

TENNESSEE BOARD OF DISPENSING OPTICIANS MEETING MINUTES

DATE: January 19, 2022
TIME: 9:00 A.M. CST
LOCATION: Health Related Boards
Iris Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: William DeCrow, DPO
Brandy Miller, DPO
LeRhonda Walton-Hill, DPO
Jonathan Winnegrad, DPO
Herman Bowman, DPO

BOARD MEMBER(S)

ABSENT: Consumer Member - Vacant

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

Call to Order

Ms. Walton-Hill called the meeting to order at 9:03 AM CST. A roll call was conducted, and a quorum was present.

The following Board Members introduced themselves: Ms. Brady Miller, Mr. William DeCrow, Ms. LaRhonda Walton-Hill, Mr. Jonathan Winnegrad, Mr. Herman Bowman

Ms. Wallace introduced and welcomed Mr. Bowman as being appointed the new member of the Board and looks forward to his expertise on joining the Board.

Ms. Wallace moved on to introductions with legal and administrative staff with Mr. Eric Winters, advisory attorney to the Board, Ms. Maria Johnston, Board Administrator, and Ms. Kimberly Wallace, Unit 3 Director present.

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. Ms. Wallace reminded those that were present for the

jurisprudence credit to please mark that in the comment section of the sign in register. Ms. Wallace also noted there were two separate sign-in registries at the front door, one for the items on the full Board meeting and another specifically for the rulemaking hearing and to please sign in on the appropriate sign-in registries. 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.

Conflict of Interest

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.

Economic Impact to Small Business Statement and Regulatory Flexibility Analysis

Mr. Winters informed the Board that a motion and vote was needed to approve the Regulatory Flexibility Analysis and Statement of Economic Impact to Small Business. These are both related to the proposed rules and their anticipated effects on small business.

A motion was made by Mr. DeCrow to approve the proposed Economic Impact to Small Business. A second was made by Mr. Winnegrad. Ms. Wallace asked Dr. DeCrow as a point of clarity if his motion was to approve both the Economic Impact to Small Business and the Regulatory Flexibility Analysis and Statement.

Mr. DeCrow made an amendment to clarify his motion to approve both the proposed the Economic Impact to Small Business and Regulatory Flexibility Analysis. A second was made by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

Rulemaking Hearing

Mr. Winters reminded the public there are sign-in sheets for anyone that would like to make a comment on the Rulemaking Hearing to sign-in.

Mr. Winters introduced himself as the Senior Associate Counsel with the Department of Health's Office of General Counsel and noted that he would serve as moderator for this Rulemaking Hearing.

He then asked the Board Members present to introduce themselves for the record. The following Board Members introduced themselves: Brandy Miller, William DeCrow, LaRhonda Walton-Hill, Jonathan Winnegrad and Herman Bowman.

Mr. Winters continued, as follows:

It is Wednesday, January 19, 2022. This 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 this rulemaking hearing is to solicit comments on the Board's proposal to amend numerous Rules under number 0480-01, specifically:

Rule number 0480-01-.01 Definitions

Rule Number 0480-01-.03 Necessity of Licensure

Rule Number 0480-01-.04 Qualifications for Licensure

Rule Number 0480-01-.05 Procedures for Licensure

Rule Number 0480-01-.06 Fees

Rule Number 0480-01-.07 Application Review, Approval, Denial, Interviews

Rule Number 0480-01-.08 Examinations

Rule Number 0480-01-.09 Renewal of License

Rule Number 0480-01-.10 Supervision

Rule Number 0480-01-.11 Retirement and Reactivation of License

Rule Number 0480-01-.12 Continuing Education

Rule Number 0480-01-.14 Apprenticeship Training Program

Rule Number 0480-01-.16 License

Rule Number 0480-01-.17 Change of Address and/or Name

Rule Number 0480-01-.21 Branch Offices

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 is amending the rules to provide clarity and efficiency for the Board, licensee, apprentices, applicants and Board staff.

First, the Board is amending its fees, as it is currently operating with a surplus. The Board is reducing the Dispensing Optician Renewal Fee from three hundred dollars (\$300.00) to seventy-five dollars (\$75.00), the Dispensing Optician Application fee from one hundred fifty dollars (\$150.00) to thirty-seven dollars and fifty cents (\$37.50) and the Dispensing Optician License fee from one hundred ten dollars (\$110.00) to twenty-seven dollars and fifty cents (\$27.50). Additionally, the Board is eliminating its Endorsement/Verification fee which is currently set at thirty dollars (\$30.00) as well as the twenty-five dollar (\$25.00) Duplicate Identification Badge Fee.

Second, the Board is amending its apprenticeship program requirements. Under the current rules, an applicant must serve as an apprentice for three (3) years (or attend a two (2) year academic program) prior to qualifying for licensure as a dispensing optician. There is only one dispensing optician academic program in the entire state, and it's at Roane State Community College in East Tennessee, which limits citizens' opportunity to attend the program. The current apprenticeship program requires an applicant to designate a supervisor and an alternate, and to obtain a number of working hours in order to complete the apprenticeship. However, working hours only "count" when they are obtained under the designated supervisor or alternate. This causes a lot of scheduled difficulties, especially when there is a shortage of licensed opticians in the state, requiring apprentices to frequently fill in at other optical stores in their general area. This has the effect of extending apprenticeship programs longer than three (3) years. Additionally, apprenticeship licenses are expensive. The proposed amendments would allow an applicant to instead designate a sponsoring supervisor, and to earn their hours working under any qualified licensed optician. Additionally, the proposed amendments reduce and eliminate a couple fees.

Additionally, the Board wants to ensure apprentices are working towards licensure, and it currently has a rule in place requiring the apprentice to work at least one thousand (1,000) hours a year or risk having the apprenticeship rescinded. The Board is further amending this rule to read that the apprentice must obtain five hundred (500) hours per year. The Board is also adding a subsection on hardship waivers. This provides the Board discretion in allowing a hardship waiver for the filing of semi-annual evaluation reports. The new subparagraph will contain the requirements for obtaining a waiver and lists the duration of the waiver.

Third, the Board is amending its preapproval process for continuing education classes. Under the current rules, obtaining approval by the Board for each individual continuing education course results in some courses not obtaining approval until the last minute, or worse, receiving approval after the course has occurred. The Board amended rules lists three (3) continuing education providers that will no longer be required to have prior preauthorization from the Board.

Fourth, the Board is amending its rules to allow for delegation of authority to the Board's unit director to review applications and make initial licensure decisions. The current rule only allows a Board member, consultant, or administrator to make such decisions. Additionally, its rules are being amended to state that the Board's unit director may close an application. The current rule allows the application to be closed in certain situations, but it does not clarify who will make the decision to close the application.

Finally, the Board is also amending the rules to update the website address for renewals. Additionally, the rules are being amended to comply with 2016 Public Chapter 763, which became effective on July 1, 2016, now codified in T.C.A. § 63-1-107, which limits the amount of past due renewal fees that can be charged by the Board when a licensee allows his or her license to expire.

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 rules become effective ninety (90) days after they are filed in the Secretary of State's office. During the Secretary of State's ninety (90) days waiting period, the rules will be reviewed by the government operations committee of the General Assembly. The Board's Chair, Administrative Director, and I will appear before the government operations committee to answer any questions.

Those members of the public wishing to speak should sign up at the table by the door. There are two signup sheets. One for public comment on the general meeting of the Board and one specifically for the rulemaking hearing. The rulemaking hearing signup sheet is highlighted in yellow. Only those who have signed the rulemaking sheet will be permitted to speak. I will gather the list and call the names for comment after reading the proposed rules into the record.

