

**TENNESSEE BOARD OF DISPENSING OPTICIANS
MEETING MINUTES**

DATE: January 20, 2016
TIME: 9:00 A.M., CST
LOCATION: Health Related Boards Conference Center
Poplar Room
663 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: LeRhonda Walton-Hill, DPO, Chair
Felda Stacey, DPO, Secretary
Greg DeCrow, DPO
Les Freeman, DPO
Kimberly Jackson, DPO

BOARD MEMBERS

ABSENT: Dr. Edward Risby, Consumer

STAFF

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

Ms. Walton-Hill called the meeting to order at 9:00. A roll call was conducted and all Board members were present.

The Board welcomed its new member, Mr. Les Freeman.

Minutes

Upon review of the October 29, 2015 minutes, Ms. Jackson made a motion, seconded by Mr. DeCrow, to approve the minutes as written. The motion carried.

Office of General Counsel

Mr. Gibbs stated there are two (2) disciplinary cases in OGC and a Consent Order to be presented to the Board.

Mr. Gibbs said the jurisprudence exam went into effect on December 1, 2015 requiring all licensees to obtain one (1) hour of jurisprudence continuing education credit by completing the

jurisprudence examination or attending one (1) morning session of a regularly scheduled Board meeting.

Mr. Gibbs said two (2) legislators proposed a bill containing civil immunity for the dispensing of pre-owned eye glasses to an individual, who is fourteen years of age or older, who has been prescribed the eye glasses free of charge and dispensed by an ophthalmologists or optometrists.

Mr. Gibbs said the proposal it is in the section of the code that removes civil liability for free clinics and sponsoring organizations that provide the dispensing of eye glasses.

Ms. Stacey stated she contacted the Lions Club regarding dispensing free eye glasses and was informed they do not dispense free glasses.

Ms. Walton-Hill stated that she volunteered for the Lions Club and they do not give out free glasses. Ms. Walton-Hill said they have the prescriptions ground down, with the exception of third world countries.

Ms. Stacey said at her office the local Lions Club chapter pays for the glasses.

Mr. Theo Morrison, ABO/NCLE Lobbyist, stated he spoke with the bill sponsor, Ron Travis, who said the legislation came from the Spring City Lions Club to prevent a barrier for donating pre-owned eye glasses.

Consent Order

Mr. Gibbs presented a consent order to the Board for **Charles D. Owens, DPO**.

Ms. Stacey recused herself from the proceeding.

Mr. Freeman stated he worked with Mr. Owens ten (10) years ago but it would not impede his ability to make a decision on the consent order. Mr. Gibbs stated that Mr. Owens signed a consent order that was ratified by the Board in July 2011 for civil penalties in the amount of \$4,500 for working on an expired license for about six (6) years. Mr. Gibbs said the language in that consent order required Mr. Owens to pay the \$4,500 within thirty (30) days and, as of date, Mr. Owens has paid very little of the fine, which is in violation of a Board order.

Mr. Gibbs said the new consent order requires Mr. Owens to pay \$2,225 within ninety (90) days and pay the balance within nine (9) months. Mr. Gibbs said if the full amount is not paid within nine (9) months, Mr. Owens license will be suspended until he pays the balance in full.

Mr. DeCrow made a motion, seconded by Ms. Jackson, to accept the Consent Order for **Charles D. Owens**. The motion carried.

Agreed Citation

The Board reviewed an Agreed Citation for **Allisa DeLoch** for working on a lapsed license for three (3) months.

Ms. Stacey and Ms. Walton-Hill recused themselves from voting.

Ms. Hernandez stated that Ms. DeLoch paid her \$300 fine and submitted a reinstatement application.

Mr. DeCrow made a motion, seconded by Ms. Jackson, to approve the Agreed Citation for **Allisa DeLoch**. The motion carried.

Investigative Report

Ms. Wilkins stated that Ms. Dorroh is not at the meeting to give the Investigative Report.

Mr. Gibbs recommended that the Board table the report until the April meeting.

Administrative Report

Ms. Hernandez said as of December 31, 2015, there were eight hundred and fifty-four (854) licensed Dispensing Opticians and four hundred and thirty (430) apprentices.

