

TENNESSEE BOARD OF OPTOMETRY MEETING MINUTES

DATE: January 5, 2022
TIME: 9:00 A.M. CST
LOCATION: Health Related Boards
Iris Room
665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Kenneth Young, O.D.
Linda Tharp, O.D.
Tonya Reynoldson, O.D.
Kurt Steele, O.D.

BOARD MEMBERS

ABSENT: James Venable, O.D.
Consumer Member – Vacant

STAFF

PRESENT: Kimberly Wallace, Regulatory Board Administrative Director
Maria Johnston, Regulatory Board Administrative Assistant
Eric Winters, Senior Associate General Counsel

Call to Order

Dr. Young, Vice President facilitated this meeting, calling the meeting to order at 9:07 a.m. CST. A roll call was conducted, and a quorum was present.

Ms. Wallace announced that Dr. Cooper's term on the Board ended earlier this year and thanked him for serving. Ms. Wallace also noted Dr. Cooper was present and in attendance to serve as a public member and appreciated his participation. She introduced Dr. James Venable with Southern College of Optometry as being appointed the new member of the Board. Ms. Wallace also noted that Dr. Venable was unable to attend the Board Meeting due to Covid issues on campus at SCO. He was required to be present and participate for protocols on campus. Dr. Venable sent his regrets and is looking forward to being at the next Board Meeting in April.

Ms. Wallace moved on to introductions with legal and administrative staff starting on the far right. Mr. Winters, Senior Associate Counsel advisory to the Board, Maria Johnston, Board Administrator, and Ms. Wallace, Unit 3 Director.

Ms. Wallace announced that Vice President Chair of the Board, Dr. Young was filling in the as President. Dr. Cooper was previously elected as the President of the Board, but a new appointment was made. She also appreciated Dr. Young stepping up to fill the role. She also mentioned that elections will be held at the end of the meeting to elect new officers for the remainder of 2022.

Call for Public Comment

Ms. Wallace made it known that Public Comments would be heard in this meeting and directed interested individuals to sign-in on the register provided by the front door and the individual would be called upon at the appropriate time in the meeting. Ms. Wallace also noted that there are two separate sign-in registries at the front door, one for the items on the full Board meeting and another specifically for the rulemaking hearing. As a reminder, Public Comments can also be submitted in writing and sent by mail to the TN Board of Optometry, 665 Mainstream Drive, Nashville, TN, 37243 or submitted via email to Unit3hrb.health@tn.gov.

Conflict of Interest

Mr. Winters reviewed the Conflict of Interest and Open Meetings Act statements with the Board, as follows:

If you have a personal or financial interest in the outcome of any issue or matter before this Board which may suggest a bias on your part, you are asked to state that interest on the record so that a determination can be made as to whether there exists a need for recusal. You are reminded that it is the duty of this Board to protect the health, safety and welfare of the citizens of Tennessee and that the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.

Pursuant to the Open Meetings Act, Board business may only be discussed by the Board members during the meeting. Members should not discuss the Board's business at any time other than during the open Board meeting. The prohibition applies to phone calls, e-mails, and text messages. Board 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.

Mr. Winters has informed the Board that as a precursor to the Rulemaking Hearing, a motion and vote was needed to approve the Regulatory Flexibility Analysis and Statement of Economic Impact to Small Business. These are both related to the proposed rules and the expected effects on small businesses.

A motion was made by Dr. Tharp to approve the proposed Regulatory Flexibility Analysis and Statement of Economic Impact to Small Business. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

Rulemaking Hearing

Chapter Number 1045-02 General Rules Governing the Practice of Optometry

Rule Number 1045-02-.11 Scope of Practice

Rule Number 1045-02-.12 Primary Eye Care Procedures

Rule number 1045-02.17 Reserved

Mr. Winters asked the Board Members present to introduce themselves for the record. Dr. Kurt Steele, Dr. Tonya Reynoldson, Dr. Kenneth Young, and Dr. Linda Tharp, were all present.

