

# Tennessee Board of Optometry



# Newsletter



2014

A Regulatory Agency of the State of Tennessee

Fall

*THE MISSION OF THE TENNESSEE DEPARTMENT OF HEALTH IS TO PROTECT, PROMOTE AND IMPROVE THE HEALTH AND PROSPERITY OF PEOPLE IN TENNESSEE*

## 2015 Board Meeting Dates



January 15, 2015  
9 a.m., Poplar Room

April 2, 2015  
9 a.m., Poplar Room

July 9, 2015  
9 a.m., Poplar Room

October meeting (date to be decided)

**All board meetings will be held at 665 Mainstream Drive, Nashville TN, unless otherwise noted.**

## Board of Optometry

You may download a copy of the rules, applications and forms, board member list, board meeting schedule, policy statements, and other pertinent information at the board's web site:

<http://health.state.tn.us/Boards/Optometry/index.htm>

## "2-Door Rule Update"

A rulemaking hearing was held on February 26, 2014 to promulgate a rule for the "Prohibition Upon the Practice of Optometry in or in conjunction With Any Retail Store or Other Commercial Establishment Where Merchandise is Display or Offered for Sale." The effective date of the rule is November 16, 2014. The text of the rule is as follows:

*Rule 1045-02-.17 Prohibition Upon the Practice of Optometry In Or In Conjunction With Any Retail Store or Other Commercial Establishment Where Merchandise Is Displayed Or Offered for Sale is created pursuant to the following language:*

- (1) Pursuant to T.C.A. §§ 63-8-113(c)(6) and 63-8-125, a licensed optometrist shall practice in a location that is independently operated and is physically separate from a retailer of ophthalmic materials or other commercial establishment pursuant to the following requirements:
  - (a) After July 1, 2015, there shall be a permanent structural separation between a licensed optometrist's office and any retailer of ophthalmic materials or other commercial establishment;
  - (b) The permanent structural separation, such as a wall, shall not contain a door or any other opening that leads directly to a retailer of ophthalmic materials or other commercial establishment;
  - (c) The licensed optometrist's office

shall have an entrance for patients that opens directly onto a public street, lobby, corridor, or other public thoroughfare; and

- (d) A retailer of ophthalmic materials or other commercial establishment shall not, either directly or indirectly, control or attempt to control the professional judgment or practice of the licensed optometrist.
- (2) A lease between a licensed optometrist and a retailer of ophthalmic materials or other commercial establishment shall not be deemed a violation of T.C.A. §§ 63-8-113(c)(6) and/or 63-8-125 solely on the basis that the rental payments are based, in whole or in part, on the revenue earned by the licensed optometrist from his/her practice.
- (3) Violation of this rule may subject a licensee to disciplinary action pursuant to Rule 1045-02-.10.

Authority: T.C.A. §§ 63-8-113 and 63-8-125

### Professional Privilege Tax

**The Tennessee Department of Revenue no longer sends out paper reminders for payment of the professional privilege tax. All taxes must be paid online. For information please visit the website below. Please see: [Public Chapter 763](#) for more information.**

Tenn. Code Ann. §67-4-1701, et seq., requires the payment of an annual professional privilege (occupation) tax. Failure to pay your professional privilege tax constitutes grounds for suspension of your license to practice in Tennessee. If you fail to pay your professional privilege tax, the Department of Health will file formal charges against you seeking the suspension of your license pursuant to Tenn Code Ann. §67-4-1704 and Tenn Code Ann. §63-9-101, et seq. Avoid the possible suspension of your privilege to practice in Tennessee by remitting your tax to the Department of Revenue in a timely fashion. For more information please go to:

<http://tennessee.gov/revenue/tntaxes/proftax.htm>

**Note: The Board of Optometry does not assess this tax.**

### Retirement of License

If you are not practicing in Tennessee and do not wish to renew your license, it is suggested you retire your license rather than have it fall into failed to renew status. A retirement form may be obtained at our website at:

<http://health.state.tn.us/Downloads/PH-3460.pdf>

If you do not have access to the internet, you may request a retirement form be mailed to you. (See Board address on page 5.)

If your license is in "active" status as of December 31 of any year, no matter if you live in Tennessee or out-of-state, you are required to pay the yearly professional privilege tax.

### Change of Address and/or Name

Must be reported in writing or by e-mail to the board's office within 30 days! Please include the following:

- your name and license number;
- your profession;
- your old address and phone number;
- your new address and phone number, e-mail address, and/or your fax number;
- your signature!
- If your name has changed due to marriage or divorce, you must send a copy of the document that made the change in status.

