

TENNESSEE BOARD OF OPTOMETRY MEETING MINUTES

DATE: July 10, 2019
TIME: 9:00 A.M., CT
LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN

BOARD MEMBERS

PRESENT: Christopher Cooper, O.D.
Linda Tharp, O.D., Chair
Jennifer G. Uhl, O.D., Vice Chair
Tonya Reynoldson, O.D.

BOARD MEMBER

ABSENT: Nancy P. Strawn, Consumer Member
Torrey J. Carlson, O.D., Secretary

STAFF

PRESENT: Yvette Vagle, Board Administrator
Kimberly Wallace, Unit Director
Kaitlin Parham, Assistant General Counsel
John W. Tidwell, Health Related Boards Director

Dr. Tharp, Board Chair, called the meeting to order at 9:02 A.M. A roll call was conducted and a quorum was present.

Review/Approve April 3, 2019 Board Meeting Minutes, January 17, 2019 & May 20, 2019 Teleconference meetings.

Upon review of the April 3, 2019, Board Meeting minutes, January 17, 2019, Board Meeting Teleconference minutes and May 20, 2019, Board Meeting Teleconference minutes, Dr. Cooper made a motion, seconded by Dr. Uhl, to approve the minutes as written. The motion carried.

Office of Investigations

Lori Leonard gave the investigative report. Currently Monitoring Practitioners: there is one (1) name on the list that is suspended and his file was sent to collection agency due to non-payment.

Investigative reports show that they have opened four (4) new complaints, of those four (4) complaints; two (2) were for unprofessional conduct, one (1) was for criminal conviction and one (1) was for right to know violation. One (1) Complaint was closed with a letter of concern. Currently reviewing/investigating five (5) open complaints.

Office of General Counsel

Kaitlin Parham read the Conflict of Interest statement reminding the Board to disclose any conflicts of interest that may arise.

Open Meetings Act

Pursuant to the Open Meetings Act, Committee business may only be discussed by the committee members during the meeting. Members should not discuss the committee's business at any time other than during the open Committee meeting. The prohibition applies to phone calls, emails, and text messages. Committee 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.

Rule Activity

The rule amendments concerning internet renewal and continuing education are scheduled to go in front of the Government Operations committee on July 24, 2019.

The Telemedicine rules and contact lens examination amendment are currently going through the internal review process.

Public Chapter 243 was passed in the last legislative session that requires any licensure examinations given by a state agency to provide appropriate accommodations in accordance with the Americans with Disabilities Act (ADA). The Health Related Boards Division is working on drafting rule language that will apply to all health related boards under this Act.

Disciplinary Activity

As of July 23, 2019, the Office of General Counsel had no open cases.

Ms. Parham stated an Opioid Minimum Disciplinary Standard Task force voted on emergency rules regarding the minimum discipline of Boards for prescribing of opioids that violate Board rules. Emergency rules 1045-02-.18 "Minimum Discipline for Opioid Prescribing" went into effect on March 29, 2019, and are set to expire on September 25, 2019.

Legislative Update 2019 – Optometry Board

Sara C. Warner, Esq., Legislative Liaison presented the Legislative Update:

- **Public Chapter 61** – Regarding AED use
- **Public Chapter 117** – Regarding “alternative treatments”
- **Public Chapter 124** – Regarding the TN Together opioid initiative
- **Public Chapter 195** – Regarding expedited licensure for military spouses
- **Public Chapter 229** – Regarding bartering for services
- **Public Chapter 243** – Regarding ADA testing accommodations
- **Public Chapter 255** – Regarding armed forces exemptions
- **Public Chapter 264** – Regarding CSMD data access
- **Public Chapter 327** – Regarding naloxone prescribing
- **Public Chapter 447** – Regarding document subpoena for investigations

For the detail of each legislative item interested parties may refer to the “Legislative” link from the Board’s website.

Administrative Report

Yvette Vagle stated as of July 9, 2019 there are 1,310 licensed Optometrists.

