

**MEETING MINUTES
TENNESSEE BOARD OF OPTOMETRY**

DATE: July 13, 2016
TIME: 9:00 A.M., CDT
LOCATION: Health Related Boards
Poplar Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: David Talley, O.D., Chair
Dennis Matthews, O.D.
Brad S. Lindsey, O.D.
Torrey J. Carlson, O.D.
Jennifer G. Uhl, O.D.
Edie Clemons, Citizen Member

STAFF

PRESENT: Yvette Hernandez, Board Administrator
Teddy Wilkins, Unit Director
Matt Gibbs, Assistant General Counsel

Dr. Talley, Chair, called the meeting to order at 9:01 A.M. A roll call was conducted and all Board members were present.

Review/Approve April 6, 2016 Board Meeting Minutes

Upon review of the April 6, 2016 Board Meeting minutes, the Board members approved the minutes unanimously.

Office of Investigations

Ms. Dorroh stated there is one (1) complaint in their office against an optometrist and they are currently monitoring three (3) practitioners. Ms. Dorroh stated that two (2) practitioners are currently compliant and they are working on getting the third compliant.

Financial Report

Upon review of the Financial Report Dr. Talley stated there are sufficient funds for Board members to attend meetings to improve their ability to perform on the Board.

Mr. Gibbs stated the Board has a sunset hearing coming up August 16 or 17, 2016.

Ms. Wilkins stated that Dr. Talley, as Board chair, will be asked to attend the hearing and she will notify Dr. Talley of the date and time.

Dr. Matthews stated when he was previously on the Board their excess funds were carried over into the general operating funds. Dr. Talley asked why the salary and wages decreased significantly from 2015 to 2016. Mr. Gibbs stated that was a financial question they cannot answer.

Ms. Wilkins stated that the Legislative Liaison from the Governor's Office is here to give her report and asked if she could be next on the agenda as she has another meeting to attend.

Legislative Liaison Report

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

Public Chapter 990, pertaining to all Health Related Boards, requires an insurer to reimburse and provide coverage for telehealth services provided by a practitioner licensed in Tennessee, regardless of the patient's location, becomes effective January 1, 2017.

Public Chapter 665, which grants immunity from civil liability for charitable organizations or free clinics, and optometrists, ophthalmologists, or dispensing opticians providing services at such clinics involved in facilitating the dispensing of previously owned eyeglasses by licensed optometrists, ophthalmologists, or dispensing opticians became effective March 31, 2016.

Public Chapter 766 permits charitable clinics to contract with or employ dentists, physicians, psychologists, optometrists and osteopathic physicians. It requires the contractual relationship between a healthcare provider and a charitable clinic to be in a written contract, job description, or documentation, containing language that does not restrict the healthcare provider from exercising independent professional judgment in diagnosing and treating patients. It does not authorize a charitable clinic to employ an anesthesiologist, an emergency department physician, a pathologist, or a radiologist, or an osteopathic physician who specializes in any such type of medicine became effective April 19, 2016.

Public Chapter 763, pertaining to all Health Related Boards, permits licensees whose licenses have expired due to non-payment to obtain reinstatement when payment of the renewal fee and late fee, which is capped at twice the annual renewal fee, and unattained continuing education are completed. This replaces the current requirement of payment of all past due fees before reinstatement became effective July 1, 2016.

Office of General Counsel Report

Mr. Gibbs stated there are no open disciplinary cases in the Office of General Counsel and no pending rule changes.

Administrative Report

Ms. Hernandez said as of July 12, 2016 there are 1249 licensed Optometrists.

Ms. Hernandez stated there were two (2) new licenses and thirty-six (36) renewals in April with twenty-three (23) renewing online for a percentage of sixty-four (64) percent.

Ms. Hernandez said there were nineteen (19) new licenses and forty-seven renewals in May with twenty-nine (29) renewing online for a percentage of sixty (60) percent.

Ms. Hernandez said there were twenty-seven (27) new licenses and forty-six (46) renewals in June with twenty-nine (29) renewing online for a percentage of sixty-three (63) percent.

Ms. Hernandez stated four (4) Optometrists retired their license and three (3) expired their licenses in April; four (4) retired and three (1) expired their licenses in May; and, one (1) retired and one (1) expired licenses in June.

Ms. Hernandez stated the next Board meeting will be on October 14, 2016 in Gatlinburg, Tennessee.

Ms. Wilkins said the ARBO contract is up for renewal this year and will be completed in the next few days.

Presentation from Eye-Med

Megan Alice, Eye-Med Market Collaboration Team, and Joe Wendi, Optometrist, Eye-Med Senior Director of Medical Services addressed the Board regarding their program.

