she became the first nurse to serve as Commissioner of the Tennessee Department of Health. Commissioner Cooper is a master's prepared registered nurse. She earned both her bachelor and master of nursing degrees from Vanderbilt University School of Nursing.

Cooper was raised in Tennessee, and considers it a great honor to have been asked by Governor Phil Bredesen to serve as Commissioner of Health. Her priorities are to protect, promote and improve the health of all Tennesseans. She considers this the most important work she will face in her career.

"Now is the time that I can perhaps influence the citizens of this state in a positive manner," said Cooper. "I hope to leave a footprint on the health status of this state."

Cooper first came to the state level in 2005, as a special policy and health advisor to the Governor. She was charged with developing Tennessee's Health Care Safety Net program for citizens facing dis-enrollment from TennCare.

Cooper later assumed leadership of Project Diabetes, a program the Governor created to address the threat of Type 2 diabetes facing young people in

Tennessee. In addition, she helped facilitate the creation of the Governor's GetFitTN initiative. The statewide public awareness program is aimed at addressing the rising epidemic of Type 2 diabetes and risk factors that lead to diabetes, like obesity. The program involves educating adults and children how they can make modest lifestyle changes to delay or prevent the onset of Type 2 diabetes.

Before joining state government, Cooper was a faculty member and Assistant Dean of Practice at Vanderbilt University's School of Nursing, overseeing the nurse-managed clinics and operations led by the School. She also served as co-director of the Health Systems Management program at Vanderbilt University School of Nursing.

Cooper has an extensive background in health policy, health care regulation, and evidence-based practice. She helped create the Center for Advanced Practice Nursing and Allied Health at Vanderbilt University Medical Center, covering the regulatory needs and credentialing for the hundreds of non-physician providers at Vanderbilt.

Cooper was born and raised in West Tennessee. Her father was an ophthalmologist and her mother was a nurse. One of the Commissioner's first jobs as a teenager was in her father's office in West Tennessee, checking in patients, and later performing routine vision checks.

The Commissioner currently resides in Franklin, Tennessee. She enjoys spending time with her three grown children and three grandchildren.

**CHRISTY A. ALLEN
ASSISTANT COMMISSIONER
BUREAU OF HEALTH LICENSURE AND
REGULATION**

On April 10, 2007, Commissioner Cooper appointed Christy A. Allen as the new assistant commissioner for the Tennessee Department of Health's Bureau of Health Licensure and Regulation. In this role, Allen will oversee a staff of approximately 500 in the Divisions of Health Related Board, Health Care Facilities, Emergency Medical Services and Investigations..

Prior to joining the Department of Health, Allen served as a legal services director and Deputy General Counsel with the Department of Commerce and Insurance, where she advised senior department officials on legal, policy and legislative matters. She was supervising attorney for the Division of Regulatory Boards and the Division of Fire Prevention legal section.

Allen received a Doctor of Jurisprudence degree from the George C. Taylor School of Law at the University of Tennessee and a Bachelor of Arts degree from Bryn Mawr College. She has been licensed to practice law in Tennessee since 1993.

**COVER TENNESSEE: HEALTH CARE FOR
TENNESSEE'S UNINSURED**

Governor Phil Bredesen's multi-pronged effort, **Cover Tennessee**, extends health insurance to uninsured individuals in Tennessee through three insurance programs and a pharmacy assistance program.

CoverTN is an affordable and portable health insurance initiative for working Tennesseans who are uninsured. Comprehensive coverage for children is provided through **CoverKids**, and chronically ill adults are eligible for **AccessTN**. **CoverRx** is a statewide pharmacy assistance program designed to assist those who have no pharmacy coverage, but have a critical need for medication.

Cover Tennessee provides health insurance coverage that is affordable to participants and affordable to the state.

More information on all **Cover Tennessee** programs is available at www.CoverTN.gov or by calling **1-866-COVERTN**.

www.covertn.gov

1-866-COVERTN

OVERVIEW OF PROGRAMS

CoverTN

CoverTN is a partnership between the state, small businesses and self-employed individuals to provide coverage for the most needed medical services. CoverTN is a voluntary initiative for uninsured Tennesseans to obtain private insurance. The individual owns the plan, not the state or the company. To promote personal responsibility, premiums are based on weight, tobacco use and age – with an average monthly premium of \$50 for each payer.

