

TENNESSEE BOARD OF OPTOMETRY MEETING MINUTES

DATE: April 3, 2019
TIME: 9:00 A.M., CT
LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN

BOARD MEMBERS

PRESENT: Torrey J. Carlson, O.D., Secretary
Christopher Cooper, O.D.
Linda Tharp, O.D., Chair
Jennifer G. Uhl, O.D., Vice Chair

BOARD MEMBER

ABSENT: Nancy P. Strawn, Consumer Member
Tonya Reynoldson, O.D.

STAFF

PRESENT: Yvette Vagle, Board Administrator
Kimberly Wallace, Unit Director
Kaitlin Parham, Assistant General Counsel

Dr. Tharp, Chair, called the meeting to order at 9:05 A.M. A roll call was conducted and a quorum was present.

Review/Approve January 16, 2019 Board Meeting Minutes

Upon review of the January 16, 2018 Board Meeting minutes Dr. Uhl made a motion, seconded by Dr. Cooper, to approve the minutes as written. The motion carried.

Office of Investigations

Lori Leonard gave the investigative report. They received three (3) complaints, of those three (3) complaints; one (1) was 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 Monitoring Practitioners: there is one (1) name on the list; one (1) Douglas Anderson, his file has been sent to the Attorney General's office back in April 2015 and it was returned with unable to collect, she's sending his file to an outside collection agency.

Office of General Counsel

Kaitlin Parham read the Conflict of Interest statement reminding the Board to disclose to her 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 for a rulemaking hearing at today's Board meeting.

The Telemedicine task force is going to discuss rule additions later in today's meeting.

Disciplinary Activity

As of March 20, 2019, the Office of General Counsel had no open cases.

Mid-Year Financial Report

Noranda French reviewed the mid-year fiscal 2019 report and said as of mid-year December 31, 2018 the Board had total expenditures of \$33,265.78. Ms. French said Board revenue fee totaled \$93,545.00.

Ms. French stated Projections for fiscal year 2019 total expenditures of \$116,546.45, the Board revenue fee of \$187,090.00 and current year net of \$28,408.20.

Administrative Report

Yvette Vagle stated as of April 3, 2019, there are 1,290 licensed Optometrists.

Ms. Vagle stated there were zero (0) new licenses and sixteen (16) renewals in January 2019 with zero (0) renewing online for a percentage of zero (0) percent.

Ms. Vagle stated there were zero (0) new licenses and eleven (11) renewals in February 2019 with zero (0) renewing online for a percentage of zero (0) percent.

Ms. Vagle stated there were two (2) new licenses and twenty (20) renewals in March 2019 with zero (0) renewing online for a percentage of zero (0) percent,

Ms. Vagle stated in January, February and March 2019 ten (10) practitioners retired their licenses and three (3) practitioner licenses expired.

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

July 10, 2019

October 11, 2019 – Gatlinburg, TN (Tentative)

Review, approve/deny and ratify new licensure files

Prior to reviewing the ratification list, Ms. Wallace directed the Board's attention to three (3) licensee applications that need to be reviewed, noting that if the Board approves them, they would be added to the ratification list.

1. **Dr. Gregory S. Moore** – The Board had reviewed his file at the last Board meeting, held on January 16, 2019, and requested more information. He is requesting a waiver for the NBEO Board scores parts I, II and III. Dr. Moore provided a certificate from Southern College of Optometry showing he completed a twelve (12) hour workshop in Optometric Applications of injectable Medications without a date on the certificate; he provided certification from Northeastern State University College of Optometry for consideration as his proof of injection certification - the course was titled "Minor Surgical Procedures for the Optometric Physician" on November 15-16, 2018 - and completion of the course overview was attached.

The Board asked for clarification of employment and why his name was not on the Faculty list on the website for the University of Pikeville. The Board received a letter from the Director of Human Resources of the University of Pikeville with dates of his employment. Dr. Moore provided his resignation letter from the school and it shows he left employment on January 4, 2019.

The Board asked for information regarding the nature of the discipline that appears on Dr. Moore's Kentucky Optometry license. The Board obtained a copy of the Agreed Order and it provides details that Dr. Moore failed to renew his license in 2010 and practiced on an expired license from May 2010 thru February 2011. His explanation and the information provided in the agreed order stated he did so without the knowledge or intent to violate the statute. Dr. Moore agreed to the fines that totaled \$1,400.00 and his Kentucky license is active and is in good standing.

Dr. Tharp ask Ms. Parham about rules regarding licensure for applicants from other states that have not passed all the Boards from NBEO, Ms. Parham read rule 1045-02-.03(5).

