

**TENNESSEE BOARD OF DISPENSING OPTICIANS  
MINUTES**

**DATE:** October 29, 2007

**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  
Donald Wells, DPO  
Stacy Chitwood, DPO  
Dr. Edward Risby, Consumer Member

**STAFF**

**PRESENT:** Barbara Maxwell, Administrative Director  
Nicole Armstrong, Advisory Attorney  
Lexie Whittmore, Advisory Attorney  
Sandra Sturgis, Special Assistant to Commissioner  
Lakita Taylor, AARBI

**STAFF**

**ABSENT:** Melody Spitznas, Board Administrator

**GENERAL PUBLIC**

**ATTENDEES:** Martha Gentry, NAOO  
Marvin E. Hughes, DPO  
Mike Woods, DPO  
Debi Woods, DPO  
Mark Partain, TDOA,  
Bob Spicer, DPO  
Barbara Spicer, TDOA  
Greg DeCrow, TDOA  
H. Charles Bowman, TDOA  
Beatrice D. Hall, TDOA  
Felda Stacey, TDOA  
Jane Moore, DPO  
Randy Dishmon, DPO  
Roy Ferguson, DPO  
Tish Craven

Mr. Godsey, Chair, called the meeting to order at 9:11 a.m. All Board members were present.

### **Ratify June 20, 2007 Board Meeting Minutes**

Upon review of the June 20, 2007 Board meeting minutes, Ms. Chitwood made a motion, seconded by Mr. Wells, to ratify the minutes as written. The motion carried.

### **Conflict of Interest Policy Statement**

Ms. Armstrong 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. Armstrong 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.

### **Office of General Counsel Report**

Ms. Armstrong introduced Lexie Whittmore to the Board, stating she is the new attorney for the Board of Dispensing Opticians. Ms. Armstrong stated the rule amendments regarding the apprenticeship training program, use of titles, the jurisprudence exam and petitions for stay and reconsideration were sent to the Office of the Attorney General on July 11, 2007 where they remain.

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

### **Investigative Report**

Ms. Stone reviewed the investigative report stating there are six (6) complaints year to date against dispensing opticians. Ms. Stone stated one complaint has been closed with a letter of warning.

### **Disciplinary Report**

Ms. Stone reviewed the disciplinary report stating there are currently four (4) practitioners being monitored.

### **Financial Report**

Ms. Maxwell reviewed the financial report stating the Board has a cumulative carryover as of June 30, 2007 of \$184,874.74.

## **Administrative Report**

Ms. Maxwell reviewed the administrative report stating as of October 22, 2007, there are currently 790 licensed dispensing opticians, 196 retired and 405 failed to renew and 106 deceased. Ms. Maxwell stated there are currently 234 active apprentices.

Ms. Maxwell stated all travel requests must be submitted at least sixty (60) days prior to travel.

## **Discuss and develop a policy regarding Criminal Background Checks concerning fingerprints that are rejected due to being illegible**

Upon discussion, Mr. Godsey made a motion, seconded by Mr. Wells, to adopt the following policy regarding Criminal Background Checks and illegible fingerprints:

The Board shall require the applicant to submit to an FBI/TBI fingerprint scan through the State of Tennessee's approved vendor or its equivalent as determined by the Board.

The motion carried.

## **Discuss/Vote on reissuing RFP regarding the practical exam for 2008-2009**

The Board discussed opening Request For Proposals (RFP's) for administration of the practical examination for dispensing opticians. Upon discussion, Ms. Hawkins made a motion, seconded by Mr. Wells, to open RFP's in January 2008 to begin bidding for a contract on the practical examination. The motion carried.

## **Classification/Prioritization of complaints in BIV involving Dispensing Opticians**

Ms. Moran addressed the Board regarding the classification and/or prioritization of complaints received by Investigations. Ms. Moran stated determinations are made by the Board's consultants and all Boards' attorneys have now been initially involved in the review process regarding complaints sent to Investigations.

Ms. Moran said when it comes to prioritization, complaints are handled as they come in and the Office of Investigations is working diligently to review and resolve all outstanding complaints. Ms. Moran stated there is no time frame in which complaints are closed; however, the average case is opened, filed, and closed in about 120 days.

## **Identify and Discuss Consultants**

The Board discussed the current list of consultants and the need for additional people to be added to the list.

Ms. Armstrong stated there is a process of assigning consultants and they must meet the same requirements as Board members.

Ms. Maxwell asked the Board members to provide a list of candidates they felt would benefit the Board as a consultant and a letter would be sent to them regarding consideration of their services.

