

Tennessee Board of Dispensing Opticians



Newsletter

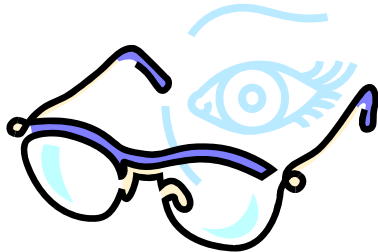
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A Regulatory Agency of the State of Tennessee

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227 French Landing, Suite 300, Heritage Place Metro Center, Nashville, TN 37243 • <http://tn.gov/health> (615) 253-6061 or 1-800-778-4123, extension 36061. Office Hours: Monday – Friday 8:00 a.m. to 4:30 p.m. Central Time (except state and federal holidays) Fax: (615) 532-5369

In conjunction with the purpose and goals of the Department of Health, the mission of the Bureau of Health Licensure and Regulation is to: Monitor, access, and enforce health care laws and regulations; protect, promote and enhance quality health care for all citizens; continuously strive to meet the needs of our customers in a respectful and caring manner; provide quality work-life necessary to attract and retain competent, caring employees; empower our employees to become entrepreneurs in their jobs; increase awareness and public confidence in our services; and, utilize our resources efficiently and cost effectively.



About the Board of Dispensing Opticians

The Board of Dispensing Opticians was created in 1955 by an act of the State Legislature. Its mission is to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice the profession of opticianry within this state be qualified. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice in an effort to ensure the highest degree of professional conduct. The board is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations. The board is responsible for the investigation of alleged violations of the Practice Act and rules and is responsible for the discipline of licensees who are found guilty of such violations.

Opticians are licensed by examination.

Board of Dispensing Opticians Web Site

You may download a copy of the rules, applications and forms, board member list, board meeting schedule, policy statements, and other pertinent information at the board's Web site:

<http://health.state.tn.us/Boards/DO>

2010 Board Meeting Dates

All board meetings will be held at 227 French Landing, Suite 150, Heritage Place, MetroCenter, Nashville, TN, unless otherwise noted.

January 6, 2010
9 a.m., Poplar Room

April 21, 2010
9 a.m., Poplar Room

July 28, 2010
9 a.m., Poplar Room

October 20, 2010
9 a.m., Poplar Room



Legislation Update

Public Chapter 83 Mandatory Domestic Violence Reporting

The General Assembly passed a new law this legislative session that mandates health care practitioners shall report data on suspected domestic violence to the Tennessee Department of Health.

The mandatory monthly reporting will be by a Web-based system the Department's Division of Health Statistics is developing. The system was operational in October 2007 and the department has mailed you the details of the required data to be reported and the instruction on how to use the reporting tool. The board

will also keep you informed as more information is available.

Public Chapter 1060 Child Abuse Reporting

Public Chapter 1060 provides immunity from civil and criminal liability for reporting abuse of children by a health care examiner when there is harm or reason to believe there is a mandate to report. No immunity is provided for reports by perpetrators of harm to children. Effective July 1, 2008.

Public Chapter 410 Non-Smoker Protection Act

Public Chapter 410 creates the Non-Smoker Protection Act which prohibits smoking in all enclosed public places within the State of Tennessee including, but not limited to, the following places:

(2) "Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public including, but not limited to, banks, Laundromats, factories, professional offices, and retail service establishments; and

(7) "Health care facilities". (Nursing homes and long-term care facilities are exempted)

The legislation requires offices and health care facilities to do the following:

- Inform all existing employees and any prospective employees upon their application for employment of the prohibition on smoking; and
- "No Smoking" signs or the international "No Smoking" symbol, shall be clearly and conspicuously posted at every entrance to every public place and place of employment where smoking is prohibited.

The Department of Health, shall while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Act. Information about these inspections will be communicated with the appropriate offices and/or health care facilities in the future.

Public Chapter 529 Prohibition of Employment of Illegal Aliens

If the Commissioner of Labor and Workforce Development receives a complaint that a person, licensed by a state regulatory board, knowingly employs, recruits or refers for a fee for employment an illegal

alien, that person is subject to an investigation and contested case hearing.

If there is proof a person knowingly employed, recruited or referred for a fee for employment, an illegal alien, which occurred while acting within the scope of practice of his/her license, the regulatory board will be required to revoke, suspend, or deny the person's license.

For the first violation, the regulatory board will be required to suspend the person's license until they show they no longer employ, recruit or refer for a fee for employment, an illegal alien. This can be made by the person filing a sworn statement that they no longer employ illegal aliens.

If a second violation occurs within three (3) years from the first order, the regulatory agency will be required to suspend the person's license for one (1) year. Effective January 1, 2008.