Mr. Winters continued:

It is Wednesday, January 05, 2022. This rulemaking hearing is taking place pursuant to Tennessee Code Annotated Section 4-5-204, in the Iris Conference Room, 665 Mainstream Drive, Nashville,

Tennessee.

The purpose of this rulemaking hearing is to solicit comments on rules proposed by the Board in order to amend Rule number 1045-02-.11 Scope of Practice and delete Rule numbers 1045-02-.12 Primary Eye Care Procedures and 1045-02-.17 Reserved.

Pursuant to T.C.A. § 4-5-204, the following is a summary of the factual information on which the amended rules contained in the notice of rulemaking are based:

The Board of Optometry is amending the following rule: 1045-02-.11 Scope of Practice. Additionally, the Board is deleting the following rule 1045-02-.12 Primary Eye Care Procedures and 1045-02-.17 Reserved.

The Board is amending Rule pursuant to 1045-02-.11 to elaborate what is within a Tennessee Optometrist's scope of practice in T.C.A. § 63-8-102(12)(e)(i)(b). This states that Tennessee licensed optometrists can perform "primary eye care procedures rational to the treatment of conditions or diseases of the eye or eyelid as determined by the board." The Board has providing guidance as to what primary eye care procedures are rational to the conditions or diseases of the eye or eyelid.

There has been confusion in the optometric practice and insurance realm on what practices and procedures are within the scope of an optometrist's practice in Tennessee. Thus, the Board voted to include a more general inclusionary list of approved practices and procedures for Tennessee optometrists. However, with the ever-changing technology in the optometric field, it is difficult to list out every practice and procedure that falls within an optometrist's scope in Tennessee. Within a few years' time, with the advancement of technology the list of approved practices and technology in the rules may be outdated. To mitigate the risk of the rules being outdated in a short amount of time, the Board included a more specific list on the types of practices and procedures that Tennessee optometrists cannot perform, no matter the technology. Therefore, no matter how advanced technology becomes in the future, licensees and the public will know what types of practice and procedures which fall outside of an optometrist's scope of practice in Tennessee.

Because of the insertion of a new paragraph one (1) to the scope of practice, the remaining paragraphs in Rule 1045-02-.11 have been renumbered accordingly.

Additionally, the Board is deleting Rule 1045-02-.12 due to repetition, because the language is included in T.C.A. § 63-8-102(12), as well as elaborated in the proposed rule amendments in Rule 1045-02-.11.

Rule 1045-02-.17 is being deleted because it is titled as "Reserved." therefore unnecessary.

The Rule numbers succeeding Rule 1045-02-.11 are revised correspondingly to reflect the deletions.

A rule is defined as an agency statement of general applicability that implements or prescribes law or policy or describes the procedures or practice requirements of the agency. Proposed rules are filed with the office of the Secretary of State, notice is given to the public for comment, and a rulemaking

hearing is held. Upon conclusion of the hearing and adoption of the proposed rules, the rules are forwarded to the Attorney General's Office for review of legality. If approved, they are filed with the Secretary of State, which is responsible for publication and the rules become effective 90 days after they are filed in the Secretary of State's office. During the Secretary of State's 90 day waiting period, the rules will be reviewed by the government operations committee of the General Assembly. The Board's Chair, Administrative Director, and Mr. Winters, Senior Associate General Counsel will appear before the government operations committee to answer any questions.

Those members of the public wishing to speak should sign up at the table by the door. Only those who have signed will be permitted to speak. Mr. Winters indicated he would gather that list and call the names off that list.

The notice of rulemaking hearing included the entire text of the proposed rules and was published on October 18, 2021, on the Tennessee Administrative Website. Mr. Winters also placed copies of the Notice of the Rulemaking Hearing and tracked changes of the proposed rule amendments on the table in case anyone needed a copy.

The Notice of Rulemaking and tracked changes of the proposed rule amendments were provided to the Board Members.

Mr. Winters gathered the list of names and called the names off that list.