Ms. Hernandez stated that as of October, November and December 30, 2015 there were twelve (12) apprentices, nine (9) newly licensed, two (2) retired and five (5) expired Dispensing Opticians.

Ms. Hernandez said of the thirty-one (31) Dispensing Opticians who renewed their licenses in October, fourteen (14) renewed on-line at forty-five percent (45%); of the twenty-seven (27) Dispensing Opticians who renewed their licenses in November, sixteen (16) renewed on line at fifty-nine percent (59%); and, of the twenty-four (24) Dispensing Opticians who renewed their licenses in December, nine (9) renewed on line at thirty-eight percent (38%).

The Board reviewed the following remaining Board meeting dates for 2016:

April 27, 2016
July 27, 2016
October 26, 2016

Ms. Hernandez stated that from August 1, 2014 to July 31, 2015 a total of sixty-five (65) Dispensing Optician applicants were given the exam. Ms. Hernandez said forty-five (45) passed and twenty (20) failed giving Tennessee a pass rate of sixty-nine percent (69%).

Ms. Hernandez reviewed the Arkansas, Florida, Kentucky and Tennessee exam rates for the Board's information.

Financial Report

In Ms. Crutcher's absence, Ms. Wilkins reviewed the financial report for fiscal year ending June 30, 2015. Ms. Wilkins stated the Board had total direct expenditures of \$51,815.74; total expenditures of \$89,754.16; Board fee revenue of \$143,969.80; current year net of \$54,215.64; and, a cumulative carryover of \$302,175.40.

New Apprentices

Upon review, Ms. Jackson made a motion, seconded by Ms. Stacey, to approve the following apprentices:

Gina Beard
Paul A. Wiegert
Chad Boyd
Jennifer K. Cline
Rhonda L. Dowell
Yakela Doyle
Sarah R. Hood
Lisa May
Robbie A. Pritchard
Brett A. Rich
Gabrielle Sehar
William E. Moss
Denise D. Zeeringue

The motion carried.

Approval to Sit for the Practical Examination

Ms. Jackson made a motion, seconded by Mr. DeCrow, to approve the following candidates to sit for the practical examination:

Donald C. Akin, Jr.
Brandy Illobre
Rick E. Metcalf
Steven Price
Ronnie Austin Ray

The motion carried.

Reinstatements

Mr. DeCrow made a motion, seconded by Ms. Jackson, to approve the following reinstated Dispensing Optician.

April Nicole Keeton

The motion carried.

Review/Approve Continuing Education Requests

Upon review of the continuing education courses submitted by **The Learning Curve**, Mr. DeCrow made a motion, seconded by Ms. Jackson, to approve the courses. The motion carried.

Upon review of the continuing education courses submitted by the **Wang Vision Institute**, Ms. Jackson made a motion, seconded by Mr. DeCrow, to approve the courses. The motion carried.

Upon review of the continuing education courses submitted by the **International Vision Expo and Conference**, Ms. Jackson made a motion, seconded by Mr. DeCrow, to approve the courses. The motion carried.

Upon review of the continuing education courses submitted by the **Tennessee Dispensing Opticians Association**, Ms. Jackson made a motion, seconded by Mr. DeCrow, to approve the courses. The motion carried.

Discuss Practical Exam

Mr. Gibbs stated that **Malaka Watson, Chief Procurement Officer**, is on the telephone to help the Board through the practical exam discussion and that **Theo Morrison, ABO/NCLE Lobbyist** is in the audience.

Mr. Gibbs said it is his understanding that the Board wants to determine whether or not to continue with the current provider or get information from another source.

Ms. Watson said the current contract is with the National Commission of Opticianry Regulatory Board and the contract is from July 1, 2013 through June 30, 2018, for a five (5) year term. Ms. Watson said they looked at the contract before and the contractor is performing the services as agreed in the contract. Ms. Watson said the solicitation methods are through a Request for Information (RFI), to a broad base of providers, or a Request for Proposal (RFP). Ms. Watson stated it could take up to two (2) months to draft an RFI and receive information back.

