

TENNESSEE BOARD OF OPTOMETRY MEETING MINUTES

DATE: July 12, 2017
TIME: 9:00 A.M., ET
LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN

BOARD MEMBERS

PRESENT: Torrey J. Carlson, O.D.
Christopher Cooper, O.D.
Brad S. Lindsey, O.D.
Linda Tharp, O.D.
Jennifer G. Uhl, O.D., Secretary

BOARD MEMBER

ABSENT:

STAFF

PRESENT: Yvette Hernandez, Board Administrator
Teddy Wilkins, Unit Director
Stefan Cange, Assistant General Counsel

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

Teddy Wilkins welcomed the two (2) new Board members Dr. Linda Tharp and Dr. Christopher Cooper they are both are from Memphis, TN.

Review/Approve April 12, 2017 Board Meeting Minutes

Upon review of the April 12, 2017 Board Meeting minutes Dr. Lindsey made a motion, seconded by Dr. Carlson, to approve the minutes as written. The motion carried.

Office of General Counsel

Stefan Cange stated there are no open cases for discipline in OGC and no pending rules changes.

Mr. Cange stated the rule changes concerning continuing education (modifying to the wording of the rule concerning the required prescribing course, as well as to the wording of the rule pertaining to approval of CE from vendors already approved by the Board for such purposes) and

one other minor change (updating the web address for license renewal), are currently undergoing internal review.

Administrative Report

Yvette Hernandez stated as of July 10, 2017 there are 1,258 licensed Optometrists.

Ms. Hernandez stated there were four (4) new licenses and thirty-six (36) renewals in April 2017 with seventeen (17) renewing online for a percentage of forty-seven (47) percent.

Ms. Hernandez stated there were eight (8) new licenses and sixty-eight (68) renewals in May 2017 with thirty-five (35) renewing online for a percentage of fifty-one (51) percent.

Ms. Hernandez stated there were eighteen (18) new licenses and forty (40) renewals in June 2017 with twenty-five (25) renewing online for a percentage of sixty three (63) percent.

Mr. Hernandez stated in April, May and June 2017 thirteen (13) practitioners retired their licenses and five (5) practitioner licenses expired.

Ms. Hernandez reviewed the remaining scheduled Board meeting dates for 2017:
October 13, 2017 – Gatlinburg, TN.

Board meeting dates for 2018:

January 3, 2018

April 4, 2018

July 11, 2018

October 12, 2018 – Gatlinburg, TN (Tentative)

Ms. Wilkins stated the ARBO contact was approved effective July 1, 2017.

Office of Investigations

Ms. Dorsey Luther said there are currently one (1) open complaint against a practitioner and two (2) practitioners being monitored.

Mid Year Financial Report

Noranda French reviewed the mid-year report and said as of December 31, 2016 the Board had mid-year direct expenditures of \$52,257.08 and mid-year allocated expenditures of \$71,515.14. Ms. French said Board fee revenue mid-year totaled \$87,025.00. The current mid-year net is \$15,510.86. LARS improvements were \$5,178.82 for a total cumulative carryover of \$689,674.34.

Application Review

The Board reviewed a letter from **Juliana Chatterjee, O.D.** requesting a waiver of the ISE of the NBEO examination. Dr. Chatterjee stated when she took the NBEO Board scores in 2001

the ISE was not required. Dr. Carlson made a motion, seconded by Dr. Tharp to approve Dr. Chatterjee for licensure. The motion carried.

The Board reviewed a letter from **Grant Allen Rubesh, O.D.** requesting a waiver for the ISE of the NBEO examination. Dr. Rubesh stated when he took the NBEO Board scores in 2006 the ISE was not required. Dr. Carlson made a motion to waive the ISE on the condition that Dr. Rubesh successfully completes the injectable course through Southern College of Optometry. Dr. Tharp seconded the motion. The motion carried.