The notice of rulemaking hearing included the entire text of the proposed rules and was published on October 20th, 2021, on the Tennessee Administrative Website. Mr. Winters has 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.

Board members, the Notice of Rulemaking and tracked changes of the proposed rule amendments have been provided to you.

Mr. Winters will now gather the Public Comment list and call the names off that list.

Mr. Winters asked Ms. Wallace, what additional notice was given to the affected individuals or groups? Ms. Wallace responded that notice was made available to all licensees and the public via the Public Notice and the Notice of Rulemaking Hearing, which were posted through the Board's website and online Calendar of Events. Notice was also made via email to representatives of the Opticians Association of America (OAA), the TN Dispensing Opticians Association (TDOA), and the American Board of Opticianry and National Contact Lens Examiners (ABO/NCLE). That concludes the list of notifications.

Mr. Winters commented that no one has signed up on the Public Comment Sheet. We have two public comments which have been submitted in writing.

Letter from Dr. Roy Ferguson

The first is from Dr. Roy Ferguson. The letter was read into the record, as follows:

"According to their website (www.abo-ncle.org), the ABO and NCLE are both national, non-profit organizations which administer voluntary certification examinations for dispensing opticians and contact lens technicians. Their purpose is to identify qualified eyewear providers by examination, urge growth of optical skills with continuing education, and approve continuing education programs; neither "present, sponsor, events, and activities related to the practice of Opticianry." Their mission is limited to administering certification exams and approving continuing education programs. Why are these two groups approved to perform activities in Tennessee beyond their scope? According to the TDOA website (tdoa.org) is the state association working on behalf of Opticians in Tennessee, supports legislation to maintain the Board of

Dispensing Opticians, and maintains a lobbyist to monitor legislation. There is no evidence this group has any expertise or experience in approving continuing education programs. Will the TDOA follow an objective, structured approval process for continuing education programs, or will this rule change allow it to make subjective educational decisions? If this rule goes forward, will the TDOA continuing education approval process be made public?"

This concludes Dr. Ferguson's written comments.

Letter from Joseph Neville, Executive Director of the National Association of Optometrists and Opticians, Inc. (NAOO).

The next letter is from Joseph Neville, Executive Director of the National Association of Optometrists and Opticians, Inc. (NAOO). The letter was read into the record, as follows:

"Re: Proposed Amendments to Rule Chapter 0480-01, General Rules Governing Dispensing Opticians

Rule 0480-01-.01 "Definitions" proposes to add a new definition "(25) Sponsoring Supervisor," that reads as follows: "A dispensing optician holding an active Tennessee license who has been in practice for at least 2 years, an optometrist licensed by the State of Tennessee, or an ophthalmologist licensed by the State of Tennessee, who is responsible for the direct management supervision of no more than two (2) apprentices." When coupled with Rule 0480-01-.14(1)(a), which requires the designation by the apprentice of a "sponsoring supervisor," the rules would thereby limit apprentice supervisors to licensed opticians with a minimum of two years of licensed experience.

We respectfully submit that the imposition of any pre-requisite term of licensure for supervisors is without legal authority, contrary to established opticianry apprentice training throughout the licensed states, and unnecessary from an education, training or public safety perspective. We ask the Board to withdraw this proposed requirement altogether.

Tennessee would be the only optician licensed state where Board regulations require apprentice supervisors to be licensed in their respective profession for a minimum amount of time before being eligible to serve. Notably, this restriction is not found in the Tennessee optician's statute (T.C.A. Title 63 Chapter 14), the optometry statute (T.C.A. Title 63 Chapter 8), the medical statute (T.C.A. Title 63 Chapter 6), or in the statutes or rules governing opticianry, optometry,

or medicine in any other state. Once licensed, every optician, optometrist and ophthalmologist is entitled to all rights, honors and privileges of licensure. This includes the right to supervise apprentice opticians. The imposition of a two-year minimum experience requirement is arbitrary in that there is no evidence that requiring licensure for any minimum period of time before serving as a supervisor improves the quality of apprenticeship training or is necessary for protection of the public. With a distinct shortage of licensed opticians in the state, this proposed limitation of potential sponsors will reduce the number of available apprentice job positions, thereby exacerbating the existing shortage, and improperly limiting competition.

We also note that this idea was considered back in 2014 and rejected at that time based on the

same argument that the statute does not place any such time limits on supervising licensees, thereby causing the proposal to exceed the parameters of the statute. In light of this, we propose that paragraph (25) be revised to read as follows:

“(25) Sponsoring Supervisor - A dispensing optician holding an active Tennessee license who has been in practice for at least 2 years, an optometrist licensed by the State of Tennessee, or an ophthalmologist licensed by the State of Tennessee, who is responsible for the direct management supervision of no more than two (2) apprentices.”

*Next, we direct your attention to the definition in **paragraph (27)** of this same rule proposal. It defines a “Supervisor” and seems to limit that role to one overseeing an apprentice working at a temporary location. Again, the statute contains no such limitation and the person in the role of a supervisor should be able to oversee the work of an apprentice whether at a temporary location or at the apprentice’s regularly assigned location when the sponsoring supervisor is off premises. We suggest that this paragraph be revised to read:*

“(27) Supervisor - A dispensing optician, optometrist or ophthalmologist holding an active Tennessee license who is actively engaged in the supervision of apprentices who may provide temporary oversight of an apprentice who is either temporarily assigned to a workplace location which is not their regular place of employment, or at their regular place of employment when the sponsoring supervisor is off premises. A supervisor shall not oversee more than four (4) apprentices concurrently.” (Proposed new wording underlined.)

This concludes our comments. We generally support the other changes proposed in the rule and we thank the Board for the opportunity to participate in this rulemaking. We ask that this comment be made part of the official record, and that the Board’s discussion and consideration of the issues presented herein be provided to the public.”

This concludes Mr. Neville’s comments.

Public Comment, Jay Taylor, from the Tennessee Dispensing Opticians Association (TDOA)

Public Comment was then heard by the Board from Jay Taylor, Tennessee Dispensing Opticians Association (TDOA), who was present in the meeting. He provided a letter and commented with suggested Rule Revisions, as follows:

“Rule 0480-01-.01 Definitions

*(3) Apprentice - An individual who is registered with the Board, engaged in an approved licensing program, practicing opticianry under the supervision of a licensed dispensing optician, **optometrist, or ophthalmologist**, and whose application has been ratified by the Board.*

*(25) Sponsoring Supervisor - A dispensing optician holding an active Tennessee license, **who has been in practice for at least 2 years**, an optometrist licensed by the State of Tennessee, or an ophthalmologist licensed by the State of Tennessee, who is responsible for the direct management **and** supervision of no more than two (2) apprentices.*

(26) Sponsoring Supervision - The direct management of an apprentice in practice, including the assignment of tasks, and the review, inspection, and approval of acts and services performed by

an apprentice who is training to prepare, fit and dispense ophthalmic materials. The sponsoring supervisor has the ultimate responsibility for ensuring the apprentice has met been given the opportunity, guidance, and supervision necessary to train in and complete all the requirements of the apprenticeship program.

(27) Supervisor - A dispensing optician, optometrist or ophthalmologist holding an active Tennessee license who is actively engaged in the supervision of apprentices who may provide temporary oversight of an apprentice who is temporarily assigned to a workplace location which is not their regular place of employment. A supervisor shall not oversee more than ~~four (4)~~ two (2) apprentices concurrently.

Rule 0480-01-.04 Qualifications for Licensure (3) Provide evidence that he or she is well regarded in moral character and professional ethics (Rule 0480-01-.05).