CoverTN is affordable. The program features no deductibles and pricing is simple and straight-forward: \$20 co-payment for a doctor's office visit and \$10 for most prescription drugs. There is also coverage for hospitalization and other medical needs.

Enrollment is a two-step process. Once a business is confirmed as eligible, BlueCross BlueShield of Tennessee, the program's insurer, sends out enrollment materials, and individuals have 90 days to make a decision.

CoverKids

CoverKids offers comprehensive health insurance coverage to uninsured children 18 years-old and younger, and maternity coverage for pregnant women with household incomes below 250 percent of the federal poverty level. Families above the income limit, who wish to purchase coverage for their child, can "buy in" to the program by paying monthly premiums. The coverage is similar to the benefits offered to dependents of state employees. BlueCross BlueShield of Tennessee administers the program.

AccessTN

AccessTN provides comprehensive health insurance options to uninsurable Tennesseans. AccessTN, a high-risk pool, was created for persons with one of 55 specified medical conditions, or those who are unable to get insurance in the commercial market because of their health status. BlueCross BlueShield of Tennessee administers the program.

CoverRx

CoverRx is a statewide pharmacy assistance program designed to assist those who have no pharmacy coverage, but have a critical need for medication. CoverRx is not health insurance. It provides up to five prescriptions per month. (Insulin and diabetic supplies will not count against the monthly limit.) Express Scripts administers the program.

BOARD CONSULTANTS

The Tennessee Department of Health is charged with the responsibility of regulating health care professionals to protect the public's health, safety, and welfare. Regulation is accomplished through health related boards which set qualifications for licensure and continued competency, administer examinations, set standards for professional practice, and discipline those found guilty of violations of laws and regulations. The Division of Health Related Boards provides administrative and investigation services for the boards.

The Office of Investigations is responsible for investigating complaints against any licensee. Investigations are usually precipitated when a complaint is received from the public.

The Office of General Counsel represents the department in administrative and disciplinary hearings. The Office of General Counsel does not provide legal advice to licensees or applicants for licensure.

The Board has the authority to select a Board consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:

1. Recommend whether and what type of disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
2. Recommend whether and what terms a complaint, case, or disciplinary action might be settled. Any matter proposed for settlement must be subsequently ratified by the full Board before it will become effective.
3. Undertake any other matter authorized by a majority vote of the Board.

Minimum Qualifications for Board Consultant:

1. Holds a current unrestricted license as a Dispensing Optician in the State of Tennessee;
2. Practiced as a Dispensing Optician within this state for a period of at least five (5) years;
3. Has never had his/her license restricted, sanctioned, revoked, or otherwise disciplined in this state or any other state, jurisdiction, or territory;
4. Has general knowledge of applied practice as detailed in the Tennessee Code Annotated, the rules and regulations of the Tennessee Board of Dispensing Opticians; and
5. Is not currently under disciplinary review which could possibly lead to legal or ethical disciplinary sanction, restriction, or similar action or condition by the Division of Health Related Boards, or other licensure/certification board or professional association in any other state or locality.

How the process will work:

1. A list will be compiled consisting of licensees who meet the criteria and indicate a willingness to be board consultants.

It is the state's intent that this process will preserve the integrity of the process by avoiding the appearance of impropriety and/or conflicts of interest. If a consultant has a personal/professional relationship with the applicant or licensee, the consultant shall recuse himself/herself. The Division will then assign another consultant.

2. When there is a need for a board consultant by either of the above entities, a telephone contact will be made to schedule a date, time, and location for the task to be accomplished. Most tasks will require the individual to travel to Nashville. The division offices are opened between the hours of 8 a.m. – 4:30 p.m. Central Time, Monday-Friday.
3. Once a consultant is placed on the contact list, rejecting a consultation opportunity on three consecutive requests by the department or failure to appear at a scheduled time shall be just cause for removal from the contact list.

Compensation for Services:

When requested to perform board consultant duties by the Division of Health Related Boards, Division of Internal Audit and Investigations, or Office of General Counsel, the individual will be compensated for travel and \$100 per day for services.

If you meet the qualifications listed above and are interested in assisting with this crucial part of licensure and regulation, please submit a current resume which clearly reflects your employment history. Your cover letter should include your license number with expiration date, state that you meet the minimum qualifications indicated above, and unequivocally state that you understand the stipulations specified within this letter. You will also need to provide us with a telephone number where you can be reached during our business hours.