Mr. Winters asked Ms. Wallace, what additional notice was given to the affected individuals or groups? Ms. Wallace responded that notice was made available to all licensees and the public via the Public Notice and the Notice of Rulemaking Hearing, which were posted through the Board's website and online Calendar of Events. Notice was also made via email to representatives of the TN Association of Optometric Physicians (TAOP), Southern College of Optometry (SCO), and the Association of Regulatory Boards of Optometry (ARBO). That concludes the list of notifications.

Mr. Winters then read the substance of the proposed rules into the record.

Mr. Winters noted that as the agency hears public comment on the proposed rules, as moderator, he reserved the right to limit such comments if they become repetitive and asked commenters to please limit their comments accordingly.

Former Board Member, Dr. Christopher Cooper, signed up for public comment. He called the Board's attention to Rule 1045-02-.11 Scope of Practice, since the rulemaking process started, things have changed and he brought it to the Board's attention to (a) sub-section two, drug delivery devices, the definition and technology has changed and (d) sub-section five surgeries requiring full thickness, there are implantable drug delivery devices that would require a full thickness delivery for managing glaucoma.

Dr. Cooper went on to the deletion of Rule 1045-02-12, recognizing during the process that legal counsel has changed. It was reviewed by the taskforce that the TCA comments on primary eyecare procedures. Previous counsel had no objections, current counsel is concerned the rule could not be removed in the taskforce. TCA 63-8-2 and 113, scope of practice and routine optometric service phrases are both referred to in the TCA. Asked if it's in the board's best interest to keep Rule 1045-

02-.12 as it relates to TCA 63-8-2. Noted that by keeping .12 does it provide greater flexibility for the board in the future.

Dr. Young asked for clarification from Mr. Winters regarding Rule 1045-02-.11. Mr. Winters deferred to the board's expertise in determining what should remain or not and the basis for the decision.

Dr. Tharp commented she agreed with Dr. Cooper regarding the new delivery treatments for glaucoma Rule 1045-02-.11. Dr. Reynoldson concurred. It was mentioned this is being done by optometrists in other states.

Dr. Cooper discussed suggestions for language changes with the board.

New language 1045-11(b)5: "Surgery requiring full thickness excision of the cornea or sclera for penetrating keratoplasty or corneal transplant." Was worked out by the board with input from public comment by Dr. Cooper.

A motion was made by Dr. Reynoldson to change language of Rule 1045-02-.11(b)5 to amend to: "Surgery requiring full thickness excision of the cornea or sclera for penetrating keratoplasty or corneal transplant." A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously through roll call vote as follows:

- Dr. Reynoldson - AYE
- Dr. Steele - AYE
- Dr. Tharp - AYE
- Dr. Young - AYE

Discussion continued regarding the removal of Rule 1045-02-.12 in an attempt to reduce redundancies between rule and statute. Mr. Winters stated that it will be reviewed by the Attorney General's Office before it's finalized, and they will review for the redundancies. Dr. Tharp suggested it's easier to leave the Rule in and remove it later if needed. Dr. Reynoldson noted that the language of the Rule would need to be amended as the phrase "that would require not more than a topical anesthetic" is no longer correct.

Dr. Steele recommended putting a period after the words "other health care facilities" and deleting the rest of the sentence "that would require not more than a topical anesthetic."

A motion was made by Dr. Steele to amend rule 1045-02-.12 to read Primary Eye Care Procedures. For the purpose of 1993 Public Acts Chapter 295, the performance of primary eye care procedures rational to the treatment of conditions or diseases of the eye or eyelid is determined by the board to be those procedures that could be performed in the optometrist's office or other health care facilities. Laser surgery and radial keratotomy are excluded. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously through roll call vote as follows:

- Dr. Reynoldson - AYE
- Dr. Steele - AYE
- Dr. Tharp - AYE
- Dr. Young - AYE

Ms. Wallace mad an administrative request for a motion to remove Rule 1045-02-.17 due to non-applicability.

