

**TENNESSEE BOARD OF DISPENSING OPTICIANS
MEETING MINUTES**

DATE: April 24, 2024
TIME: 9:00 A.M. CST
LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Herman Bowman
Larry Christopher
Brandy Miller
LeRhonda Walton-Hill
Jonathan Winnegrad

BOARD MEMBER(S)

ABSENT: Consumer Member – Vacant

GUESTS PRESENT: Ailene Macias, Dental Board Director
James Morris, ABO/NCLE

STAFF PRESENT: Kimberly Wallace, Regulatory Board Administrative Director
Maria Johnston, Regulatory Board Administrative Assistant
Kathy Trawick, Associate General Counsel

Call to Order

Mr. Winnegrad called the meeting to order at 9:00AM CST and chaired the meeting. A roll call was conducted, and a quorum was present, with Mr. Bowman, Mr. Christopher, Ms. Miller, Ms. Walton-Hill, and Mr. Winnegrad present.

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.

CONFLICT OF INTEREST: 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.

Discuss and consider approval of Meeting Minutes, February 7, 2023, Board Meeting

A motion was made by Mr. Winnegrad

To approve the Minutes of the February 7, 2024, Board Meetings, as written.

A second was made by Mr. Bowman

Discussion: None OR As Follows

The motion passed unanimously by voice vote.

Receive Reports and/or Requests from the Office of Investigations

Mr. Justin Thornberry, Compliant Coordinator, presented the Investigations reports for the CY2024 to-date as follows:

PERIOD: 2024 COMPLAINTS

New Complaints	Number of Complaints
Total # New Complaints	1
Total Closed Complaints	0
Currently Open Complaints	1
Complaints by Allegation	
CE Violation	1

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

Ms. Emily Godwin, Fiscal Director, presented the FY24 Mid-Year report to the Board, with highlights as follows:

- Total Expenditures: \$44,853.34
- Board Fee Revenue: \$31,130.31
- Current Year Net: (\$13,723.03)
- Total Technology Improvement: \$465.47
- Cumulative Carryover: \$787,111.31

Ms. Godwin highlighted the decrease in revenue being reflective of the fee decrease that went into effect in 2022. She informed the Board that the decrease in revenue, resulting in a decrease in the cumulative carryover balance, is strategic in eradicating the excess carryover and would be explained to the legislature, as applicable, during any potential sunset review or self-sufficiency review. Ms. Godwin went on to provide a brief review of the technological upgrades and associated costs allocated to all boards, as based on the number of active licensees for each board.

Discuss and take action as necessary regarding Legislation

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

Receive Reports and/or Requests from the ABO/NCLE

Review and consider remote proctoring of the exams

Mr. James Morris, Executive Director and General Counsel for the ABO/NCLE, was present. He provided the Board a report of examination pass/fail rates for the calendar years of 2019 – 2023, including information regarding those exams administered via remote proctoring methods.

In follow-up to the Board’s questions regarding remote proctoring, Mr. Morris notified the Board

that the ABO/NCLE plans to continue to offer the remote proctored exam methods indefinitely, which was initially implemented during the covid pandemic, and they are aware that other states have adopted the acceptance of scores from this method indefinitely. They employ both a live video proctor as well as artificial intelligence proctoring and monitoring during a remote examination. They have encountered more attempts at cheating in the on-site testing locations than they have had in the remote proctor environment. Pass/fail rates have been fairly comparable between in-person and remote proctored exam scores.

The rationale for offering remote proctored exams is to allow better, more convenient access, and to assure that immunocompromised individuals, and those with learning disabilities, anxiety disorders, and other concerns, continue to have access. Also, they have found that the exam is extremely secure, and there is no reason not to allow the alternative testing methods. The ABO/NCLE also supports and provides accommodations for test takers in an in-person test environment as well for those with ADA needs/requests.

The ABO/NCLE is in the middle of a new job task analysis, which lasts 5-7 years, for the review and updating of their examination. They have a pool of approximately 2,500 exam questions.

ABO/NCLE remains separate from the OAA. Mr. Morris is appearing before the Board representing the ABO/NCLE testing procedures. The new United Opticians Association was approved on March 17, 2024, and implements on July 1, 2024. ABO/NCLE cannot be run by the association membership and cannot be part of a membership arm, to keep it a separate structure. The new association will provide additional separation between the testing organization and other industry organizations.

A motion was made by Mr. Bowman

To approve the acceptance of ABO/NCLE exam scores from remote proctored exam methods on a permanent basis.

