

TENNESSEE BOARD OF OPTOMETRY MEETING MINUTES

DATE: January 16, 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.
Tonya Reynoldson, O.D.
Nancy P. Strawn, Consumer Member
Linda Tharp, O.D., Chair

BOARD MEMBER

ABSENT: Jennifer G. Uhl, O.D.

STAFF

PRESENT: Yvette Vagle, Board Administrator
Kimberly Hodge, 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. Ms. Vagle introduced the new Unit Director Kimberly Wallace. Dr. Tharp introduced the new Board member Tonya Reynoldson, O.D. from Camden, Tennessee and Nancy Strawn the new Consumer member this is her second meeting.

Review/Approve October 12, 2018 Board Meeting Minutes

Upon review of the October 12, 2018 Board Meeting minutes Dr. Cooper made a motion, seconded by Dr. Carlson, to approve the minutes as written. The motion carried.

Office of Investigations

Lori Leonard gave the investigative report for the entire year of 2018. They received three (3) complaints and closed three (3) complaints, of those three (3) complaints; one (1) was for fraud and false billing, one (1) was for unprofessional conduct and one (1) was for over prescribing, the three (3) complaints that were closed received a letter of concern with no discipline. Currently there are three (3) open complaints that are being reviewed or investigated.

Currently Monitoring Practitioners: there are two (2) names on the list; one (1) Douglas Anderson under suspension and one (1) William Holiday under probation, however Dr. Holiday has been removed from probation, he has met all his requirements and his license has been restored. Dr. Anderson has been sent to the Attorney General's office for collection.

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 January 7, 2019, the Office of General Counsel had no open cases.

Administrative Report

Yvette Vagle stated as of January 14, 2019 there are 1,297 licensed Optometrists.

Ms. Vagle stated there were six (6) new licenses and sixteen (16) renewals in October 2018 with zero (0) renewing online for a percentage of zero (0) percent.

Ms. Vagle stated there were five (5) new licenses and nineteen (19) renewals in November 2018 with zero (0) renewing online for a percentage of zero (0) percent.

Ms. Vagle stated there were one (1) new license and fourteen (14) renewals in December 2018 with zero (0) renewing online for a percentage of zero (0) percent.

Ms. Vagle stated in October, November and December 2018 five (5) practitioners retired their licenses and three (3) practitioner licenses expired.

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

April 3, 2019
July 10, 2019
October 11, 2019 – Gatlinburg, TN (Tentative)

Ms. Vagle stated that the Optometry Board booth in Gatlinburg at the TAOP conference was successful.

Newly Licensed

Upon review Dr. Carlson made a motion, seconded by Dr. Reynoldson, to approve the following applicants for licensure. The motion carried.

Heather Alexis Cohen
Muqdisa Bibi Hashmi
Benjamin Caleb Hunt

John Timothy Lindsey
Kimberly Lauren Ballard May

Approve/Deny Reinstatement Applicants

Upon review Dr. Cooper made a motion, seconded by Dr. Reynoldson, to approve the following reinstatement applicants. The motion carried.

Christina Michelle Danley
Jeffrey L. Goldstein
Mashaeh Namaeh

Continuing Education Waiver

The Board reviewed a letter and active duty orders in Colorado from **Andrew D. Brown, O.D.**, requesting a waiver for 14 hours online credits instead of 12 hours online credit due to military status. Dr. Tharp made a motion to accept the 14 hours for online course credits due to military status, seconded by Dr. Reynoldson. The motion carried.

Discuss and approve request for Grand Rounds continuing education credit

The Board reviewed the Grand Rounds from **Steven L. Sterling** requesting approval of four (4) hours of continuing education for Matthew Baharami O.D. for observing two (2) hours of refractive surgery:

- **Sterling Eye Care** – 2607 Kingston Pike, Ste 182, Knoxville, TN 37919 - on February 12, 2019 from 8:00 AM – 12:00 PM.
- **Eye Surgery Center of Knoxville, LLC** – 7739 Dannaher Way, Powell, TN 37849 on February 12, 2019 from 12:30 PM – 2:00 PM

Dr. Carlson made a motion to approve the Grand Rounds for a total of three (3) hours, seconded by Dr. Reynoldson. The motion carried.