Newly Licensed

Upon review Dr. Lindsey made a motion, seconded by Dr. Tharp, to approve the following applicants for licensure:

Ghaith Mohamed Al-Sowaidi
Paige Alexandria Biehler
Tyler Ross Boone
Mallory Bodford
Juliana Chatterjee
Cameron Waters Clinard
Shelby Noell Haviland
Catherine Marie Hogan
Alex Mitchell Jackson
Alyssa Goodin Jackson
Stephanie Hu Jian
Patrick Cole Jones
Douglas Robert McCloy II
Nathania Nhouyvanisvong
Holly Ann Oboikovitz

Emily Kate Eisenhower
Taylor Nicole England
Timothy Hunter Foutch
Rebecca Ann Goad
David Charles Haba
Jordan Daniel Harrison
Matthew Ryan Page
Taylor Rhea Pasley
Laura E. Prindeze
Evan Jared Shields
Daniel Speer
Danielle Leblanc Thompson
Lindsey Vallejo
Jennifer Allen Willcox
Meagan Greer Williams

The motion carried.

Approve/Deny Reinstatement Applicants

Upon review Dr. Tharp made a motion, seconded by Dr. Cooper, to approve the following reinstatement applicants:

Chad L. Davis
Joshua Martin Garnsey

The motion carried.

Legislative Liaison Report

Ms. Lindsay Blair Legislative Liaison reviewed the following Public Chapters pertaining to the Optometry Board.

Public Chapter 43 - This sunset provision extends the board of optometry until June 30, 2021.

Public Chapter 350 - This will allow healthcare providers to satisfy one hour of continuing education requirements through the performance of one hour of voluntary provision of healthcare services. The maximum amount of annual hours of continuing education that a provider can receive through providing volunteer healthcare services is the lesser of 8 hours or 20% of the provider's annual continuing education requirement. The legislations allows for rulemaking by the division of health related boards in order to administer this section. This took effect on May 12, 2017.

Public Chapter 215 - This will require state governmental entities that establish or adopt guides to practice to do so through the promulgation of rules, rather than policy. The rules so promulgated must specify all provisions included in and relating to the guide to practice. Any changes to guides to practice made after the guides are adopted must also be promulgated by rule in order to be effective. For purposes of this part, guides to practice includes codes of ethics and other quality standards, but does not include tests, examinations, building codes, safety codes, or drug standards. This legislation took effect on April 28, 2017.

Public Chapter 240 - This legislation was brought by the Department of Health and was designed to address a number of issues throughout all licensing boards, committees, and councils. This legislation will:

- Insure the integrity of licensure examinations by making examination questions, answer sheets, scoring keys, and other examination data confidential and closed to public inspection.
- Allow the issuance of limited licenses to applicants who have been out of clinical practice or inactive, or who are engaged in administrative practice. Limited licenses may be of restricted scope, restricted duration, and have additional conditions placed upon them in order to obtain full licensure.
- Clarify that other documents prepared by or on behalf of the Department with regard to an investigation are confidential until such time as formal disciplinary charges are filed against the provider.
- Eliminate the "locality rule" for administrative law.
- Require the chief administrative official for each health care facility to report within 60 days any disciplinary action taken against an employee for matters related to ethics, incompetence or negligence, moral turpitude, or substance abuse, to the employee's respective licensing board. All records pertaining to the disciplinary action shall be made available for examination to the licensing board.

This act became effective on May 2, 2017.

Public Chapter 481 - This legislation creates a new violation of a healthcare practitioner's practice act if that practitioner refuses to submit to or tests positive for any drug the practitioner does not have a lawful prescription for or a valid medical reason for using the drug. It is the duty of the employer to report any violation to the Department of Health. If the practitioner fails a drug test, the practitioner has 3 business days to either produce the requisite prescription or medical reason, or report to their board approved peer assistance program. If the practitioner does not comply with any of these measures, it is the duty of the employer to report this violation of the practice act to the employee's licensing board for investigation and action. If the practitioner reports to the peer assistance program and obtains and maintains advocacy of the program, the employer is not required to notify the board.