A motion was made by Dr. Tharp to approve the removal of Rule 1045-02-.17. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously through roll call vote as follows:

- Dr. Reynoldson - AYE
- Dr. Steele - AYE
- Dr. Tharp - AYE
- Dr. Young - AYE

Mr. Winters concluded the rulemaking hearing and the comment period. Mr. Winters thanked everyone for being there.

Discuss and Consider Approval of Meeting Minutes

Minutes from the October 6, 2021 Board Meeting

A motion was made by Dr. Tharp to approve the Minutes from the October 6, 2021 Board Meeting, as written. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

Receive Reports and/or Request from the Office of Investigations

Report of Complaints & Currently Monitored Practitioners

Jamie Byerly, Director for the Office of Investigations, was present to provide the investigative reports to the Board. The report was run on December 15, 2021 and again this morning. There was one additional complaint between December 15, 2021 to this morning.

PERIOD: 2021 Calendar Year Complaints

New Complaints	Number of Complaints
Total # New Complaints	20
Closed Complaints	11
Closed – No Findings	6
Closed – Letters of Concern	5
Malpractice / Negligence	1
Unprofessional Conduct	10
Violation of Medical of Board Order	1
Medical Records Request	1
CE Violations	4

Outside Investigative Scope	1
COVID 19	2
Total # Currently Open Complaints	13

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

Financial Report/Update

Matt McSpadden, Fiscal Manager, was present to provide the Fiscal Year 2021 final financial reports to the Board, with highlights included:

- Total Expenditures \$195,743.65
- Board Fee Revenue \$195,460.00
- Current Year Net (\$283.65)
- Cumulative Carryover \$725,005.92

Mr. McSpadden noted that item 721 allocation of Training for State Employees includes the charges of \$35,000 annually for the board’s contract with ARBO. Ms. Wallace provided a brief response to Dr. Tharp regarding the increases to staff costs in the time the board did not have an Administrative Director and the number of Taskforce Meetings increased the hours allocated to work on this Board over the last three (3) fiscal years.

Mr. McSpadden noted there is a fee decrease that is in process which should decrease the cumulative carryover balance over time.

Discuss and take action as necessary regarding Legislation

There were no legislative items for the Board to review.

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 12/16/2021

Total # Currently Licensed Optometrists	1,361
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LICENSE STATUS SINCE PREVIOUS MEETING PERIOD:

September 28, 2021 to December 16, 2021

New Licenses	14
Retired Licenses	13
Closed Licenses	5

Expired Licenses	2
Paper Renewals	31
Online Renewals	100

Ms. Johnston also presented the dates for the 2022 Board Meetings, as follow:

- January 5, 2022
- April 6, 2022
- July 6, 2022
- October 12, 2022

Director’s Report

Ms. Wallace reviewed that the Commissioner’s Continuing Education Policy expired December 31, 2021. An email was sent to all licensees who have opted in for email communications from the board and the policy has been removed from the board’s website. Therefore, as of January 1, 2022, continuing education credits/hours return to following the rules for each profession.

ARBO Contract Renewal

Rule 1045-02-.05 refers to a “Selected Contractor” to which licensees will submit their continuing education documentation for the purposes of tracking and reporting compliance with the Board’s continuing education requirements. The Board has a current contract in place with ARBO to serve as this contractor to provide these services for TN licensees at a cost of \$35,000 per year, which is paid for from the Board’s annual revenue. That cost, based on the current number of licensees reflected on today’s Administration report, works out to an approximate cost of \$25.72 per licensee annually. The services provided include direct uploads of continuing education course completion for COPE courses and the ability for licensees to have other coursework uploaded from other providers. The ARBO staff works with the Board’s Administrative Office to perform continuing education audits and issuance of deficiency notices to licensees as applicable.

The current contract with ARBO is set to expire on June 30, 2022 and the internal department that handles contracts has reached out to see if the Board would like them to begin working on a renewal of the contract with ARBO for these services.

As indicated in the Rules, the use of a Selected Contractor for the tracking of continuing education is required for this Board. There are other outside parties who provide CE tracking services, such as CE Broker, which is a provider that has a contract with the state and is available for any board to use, however the specific services vary from provider to provider.