Ms. Vagle stated there were two (2) new licenses and twenty-two (22) renewals in April 2019 with twenty-two (22) renewing online for a percentage of one-hundred (100) percent.

Ms. Vagle stated there were seven (7) new licenses and sixteen (16) renewals in May 2019 with fourteen (14) renewing online for a percentage of eighty-eight (88) percent.

Ms. Vagle stated there were twenty-five (25) new licenses and twenty-five (25) renewals in June 2019 with twenty (20) renewing online for a percentage of eighty (80) percent,

Ms. Vagle stated in April, May and June 2019 fourteen (14) practitioners retired their licenses and three (3) practitioner licenses expired.

Ms. Vagle reviewed the remaining scheduled Board meeting dates for 2019:

October 11, 2019 – Gatlinburg, TN

2020 Board meeting dates:

January 8, 2020, April 1, 2020, July 8, 2020 and October 9, 2020 (Tentative)

Review, approve/deny and ratify new licensure files

Kimberly Wallace notified the Board that before reviewing the ratification list there are licensee applications that need to be reviewed, if the Board approves them we would amend the ratification list to include any/all that are approved.

1. **Jeffry Carkner** – Requesting the Board to waive the NBEO Board scores part III and the injections skill exam (ISE). Dr. Carkner graduated from Pacific University Forest Grove in Oregon in 1992 and on April 7, 2019, he completed and passed the two (2) part injection series course through Southern College of Optometry (SCO), he has an active license in Oregon with no discipline. Dr. Uhl made a motion to approve part III and the ISE waiver, seconded by Dr. Reynoldson. The motion carried.
2. **Jeffery B, Johnson** - Requesting the Board to waive the requirement for the injections skill exam (ISE) portion of the NBEO, Dr. Johnson was certified in injectables through the University of Missouri in St. Louis in May 2010, his initial license was in Illinois in 2010, his license in Illinois and Arkansas have no discipline. Dr. Cooper made a motion to approve the ISE waiver, seconded by Dr. Reynoldson. The motion carried.

Dr. Cooper stated the Tennessee Board of Optometry policy statement on injectable certification dated January 9, 2018 that part III does not include the injectable any longer and NBEO conducts six (6) exams. Dr. Cooper stated NBEO only has part I, II, III and ISE. Ms. Wallace stated staff and Ms. Parham will work on a revision for the policy statement based on the changes with NBEO for the next Board meeting.

Ms. Wallace stated the Board can continue with the ratification list and to consider the list now appended by add Jeffry Carkner and Jeffrey Johnson.

Newly Licensed

Upon review Dr. Reynoldson made a motion, seconded by Dr. Cooper, to approve the following applicants for licensure. The motion carried.

**Lindsey Adams
Parth Amin
Courtney Cape
Jeffry Carkner
Kelly Marie Cawley
Matthew Colonna
Jaelyn Deberry
Jason Anthony Fort
Madilyn Fouse
Taylor Nicole Greene
Emily Savannah Hammer
Victoria Ashley Howard
Marjorie Elizabeth Jenkins
Jeffery Johnson
Kathryn Kibler
Jake Lewis
Aubrey Long
Zachary Richard Long**

**Stephanie Renee McMillen
Gregory Scott Moore
Annedrea McMillan Morreale
Jackie NGO
Nicholas Qualls
Caitlyn Suzanne Reynolds
Joel Eric Saslawsky
April Marie Smith
Brittany Smith
Kaley Danielle Stinnett
Joshua David Taylor
Amber Thulin
Kaitlyn Elizabeth Trahan
Amy Hope Vinogradov
Jeromica Bosshera Ward
Alisha Rose Wheeler
Andrea Paige Wilhoite**

Approve/Deny Reinstatement Applicants

Upon review Dr. Cooper made a motion, seconded by Dr. Uhl, to approve the following reinstatement applicants. The motion carried.