(4) Meet the following educational requirements:

(a) Be a graduate of an accredited high school or possess an equivalency of a high school education. The education requirements must be completed prior to the date of application;

(b) Have satisfactorily completed a two-year course of study in opticianry in a college level program recognized and approved by the Board; or

(c) Have had practical experience and training (apprenticeship) of a grade and character satisfactory to the Board for not less than three (3) years or more than six (6) years under the sponsoring supervision of a licensed dispensing optician, a licensed optometrist, or a licensed ophthalmologist. Practical training prior to age 15 (see T.C.A. § 63-14-103 (a)) will not be considered in determining the time spent in apprenticeship. Attendance in an accredited school or an approved college level program that shall specifically include study in the following will be considered as time toward fulfilling the three (3) years requirement. Time will be computed hour for hour exactly as hours spent in on-the-job training (apprenticeship):

1. Anatomy and Physiology of the Eye

2. Optical Theory

3. Applied Ophthalmic and Geometric Optics

4. Ophthalmic Lens Design

5. Lens Measurement and Inspection

6. Lens Surfacing and Fabrication

7. Fitting Techniques

8. Keratometry

9. The Use of the Slit Lamp, Radius Scope, Lensometer, Thickness and Diameter Gauges, and other instruments that do not determine refractive power or diseases and ailments of the eye

10. Methods of Fitting Contact Lenses

11. Post-fitting Contact Lens Care

(d) If the applicant holds an unrestricted dispensing optician license in another state, the length of time for that state's training and supervised experience requirements for initial licensure shall be considered as time toward fulfilling Tennessee's three (3) year requirement.

Authority: T.C.A. §§ 63-14-101, and 63-14-103.

Rule 0480-01-.05 Procedures for Licensure:

(2) It is the applicant's responsibility to provide evidence that he or she has fulfilled the educational requirements by providing proof of graduation from high school or by providing proof of possession of a general equivalency diploma (G.E.D).

(6) An applicant shall submit with his or her application an original or a notarized photocopy of his birth certificate.

(7) An applicant shall submit with his or her application two (2) letters of recommendation. At least one (1) of these letters shall be from a current or former employer, and neither letter shall be from a spouse or relative. Both letters must be on letterhead and signed by the writer of the letter.

Authority: T.C.A. §63-14-101, 63-14-104, 63-14-107, and 63-14-111.

Rule 0480-01-.06 Fees:

(1) Fee Schedule:

Type Amount

(c) Duplicate Wall License/Duplicate Identification Badge \$25.00

IN LIGHT OF PAST ATTEMPTS TO SUNSET THE BOARD FOR INSUFFICIENT REVENUE, IT IS THE POSITION OF THE TDOA THAT THE FEE STRUCTURE RULE CHANGE HAS CUT TOO MUCH REVENUE WHICH COULD RESULT IN A LACK OF BOARD FINANCIAL SELF SUFFICIENCY. THE TDOA SUGGESTS A REVIEW OF THE PROPOSED FEE REDUCTIONS AND A RECALCULATION OF FEES TO AMOUNTS THAT WILL PROVIDE THE REVENUES NECESSARY TO KEEP THE BOARD FINANCIALLY SELF SUFFICIENT.

Authority: T.C.A. §§ 63-1-106, 63-1-118, 63-14-101, 63-14-103, 63-14-106, and 63-14-107.

Rule 0480-01-.10 Supervision:

IT IS THE POSITION OF THE TDOA THAT THAT THE CURRENT PARAGRAPHS (1) AND (2) OF THIS RULE, WHICH ADDRESS CONTACT LENSE PRESCRIPTION FILLING AND DELIVERY SHOULD REMAIN IN THE RULE AND THAT NO CHANGE TO RULE 0480-1-.10 IS NECESSARY.

Authority: T.C.A. §§ 63-14-101, 63-14-102, and 63-14-103.

Rule 0480-01-.12 Continuing Education:

5. Under no circumstances shall continuing education courses be approved if the materials required by part 5 ~~4~~ of this subparagraph are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board at which approval is sought that precedes the course.

IT IS THE POSITION OF THE TDOA THAT THAT THE CURRENT PARAGRAPH (3) (b) SHOULD NOT BE DELETED AND SHOULD REMAIN AS FOLLOWS:

(b) Course approval procedure for course providers - The subject matter, instructor/author and course provider shall have prior approval from the Board. To obtain prior approval the course provider must have delivered to the Board Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes any licensee's successful completion of the course, documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from 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.*
- 6. How verification of successful course completion is to be documented.*
- 7. How notification to every Tennessee licensed dispensing optician is to be accomplished.*
- 8. 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.*

IT IS THE POSITION OF THE TDOA THAT THAT THE CURRENT PARAGRAPHS (3) (c) and (3)(d) SHOULD NOT BE DELETED BUT SHOULD READ AS FOLLOWS:

(3) (c) Course approval procedure for individual licensees - Any licensee may seek approval to receive credit for successfully completing Multi-media format continuing education courses by submitting the documentation required in part ~~(2)(b)5~~ (2)(b)4.

(3) (d) Multi-Media courses may include courses utilizing:

- 1. The Internet*
- 2. Interactive Teleconferencing*
- 3. Interactive Videoconferencing*

Authority: T.C.A. §§ 63-1-107, 63-14-101, 63-14-103, 63-14-104, 63-14-106, 63-14-107, and 63-14-111.

Rule 0480-01-.14 Apprenticeship Training Program:

(2) ~~A minimum of seventy-five percent (75%) of apprenticeship training must be conducted under the sponsoring supervision and/or a maximum of twenty-five percent (25%) of~~

apprenticeship training may be conducted under the supervision of a dispensing optician, optometrist, or ophthalmologist who has been licensed in Tennessee or another state and whose license to practice in Tennessee or another state is current and unencumbered.

(a) The sponsoring supervisor shall work on the premises where the apprentice is assigned.

(b) The sponsoring supervisor and/or supervisor shall provide supervision at all times in accordance with T.C.A. § 63-14-103(a) and (f) and rule 0480-01-.01(25).

(5) Sponsoring Supervisors, Supervisors, and Supervision

(a) Limitations

- 1. A sponsoring supervisor may be responsible for the training of no more than two (2) apprentices concurrently.*
- 2. A supervisor may manage no more than ~~four (4)~~ two (2) apprentices concurrently.*
- 3. If a supervisor is supervising more than ~~four (4)~~ two (2) apprentices concurrently, no more than ~~four (4)~~ two (2) of the apprentices working under that supervisor shall receive credit for those hours.*

IT IS THE POSITION OF THE TDOA THAT THAT THE CURRENT PARAGRAPH (5) (b) SHOULD NOT BE DELETED AND SHOULD REMAIN AS FOLLOWS:

(b) The apprentice shall function under the direct supervision of a licensed supervisor who must be working in the same premises where the apprenticeship training is conducted and must be present at all times (T.C.A. § 63-14-103).

(c) The filing of semi-annual evaluation reports for each apprentice under the sponsoring supervision of a licensed eye care professional is mandatory. Such reports shall be completed by an apprentice's sponsoring supervisor, based on that sponsoring supervisor's review and approval of all work performed by the apprentice while practicing under the supervision of licensed eye care professionals. The apprentice shall provide to the sponsoring supervisor documentation of any training hours conducted under supervision other than the sponsoring supervisors supervision. Such documentation shall include the dates and times of such training hours, the location of such training hours, and the name of the licensed supervisor under which the training hours were conducted. The apprentice shall include this documentation with the semi-annual evaluation reports filed. The apprentice is responsible for filing the semi-annual reports to the Board's administrative office. The appropriate form will be supplied by the Board and shall be notarized before filing. Semi-annual evaluation periods begin six (6) months from initial registration and each six (6) months thereafter until licensure as a dispensing optician has been achieved.