The Board was provided with a report from ARBO that outlines other state licensing jurisdictions that make use of the OE Tracker.

A motion was made by Dr. Steele to engage in another five (5) year contract with ARBO. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously.

Receive Reports and/or Request from the Office of General Counsel

Mr. Winters presented the OGC report, inclusive of the disciplinary report. Dr. Steele noted that the one licensee under disciplinary monitoring, Dr. Fox, has passed away.

Contested Cases

There were no Contested Cases for the Board to review at this meeting.

Consent Orders

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

Declaratory Orders

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

Agreed Orders

Each of the following Agreed Citations were issued as the result of a violation of TCA 63-8-119 and Rule 1045-02-.05. The Agreed Citations were issued by the Administrative Office in accordance with the Board's Policy Statement for CE Violations. The resulting discipline will be reported on the Board's website and may be reported to the National Practitioner Data Bank.

Agreed Citation – CE – Gallaher, John #1493

Dr. Gallaher was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. He is deficient twelve (12) continuing education hours and current CPR certification has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to complete all twelve (12) continuing education hours, obtain current CPR certification, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Tharp to approve the Agreed Citation, as written, for John Gallaher. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – Hillis, Randy #2025

Dr. Hillis was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. He is deficient eighteen (18) continuing education hours and current CPR certification, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to complete all eighteen (18) continuing education hours, obtain current CPR certification, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Steele to approve the Agreed Citation, as written, for Randy Hillis. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – Horner, Samuel #963

Dr. Horner was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. He is deficient fifteen and six-tenths (15.6) continuing education hours and current CPR certification, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to complete

all fifteen and six-tenths (15.6) continuing education hours, obtain current CPR certification, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Reynoldson to approve the Agreed Citation, as written, for Samuel Horner. A second was made by Dr. Steele. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – Johnson, Paula #2423

Dr. Johnson was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. She is deficient sixteen (16) continuing education hour and current CPR certification, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to compete all sixteen (16) continuing education hours, obtain current CPR certification, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Tharp to approve the Agreed Citation, as written, for Paula Johnson. A second was made by Dr. Steele. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – O’Hara, Katherine #3308

Dr. O’Hara was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. She is deficient two (2) continuing education hours, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to compete two (2) continuing education hours, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Reynoldson to approve the Agreed Citation, as written, for Katherine O’Hara. A second was made by Dr. Steele. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – Peace, Jarrod #2617

Dr. Peace was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. He is deficient four (4) continuing education hours and current CPR certification, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to compete all four (4) continuing education hours, obtain current CPR certification, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Tharp to approve the Agreed Citation, as written, for Jarrod Peace. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – Sands, Wesley #2840

Dr. Sands was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. He is deficient thirty-eight (38) continuing education hours and current CPR certification, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to compete all thirty-eight (38) continuing education hours, obtain current CPR certification, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Reynoldson to approve the Agreed Citation, as written, for Wesley Sands. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – Trapeni, Paul #941

Dr. Trapeni was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. He is deficient in obtaining current CPR certification, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to obtain CPR certification, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Tharp to approve the Agreed Citation, as written, for Paul Trapeni. A second was made by Dr. Steele. There was no discussion on the motion. The motion passed unanimously.

Agreed Citation – CE – Zarn, Melissa #3025

Dr. Zarn was in violation for continuing education of T.C.A. 63-8-119 and Rule 1045-02-.05. She is deficient four (4) continuing education hours, has paid the Civil Penalty in the amount of one-hundred dollars (\$100) and is required to complete all four (4) continuing education hours, plus an additional six (6) penalty continuing education hours within ninety (90) days of the Agreed Citation.

A motion was made by Dr. Reynoldson to approve the Agreed Citation, as written, for Melissa Zarn. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously.

