

**TENNESSEE BOARD OF OPTOMETRY MEETING  
MINUTES**

**DATE:** January 10, 2024

**TIME:** 9:00 A.M. CST

**LOCATION:** Health Related Boards  
Iris Room  
665 Mainstream Drive  
Nashville, TN 37243

**BOARD MEMBERS**

**PRESENT:** Zachary McCarty, O.D.  
Kurt Steele O.D.  
Linda Tharp, O.D.  
James Venable, O.D.  
Kenneth Young, O.D.

**BOARD MEMBERS**

**ABSENT:** Consumer Member – Vacant

**STAFF**

**PRESENT:** Kimberly Wallace, Regulatory Board Administrative Director  
Maria Johnston, Regulatory Board Administrative Assistant  
Eric Winters, Litigation Attorney  
Kathy Trawick, Advisory Attorney

**Call to Order**

Dr. Steele called the meeting to order at 9:02 a.m. CST. A roll call was conducted, and a quorum was present, with Dr. Zachary McCarty, Dr. Kurt Steele, Dr. Linda Tharp, Dr. James Venable, and Dr. Kenneth Young present. The Consumer Member seat is vacant.

Board staff from the Administrative Office, including Ms. Kimberly Wallace, and Ms. Maria Johnston, and from the Office of General Counsel, including Mr. Eric Winters, and Ms. Kathy Trawick were also present.

Mr. Winters introduced the Board’s new advisory attorney, Ms. Kathy Trawick and gave the Board a brief update on the recent role changes within the Office of General Counsel and the separating of roles between litigation and advisory matters.

Ms. Trawick presented the Conflict of Interest Statement and Open Meetings Act Notice to the Board, as follows:

**Conflict of Interest**

**PURPOSE:** To assure that the individual interests of board members do not conflict with or have the

appearance of conflicts with their responsibilities to the Board to which they are appointed.

A circumstance in which a board member's individual interest impairs or impedes, or gives the appearance of impairing or impeding, his or her ability to make full, unbiased decisions or to provide full unbiased service to the Board.

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.

Any board member who has a conflict of interest as defined above must recuse himself/herself from any matter and is prohibited from participating in any discussion or vote on the matter and shall leave the hearing room during the discussion or vote.

If you have a personal or financial interest in the outcome of any issue or matter before this Board that may suggest a bias on your part, you are asked to state that interest on the record so a determination can be made as to whether there exists a need for recusal.

It is improper for any board member having a conflict of interest to attempt to influence another board member at any time, including prior to the discussion on the matter for which the conflict exists.

#### Open Meetings Act

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.

### **Rulemaking Hearing – Rule 1045-02-.01 Fees**

#### Regulatory Flexibility Analysis

Mr. Winters presented the Regulatory Flexibility Analysis for the Board's review and consideration. A motion was made by Dr. Tharp to approve the Regulatory Flexibility Analysis, with a second by Dr. Venable. There was no discussion on the motion. The motion passed unanimously by voice vote.

#### Economic Impact Statement

Mr. Winters presented the Economic Impact Statement for the Board's review and consideration. A motion was made by Dr. McCarty to approve the Economic Impact Statement, with a second by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

Mr. Winters introduced himself as the Senior Associate Counsel with the Department of Health's Office of General Counsel and serves as moderator for the rulemaking hearing. He asked the agency representatives, (Board Members) who are present to please introduce themselves for the record. Dr. Zachary McCarty, Dr. Kurt Steele, Dr. Linda Tharp, Dr. James Venable, Dr. Kenneth Young were all

present.

Mr. Winters continued, it was January 10, 2024, and the rulemaking hearing is taking place pursuant to Tennessee Code Annotated, Section 4-5-204, in the Iris Conference Room, 665 Mainstream Drive, Nashville, Tennessee.

The purpose of the rulemaking hearing is to solicit comments on rules proposed by the Board in order to amend Rule 1045-02-.01, Fees.

Pursuant to T.C.A. § 4-5-204, the following is a summary of the factual information on which the amended rules contained in the notice of rulemaking are based:

The Board amended Rule 1045-02-.01 to decrease application fees from two hundred fifty dollars (\$250.00) to one hundred fifty dollars (\$150.00) and renewal fees from two hundred seventy-five dollars (\$275.00) to one hundred seventy-five dollars (\$175.00).