Dr. Wende stated they are at the meeting to ask for the Board's approval to operate PopUp Clinics in Tennessee and partner with a local provider to staff the clinic and provide comprehensive eye exam. Dr. Wende stated they launched the program in 2015 and currently have approval to offer the clinic in 36 states. Dr. Matthews asked how optometrists would be paid, who collects the money, where does the money come from and how the money is passed on to the optometrist. Dr. Wende said it would be paid through existing Eye-Med customers who have Eye-Med benefit coverage. The clinic is also open to non-Eye-Med beneficiaries and the doctor would have to charge and collect the fees. Dr. Matthews asked if the money goes directly to the doctor and he pays rent to Eye-Med. Ms. Alice stated that no rent is charged. Dr. Matthews asked how the organization makes money. Ms. Alice said Eye-Med sees this as a value for their clients and it's not about making money. Dr. Matthews asked how they got paid and asked where Eye-Med is located. Dr. Wende said Eye-Med is a wholly owned subsidiary of Luxottica, headquartered in Mason, Ohio. Dr. Wende said the Pop Up clinics are only offered to existing contracted employer groups who have facilitated or contracted to provide Eye-Med benefits to their employee population. It is not part of a marketing practice to entice potential clients, but only for existing clients. Dr. Lindsay asked if the clinic would provide staff or if the doctor would need to bring his own staff. Ms. Alice said that would depend on what the doctor is comfortable with as they require a licensed dispensing optician to help with dispensing. Ms.

Alice said she is always there to support in any way but they do request an additional staff member. Mr. John Williams asked how they would select an optometrist if there were multiple optometrists that wanted to conduct the exams. Dr. Wende said he did not have a solution for that and Eye-Med would have to collaborate to make that determination. Mr. Williams said another concern is direct, or indirect, pressure to see a large volume of patients and it would be up to the optometrist to determine how long a patient's visit took. Mr. Williams asked who ran the dispensary and whose products would be sold. Dr. Wende said that would be in collaboration with the local optometrist and as far as the material that would also be in collaboration with the optometrist and the Eye-Med contracted laboratories. Dr. Uhl asked if they ever had a doctor that brought in their own frames. Ms. Alice said yes they had one optometrist bring in 300 frames and set up the retail prices. Dr. Talley asked Mr. Gibbs if it would be a reasonable for the Board to request a copy of the contract between the company and the optometrist to see if it outlines the quality of service to be maintained and to protect the public. Dr. Talley requested the Board ask for a copy of the contract to assure the public is protected. Ms. Clemmons asked if Eye-Med had a rating system or if they had a specific area for reviews and comments. Ms. Alice said they did not have that information housed on their web site. Dr. Talley asked if the Board had any other comments or concerns. Dr. Lindsay asked that Eye-Med include an equipment list with the contract. Upon discussion, Dr. Lindsay made a motion, seconded by Dr. Carlson, to table the vote until the October meeting in order to obtain a copy of the contract, sample of communication that goes to the employees at the site, document showing the process of choosing Eye-Med and the equipment list. The motion carried.

Dr. Talley thanked Ms. Alice and Dr. Wende for attend the meeting on behalf of the Board.

Application Review

The Board reviewed a letter from **James J. Wachter, O.D.** requesting a waiver of Part 3 of the NBEO examination. Dr. Wachter stated when he took the NBEO Part 1 and 2 exams in 1990 and that Part 3 was not required. Dr. Talley stated Dr. Wachter provided documentation that he is licensed in Kentucky and is qualified to practice therapeutics, lasers, has taken the injection certification courses and completed the CPR course. Dr. Uhl made a motion, seconded by Dr. Matthews, to approve Dr. Wachter for licensure. The motion carried.

Newly Licensed

Upon review Dr. Matthews made a motion, seconded by Dr. Clausen, to approve the following optometrists for licensure.

**Feyisayo Opeyemi Aworunse
Caraline Patricia Babb
Daniel Howard Brigham
Ryan Matthew Bunch
Frank Carusone
Adrienne C. Chan
Kacey Capps Cilimberg
Lee Alexander Compton**

**Kirsten J. McKnight
Olivia M. Mesoras
Christine Myers Mikolaj
Daniel Miller
Andrea L. Murphy
Joanna Lee Murray
Katherine O'Hara
Enrique C. Palacios**

**Erin Swichkow
Sierra Cunningham
Kristen Renee Daniel
Kevin Michael Davis
Jessica R. Fawer
Robert Edward Fisch
Trenton James Gaasch
Kristin A. Hammill
Christopher V. Harlan
Ashlee B. Henderson
Hope Ann Henderson
James G. Hoover
Thomas Michael Huff
Sheena L. Jessee
Marianne J. Johnson
Joseph Daniel Kelly
Shelly E. Lomax
Chad Daniel Mahaffey
Adam Neal Malik
Chalise Lynne Maybee
Darah McDaniel-Chandler**

**William G. Parsley, III
Shruti Patel
Monica Lyn Perry
Kay Chan Powell
Shaleen B. Ragma
Jonathan Routon
Christine A. Sager
Kelly E. Short
Jennyffer D. Smith
Gerald W. Stinson
Monica C. Szalajko
Jamie L. Taylor
Emy Katherine Thompson
Paige Nicole Thompson
Kelly Dawn Varney
Kara Lynn Vitus
Chelsea R. Wahl
Rebecca Ann Wenig
Timothy C. Wise, II
Michelle May Wong**

The motion carried.

