

**TENNESSEE BOARD OF OPTOMETRY MEETING  
MINUTES**

**DATE:** October 11, 2023

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

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

**BOARD MEMBERS**

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

**BOARD MEMBERS**

**ABSENT:** Zachary McCarty, O.D.  
Consumer Member – Vacant

**STAFF**

**PRESENT:** Lyndsey Boone, Regulatory Board Administrative Director 1  
Maria Johnston, Regulatory Board Administrative Assistant  
Eric Winters, Senior Associate General Counsel

**Call to Order**

Dr. Steele called the meeting to order at 8:59 a.m. CST. A roll call was conducted, and a quorum was present, with Dr. James Venable, Dr. Kenneth Young, Dr. Kurt Steele, and Dr. Linda Tharp present. Dr. Zachary McCarty was absent, and the Consumer Member seat is vacant.

Board staff from the Administrative Office, including Ms. Lyndsey Boone and Ms. Maria Johnston, and from the Office of General Counsel, including Mr. Eric Winters, were also present.

**Discuss and Consider Approval of Meeting Minutes**

**Minutes from the July 12, 2023, Board Meeting**

A motion was made by Dr. Tharp to approve the Minutes of the July 12, 2023, Board Meeting Minutes. A second was made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

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

**Report of Complaints & Currently Monitored Practitioners**

Barbara Granum, Intake Coordinator from the Office of Investigations, was present to provide the investigative reports to the Board.

**PERIOD: 2023 Year-To-Date Complaints**

<b>New Complaints</b>	<b>Number of Complaints</b>
Total # New Complaints	8
Total Closed Complaints	9
Closed – Insufficient	1
Complaint Closed	6
Closed – Letter of Concern	1
Closed Warning Letter	1
Malpractice/Negligence	1
Unprofessional Conduct	7

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

Emily Godwin, Fiscal Director, introduced herself and was present to give the FY2023 Year-End reports. She reviewed and evaluated different fee scenarios with the Board to consider making edits to their fee decrease at their January Meeting. There will be more up-to-date information presented to the Board in January 2024.

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

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

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

Administrative Report

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

**PERIOD: As of October 3, 2023**

<b>Total # Currently Licensed Optometrists</b>	1,379
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**LICENSE STATUS SINCE PREVIOUS MEETING PERIOD:**

**March 30, 2023, to July 6, 2023**

New Licensed	25
Reinstatement	4
Retirement	9
Paper Renewals	43
Online Renewals	109

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

- The current mileage rate is \$0.655 cents per mile
- The current meals and incidentals rate is \$59.25 per day for an overnight stay

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

- January \$187
- April \$233
- July \$210

Upcoming dates for the 2024 Board Meetings, as follows:

- April 3, 2024
- July 10, 2024
- October 9, 2024

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

OGC Report

Mr. Winters commented that the Conflict of Interest and Open Meetings Act were presented on the OGC Report for the Board Members to read.

Rule Activity

There are two (2) rule packets that are currently in internal review. Amendments to Rules .08 (Corporate or Business Names and Advertising), .09 (Spectacles, Contact Lens Prescriptions, and Office Technology), .18 (Telehealth), and new rule .19 (Change of Address and/or Name); and amendments to Rules .05 (Continuing Education) and .07 (Diagnostic and Therapeutic Certification). The fee reduction packet that has been in internal review will likely be set for a rule making hearing

at the January 2024 meeting.

#### Disciplinary Activity

There is currently one (1) licensee being monitored by the Disciplinary Coordinator. There are zero (0) cases in the Office of General Counsel.

#### Legislation

There were no legislation items to review at this meeting.

#### Board Member Training Summary

Dr. Tharp requested that Mr. Winters provide a review of the recently held training to the Board. Mr. Winters commented that Deputy Director, Kyonzte Hughes-Toombs presented an online Board Member Training event a few weeks ago. The training reviewed various aspects of the Board, including responsibilities of the Board Members as well as the various staff and offices that provide support to the Board. Mr. Winters thanked Ms. Kyonzte Hughes-Tombs for providing the information that he presented to the Board at this meeting.