A rule is defined as a Board statement of general applicability that implements or prescribes law or policy or describes the procedures or practice requirements of the Board. Proposed rules are filed with the office of the Secretary of State, notice is given to the public for comment, and a rulemaking hearing is held. Upon conclusion of the hearing and adoption of the proposed rules, the rules are sent to the Governor's office for review and then forwarded to the Attorney General's Office for review of legality. If approved, they are filed with the Secretary of State, which is responsible for publication, and the government operations committee of the General Assembly. The rules become effective 90 days after they are filed in the Secretary of State's office.

Those members of the public wishing to speak should sign up at the table by the door. Only those who have signed will be permitted to speak. Mr. Winters also placed copies of the Notice of Rulemaking and tracked changes of the proposed rule amendments on the table in case anyone needs a copy.

He also commented that the Board members, have the Notice of Rulemaking and tracked changes of the proposed rule amendments on their iPads at number 2.

There were no requests submitted in writing and no one in attendance at the meeting requested to make Public Comment.

The notice of rulemaking hearing included the entire text of the proposed rules and was published on October 6, 2023, on the Tennessee Administrative Website.

Mr. Winters asked Ms. Wallace, what additional notice was given to the affected individuals or groups. Ms. Wallace stated that notice was provided by the Administrative Office to the TN Association of Optometric Physicians, Southern College of Optometry, and the Association of Regulatory Boards of Optometry, in addition to being posted to the Board's website on the "About" page as well as on the Health Related Boards online Calendar of Events.

Ms. Emily Godwin, Finance Director, was present to review various scenarios that may result from the proposed fee decrease as well as to allow the Board to review alternate fee decrease figures in light of the Fiscal Year 2023 final and preliminary Fiscal Year 2024 financial reports.

It was noted that the Board is scheduled to appear before the Government Operations Committee on

January 22, 2024, for a self-sufficiency hearing, in response to having completed each of the last three (3) fiscal years in the red.

Ms. Godwin reviewed the self-sufficiency requirement with the Board, noting that there are not any specified times in which a decrease of any excess carryforward must be cleared. Ms. Godwin continued that there have been additional expenses incurred by the Board since the initial analysis and review was conducted, including technological advances and industry salary studies.

Ms. Wallace informed the Board that of the professions she works with, she has seen Boards make a variety of decisions, including actions such as withdrawing the fee decrease and amending the previously proposed fee decrease.

A review of potential scenarios that could arise in this matter, in the upcoming of the self-sufficiency hearing were discussed, in terms of time for erosion of the excess cumulative carryover balance and the Board having been in the red for the last three fiscal years.

A motion was made by Dr. Venable to approve fee changes for rulemaking as follows:

- Application Fee decreased from \$250.00 to \$150.00
- Licensure Renewal Fee remains unchanged at \$275.00

A second was made by Dr. Young.

Discussion on the motion as follows:

Ms. Godwin reviewed the erosion time of the proposed motion. Ms. Wallace reviewed the Administrative Office statistical report, which indicates the profession's licensee growth is remaining fairly stable at this time. Ms. Godwin also noted the recent salary adjustments are not yet fully reflected in the projected financials as presented and this may have an additional effect in future reporting.

Dr. Venable commented that if the Board leaves the renewal fee unchanged, they will continue to reduce the cumulative carryover through the decreased application fee and show that they have taken a step of good faith on the Board's part.

Dr. McCarty questioned making a decrease now, that it could cause the need for an increase in the semi-near future and suggested the new application fee be set at \$200, which is similar to the fee in surrounding states.

Mr. Winters noted this fee decrease rulemaking began in 2021, but due to some anticipated increases in expenditures, the decrease was internally put on hold for quite a while, but generally, fee decreases can move through the rulemaking process fairly quickly.

In Dr. McCarty's opinion, it would be more fiscally responsible to only decrease the application fee by \$50, rather than \$100, and take a less aggressive step at this time.

A roll call vote was then held on the motion, as follows:

Dr. Zachary McCarty	<input type="checkbox"/> AYE	<input checked="" type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSED	<input type="checkbox"/> ABSENT
Dr. Kurt Steele	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSED	<input type="checkbox"/> ABSENT

Dr. Linda Tharp       AYE     NAY     ABSTAIN     RECUSED     ABSENT  
 Dr. James Venable     AYE     NAY     ABSTAIN     RECUSED     ABSENT  
 Dr. Kenneth Young     AYE     NAY     ABSTAIN     RECUSED     ABSENT

The motion passed by majority via roll call vote.