A second was made by both Ms. Walton-Hill and Mr. Christopher

Discussion: None OR As Follows

Mr. Morris noted that the ABO/NCLE will continue reporting statistics to the Board and providing notice of any cheating events in the future. He re-stressed the security measures in place for the remote proctoring testing processes.

The motion passed unanimously by voice vote.

Receive Reports and/or Requests from the Board Administrative Office

Administrator's Report

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

As of April 15, 2024

Apprentices	Fully Licensed
362	934

UPDATES SINCE THE PREVIOUS MEETING

February 7, 2024, to April 15, 2024
New Apprentices - 12
New Fully Licensed – 12
Reinstated Licenses - 1
Approved to Sit for the Practical Exam - 16
Voluntarily Retired Licenses - 2
Initial by Education Closed File – 1
Expired Licenses – 8
Expired Apprenticeship - 36
Apprentice Closed/Withdrawn Files - 6
Paper Renewals Completed – 27
Online Renewals Completed – 63

TRAVEL AND LODGING

- The current mileage rate is \$0.67 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):
 - July 2024- \$210
 - August 2024 – \$210

UPCOMING BOARD MEETING DATES:

- August 21, 2024
- October 23, 2024

Jurisprudence Exam Review with Dental Board Presentation

Ms. Wallace informed the Board that there were two matters for the Board to review in this meeting regarding their review of the Jurisprudence Exam, which included: 1) a discussion of the preparations for the 2024 continuing education jurisprudence exam, and 2) a discussion regarding the potential for future administration of the jurisprudence exam via an online exam format.

Regarding the 2024 continuing education jurisprudence exam, in the February 2024 meeting, it was determined that Board Member, Mr. Christopher, would work to draft several new questions to be added to the master question bank, and then in addition to drafting the new questions, he

would also select questions from the bank to create the 25-question exam for 2024. These questions for the 2024 exam were then to be submitted to the Administrative and OGC Offices for review and presentation to the full Board in this meeting for consideration of approval.

Mr. Christopher was unable to make his review and complete those preparations, so a 2024 exam was not available for the Board's review and approval in this meeting.

Mr. Christopher stated he is almost complete with the 2024 exam preparation. The Board will review for approval and implementation in the August 2024 meeting.

Regarding the potential for future administration of the jurisprudence exam via an online exam format, Ms. Wallace informed the Board that the Dental Board currently administers their jurisprudence exam in this format, and the Dental Board Administrative Director, Ms. Ailene Macias was present to provide an overview and demo of how their exam functions in the online format for the Board's consideration.

For the Board to make a change from the current format of the jurisprudence exam to the online format as exemplified by the Dental Board, would require a rule change, at a minimum, to Rule 0480-01-.08(1)(d) to change current the grading, format, and submission requirements.

A review of the Rules Governing the Practice of Dentistry shows that their rules only list the requirement that the jurisprudence exam shall be successfully completed and what stages (initial, renewal, etc.) at which it must be successfully completed. Their rules do not specify the format, grading, or submission methods.

The Board considered their current own rules, including:

Rule 0480-01-.12(1)(a)1(i) Continuing Education

(1) Basic Requirements (a) Each person licensed by the Board is required to complete nine (9) hours of continuing education during each calendar year which shall include: four (4) hours in spectacles, two (2) hours in contact lenses, one (1) hour in jurisprudence and two (2) hours in optional courses.

1. The one (1) hour jurisprudence credit may be obtained by either:

- (i) Successfully completing the Board's Continuing Education Jurisprudence Credit examination; or*
- (ii) Attending one (1) morning session of a regularly scheduled meeting of the Board*

Rule 0480-01-.08(1)(d) Examinations

(1) The Board requires the following examinations to be successfully completed for licensure as a dispensing optician:

(d) The Tennessee Jurisprudence Examination, which is graded on a scale of 0-100 with a minimum passing score of ninety (90).

1. The following subjects may be included on the Tennessee Jurisprudence

Examination:

*(i) Tennessee Code Annotated, Title 63, Chapters 2 and 14; and
(ii) Official Compilation, Rules and Regulations of the State of Tennessee,
Chapter 0480-01.*

- 2. The applicable statutes and regulations can be accessed at the Board's Internet web page or are available upon request from the Board's administrative office.*
- 3. The format of the examination shall be "open-book."*
- 4. The jurisprudence examination shall be mailed or emailed to the Applicant when the application has been received by the Board's administrative office.*
- 5. The applicant shall complete the Tennessee jurisprudence examination and return it to the Board's administrative office.*
- 6. If the Board determines that the applicant has failed to successfully complete the Tennessee jurisprudence examination, the applicant will be mailed another examination and he/she must continue to retake the examination until it has been successfully completed before the application will be deemed complete and presented to the Board for consideration.*

A motion was made by Ms. Walton-Hill

To initiate the rule change process to change the jurisprudence exam to an online format.

