

**TENNESSEE BOARD OF DISPENSING OPTICIANS
MINUTES**

DATE: March 26, 2008

TIME: 9:00 a.m., CST

LOCATION: Health Related Boards Conference Center
Iris Board Room
Heritage Place Metro Center
227 French Landing, Suite 150
Nashville, TN

BOARD MEMBERS

PRESENT: Kelly Godsey, DPO, Chair
Kathy Hawkins, DPO
Kimberly Jackson, DPO
Stacey Chitwood, DPO
Dr. Edward Risby, Consumer Member

STAFF

PRESENT: Melody Spitznas, Board Administrator
Barbara Maxwell, Administrative Director
Lexie Whittemore, Advisory Attorney
Denise Moran, Director of the Office of Investigations
Juanita Stone, Disciplinary Coordinator

GENERAL PUBLIC

ATTENDEES: Roy R. Ferguson, Ph.D.
Martha Gentry
Kerrie Richardson
Tish Craven
Bobby Luttrell
John R. Reynolds
Shane Partain
Cindy Wright
Theresa Mills
Sheryl Palasieski

Mr. Godsey, Chair, called the meeting to order at 9:15 a.m. A sufficient number of members were present to constitute a quorum.

Conflict of Interest Policy Statement

Ms. Whittemore reviewed the conflict of interest policy with the Board, which requires all Board members to disclose any conflict of interest they may have, whether existing or potential, which could affect the performance of their duties as Board members. Ms. Whittemore stated that if a Board member has a conflict of interest they must recuse him/herself from the proceedings and leave the room during the hearing.

Petition for Stay regarding Mark S. Partain

Paul Covacha, with the National Association of Optometrist and Opticians (NAOO) was present to request Petition for a Stay in the Partain matter. Mr. Covacha stated that there was a great deal of confusion regarding this issue. Ms. Whittemore explained that the Declaratory Order, by statute, was only binding with the parties involved, which is the state, Mr. Partain and the NAOO. Ms. Whittemore stated that is no risk of public harm regarding this matter. After discussion, Ms. Chitwood made a motion, seconded by Ms. Jackson to deny the Petition for Stay. A roll call voted was conducted and all members voted in the affirmative. The motion to deny carried.

Agreed Order for Bobby Luttrell, DPO

Judge Adgent, Administrative Law Judge presided over the proceedings regarding Mr. Luttrell. Judge Adgent stated that Mr. John Reynolds, attorney for Mr. Luttrell and Ms. Whittemore, attorney for the state have been working together on the case. After discussion, Mr. Reynolds stated that Mr. Luttrell would accept a Letter of Reprimand, which includes two (2) Type A civil penalties at five hundred dollars (\$500.00) each, equaling one thousand dollars (\$1,000.00), and must complete six (6) hours of continuing education in ethics and pay the costs associated with the proceedings. Ms. Chitwood made a motion, seconded by Dr. Risby to accept the Letter of Reprimand as written. A roll call vote was conducted and all members voted in the affirmative. The motion carried. The Board's decision in this matter is to promote, protect and improve the health of persons living in, working in or visiting the State of Tennessee. With no other business regarding this matter, Judge Adgent adjourned the hearing at 10:30 a.m.

Ratify January 15, 2008 and February 28, 2008 Telephonic Board Meeting Minutes

Upon review of the January 15, 2008 Board meeting minutes, Ms. Chitwood made a motion, seconded by Mr. Risby, to ratify the January 15, 2008 minutes as written. The motion carried. Upon review of the February 28, 2008 Board meeting minutes, Ms. Chitwood made a motion, seconded by Mr. Risby, to ratify the February 28, 2008 minutes as written. The motion carried.

Investigative and Disciplinary Reports

Ms. Moran presented the Board with a list of potential Board Consultants. Ms. Whittemore cited the Board's rule concerning consultants, which states that the Board has the authority to select a Board consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts: (a) Recommend whether and what type of disciplinary actions

should be instituted as the result of complaints received or investigations conducted by the Division. (b) Recommend whether and what terms a complaint, case, or disciplinary action might be settled. Any matter proposed for settlement must be subsequently ratified by the full Board before it will become effective. (c) Undertake any other matter authorized by a majority vote of the Board. Ms. Hawkins made a motion, seconded by Ms. Chitwood to appoint the following three (3) consultants from the list: Elizabeth Simon, Randy Dishmon and Felda Stacey. Dr. Roy Ferguson withdrew his request to be a consultant due to a potential conflict of interest. The motion carried.