Please send your resume and cover letter to:

**Tennessee Department of Health
Health Related Board
Board of Dispensing Opticians
227 French Landing, Suite 300
Heritage Place, MetroCenter
Nashville, TN 37243**

DISCIPLINARY ACTIONS 2005-2007

Charles Hudson – License No. DPO 860

Unprofessional or dishonorable conduct, being a party to or aiding and abetting the violation of the regulations or the laws regulating the practice of dispensing opticianry. License revoked. Assessed \$52,000 in civil penalties, assessed case costs. Date of Board action: February 10, 2006.

Kevin Miller – License No. DPO 877

Immoral, unprofessional or dishonorable conduct. Practicing beyond the scope of practice of a dispensing optician. License revoked. Assessed \$1,000 in civil penalties, assessed case costs. Date of Board action: October 13, 2005.



RULE AMENDMENTS

The Board has proposed the following amendments to the rules which have been sent to the Attorney General for review:

Rule 0480-1-.01 to be amended to require the supervising licensed dispensing optician, optometrist, or ophthalmologist direct, coordinate, review, inspect, and approve acts or services performed by an apprentice who is training to prepare, fit and dispense ophthalmic materials.

Rule 0480-1-.03 to be amended to allow any person who possesses a valid, current and active license issued by the Board that has not been suspended or revoked the right to use the title "Licensed Dispensing Optician" and to engage in the practice of dispensing opticians.

Rule 0480-1-.07 to be amended to require applicants to apply and/or register for the applicable examinations within six (6) months after being notified of eligibility.

Rule 0480-1-.08 to be amended to require applicants to successfully pass the Tennessee jurisprudence examination with a minimum score of ninety (90).

Rule 0480-1.14 to be amended to require the apprentice to designate, in the application, a supervising dispensing optician, optometrist or ophthalmologist, and an alternate supervisor. The Board administrator shall notify the apprentice when the supervisor, alternate supervisor, training program and training setting have been approved.

Only training that occurs on or after the training program start date shall be counted towards meeting the three (3) year minimum requirement.

Apprenticeship training must be supervised by a dispensing opticians, optometrist, or ophthalmologist who has been license in Tennessee or another state for at least three (3) years and whose license to practice in Tennessee is current, undisciplined, unrestricted and unencumbered. The supervisor shall work at the premises where the apprenticeship training is conducted and supervise in accordance with T.C.A. §63-14-103(a) and (f). A dispensing optician may supervise no more than two apprentices concurrently; the Board will disallow the apprenticeship training of an apprentice whose supervisor is supervising more than two apprentices concurrently.

The semi-annual evaluation report must be received in the Board's administrative office no later than thirty (30) days after the six month training period has ended or the training period shall be disallowed and not considered as time toward fulfilling the five thousand, two hundred and fifty hour requirement.

If two semi-annual evaluation reports are not received by the Board's administrative office within thirty (30) days after the applicable training periods have ended, the Board will rescind its approval of the apprenticeship training program.

The apprentice will not receive credit for the two training periods for which the semi-annual evaluation reports were not submitted or were received by the Board's administrative office later than thirty (30) days after the applicable training period. In order to continue to apprenticeship training program, a new application for an apprenticeship training program must be submitted.

Rule 0480-1-.19 is amended to authorize the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

You may download a copy of the rules at <http://Tennessee.gov/health>, click "licensing," click "Health Professional Boards", click "Board of Dispensing Opticians" and "Rules and Regulations." Other information such as applications, forms, Board meeting minutes and policy statements can be downloaded at the web site.

PUBLIC CHAPTERS

Public Chapter 529

If the Commissioner of Labor and Workforce Development receives a complaint that a person licensed by a state regulatory board knowingly employs, recruits or refers for a fee for employment, an illegal alien, that person is subject to an investigation and contested case hearing.

If there is proof a person knowingly employed, recruited or referred for a fee for employment, an illegal alien, which occurred while acting within the scope of practice of his/her license, the regulatory board will be required to revoke, suspend, or deny the person's license.

For the first violation, the regulatory board will be required to suspend the person's license until the licensee shows the licensee no longer employs, recruits or refers for a fee for employment, an illegal alien. This can be shown by the person filing a sworn statement that the licensee no longer employs illegal aliens.

If a second violation occurs within three (3) years from the first order, the regulatory agency will be required to suspend the person's license for one (1) year.