Holly Renee Booth
Matthew Ryan Duncan
Pamela Lynn Helbling

Robyn R. Reesman
Jeffrey A. Williams

Business Name Requests

The Board reviewed a letter from Eric M. Selander, O.D. requesting approval for a business name change from **Eric M. Selander** to **Liberty Eye Care**. Dr. Cooper made a motion, seconded by Dr. Uhl to approve the request.

The Board reviewed a letter from Bradford M. Emde, O.D. owner of East View Eye Care calling the conference center “**EVEC Conference Center**” and the clinic part “**EVEC Advanced Testing & Treatment Center**” not a name change. The Board stated they do not need to take action.

The Board reviewed a letter from Jason Fort, O.D. requesting approval to use the professional practice name **Lawrenceburg Eye Care**. Dr. Cooper made a motion, seconded by Dr. Uhl to approve the request.

Presentation by Dr. James Venable – CPT Codes

Dr. Venable stated he provided a ten (10) page report, the purpose of which was to review the list of proposed CPT codes the Board is considering for approval and provide his insight as to the history and nature of these particular codes. Dr. Venable noted that several sources have been accessed, and that the opinions expressed in this report are those of the author and do not necessarily reflect those of his employer, Southern College of Optometry, or other practicing doctors of Optometry. This report, and any testimony given in support, is intended for use by members of the Tennessee State Board of Optometry to consider use of codes that would accurately describe the services provided by a doctor of optometry licensed in Tennessee.

- **Code 95004** - Intradermal Allergy Testing – Dr. Venable recommended to deny.
- **Code 96136** - Psychological Testing – Dr. Venable recommended to approve.
- **Code 97750** - Fall Risk Assessment – Dr. Venable recommended to deny.
- **Code 99406** – Smoking and tobacco use cessation-counseling visit; intermediate, greater than 3 minutes up to 10 minutes – Dr. Venable recommended to approve.
- **Code 99408** – Alcohol and/or Substance Abuse (other than tobacco) screening and brief intervention, including time spent reviewing the results and counseling the patient, between 15-30 minutes

AND

- **Code 99409** – Alcohol and/or Substance Abuse (other than tobacco) screening and brief intervention, including time spent reviewing the results and counseling the patient, greater than 30 minutes – Dr. Venable recommended to approve.
- **Code 99490** – Chronic Care Management services, at least 20 minutes of clinical staff time directed by a physician or other qualified health care professional, per calendar month, for patients meeting required elements – Dr. Venable recommended to deny.
- **Code G0396** – Alcohol and/or Substance (other than Tobacco) Abuse Structured Assessment (e.g., AUDIT, DAST) and Brief Intervention, 15-30 minutes

AND

- **Code G0397** - Alcohol and/or Substance (other than Tobacco) Abuse Structured Assessment and Brief Intervention, Greater than 30 minutes – Dr. Venable recommended to approve.

- **Code G0438** – Annual Wellness Visit, Includes a Personalized Plan of Service

AND

- **Code G0439** – Annual Wellness Visit Includes a Personalized Prevention Plan of Service, Subsequent – Dr. Venable recommended to deny.
- **Code G0442** – Annual Alcohol Misuse Screening, 15 minutes

AND

- **Code G0443** – Brief Face -To-Face Behavioral Counseling for Alcohol Misuse, 15 minutes – Dr. Venable recommended to approve.
- **Code G0506** – Comprehensive Assessment of and Care Planning for Patients Requiring Chronic Care Management Services – Dr. Venable recommended to deny.

Dr. Tharp stated the Board needed to review all the codes and Dr. Venable suggestions and table making a decision until the next Board meeting.

Palmetto request

Dr. Cooper stated the Board received correspondence from an attorney who is the CEO from one of the largest surgery centers in Western Tennessee asking the Board to help get codes approved and provide documentation and communication to Palmetto Group.

The legal opinion from the State of Tennessee Attorney General (in 2003) regarding scope in the state (and this has not changed in the years since as to who has the ultimate authority to determine scope of optometrists in Tennessee):

"Therefore, it is the opinion of this office that the Optometry Law, Tenn. Code Ann. §§ 63-8-101, et seq., as well as the General Rules Governing the Practice of Optometry, Tenn. Comp. R. & Reg. 1045-2-.01, et seq., authorize licensed optometrists with appropriate therapeutic certification and approval from the Board to use pharmaceutical agents by injection for treatment purposes, *i.e.*, purposes rational to the diagnosis and treatment of conditions or diseases of the eye or eyelid."