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

#### Consent Orders

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

#### Agreed Citations

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

#### Other Disciplinary Items

There were no Other Disciplinary Items for the Board to review at this meeting.

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

Ms. Boone presented the following Applicant Interviews/File Reviews/ Waivers & Requests.

Dr. Tharp asked for information on the protocol regarding practice names. Ms. Boone referenced the following:

- Rule 1045-2-.08 Corporate or Business Names and Advertising (4)(a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.

Dr. Tharp asked Mr. Winters if Advanced Eye Care is a superior title. Mr. Winters responded that it is the Board's decision if that would be considered a superior name. Dr. Steele, Dr. Young and Dr. Venable do not think it's a superior title.

### Practice Name Approval Request – Cookeville Advanced Eye Care

Dr. Garrett Shepherd submitted a business name approval request for Cookeville Advanced Eye Care. A motion was made by Dr. Tharp to approve the business name request for Dr. Garrett Shepherd. A second was made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

### Practice Name Approval Request – Smith County Advanced Eye Care

Dr. Garrett Shepherd submitted a business name approval request for Smith County Advanced Eye Care. A motion was made by Dr. Tharp to approve the business name request for Dr. Garrett Shepherd. A second was made by Dr. Venable. There was no discussion on the motion. The motion passed unanimously by voice vote.

### The Health Safety Institute (“HSI”)

The Health Safety Institute submitted a request for the Board to consider approving their CPR Course for both initial certification and recertification for compliance with the Board’s requirements that all licensees are actively certified in CPR. Ms. Wallace had sent the organization a request for additional information prior to the meeting, but did not receive a response from the organization.

The Board requested the following information be submitted for them to make an informed decision:

- How does this relate to health professionals?
- Are there basic life support activities included, other than just basic CPR?
- Are the fees comparative to the other two already approved?
- Available online or in person or both?
- What other professions is this CPR course already available to?
- Do they provide a test at the end of the training?
- Need to also submit the other requirements that Ms. Wallace requested previously

The Board made the decision to table this item for the next Board Meeting. The motion passed unanimously by voice vote.

### Ratification of Licensure Files – Newly licensed, Reinstatements, and Closed/Withdrawn Files

Ms. Boone commented that all files on the ratification list have been reviewed and found complete and in good order according to the Rules for the license or application type as listed.

## **Board of Optometry Ratification List for July 7, 2023, to October 3, 2023**

### **Newly Licensed**

License #	Name	License Expire Date
3840	Anderson Anna	4/30/2025
3835	Antic Andrea	7/31/2025
3830	Beaty Nicole Leeann	7/31/2025
3834	Ferjentsik Kelly Mcglynn	10/31/2025
3839	Geabou Lydia	3/31/2026
3837	Klick Abigail	3/31/2026
3838	Kwan Katie	3/31/2026
3836	Lambert Alexis	9/30/2024
3826	Lemay Blake	11/30/2024
3822	Lilienthal Rosalyn Angela	12/31/2024
3824	Mathis Mallory Brooke	4/30/2025
3843	May-Parmley Shelby Nicole	2/28/2025
3825	Mccrory Jayci Jo	7/31/2024
3815	Mendenhall Janna	3/31/2026
3829	Patterson, Melanie	2/28/2026
3819	Phan Jenny Len Hong	10/31/2024
3842	Richardson Haven Louise	6/30/2025
3828	Robertson John Fletcher IV	4/30/2026
3823	Robinson Cubdeerix Patricia	8/31/2025
3816	Safi Adiba	9/30/2024
3833	Smallwood D'Ajane	10/31/2025
3827	Smiley Emma	8/31/2025
3801	Stevens Jennifer E	10/31/2025
3831	Velasco-Hill Shirley	2/28/2026
3810	Ye Chang	8/31/2025