A second was made by Ms. Miller

Discussion: None OR As Follows

The motion passed unanimously by voice vote.

Consent Agenda Discussion

Ms. Wallace stated to the Board that, in an effort to streamline board meetings and make the best use of the Board's time, many of the health related boards have implemented a consent agenda into their meetings. A consent agenda is the grouping together into one agenda item routine business matters and reports that do not typically require discussion, which allows all items listed on the consent agenda to be approved in one board motion.

For example, the consent agenda for a recent Board of Medical Examiners meeting included their approval of Meeting Minutes, Ratification of all licenses and file types, Approval of Agreed Citations, Review of the OGC Report, Administrative Office Report, and Office of Investigations Report.

As always, each of the reports put on the consent agenda will continue be sent to the Board Members ahead of each meeting, with the expectation that all Board Members have conducted an individual, thorough pre-meeting review of all meeting materials. Should a Board Member have any questions on any item on the consent agenda, it can always be pulled out for discussion and a separate vote held for that item, as needed.

Ms. Wallace stated that any action to approve a consent agenda approved in this meeting would be implemented starting in the next meeting.

A motion was made by Ms. Walton-Hill

To approve implementing a consent agenda for the approval of Meeting Minutes, Ratification of all licenses and file types, and Approval of Agreed Citations, as well as the Review of the OGC Report, Administrative Office Report, Notices, and Office of Investigations Report.

A second was made by Mr. Bowman

Discussion: None OR As Follows

The motion passed unanimously by voice vote.

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

Ms. Trawick presented the OGC report as follows:

Disciplinary Activity

As of April 8, 2024, the Office of General Counsel has one (1) case open against the board's licensees.

Disciplinary Coordinator's Report

Total number of Dispensing Opticians being monitored: 2

- Reprimand: 1
- Probation: 0
- Suspension: 1
- Revoked/Surrendered: 0

If licensees are noncompliant, further action is taken:

- Violations of board order are processed, and the licensee may incur further discipline.
- Licensees who have been revoked, who have surrendered their license or are currently expired are referred to the Attorney General's office for collection of any nonpayment of civil penalties or case costs.

Rule Activity

Rule 0480-01-.22 – This is the rule the board voted to repeal – based on the suggestions from the Retrospective Review. This is moving through the process; however, we were notified that we have overwhelmed the SOS office so things are slowed down on this.

Legislation

There is no new legislation to discuss at this time. After the session closes, a member of the legislative team will come to a board meeting and review any new laws that impact this board.

Presentation of Orders, Agreed Citations, and Other Disciplinary Items

Consent Orders

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

Agreed Citations

Each of the licensees with a Continuing Education Agreed Citation presented in this meeting were found deficient in meeting the Board's requirements during a routine continuing education audit for the period of January 1, 2021, through December 31, 2022. They have been assessed a civil penalty in the amount of \$100.00 and are required to complete the deficient hours within ninety (90) days of the date of ratification, in accordance with the Board's policy for continuing education violations. Agreed Citations presented included:

- Carol Arney, License #1533 – Deficient 2 hours
- April Lyles, License #2353 – Deficient 1 hour
- Nalini Persaud, License #3519 – Deficient 18 hours
- Willy Person, License #2450 – Deficient 2 hours
- Kimberly Stahl, License #1869 – Deficient 2 hours

A motion was made by Mr. Bowman

To approve the continuing education agreed citations as presented for licensees Arney #1533, Lyles #2353, Persaud #3519, Person #2450, and Stahl, #1869.

A second was made by Ms. Walton-Hill

Discussion: None OR As Follows

The motion passed unanimously by voice vote.

Applicant Interviews/File Reviews/Waivers & Other Requests

File Review – Garner Adkins File #4037

The applicant was available to be present by phone to speak with the Board regarding his application for licensure. The Board chose to review the file based on the documentation provided

by the applicant without a call to the applicant.

This file could not be administratively approved due to the applicant having submitted his application with a response of “no” to question #9, which reads: “*Have you ever been convicted of a felony or misdemeanor other than a minor traffic violation?*”

Upon receipt by the Administrative Office of the criminal background check for the applicant, it was discovered that he did have a conviction on his record from January 2012, thus, rendering his application inaccurate.

The applicant did complete the Affidavit and Release page of that application, wherein he attested to the truth of each statement made in the application.

Only after a follow-up inquiry from the Administrative Office, did the applicant submit a corrected application, with the response to question #9 being changed to “yes” along with a letter of explanation and the supporting court documentation.