As to the matter of 92235, Fluorescein Angiography, Tennessee statute does not speak to this specific procedure, as Tennessee law is an exclusive scope law and not inclusive scope law and procedures approved are defined by the State Board of Optometry (reference Tenn. Code Ann. 63-8-102 (12)(E)). 92235, Fluorescein Angiography falls under: "The performance of primary eye care procedures rational to treatment of conditions or diseases of the eye or eyelid as determined by the board;" (63-8-102 (12) (E) (b). As such, through the rule making process and State Board meetings, the Tennessee State Board of Optometry has deemed that optometrists are within their scope to perform Fluorescein Angiography.

Discussion was held noting that citizens in TN who had Medicare for years with the previous Medicare provider, Cahaba, never had to worry if this test (or lump/bump removal) would be covered by their insurance. It is only now with the new provider, Palmetto, that this test and lumps/bumps procedures are now denied this new carrier.

Ms. Wallace stated the next item on the agenda is the Liaison request from Joseph Remke, O.D. she requested to add with the discussion of Palmetto request, Dr. Remke stated in the letter that CPT code 67840 was recently denied.

Ms. Parham will send a letter to Palmetto and Board chair Dr. Tharp will sign the letter. Dr. Reynoldson made a motion for the Board to send a letter with the statutes and laws, seconded by Dr. Uhl. The motion carried.

ARBO Meeting Reports

Ms. Wallace and Ms. Parham thanked the Board for allowing them to attend the ARBO Conference meeting that was recently held in St. Louis, MO, and provided reports to the Board regarding the sessions they attended. There were many presentations that spoke to rising technologies and the implementation of telehealth practices for Optometry at the meeting. In addition, Ms. Wallace and Ms. Parham were able to take part in a roundtable session with representatives of boards from other jurisdictions where conversation focused on CE tracking, as well as upcoming and recent legislative items from the other jurisdictions. Also, Ms. Wallace was able to attend a breakout session specifically for Executive Directors to discuss the handling of license procedures and changes brought on by the current legislative landscape.

Dr. Cooper talked about the ARBO meeting, sharing information from several of the technical sessions, and also shared a video NBEO LSPE exam. Dr. Tharp thanked Ms. Wallace, Ms. Parham and Dr. Cooper for the ARBO reports.

Correspondence

Albert Chen, O.D. - Sent a letter requesting a continuing education waiver for 2019 and 2020 due to military deployment to Korea, Dr. Uhl made a suggestion for online courses instead of live courses. Dr. Cooper made a motion to approve the waiver with the required online course

hours, fifteen (15) hours per year for a total of thirty (30) hours online, seconded by Dr. Reynoldson. The motion carried.

Discuss and take action if needed regarding rulemaking, hearings, rule amendments, and policies



Ms. Parham stated that the rules that were passed in January 2019 regarding the internet website link and a continuing education hours increase are scheduled to go before the Joint Government Operations rule review committee on July 24, 2019 at 1:00 PM in Nashville at the Cordell Hull Building, and the Committee has requested for a Board member to attend. Dr. Tharp stated a Board member will attend with Ms. Wallace and Ms. Parham.

Discuss Old & New Business

Dr. Tharp gave a report for the CSMD meeting she attended on July 9, 2019; she stated that Dentists are the highest prescribers of opioids to teenagers through CSMD; there is a five (5) year extension request that was granted for TennCare expansion program. She stated how important it is for all Optometrists, along with professionals from other Boards, to check the CSMD data base regularly.

Adjourn

With no other Board business to conduct Dr. Reynoldson made a motion, seconded by Dr. Cooper to adjourn at 11:02 a.m. The motion carried.

  _____ 11/8/19
Board Approved Date