Mr. Winters announced that concluded the rulemaking hearing and the comment period and thanked everyone for their participation.

**Discuss and Consider Approval of Meeting Minutes**

Minutes from the October 11, 2023, Board Meeting

A motion was made by Dr. Young to approve the Minutes of the October 11, 2023, Board Meeting Minutes. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously by voice vote.

**Receive Reports and/or Requests from the Office of Investigations**

Report of Complaints & Currently Monitored Practitioners

Justin Thornberry, Complaint Coordinator from the Office of Investigations, was present to provide the investigative reports to the Board.

**PERIOD: January 3, 2024, Year to Date Complaint Report:**

<b>New Complaints</b>	<b>Number of Complaints</b>
Total # New Complaints	13
Total Closed Complaints	15
Closed – Insufficient	1
Complaint Closed	12
Closed – Letter of Concern	1
Closed Warning Letter	1
Malpractice/Negligence	1
Unprofessional Conduct	11
Lapsed License	1

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

There were no further financial reports for the Board to review in this meeting, as financial considerations were reviewed during the Rulemaking Hearing.

**Discuss and take action as necessary regarding Legislation**

There were no legislative items for the Board to review at this meeting.

**Receive Reports and/or Requests from the Board Administrative Office**

Administrative Report

Ms. Johnston presented the Administrator’s report to the Board, as follows:

**PERIOD: As of January 3, 2024**

<b>Total # Currently Licensed Optometrists</b>	1,370
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**LICENSE STATUS SINCE PREVIOUS MEETING PERIOD:**

**October 3, 2023, to January 3, 2024**

New Licensed	11
Reinstatement	3
Retirement	8
Paper Renewals	27
Online Renewals	114

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

- The current mileage rate is \$0.657 cents per mile
- The current meals and incidentals rate is \$59.25 per day for an overnight stay

The current maximum reimbursement rate for hotel lodging in Nashville for upcoming meetings dates is as follows (rate re-sets each October):

- April 2024 \$233
- July 2024 \$210

Upcoming dates for the 2024 Board Meetings, as follows:

- April 3, 2024

- July 10, 2024
- October 9, 2024

**Jurisprudence Exam Review**

Ms. Wallace asked the Board for a Member to serve as a reviewer for the existing Optometry Board Jurisprudence Exam. The purpose in this review would be to examine each question against the current rules to ensure that all questions are in alignment with the rules and in proper format for a true/false exam. They would also be charged with making updates to the questions and/or drafting new questions for the exam. Once the review was complete, the revised version of the exam would be presented to the full Board for final review and approval.

In addition, Ms. Wallace has taken the initial steps towards having the Optometry Board Jurisprudence Exam available in an online format and hopes to have additional information at the April 2024 Board Meeting.

Dr. Venable volunteered to assist with the exam review. He asked for the most common questions received by the Administrative Office to be considered for inclusion on the exam.

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

**OGC Report**

Ms. Trawick presented the OGC Report, as follows:

**Rule Activity**

There are two (2) rule packets that are currently in internal review. Amendments to Rules .08 (Corporate or Business Names and Advertising), .09 (Spectacles, Contact Lens Prescriptions, and Office Technology), .18 (Telehealth), and new rule .19 (Change of Address and/or Name); and amendments to Rules .05 (Continuing Education) and .07 (Diagnostic and Therapeutic Certification).

**Disciplinary Activity**

As of January 4, 2024, the Office of General has no cases against the Board’s licensees.

**Disciplinary Coordinator’s Report**

As of January 2024, this report provides the total numbers of licensees currently being monitored for discipline. These numbers include licensees who have been reprimanded, are on probation, have had their license suspended, revoked, or have surrendered due to a disciplinary board order.

<b>Total number of Optometrists being monitored for discipline</b>	1
Reprimand	0
Probation	0

Suspension	1
Revoked/Surrendered	0

Legislation

There were no legislative items for the Board to review at this meeting.

**Presentation of Orders, Agreed Citations, and Other Disciplinary Items**

Consent Orders

There were no Consent Orders for the Board to review at this meeting.

Agreed Citations

There were no Agreed Citations for the Board to review at this meeting.

**Applicant Interviews/File Reviews/Waivers & Other Requests**

Practice Name Request – PeakSight Family Eyecare, PLLC

Dr. Darion Horner submitted a business name approval request for PeakSight Family Eyecare, PLLC. A motion was made by Dr. Tharp to approve the business name request for PeakSight Family Eyecare, PLLC, for Dr. Darion Horner. A second was made by Dr. McCarty. There was no discussion on the motion. The motion passed unanimously by voice vote.