- 1. The semi-annual evaluation report must be received in the Board's administrative office no later than thirty (30) days after the six (6) 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 (5,250) hour requirement.

2. If two (2) 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 (2) 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 the apprenticeship.

Rule 0480-01-.16 License:

IT IS THE POSITION OF THE TDOA THAT THAT THE CURRENT PARAGRAPH (3) AND SUBPARAGRAPH (4)(d) SHOULD NOT BE DELETED AND SHOULD REMAIN AS FOLLOWS:

(3) Duplicate License - A license holder whose "artistically designed" document has been lost or destroyed may be issued a new document upon receipt of a written request in the Board's administrative office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original license and the required fee pursuant to Rule 0480-01-.06.

(d) If the identification badge is lost, a notarized statement requesting a duplicate must be submitted to the Board's administrative office and accompanied with the appropriate fee as stated in Rule 0480-01-.06(1)(c)."

Authority: T.C.A. §§ 63-1-101, 63-1-106, 63-14-101, and 63-14-103."

This concludes Tennessee Dispensing Opticians Association (TDOA) comments, as presented by Jay Taylor.

Administrative Office Comments

Administrative Office Comments were made by Ms. Wallace as follows:

The Administrative Office would like to bring the Board's attention to four sections of the rulemaking package that were initially drafted more than three (3) years ago, when there was an entirely different administrative and legal staff working with this board, and the composition of the board members was almost entirely different. The language of these particular sections either appear to require additional clarification of the Board's interpretation for the Administrative Office or amendment, or may result in creating processes that may not be possible to administer effectively or do not appear necessary, administratively. The Administrative Office would seek guidance from the Board on these sections, as follows:

Rule 0480-01-.01 Definitions, Section (3)

The definition in (3) has contradictions in that, (3) denotes an "Apprentice" as someone who is supervised by "a licensed dispensing optician," however, paragraphs (9) (25) and (27) list a licensed dispensing optician, optometrist, or ophthalmologist have oversight of an Apprentice, as do other references in Rule 0480-01-.14 Apprenticeship Training Program.

Rule 0480-01-.12 Continuing Education, Section (2)7(ii)

The Administrative Office does not supply course evaluation forms. All course approvals are submitted for review and approval by the board by providing the required information that a provider would submit and the board reviews individual requests just as they would a provider request.

Rule 0480-01-.14 Apprentice Training Program, Section (1)(a)

For clarity, the Administrative Office does not issue any type of separate notification of approval for the individual sponsoring supervisor, training program, or training setting. Once an apprentice application is complete and in good order, the Administrative Office sends the applicant a notice that they have been approved to begin their apprentice training program, but it does not call out the individual components. That approval is then set for ratification by the board at their next regularly scheduled meeting. Should the applicant provide the name of a proposed supervisor that does not meet the criteria for serving in that role, or should they not list a training location on their forms, then that would create an application deficiency and the application could not be approved until the deficiencies have been cleared.

Rule 0480-01-.21 Branch Offices, Paragraphs (2) and (3)

I do see how these two paragraphs have any value or impact to the board, nor are they feasible to administer. It is noted that paragraphs (2) and (3) are being deleted in their entirety and replaced with amended language, however, the only change to these two paragraphs is changing the notice from being submitted to the "Board Secretary" to being submitted to the "Board Administrator". In further consideration of paragraphs (2) and (3), I do not know what the previous board's intent was when this rule was originally promulgated. This board does not issue permits to individual facilities or practice locations and provides governance to licensees only, not to facilities/practice locations. Therefore, I do not see the relevancy of keeping a log of facilities that are opened. Further, while an Apprentice must notify the board's office of any changes to their supervisor, so that we can ensure that 1) their supervisor has an active license and meets the supervisor's criteria and 2) the supervisor does not exceed the maximum number of apprentices under their supervision at any one time, once an individual becomes a licensed Dispensing Optician, there is no further need for tracking their place of employment that I can identify. Not only would this be burdensome to the licensees to have to report every time they change employers, the Administrative Office has no mechanism for tracking this information in our LARS licensing system for licensees. Further, tracking a licensee's place of employment serves no apparent purpose as it is not connected to any other function of the license or to any disciplinary measures."

This concludes the comments presented by Ms. Wallace on behalf of the Board's Administrative Office.

Rulemaking Hearing

Mr. Winters recommended due to a large packet of rule changes and numerous comments what may be beneficial is to look at the comments that apply to each section to see if there are any changes that the Board wants to make, then do a roll call vote on each one. The redlines were presented on the screen in the room and can be changed as necessary during the review and then vote on each section.

Ms. Wallace noted a point of clarification, that in the TDOA recommendation on several occasions where the rules refer to “he” or “his” they have requested to make changes to the language to say “he” or “her” to bring in both the masculine and feminine pronouns in the Rule. She referred to the current Rules, Definitions, paragraph 15 where there is a definition that states “he/she” “him/her” appearing in the text of these Rules represents both the feminine and masculine genders.

Mr. Winters commented it is now in the Redlines currently as paragraph 16, He/She, Him/Her. When “he” appears in the text of these rules, the word represents both the feminine and masculine genders.

Rule 0480-01-.01 (3)

A motion was made by Mr. Winnegrad to accept the redlines as written, with changes noted to paragraphs 3, 25, and 27 of 0480-01-.01(3) add “Tennessee licensed dispensing optician, optometrist, or ophthalmologist”; 0480-01-.01(25) strike the phrase “who has been in practice for at least 2 years”; 0480-01-.01(27) add “either”; amend “who is temporarily assigned to a workplace location which is not their regular place of employment or at their regular place of employment when the sponsoring supervisor is off premises”; and amend “A supervisor, at the supervisor’s discretion, shall not oversee more than four (4) apprentices concurrently”; add “at the supervisor’s discretion.” A second was made by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-1-.03 Necessity of Licensure

A motion was made by Mr. DeCrow to accept Rule 0480-01-.03 as drafted in the redlines. A second was made by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.04 Qualifications for Licensure

A motion was made by Ms. Miller to accept Rule 0480-01-.04 as drafted in the redlines. A second was made by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.05 Procedures for Licensure

A motion was made by Mr. DeCrow to approve Rule 0480-01-.05 as drafted in the redlines. A second was made by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.06 Fees

A motion was made by Ms. Miller to approve Rule 0480-01-.07 as drafted in the redlines with the addition of “Duplicate Identification Badge”. A second was made by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.07 Application Review, Approval, Denial, Interviews

A motion was made by Mr. DeCrow to approve 0480-01-.07 as drafted in the redlines. A second was made by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.08 Examinations

A motion was made by Ms. Miller to accept Rule 0480-01-.08 as drafted in the redlines. A second was made by Mr. DeCrow. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.09 Renewal of License

A motion was made by Mr. DeCrow to accept Rule 0480-01-.09 as drafted in the redlines. A second was made by Mr. Bowman. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye

Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.10 Supervision

A motion was made by Mr. Winnegrad to approve Rule 0480-01-.10 Supervision by striking the redlines and keeping the rules as written in the existing December 2015 version. A second was made by Mr. DeCrow. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.11 Retirement and Reactivation of License

A motion was made by Ms. Miller to approve Rule 0480-01-.11 as drafted in the redlines. A second was made by Mr. DeCrow. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.12 Continuing Education