Public Chapter 83

The General Assembly passed a new law this legislative session that mandates health care practitioners report cases of suspected or confirmed domestic violence to the Tennessee Department of Health.

The mandatory monthly reporting will be by a web-based system developed by the Department's Division of Health Statistics. The system should be operational in October 2007, and the Department will mail you the details of the required data to be reported and instruction on how to use the reporting tool. The Board will also keep you informed as more information is available.

Public Chapter 410

Public Chapter 410 creates the Non-Smoker Protection Act which will prohibit smoking in all enclosed public places within the State of Tennessee including, but not limited to, the following places:

Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public including, but not limited to, banks, Laundromats, factories, professional offices, and retail service establishments; and

Health care facilities. (Nursing homes and long-term care facilities are exempted)

The legislation requires offices and health care facilities to do the following:

- Inform all existing employees and any prospective employees upon their application for employment of the prohibition on smoking; and
- "No Smoking" signs or the international "No Smoking" symbol, shall be clearly and conspicuously posted at every entrance to every public place and place of employment where smoking is prohibited.

The Department of Health shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Act. Information about these inspections will be communicated with the appropriate offices and/or health care facilities in the future.

The complete text of Public Acts, including provisions for any areas of exemption; enforcement of the Acts; and action to be taken for violation of the Acts is available on the following website:

tennessee.gov/sos/acts/index.htm

FILING COMPLAINTS

The state of Tennessee is graced with some of the finest health care professionals, educational institutions, postgraduate programs and treatment facilities in the United States. The majority of health practitioners in Tennessee are competent and caring individuals and most persons are satisfied with the level of care they receive.

However, when a problem is experienced with a practitioner, you have the right to report him/her. If you believe that a practitioner's performance or behavior is not acceptable, you may file a complaint through Health Related Boards, Office of Investigations.

Board Responsibility

The Department of Health has the authority for various licensing Boards, whose responsibilities are to protect the public interest, to discipline licensees. This is accomplished through enforcement of the particular Practice Act of each Board, which examines, licenses, and oversees the practice of the licensees. The licensing boards oversee individual practitioners and in some instances regulate educational programs.

The responsible Board evaluates the credentials and qualifications of each practitioner. After practitioners become licensed, the Board will review any complaint received that may put the professional behavior and/or performance of the practitioner in question. Such complaints may suggest a violation of the Practice Act. Complaints are received from various sources, i.e. the general public, insurance companies, hospitals and other health care facilities, health professionals and the news media. If you feel that a practitioner has failed to live up to his/her professional responsibilities, the Health Related Boards want to hear from you.

While a Board cannot assist with civil or criminal matters and does not represent individuals, the Tennessee Practice Acts allow the licensing boards to act on behalf of the people of Tennessee at large. When a board determines that disciplinary action against a practitioner is necessary, the action focuses on prevention of further problems with the practitioner and the protection of future patients. In essence, a board has the power to control a practitioner's ability to practice in the future in the state of Tennessee, but cannot impute criminal penalties. Any person seeking to recover fees or monetary remedies for injuries should consult a private attorney regarding those matters. The State of Tennessee has no jurisdiction over these types of situations.

How to File a Complaint

While the Department of Health hopes that you will never have to file a complaint against a health care practitioner, doing so is a simple matter. You may contact the Complaint Divisions of the Department of Health at 1-800-852-2187 to request a [complaint form](#). The form must be completed in its entirety. You are also requested to complete and sign a [medical records release form](#). While the form may not always be used, it is helpful to have this form in the event records are needed to determine course of treatment or actions that have been taken with regard to care provided. **All materials received in connection with the complaint will become property of the Department of Health and cannot be returned. Please return the complaint to:**

**Office of Investigations
227 French Landing, Suite 201
Heritage Place Metro Center
Nashville, TN 37243**

Complaint Review Process

Upon receipt of the complaint form, the designated board consultant (who is a practitioner from the particular health profession) and an attorney review the complaint thoroughly to determine whether there has been a violation of the Practice Act.

The board consultant and the attorney examine the details of the complaint. The practitioner may be contacted and relevant records may be studied. The review process may also involve the review of practitioner files, both public and confidential. Through the review process, the consultant and attorney will reach a decision whether to investigate the complaint or not. This process may take several months to complete. This is determined by the complexity of the complaint.