### **Ratify Newly Licensed**

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

**Whitney Bible, File #2244**  
**Christopher Davidson, File #2187**  
**Allison Gross, File #1964**  
**Kevin Jones, File #1955**  
**Keri Lynch, File #2293**  
**Cindy Martinez, File #1751**  
**Erin Randolph, File #1944**  
**Charles Roberts, File #1944**  
**Dena Sinclair, File #1960**

The motion carried.

### **Ratify Reinstatements**

Upon review, Ms. Hawkins made a motion, seconded by Mr. Wells, to approve the following for reinstatement:

**Karen Huckaba**  
**Lisa Winstead**

The motion carried.

### **Review and Ratify Initial Determinations made by Board Member/Consultant**

Upon review, Ms. Chitwood made a motion, seconded by Mr. Wells, to approve the following applicants, initially approved by the consultant, to sit for the practical examination:

**Amanda Barnes, File #2328**  
**Richard Downey, File #1971**  
**Sherry Hixon, File #1987**  
**Susan Marrone, File #2023**  
**Nathan Wright, File #2322**  
**Sidney Yates, File #2326**

The motion carried.

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

**Stacey Bell, File #2185**  
**Alvin Clouse, File #1958**  
**Thomas Danko, File #1920**  
**Gregory Davis, File #1979**  
**Lisa Davis, File #2178**  
**Martha Kirkpatrick, File #2181**  
**Amanda Rose, File #2254**  
**Emily Walkup, File #2188**  
**Ruth Willey, File #1073**  
**Johanna Wolford, File #1986**

The motion carried.

### **Ratify New Apprentices**

Upon review, Ms. Jackson made a motion, seconded by Ms. Chitwood, to approve the following new apprenticeship applicants:

**Amy Arora, File #2284**  
**Lisa Gates, File #2176**  
**Christina booker, File #2318**  
**Cory Crawford, File #2308**  
**Jason Goins, File #2302**  
**Michael Hamric, File #2304**  
**Heather Harris, File #2320**  
**Laura Hawkins, File #2278**  
**Sandra Haworth, File #2319**  
**Christopher Lonas, File #2266**  
**Katherine Manna, File #2305**  
**Jeanie McKamey, File #2312**  
**Dewey Miller, File #2292**  
**Michael Miller, File #2316**  
**Elizabeth Mills, File #2306**  
**Julie Pace, File #2311**  
**Michelle Piedra, File #2333**  
**Melissa Perez, File 2303**  
**Mindy Roberts, File #2313**  
**Tammie Robinson, File #2310**  
**Sara Serati, File #2140**  
**Kelly Short, File #2324**  
**Melissa Swenson, File 32314**  
**Marianna Tanner, File #1847**  
**Thiakia Tidwell, File #2330**  
**Christine Townes, File #2325**  
**James Wooten, File #2274**

The motion carried.

Upon review, Ms. Hawkins made a motion, seconded by Mr. Wells, to delay approval of the following applicants that did not meet criteria:

**Stephanie Council, File #2290**

**Melinda Thomas, File #2317**

The motion carried.

### **Review Licensure Files**

Upon review of the application of **Teresa Elliott**, indicating completion of a two (2) year college in Georgia, ABO/NCLE certification, and U.S. citizenship, Ms. Hawkins made a motion, seconded by Mr. Wells, to approve Ms. Elliott for licensure. The motion carried.

Upon review of the application of **Jennifer Cooper**, indicating abandonment and closure of the file and a request from Ms. Cooper to consider reopening her file, Ms. Chitwood made a motion, seconded by Ms. Jackson, to delay a decision until the next board meeting. The motion carried.

Upon review of the application of **Terrence Washington**, indicating possible forgery on submitted documents, Ms. Hawkins made a motion, seconded by Ms. Chitwood, to delay a decision pending possible investigations. The motion carried.

### **Review Continuing Education**

Upon review, Mr. Wells made a motion, seconded by Mr. Risby, to approve the following continuing education:

**TDOA – Tennessee Dispensing Opticians Association**

*November 11, 2007 – Baptist Hospital, Nashville, TN*

*“High Performance Lenses Your Patients Will Love”*

*“How to Successfully Run a Staff Meeting”*

*“The Next Five Years”*

The motion carried.

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

**SECO International, LLC**

*February 27<sup>th</sup>-March 2, 2008 – Georgia World Congress Center, Atlanta, GA*

*Multiple Courses*

The motion carried.

Upon review, Ms. Hawkins made a motion, seconded by Mr. Wells, to deny the following continuing education due to late submission:

**International Vision Expo West**

*October 3-6, 2007 – Sands Expo & Convention Center, Las Vegas, NV*

*Multiple Courses*

The motion carried.