A motion was made by Ms. Miller to accept 0480-01-.12 Continuing Education as drafted in the redlines with the changes to of (3)(b) amend to reference to “part (2)(b)4&5”; amend (2)(b)7(i) to read “Notwithstanding the provisions of subparagraph (2)(a), and licensee may seek approval to receive credit for successfully completing continuing education courses by submitting the documentation required in Part (2)(b)4(i) through (vi) and (2)(b)5. A second was made by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

Mr. Bowman - Aye
Mr. DeCrow – Aye
Ms. Miller – Aye
Ms. Walton-Hill – Aye
Mr. Winnegrad – Aye

Rule 0480-01-.14 Apprenticeship Training Program

A motion was made by Mr. DeCrow to accept Rule 0480-01-.14 as drafted in the redlines with the changes of (1)(a) strike “The Board administrator shall notify the apprentice when the sponsoring supervisor, training program, and training setting have been approved.” (5)(a)2 add “at the supervisor’s

discretion". A second was made by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

- Mr. Bowman - Aye
- Mr. DeCrow – Aye
- Ms. Miller – Aye
- Ms. Walton-Hill – Aye
- Mr. Winnegrad – Aye

Rule 0480-01-.16 License

A motion was made by Ms. Miller to accept Rule 0480-01-.16 as drafted in the redlines. A second was made by Mr. Bowman. There was no discussion on the motion. The motion passed unanimously.

- Mr. Bowman - Aye
- Mr. DeCrow – Aye
- Ms. Miller – Aye
- Ms. Walton-Hill – Aye
- Mr. Winnegrad – Aye

Rule 0480-01-.17 Change of Address and/or Name

A motion was made by Mr. DeCrow to accept Rule 0480-01-.17 as drafted in the redlines. A second was made by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

- Mr. Bowman - Aye
- Mr. DeCrow – Aye
- Ms. Miller – Aye
- Ms. Walton-Hill – Aye
- Mr. Winnegrad – Aye

Rule 0480-01-.21 Branch Offices

A motion was made by Mr. Winnegrad to accept Rule 0480-01-.21 as drafted in the redlines with the changes of striking (2) and (3). A second was made by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

- Mr. Bowman - Aye
- Mr. DeCrow – Aye
- Ms. Miller – Aye
- Ms. Walton-Hill – Aye
- Mr. Winnegrad – Aye

That concluded the rulemaking hearing and the comment period.

Discuss and Consider Approval of Meeting Minutes

Minutes from the January 19, 2022 Board Meeting

Upon review of the January 19, 2022, Board Meeting Minutes Ms. Miller 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

Jaime Byerly, Director of Investigations, provided reports to the Board. The currently monitored practitioners report and investigative reports were presented for 2021.

CURRENTLY MONITORED PRACTITIONERS PERIOD:

| | |
|--|-----|
| Total # Currently Monitored Practitioners | N/A |
|--|-----|

PERIOD: 2021 COMPLAINTS

| New Complaints | Number of Complaints |
|--|-----------------------------|
| Unlicensed Practice | 1 |
| Lapsed License | 2 |
| CE Violation | 2 |
| Total # New Complaints | 5 |
| Closed Complaints | |
| Closed BIV, EMS, HCF, AW | 4 |
| Closed – No Action | 3 |
| Closed – Warning Letter | 1 |
| Total # Closed Complaints | 8 |
| Total # Currently Open Complaints | 3 |

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

Financial Report/Update

Ms. Wallace noted the Board was provided with the Fiscal Year 2021 Year-end report, with highlights as follows:

- Total Expenditures: \$61,203.16

- Board Fee Revenue: \$162,140.00
- Current Year Net: \$100,936.84
- Cumulative Carryover: \$741,856.10

Discuss and take action as necessary regarding Legislation

There were no legislative items for the Board to review.

Receive Reports and/or Requests from the Board Administrative Office

Administrator’s Report

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

PERIOD: As of 01/11/2022

| | |
|--|-----|
| Total # Currently Licensed Dispensing Opticians | 929 |
| Total # Current Apprentices | 380 |

LICENSE STATUS SINCE THE LAST BOARD MEETING

PERIOD: July 21, 2021 to January 11, 2022

| | |
|--|-----|
| New Dispensing Opticians Licenses | 25 |
| New Apprentice Approvals | 69 |
| Renewed Licenses – Total | 186 |
| Paper Renewals | 56 |
| Online Renewals | 130 |
| Licenses Renewed Online as % of Total Renewals | 70% |
| Reinstated License | 0 |
| Approved for Practical Exam | 14 |
| Retired Licenses | 6 |
| Expired Licenses | 17 |
| Expired Apprenticeship | 83 |
| Closed/Withdrawn | 2 |

TRAVEL AND LODGING

- The current mileage rate is \$0.585 cents per mile
- The current meals and incidentals 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 (rates re-set each October):
 - January \$187
 - April \$230
 - July \$207

Ms. Johnston also presented the dates upcoming Board Meetings, as follows:

- April 20, 2022
- July 27, 2022
- October 26, 2022

Director's Report

Ms. Wallace provided updates to the Board as follows:

CE Policy Expiration

In response to the Executive Orders previously issued by Governor Lee, the Department of Health Commissioner issued a policy that allowed for all continuing education hours obtained during calendar years 2020 and 2021 to be completed without having the in-person component of the hours audited. This allowed all continuing education hours during calendar year 2020 and 2021 to be obtained in online/multi-media formats. This policy expired on December 31, 2021, and for calendar year 2022 all continuing education hours return to following the Board's rules, as written. This includes a maximum of two (2) hours of the annual continuing education requirement to be obtained in an online/multi-media format.

All licensees that have opted in to receive email notices from the Board were sent an email notifying them that the Commissioner's Continuing Education Policy has expired, and all licensees must obtain their continuing education for 2022 according to the rules of their licensing Board.

Annual CE JP Exam

In accordance with the Board's rules for continuing education, each licensee must complete one hour in jurisprudence, which may be obtained either by attending a board meeting, or by completing the annual CE Jurisprudence Exam. To that end, each year, the Administrative Office requests that one Board Member assist by completing a review of the existing Jurisprudence Exam to ensure that all questions and answers are still accurate and to assist with drafting several new questions to update the exam. Last year, Mr. Winnegrad assisted with this task, and today we would ask for a volunteer from the Board to do the same. Once the exam has been updated for 2022, we will present it to the Board for review and finalization at the April Board Meeting, and then it will be made available for licensee use.

Mr. DeCrow volunteered to assist with the project.

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

Mr. Winters commented that he has already covered the Conflict of Interest in the Open Meetings Act. There are no other Rules under review at this time. Regarding disciplinary activity, the Disciplinary Coordinators have been moved from the Office of Investigations to the Office of General Counsel. There are four (4) licensees currently being monitored by the Disciplinary Coordinator.

Consent Orders

There is one (1) Consent Order for ratification today for Randall Bennett, license number 2045. This was to be presented at the October 2021 Board Meeting, however we did not have a quorum and the meeting was cancelled. His license expired October 31, 2017. From November 1, 2017, to on or about March 2020, Mr. Bennett 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. Twenty-five (25) type B penalties in the amount of two-hundred (\$200.00) dollars for each for a total of five thousand (\$5000.00) dollars in cost. He has twenty-four (24) months to pay back this amount in civil penalties and two (2) months in the other costs.

Mr. Winnegrad made a motion to approve the Consent Order for Randall Bennett, 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.

Applicant Interviews/File Reviews/Waiver & Other Requests

File Review – James Armor

Mr. James Armor submitted an application to take the Tennessee Practical Exam and pursue a license as a Dispensing Optician in Tennessee.