Correspondence

Upon review of the letter from Dr. Lani Kiku Wilson to the Board for a waiver of continuing education for military spouse, Dr. Cooper made a motion to approve a waiver for lecture hours and not waving the online requirements of fifteen (15) hours per year for a total of forty-five (45) hours for a three (3) year period, seconded by Dr. Carlson. The motion carried.

Upon review of the letter from Dr. Gregory Moore requesting clinical competency, the Board asked a question regarding his staff privileges and requesting information on the discipline in Kentucky. Put on agenda for the next Board meeting April 3, 2019.

Discuss and take actions necessary regarding rules for telemedicine

Dr. Carlson stated they needed to start with definitions for tele-Optometry, Dr. Venable talked about definitions.

- Defined terms what tele-Optometry means in the state of Tennessee, with this definition how it fits into the larger terminology concept of telehealth.
- Define types of procedures that the Board would consider appropriate in either eye health care and then vision care.
- Defining a clinical objective refraction, a clinical subjective refraction, what refractive error is and what an ophthalmic prescription is; both for spectacle lenses and contact lenses.

Ms. Kim Hodge gave dates with open rooms, the Board selected February 26, 2019 in the Iris room from 12:00 PM – 4:00 PM, and Dr. Tharp made a motion for the next meeting for tele-Optometry, seconded by Dr. Reynoldson.

Discuss and take actions necessary regarding CPT Codes

Dr. Cooper worked with Ms. Vagle and researched the appropriate CPT codes. Dr. Cooper stated the next steps an updated letter is issued by the Board Assistant General Counsel, signed off by the Board Chair indicating these are the CPT codes which do fall within the scope of practice for a license practitioner in the state of Tennessee. Dr. Cooper stated codes related to corneal cross linking the use of application of amniotic membranes intense pulse light procedures and allergy testing. Dr. Cooper made a motion that these be added, updated, letter revised and posted to the website for all insurance carriers to have access, seconded by Dr. Carlson. The motion carried.

Dr. Cooper stated a practitioner had inquired to the Board to indicate other codes he submitted approximately twenty (20) codes were also in the scope of practice for Optometry here in Tennessee. Dr. Cooper stated the codes were submitted to the Board are extensions. Dr. Reynoldson made a motion to approve 12a, seconded by Dr. Carlson.

Ms. Parham stated the code was to stop smoking, Dr. Cooper stated it's counseling for risk factors smoking sensation. Dr. Carlson made a motion for the approval 99406 and G0436 codes, seconded by Dr. Reynoldson. The motion carried.

Dr. Cooper stated code 99408 and G0396 code for alcohol toxicity, Dr. Reynoldson made a motion to approve 99408 and G0396, seconded by Dr. Carlson.

Discuss and appoint Board members and staff to attend the 100th anniversary ARBO annual meeting in St. Louis, MO June 16 -18, 2019

Dr. Carlson made a motion for Board approval to send representatives of the Board, Board Attorney, counsel and Administration to attend the ARBO meeting, seconded by Dr. Cooper. The Motion carried.

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

Kaitlin Parham called to order the rulemaking hearing, she will serve as the moderator for the rulemaking hearing, and she asked the agency representatives that are present introduce themselves for the record, Gary Odem Executive Director with (TAOP). She stated it is Wednesday January 16, 2019 this rulemaking hearing is taking place pursuant to Tennessee Code Annotated 45204 in the Poplar conference room at 665 Mainstream Dr., Nashville, TN.

The purpose of the rulemaking hearing is to solicit comments on rules proposed by the Board in order to amend rules 1045-02-.04 and 1045-02-.05 pursuant to T.C.A. 45204 the following is a summary of the factual information on which the amended rules contain the notice of rulemaking are based. The amendment to rule 1045-02-.04 amends the website listed in the sub section to the updated online renewal website, this sub section formally refers licensees to www.tennesseeanytime.org and it will now refer to <https://apps.tn.gov/hlrs> .

The amendment to rule 1045-02-.05(1) changes the total required continuing education hours from thirty (30) hours to forty (40) hours.

The amendments to rule 1045-02-.05(1)(a) & (c) consolidates sub section (a) and (c) into a single sub section changing 20 hours to 25 hours and changing continuing education requirements for the therapeutically certified Optometrists in ocular or systemic disease from twenty (20) hours to twenty-five (25) hours.

The amendment to rule 1045-02-.05(2)(c) removes incorrect reference to one (1) hour classes regarding prescribing practices.