Practice Name Request – Elite Eyecare (Alternates: Centennial Eyecare, North Nashville Eyecare and Nations Eyecare)

Dr. Nathan Lipe submitted a business name approval request for the preferred name of Elite Eyecare, in addition to three (3) alternative names, in their order of preference, of Centennial Eyecare, North Nashville Eyecare, and Nations Eyecare, in the event the Board did not approve the name of Elite Eyecare. The Board noted that there is a precedence of other practices with the name of Elite Eyecare.

A motion was made by Dr. Tharp to approve the business name request for Elite Eyecare for Dr. Nathan Lipe. A second was made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.



### Practice Name Request – Toomey and Baggett Eyecare Clinic, PLLC

A business name approval request was submitted for Toomey and Baggett Eyecare Clinic , PLLC. A motion was made by Dr. Young to approve the business name request for Toomey and Baggett Eyecare Clinic , PLLC. A second was made by Dr. McCarty. There was no discussion on the motion. The motion passed unanimously by voice vote.

### Practice Name Request – Eyes of Athens

Dr. Christopher Muegge submitted a business name approval request for Eyes of Athens. A motion was made by Dr. Young to approve the business name request Eyes of Athens for Dr. Christopher Muegge. A second was made by Dr. McCarty. There was no discussion on the motion. The motion passed unanimously by voice vote.

### Practice Name Request – Precision Eye Care

Dr. Kurt Steele submitted a business name approval request for Precision Eye Care. Dr. Steele was recused from this item, as this request came from his practice. A quorum remained to conduct the vote on this matter.

A motion was made by Dr. Tharp to approve the business name request Precision Eye Care for Dr. Kurt Steele. A second was made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

### **CE Waiver/Extension/Course Requests**

Ms. Wallace directed the Board to Rule 1045-01-.04(3) for reference on the rules regarding requests for CE waivers/extensions.

#### CE Waiver Request – Dan Knepper, O.D. #758

Dan Knepper, O.D. #758 requested the Board approve a waiver of CE requirements for the period of January 1, 2023, to December 31, 2023, in the amount of twenty-one (21) hours, inclusive of sixteen (16) in-person hours. He submitted a formal request letter and supporting documentation.

A motion was made by Dr. Tharp to approve a waiver of CE requirements for the period of January 1, 2023, to December 31, 2023, in the amount of twenty-one (21) hours, inclusive of sixteen (16) in-person hours. With a second made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

#### CE Waiver Request – Caroline Poveromo, O.D. #3284

Caroline Poveromo, O.D. #3284 requested the Board approve a waiver of CE requirements for the period of December 2021 to November 2023, in the amount of two (2) in-person hours. She has submitted a formal request letter and supporting documentation.

A motion was made by Dr. Tharp to approve a waiver of CE requirements for the period of

December 2021 – November 2023, in the amount of two (2) in-person hours. With a second made by Dr. McCarty. There was no discussion on the motion. The motion passed unanimously by voice vote.

CE Waiver Request – Norman Rone, O.D. #393

Norman Rone, O.D. #393 requested the Board approve a waiver of CE requirements for the period of December 1, 2021, to November 30, 2023, in the amount of twelve (12) in-person hours. He has submitted a formal request letter and supporting documentation.

A motion was made by Dr. Young to approve a waiver of CE requirements for the period of December 1, 2021, to November 30, 2023, in the amount of twelve (12) in-person hours. With a second made by Dr. Venable. There was no discussion on the motion. The motion passed unanimously by voice vote.

CE Extension Request – Jennifer Jensen, O.D. #3379

Jennifer Jensen, O.D. #3379 requested the Board to approve an extension for two (2) additional days for the completion of six (6) in-person hours for the period of October 2022 to November 2023, her initial licensure period in the State of TN. She has submitted a formal request letter and supporting documentation.

A motion was made by Dr. Tharp to approve an extension for two (2) additional days for the completion of six (6) in-person hours for the period of October 2022 to November 2023. With a second made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

Course Approval – HSI Basic Life Support – Follow-up Review

The Health Safety Institute (“HSI”) submitted a request for the Board to consider approving their CPR Course for both initial certification and recertification for compliance with the Board’s requirements that all licensees are actively certified in CPR. This item was originally presented to the Board in their October 2023, meeting, however, the organization did not provide sufficient information for the Board to make an informed decision on the request. They have since provided additional documentation for the Board’s review.