Ms. Stone reviewed the investigative report stating that two (2) complaints have been received since the Board's last meeting. Ms. Stone stated that there are currently nine (9) open complaints in the Office of Investigations, which are primarily concerning unlicensed practice.

Ms. Stone reviewed the disciplinary report, which lists disciplined licensees currently being monitored. Ms. Stone stated that if the licensee did not comply with the terms of their discipline, they would be pursued as being in violation of the Board's Order.

Office of General Counsel Report

Ms. Whittemore requested the discussion concerning the rule amendment regarding the jurisprudence examination be tabled until the Board's next meeting.

Ms. Whittemore said the Office of General Counsel currently has one (1) open case pertaining to the Board of Dispensing Opticians.

Financial Report

Ms. Spitznas reviewed the financial report stating the Board has a cumulative carryover as of June 30, 2007 of \$167,805.98. Ms. Spitznas stated that the new report should be ready sometime in July.

Administrative Report

Ms. Spitznas reviewed the administrative report stating as of March 10, 2008, there are currently 803 licensed dispensing opticians, 198 retired, 405 who failed to renew their license, and 113 are deceased. Ms. Spitznas stated there are currently 245 active apprentices.

Ms. Spitznas stated all requests for travel must be submitted to the Board's administrative office at least sixty (60) days prior to travel.

Ms. Spitznas said with the exception of incoming files, all files for this profession have been imaged.

Ms. Spitznas stated there are currently no projects in progress.

Ms. Spitznas informed the Board that the 2008 continuing education requirement letter had been mailed to all licensed dispensing opticians on February 26, 2008. Ms. Spitznas stated that the Request for Proposal regarding the practical examination has been sent to the Bureau office for the Assistant Commissioner's signature.

Ratify Newly Licensed

Upon review, Ms. Hawkins made a motion, seconded by Ms. Chitwood, to approve the following applicants who passed the practical examination:

Stacey Bell
Gina Blackwell
Alvin Clouse
Gregory Davis
Richard Downey
Sherry Hixon
Mica Kidd
Susan Marrone
Amanda Rose
Sidney Yates

The motion carried.

Review and Ratify Initial Determinations made by Board Member/Consultant

Upon review, Ms. Hawkins made a motion, seconded by Dr. Risby, to approve the following applicants, initially approved by the consultant, to sit for the practical examination:

Jeremy Brown
Benjamin Cyllus
Jamie Davis
Maryann Graybeal
Amanda Hale
Kevin Hershman
April Lyles
Elizabeth Marsteller
Brandy Miller
Harry Saake
Steve Ward
Kimberly Wasilko

The motion carried.

Upon review, Ms. Hawkins made a motion, seconded by Mr. Risby, to approve the following to re-take the practical examination:

Amanda Barnes
Thomas Danko
Lisa Davis
Johanna Wolford
Nathan Wright

The motion carried.

The following applicant files were reviewed by the consultant and found to be in order for the apprentice program. Ms. Jackson made a motion, seconded by Ms. Chitwood to approve the following applicants for the apprentice program:

Angela Andl	Patricia Harvey
Andrew Bodenheimer	Antwan Horton
Jolanda Buchanan	Misty Koon
Linda Cannon	Vicki McCurry
Deborah Crowe	Tonya Necessary
Jennifer Darnell	Christopher Padgett
Bramlett Dyles	Vaishali Patel
Amanda Ferell	Judy Shire
Holly Gore	Lindsey Weese
Loren Harris	

The following applicant file was reviewed by the consultant and found to be unacceptable for the apprentice program. Ms. Jackson made a motion, seconded by Ms. Chitwood to deny the following applicant for the apprentice program:

Larry Shybosky

Upon review, Ms. Hawkins made a motion, seconded by Dr. Risby, to approve the following to retake the practical after failure of the last examination:

Amanda Barnes
Thomas Danko
Lisa Davis
Dennis Morphis
Johanna Wolford

The motion carried.

