

TENNESSEE BOARD OF DISPENSING OPTICIANS MEETING MINUTES

DATE: July 27, 2022
TIME: 9:00 A.M. CST
LOCATION: Health Related Boards
Iris Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Jonathan Winnegrad, DPO
William DeCrow, DPO
Herman Bowman, DPO
Brandy Miller, DPO

BOARD MEMBER(S)

ABSENT: LeRhonda Walton-Hill, DPO
Consumer Member - Vacant

STAFF PRESENT: Kimberly Wallace, Regulatory Board Administrative Director
Maria Johnston, Board Administrator
Eric Winters, Senior Associate General Counsel

Call to Order

Mr. Winnegrad called the meeting to order at 9:03 AM CST. A roll call was conducted, and a quorum was present. Administrative and legal staff were introduced.

Public Comment

Ms. Wallace made it known that that Public Comments would be heard in this meeting and directed interested individuals to sign-in on the register provided by the front door and the individual would be called upon at the appropriate time in the meeting. As a reminder, Public Comments can also be submitted in writing and sent by mail to the TN Board of Dispensing Opticians, 665 Mainstream Drive, Nashville, TN, 37243 or submitted via email to Unit3hrb.health@tn.gov.

Discuss and Consider Approval of Meeting Minutes

Minutes from the April 2, 2022, Board Meeting

Upon review of the April 2, 2022, Board Meeting Minutes, Mr. Bowman made a motion with a second by Mr. DeCrow, to approve the Minutes as written. There was no discussion on the motion. The motion passed unanimously.

Receive Reports and /or Requests from the Office of Investigations

Roger Knowlton, Intake Coordinator, provided the Complaints Report to the Board.

PERIOD: 2022 COMPLAINTS

New Complaints	Number of Complaints
Unlicensed Practice	2
Lapsed License	2
Total New Complaints	4
Closed BIV, EMS, HCF, AW	2
Complaint Closed	1
Closed Warning Letter	3
Total # Closed Complaints	6

Receive Reports and/or Requests from the Division of Health Licensure and Regulation

There were no finance reports to be reviewed by the Board at this meeting.

Discuss and take action as necessary regarding Legislation

Olivia Spears, Legislative Liaison with the Department of Health was present to review the 2022 annual legislative summary with the Board.

**Office of Legislative Affairs
2022 Legislative Update**

Non-Health Related Legislative Activity of Note

- The legislature addressed legislative and Congressional redistricting.
- The “Truth in Sentencing” Act made mandatory sentences for certain criminal offenses.
- The “Tennessee Investment in Student Achievement (TISA) Act” reformed the school funding approach.

Highlights and Noteworthy Health-Related Legislation

- The Department had two successful legislative initiatives that became law relating to local county health departments and the Controlled Substance Monitoring Database, respectively.
- Healthcare Facilities will move to the Health Services and Development Agency (HSDA)/Health Facility Commission on July 1, 2022
- Healthcare providers can continue to utilize telehealth and receive reimbursement for telehealth services.
- The Board of Pharmacy and the Board of Nursing will now hire and fire the Executive Director of the Board.

- A registry within the Tennessee Commission on Aging and Disability was created to combat the operation of unlicensed facilities.

Pertinent Public Chapters

All Public Chapters are Hyperlinked to the Document on the Secretary of State's Website

Public Chapter 644—SB1823/HB1867—Johnson/Zachary

Re: Covid-19 Vaccine Exemptions. This public chapter requires that an employer grant certain exemptions to requirements of proof/receipt of vaccinations if the request for exemption is either (1) supported by signed/date statement by a licensed physician that the staff member has a condition recognized under generally accepted medical standards as a basis for the medical exemption or (2) the staff member attests in writing (including electronic means) that the staff member has a sincerely held religious believe that prevents the staff member from complying the requirement in accordance with guidance from Medicare and Medicaid services. This public chapter creates a civil penalty of \$10,000 for violation of this statute.

Effective as of March 11, 2022.

Public Chapter 680—SB1909/HB1904—Johnson/Faison

Re Autoclave Requirements. This public chapter exempts autoclaves from the clearance requirements of the Board of Boilers Rules if the autoclave sterilizes reusable medical or dental equipment used by an individual licensed under title 68 or 63, is installed in accordance with the manufacturer's recommendations, contains a boiler, and is regulated by the FDA.