**Ratify Closed/Abandoned Files**

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

**LaShunda Brown, File #2300**

**Phillip Buck, File #2112**

**Eric Corey, File #1993**

**Sandra Crawley, File #2233**

**Kathryn Etheridge, File #1864**

**Greg Gsell, File #2135**

**Michael Hogan, File #2282**

**Pamela Howard, File #2243**

**Kenneth Lusk, File #2162**

**Brenda Martin, File #2105**

**Maggie Musick, File #2248**

**Tammy Scoggins, File #2134**

**Kelley Scott, File #2020**

**Linda Walker, File #2097**

**Michael Yarbrough, File #2259**

The motion carried.

**Correspondence**

Upon review of a letter from **Sandra Guinn**, requesting an extension to complete the apprenticeship program due to a lack of available licensed dispensing opticians to train under, Ms. Hawkins made a motion, seconded by Mr. Wells to address Ms. Guinn by letter stating her options of an alternate training supervisor. The motion carried.

Upon review of a letter from **Dena J. Sinclair**, asking for information regarding the issuance of licenses upon passing the practical examination, Mr. Wells made a motion, seconded by Ms. Chitwood, to address Ms. Sinclair by letter explaining the licensure process and schedule of Board meetings. The motion carried.

Upon review of a letter from **Cindy M. Martinez**, asking for information regarding the issuance of licenses upon passing the practical examination, Ms. Chitwood made a motion, seconded by

Ms. Hawkins, to address Ms. Martinez by letter explaining the licensure process and schedule of Board meetings. The motion carried.

The Board discussed the need for new badges for all licensees. Ms. Maxwell said the rules address a twenty-five dollar (\$25.00) fee for issuance of new ID badges and if licensees want or need a new one, they will need to pay the fee.

### **Hearing for Petition for Declaratory Order filed by Mark S. Partain, DPO**

Madeline Williams, Administrative Law Judge, presided over the hearing for petition for declaratory order filed by Mark S. Partain, DPO. Nicole Armstrong, Assistant General Counsel, represented the State; Mr. Partain was represented by Attorney Chris Trew and Attorneys John Lyles and Martha Gentry appeared to intervene on behalf of the National Association of Optometrists and Opticians (NAOO) because of concerns the Board may make regarding this petition.

Judge Williams asked all Board members to state their name for the court reporter.

Mr. Trew stated Mr. Partain's objective is to seek clarification to questions raised regarding rules governing the profession of dispensing opticians. Mr. Trew said Question #1 is as follows:

1. Can a person who is not a licensed optician or an apprentice optician in Tennessee sell or take orders for prescription contact lenses, or perform any of the duties related to dispensing opticians, which include but are not limited to frame and lens selection for glasses, prescription interpretation and entry, pupillary distance and segment measurements, RX neutralization, fitting and adjusting prescription eyewear, and dispensing prescription eyewear, including plano contact lenses?

Upon discussion, Mr. Godsey made a motion, seconded by Mr. Wells, to give an answer of "No" to Question #1. The motion carried.

Mr. Trew stated Question #2 is as follows:

2. Can an apprentice optician perform optician duties described in Question 1 above without the direct supervision of the sponsoring optician?

Upon discussion, Ms. Jackson made a motion, seconded by Ms. Hawkins, to give an answer of "No" due to Rule 0480-1-.14(2) which states: Apprenticeship training must be supervised by a dispensing optician, optometrist, or ophthalmologist licensed by the State of Tennessee, who works on the premises where the apprenticeship training is conducted, and the supervisor must be present at all times in accordance with T.C.A. § 63-14-103(a) and (f). The motion carried.

Mr. Trew said Question #3 is as follows:

3. Must store managers, district managers, regional managers, territorial managers and other supervisors, officers and managers of optical chains and dispensaries within Tennessee be licensed opticians?

Upon discussion, Mr. Wells made a motion, seconded by Ms. Hawkins, to answer the question as follows:

An individual must be licensed as an optician all the way up to District Manager title. The motion carried.

Mr. Trew stated Question #4 is as follows:

4. Can optical employees go into the public sector and solicit business for optometrists by means of verbal communication, business cards, and/or vision screenings?

Upon discussion, Mr. Wells made a motion, seconded by Ms. Chitwood, to give an answer of “No” due to the law prohibiting opticians to perform screenings. The motion carried.

A roll call vote was conducted and all board members answered in the affirmative.

The Board stated the actions taken by the Board are to protect the health and welfare of the citizens of the State of Tennessee.

With no other Board business to conduct, Ms. Chitwood made a motion, seconded by Mr. Risby to adjourn the meeting at 2:58 p.m. The motion carried.

Ratified by the Tennessee Board of Dispensing Opticians on January 15, 2008.