

TENNESSEE BOARD OF OPTOMETRY MEETING MINUTES

DATE: December 10, 2010

TIME: 9:00 A.M., CST

LOCATION: Health Related Board Conference Center
Poplar Room
227 French Landing, Suite 150
Heritage Place-Metro Center
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Richard Orgain, O.D., Chair
Linda Tharp, O.D., Vice Chair
David Talley, O.D.
Jeff Foster, O.D.
Scott Gentry, O.D.
Kimberly Button, Citizen Member

STAFF

PRESENT: Stacy Tarr, Board Administrator
Libby Miller, Director of Health Related Boards
Diona Layden, Office of General Counsel
Barbara Maxwell, Director of the Board of Optometry

Dr. Orgain called the meeting to order at 9:05 a.m. A quorum was present.

Minutes

Dr. Tharp made a motion, seconded by Dr. Talley, to approve the September 17, 2010 minutes. The motion carried.

Office of General Council

OGC has no open cases pertaining to Optometrists. OGC is preparing a rule amendment to require all practitioners use a continuing education tracking system.

Investigative Report

There are twelve (12) open complaints in Investigations against Optometrists. Most recently Dr. Tharp reviewed complaints, and Dr. Orgain suggested using previous Board members Dr. Terry Hendrickson and Dr. Tommy Ducklo to review complaints if a Board members is not available.

Ms. Stone reported that the complaints file involve unlicensed practice, care of services, and complaints of unprofessional conduct such as racial slurs, rude comments and having to wait in the office too long for an appointment. Dr. Orgain said he wants the Board to have a description of what types of complaints are being made to inform practitioners what not to do.

Disciplinary Report

There are three (3) practitioners being monitored.

Policy on Continuing Education Violations

The Board discussed Rules 1045-02-.10(4)(b) pertaining to civil penalties imposed for violation of the practice act or regulations pursuant thereto. Dr. Orgain stated that an optometrist was issued an Agreed Order that the Board approved and the licensee agreed to a and civil penalty for failure to obtain the one (1) hour CPR continuing education course, and his name was placed on the HRB disciplinary database. Dr. Orgain said he felt this is too harsh and asked the Board to review the current policy statement.

Dr. Tharp made a motion, seconded by Dr. Talley, to categorize failure to obtain the one (1) hour CPR continuing education course a Type C civil penalty, issue a letter of warning and require the licensee to obtain five (5) additional continuing education hours. Dr. Gentry suggested an amendment to require that the practitioner obtain eight (8) additional hours.

Dr. Talley amended the motion, seconded by Dr. Foster, to require an Optometrist to make up an additional 20% of the hours, which is six (6) additional hours, within ninety (90) days and reduce the penalty from \$500 to \$100. The movant accepted the amendment and the motion, as amended, carried.

Financial Report

As of FY2010 the Board has direct expenditures of \$43,767.85 and revenue collections of \$195,286.25. Indirect expenditures are still being calculated.

Administrative Report

The Board reviewed a letter from **James S. Eubank, O.D.**, Secretary/Treasurer of the Tennessee Academy of Optometry, requesting to be an approved continuing education provider. Dr. Foster made a motion, seconded by Dr. Talley, to add the Tennessee Academy of Optometry as an approved vendor for continuing education and update Rule 1045-02-.05 to include the Tennessee Academy of Optometry. The motion carried.

The Board reviewed a letter requesting review of Board policy regarding granting grand rounds credit for all continuing education papers presented by and to the members of the Academy. Dr. Talley stated his opinion that it is lecture, not grand rounds, for which you receive one (1) hour of continuing education for two (2) hours of lecture. Dr. Foster stated that the Tennessee Optometric Association offers lecture and not grand rounds. Dr. Talley offered to send the

Tennessee Academy of Optometry a letter to clarify the distinction between lecture and grand rounds.

Newly Licensed

Dr. Foster made a motion, seconded by Dr. Tharp, to approve the following newly licensed Optometrists:

Kelly Lynn Davis
Nixon Daniel Dodd
Sandra Tucker Duckworth
Paul Alan Harris
Danielle Elaine Jordan
Lisa Ann Kennedy
Karen Marie Leblanc
James Michael Lee
Erica Ann Musgrove
Steven Lawrence Plaxco, Jr.
Kathryn Stockton

The motion carried.

Dr. Tharp made a motion, seconded by Dr. Foster, to approve the following Optometrist for reinstatement:

Mia Boyland-James

The motion carried.