The current Policy reads as follows:

*Cardiopulmonary Resuscitation Certification Policy Statement*

*Pursuant to Tennessee Board of Optometry (“Board”) rule 1045-02-.05(1)(b), each licensee shall maintain current certification in cardiopulmonary resuscitation (“CPR”) as a part of the continuing education requirements for optometrists licensed to practice in Tennessee.*

*In order to obtain initial CPR certification, it is the policy of the Board to require each licensee to attend a live, in-person course approved or offered by the American Heart Association, the American Red Cross, or other board-approved entity.*

*Furthermore, it is the policy of the Board that initial CPR certification may be obtained*

*through course-work at a school or college of optometry accredited by the Accreditation Council on Optometric Education (“ACOE”); the National Commission on Accrediting; or the United States Secretary of Education.*

*Last, it is the policy of the Board to allow re-certification in CPR to be obtained through one of the following, Board approved, online courses:*

- *ProCPR, Inc.  
Course - ProCPR*
- *International CPR Institute, Inc.  
Course – Healthcare Provider Basic Life Support*

*As the Board approves other live, in-person and online CPR courses, information will be posted on the Board’s webpage at <http://tn.gov/health/topic/OPT-board>*

***Adopted by the Board of Optometry on the 13th day of January, 2016***

Dr. McCarty noted that this course is only in-person and would require little change to the Board’s current policy. He doesn’t see any problem with approving HSI.

A motion was made by Dr. McCarty to approve the HIS course for certification/recertification under the Board’s current Cardiopulmonary Resuscitation Certification Policy Statement. With a second made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

Dr. Venable suggested leaving the policy intact and list on the Board’s website the approved providers.

Ms. Trawick stated the HSI approval does fall under “other board -approved entity” in the current policy language.

Ms. Wallace noted the current policy does have an outdated Board website page reference.

A motion was made by Dr. McCarty to strike the website address and amend the Cardiopulmonary Resuscitation Certification Policy Statement to list all approved vendors and designate between in-person and online providers. With a second made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

#### File Review – Jared Cooper, O.D. File #3853

Dr. Jared Cooper was present via phone call. The Board was asked by the Administrative Office to review this file and make a licensing decision. This application could not be administratively approved due to the applicant having experienced prior discipline on an out-of-state Optometry license, with a Board Order on his licensure from the state of Utah on July 8, 2016, wherein his license was revoked and immediately stayed with a one-year probation, which was later satisfied on August 01, 2017, with the probation terminated and license reinstated.

Further, the applicant did not make proper disclosures of other state licenses on his application form,

thus, rendering his application inaccurate.

The applicant did not properly disclose having a Utah Optometry license on his application form submitted October 26, 2023. The UT license was notified in the application explanation letter submitted December 12, 2023, in response to his “yes” answers to application questions regarding license discipline and criminal convictions. In the Other Licensure section of the application form, he provided his Utah license number, but replied with “Tennessee” when asked the State wherein the license was held.

On November 3, 2023, the Administrative Office asked Dr. Cooper to disclose all states for which he had ever held a license, and his emailed response only mentioned Utah. The applicant did not disclose having an ID Optometry license on his application or in his response to the Administrative Office inquiry, even though in the Employment History section of his application he reported, “I provide remote optometry care in the states of Idaho and Utah.”

The Administrative Office researched and obtained both the UT and ID license verification from the other Board websites.

The Administrative Office noted that, should the Board make any approval of the application file, that they would require a completed/corrected application be submitted.

The Board discussed various points of the application documentation and Ms. Trawick reviewed potential options available to the Board for handling of the file.

In discussing the application with Dr. Cooper, he stated it was an oversight on his part for the licensure disclosure and that he just also got a license in Maryland a couple of weeks ago as well. He apologized and stated that he didn’t realize that he did not properly disclose his licensure status. He confirmed he has never had a TN license. Dr. Venable asked for clarification regarding the information on the application where he listed that he had a TN license and TN address for his employer on his application. He stated that TN is his home address, and he provides remote care for Idaho, Utah and now Maryland, and has never had a TN license. Dr. Young asked if he had ever seen a TN patient, to which he replied he has not seen TN patients. Dr. McCarty asked for Dr. Cooper’s intent for obtaining a TN license. Dr. Cooper intends to provide telehealth through Access Eye Services to TN patients. National Vision is the parent company for Access Eye Services, and they have several companies under their corporate banner. Dr. McCarty confirmed Dr. Cooper’s TN residency and he re-confirmed he has never seen TN patients.