Applicant Interviews/File Reviews/Waivers & Other Requests

CE Waiver Request Follow-Up – Jeffrey Goldstein

The Board reviewed a follow-up request to a CE waiver for Dr. Jeffrey Goldstein that was previously presented at the October 6, 2021 Board Meeting. Dr. Jeffrey Goldstein requested a waiver of the continuing education requirements for 2020 due to medical reasons. The Board considered Rule 1045-02-.04(3) for this request and approved a motion to request medical documentation be provided to support the continuing education waiver request. Dr. Goldstein's attorney submitted a cover letter that was scanned on the iPads. A large stack of hard copy medical documentation was circulated to the Board Members for review. Due to the large volume of medical records provided, they were not scanned to the iPads.

A motion was made by Dr. Tharp to approve the continuing education waiver request for Dr. Goldstein for 2020. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

A letter for the continuing education waiver for 2020 will be mailed to Dr. Goldstein.

Ratification List – Newly licensed, Reinstatements, and Closed/Withdrawn Files

Ms. Wallace commented that all files on the ratification list have been reviewed and found complete and in good order according to the Rules for new licensure, closure of licensure, and reinstatement

of license.

Board of Optometry
Ratification List for 09/28/2021 to 12/16/2021

Newly Licensed

License #	Name	License Expire Date
3716	Barreras, Yanara	11/30/2023
3721	Boynton, Kailey Thomas	03/31/2024
3674	Cercone, Jocelyn	05/31/2024
3719	Coley, Lindsey Michelle	11/30/2023
3722	De Armas, Daniel Andres	02/28/2023
3720	Dohogne, Jeremy	05/31/2024
3717	Escoto, Ivania	12/31/2023
3701	Gordon, Michael Allen	09/30/2023
3718	Lipe, Nathan	05/31/2023
3715	Matejczyk, Alexandra	08/31/2023
3703	Wadolowski, Lisa	09/30/2024
3662	Witters, Jason C	03/31/2023

Reinstatement from Expired

License #	Name	License Expiry Date
3503	Hashmi, Muqdisa Bibi	02/29/2024
1754	Reesman, Robyn R.	05/31/2023

Closed Applications

File #	Name
3696	Gilmore, Lee
3712	Godwin, Bodie Kazan
3714	Lee, Valerie
3701	Miles, Meagan

A motion was made by Dr. Tharp to approve the ratification list as presented for new licenses, reinstated licenses, and closed/withdrawn files. A second was made by Dr. Steele. There was no discussion on the motion. The motion passed unanimously.

Receive Reports and take action as needed regarding Taskforce/Committee Reports

CSMD Report

Dr. Tharp attended the October 12, 2021 CSMD and reviewed highlights of that meeting for the board. They have reviewed the most often prescribed scheduled drugs during 2021. Stimulant deaths, meth and cocaine are the leading drugs in stimulant deaths. Drug overdose deaths 2016 – 2020 have increased significantly and reviewed demographic information. Counterfeit drugs were discussed and are widely accessible, especially over social media outlets. Many deaths are associated with the use of fake pills. Opioid prescription trends are decreasing. Fake and illicit drug use is increasing and causing increased deaths. The TN Department of Health are data sharing with the CDC who has sponsored a surveillance system for drug overdoses and reporting systems. CSMD is working with high-risk prescribers. Dr. Tharp also presented the dates for the 2022 CSMD Meetings, as follow:

- February 15, 2022
- June 21, 2022
- October 18, 2022

Rules Review Taskforce Report

Rule Number 1045-02-.07 Diagnostic and Therapeutic Certification

Rule Number 1045-02-.08 Corporate or Business Names and Advertising

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

Due to a last-minute notice that was received for Dr. Cooper's term of service as a Board Member coming to an end, the December 1, 2021, Taskforce meeting had to be cancelled, as a Taskforce cannot meet without a Board Member being present.

At the Board's last meeting, the Board discussed dissolving the separate Rules Review Taskforce and bringing any rule writing back into handling by the full Board.