Injectables/Therapeutics Certification

Dr. Talley made a motion, seconded by Dr. Tharp, to approve the following Optometrist for injectable certification:

Jennifer Sanderson

The motion carried.

Letters of Warning for Continuing Education

The Board approved sending letters of warning regarding continuing education to:

E. Kemp Higginbotham

License No. 577

Needs an additional seven (7) hours of continuing education for 2008/2009.

Jay Kavanaugh

License No. 1616

Needs an additional fourteen (14) hours of continuing education for 2008/2009.

Special Volunteer License

The Board reviewed an application for a special volunteer license from **Ann Rousch, O.D.** Upon discussion, Dr. Foster made a motion, seconded by Dr. Talley to approve Dr. Rousch for a special volunteer license. The motion carried.

Dr. Gentry asked if Dr. Rousch will be examining patients and providing medical care.

Ms. Layden said T.C.A. 63-8-133 allows optometrists to perform those services.

Web Based Continuing Education

Ms. Miller reviewed the request for proposal (RFP) for web based continuing education services with the Board. The Board questioned whether the course provider should submit the information to the database. Dr. Orgain stated he does not think there is any entity in the country that can keep up with all of the continuing education information and the system is needed for optometrists to review their information only. Dr. Orgain said the Board agreed to set a fee for the first three (3) years with a slight increase after the three (3) years. The Board asked that the section requiring the course providers to submit course information of the request for proposal be deleted.

Correspondence

The Board reviewed a letter from **Annette Hanian, O.D.**, of the Arizona Optometric Association's Legislative Committee regarding Tennessee licensed optometrists use of pharmaceuticals. Dr. Hanian is requesting that the Board write a letter stating its experience with the use of pharmaceuticals in Tennessee. Dr. Orgain asked Ms. Tarr to send Dr. Hanian a response. Dr. Talley offered to call Dr. Hanian to ask what specific information they are requesting and to draft a response.

The Board reviewed a letter from **Daniel Hayes, O.D.**, regarding eye care services being provided to local nursing homes and retirement homes. The Board's consensus was that the rules do not prohibit house calls. Dr. Talley offered to draft a response to Dr. Hayes.

The Board reviewed a letter from **Jenna Gervasio, O.D.**, regarding the use of controlled substances in the treatment of eye care with the exception of category one controlled substances. Dr. Talley stated he would research Dr. Gervasio's questions, contact the DEA, and draft a proposed response to Dr. Gervasio.

The Board reviewed a letter from **Warren Johnson, O.D.**, asking whether visual acuities are required to be checked during an eye examination. The Board determined it is up to the optometrist to determine whether visual acuities are to be checked during an eye examination. Dr. Talley stated he would draft a response to Dr. Johnson.

The Board reviewed a letter from **Siliva Mende, O.D.**, asking whether an optometrist must provide the pupillary distance to patients. Dr. Talley stated that providing the pupillary distance is not required in the statutes or rules. The Board agreed.

Proposed Rule Amendments

Upon review of the proposed rule amendment to Rules 1045-02-.05, the Board asked that the Tennessee Academy of Optometry be added to the list of approved continuing education providers and amend Rule 1045-02-.05(b) to say “submit proof.”

Ms. Layden distributed a copy of the rules amendments that were approved by the Office of the Attorney General pertaining to Rule 1045-2-.05 continuing education; 1045-2-.06 reconsiderations and stays; 1045-2-.16 practicing optometry in or in conjunction with a retail store or other commercial establishment. Ms. Layden said the Attorney General has concerns that some of the language in Rule 1045-2-.16 was in the statute and that it was not necessary to put it in the rules. She asked that the Board approve the changes, and vote on conducting a rulemaking hearing at the next meeting.

The Board asked for additional time to review the recommended changes to the rules and asked that it be placed on the agenda for the February 9, 2011 Board meeting.

Change November 11, 2011 Board Meeting Date

The Board changed the November 11, 2011 Board meeting date to November 2, 2011.

Other Board Business

Dr. Orgain requested that any member of the Board wanting to attend the June 12-14, 2011 ARBO meeting in Salt Lake City UT submit a request to Ms. Tarr as soon as possible.

Dr. Talley made a motion, seconded by Dr. Foster, to request approval for all Board members and two (2) staff members to attend the TDOA meeting in Gatlinburg on October 21, 2011 for the purpose of conducting the Board meeting. The motion carried.

With no other Board business to conduct, Dr. Tharp made a motion, seconded by Dr. Talley, to adjourn at 12:10 p.m. The motion carried.

Approved by the Tennessee Board of Optometry at the February 9, 2011 meeting.