Upon review, Ms. Hawkins made a motion, seconded by Dr. Risby, to approve the following to take the practical after missing the last scheduled examination:

Martha Kirkpatrick
Jay Shelby
Emily Walkup

Ruth Willey

Review Continuing Education Requests

Upon review, Ms. Hawkins made a motion, seconded by Ms. Chitwood, to approve the following continuing education courses:

McDonald & Associates

August 10, 2008 – Quality Suites, Cordova, TN

- “Marketing Health Services”*
- “Rx Analysis Understanding How to Evaluate the Ophthalmic Rx”*
- “Gas Perm Fitting Basics”*
- “Pseudophakia, Progressives and Prism”*
- “Ocular Anatomy and Physiology”*
- “Conflict Management and Resolution”*

The motion carried.

Upon review, Ms. Hawkins made a motion, seconded by Ms. Chitwood, to deny the following continuing education courses (except on an individual basis if a licensee submits a request to attend):

Costco:

September 23, 2008 – Orlando Airport Marriott, Orlando, Florida
Speakers: John Alofs and Walter Hanlin

- “Birth of a Frame”*
- “Perception of Value & the Ophthalmic Consumer”*

September 25, 2008 – Orlando Airport Marriott, Orlando, Florida
Speakers: Jennifer Smythe, Susan Connelly and Michael Ward

- “SCL Update: Tools, Design, Materials and Care”*
- “Member Service Standards”*
- “Understanding Contemporary Lens Care Products for HEMA and Silicone Hydrogel Lenses”*
- “Soft Contact Lens Materials Update”*

The motion carried.

Mr. Godsey made a motion, seconded by Ms. Chitwood to approve the following continuing education courses:

TDOA – Tennessee Dispensing Opticians Association:

June 22, 2008 – TDOA Annual Convention, Pigeon Forge, TN

Speaker: Diane Drake

“Basic Refractive Status of the Eye”
“Making the Most of Tinted Contact Lenses”

Speaker: Gary Falk

“Prescription Polarized Lenses Today”
“A Lens Material Comparison”
“The Prevention of Ocular Disorders Linked to Sun Radiation”

The motion carried. Ms. Hawkins abstained from voting due to sitting on the Tennessee Dispensing Opticians Association Board.

Ms. Hawkins made a motion, seconded by Ms. Jackson to approve the following continuing education courses:

The Learning Curve:

April 6, 2008 – Holiday Inn, Knoxville, TN
April 13, 2008 – Holiday Inn, Chattanooga, TN
April 20, 2008 – Holiday Inn, Johnson City, TN
May 25, 2008 – Cookeville Regional Hospital, Cookeville, TN
September 7, 2008 – Holiday Inn, Knoxville, TN
November 16, 2008 – Cookeville Regional Hospital, Cookeville, TN

“Professional Ethical Standards”
“Strabismus Fundamentals”
“General Anatomy of the Eye”
“General Physiology of the Eye”
“Applied Prism”
“Dog Guide Overview”
“Ten Leadership Sins”

The motion carried.

Ms. Hawkins made a motion, seconded by Ms. Chitwood to approve the following continuing education courses:

The Learning Curve:

March 30, 2008 – Palmer Plaza, Nashville, TN
September 21, 2008 – Palmer Plaza, Nashville, TN

“Surgical Overview for Opticians”
“Anterior Segment Disorders”
“Implantable Lenses”
“Contact Lens Methodology”
“Strabismus Fundamentals”
“Applied Prism”
“Dog Guide Overview”

The motion carried.

Ratify Closed/Abandoned Files

Upon review, Ms. Hawkins made a motion, seconded by Ms. Chitwood, to ratify closure of the following applicant files:

Amanda Barton
Rashard Berry
Stephanie Council
Larry Crockett
Adam Franks
Candice Jackson
Nicole Jones
Tiffany Guy
Wednesday Morelock
Lance Perry
Robin Thompson
Patrick Wade
David Williams
Kellie Workings

The motion carried.

Correspondence

Upon review of a letter from **Roy R. Ferguson, Ph.D.**, requesting clarification of the Petition for Declaratory Order that was heard on October 29, 2007 by the Board. Ms. Whittemore explained to the Board that the Declaratory Order has been stayed to Chancery Court. Ms. Whittemore recommended Dr. Ferguson seek independent legal advice regarding this issue. Mr. Godsey made a motion, seconded by Ms. Chitwood, stating it was not for the Board to respond to this letter due to pending litigation. The motion carried.

With no other Board business to conduct, Ms. Chitwood made a motion, seconded by Dr. Risby to adjourn the meeting at 2:30 p.m. The motion carried.

Ratified by the Tennessee Board of Dispensing Opticians on June 17, 2008.