Effective as of March 28, 2022. The Governor did not sign this public chapter.

Public Chapter 756—SB1789/HB2858—Briggs/Kumar

Re Conditions of Participation. This public chapter removes the requirement that a healthcare provider enrolled in Medicare or Medicaid be subject to conditions of participation to be exempt from the definition of "private business" or "governmental entity" for purposes of the Title 14/Covid-19 state laws.

Effective as of March 31, 2022.

Public Chapter 766—SB2453/HB2655—Yager/Hawk

Re Telehealth. This public chapter extends the ability for healthcare providers to receive reimbursement for healthcare services provided during a telehealth encounter. This public chapter also clarifies that a healthcare provider acting within the scope of a valid license is not prohibited from delivering services through telehealth. Lastly, this public chapter adds that the requirement of an in-person encounter between the healthcare services provider, the provider's practice group, or the healthcare system and patient within sixteen months prior to the interactive visit is tolled for the duration of a state of emergency declared by the Governor provided that healthcare services provider or patient, or both, are located in the geographical area covered by the state of emergency.

Effective as of April 1, 2022 and applies to insurance policies or contracts issued, entered into, renewed, or amended on or after that date.

Public Chapter 769—SB568/HB702—Johnson/Lamberth

Re Anatomical Gifts. This public chapter prohibits a healthcare provider, a hospital, an ambulatory surgical treatment center, a home care organization or any other entity responsible for matching anatomical gifts or organ donors to potential recipients from, solely on the basis of whether an individual has received or will receive a Covid-19 vaccine, (1) consider an individual ineligible for transplant or receipt of an anatomical gift, (2) deny medical or other services related to transplantation, (3) refuse to refer an individual to a transplant center or specialist, (4) refuse to place an individual on an organ or tissue waiting list, or (5) place an individual at a position on an organ or tissue waiting list lower than the position the person at which the individual would have been placed if not for the individual's vaccine status.

Effective as of April 8, 2022.

Public Chapter 833—HB1997/SB1936—Cochran/Jackson

Re UAPA. Clarifies that the ALJ shall decide a procedural questions of law. Allows the director of the administrative procedures division of the secretary of state's office to issue subpoenas. Allows electronic participation in hearings, by agreement of the parties. The hearing officer may allow electronic testimony if the absence of the witness would otherwise cause of delay of the hearing. Requires that a final orders be issued within 90 days. Allows that a petition for reconsideration be filed within 15 days of the entry of the final order or initial order.

Effective as of April 19, 2022.

Public Chapter 856—HB2864/SB2889—Rudd/Gardenhire

Re Public Meetings. Permits boards or agencies of state government to have electronic meetings. If an electronic meeting is being held, requires that members of the public be allowed to view and/or listen to the meeting in real time. There must also be a method of members of the public to participate in the meeting electronically, if they would otherwise be permitted to participate in person. Instructions for participate are to be included in the notice of the meeting. An electronic meeting shall be recorded and that recording must be posted on the website of the organization within 3 days. The governing body shall maintain that electronic record of the meeting for at least 3 years.

Effective on July 1, 2022.

Public Chapter 883—SB2285/HB1749—Bell/Ragan

Re UAPA and Judicial Review Standards. Requires that a judge over a contested case not defer to an agency's interpretation of the statue or rule and shall interpret it de novo. Remaining ambiguity shall be resolved against the agency.

Effective as of April 14, 2022.

Public Chapter 896—SB896/HB1960—Bowling/Hulsey

Re Title 14. Eliminates the sunset provisions in Title 14 for the definitions section and for the section that prohibits government entities from mandating vaccinations. Deletes a variety of definitions from the Title.

For the deletion of definitions, effective July 1, 2022 at 12:01 AM. For all other purposes, effective as of April 19, 2022.

Public Chapter 911—HB2309/SB2464—Freeman/Reeves

Re Professional License Requirements. Mandates that a person seeking a professional license have US citizenship or be authorized under federal law to work in the US as verified by the SAVE Program (allows DACA children who are now adults to obtain professional licensure if not otherwise prevented by the license).

Effective July 1, 2022.