Approve/Deny Reinstatement Application(s)

Upon review Dr. Matthews made a motion, seconded by Dr. Uhl, to approve the following optometrist for reinstatement.

William P. Lee

The motion carried.

Correspondence

The Board reviewed a letter from **Charles J. Foster, O.D.** requesting approval to use the professional practice name **Vision Source of Newport**. Dr. Matthews made a motion, seconded by Dr. Clausen, to approve the request.

The Board reviewed a letter from **Carolyn Morton, O.D.** requesting approval to use the professional practice name **Morton Eye Center, PLLC**. Dr. Uhl made a motion, seconded by Dr. Clausen, to approve the request.

The Board reviewed a letter from **Charles M. Hornby, O.D.** requesting a waiver of Part 3 of the National Exam Scores which was not required in 1983 provided he submits an injectable certification course. Ms. Hernandez stated Dr. Hornby is currently CPR certified. Dr. Uhl made

a motion, seconded by Dr. Matthews, to approve the request upon receipt of proof of successful completion of the injectable course. The motion carried.

The Board reviewed a letter from **David J. Baptiste, O.D.** requesting a waiver of Part 3 of the National Exam Scores which was not required in 1994 and 1995. Ms. Hernandez stated Dr. Baptiste will take the injectable and CPR course upon waiver of Part 3. Dr. Clausen made a motion, seconded by Dr. Lindsay, to waive of Part 3 and approve his license upon receipt of proof of successful completion of the injectable and CPR certification courses. The motion carried.

The Board reviewed correspondence from **Daniel Hayes** regarding an announcement he received from United Health Care to provide eye exams in a patient's home. The Board asked Mr. Gibbs to send United Health Care a letter stating eye exams could not be conducted in a patient's home without prior approval by the Board.

The Board reviewed a letter from **Paul Farkas, MS, O.D., and FAAO** regarding a CEwire2017 online continuing education course. The Board asked Ms. Hernandez to send Dr. Farkas a letter asking him to review Rule 1045-2-.05(2)(a), 1045-02-.05(2)(f)(2) regarding the maximum number of on-line continuing education courses optometrists are allowed to obtain.

The Board reviewed a letter from **Janet Swartz, Ed.D.**, Executive Director of the **National Glaucoma Society** requesting approval of an October 5 and October 19, 2016 webinar as live continuing education. The Board requested that Ms. Hernandez send Dr. Swartz a letter stating that a live webinar will not count for an online course per Rule 1045-02-.05(2)(a) and 1045-02-.05(2)(f)(2).

The Board reviewed a letter from the **Southern College of Optometry** regarding a continuing education request for current SCO Faculty Members to be approved for the SCO's instructors for the SCO Injections Certification Series (Part I and Part II). Upon review, Dr. Matthews made a motion, seconded by Dr. Uhl, to approve the list of optometrists. The motion carried.

The Board requested that Ms. Hernandez send the Southern College of Optometry a letter stating that each attendee must receive continuing education credit for Tennessee, required to show proof of the education when audited by the Board, and issue each attendee a certificate to confirm that the courses were taken including the dates, times, number of hours credited, provider and course title. The Board further asked Ms. Hernandez to include that any changes made after receipt of approval be submitted thirty (30) days prior to a regularly scheduled meeting preceding the course.

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

Ms. Wilkins stated the Board would need a rule amendment to change the Public Chapter 763 regarding renewal fees. Mr. Gibbs stated he disagrees as the Board is currently under the cap

required by the public chapter. Ms. Wilkins stated that she and Mr. Gibbs will discuss this further.

Dr. Matthews stated his term has expired and that he has elected not to apply for reappointment.

Ms. Wilkins stated the statute requires Dr. Matthews to remain on the Board until a replacement has been made. Dr. Matthews stated he has enjoyed serving on the Board. Dr. Tally thanked Dr. Matthews and stated the Board has enjoyed having Dr. Matthews on the Board.

With no other Board business to conduct, Dr. Uhl made a motion, seconded by Dr. Lindsay, to adjourn at 10:47 a.m. The motion carried.

Ratified by the Board on October 14, 2016