Public Chapter 1190 Long Term Care

The long term care system shall recognize that aging is not a disease, but rather a natural process that often includes increasing needs for assistance with daily living activities. To the maximum extent possible and appropriate, the system shall be based on a model of care delivery which acknowledges that services delivered in the home and community-based settings are not primarily medical in nature, but rather, support services that will provide needed assistance with activities of daily living and that will allow persons to "age in place" in their homes and communities.

Public Chapter 864 Restroom Access Act

Public Chapter 864 requires any place of business that is open to the general public for the sale of goods or services ("retail establishment") that has an employee toilet facility to allow a customer to use such facility during normal business hours, if:

1. The customer requesting the use of the employee toilet facility suffers from a medical condition that requires immediate access to a toilet facility or utilizes an ostomy device; the customer must present the employee with proof of an eligible medical condition, such as a document issued by a licensed medical provider;
2. Three or more employees of the retail establishment are working at the time of the request;

3. There is not a restroom available for public use in the retail establishment or otherwise immediately accessible to the customer; and
4. The employee toilet facility is not located in an area that poses an obvious safety or security risk.

This bill provides immunity from civil damages to any retail establishment or an employee of a retail establishment for any act or omission in allowing a customer to use an employee toilet facility that is not a public restroom if the act or omission:

1. Is not willful or grossly negligent;
2. Occurs in an area that is not accessible to the public; and
3. Results in an injury to or death of the customer or any individual other than an employee accompanying the customer.

This bill does not require any retail establishment to make any physical changes to an employee toilet facility. Any retail establishment or employee of a retail establishment that does not comply with the toilet facility access requirements of this bill commits a Class C misdemeanor punishable only by a fine of up to \$50.

The complete text of Public Acts is available at: <http://www.tennessee.gov/sos/acts/index.htm>

Practitioners Licensed by the Board as of December 2009

Licensed Dispensing Opticians 815



Apprentices Training to Become Licensed as of December 2009

Apprentice Opticians 251



On-Line Renewals, Address Changes and Practitioner Profiles

Practitioners may access the on-line service at <http://www.tennessee.gov/health> to renew their licenses up to 120 days prior to the expiration date. Practitioners may also update their addresses and mandatory practitioner profiles at this site also. The board of Dispensing Opticians must be notified within thirty (30) days of changes of address.



Non-Compliance with License Renewal Requirements

All practitioners licensed by the Dispensing Opticians Board who fail to renew their license pursuant to Rules 0480-1-.09 are subject to disciplinary action. The licensee must pay a \$100 monthly civil penalty for each month the licensee has worked on an expired license, after an initial three month grace period, and the licensee's name will be listed on the Department of Health Web site.

Non-Compliance with Continuing Education Requirements

All practitioners licensed by the Dispensing Optician Board who fail to comply with the continuing education requirements pursuant to Rule 0480-1-.12 are subject to disciplinary action. The licensee must pay a \$100 civil penalty within thirty (30) days of notification from the board, and obtain the deficient continuing education hours by the end of the next calendar year in addition to the current biennial continuing education hours requirement and the licensees name will be listed on the Department of Health Web site.

Board Recruiting Consultants

Minimum Qualifications for Board Consultant

- ✓ Holds a current unrestricted license as a dispensing optician in the State of Tennessee;
- ✓ Practiced as a dispensing optician within this state for a period of at least five (5) years; has never had his/her license restricted, sanctioned, revoked, or otherwise disciplined in this state or any other state, jurisdiction, or territory;

- ✓ Has general knowledge of applied practice as detailed in the Tennessee Code Annotated, the rules and regulations of the Tennessee Board of Dispensing Opticians; and
- ✓ Is not currently under disciplinary review, which could possibly lead to legal or ethical disciplinary sanction, restriction, or similar action or condition by the Division of Health Related Boards, or other licensure/certification board or professional association in any other state or locality.

How the process works

A list will be compiled consisting of licensees who meet the criteria and indicate a willingness to be board consultants.

It is the state's intent that this process will preserve the integrity of the process by avoiding the appearance of impropriety and/or conflicts of interest. If a consultant has a personal/professional relationship with the applicant or licensee, the consultant shall recuse himself/herself. The division will then assign another consultant.

When there is a need for a board consultant by either of the above entities, a telephone contact will be made to schedule a date, time, and location for the task to be accomplished. Most tasks will require the individual to travel to Nashville. The division offices are opened between the hours of 8 a.m. – 4:30 p.m. Central Time, Monday-Friday.

Once a consultant is placed on the contact list, rejecting a consultation opportunity on three consecutive requests by the department or failure to appear at a scheduled time shall be just cause for removal from the contact list.

Compensation for Services

When requested to perform board consultant duties by the Division of Health Related Boards, Division of Internal Audit and Investigations, or Office of General Counsel, the individual will be compensated for travel and \$100 per day for services.