Mr. Armor is registered in the state of California as a Spectacle Lens Dispenser and Contact Lens Dispenser, both of which are active through 2023 with no discipline reported, however, California is a not a licensing state for dispensing opticians.

Mr. Armor does not hold a license in another state to meet the requirements for reciprocity. The state of Nevada's rules for licensure requires an apprenticeship of no less than three (3) years to pursue a license. Mr. Armor completed a two-year, non-degree certification program at College of Southern Nevada, but a degree was not conferred. He has taken the Nevada state exam twice but did not pass and did not obtain licensure in Nevada.

These factors being considered, Ms. Wallace could not administratively approve Mr. Armor's application, it is being brought to the Board for review and a decision on whether he can be approved to sit for the Practical Exam in pursuit of licensure in Tennessee, or if he will be subject to having to complete additional apprenticeship time in Tennessee.

Mr. Armor was present to discuss his application with the Board.

A motion was made by Mr. DeCrow to allow the application to expire, with a second by Mr. Bowman. There was no discussion on the motion. The motion passed unanimously.

A motion was made by Mr. Winnegrad to approve the College of Southern Nevada as an approved board educational program, with a second by Mr. Bowman. There was no discussion on the motion. The motion passed unanimously.

File Review – Eric Heil

Mr. Eric Heil submitted an application to take the Tennessee Practical Exam and pursue licensure in Tennessee. He was available and contacted by phone. Mr. Heil holds an active license as a dispensing Optician in Georgia that was issued in September 2000 and has no reported discipline. Per the documentation from Optics by Victor he completed 4,000 hours of apprenticeship in California from 1995 – 1999.

Georgia's rules only require a two-year apprenticeship prior to licensure with a minimum of 3,000 hours.

Pursuant to Rule 0480-01-.04 Qualification for Licensure in (3) for education (d) If the applicant holds an unrestricted dispensing optician license in another state, the length of time for that state's training and supervised experience requirements for initial licensure shall be considered as time toward fulfilling Tennessee's three (3) year requirement.

The Board held discussion and determined that Mr. Heil will need to complete one-year in the Tennessee apprenticeship program or he can complete the NAO - OCPP Program that will fulfill one-year, 1750 hours in the Tennessee apprenticeship program. He will not have to be in the Tennessee apprenticeship program to complete the NAO – OCPP Program.

Ms. Johnston will send NAO – OCPP Program contact information to Mr. Heil.

A motion was made by Mr. DeCrow to allow the application to expire, with a second by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

Waiver Request – Kelsey Wheeler Apprentice Hours

Ms. Kelsey Wheeler was present to discuss her request with the Board. She is currently participating in the Tennessee Apprenticeship program, which she has not yet completed and is requesting the Board waive the remainder of her apprentice hours.

As of her last semi-annual evaluation form, through December 4, 2021, she has completed 3,183 hours since August 22, 2019, in approximately 28 months, making her short of completion by 8 months and 2,067 hours.

Ms. Wheeler was a registered Spectacle Lens Dispenser in California from September 2017 through May 2021, but has not been licensed in any other state

In accordance with Rule 0480-01-.04 Qualifications for Licensure (3) Education requirements must have completed either (b) Have satisfactorily completed a two-year course of study in opticianry in a college level program recognized and approved by the Board; or (c) Have had practical experience and training (apprenticeship) of a grade and character satisfactory to the board for not less than three years under the supervision of a licensed dispensing optician, a licensed optometrist, or a licensed ophthalmologist. Further, (d) If the applicant holds an unrestricted dispensing optician license in another state, the length of time for that state's training and supervised experience requirements for initial licensure shall be considered as time toward fulfilling Tennessee's three (3) year requirement. In addition, Rule 0480-01-

.14 Apprenticeship Program (4) requires that the period of apprenticeship training shall not be less than three (3) years in length.

Ms. Wheeler has not completed either the NAO - OCPP Program or submitted documented apprentice hours from another state.

Ms. Walton-Hill was recused from this review, as Ms. Wheeler is her supervisor at work. Ms. Walton-Hill exited the room during Ms. Wheeler's review. Ms. Miller as Secretary facilitated as the acting Chair for this portion of the meeting. A quorum remained active.

Ms. Wheeler commented that due to many challenges and the pandemic the office was closed from March to June and her sponsor was going on leave due to medical reasons and some of her hours could not be counted. She has been working since 2008 in two other states that do not require licensure or certification which was Indiana and Illinois, along with the time in California.

Mr. DeCrow confirmed that her ABO is still current. Ms. Wheeler confirmed that her ABO is current, and she also passed the Contact Lens exam in November. Ms. Wheeler has submitted her semi-annual evaluations and they have been submitted on time.

Ms. Wallace commented that the apprenticeship program rules do not currently include instructions for waiver provisions.

Ms. Miller and Mr. DeCrow commented that she would need to either complete the remaining hours in her apprenticeship program or take the NAO – OCCP Program.

A motion was made by Mr. DeCrow to deny the waiver request, with a second by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

Ms. Walton-Hill re-joined in the meeting.

Apprenticeship Re-Open Requests

Ms. Wallace directed the Board to the rules for Apprenticeship, noting that the Rules require anyone who is approved to participate in the Tennessee Apprentice program to complete and submit semi-annual evaluation forms by the 30th day after each six month training period and if they are not received at all, or not received by the stated deadline for each period, then after two (2) sequential periods in which the semi-annual evaluation form is not received, the individual's approval for the apprentice program will be rescinded and to continue as an apprentice, the individual must re-apply and start the program again from the beginning (Rule 0480-01-.14(4)(d) and (5)(c)1 and 2.

This is applicable to the three requests under this agenda item for which two semi-annual evaluation forms in a row were not received and in accordance with the rules, the individuals were rescinded from the apprenticeship program and their file closed.

Upon receipt of the letter notifying them that their file had been closed, they have each submitted letters requesting the board to re-open their files and restore them to the apprenticeship program, continuing on without having to re-apply and re-start the program over again.

Ms. Wallace noted that there is no provision in the current rules for a waiver of the semi-annual evaluation form and Rule 0480-01-.14(5)(c)2 reads, "If two semi-annual evaluation reports are not

received by the Board's administrative office within thirty days after the applicable training periods have ended, the Board will rescind its approval of the apprenticeship training program."

This being the case, the Administrative Office has no authority to re-open these files independent of a decision by the Board, and are providing them to the Board for review and discussion with the now-former apprentices, in response to their specific individual requests to speak to the Board regarding their Apprentice Program status.

Apprentice File Re-Open Request – David Ward

Mr. Ward was physically present to discuss his request with the Board. He was approved to begin his apprenticeship program in February 2020 and he did not submit any semi-annual evaluation forms since that approval, which were due by September 24, 2020, March 24, 2021, and September 24, 2021, until October 2021, after having received a letter from the Administrative Office that his file has been closed for non-compliance with this requirement.

Mr. Ward commented that it was a complete oversight on his behalf that he did not submit his semi-annual evaluation forms. He is registered to take the NCLE Exam on February 8th. He has passed the ABO Exam.

A motion was made by Mr. DeCrow to maintain the closure of the file, with a second by Mr. Bowman. There was no discussion on the motion. The motion passed unanimously.

Apprentice File Re-Open Request –Ashley Rayner

The Board was unsuccessful in contacting Ms. Rayner by phone as had been pre-arranged for her appearance with the Board. Ms. Wallace left a message.