A motion was made by Dr. Steele to carry over the Taskforce work by the board. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

Dr. Cooper made a public comment regarding his work on the Taskforce and wanted to provide some information on the Taskforce's work for the full Board's benefit, covering a variety of points for consideration. Regarding the Advertising Rule .08, listed on page 27 in the redline draft, "discount fee" TCA 63-8-113 references discounts and encourages the board to look at who is giving what away for free and why. Business of healthcare, services provided, vision versus medical. States a vision care encounter is differentiated from medical as "eye health encounter" and not medical encounter. Standard of Care, defining and speculating how it may be interpreted. That it is consistent with the rulemaking that was approved this morning. Drills down to prescriptions requirement for spectacles versus contacts. Standard of care Taskforce recommendations and what does or does not meet the standard, such as a questionnaire. The value of a true refraction exam.

Vision and medical are separate. TCA 68-8-113 references the range of fees, asking can routine services be removed if it's in the TCA? Routine services at the bottom of page 36, to remove unnecessary or repetitive language, administrative approval of name requests, as it is required in the TCA. Moving on to .09 spectacle and lens prescriptions, interpupillary distance measurements, ophthalmic prescriptions, tamper resistant prescriptions is referencing medical prescriptions and asks should item 3 ophthalmic prescriptions move to tamper resistant prescriptions with everything about a therapeutic device in section 1 instead of being broken between sections. In terms of Diagnostic and Therapeutic certification it's important to look at what type of license is available, and ask are there still practitioners that are not authorized to give full care or is it one license and everyone is equal? Do older practitioners have different authorizations under their license, and is any grandfathering in needed? Continuing education was recognized as only accepting accredited education, which is only through COPE.

Correspondence Review

COPE Interactive Online CE Transition Period

Ms. Wallace presented informational item on COPE Interactive Online Continuing Education Transition Period with no action required. COPE was offering Live/Interactive Webinar Courses and granting them as Live in-person credits stating they were only doing this through December 31, 2021. As of January 1, 2022, all continuing education courses must be completed in accordance with the Rules as written. As a reminder, licensees were encouraged to do not go by information posted by third parties regarding Tennessee's Statutes and Rules. The primary source is the Tennessee Statutes, Rules and Policies, which can all be accessed from the Board's website.

Letter from Dr. Venable, SCO – Practice Act

Mr. Winters noted at the last meeting that the Board needed to give him specific direction and the board needed to take a vote on their official position in response to Dr. Venable's request. Therefore, the matter was brought back to the board in this meeting.

Mr. Winters doesn't believe the statutes or rules give the board the authority to oversee the courses or teaching of an optometric student. If the board wants a letter drafted, they need to give specific direction to Mr. Winters of the board's position.

The board can only deal with applicants and licensees, in Dr. Young's understanding, and Mr. Winters concurred. The board does not oversee students or schools of optometry, thus, does not have authority in this area.

The board instructed Mr. Winters to re-write the letter discussed in the previous meeting to replace the language stating "the Board sought the opinion of the Board's advisory attorney who advised that..." and replace it by adding a 2nd paragraph to start with "The Tennessee Board of Optometry finds the power of the Board..." and continue with the same language as the previous version.

A motion was made by Dr. Reynoldson to draft a new letter to Dr. Venable, SCO, with the 2nd paragraph to start with "Tennessee Board of Optometry finds the power of the Board" and delete "The Board sought the opinion of the Board's advisory attorney who advised that" A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously.

Letter from Dr. Subba Gollamundi – Lasers for ASOL Procedures

This is for the Board of Medical Examiners. No action is required, for informational purpose only.

Conference/Event Reports and Upcoming Events Review

The FARB RLS Conference will be in October 2022. A motion was made by Dr. Young to sponsor the attendance of Mr. Winters at the FARB RLS Conference. A second was made by Dr. Steele. There was no discussion on the motion. The motion passed unanimously.

Board Election of Officers

Voted in the October 2021 Board Meeting:

- President/Chair: Dr. Cooper
- Vice-President/Vice Chair: Dr. Young
- Secretary-Treasurer: Dr. Reynoldson
- CSMD Representative: Dr. Steel

Dr. Cooper's term ended in November 2021. There are three (3) positions to be re-elected for the new 2022 calendar year.