### **Reinstatement from Retired/Expired**

License #	Name	License Expiry Date
2168	Fisher Amy Anne	11/30/2025
3228	Jodoin Barbara Allane	9/30/2025
3414	Lafreniere Julie Rachel	4/30/2026
1825	McDonough Brett David	4/30/2026

### **Licensed to Voluntarily Retired**

573	Bloomington Larry W	8/31/2023
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3079	Forman Rebecca	10/31/2023
2342	Hallak Joseph	7/31/2023
586	Morrill Harold E JR	7/31/2023
507	Rhodes Clayton B	9/30/2023
441	Spivey Aaron L III	10/31/2023
3683	Taylor Ashlee Sue	9/30/2023
864	Taylor Bonnie F	8/31/2023
443	Winston Jerry M	8/31/2023

A motion was made by Dr. Tharp to approve the ratification list with a correction as noted for Licensee #1825 on the reinstatement expiration date on the year of the expiry date. Ms. Boone has noted the change will be corrected. A second was made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

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

#### **CSMD Report**

Dr. Venable commented that the next CSMD meeting is on October 17, 2023. There was no updated information to report.

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

Mr. Winters asked the Board if a review is needed to determine if the PEP exam changes will have any effect on the Board's rules regarding injectable certification requirements in Tennessee.

Dr. Venable explained the PEP exam changes will also offer the injectable certification that is required for Tennessee and his understanding is, it will not have an effect on the Injectable Certification requirement. He confirmed with Dr. Tharp that this is also her understanding.

#### **Rule 1045-02-.18 Telehealth in the Practice of Optometry**

Mr. Winters also wanted to discuss the update regarding Rule 1045-02-.19 in response to the Board's rule drafting from the previous meeting that are currently in the internal review process.

Mr. Winters commented that proposed rule changes include provisions where the patient is to be in Tennessee and adds being a resident of Tennessee or has established a doctor – patient relationship to obtain telehealth services from a healthcare provider. He went on to note that all rule amendments go through the Attorney General's office to be reviewed for legal sufficiency. There was discussion at the last meeting as to whether a patient could be outside the state, and this language was sent to the AG Office. The AG office stated that State of Tennessee Optometrists are limited to treating patients in Tennessee. Related statutes include T.C.A. 63-8-102, 115 and 119, which mention practicing in this state. Accordingly, he would like the Board's approval to change 1045-02-.19(3)(b) to state that the authority to practice telehealth is outlined to T.C.A. 63-8-155 and that the patient should be physically located in Tennessee.

Mr. Winters also added that he attended a conference a few weeks ago that covered regulatory issues surrounding telehealth. One of the presenters discussed the often-asked question about practitioner location, because the provider is supposed to be in the state in which they are providing telehealth services. Mr. Winters knew TN practitioners can only perform telehealth in the state of Tennessee.

Dr. Venable asked Mr. Winters to clarify, that if a patient is not physically located in Tennessee yet has an established patient care relationship with the Optometrist, that practitioner cannot care for them via telehealth. Mr. Winters confirmed this is correct. Dr. Venable expressed his extreme dissatisfaction at this requirement.

Dr. Venable commented, that if he was physically outside of TN and a patient called, he could see that this would be a violation, however, if he is physically in the state of Tennessee and he has a doctor-patient relationship already established and the patient calls from out-of-state, he has to tell the patient that he has to contact another provider. He also asked if, under the current rules for telehealth, a phone call meets the definition as far as telehealth or is it only if he is using technology to see the patient for telehealth. He continued that he would estimate that 90% of Optometrists and other medical professionals are likely in violation.

Ms. Boone explained telehealth for Dietitians to the Board and that many of them perform telehealth but they have to be licensed in many states to perform telehealth.

Mr. Winters referenced the rule as it is written now, Rule 1045-02-.19(3)(b), which reads:

“An optometrist is a “healthcare services provider” under Tennessee law and shall be licensed and under the jurisdiction of the Tennessee Board of Optometry when utilizing telehealth technology to provide services to a patient located in the State of Tennessee.”