The amendment to rule 1045-02.05(2)(e)(4) changes continuing education requirement for business management courses from six (6) hours to eight (8) hours.

The amendment to rule 1045-02-.05(2)(f)(2) changes continuing education requirements for lecture type courses from twelve (12) hours to fifteen (15) hours.

A rule is defined as an agency statement of general applicability that implements or prescribes law or policy or describes procedure 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 comments and a rulemaking hearing is held, upon the conclusion of the hearing and adoption of the proposed

rules, they are forward to the Attorney General office for review of legality, if approved they are filed with the Secretary of State which is responsible for publication and government operations committee of the general assembly. The rules must stay in the Secretary of State's office for ninety (90) days the end of which time will be the effective date.

Ms. Parham stated to the members of the public wanting to speak should sign in on the sign in sheet, only those that signed in on the sign in sheet are permitted to speak.

The notice of the rulemaking hearing included the entire text of the proposed rules and was published on August 8, 2018 on the Tennessee Administrative website. Ms. Parham asked the Director Kimberly Wallace what additional notice was given to the effected individuals or groups; Ms. Wallace stated they had four (4) additional notices that were made:

- 1- There was an email blast was sent to all licensees.
- 2- There was a notice posted on the Optometry web page.
- 3- There was a notice sent to the Tennessee Association of Optometric Physicians (TAOP).
- 4- There was a notice sent to Association of Regulatory Boards of Optometry (ARBO).

Ms. Parham read to the Board the formal Notice of Rulemaking Hearing that was submitted and signed from the Secretary of State. At that point; those members of the public who signed in were invited to make their comments. They included: Zachary McCarty O.D., on behalf of the Tennessee Association Optometric Physicians (TAOP) talked about keeping the original rule 1045-02-.05 (1) of Continuing Education.

The Board members made a change to remove the new 1045-02-.05 (1) first paragraph and replace it with the old 1045-02-.05 (1) second paragraph. The new language will read 1045-02-.05(1) Effective January 1, 2016, an Optometrist with a renewal date in the year 2016 and beyond must complete forty (40) hours of Board approved continuing education during the twenty-four (24) months that precede the licensure renewal month. Ms. Parham stated a roll call vote is needed to approve the change; Chris Cooper approve, Torrey Carlson approve, Linda Tharp approve, Tonya Reynoldson approve and Nancy Strawn approve.

Ms. Parham asked the Board with no other changes or discussion did the Board want to vote on the entire rule packet as changed, she stated a roll call vote is needed; Chris Cooper approve, Torrey Carlson approve, Linda Tharp approve, Tonya Reynoldson approve and Nancy Strawn approve. Ms. Parham stated this concludes the rulemaking hearing and the comment period.

Ms. Parham asked the Board if they could make a motion to re-open the rulemaking hearing to clarify some dates; Dr. Tharp made a motion to re-open the rulemaking hearing, seconded by Dr. Cooper, Ms. Parham asked for a roll call vote; Chris Cooper approve, Torrey Carlson approve, Linda Tharp approve, Tonya Reynoldson approve and Nancy Strawn approve.

Ms. Parham read into record 1045-02-.05 Continuing Education is changed to; Effective January 1, 2020, an Optometrist with a renewal date in the year 2020 and beyond must complete forty (40) hours of Board approved continuing education during the twenty-four (24) months that

precede the licensure renewal month. Ms. Parham asked for a roll call vote; Chris Cooper approve, Torrey Carlson approve, Linda Tharp approve, Tonya Reynoldson approve and Nancy Strawn approve. Ms. Parham asked for a roll call vote on the entire rule packet as changed; Chris Cooper approve, Torrey Carlson approve, Linda Tharp approve, Tonya Reynoldson approve and Nancy Strawn approve. Ms. Parham stated this rulemaking hearing is now closed again, she also asked the Board to get a roll call vote to close the rulemaking hearing; Chris Cooper approve, Torrey Carlson approve, Linda Tharp approve, Tonya Reynoldson approve and Nancy Strawn approve.

Dr. Carlson stated at the last Board meeting in October reviewing the statutes defining what a contact lens exam; rule 1045-02-.08(2)(VI), Ms. Parham is going to research and bring a draft to the next Board meeting.

Adjourn

With no other Board business to conduct Dr. Cooper made a motion, seconded by Dr. Reynoldson to adjourn at 11:31 a.m. The motion carried.