If you meet the qualifications listed above and are interested in assisting with this crucial part of licensure and regulation, please submit a current resume which clearly reflects your employment history. Your cover letter should include your license number with expiration date, state that you meet the minimum qualifications as indicated, and unequivocally state that you understand the stipulations specified within this letter. You will also need to provide us with a phone number where you can be reached during our business hours.

Please send your resume and cover letter to:

**Tennessee Department of Health
Health Related Boards
Board of Dispensing Opticians
227 French Landing, Suite 300
Heritage Place, MetroCenter
Nashville, TN 37243**

Board Responsibility

The Department of Health has the authority for various licensing boards, whose responsibilities are to protect the public interest, to discipline licensees. This is accomplished through enforcement of the particular Practice Act of each board, which examines, licenses, and oversees the practice of the licensees. The licensing boards oversee individual practitioners and in some instances regulate educational programs.

The responsible board evaluates the credentials and qualifications of each practitioner. After practitioners become licensed, the board will review any complaint received that may put the professional behavior and/or performance of the practitioner in question. Such complaints may suggest a violation of the Tennessee Practice Act. Complaints are received from various sources, i.e. the general public, insurance companies, hospitals and other health care facilities, health professionals and the news media. If you feel that a practitioner has failed to live up to his/her professional responsibilities, Health Related Boards want to hear from you.

While a board cannot assist with civil or criminal matters and does not represent individuals, the Tennessee Practice Acts allow the licensing boards to act on behalf of the people of Tennessee at large. When a board determines that disciplinary action against a practitioner is necessary, the action focuses on prevention of further problems with the practitioner and the protection of future patients. In essence, a board has the power to control a practitioner's ability to practice in the future in the state of Tennessee, but cannot impute criminal penalties. Any person seeking to recover fees or monetary remedies for injuries should consult a private attorney regarding those matters. The State of Tennessee has no jurisdiction over these types of situations.

Filing Complaints

The state of Tennessee is graced with some of the finest health care professionals, educational institutions, postgraduate programs and treatment facilities in the United States. The majority of health practitioners in Tennessee are competent and caring individuals and most persons are satisfied with the level of care they receive.

However, when a problem is experienced with a practitioner, you have the right to report him/her. If you believe that a practitioner's performance or behavior is not acceptable, you may file a complaint through Health Related Boards, Office of Investigations.

How to File a Complaint

While the Department of Health hopes that you will never have to file a complaint against a health care practitioner, doing so is a simple matter. You may contact the Complaint Divisions of the Department of Health at 1-800-852-2187 to request a [complaint form](#). The form must be completed in its entirety. You are also requested to complete and sign a [medical records release form](#). While the form may not always be used, it is helpful to have this form in the event records are needed to determine course of treatment or actions that have been taken with regard to care provided.

All materials received in connection with the complaint will become property of the Department of Health and cannot be returned. Please return the complaint to:

**Office of Investigations
227 French Landing, Suite 201
Heritage Place Metro Center
Nashville, TN 37243**

Complaint Review Process

Upon receipt of the complaint form, the designated board consultant (who is a practitioner from the particular health profession) and an attorney review the complaint thoroughly to determine whether there has been a violation of the Practice Act.

The board consultant and the attorney examine the details of the complaint. The practitioner may be contacted and relevant records may be studied. The review process may also involve the review of practitioner files, both public and confidential. Through the review process, the consultant and attorney will reach a decision whether to investigate the complaint or not. This process may take several months to complete. This is determined by the complexity of the complaint.

Throughout the process, the practitioner's due process rights are assured. The final decision that is reached by the Board will be based on the findings of an investigation. In some cases, a formal public hearing is held.

You may call the Complaint Division from time to time to inquire about the progress of the complaint. While state law does not allow the staff to give details of an investigation, you may request a general status report. Due to the nature of complaints and complex

legal and medical issues that are involved, your patience, cooperation and understanding is appreciated.

Investigative Results

When a decision is reached, you will receive a letter from the board consultant. The specific content of such letters varies depending upon the circumstances of the complaint. However, they are generally one of the following types:

1. There was no violation of the Practice Act that would lead to disciplinary action, but the practitioner has been informed of the concerns that lead to the complaint.
2. There was a violation of the Practice Act and a formal disciplinary action was taken, made part of the public record, and reported statewide and to the national data bank.

All complaints received are taken seriously and a thorough and fair evaluation under the law is conducted.

Issues Not Within Board Authority

- Fees and/or billing disputes (amounts charged for services, overcharges, etc.)
- Insurance matters (unless it deals with fraud by a practitioner)

For these matters, please contact Consumer Affairs at 1-800-342-8385.

Tennessee Board of Dispensing Opticians
227 French Landing, Suite 300
Heritage Place, MetroCenter
Nashville, TN 37243



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