

**TENNESSEE BOARD OF DISPENSING OPTICIANS  
MINUTES**

**DATE:** November 20, 2013  
**TIME:** 9:00 a.m., CST  
**LOCATION:** Health Related Boards Conference Center  
Poplar Board Room  
665 Mainstream DR  
Nashville, TN 37243

**BOARD MEMBERS  
PRESENT:**

Donald Wells, DPO, Chairman  
LeRhonda Walton-Hill, DPO, Secretary  
Kathy Hawkins, DPO  
Kimberly Jackson, DPO  
Felda Stacy, DPO  
Edward Risby, PhD, Consumer Member

**STAFF**

**PRESENT:**  
Sheri Patterson, Board Administrator  
Teddy Wilkins, Unit Director  
Stefan Cange, Office of General Counsel  
John Smith, Office of General Counsel

Mr. Wells, Board Secretary, called the meeting to order at 9:09 a.m. A quorum was present.

**Minutes**

Ms. Hawkins made a motion, seconded by Ms. Walton-Hill, to approve the April 9, 2013 minutes as written. The motion carried.

**Office of General Counsel Report**

Mr. Smith stated there are seven (7) open cases for discipline in the Office of General Counsel.

There is currently no legislation for this Board at this time.

Mr. Smith stated that rules have been signed and are being prepared for the Rulemaking hearing at the Board's next meeting. Ms. Wilkins gave details on the routing that the rules must make prior to becoming official. She anticipated that should be sometime this summer.

## **Office of Investigation Report**

Ms. Denise Moran presented the report. Ms. Moran will continue to assist the Board until a replacement for Ms. Juanita Stone has been hired. There are four (4) open cases. Two (2) cases are for first review and two (2) cases are being investigated.

## **Monitored Practitioner Report**

There are currently seven (7) individuals being monitored. Four licensees are under Board order, one is on current probation and two licensees are revoked.

Ms. Moran stated that once licensees are being monitored or on probation for anytime licensees remain on the OIR list indefinitely unless the licensee presents before the Board that they have an order of compliance.

## **Administrative Report**

There are 851 active licensed dispensing opticians and 396 active apprentices. From July 1, 2013 to October 14, 2013, one (1) dispensing optician was reinstated, six (6) licenses were retired, six (6) licensee failed to renew, and no newly reported licensees are deceased.

New applications received totaled twenty-two (22). There were four (4) DPO and eighteen (18) Apprentice applications.

Ms. Patterson also discussed conversations between herself and Ms. Susan Larson of NCORB, the practical testing vendor. Ms. Patterson relayed the concerns of the Board and practical candidates of the exam for clarification.

1. Some candidates are confused about the sheet they are given at the end of the exam that states they have "Passed" then later some receive a letter from our offices stating they have "Failed" the practical exam. Candidates expressed the feeling of being "blindsided" by the final result that has a much different outcome.  
\*\*Ms. Larson clarified that the initial sheet is given to verify the results of multiple choice portion of the exam not the full exam. NCORB has eliminated giving this sheet to all Tennessee candidates.
2. Could the Board see or receive screenshots of what the candidates see during the exam? The specific concern was to view or show the instructions that are given to proceed to the second pair of spectacles that candidates are to measure/test. The issue is that some have misunderstood that by pressing the "End" button they thought they would be returned to the second set of spectacles to test but the candidate actually is exiting the exam entirely.  
\*\* Ms. Larson stated that there are no screenshots of the exam and that everything on the exam is outlined in the candidate handbook, checklist and tutorial that are provided to each candidate prior to the exam. She has offered to set up a webinar to review the tutorial of the exam when the Board has time available.

Mr. Cange informed the Board that any issues/problems with the testing vendor do not bear any legal responsibility on the Board. The State would bear that responsibility.

Dr. Wells inquired about the passing rate with the new vendor. Ms. Patterson stated that the current passing rate is about 75%. There has been a leveling off since the initial tests were given and the variations are between initial candidates (first-time test takers), retakes who had taken Mr. Roy Ferguson's tests and candidates from other jurisdictions.