The issue was not the nature of the conviction itself or its occurrence, rather, it was the inaccurate/false response to the convictions question the applicant submitted on his application.

The Board reviewed the applicant file and was asked to make a decision as to whether or not they would approve the application for this applicant to begin the Apprentice Program.

A motion was made by Ms. Walton-Hill

To approve the application to begin the apprentice program for Garner Adkins, File #4037.

A second was made by Mr. Winnegrad

Discussion: None OR As Follows

The motion passed unanimously by voice vote.

Ratification of Licensure Files

A motion was made by Mr. Winnegrad

To approve the Ratification List in its entirety as presented.

A second was made by Ms. Miller

Discussion: None OR As Follows

The motion passed unanimously by voice vote.

**Dispensing Opticians Ratification List
Newly Licensed
February 7, 2024, to April 15, 2024**

<u>License #</u>	<u>Name</u>	<u>Date</u>
3470	Brown Brittany Lynn	7/31/2025
3757	Douglas Kelly Scott	2/28/2026
3564	Fauscett Joshua Lee	12/31/2025
3998	Fulmer Matthew Henry	7/31/2025
3432	Goldstone Erica	4/30/2026
4002	Griffith Laci Elizabeth	8/31/2025
3734	Kaupp Melinda Ross	11/30/2026
3740	Macwan Leena N	7/31/2026
3716	Taylor Kathy Lynett	6/30/2025
3762	Thorburn Mary	8/31/2025
3357	Wolfe Melissa Ann	3/31/2025
3313	Woodard Casey L	7/31/2025

**Voluntarily Retired
February 7, 2024, to April 15, 2024**

<u>License #</u>	<u>Name</u>	<u>Date</u>
953	Hale Teresa R	2/8/2024
1742	Lingerfelt Jill Presley	4/5/2024

**Reinstatements
February 7, 2024, to April 15, 2024**

<u>License #</u>	<u>Name</u>	<u>Date</u>
2082	Oliver Leslie Robinson	6/30/2025

**Dispensing Opticians Apprentice Approval
February 7, 2024, to April 15, 2024**

<u>Approval Date</u>	<u>Status</u>	<u>Name</u>
4/5/2024	Apprentice	Anderson Ashley Elizabeth
4/5/2024	Apprentice	Carter Melanie
2/22/2024	Apprentice	Clark Christy Amanda
3/25/2024	Apprentice	Coleman Marcus Steven
4/5/2024	Apprentice	Cook Molly Ryann
3/1/2024	Apprentice	Cort Colter D

2/22/2024	Apprentice	Deal Megan Nicole
3/25/2024	Apprentice	Denson Terry Lynn
3/1/2024	Apprentice	Lust Ashley
2/22/2024	Apprentice	Tredway Steven Manning
3/25/2024	Apprentice	Tyler - Hill Vickie Renee
3/1/2024	Apprentice	Velarde Rosalie Passamano

**Approved to sit for Practical Examination
February 7, 2024, to April 15, 2024**

<u>Name</u>			<u>Date Approved for Practical Exam</u>
Brown	Lynn	Brittany	2/16/2024
Macwan	N	Leena	2/16/2024
Rowe		Kathy	2/22/2024
Fisher	Marie	Angela	2/22/2024
Lott	Christina	Kayla	3/1/2024
Lankford	Wayne	Michael	3/1/2024
Keen		Savannah	3/15/2024
Martinez		Roque	3/15/2024
Owenby	Grace	Hannah	3/22/2024
Massey	Nicole	Angela	3/25/2024
Navarrete	Suate	Carmen	3/25/2024
Stowe	R	Treva	3/25/2024
Gray	Grace	Emily	3/25/2024
Azir	Nabil	Niveen	4/5/2024
Beck	Hope	Shanna	4/5/2024
Lundquist	Lacy	Diana	4/5/2024

**Closed/Withdrawn Applications
February 7, 2024, to April 15, 2024**

<u>Name</u>	<u>Date</u>
De Leon Navarrete Hector Ivan	3/7/2024
Grantham Amber Laurel	3/7/2024
Jones Anneliese Marie	3/7/2024
Owenby Hannah Grace	3/7/2024
Taylor Todd Donald	3/7/2024
Zamora Abigail Aileen	4/07/2024