Dr. Venable questioned the inaccuracies in Dr. Cooper’s licensure application. Dr. Cooper stated he was confused about the licensure statements. Dr. Tharp asked if he had ever had discipline on his ID license, Dr. Cooper said he had not.

Ms. Wallace reviewed the application licensure section and employment section questions and the responses as provided by Dr. Cooper, in addition to the request for clarification of other state licensure that was included in the deficiency letter sent to Dr. Cooper by the Administrative Office and Dr. Cooper’s response to that letter.

Dr. Venable asked Dr. Cooper to review the situation that led to his receiving discipline on his Utah license. Dr. Cooper provided details regarding his making a refund of fees to the patient that initiated the complaint against him and the circumstances around the incident, stating it was within just a few

weeks from initiation of the complaint to Dr. Cooper's taking the required steps for resolution, as well as the probation and course requirements he fulfilled in accordance with the Utah Board Order.

Ms. Trawick noted the address reported on Dr. Cooper's ID license as being in Georgia, Dr. Cooper stated he has been residing in TN for one year and the Georgia address is that of his employer. Ms. Wallace commented that practitioner public-facing license profiles and/or verifications often show an address of employment, rather than a licensee's personal home address, so as not to disclose their personal address to the public.

A motion was made by Dr. Venable to allow Dr. Cooper to withdraw his current application and re-apply in the future with a correct, complete application; at that time, the Board would want to review and discuss with the applicant any new application that may be submitted; the application fee paid on the current application may be carried forward to a new application, with no additional application fee being assessed for a new application. With a second made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously by voice vote.

#### File Review – Shaun Small, File #3844

Dr. Shaun Small was present via phone call. The Board was asked by the Administrative Office to review this file and make a licensing decision.

This application could not be administratively approved due to the applicant having experienced a prior criminal indication of a felony as well as a disciplinary order related to an out-of-state Optometry license.

The applicant answered "no" to application question #6 which asks if they have ever experienced discipline on any license. The Florida Board filed a Notice of Intent to Deny his optometry license application on July 16, 2002, however, his Florida license verification shows an original certification date of December 27, 2004, and reflects no agency action taken and a further search of the Florida optometry licensure database returns no disciplinary documentation.

The applicant has been requested to submit documentation supporting what events transpired between July 16, 2002, when the Notice of Intent to Deny document was filed and December 27, 2004, when he was issued a license, that allowed him to obtain an unencumbered Florida Optometry license; that additional supporting documentation has not been received by the Administrative Office.

A criminal indication with a judgment date of August 13, 1987, was the rationale cited by the Florida Board in the Intent to Deny Order and was the result of charges originating in 1986 for illegally possessing a firearm and for maliciously damaging building and personal property used by the United States and thereby causing personal injury.

The applicant answered "yes" to application question #9 which asks about criminal convictions, providing supporting documentation of the indication as noted, above.

Dr. Steele asked Dr. Small to explain the gap in documentation between the 2002 Florida Board Notice of Intent to Deny and the issuance of the 2004 unencumbered Florida licensure issuance. Dr. Small noted that he had a hearing before the Florida Board and the final order on the original application was that he had to have his civil rights restored. It took him two years to have his civil rights restored. The denial was on the condition that he get his civil rights restored then he could get

licensed; he provided the confirmation of his restitution of rights to the Florida Board, after which they sent him his tickets to sit for the Florida state board exam and he was then licensed after passage. The denial was based on his original application.

The Administrative Office did not receive any documentation that his rights had been restored. He has a copy but did not submit that to the TN Board. He didn't think it was relevant. He stated that he can send it if the Board would like that documentation.

Dr. Small confirmed that he has not experienced any disciplinary actions on the entire history of his Florida license.

A motion was made by Dr. Venable to give authorization to the Administrative Office to approve the application administratively, contingent upon the receipt of documentation supporting Dr. Small's restoration of civil rights. With a second made by Dr. McCarty. There was no discussion on the motion. The motion passed unanimously by voice vote.