Ms. Rayner was approved to begin the Apprentice Program on January 9, 2012, and at the time of her approval, the 6-year maximum for the program was not in place, only a minimum of 3-years and 5,250 hours, and an individual was required to continuing submitting their semi-annual evaluation forms to maintain their approval status in the apprentice program. Since then, the Board had a rule change that created a maximum of 6-years that a person could remain an apprentice, thus, the extended apprenticeship time for this individual. Ms. Rayner was sent a letter on October 15, 2021, informing her that her file had been closed due to not receiving the required forms since March 2020.

Ms. Rayner has provided a letter of explanation and medical documentation of a diagnosis she received in May 2021 as to her reason for becoming deficient on the submission of her semi-annual evaluation forms, and a statement that she has been on a medical leave of absence, but did not state when that leave began.

A motion was made by Mr. DeCrow to table until the next meeting, with a second by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

Apprentice File Re-Open Request –Marsha Thompson

Ms. Thompson was contacted by phone to discuss her request with the Board. She was approved to begin the apprentice program on September 4, 2020. She did not submit any semi-annual evaluation forms since that approval, which were due by April 4, 2021, and October 4, 2021, until November 2021

after having received a letter from the Administrative Office that her file has been closed for non-compliance with this requirement.

The Administrative office received Ms. Thompson's semi-annual evaluation form for September 2020 to March 2021 on November 12, 2021. However, the notary failed to date the semi-annual evaluation form. The Administrative office contacted Ms. Thompson via email to notify her that the notary failed to date the semi-annual evaluation form.

The Administrative office received Ms. Thompson's semi-annual evaluation form for April 2021 to October 2021 on November 18, 2021.

The Administrative office received a corrected copy of Ms. Thompson's semi-annual evaluation form for the September 2020 to March 2021 on December 9, 2021, where the notary back dated the form.

Ms. Thompson commented that the September 2020 to March 2021 semi-annual evaluation form was originally faxed in April 2021. Ms. Thompson was not aware that it wasn't received until she received the close file letter.

The Administrative Office did not receive supporting documentation of any fax confirmation that the semi-annual evaluation form for September 2020 to March 2021 was attempted to be submitted on time in April 2021.

The Board discussed tabling her file for a decision at the next Board Meeting, April 20, 2022, to allow her time to submit the fax confirmation for the September 2020 to March 2021 that she stated was submitted in April 2021.

A motion was made by Mr. DeCrow to table until the April Board Meeting, with a second by Ms. Miller. There was no discussion on the motion. The motion passed unanimously.

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. We do not have any closed or withdrawn files for the Board's consideration today.

Dispensing Opticians - Newly Licensed - 07/21/2021 to 01/11/2022

| License# | Name |
|----------|------------------------------|
| 3626 | Adams, Katherine |
| 3706 | Allen, Bonnie Charlene |
| 3677 | Barnes, Marlisha Paige |
| 3337 | Buschmann, Robin |
| 3730 | Cappa, Tim Gary |
| 3707 | Cochran, Christopher Francis |
| 3655 | Cooper, Toyi Alane |
| 2917 | Faulkner, Lindy Lockett |
| 3298 | Hanna, Jamie M |
| 3372 | Harvey, Cherokee Cheyenne |
| 3695 | Hendrix, Amber |
| 3681 | Laboy, Anthony |

| | |
|------|-------------------------|
| 3149 | Maglio, Nicholas Joseph |
| 1516 | Maria, Tammy Lee |
| 2978 | Mills, Rhonda Karen |
| 3693 | Montesino, Suney |
| 3680 | Seal, Rachel |
| 3674 | Sherman, Kasie Taylor |
| 3541 | Sommerio, Kayla Marie |
| 3335 | Tate, Andrea Nicole |
| 3696 | Widener, Alisa |
| 3027 | Wiggins, Lisa Anne |
| 3029 | Wiggins, Megan Nicole |
| 3679 | Woody, Savannah Hope |
| 3691 | Wormsley, Allison |

Dispensing Opticians - Apprentices Approval – 07/21/2021 to 01/11/2022

| Approval Date | Status | Name |
|---------------|------------|-------------------------------|
| 10/27/2021 | Apprentice | Ailey, Anna Christine |
| 11/15/2021 | Apprentice | Aliff, Heather Kierston |
| 11/29/2021 | Apprentice | Anderson, Ashley Elizabeth |
| 10/18/2021 | Apprentice | Anderson, Sheldon A. |
| 11/3/2021 | Apprentice | Azir, Niveen Nabil |
| 11/29/2021 | Apprentice | Bickham, Latosha |
| 07/26/2021 | Apprentice | Bone, Victoria |
| 09/27/2021 | Apprentice | Borisyyuk, Inna |
| 12/1/2021 | Apprentice | Brown, Tori Joan |
| 08/20/2021 | Apprentice | Buster-Gouda, Lisa Michelle |
| 08/9/2021 | Apprentice | Cantavespre, Shannel |
| 10/5/2021 | Apprentice | Cooper, Shiann Alexas |
| 08/30/2021 | Apprentice | Copeland, Jeremy David |
| 10/27/2021 | Apprentice | Day, Gabriel Voneshia |
| 10/25/2021 | Apprentice | Dishner, April N |
| 09/1/2021 | Apprentice | Dockstader, Stephanie Pantall |
| 11/3/2021 | Apprentice | Douglas, Kelly Scott |
| 11/3/2021 | Apprentice | Dunford, Charles Edward |
| 12/15/2021 | Apprentice | Earls, Jessica |
| 09/17/2021 | Apprentice | Elleman, Lynn Lanae |
| 12/15/2021 | Apprentice | Ericson, Sophia Norene |
| 11/29/2021 | Apprentice | Everett, Myranda Lynne |
| 09/15/2154 | Apprentice | Furlong, Valarie Denice |
| 12/15/2021 | Apprentice | Gantt, Vanessa |
| 10/5/2021 | Apprentice | Goff, Heath Allen |
| 11/29/2021 | Apprentice | Gregory, Shawna Gayle |
| 08/4/2021 | Apprentice | Gunter, Angela Michelle |

| | | |
|------------|------------|---------------------------------|
| 08/20/2021 | Apprentice | Harrell, Shanna Hope |
| 09/7/2021 | Apprentice | Harris, Evelyn I |
| 09/07/2021 | Apprentice | Henderson, Zachary |
| 08/20/2021 | Apprentice | Henson, Gabrielle Bird |
| 09/20/2021 | Apprentice | Herring, Bryant Hunter |
| 08/9/2021 | Apprentice | Holtsclaw, Kelly Lynne |
| 11/29/2021 | Apprentice | Howard, Brennan Michelle |
| 08/20/2021 | Apprentice | Hurst, McKenzie |
| 10/5/2021 | Apprentice | Kaup, Melinda Ross |
| 11/10/2021 | Apprentice | Lee, Amy |
| 12/6/2021 | Apprentice | Linville, Briggie Ybarra |
| 10/22/2021 | Apprentice | Louverture, Benjamin |
| 10/5/2021 | Apprentice | Macwan, Leena N |
| 08/20/2021 | Apprentice | Manship, Brian Paul |
| 12/9/2021 | Apprentice | Martin, Lausonz |
| 10/5/2021 | Apprentice | McCollum Amanda Nicole |
| 10/29/2021 | Apprentice | Metroka, Christen |
| 10/27/2021 | Apprentice | Moore, Ashlee |
| 07/26/2021 | Apprentice | Navarrete, Suate Carmen |
| 09/7/2021 | Apprentice | O'Connor, Ragan Crumley |
| 11/10/2021 | Apprentice | O'Rourke, Stefanie Christine |
| 11/3/2021 | Apprentice | Painter, Alesia Diane |
| 09/27/2021 | Apprentice | Palmer, Adrienne Elise |
| 10/22/2021 | Apprentice | Pannell, Xavier Alexander |
| 9/15/2021 | Apprentice | Pekarchick, Dana Marce |
| 12/17/2021 | Apprentice | Pitts, Kimberly Shondell |
| 10/20/2021 | Apprentice | Portillo-Mccord, Thais Isabelle |
| 10/18/2021 | Apprentice | Pozo-Zelaya, Ana Gisselle |
| 09/1/2021 | Apprentice | Remke, Joseph William |
| 10/11/2021 | Apprentice | Serna, Sandra Berenice |
| 11/15/2021 | Apprentice | Shyblosky, Larry William |
| 12/22/2021 | Apprentice | Sutton, Jennifer Leann/Shockley |
| 11/1/2021 | Apprentice | Tanksley, Kensley Carlile |
| 10/5/2021 | Apprentice | Taylor, Addison Anne |
| 08/09/2021 | Apprentice | Taylor, Kathy Lynett |
| 11/15/2021 | Apprentice | Thorburn, Mary |
| 11/29/2021 | Apprentice | Tolson, Harley |
| 9/01/2021 | Apprentice | Troyer, Marilyn |
| 12/15/2021 | Apprentice | Underwood, Austin Lee |
| 09/1/2021 | Apprentice | Underwood, Johnathan |
| 10/27/2021 | Apprentice | Walker, Tiffany |