As long as a practitioner obtains, maintains and complies with the terms of a peer assistance program, the board shall not take action on the licensee for the sole reason of a failed or refused drug test. If a practitioner fails to obtain or maintain advocacy from the peer assistance program, the program is required to report that information to the appropriate licensing board. The board SHALL suspend the license of a practitioner who fails to comply with the terms of the program. Employer drug testing must be compliant with the Drug-free Workplace requirements. This legislation allows a quality improvement committee to share information regarding substance abuse by a practitioner with other quality improvement committees. Additionally, this legislation specifies that the Department of Health is not required to obtain prior approval from the Attorney General in order to take any emergency action on a licensee. This legislation took effect on July 1, 2017.

Public Chapter 230 - This legislation authorizes commissioners or supervising officials of departments to evaluate certain actions by a regulatory board to determine whether the action may constitute a potentially unreasonable restraint of trade. Supervising officials must ensure that the actions of regulatory boards that displace competition are consistent with a clearly articulated state policy. If a board action constitutes a potentially unreasonable restraint of free trade, the supervising official must conduct a further review of the action and either approve, remand or veto the action. The supervising official may not be licensed by, participate in, or have a financial interest in the occupation, business or trade regulated by the board who is subject to further review, nor be a voting or ex officio member of the board. The supervising official must provide written notice of any vetoed actions to the senate and house government operations committees.

Prior to filing a regulatory board's rule with the secretary of state, the commissioner or chief executive officer of the administrative department under which a regulatory board operates or to which a regulatory board is administratively attached, or a designee to the extent a conflict of interest may exist with respect to the commissioner or chief executive officer, must remand a rule that may constitute a potentially unreasonable restraint of trade to the regulatory board for additional information, further proceedings, or modification, if the rule is not consistent with a

clearly articulated state policy or law established by the general assembly with respect to the regulatory board. This act took effect on April 24, 2017.

Other Board Business

Dr. Carlson talked about the ARBO annual meeting that he attended in June 2017 in Washington, D.C. They talked about tele-health and tele-medicine and the legislation that was introduced in Tennessee. Dr. Carlson made a suggestion if they are going to practice tele-medicine in Tennessee they have to be licensed in Tennessee; Mr. Cange is going to research.

Dr. Carlson stated a representative from Accreditation Council for Continuing Medical Education (ACCME) gave a report and COPE is trying to align with Accreditation Council for Continuing Medical Education (ACCME). Dr. Carlson stated he did a research for continuing education for all states and Tennessee was at the second to the last of all the states. Colorado was the last of all the states doing less continuing education hours requirements than Tennessee, the average of continuing education for other states are Forty (40) hours every 2 years.

Dr. Carlson stated they had a presentation on colored contact lenses and illegal sales and there's a FDA government website to report the problems with the colored contact lenses and they want this to be done on a Federal level. They found 67% that have been found to be contaminated. The FDA website is; www.fda.gov Dr. Carlson stated this does not follow under the Optometry Board.

Theo Morrison, Lobbyist with the Tennessee Dispensing Opticians Association stated Tennessee Association Optometric Physician (TAOP) and Tennessee Dispensing Opticians Association (TDOA) worked together several years ago to pass legislation to prevent sale of color contact lenses within convenient stores, gas stations and flea markets.

Mr. Cange explained the process of a rule making hearing; He drafts the rules, the Board see the language, the Board votes on it, once the Board approves it, then it gets put into a rules package, internal group, leaves his office and has to be signed by six (6) people, it gets signed off by his immediate supervisor, head of attorney then commissioner and governor's office, the notice is filed, rule making hearing 50 days later.

Adjourn

With no other Board business to conduct Dr. Carlson made a motion, seconded by Dr. Tharp to adjourn at 10:54 a.m. The motion carried.

Ratified by the Board on October 13, 2017