Throughout the process, the practitioner's due process rights are assured. The final decision that is reached by the Board will be based on the findings of an investigation. In some cases, a formal public hearing is held.

You may call the Complaint Division from time to time to inquire about the progress of the complaint. While state law does not allow the staff to give details of an investigation, you may request a general status report. Due to the nature of complaints and complex legal and medical issues that are involved, your patience, cooperation and understanding is appreciated.

Results

When a decision is reached, you will receive a letter from the board consultant. The specific content of such letters varies depending upon the circumstances of the complaint. However, they are generally one of the following types.

1. There was no violation of the Practice Act that would lead to disciplinary action, but the practitioner has been informed of the concerns that lead to the complaint.
2. There was a violation of the Practice Act and a formal disciplinary action was taken, made part of the public record, and reported statewide and to the national data bank.

All complaints received are taken seriously and a thorough and fair evaluation under the law is conducted.

Issues Not Within Board Authority

- Fees and/or billing disputes (amounts charged for services, overcharges, etc.)
- Insurance matters (unless it deals with fraud by a practitioner)

Contact Consumer Affairs at 1-800-342-8385



CONTINUING EDUCATION

The continuing education requirement for 2007 include four (4) continuing education hours in spectacles and two (2) continuing education hours, with a maximum of four (4) hours, in contact lenses to obtain the required eight (8) hours of continuing education annually.

Each licensee must retain proof of attendance and completion of all continuing education requirements for a period of four (4) years from the end of the calendar year in which the continuing education was required.

For new licenses, submitting proof of successful completion of a two (2) year course of study in opticianry in a college level program recognized and approved by the Board, pursuant to rule 0480-1-.04(3)(b) or submitting proof of successful completion of a three (3) year training program, pursuant to rule 0480-1-.04(3)(c) shall be considered proof of sufficient preparatory education to constitute continuing education clock hour credit for the calendar year in which the applicant is approved.

Any licensee may seek approval to receive credit for successfully completing continuing education courses by complying with the provision of part (2)(d) 6., subparts (2)(d) 6. (i) through (vii) and subpart (2)(d)6.(ix).

The Board will accept no more than two (2) hours of the annual requirement of eight (8) hours in Multi-Media formats.

Multi-media courses may include courses utilizing the internet, interactive teleconferencing and interactive videoconferencing.

Any licensee may seek approval to receive credit for successfully completing Multi-media format continuing education courses by submitting the following documentation to the board:

1. A course content description or outline
2. Names of all lecturers/authors
3. Brief resume of all lecturers/authors
4. Number of hours of educational credit requested
5. Copies of materials to be utilized in the course

You must also submit documentation to the Board's satisfaction that the course content has applied for approval in the last twelve (12) months or has received approval from either the American Board of Opticianry or the National Contact Lens Examiners. In the event that the American Board of Opticianry or the National Contact Lens Examiners fails to give approval to the course content, the Board may review the course content and, at its discretion, approve or deny the course.

Approval or denial from the American Board of Opticianry or the National Contact Lens Examiners does not mean that the course content has automatically been approved or denied by the Board.

Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

You may download a copy of the rules at <http://Tennessee.gov/health>, click "licensing," click "Health Professional Boards", click "Board of Dispensing Opticians" and "Rules and Regulations."



2008 Board Meeting Dates

January 15, 2008
9:00 a.m. – Poplar Room

March 26, 2008
9:00 a.m. – Poplar Room

June 17, 2008
9:00 a.m. – Poplar Room

October 15, 2008
9:00 a.m. – Poplar Room

All board meetings will be held at 227 French Landing, Suite 150, Heritage Place, Metro Center, Nashville, TN, unless otherwise noted.



Tennessee Board of Dispensing Opticians
227 French Landing, Suite 300
Heritage Place – MetroCenter
Nashville, TN 37243



**TENNESSEE BOARD OF DISPENSING OPTICIANS
BOARD MEMBERS**

Kelly Godsey, DPO
Chairperson

Kathy Hawkins, DPO
Secretary

Donald L. Wells, DPO
Member

Edward Risby, M.D.
Consumer Member

Kimberly A. Jackson, DPO
Member

Stacey S. Chitwood, DPO
Member

BOARD STAFF

Melody Spitznas
Board Administrator, ASA2

Barbara Maxwell
Administrative Director

Lakita Taylor
Licensing Technician