Approved to sit for Practical Examination – July 21, 2021 to January 11, 2022

| <u>Name</u> | <u>Date Approved to sit for Practical Exam</u> |
|------------------------------|--|
| Allen, Bonnie Charlene | 08/10/2021 |
| Buschmann, Robin | 09/24/2021 |
| Cappa, Tim Gary | 09/16/2021 |
| Cochran, Christopher Francis | 08/10/2021 |
| Cunningham, Andrew Jaleel | 11/22/2021 |
| Faulkner, Lindy Lockett | 07/27/2021 |
| Gentry, Savannah | 12/2/2021 |
| Geoffroy, Paula Marie | 08/10/2021 |
| Hannah, Jamie M | 11/12/2021 |
| Harvey, Cherokee Cheyenne | 11/9/2021 |
| Maglio, Nicholas Joseph | 10/4/2021 |
| Maria, Tammy Lee | 10/15/2021 |
| Pugh-Johnson, Alexis Monique | 12/15/2021 |
| Tate, Andrea Nicole | 11/9/2021 |

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

Taskforce/Committee Reports

There are no Taskforce or Committee reports for the Board to review in this meeting.

Discuss and take action as necessary regarding Rulemaking, Rulemaking Hearings, Rule Amendments, and Policies**Policy Statement Follow-Up – Board Approved Educational Programs**

Mr. DeCrow suggested additional language to clarify organizations that provide accreditations for opticianry schools to be used as the standard.

Ms. Miller made a motion to approve the updated version of the policy, with a second made by Mr. Winnegrad. There was no discussion. The motion passed unanimously.

CE Course Review**Jobson Healthcare Information, LLC**

Jobson Healthcare Information presented one (1) continuing education hour online for Advancements in Photchromic Technology: Solutions for Today's World.

SECO 2022

~~SECO 2022 presented sixty (60) live continuing education hours for March 9, 2022, to March 13, 2022.~~

in New Orleans.

Kasie Sherman – SECO 2022

Kasie Sherman presented sixty (60) live continuing education hours for March 9, 2022, to March 13, 2022 in New Orleans.

TDOA – February & March 2022

Tennessee Dispensing Opticians Association (TDOA) presented February 20, 2022, at Sullivan Central High in Blountville, TN from 8:00 a.m. to 5:00 p.m. or Zoom for 8 continuing education hours and March 6, 2022 at Crosstown Concourse Building Community in Memphis, TN from 8:00 a.m. to 5:00 p.m. or Zoom for 8 continuing education hours.

The Learning Curve – Dr. Roy Ferguson

The Learning Curve presented the following:

January 30, 2022 – Johnson City

February 20, 2022 – Knoxville

March 6, 2022 Cookeville

September 11, 2022 – Cleveland

October 9, 2022 – Cookeville

November 13, 2022 – Knoxville

Hours: 8:00 a.m. to 5:00 p.m.

8 live or Zoom continuing education hours for each date/location.

Wang Vision Institute

Wang Vision Institute presented 8 live continuing education hours for the dates March 27, 2022 and August 2, 2022 at the Palmer Plaza, 1801 West End Avenue, Nashville, TN 37203 from 8:00 a.m. to 5:00 p.m.

Quantum Optical

Quantum Optical presented Internet continuing education for Spectacle Course for 12 continuing education hours and Contact Lens Courses for 12 continuing education hours.

Ms. Wallace confirmed that the in-person and live requirements are written in the Board's rules, and all licensees are expected to read, understand and comply with the Rules.

Ms. Wallace explained that some course providers has submitted as in person or online in case the previous Policy that was issued by the Commissioner was extended beyond December 31, 2021.

A motion was made by Ms. Miller to approve all continuing education course 15a through 15g, with a second by Mr. Winnegrad. There was no discussion on the motion. The motion passed unanimously.

Correspondence Review

There were no correspondence items for the Board to review at this meeting, other than those submitted for the Rulemaking Hearing, which were heard during the Rulemaking Hearing agenda item.

Conference/Event Report and Upcoming Events Review

There were no conference or event reports for the Board to review at this meeting.

Discuss Old/New Board Business

Old Business – ABO/NCLE Remote Proctoring Update

At the last several Board Meetings, the Board voted to extend the acceptance of ABO/NCLE exams scores for applicants that take the exam via remote proctored methods. When this item was first presented, several meetings ago, the attorney at the time, Ms. Parham noted that her legal opinion would be to extend this approval from one board meeting to the next and continue to review the applicability at each subsequent meeting.

Mr. Morris with the ABO/NCLE sent his regrets that he could not be at the meeting to discuss the remote proctoring method.

A motion was made by Mr. DeCrow to continue to approve the ABO/NCLE exams scores for applicants that take the exam via remote proctored methods to be approved until the next meeting, with a second by Ms. Miller. There was no discussion. The motion passed unanimously.

Board Election of Officers

At this time the current officers are:

- Board Chair, LeRhonda Walton-Hill
- Secretary- Treasurer, Brandy Miller

There are two (2) positions to be elected for the new calendar year.

Nominees:

- Board Chair: Mr. Winnegrad was nominated by Mr. DeCrow,
- Secretary-Treasurer: Mr. DeCrow was nominated by Mr. Bowman. Ms. Miller was nominated by Mr. DeCrow.

A motion was made by Ms. Miller to approve Mr. Winnegrad as Board Chair. A second was made by Mr. DeCrow. There was no discussion on the motion. The motion passed unanimously.

A motion was made by Mr. DeCrow to approve Ms. Miller as Secretary-Treasurer. A second was made by Mr. Bowman. There was no discussion on the motion. The motion passed unanimously.

Call for Public Comment

Ms. Wallace announced one final opportunity for the Board to receive Public Comments before the meeting was adjourned. There were no public comments offered at this time. Ms. Wallace reminded everyone that Public Comments may also be submitted in writing to The TN Board of Dispensing Opticians, 665 Mainstream Drive, Nashville, TN 37243 or via email at Unit3HRB.Health@tn.gov.

Adjournment

There being no further business, a motion was made by Mr. DeCrow to adjourn, with a second made by Ms. Miller. There was no discussion. The motion passed unanimously. The meeting was adjourned at 6:36 pm CST.

These Minutes were Ratified by the Board on April 20, 2022.



Board Chair

4-20-22
Date