Public Chapter 930—HB1871/SB1982—Hulsey/Hensley

Re Covid Vaccinations and Acquired Immunity. Amends Title 14 to mandate that acquired immunity from a previous Covid-19 infection be treated the same as a Covid-19 vaccination by a governmental entity, school, or local education authority. Mandates that private businesses who require vaccinations also include recognition for acquired immunity for Covid-19.

Effective as of April 11, 2022—This was not signed by Governor.

Public Chapter 1024—SB1748/HB1827—Roberts/Ragan

Re UAPA and Rules. Makes permanent all rules that were filed with the Secretary of State between January 1, 2021 and in effect upon passage of the act, unless they conflict with legislation passed during this session.

Effective as of May 11, 2022.

Public Chapter 1073—HB2665/SB2449—Sexton, McNally

Re Covid Visitation Policies and Limitations on Covid Treatment Exemptions. Clarifies that a prescriber can be disciplined for prescribing controlled substances and/or narcotics for treatment of Covid, if appropriate. In addition, creates a patient advocate process that hospitals must follow during times of covid concern. Allows that person to enter a facility if they agree to follow procedures but provides certain exceptions to access to locations within the hospital.

Effective as of May 25, 2022.

Public Chapter 1094—SB1891/HB1905—Hulsey/Doggett

Re Mandatory Reporting of Fatal Drug Overdoses. Requires that a fatal overdose be reported to law enforcement, including by doctors and nurses.

Effective July 1, 2022.

Public Chapter 1117—SB2448/HB2671—White/Farmer

Re: Extended Liability Protection Against Covid Claims. Extends the liability protection against claims based on Covid exposure until July 1, 2023.

Effective as of June 1, 2022.

Public Chapter 1123—SB2574/HB2535—Crowe/Alexander

Re: End-of-Life Visitation at Nursing Homes and Assisted Living Facilities. Requires that nursing homes and assisted living facilities allow for visitation during a disaster, emergency, or public health emergency for Covid-19. Provides an exemption if the visitation would violate federal or state law.

Effective July 1, 2022.

Administrative Report

Ms. Johnston presented the Administrative Office report, as follows:

PERIOD: As of April 13, 2022

Total # Currently Licensed Dispensing Opticians	930
Total # Current Apprentices	395

LICENSE STATUS SINCE THE LAST BOARD MEETING

PERIOD: April 13, 2022, to July 19, 2022

New Dispensing Opticians Licenses	7
New Apprentice Approvals	26
Reinstated Licenses	3
Approved to Sit for the Practical Exam	13
Voluntarily Retired Licenses	5
Expired Apprenticeship	23
Closed/Withdrawn	3
Paper Renewals	27
Online Renewal	73

Ms. Johnston also presented the Travel and Lodging rates, as follow:

- The current mileage rate was \$0.625 cents per mile
- The current meals and incidental rate is \$59.25 per day for an overnight stay
- The current maximum reimbursable rate for hotel lodging in Nashville for upcoming meetings dates is as follows (rate re-sets each October)
 - October \$234.00
 - January \$187.00
 - April \$230.00
 - July \$207.00

Upcoming dates for the 2023 Board Meetings, as follows:

- January 25, 2023
- April 19, 2023

- July 27, 2023
- October 25, 2023

Director's Report

Rules Effective 09/13/2022

Ms. Wallace informed the Board that the extensive rulemaking package the Board reviewed in their Rulemaking hearing in January 2022 is scheduled to become effective on September 13, 2022. The package will be heard before the Government Operations Committee on August 17, 2022.

2022 Jurisprudence Exam

Based on the upcoming Rule changes, Ms. Wallace discussed with the Board the preparation and updates to the 2022 Jurisprudence Exam to be made in consideration of the new rules becoming effective on September 13, 2022. Mr. DeCrow will assist with reviewing the existing exam and making updates to reflect the new rule package. The Board agreed that the updated exam will be reviewed by the Board at their October 26, 2022, meeting and upon approval, will be posted to the Board's website at that time. Ms. Wallace will update the notice on the Board's website when the exam is available.