Keeping the board's administrative staff up to date on your location facilitates the timely notification to you of important information such as your application for licensure renewal and important statutory and rule changes.

A form for the change of address/name can be found at:

<http://health.state.tn.us/Downloads/PH-3619.pdf>

You may fax your change to the board's administrative office at (615) 532-5369 or by mail at: 665 Mainstream Drive, Nashville, TN 37243.

### Continuing Education Requirements

**At the Board meeting held on August 27, 2014, the Board retroactively approved the state requirement for 2 hours of the drug diversion course content went into effect retroactively July 1, 2014 per the governor's initiatives on controlled substance abuse in TN.**

Optometrists can take the approved one hr lecture twice for the remainder of this (2014) year to satisfy the requirement if they need the 2 hours. The board addressed that the meeting held August 27, 2014.

The Board is working on a course to satisfy the new 2 hour requirement.

As a prerequisite to maintaining licensure, an Optometrist must complete thirty (30) hours of Board approved continuing education during the two (2) calendar years (January 1 -December 31) that precede the licensure renewal year.

For those who are therapeutically certified, a minimum of twenty (20) of the thirty (30) hours of continuing education is required in courses pertaining to ocular disease and related systemic disease, as described in subparagraph (2)(c). At least one (1) of these twenty (20) hours shall be a course designed specifically to address prescribing practices.

For those therapeutically certified optometrists who have received approval to use pharmaceutical agents by injection pursuant to subparagraph 1045-02-.07(3)(d), current certification in cardiopulmonary resuscitation (CPR) is required.

Except for grand clinical rounds and courses provided by the Tennessee Academy of Optometry, and except for the one (1) hour course designed specifically to address prescribing practices, all continuing education courses shall be approved by the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education (COPE).

## **Lapsed License**

The Tennessee Board of Optometry recognizes that a licensee may unintentionally allow his or her license to expire. State statute prohibits a licensee from working as an Optometrist unless he or she has an active license. Thus, the Board has adopted the following procedures for reinstatement of an expired license:

1. Upon recognition that his or her license has expired, the licensee must stop practicing immediately and contact the Board's administrative office and request a reinstatement application.
2. The licensee must complete the reinstatement in its entirety along with a detailed work history from the date the license expired. The application must be signed, notarized, and returned to the Board's administrative office along with the applicable fee and proof of documentation of continuing education requirements taken within the previous twelve (12) months.
3. Once the completed reinstatement application and all required documentation is received, the board administrator may immediately reinstate the license only if the license has been in an expired status for a period of three (3) months or less.
4. If the reinstatement application received indicates in the work history that the individual has worked more than three (3) months on an expired license, the license will not be issued until the licensee has paid a penalty in the amount of \$100.00 for each month worked in excess

of the three (3) months from the expiration date of the license.

The assessment of a civil penalty is considered formal discipline that is reportable on the Tennessee Department of Health's website.

**Discipline for lapsed licenses will now be reportable to the national databanks as well as the Department's Disciplinary Action report.**

## **Renew Your License Online**

Practitioners may access the online service at Tennessee.gov/health to renew their licenses up to 120 days prior to the expiration date.

Click the "Licensing Renewal" link where you can renew your license and update your professional license information. Licensees are responsible for renewing their licenses on time and keeping the Board apprised of current information. It is a violation of the law and of the Board's rules to practice on an expired license.

-Step 1: Login - Select our board and your profession and enter your license number.

-Step 2: Update your Information - Change your home and/or office address.

-Step 3: Enter your renewal information - Answer all necessary questions, as if you were completing your hard-copy form.

-Step 4: Payment - Enter your credit card information through the secure site and choose "submit".

If you have met all of the criteria necessary, your renewal certificate will be mailed to you in approximately one week. Updated license information will be available on the department's web site within two business days

## **Legislative Updates**

### **Board of Optometry Legislative Update - 2014**

#### **Public Chapter 638**

This act allows optometrists to use local anesthetics in conjunction with the primary care of an eyelid lesion. It requires optometrists to follow board promulgated rules governing the care of eyelid lesions and they must be CPR certified and show proof of certification to the board in order to use such anesthesia. It further prohibits reconstructive surgery from being performed.

#### **Public Chapter 949**

This act allows for initial licensure applications to be accepted online. Currently, renewing licenses is already available online. This also makes available to the public annual inspections of health care facilities and pharmacies, similar to how nursing home inspections are already available.

### **Public Chapter 622**

Current law requires that, prior to writing a script for an opiate or benzodiazepine; a practitioner must check the database for their patient. This act allows that patient's profile to be placed in their medical record, which is subject to HIPAA. This further allows the Department of Health to make available upon request aggregate, de-identified data from the CSMD.