Nominees:

- President: Dr. Young was nominated.
- Vice President: Dr. Reynoldson was nominated.
- Secretary-Treasurer: Dr. Venable was nominated.
- CSMD Representative: Dr. Steele was nominated.

A motion was made by Dr. Steel to approve the Dr. Young as President, Dr. Reynoldson as Vice President, Dr. Venable as Secretary-Treasurer and Dr. Steele as CSMD Representative. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously.

Discuss Old & New Board Business

Ms. Wallace noted there have been no new or old business items presented for review on today's agenda.

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

Board Policy on Prescribing Controlled Substances continuing education courses

Remove sentence two (2) of paragraph one (1), remove references to online in the future. Draft new for paragraph three (3). Send policy to TAOP and ARBO.

Dr. Cooper was asked to comment as a member of the public. Courses already approved meet the TDOH's requirements for controlled substance prescribing courses and include information specific

to the State of Tennessee, as controlled substance prescribing courses must have the specific content as approved by the state of Tennessee.

A motion was made by Dr. Reynoldson to approve the revised version of the Board's Policy Statement on Prescribing Controlled Substances continuing education courses. A second was made by Dr. Tharp. There was no discussion on the motion. The motion passed unanimously.

Board Policy Statement on Injectable Certification and Licensure

Updates made as recommended in the October 2021 Board Meeting and some typographical updates were made to clean up the policy.

A motion was made by Dr. Steele to accept the language as presented on the Board's Policy Statement on Injectable Certification and Licensure. A second was made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

Rule Number 1045-02-.05 Continuing Education

Ms. Wallace has not received any responses to Culture Competency from anyone she reached out to. This rule, in its current form, became effective October 27, 2015, and made provisions that until December 31, 2015, a licensee was required to obtain their required continuing education hours during the two calendar years, January 1 to December 31, that preceded the licensure renewal year, but the new rule changed it to, effective January 1, 2016, an Optometrist with a renewal date in the year 2016 and beyond must complete their required hours during the twenty-four (24) months preceded the licensure renewal month.

Dr. Reynoldson researched and spoke to someone that was a previous Board Member. The previous Administrators and Directors before had more work doing the audits when the continuing education audits were done January to December. It was changed to the birthday month to lessen the work required to do the audits.

Dr. Young discussed sending administrative packages for review to include the following rules for the next Board Meeting in April 2022.

Rule number 1045-02-.05 Continuing Education

Rule number 1045-02-.07 Diagnostic and Therapeutic Certification

Rule number 1045-02-.08 Corporate or Business Names and Advertising

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

Dr. Young discussed to send packages to include the following rules for the future Board Meetings:

Rule number 1045-02-.14 Optometric Records

Rule number 1045-02-.15 Consumer Right-To-Know Requirements

Rule number 1045-02-.16 Tamper Resistant Prescriptions

Administrative Rule Proposal for Change of Address and/or Name change

Ms. Wallace discussed that Optometry does not have an Administrative Rule for change of Address and/or Name changes and the board requested this to be included on the agenda for the next meeting.

Call for Public Comment

Ms. Wallace announced one final opportunity for the Board to receive Public Comments before the meeting was adjourned.

Dr. Cooper made a public comment regarding accreditation, COPE is an accreditation system, not a continuing education provider or vendor. Standards are for continuing education quality. There are COPE accredited providers that meet the COPE standards. Relevant, evidence based and free of commercialism and bias. COPE has the expertise for approving continuing education and allows the Board to focus on other important work.

There were no public comments offered at this time. Ms. Wallace reminded everyone that Public Comments may always be submitted in writing to the TN Board of Optometry, 665 Mainstream Drive, Nashville, TN 37243 or via email at Unit3hrb.health@tn.gov.

Adjournment

There being no further business, a motion was made by Dr. Steele to adjourn, with a second made by Dr. Reynoldson. There was no discussion on the motion. The motion passed unanimously.

The meeting was adjourned at 12:56 pm CST.

These Minutes were Ratified by the Board on April 6, 2022



Board Chair

5-6-2022

Date