Receive Reports and/or Requests from the Office of General Counsel

Office of General Counsel Report

Mr. Winters reviewed the Conflict of Interest statement and Open Meetings Act statement with the Board, as follows:

If you have a personal or financial interest in the outcome of any issue or matter before this board which may suggest a bias on your part, you are asked to state that interest on the record so that a determination can be made as to whether there exists a need for recusal. You are reminded that it is the duty of this board to protect the health, safety, and welfare of the citizens of Tennessee and that the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.

Pursuant to the Open Meetings Act, Board business may only be discussed by the Board members during the meeting. Members should not discuss the Board's business at any time other than during the open Board meeting. The prohibition applies to phone calls, e-mails, and text messages. Board members should also ensure that all comments during the meeting are stated for all to hear; private conversations between or among members during the meeting are inappropriate.

Disciplinary Activity

There are two (2) licensees currently being monitored by the Disciplinary Coordinator. Additionally, a Consent Order is to be presented for ratification regarding Linda Cooper.

Consent Orders

There is one (1) Consent Order for ratification today for Linda Cooper, license number #543. Her license expired August 31, 2021. From September 1, 2021, to on or about May 2022, Ms. Cooper continued to work on a lapsed license. Terms of the discipline and consent order are in line with the Board's lapsed license policy and include a reprimand of Mr. Bennett's Dispensing Opticians license. Five (5) type B

penalties in the amount of two-hundred, (\$200.00) dollars for each for a total of one thousand dollars, (\$1000.00) in cost. She has twenty-four (24) months to pay the civil penalties.

Mr. Bowman made a motion to approve the Consent Order for Linda Cooper, as written, with a second by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

There were no further cases, hearings, or orders to be heard at this meeting.

Declaratory Orders

There were no Declaratory Orders to review in this meeting.

Contested Cases

There were no Contested Cases for the Board to review in this meeting.

Agreed Orders

There were no Agreed Orders for the Board to review in this meeting.

Agreed Citations

CE Agreed Citation - Gene Williford #291

Gene Williford, Dispensing Optician License #291 failed to maintain sufficient continuing education credits in violation of TCA 63-14-106 and Rule 0480-01-.12. He was deficient nine (9) credit hours as discovered during the January 1, 2020, to December 31, 2021, CE cycle Audit process. He has been assessed a civil penalty in the amount of \$100.00, and will be required to provide proof of completion of the required number of continuing education credits.

Mr. DeCrow made a motion to approve the Agreed Citation for Gene Williford as presented, with a second made by Mr. Bowman. There was no discussion on the motion. The motion passed unanimously.

Lapsed License – Jennifer Addison #1158

Jennifer Addison, Dispensing Optician License #1158 expired on December 31, 2021. Ms. Addison worked as a DPO on an expired license in violation of Tenn. Code Ann. & 63-14-104 for one (1) month of practice, in excess of the ninety (90) day grace period. She was assessed a civil penalty in the amount of \$100.00.

Mr. DeCrow made a motion to approve the Agreed Citation for Jennifer Addison as presented, with a second made by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

Orders of Compliance

There were no Orders of Compliance for the Board to review in this meeting.

Requests for Order Modifications

There were no Order Modifications for the Board to review in this meeting.

Final Orders

There were no Final Orders for the Board to review in this meeting.

Applicant Interviews/File Reviews/Waivers & Other Request

There were no applicant interviews, file reviews, or other requests for the Board to review in this meeting.

Ratification List – Newly licensed, Approved for Apprenticeship, Approved for Practical Exam, Reinstatements, and Closed/Withdrawn Files

Ms. Wallace stated all files on this list have been reviewed and found complete and in good order according to the Board’s Rules for each application type. There were no closed or withdrawn files for the Board’s consideration.