Ms. Hawkins gave some background information on the methods and reasons that NCSORB was selected. Some former Board members were able to review a similar test and a committee researched the type of questions that would be covered on the exam as it pertains to Tennessee Rules and Statutes. The Board did not make the final selection. A State competitive bidding process was used. The Board will monitor the process in the future to determine if any adjustments need to be made.

Distance learning from a currently approved school was discussed. Dr. Rigsby expressed that if the school has been approved, then distance learning should be allowed. Ms. Hawkins stated that J. Sargeant Reynolds in VA allows the completion of and passing of its opticianry program. Ms. Stacey felt that the amount of courses offered that are considered as distance learning would be up to that particular school not the Board. If the student meets all the requirements of the approved school that would also meet the Board's approval.

### **Jurisprudence Continuing Education**

Ms. Walton-Hill made a motion that was seconded by Ms. Hawkins concerning the Board setting the parameters for licensees who attend a Board meeting to receive continuing education credit. It was decided that any licensee who attends the morning session of a meeting will receive one (1) hour towards their Continuing Education requirement. This hour may be used instead of the one (1) currently required by submitting the rules examination. The rules examination will continue to be accepted for one (1) Continuing Education hour for licensees who may not desire or be able to physically attend a Board meeting.

Mr. Cange will create a Continuing Education form to change the rules. The rule change will be approved by the Board at an upcoming Board meeting.

### **Continuing Education**

The Board approved the following Continuing Education requests:

International Vision & Conference West 2013- courses offered at their 2-5 October 13 meeting.

McDonald & Associates LLC- for eight (8) hours offered 12 October 13.

Opticians Association of Georgia- all courses offered during their Fall Meeting 8-10 of November **with the exception of** one (1) hour with the title of "Demystifying Georgia Law".

Tennessee Dispensing Opticians Association (TDOA) -approved all courses offered 20 October 13.

**New Licensees**

Ms. Hawkins made a motion, seconded by Ms. Jackson to approve the following new licensee:

Courtney Backlund  
David Boyer  
Inga Brittingham  
Sherrie Button  
James Doherty  
Adam Franks  
Richardo Fredericks  
Amanda Jensen  
Ruth Osborne  
Andrea Perez  
Mary Slocum  
Matthew Smith  
Daniel Stanford  
Kenneth Steel  
Kristina Terry  
Francesco Valentino

The motion carried.

**Reinstatement Licensees**

Ms. Hawkins made a motion, seconded by Ms. Walton-Hill to approve the following reinstated licensee:

Emmitt Hayes  
Beth McCarthy  
Susan Poersch

**Apprentice Program Requests**

Ms. Hawkins made a motion, seconded by Ms. Walton-Hill to approve the following applicants to enter the dispensing optician apprentice training program:

Ashley Allen  
Thomas Almy  
Joshua Anderson  
Rhonda Bay

Julie Bennett  
Stephanie Carpenter  
Phyllis Gibson  
Megan Hall  
Amy Hunley  
Sarah Jess  
Kimberly Judkins  
Amber Laroche  
Katherine Lasley  
Christopher Ogden  
Michelle Osborne  
Jan Rakus  
Richard Sherman  
Howard Staten  
Kathy Taylor  
Stacy Waechter

The motion carried.

### **Requests to Sit for the Practical Exam**

Ms. Hawkins made a motion, seconded by Ms. Walton-Hill to approve the following dispensing optician applicants to sit for the practical examination:

Jean Bosse  
Rebecca Bridges  
Beverly Deaderick  
Erin Gunter  
Debbie Lynn Howard  
Jessica Motta  
Ashley Phillips  
Eric Phipps  
Brandy Steeley  
Russell Sexton  
Patricia Sullivan  
Tammy Weatherly

The motion carried.