Mr. Winters continued that in the conference he attended, they discussed a scenario where a Physical Therapist located in an area that borders three states - Virginia, Tennessee and North Carolina – and did not have a compact license, that individual would have to get a single license for each state because some of their patients were across state lines and they have to be licensed in that state to be able to do telehealth.

Dr. Venable would like the part of the rule that was going to be changed to be stricken and allow the rules to progress as they were written.

Mr. Winters read the proposed added revision of: “or a resident of Tennessee or have an established doctor-patient relationship to obtain telehealth services from a healthcare provider.”

Dr. Venable made a motion to strike the additional language added on telehealth services and approved the added revision to the rule to be added. A second motion was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously by voice vote.

#### Rule 1045-02-.09 Ocular and Contact Lens Prescriptions and Office Equipment

Mr. Winters referred to T.C.A. 63-1-155, and changes to the language regarding telehealth that will necessitate updates to Board Rules 1045-02-.09 and 1045-02-.18. The changes presented by Mr. Winters are intended to avoid conflicts and to make other applicable updates in alignment with the



statutes to bring clarification and to clean up the rules.

Dr. Venable referred to historical work by the taskforce that drafted the Optometry Telehealth rules, with the intent of the patient being a resident of TN and being able to have care rendered by a TN-licensed Optometrist, even if they are outside of TN at the time that care is needed.

A motion was made by Dr. Venable to approve the language presented by Mr. Winters with amendments as discussed. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously by voice vote.

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

FARB, January 25-27, 2024, Fort Worth, TX

Dr. Steele presented the upcoming FARB Conference. Ms. Boone asked to consider sponsorship of the advisory attorney for this conference.

A motion was made by Dr. Venable to approve attendance for Mr. Winters should he find the agenda appropriate to attend. A second was made by Dr. Young. There was no discussion on the motion. The motion passed unanimously by voice vote.

### **Election of Board Officers and CSMD Representative for 2024**

At this time, the current officers and Committee Members are:

- President: Dr. Steele
- Vice Chair: Vacant due to Dr. Reynoldson's term ending
- Secretary-Treasurer: Dr. Young
- CSMD Rep: Dr. Venable

These are the three officer (3) positions to be elected for the new calendar year, in addition to a representative to the CSMD Committee.

Nominees:

- Chair: Dr. Steele volunteered to continue as chair.

A motion was made by Dr. Venable to accept Dr. Steele to do a second year as chair. A second was made by Dr. Young.

- Vice Chair: Dr. Tharp volunteered to accept the position of being Vice Chair.

A motion was made by Dr. Steele to accept Dr. Tharp as Vice Chair. A second was made by Dr. Young.

- Secretary-Treasurer: Dr. Tharp nominated Dr. Venable as Secretary-Treasurer.

A motion was made by Dr. Young to accept Dr. Venable as Secretary-Treasurer. A second was made by Dr. Tharp.

- CSMD Representative: Dr. Venable commented that was difficult for him to attend the meetings. Dr. Steele nominated Dr. McCarty as CSMD Representative.

A motion was made by Dr. Steele to accept Dr. McCarty as CSMD Representative. A second was made by Dr. Young.

There was no discussion on the motions. The motions passed unanimously by voice vote.

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

There were no old/new business items for the Board to review at this meeting.

Dr. Venable commented the State of Tennessee jurisprudence exam has not been on the agenda to be reviewed since 2014 that he was aware of. He has heard that several new licensees were having difficulties passing the exam and it didn't make sense since it's an open book exam. Dr. Venable would like to see the exam and questioned when it had last been updated.

Ms. Johnston explained to the Board that the exam has been administratively reviewed to ensure the exam does not have questions or answers that don't match the rules. From the Administrative Office experience, it appears that licensees that are having difficulties due to not reviewing the rules when taking the exam.

### **Review Of Correspondence and Notices**

#### **Correspondence – Michael Mosley, Expert Witness Request**

Ms. Boone explained to the Board there is no action needed, it's not a function of the Board and is being presented to the Board for review.

Mr. Winters has guidance for the Board on this item and has drafted a letter for response to Mr. Mosley. He provided a copy to the Board for review.