### **Public Chapter 623**

Naloxone is an opioid antagonist designed to stop the effects of an opiate related overdose. This act allows a licensed healthcare practitioner to prescribe naloxone to a person at risk of having an opiate related overdose, or a family member or friend of the at-risk individual. It further requires training in administration of naloxone prior to the drug being prescribed. Civil immunity is provided for both the prescribing practitioner and the individual administering naloxone.

### **Public Chapter 763**

This act revises delinquent privilege tax provisions that would require the Department of Revenue to notify the licensee that failure to cure the delinquency or deficiency prior to their licensure renewal date can result in renewal abeyance. For purposes of the bill, "cure" means payment in full, entering into an agreed payment plan, or abatement of tax liability. Licensing boards will be provided monthly with list of licensees who are delinquent 90 days or more and boards may not process licensure renewal.

### **Public Chapter 906**

This is the Methamphetamine Production Reduction Act. The law caps the sale/purchase of ephedrine or pseudoephedrine products at 5.76 g/month or 28.8 g/year, per person requiring prescription. The caps shall not apply with respect to a valid prescription from a practitioner authorized to prescribe. No person under the age of 18 may purchase the products except pursuant to a valid prescription from a practitioner or from a pharmacist generated prescription.

### **Public Chapter 983**

This is a pain clinic revision act that requires all healthcare practitioners to notify their appropriate licensing board within 10 days of starting or ending employment at a pain clinic. It prevents health care prescribers from dispensing an opioid or benzodiazepine except under certain conditions. Requires all opioids and benzodiazepine's not falling under the exemptions to be returned to a reverse distributor or to local law enforcement by Jan. 11, 2015. The act requires pharmacy wholesalers to notify the Board of Pharmacy and other prescribing boards when suspicious orders (unusual size, deviations from normal pattern, and unusual frequency) are discovered. Wholesalers must report a theft or significant loss of controlled substances to the Controlled Substance Monitoring Committee and local law enforcement within one business day of discovery.

### **Public Chapter 820**

This act allows for prosecution, up to a class A misdemeanor, of a woman who gives birth to a child with neonatal abstinence syndrome, if the mother was illegally using narcotics. It is an affirmative defense for the mother if she was enrolled in a recovery program prior to the birth and successfully completes the program. (link to FAQ's for PC 820 – coming soon)

### **Public Chapter 700**

The act defines chronic non-malignant pain treatment as "prescribing or dispensing opioids, benzodiazepines, barbiturates or carisoprodol for ninety (90) days or more in a twelve (12) month period for pain unrelated to cancer or palliative care." A pain clinic has been redefined in statute.

### **Public Chapter 675**

The act allows telehealth providers to contract with insurance companies to have their services covered in offered plans. Insurance providers cannot deny payment solely because the encounter was not in person.

### **Public Chapter 575**

This act extends civil immunity to health care providers providing services at clinics that charge patients based on a sliding scale to health care providers offering services at a clinic that does not charge a patient for services.

### **Public Chapter 651**

The act allows Quality Improvement Committees (QIC's) to share information with their counterparts and keeps this information confidential, privileged and protected from subpoena, discovery or trial evidence. It removes liability surrounding those who give information to QIC's and removes liability solely on actions taken by the QIC.

### **Public Chapter 1011**

The act requires submissions to the Controlled Substance Monitoring Database be made at the close of each business day for all controlled substances dispensed the prior business day. The act does provide good faith effort exemption and gives the Board of Pharmacy the ability to make rules implementing this exemption.

### **Public Chapter 791**

This act creates a pilot program where three drug courts will have the ability to retrieve data from the controlled substance monitoring database. The pilot programs will be in rural, semi-urban, and urban counties and the retrieval process will mirror the current manner in which law enforcement is able to access data. The drug courts must show a need for the data, as their retrieval ability is very limited in scope.

**To Contact This Board Call:  
(615) 532-5080 local or (800) 778-4123 nationwide or write to:**

**Tennessee Board of Optometry  
665 Mainstream Drive  
Nashville, TN 37243**

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## **TENNESSEE BOARD OF OPTOMETRY**

### **BOARD MEMBERS**

J. Scott Gentry, O.D.

David Talley, O.D.

Dennis Matthews, O.D.

Richard Orgain, O.D.

Jeff Foster, O.D.

Kimberly Button

### **BOARD STAFF**

Yvette Hernandez  
Board Administrator

LaRinda Pratt  
Licensing Technician

Theodora (Teddy) Wilkins  
Administrative Director