### **Ratification of Licensure Files**

A motion was made by Dr. Tharp to approve the Ratification List, as presented. With a second made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

## **Board of Optometry**

### **Ratification List for October 3, 2023, to January 3, 2024**

#### **Newly Licensed**

<b><u>License #</u></b>	<b><u>Name</u></b>	<b><u>License Expire Date</u></b>
3851	Cox Miranda Wentworth	3/31/2026
3855	Cretella Lora	5/31/2025
3852	Durocher Haley Morgan	8/31/2025
3841	Earhart Matthew	9/30/2025
3849	Graham Jackson Charles	3/31/2025
3854	Mergener Kaylee Michelle	3/31/2025
3848	Millsaps Caitlin	12/31/204
3832	Morchesky Darren S.	5/31/2026
3847	Pratt Emily Noel	1/31/2025
3846	Tekiele Bernard Chester III	5/31/2025
3831	Velasco-Hill Shirley	2/28/2026
3810	Ye Chang	8/31/2025

**Reinstatement from Retired/Expired**

**10/3/2023 to 1/3/2024**

<u>License #</u>	<u>Name</u>	<u>License Expiry Date</u>
2921	Hayes Phillip Daniel	10/31/2025
<u>License #</u>	<u>Name</u>	<u>License Expiry Date</u>
1474	Hyatt III Chalmers W	10/31/2025
1141	Lang Todd B	7/31/2026

**Licensed to Voluntarily Retired**

**10/3/2023 to 1/3/2024**

<u>License #</u>	<u>Name</u>	<u>License Expiry Date</u>
3628	Bancroft Amanda	10/30/2023
3559	Clark Meaghan Magee	10/31/2023
1944	Dinkins Rebecca Jo	11/30/2023
1098	Farmer Ralph L	10/9/2023
2327	Gnadt Gwenda R.	11/30/2023
3616	Meredith Matthew Wesley	12/18/2023
623	Smith Thomas K	10/5/2023
2470	Vogt Glynetta Shepherd	11/7/2023

**Closed Applications**

**10/3/2023 to 1/3/2024**

<u>Name</u>	<u>Expiry Date</u>
Janet, Jacob	11/7/2023

**Receive Reports and take action as needed regarding CSMD Committee Reports**

Ms. Wallace notified Dr. McCarty that at the previous meeting, the Board nominated him to serve as the CSMD Committee Representative for 2024. Dr. McCarty was asked to formally accept or deny that nomination. He accepted, noting his attendance based on availability.

**Discuss and take action as necessary regarding Rulemaking and Policies**

There were no other rulemaking or policy items for the Board to review in this meeting.

## **Conference/Events Reports and Upcoming Events Review**

ARBO Annual Meeting – June 16-18, 2024, Nashville, TN

Clear Conference – September 16-19, 2024, Baltimore, MD

FARB Regulatory Law Seminar – September 19-22, 2024 Atlanta, GA

Dr. Tharp noted that with TN being the host state for ARBO in 2024, it would be beneficial to have a Board presence at this meeting. Attendance by OGC personnel and sponsorship requests for attorney attendance was discussed.

A motion was made by Dr. Venable to approve sponsorship for three (3) seats at ARBO for the Unit Director, Board Chair, and Board advisory attorney, and one (1) sponsorship for an attorney seat with either the CLEAR conference or the FARB conference. With a second made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

Board Booth at TAOP Annual Meeting – October 10-13, 2024, Gatlinburg, TN

TAOP submitted an invitation to the Board to have a booth at their 2024 Annual Meeting, at no cost. Ms. Wallace reminded the Board of their decision in a previous meeting to uncouple their Fall Board meeting from the TAOP event. It could be viewed as a conflict of interest for the Board to accept the booth as well as for the Board to have representation at an event sponsored by the practitioner's association.

Dr. Steele noted that the frustration he has experienced related to TAOP is the confusion among practitioners between what TAOP is and what the Board is, and having a booth at the TAOP conference could further that confusion. He doesn't believe it's a good idea to have the Board have a booth at the conference, however, appreciates the gesture from TAOP.

A motion was made by Dr. Young to decline the invitation to have Board representation at the TAOP conference. With a second made by Dr. Venable.

Discussion: Dr. McCarty asked if having a presence at the TAOP conference would help differentiate between TAOP and the Board. Ms. Wallace described her experience at the 2019 event, wherein, it did not provide a value-add to the Board to have a presence in that conference environment. The motion passed unanimously by voice vote.