Dr. Young made a motion to accept the letter that was drafted by Mr. Winters. A second was made by Dr. Venable. There was no discussion on the motion. The motion passed unanimously by voice vote.

#### **Notice – NBEO, CPDO Discontinued**

This a notice to the Board and no action needs to be taken.

Dr. Steele commented that the CPDO has been discontinued.

Dr. Tharp commented that there is a very low turnout of those taking the exam, the exam is very expensive and not cost effective.

Dr. Venable, in his twenty plus years of experience, has never known any graduates that have taken the exam.

#### **Notice – NBEO, COPE Reviewer Kurt Steele, O.D.**

This is a notice to the Board and no action needs to be taken.

Dr. Steele commented that he has volunteered to be a COPE Reviewer.

#### Notice – NBEO, Part III PEPS Exam Announcement

This is a notice to the Board and no action needs to be taken.

Dr. Steele mentioned that Part 3 of the exam is changing to the PEPS exam.

Dr. Tharp had the pleasure of sitting for the Pilot study, it's a 14-hour exam, there are over 300 questions, extra security has been set up to monitor cyber security breaches online.

Dr. Venable agrees with what Dr. Tharp has shared and in his 20 years with the Southern College of Optometry, it has been a continued frustration with our Board and other healing professions. It's much more appropriate and he's excited to see these changes.

Dr. Steele agreed with Dr. Tharp that it's directly related to patient care.

There was no more discussion.

#### Call for Public Comment

Ms. Boone commented that there was one individual signed up for public comment.

Dr. Garrett Shepherd was present to speak on behalf for Tennessee Association of Optometric Physicians, received communications about concerns on a few rules.

1045-2-.09 Ocular and Contact Lens Prescription and Office Equipment, 1045-2-.05 Continuing Education, 1045-2-.07 Diagnostic and Therapeutic Certification. He wasn't sure if the Board wanted to discuss or have any questions about the opinions that were given by TAOP or SECO about those topics.

Dr. Venable clarified and confirmed with Mr. Winters that each of those rule changes have additional revisions that are currently going through internal review and will be discussed at a future Rulemaking Hearing. Dr. Shepherd may attend that meeting to provide public comment at that time on the Rulemaking Hearing.

Mr. Winters explained when the rules come back for a final hearing they will be read into the record. Dr. Shepherd is more than welcome to come back and present comments on those rules at that time.

Dr. Shepherd also asked if at that time, if there are any changes will the process add additional time and re-start the process. Mr. Winters confirmed that it does not lengthen the process. After the rulemaking Hearing, the packet goes to the Commissioner and to the Governor's Office; at that time, it will be decided if it will proceed.

Dr. Shepherd asked the Board Chair if they wanted to go over those concerns at this point or wait until the final hearing. Dr. Steele commented that it sounded like the process is going to go on whether they hear them today or not and to wait until the appropriate time but would like to give him an opportunity, noting that he could send the information to the Administrative Office ahead of the next Board Meeting. Mr. Winters also explained that the rules would be discussed in sections and there

would be public comments for each of those sections in the Rulemaking Hearing.

Dr. Shepard is going to email his notes on the rule changes to the Administrative Office for the Board's review ahead of time and will be present at the Rulemaking Hearing to speak on those changes.

Ms. Boone announced that Public Comments may be submitted to the Board and may be made in person by attending a meeting, or in writing as submitted at least fourteen (14) days ahead of a regularly scheduled meeting by email to [Unit3HRB.Health@tn.gov](mailto:Unit3HRB.Health@tn.gov) or to TN Board of Optometry, 665 Mainstream Drive, Nashville, TN 37243.

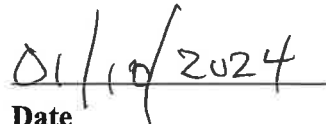
### **Adjournment**

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

The meeting was adjourned at 11:17 a.m. CST.

**These Minutes were Ratified by the Board on January 10, 2024**

  
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**Board Chair**

  
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**Date**