**Apprentice Closed / Expired Files
February 7, 2024, to April 15, 2024**

<u>Name</u>	<u>Date</u>
-------------	-------------

Abbott Andrew James	2/23/2024
Aldawas Faris Hamad	2/23/2024
Bairley Alisha M	2/23/2024
Bone Victoria	4/12/2024
Brazier Gretchen Anese	4/8/2024
Brodie Violeta Angeles	2/16/2024
Brogan Nikki Leeann	2/23/2024
Cain Savannah Marie	4/12/2024
Coleman Caleb Joshua	4/12/2024
Dewitt Michelle Ann	2/16/2024
Dugger Kiersten	2/16/2024
Durham Harley	4/12/2024
Gallipeau Karley Brooke	2/16/2024
Gantt Vanessa	3/5/2024
Howard Brennan Michelle	3/5/2024
Hudson Roselynn Elemos	4/12/2024
Kao Thomas Philip	2/16/2024
Kitchens Donald Lee	3/5/2024
Lazo Andrew James	3/5/2024
Lightner Christina Alexandria	3/5/2024
Monroe Emily Saria	2/16/2024
Murray Christina Ann	4/12/2024
Murray Katelyn	2/16/2024
Nash Kimberly Shondell	2/16/2024
Notta Sadiq	3/5/2024
Ovalle Torres Noemy Osayris	2/16/2024
Rogers Ira	4/12/2024
Royston Quoya Nakita	3/5/2024
Scott Katrina	3/5/2024
Smith Casey Joseph	2/16/2024
Smith Melynda Knoll	4/12/2024
Sutton Jennifer Leann/Shockley	3/5/2024
Tolson Harley	3/5/2024
Torres Rivera Ana	4/12/2024
Wani Mina	4/12/2024
Wingard Cheyenne	2/16/2024

Continuing Education Course Requests, and Other Education Items

There were no continuing education course requests or other education items for the Board to review in this meeting.

Discuss and take action as necessary regarding Rulemaking and Policies

There were no rulemaking or policy items for the Board to review in this meeting that were not already discussed under other agenda items.

Discuss Old/New Board Business

There were no old or new business items for the Board to review in this meeting that were not already discussed under other agenda items.

Review of Correspondence and Notices

Correspondence – Harold Taylor

An item of correspondence was submitted by Mr. Harold Taylor, License #885, posing several inquiries to the Board regarding scope of practice and the Board's interpretation of various duties and actions both specific to licensees and within optical establishments and the potential for disciplinary action related to violations of said actions.

The Board had the correspondence read into the record. Ms. Trawick noted that the correspondence reads as though the individual is questioning whether they should file a complaint against another individual that they may believe may be violating the rules, which they have the right to do through the Office of Investigations. She continued, that the scope of practice makes clear what constitutes optical dispensing, and the Board does not need to take any action on an item of correspondence, and correspondence does not require a direct answer. If the Board believes a correspondence item raises a matter that may be reason to consider a future rule change, they may discuss, as applicable. The Board does not provide advice to individual practitioners.

The Board held general discussion on the matter.

Ms. Walton-Hill stated the submitter's first step would be to contact their corporate attorney and/or file a complaint through the Office of Investigations regarding his concerns.

The Board stated that Rule 0480-01-.02 Scope of Practice and the rest of the rules and statutes do provide the appropriate guidance.

The Office of Investigations would be the ones to determine if a violation of the practice act has occurred as part of an investigation from a complaint submitted.

A legal interpretation is beyond the purview of the Board. The Board took no action on this item.

Public Comment

A new policy has been implemented which will require that any individual wishing to make a public comment at a board meeting to submit a request to do so in writing at least ten (10) business days prior to the date of a meeting. This notice must be submitted by email to the Administrative Office and must include the specific topic from the published agenda/sunshine notice for the meeting for which the individual wishes to make comment. Should the agenda be amended after initial publication, the member of the public wishing to address the Board must give their written notice no less than twenty-four (24) hours prior to the meeting. The email address for submission of a request to make public comment for this Board is: Unit3HRB.Health@tn.gov

Ms. Trawick noted that the new public comment policy is being applied and required across all health related boards.

Brian Diener (Deener), from the Optical Training Institute (OTI) was present and requested to make a comment to the Board regarding the Optician Development Program (ODP). Mr. Diener provided a brief update on the ODP and stated that the ABO/NCLE passing rates are over 90% passing rates for those completing the ODP Program prior to testing. They continue to make updates to the technology available through their program. He informed the Board that the Wal-Mart corporation is now offering the same TN Board-approved ODP Program to apprentices working through their company.

Adjourn

There being no further business to be heard, a motion was made by Ms. Walton-Hill to adjourn.

A second was made by Ms. Miller

Discussion: None OR As Follows

The motion passed unanimously by voice vote.

The meeting adjourned at 11:12AM CST.

These Minutes were Ratified by the Board on September 12, 2024



Board Chair



Date