Ms. Wilkins asked if the Board members could review the information. Ms. Watson stated the responses are not available publically, but could give the Board a summary providing general information.

Ms. Wilkins asked if the current contract would have to be terminated before the RFP process takes places. Ms. Watson said no, it would not have to be terminated. Ms. Stacey asked if someone from the Board would be appointed to this process to review the contracts as a consultant. Ms. Wilkins said no, she didn't think Board Members could be part of the process.

Ms. Wilkins said the RFP is a competitive process and each entity is rated for performance by three (3) people who have expertise in the subject matter to review the contracts. Ms. Stacey asked if a Board member could be appointed to review the contracts. Mr. Gibbs stated that he and Ms. Watson will determine whether or not a Board member can review the RFI responses.

Ms. Wilkins said the complaints regarding the exam have significantly decreased. Ms. Hernandez stated she has not received any complaints regarding the exam for the last three Board meetings.

Mr. Gibbs said he thinks it's intriguing that the ABO/NCLE is going to offer both a hand-on component and an on-line component.

Upon discussion Mr. DeCrow made a motion, seconded by Ms. Stacey, to move forward with an RFI. The motion carried.

Mr. Gibbs stated he hopes to have the RFI prepared for the Board's review at the April 2016 meeting.

Discuss legislation and take action if needed

Mr. Gibbs said other than SB1567/HB1469 there is no other legislation for the Board to review at this time.

Theo Morrison, ABO/NCLE Lobbyist, stated that he thinks it would be beneficial if the Board made a collective statement with the Board of Optometry to say that the legislation does need to be clarified to make sure that any dispensing must be done by a dispensing optician.

Ms. Stacey said the legislation states previous owned eyeglasses must be dispensed by licensed optometrists or ophthalmologist rather than a dispensing optician. Mr. Gibbs stated there are provisions within the section of the code that relieves liability for licensed health care practitioners for that type of behavior. Mr. Gibbs said the Optometry Board suggested adding dispensing opticians to the statutory language to allow dispensing opticians to dispense the eye glasses. Mr. Morrison stated that the Board of Optometry did say they were not comfortable with that language as they do not dispense. Mr. Morrison said **Representative Ron Travis** was contacted by the Spring City Lion's Club who felt they needed to have some protection against complaints. The Board stated they support the Board of Optometry's statement to clarify SB1567/HB1469 to include opticians.

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

Mr. Gibbs said at the last Board meeting they discussed preparing a policy statement approving schools, which he didn't draft, because in his research he found out that it might be possible for a student to graduate in less than two years from one of the programs accredited by COA. Mr. Gibbs stated the statute is very clear that a student must be engaged in coursework for two (2) years.

New Business

Ms. Stacey suggested amending the jurisprudence exam to help licensed opticians keep up with the current rules. Upon discussion Ms. Wilkins asked Mr. Gibbs to find out who has the authority to promulgate a jurisprudence exam and place this on the agenda for the next meeting.

Mr. Gibbs said he received a settlement document for the contested case scheduled for today's meeting for **Darrell Lassiter, DPO**.

Mr. Gibbs said Ms. Stacey is recusing herself from the proceedings and asked Mr. DeCrow and Ms. Walton-Hill, who worked with Mr. Lassiter at the Tennessee Dispensing Optician Association (TDOA). Mr. DeCrow and Ms. Walton-Hill stated they feel they can render an impartial decision.

Mr. Gibbs stated that Mr. Lassiter's dispensing optician's license expired on January 31, 2012 and he continued to work on an expired license until June 2014. Mr. Gibbs said it is the Board's policy to give a ninety day grace period and charge the licensee \$100 per month after that time. Mr. DeCrow made a motion, seconded by Mr. Freeman, to approve the settlement which gives Mr. Lassiter a civil penalty of \$2,600, requires him to pay costs, and have his license reprimanded. The motion carried.

With no other Board business to conduct, Mr. DeCrow made a motion, seconded by Ms. Stacey, to adjourn at 2:08 p.m. The motion carried.

Ratified by the Board of Dispensing Opticians on April 26, 2016