Dispensing Opticians - Newly Licensed – 04/13/2022 to 07/19/2022

License#	Name
3319	Alvarez Venegas, Ricardo
3484	Day, Michael Todd
3417	Ervin, Jennifer Lyne
3394	Frazier, Elizabeth Nichole
3316	Ghatas, Nifin
3825	Jones, Lori Ann
3366	Moore, Ashlee

Dispensing Opticians – Reinstatement – 04/13/2022 to 7/19/2022

License#	Name
1158	Addison, Jennifer G.
543	Cooper, Linda B.
981	Tilley, Homer D III

Dispensing Opticians - Apprentices Approval – 04/13/2022 to 07/19/2022

Approval Date	Status	Name
5/9/2022	Apprentice	Abbott, Andrew James
5/13/2022	Apprentice	Aldawas, Faris Hamad
7/8/2022	Apprentice	Boyd, Eric
6/8/2022	Apprentice	Church, Dana Elizabeth
4/26/2022	Apprentice	Devould-Henderson, Chantel
7/1/2022	Apprentice	Ford, Alexia Layne
4/26/2022	Apprentice	Harris, Lara
7/8/2022	Apprentice	Hopkins, Candace Nicole
4/26/2022	Apprentice	Hosler, Gabrielle Sue
6/6/2022	Apprentice	Lankford, Micheal Wayne
4/26/2022	Apprentice	Lazo, Andrew James
5/9/2022	Apprentice	Lightner, Christina Alexandris
6/15/2022	Apprentice	Maylum, Betty K
5/9/2022	Apprentice	McClure, Emily Anne
5/16/2022	Apprentice	Namr, Mariam

6/15/2022	Apprentice	Ovalle Torres, Noemy Osayris
7/12/2022	Apprentice	Prater, Elizabeth Sara
6/8/2022	Apprentice	Reese, Kira Tracy
7/1/2022	Apprentice	Robertson, Alica Faye
5/13/2022	Apprentice	Royston, Quoya Nakita
4/26/2022	Apprentice	Sargent, Cody William
5/23/2022	Apprentice	Sherman, Emily
5/18/2022	Apprentice	Steele, Annie Jean
5/20/2022	Apprentice	Whited, Syndi Lashae
5/13/2022	Apprentice	Williams, Elise Gabrielle
6/8/2022	Apprentice	Wingard, Cheyenne

Approved to sit for Practical Examination – 04/13/2022 to 7/19/2022

<u>Name</u>	<u>Date Approved to sit for Practical Exam</u>
Cole, Julie L	4/13/2022
Frazier, Elizabeth Nichole	4/13/2022
LaBruna, Stanley Steven	4/20/2022
Ervin, Jennifer Lyne	5/17/2022
Alvarez Venegas, Ricardo	5/17/2022
Jones, Lori Ann	5/23/2022
Ghatas, Nifin	5/27/2022
Williamson, Hayley Madison	6/28/2022
Jones, David Anthony	6/29/2022
Lee, Stefanie Darlene	7/6/2022
Burgess, Ashton Raye	7/6/2022
Maratita, Candice	7/6/2022
Pekarchick, Dana Marce	7/11/2022

Closed files – 01/01/2022 to 07/19/2022

<u>Name</u>	<u>Date</u>
Armor, James C	2/7/2022
Deer, Tammy Ruth	5/7/2022
Heil, Eric Samuel	2/7/2022
Holliday, Matthew McCann	2/7/2022
Lacy, Debbie Lea	6/7/2022
Lavine April Darwin	3/7/2022
Ledford, Amber Nicole	2/7/2022
Madonna, Robert Sebastian	7/7/2022

Mr. DeCrow made a motion to approve the ratification list as presented, with a second made by Mr. Bowman. There was no discussion. The motion passed unanimously.

Receive Reports and take action as needed regarding Taskforce/Committee Reports

There were no Taskforce or Committed Reports for the Board to review in this meeting.

Discuss and take action as necessary regarding Rulemaking, Rulemaking Hearings, Rule Amendments, and Policies

Rule 0480-01-.07(8) Application Review, Approval, Denial, Interviews was reviewed, which reads, “Whenever requirements for licensure by examination are not completed within six months from the date of the initial review of application and credentials, written notification will be mailed to the applicant and the application file will be closed. An applicant whose file has been closed shall subsequently be considered for licensure only upon the filing of a new application and payment of all appropriate fees.”

The Administrative Office asked the Board to clarify their interpretation of Rule 0480-01-.07(8) to confirm that if an applicant for licensure has been approved to take the TN Practical Exam and does not pass it within six (6) months of the date of approval, then the file will be closed, and the individual will be required to re-apply if they wish to continue to pursue licensure. In instances where an individual fails the TN Practical Exam, the ABO/NCLE checks with the Administrative Office on candidate eligibility. If anyone is still within the six (6) month window, the Administrative Office would give re-take approval. Files for any applicant taking the exam before the end of the six (6) month period would be held until the scores from that exam are released to review for passage or failure of an exam taken in the six (6) month period.