### **Review Correspondence**

Ms. Hawkins presented a correspondence that she received that detailed “unlawful practices in advertising”. Ms. Hawkins explained that unlicensed dispensing opticians are being instructed “to fill” optometrist chairs by calling patients to have an eye examination. The opticians feel uncomfortable about doing this because it is outside the scope of practice. The practitioners are

requesting guidance by the Board on how to state that this activity is outside their scope of practice. It may be stated that, “ for your convenience there is a doctor next door; I can connect you with the office” is within the scope. Mr. Cange interjected that the solicitation of eye exams, discounts, particular services or materials are not in-line with the law. His reference was the optometric statues that address this issue. TCA 638-13 (b) of the optometric statues could be presented. Mr. Cange, after reading the correspondence, will research the dispensing optician statues and present his findings at an upcoming meeting.

Mr. Wells mentioned that under the current administration the Governor and Commissioner are requesting that Boards have consumer focused policy. Reminding the consumer to have an eye exam would be an aid to the general health welfare. Ms. Hawkins stated that if a patient comes in for new glasses with an expired or very old prescription that to warrant better health an optician suggests a new eye exam. Dr. Risby clarified that the primary care of the eye must lie with the optometrist or ophthalmologist. Mr. Cange will make this issue a part of the OGC report in the upcoming meeting.

Affiliated Monitors, INC offered their services to monitor and maintain practitioners who have disciplinary actions, compliance issues. Ms. Wilkins noted that we currently have the Office of Investigation and an internal compliant department to handle this at no expense to the Board. A motion was made by Ms. Walton-Hill and was seconded by Ms. Hawkins that these services were not need and a letter was to be sent to that effect.

Commission on Opticianry Accreditation (COA) notified the Board of changes that are being made to update and address distance learning. Mr. Roy Ferguson commented that he was familiar with the organization and after reviewing the correspondence directed the Board that this was a “For Your Information” letter. No Board action was taken.

Darrell C. Lassiter, DPO voiced his concerns with internet/online eyewear purchases. Mr. Cange stated that internet sales are federally legal and that federal law supersedes state and local in this manner. No Board action was taken.

JoAnn Parlier requested assistance from the Board. Her question was unclear and she will be contacted for clarification to be presented at an upcoming Board meeting before the Board can act on her request. Board action is pending awaiting Ms. Parlier’s reply.

Lisa Little requested an extension on obtaining her Continuing Education requirements. Ms. Hawkins made a motion to approve, seconded by Ms. Stacey. The request was approved.

Misty E. Lee requested an extension on obtaining her Continuing Education requirements. Ms. Hawkins made a motion to approve, seconded by Ms. Walton-Hill. The request was approved.

Rebecca Langford stated her concerns about the renewal fee increase that she noticed in her recent renewal period. The Board stated that the increase took place 17 November 2010. At that time, there was notification for all licensees and that the Board cannot make any adjustments to such increases. Ms. Patterson was asked to reply with a letter stating those facts. No further Board action was taken.

Teresa Jones requested an extension to obtain her Continuing Education requirements. Ms. Hawkins made a motion to approve, seconded by Ms. Walton-Hill. The request was approved.

### **Other Board Business**

Ms. Wilkins discussed a recent request to research TCA 63-14-109a(2) which entitles the current Secretary of the Board to a salary (not to exceed \$500 annually) while holding that position. It was determined that when Mr. Wells was elected he was not given that salary as it continued to be paid to his predecessor Mr. Christopher. Ms. Hawkins stated that a similar incident happened to her when she changed positions on the Board. There were a few months of overlap and once contacted by the finance department she refunded the State.

The motion was made by Ms. Hawkins and seconded by Dr. Risby to retroactively have the salary paid to Mr. Wells and any excess funds received by Mr. Christopher should be refunded to the State.

Mr. Cange stated that Ms. Stacey had been incorrectly informed that as a Board member she could no longer review cases for the Investigations Department. No vote was needed as this is not a true fact. She and any current sitting Board member must recuse themselves and leave the room during a case with which s/he is familiar. There was a motion by Dr. Risby which was seconded by Ms. Walton-Hill. The motion carried.

### **Board Meeting Adjournment**

Dr. Risby made a motion, seconded by Ms. Walton-Hill to adjourn the meeting. The motion carried. Meeting adjourned at 11:24 a.m.