## **Discuss Old/New Board Business**

New Business – Portability of Licenses, Servicemembers and Spouses

Ms. Trawick presented an overview, informing the Board that OGC Staff are in the process of developing a formal set of rules and procedures for use across the HRB in meeting the requirements of the new Federal Servicemembers Civil Relief Act (SCRA) for servicemembers and their spouses. She also provided a summary of the requirements of the SCRA.



Ms. Trawick requested the Board consider approving their understanding that one set of rules are being created for the entire HRB, rather than each Board having to promulgate a duplicate set of rules. Ms. Wallace and Ms. Trawick reviewed the federal requirement that an individual meeting the SCRA requirements will be authorized to practice in TN under their other-state license.

Dr. Venable highlighted the substantial differences in licensure requirements between states and his belief that this provision poses a danger to citizens of TN. He recommends the Board provide feedback that the likelihood of an individual practicing under this provision could pose significant threat to a citizen of TN and this is in opposition to the State laws and rules of the Board of Optometry. Ms. Trawick noted the federal provision includes notice that individuals are not permitted to practice above the scope for which they are licensed and trained in the licensing state.

Ms. Trawick noted that the federal law sets the standard for this provision. She noted, in the broad scope of things, this provision is good for the military and their families and should benefit practitioners in all professions. She continued that, while practicing under this provision, individuals are subject to potential discipline under TN requirements.

Ms. Wallace reviewed the language of the portability approval letter, as provided by the OGC for use by the Administrative Office in notifying individuals of their approval under this provision.

A motion was made by Dr. Tharp to approve one set of rules being created for the entire HRB, rather than each Board having to promulgate an individual set of rules regarding this provision. With a second made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

#### Old Business – ARBO CELMO Program

This item was originally submitted to the Board in the meeting held on April 5, 2023, and Dr. Venable had made a motion to request ARBO remove TN from their list of participating states, with a second by Dr. Young, however, the motion could not be put to a vote, because Dr. Tharp was working with ARBO on this program and needed to recuse herself, after which, there was no longer a quorum of Board Members remaining to conduct the vote. Board Member attendance at both the July and October meetings also left the Board without a quorum to vote after Dr. Tharp's recusal. Thus, the item has been carried forward to this meeting.

ARBO has a service named the Council on Endorsed Licensure Mobility for Optometrists (CELMO), which they presented to the Board back in 2005. This program charges a fee to licensees for ARBO to gather their license verifications from all states they may be licensed in, and any disciplinary information on a licensee, for presentation to a Board to accompany a license application.

In 2005, the Board acknowledged CELMO as a "significant credential" but then noted that they would have to submit it to the Commissioner's Office for review. Upon researching through all Minutes from 2005 and 2006, the Board never took any further action on the CELMO program, however, ARBO lists TN as a participant in this program.

The documents collected through CELMO are all documents that the Board's rules require to be sent to the Administrative Office of the Board directly from the source (other state licensure office, college/university, etc.). ARBO has noted that they receive very few requests from licensees regarding

the CELMO program.

Therefore, the Board was going to be requested to review whether they would like to request ARBO to remove TN from their list of states that accept a CELMO certificate. In reviewing the ARBO website just prior to this meeting, it was found that ARBO has since removed TN from the website already.

The Board did not take any further action on this item at this time since ARBO has already removed TN from their list of approved states on their CELMO website page.

### **Review of Correspondence and Notices**

#### **Notice – COPE and the DEA Requirements**

This notice was for the Board's information only and no action was taken.

The Board previously made a formal statement in their meeting on July 12, 2023, regarding The MATE Act, which they had posted on their website CE page, which states:

“Any requirements of the MATE Act for DEA certification/recertification are in addition to, and separate from, the TN Board of Optometry's Policy for Continuing Education in Controlled Substances and the rules regarding continuing education for licensure.”

#### **Public Comment**

Ms. Wallace noted that Public Comments may be submitted in writing to [Unit3HRB.Health@tn.gov](mailto:Unit3HRB.Health@tn.gov) or to 665 Mainstream Drive, Nashville, TN 37243, or may be given verbally by attending a meeting in person.

#### **Adjournment**

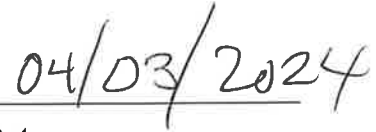
There being no further business to conduct, a motion was made by Dr. Young to adjourn, with a second made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously by voice vote.

The meeting was adjourned at 12:58 p.m. CST.

**These Minutes were Ratified by the Board on April 3, 2024**

  
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**Board Chair**

  
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**Date**