Public comment made was made by Mr. Whittington and confirmation was made by the Board to clarify that an applicant for licensure would be approved to re-take the Practical exam as many times as needed during the six (6) month approval period and the application would be closed for licensure if they do not pass the exam by the end of the six (6) month period. An individual would not have to re-start their apprenticeship as long as they were still within the three (3) to six (6) year timeframe the Board has allotted for the completion of an apprenticeship. Individuals must continue to submit their semi-annual apprenticeship evaluations forms until such time as they are issued a Dispensing Opticians License.

Mr. DeCrow made a motion to clarify the Board’s interpretation of Rule 0480-01-.7(8) to confirm that if an applicant does not pass the practical exam within six (6) months after approval to take the exam, plus the time for exam scores to be released, the file will be closed and they will have to re-apply for licensure, with a second made by Ms. Miller. There was no discussion. The motion passed unanimously.

CE Course Review

CE Course Approval – Vision Expo 2022 & Standing Approval Request – Susan Kistler

Vision Expo West 2022 in Las Vegas, NV for the following days:

- Wednesday, September 14, 2022
- Thursday, September 15, 2022
- Friday, September 16, 2022
- Saturday, September 17, 2022

CE Course Approval – Tennessee Dispensing Opticians Association, (TDOA)

Speaker, Jackie O’Keefe changed her course form the course that was dated June 9, 2022. TDOA Nashville Chapter Hours Sunday, October 16, 2022, held at St. Thomas West Hospital Auditorium at 4220 Harding Pike, Nashville, TN 37205 from 8:00 am – 5:00 pm counts as eight (8) continuing education hours.

CE Course Approval – Opticians Association of Georgia

Opticians Association of Georgia, (OAG) will consist of six (6) ABO technical hours, presented by John Zimmerman with Zeiss Optical, (in person) and 2 NCLE hours given on-line through Quantum Optical, (these participants will be given a voucher to redeem and must be taken within thirty (30) days. The conference will be held at Dalton, GA and scheduled for Saturday, September 17, 2022. OAG’s method of communication to Licensed Dispensing Opticians is through social media via the aogonline.org website page and Facebook postings. After the course is approved, OAG will increase the presence by boosting the geographic areas to include most of Tennessee. OAG’s method of attendance accountability is through a sign-in attendance roster and a designated Sergeant-At-Arms that monitors participation and timing of education, down to the second.

Mr. Bowman made a motion to approve the courses as presented for Vision Expo 2022, TDOA, and Opticians Association of Georgia, with a second made by Mr. DeCrow. There was no discussion. The motion passed unanimously.

Correspondence Review

There were no correspondence items for the Board to review in this meeting.

Conference/Event Reports and Upcoming Events Review

There were no conference or event items for the Board to review in this meeting.

Discuss Old/New Board Business

ABO/NCLE Remote Proctoring Update

The Board would like the approval for ABO/NCLE score reports that are obtained from remote proctored exams to be reviewed at the next board meeting.

Mr. DeCrow made a motion to extend approval until the next meeting, with a second made by Mr. Bowman. There was no discussion. The motion passed unanimously.

Call for Public Comment

The Board gave one final opportunity for public comments to be heard. As always, comments may be submitted in writing to the TN Board of Dispensing Opticians, 665 Mainstream Drive, Nashville, TN 37243 or sent via email to Unit3HRB.Health@tn.gov.

Public comment was made by Mr. Whittington, who was present on behalf of the Opticians Association of Georgia in case the Board had any questions on the Continuing Education Course request they had

submitted. He voiced his appreciation for the Continuing Education submission process and Ms. Johnston's assistance as he made their submission.

Adjourn

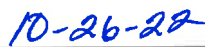
Mr. DeCrow made a motion to adjourn, with a second made by Ms. Miller. There was no discussion. The motion passed unanimously.

There being no further business to be heard today, this meeting of the Dispensing Opticians Board was adjourned at 9:53 a.m. CST.

These Minutes were Ratified by the Board on October 26, 2022.



Board Chair



Date