"Notwithstanding the above, the Board may, by majority vote, waive the passage of all parts of the National Board's Examination and may accept proof of clinical competency in lieu of submission to clinical examination by the Board where the applicant is in good standing and practicing in another state with clinical competency examinations comparable to that of the State of Tennessee". Ms. Parham stated with that provision, the Board could grant Dr. Moore licensure. Dr. Cooper stated that, at the time Dr. Moore graduated from Optometry school,

licensure in the state he was going to work didn't require NBEO, so he did not take the exams and his intent was that he would be practicing in West Virginia. Based on the historical precedence, and based on Tennessee rule 1045-02-.03(5), Dr. Cooper entered a motion to approve this waiver, seconded by Dr. Uhl. The motion failed.

Dr. Tharp opened for discussion, and asked the administrative staff to research and look for whether the National Board scores had been waived for other applicants in the past, and also wanted to know when rule 1045-02-.03(5) went into effect. The Board requested a teleconference be scheduled when the Board receives the information. Dr. Moore was not added to the ratification list at this time.

2. **Adam Hickenbotham** – Requested the Board to waive the requirement for the injections skill exam (ISE) portion of the NBEO per the Tennessee Board of Optometry January 2018 policy statement on injectable certification. Dr. Hickenbotham was certified in injectables through the University of California at Berkley in May 2003. His Kentucky license is active and in good standing. Dr. Cooper made a motion to approve the ISE waiver, seconded by Dr. Carlson. The motion carried. Dr. Hickenbotham will be added to the ratification list.

3. **Donnie Akers** - Requested the Board waive the requirement for the injections skill exam (ISE) portion of the NBEO, per the Tennessee Board of Optometry January 2018 policy statement on injectable certification. Dr. Akers was certified in injectables through the state of Kentucky by taking a sixteen (16) hour course titled “Surgical Procedures for the Optometric Physician” through Northeastern State University College of Optometry in Oklahoma on July 23-24, 2015. His Kentucky license is active and in good standing, he was licensed before 2012. Dr. Uhl made a motion to approve the ISE waiver, seconded by Dr. Cooper. The motion carried. Dr. Akers will be added to the ratification list.

Ms. Wallace stated the Board can continue with the ratification list and amend the list to add Adam Hickenbotham and Donnie Akers.

Newly Licensed

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

Tom Hall II
Donnie Akers
Adam Hickenbotham

The motion carried.

Approve/Deny Reinstatement Applicants

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

David K. Hall

The motion carried.

Task Force Telehealth

Ms. Parham stated there was a Telehealth Task Force that was created and the Task Force met in January and February, Ms. Parham drafted the rules, the Board reviewed the rules, Dr. Cooper made a motion to discuss rule 1045-02-.18, seconded by Dr. Carlson. The motion carried.

Ms. Parham discussed the policy statement for Telehealth Rules. Dr. Cooper made a motion to put the policy statement for Telehealth Rules on the Optometry website, seconded by Dr. Uhl. The motion was amended and the Board voted to table the policy statement for Telehealth Rules until the Rulemaking hearing.

Dr. Carlson made a motion to accept rule 1045-02-.18 to proceed to a rule making hearing, seconded by Dr. Cooper. The motion carried.

Presentation by Dr. Lloyd Tantum – CPT Codes

Ms. Wallace stated that Dr. Tantum submitted a list of about twenty-one (21) additional CPT codes to the Board for review; she stated that the Board recently updated the CPT Codes list that were approved at the last Board meeting January 16, 2019, and they have been posted to the Optometry website. Dr. Cooper asked Ms. Vagle if the codes to be reviewed today are any different than what was previously submitted, Ms. Vagle stated she didn't see any difference, Dr. Cooper stated he didn't see a difference.

Ms. Wallace placed a conference call to bring Dr. Tantum into the Board meeting via phone. He could be heard via speaker by the Board and he could hear the comments by the Board Members and staff. Dr. Tharp explained to Dr. Tantum that six (6) of those codes were already approved by the board, she asked Dr. Tantum to give the information of the twelve (12) codes that have not been approved by the Board. Dr. Tantum gave an overview of the codes he submitted. Discussion was held regarding the use of tablet-based screening tests that Dr. Tantum administers to patients, which he said would qualify for use of several of the CPT codes presented.

The Board asked the Administrative staff to reach out to Dr. Venable, the AOA, the 3rd party administrator that provides the technology Dr. Tantum is using for the screenings, and any other contacts we may be able to obtain, looking for information on the intent and history behind the CPT codes begin considered, and their use by Optometric professional, and would like to have this information presented at the next meeting to be held on July 10, 2019.

Redline Draft Rules

Ms. Parham stated she attached 315.2 and 315.3 of the Code of Federal Regulations with the redline draft; Dr. Carlson wanted to see the information of the Federal Laws on contact examinations. Dr. Carlson made a motion to update the changes of strike the old and new 1045-02-.08(3)(a)(VI) of the redlines and make 1045-02-.08(3)(a)(VI) read, “Medically necessary follow-up examinations” and then send the changes on to internal review and rulemaking, which was seconded by Dr. Cooper. The motion carried.

Adjourn

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